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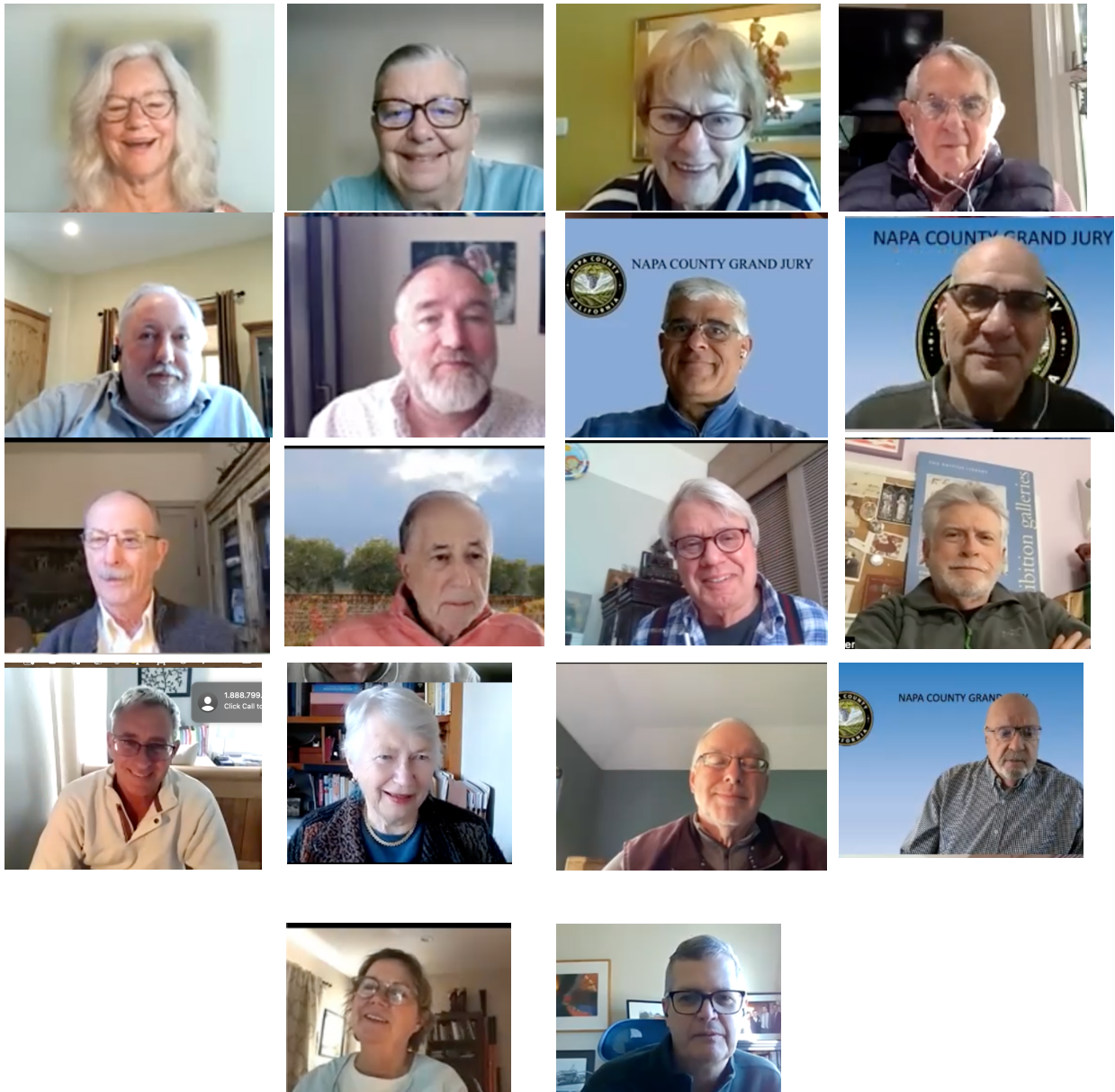


CONSOLIDATED FINAL REPORT

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THE 2021-2022 NAPA COUNTY GRAND JURY



Top Row:	Elizabeth Ellsworth, Suzanne Sommer, Pam Hewitt, Frank Smith
Second Row:	Ken DeJarnette, Christian Philips, Roy Yared, Al Bahn
Third Row:	Rich Walloch, Robert Lieber, Tom Knoblauch, Neil Watter
Fourth Row:	Jim Haller, Elizabeth Parker, Dan Chomko, Michael Stone
Bottom Row:	Susan Wheeler, Tim Knutson

2021-2022 NAPA COUNTY GRAND JURY ROSTER

Michael Stone, Foreperson	Napa
Albert Bahn	Napa
Daniel Chomko	Napa
Ken DeJarnette	Napa
Elizabeth Ellsworth	Angwin
James Haller	Napa
Pam Hewitt	Napa
Thomas M. Knoblauch	Napa
Timothy Knutson	Napa
Robert Lieber	Napa
Elizabeth Parker	Napa
Christian Philips	Napa
Frank L. Smith	Napa
Suzanne Sommer	Napa
Richard Walloch	St. Helena
Neil Watter	Napa
Susan M. Wheeler	Napa
Roy Yared	Napa



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY
1754 SECOND STREET, SUITE D
NAPA, CALIFORNIA 94559

June 30, 2022

To our fellow Napa County Citizens:

The 2021-2022 Napa County Grand Jury is pleased to present this Consolidated Final Report on the investigations undertaken during its unprecedented eighteen-month term. These reports reflect countless hours of hard work and careful consideration relating to matters that, in the opinion of this Grand Jury, deserved examination and evaluation on behalf of the Napa community.

As one might expect from a term that commenced in January 2021, the Jury's work was greatly impacted by the pandemic. Notwithstanding the limitations imposed, the Jury was able to use technology to carry out its work in a vigorous and, we believe, effective fashion. Reflective of the commitment shown by the Jury's members, some weekly meetings included the attendance of jurors who telecommuted in from their vacations in Hawaii and as far away as Sweden. One member routinely attended meetings, participated in interviews and committee debates from the East Coast due to matters that had not been anticipated at the outset of our term. All of this occurred in an environment of differing technical experience and abilities among members of the Jury. In addition to the time demands of the investigative process, many of the jurors found it necessary to learn or re-learn computer skills in which they had not been trained or had needed to use in their professional careers. Their good humor and willingness to adapt and learn was notable.

The 2021-2022 Grand Jury began with the statutory nineteen members, all of whom (except the Foreperson) were randomly chosen from a list of applicants. In addition to the original nineteen, thirteen alternate jurors were selected to fill anticipated vacancies that might develop over the term. Both groups received initial training and in the end all of those alternates ultimately took a seat on the Jury. Nonetheless, we are completing our term with only eighteen jurors. Those who found it necessary to withdraw from the Grand Jury did so for all the reasons one might expect: workload, health reasons, relocation out of the area and acceptance of new employment that precluded their participation. We extend our appreciation to all those who participated but ultimately found it necessary to withdraw for whatever reason. Special thanks are also due to those who agreed to step into service on the Grand Jury after the Grand Jury was well underway. Indeed, the last alternate joined the Grand Jury in August 2021 and, nonetheless, made an exceptionally valuable contribution.

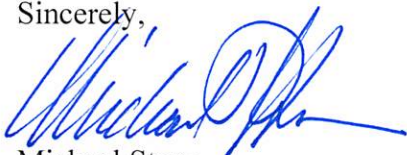
Some of these investigations were generated by issues brought to the attention of the Jury by members of the community through the citizen complaint process. A form for identifying potential investigation subjects can be found on the Napa County Grand Jury website (<https://www.napa.courts.ca.gov/general-information/grand-jury>) and we encourage Napa County residents to use that form to assist next year's Grand Jury in their selection of topics.

The 2021-2022 Napa County Grand Jury hopes that you find the reports contained herein to be both interesting and informative. We feel certain that they will provide important education about Napa County. Responses prepared by the various individuals and agencies identified in each report will be sent to the Court and will be posted on the Grand Jury website referenced above under the section entitled "Grand Jury Reports and Responses." We encourage you to review and consider these responses as they are submitted. In doing so, we hope you will consider that our investigations could only represent a snapshot of what we observed during the course of our term and that, in some instances, corrective and/or more creative solutions may have already been initiated.

Finally, we thank all the citizens and county, city and local government officials and employees who without exception cooperated with candor and good humor in the course of our investigations. Without their assistance, we could not have accomplished what is presented here.

We appreciate having had the opportunity to be of service to the community and encourage you to consider applying for the Grand Jury in the future. You will find it to be a rewarding experience.

Sincerely,



Michael Stone

Foreperson

Napa County Grand Jury, 2021-2022



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY
1754 SECOND STREET, SUITE D
NAPA, CALIFORNIA 94559

June 30, 2022

Hon. Cynthia P. Smith
Presiding Judge
Superior Court of California
County of Napa

Hon. Victoria Wood
Grand Jury Supervising Judge
The Superior Court of California
County of Napa

Your Honors:

The 2021-2022 Napa County Grand Jury thanks you for the opportunity to serve the Court and our fellow citizens. We appreciate having been selected to undertake the investigations that are reported upon in this Consolidated Report.

This Grand Jury faced the unprecedented complication of having most of its term dominated by the pandemic and the consequential limitations on in-person meetings and interviews. Adversity breeds innovation, however, and we were able to develop systems that facilitated remote meetings, interviews, discussions, and document exchange, notwithstanding a general lack of technology savvy within the group as a whole. We hope our example will be of assistance to the incoming members of the Grand Jury.

The twelve investigative reports, coupled with the response review contained in this Consolidated Report represent the collaborative effort of all the jurors who participated throughout the year, not only those eighteen of us who presently remain, but those who found it necessary to withdraw at various stages of the 2021-2022 term. We trust these reports will serve to inform the public and to encourage better and more efficient government.

We would be remiss in failing to acknowledge the assistance of our counsel, Silva Darbinian, the Court Executive Officer, Bob Fleshman and his staff, as well as County Analyst Daniel Sanchez, without whose assistance we would have not been able to produce these reports.

Respectfully,

A handwritten signature in blue ink, appearing to read "Michael Stone".

Michael Stone

Foreperson, Napa County Grand Jury 2021-2022

Acknowledgments

The 2021-2022 Napa County Grand Jury gratefully acknowledges assistance and support from the following:

Honorable Cynthia P. Smith, Presiding Judge, Napa County Superior Court

Honorable Victoria Wood, Grand Jury Supervising Judge, Napa County Superior Court

Silva Darbinian, Chief Deputy County Counsel, County of Napa

Bob Fleshman, CEO of the Napa County Superior Court

Daniel Sanchez, Management Analyst, County of Napa

The Trustees of the Gasser Foundation and Jennifer Johnson, Office Manager

Napa Chapter of the California Grand Jury Association

California Grand Jury Association

The Napa County employees, elected and appointed officials who assisted our investigations.

Overview of the Napa County Grand Jury

The Grand Jury is a judicial body composed of nineteen citizens. Once impaneled, it acts as an “arm of the court,” as authorized by the State Constitution, and functions as a “watchdog” for the people of the community. Its activities are funded by the County, which adopts a budget for the Grand Jury. Neither the County nor the Court exercises any supervisory power over the Grand Jury and all proceedings are, by specification in the California Penal Code, subject to strict confidential rules.

The present Grand Jury system evolved from earlier ecclesiastical courts beginning in 1164 when Henry II of England impaneled the first 16-man Grand Jury to remove criminal indictments from the hands of the church. In 1635 the first American Grand Jury was impaneled in the Massachusetts Bay Colony and by 1683 Grand Juries were present in all the colonies. These early Grand Juries began the practice of returning “presentments,” which were primarily against public officials and were different from criminal indictments.

Only a few states now have retained some form of Grand Jury system with any type of “watchdog” function. California, where Grand Juries have existed since the original constitution of 1850, has the last remaining comprehensive Grand Jury system in the United States.

Grand Jury Functions

By law Grand Jury has three distinct functions: indictment, accusation and investigation. Indictment is the bringing of criminal charges against a person. Accusation is the act of bringing criminal charges against an official of government or of a public agency that may result in removal from office. By far the most frequently exercised function is that civil investigation known as the “watchdog” function.

In this function, the Grand Jury investigates areas of government to determine if it can function better, save money, reduce staffing, and generally examine the way governments conduct business, particularly with respect to any evidence of malfeasance, misappropriation, or mismanagement. Committees are formed to study citizen complaints or comments and to visit various county and city facilities. The Grand Jury may select additional areas for review.

The Grand Jury’s jurisdiction is countywide. It covers any elected or appointed official and any government body connected to the County, including a city, special district, joint-powers agency, redevelopment agency, housing authority, all special purpose assessing or taxing districts, plus jails and prisons in the County. School districts curriculum are state functions and outside the Grand Jury’s jurisdiction. Private partnerships and contracts can be investigated only regarding local government aspects of any contract. The Superior Court is a state body and cannot be investigated.

Selection & Qualifications of Grand Jurors

Each of California's 58 counties empanels a new Grand Jury to conduct civil investigations of county and city governments and to consider evidence to decide whether to return accusations for government officials' misconduct or criminal indictments. Grand Jurors are selected by the Judges of the Superior Court from a variety of sources: applications, jury rolls and personal knowledge. The Grand Jury normally operates on a fiscal year, July 1 to June 30.

Grand Jurors must be citizens of the United States, 18 years of age or older and a resident of the County for one year prior to being selected. They must be in possession of natural faculties, be of ordinary intelligence, of sound judgment, of fair character and have sufficient knowledge of the English language.

The Napa County Superior Court, with the assistance of the Napa Chapter of the California Grand Jury Association, recruits jurors in the late winter and spring each year. Persons interested in jury service should look for announcements at that time. More information is available on the Superior Court's website: <https://www.napa.courts.ca.gov/general-information/grand-jury>.

Fire On the Mountain

The Closure of Old Howell Mountain Road: The Effect on Angwin Residents

Report Date: May 31, 2022



AP Photo Glass Fire September 27, 2020

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SUMMARY

Angwin is an unincorporated mountain / forest community of approximately 2,600 residents, and a college with a varying population of approximately 1,200 students and staff. The nearby

community of Deer Park has a resident population of 1,300, a 150-bed hospital with staff and patients. The area also has a large transient agricultural workforce supporting the surrounding wine industry.



The primary road servicing the area from the west to/from St. Helena is Deer Park Road. Historically, Old Howell Mountain Road, constructed approximately 130 years ago, has been a far less travelled alternative route. It is narrow, winding and steep; prone to wash outs during winter storms which historically, the county has repaired. The road is not viewed by the population as a major throughfare, but as an alternate emergency exit route in case of fire or other disaster.

A severe storm in January 2017 heavily damaged Old Howell Mountain Road which was subsequently closed and not repaired. The damage to the road was extensive as the hillside itself is unstable.

While multiple agencies concurred with the decision not to repair the road, the local community believes they were not adequately

informed of, or involved in, the decision which may have a serious impact on their ability to evacuate the area if required to do so.

The Napa Valley Board of Supervisors should reach out to all the local area populations and conduct an onsite, public forum to fully discuss the issues with repairing the road and address their concerns over potential emergency evacuation issues.

BACKGROUND

In April 2021, the 2021-2022 Grand Jury became aware that Angwin community residents were expressing concern and surprise at what they saw as Napa County's failure to repair an important emergency evacuation route, especially in the light of increasingly dangerous future fire seasons in the area. As a result the Grand Jury decided to initiate an investigation into three issues: 1) the adequacy of Angwin's evacuation routes during a wildfire (in particular, Old Howell Mountain Road); 2) whether Angwin residents had been made aware of available evacuation routes; and 3)

whether Angwin residents had been informed of the reasons for the County's decision not to re-open Old Howell Mountain Road.

The concerns of the Angwin's residents centered on their ability to evacuate Angwin in the eventuality of a wildfire similar to those in 2020, the Sonoma-Lake-Napa Unit Fire (LNU) and the Glass Fire. Angwin can be exited by Howell Mountain Road and Ink Grade Road from the northeast, leading to Pope Valley, and by Deer Park Road to the southwest. However, the LNU Fire required the closures of both Howell Mountain Road and Ink Grade Road. This left Deer Park Road as the only route out of Angwin, providing an exit toward the southwest and St. Helena. During the Glass Mountain Fire, however, Deer Park Road was closed for several days, requiring residents to exit Angwin on Howell Mountain Road to the northeast. Old Howell Mountain Road would have provided an alternative evacuation route, had it been available at that time.

Currently, Old Howell Mountain Road has been declared permanently unavailable to residents. It is barricaded near the top of the road where it meets Deer Park Road, and also near the bottom, about 1.4 miles from its intersection with Silverado Trail, near Pope Street. Cal Fire and Napa County Public Works Office of Emergency Management have advised the County Board of Supervisors that the road is unsafe because of a loss of 75% of the road surface in a January 2017 landslide. They note that the road is narrow, winding, and because of the heavily wooded area below it, a virtual "death trap" in the event of a wildfire. Nonetheless, many Angwin residents see the road as a critical evacuation route in the case of a fire or emergency, should all other current routes be blocked. This difference of view became the focus of the Grand Jury investigation.

METHODOLOGY

The Grand Jury began its Angwin Emergency Evacuation to determine when, or if, Old Howell Mountain Road in Angwin, closed since 2017, would be repaired and open for any vehicle use. Importantly, the Grand Jury wanted to explore whether the road closure had been adequately explained to the community and if they were offered an opportunity to question the decision in an open-forum environment.

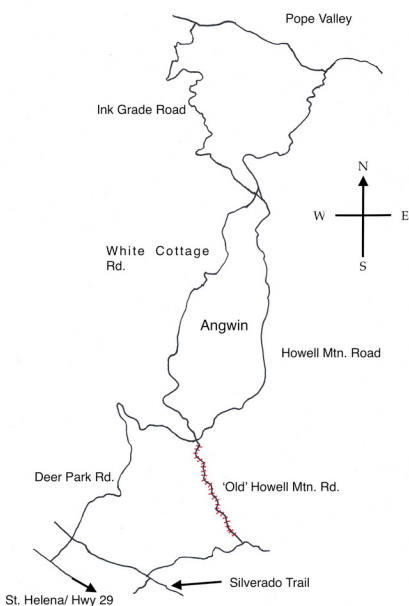
Over the course of the next six months, the Grand Jury interviewed seven individuals identified as having either direct or indirect knowledge of the road closure. Those county personnel questioned included representatives from the Napa County Department of Public Works, Office of Emergency Services, and the County Board of Supervisors. Others interviewed included a representative from the fire station in Angwin and Angwin residents actively involved in community matters.

In addition to the interviews, the Napa Valley *Register*, the St Helena *Star* and the *Weekly Calistogan* newspapers were searched for articles and columns about the closure. Letters to the Editor were also reviewed for indications of Angwin residents' concerns. The Napa County website for the Board of Supervisors was examined for agenda items and/or minutes from Board meetings where the road closure was discussed.

DISCUSSION

A severe storm of January 2017 brought excessive rainfall to Napa County. There were landslides and road closures throughout the county. One of the roads heavily damaged was Old Howell Mountain Road, the only route, other than Deer Park Road, between Angwin and St. Helena. Deer Park Road is far safer and more widely used than Old Howell Mountain Road, which has suffered road closures due to washouts many times over the 130 years it had been in use. The 2017 road closure was the third from storm damage after 2010, when the U.S. Army Corps of Engineers shored up and repaired the road. Napa County Public Works repaired the road again in 2014 when storm damage washed out the road's surface. After each of the road repairs, Old Howell Mountain Road was reopened. However, the severity of the 2017 storm washed out 75% of the roadway surface in sections, according to a December 8, 2020 report to the Board of Supervisors, and the road has not been reopened since.

Map of Angwin



Like many mountain roads in Napa County, Old Howell Mountain Road is narrow and winding, proceeding up to a steep incline. At many points there is a rock face on one side and a steep drop-off on the other. Angwin residents have become accustomed to the road being closed periodically for repairs, something which has happened multiple times in the last twenty years. After the January 2017 washout, however, Old Howell Mountain Road was not repaired. Many residents expected that it would be. Later in the summer of 2017, wild fires in the area increased local residents' sense of urgency about the need to reopen the road for use in an emergency evacuation.

The Camp Fire in the town of Paradise, California occurred in November 2018. People of Angwin followed the fire with a special sense of dread. The deaths of many of the 85 people tragically lost

in that fire were due, in part, to a lack of adequate evacuation roads. The situation was similar to that which Angwin residents feel they might face, since the only current evacuation route to St. Helena, to the southwest, is Deer Park Road. Residents, fearing a potential tragedy like the Camp Fire, have argued that Old Howell Mountain Road should be repaired and available for use.

Angwin is surrounded by forest and is approximately 1,800 feet in elevation. It is home to approximately 2,600 residents. In addition to the residents, Angwin is home to Pacific Union College, with a student population between 900-1200 students, and a staff and faculty of 250. Angwin has one preschool, one public elementary school, one private elementary school, and one private high school. Angwin's public high school students attend St. Helena High School. Angwin has an all volunteer Fire Department, and a small shopping area comprised of many businesses. There is also a large, partially transient, agricultural workforce that drives to and through Angwin to access the many vineyards and wineries in the vicinity. Nearby Deer Park has a population of 1,300 residents. St. Helena Hospital in Deer Park has a staff of approximately 1,050 employees and 297 volunteers, and has 151 beds for patients.

Most of Angwin and the surrounding area of Howell Mountain were under an advisory evacuation order during the Atlas/Tubbs Fire of October 2017. During the 2020 LNU Complex and Glass Fires, all of Angwin was under mandatory evacuation for a total of 21 days. Those evacuations happened without injury or loss of life.

Since the January 2017 closure of Old Howell Mountain Road, residents of Angwin and nearby communities have expressed their desire to have Old Howell Mountain re-opened, if only as an emergency evacuation route. The *Napa Register* has printed several letters to the editor on the topic; residents have written to Board of Supervisors; and an Op-Ed article was written in the *Register* recommending that money be spent to repair the road. One *Napa Register* letter to the editor received a printed response from the Napa County Public Works Office quoting a figure of \$3 million to repair the road (this would amount to one-third of the the Napa County Public Works' annual budget) and explaining that adequate funds were not available to support a repair of such magnitude.

The Grand Jury's research indicates that the \$3 million repair estimate was incomplete, because it only included the cost of patching the surface of the roadway where the asphalt has washed away. Local authorities interviewed by the Grand Jury, including from Napa County Public Works, Cal Fire, Napa County Fire Department and local road construction companies, all stated that the issues that would need to be addressed to repair Old Howell Mountain Road are far more serious than just patching missing asphalt and would cost far more than \$3 million. All of these experts described the impracticality of repairing the 130 year-old road. Reasons cited included the fact that it was built on soft soil, has had multiple asphalt repairs over the years, and includes a three-mile section that is starting to slip down hill. In short, the road has lost its structural integrity. A 2020 report from Napa County Public Works stated that even if repairs happened to the damaged section of road, there could be no assurance that the next major storm would not damage another portion of the road.

Based on these recommendations, the Napa County Board of Supervisors voted in December 2020 not to repair Old Howell Mountain Road. This Grand Jury agrees with that decision, even though it also recognizes that many local residents disagree with the decision. These residents are

concerned that devastating wildfires are likely to become an increasingly frequent occurrence in the area and they believe that multiple evacuation routes are necessary for the safety of residents, workers and students.

During its investigation the Grand Jury spoke to multiple Angwin residents, some of whom felt that the closure was the proper decision. Nonetheless, no matter which side they took, nearly all felt they had not been given an adequate opportunity to hear directly from the Board and to provide their input. Similarly no individual interviewed remembered that they were notified in advance about the Board of Supervisors' vote on the road closure.¹ The decision, which affected so many, appears to have come as a surprise to most residents. The goal of this report is to bring clarity and understanding about Napa County's decision to close Old Howell Mountain Road.

FINDINGS

- F1. Many Angwin residents interviewed stated they did not recall having received notice prior to the Napa County Board of Supervisors' 'yes vote' in favor of keeping Old Howell Mountain Road closed. The Grand Jury is aware that under the Brown Act, no more than 72 hours' notice of any agenda item is required. But despite repeated efforts, the Grand Jury was unable to confirm that even so minimal a notice occurred. Moreover, given the level of local concern about Old Howell Mountain Road, more prominent notice and even the opportunity for a public hearing would have been appropriate. Had this happened, years of concern and confusion could have been avoided.
- F2. These residents believe that they did not receive an explanation of why Old Howell Mountain was not repaired and they were not adequately represented in the decision-making process.
- F3. The residents of Angwin have been impacted multiple times by evacuations due to wildfires and want to have as many evacuation routes as possible, in order to avoid a tragedy like the Paradise, California scenario.
- F4. The Napa County Board of Supervisors caused unnecessary mistrust in their local government by not sufficiently communicating with Angwin-area residents regarding the closure of Old Howell Mountain Road.
- F5. Multiple agencies, including , Napa County Office of Emergency Services, Napa County Public Works, CalFire, Napa County Fire Department and local construction companies have deemed the road unrepairable, due to a nearly three-mile long section of unstable ground and other hazards; however, the Napa County Office of Emergency Services and the Napa

¹ Only after careful research was the Grand Jury able to find a general reference to Howell Mountain Road on the December 8, 2020 Board of Supervisors meeting agenda. Item 10B included the following: "Director of Public Works requests discussion and possible direction on the status of Old Howell Mountain Road." Supporting Documents and a Roads 4 Year Plan were also referenced. Public comments by one resident were not read but added subsequently after the meeting. There was no mention of a final vote.

County Board of Supervisors did not effectively communicate to the public their reasons for their decision not to repair the road.

RECOMMENDATIONS

- R1. The Napa County Office of Emergency Services should hold a public forum with Angwin residents and explain the reasons for the closure of Old Howell Mountain Road. Other relevant agencies should be invited to attend.
- R2. During this forum, the Napa County Office of Emergency Services should explain feasibility and potential cost of repairing the road.
- R3. The forum should provide residents an opportunity to have their questions answered and to express their opinions about the decision to close Old Howell Mountain Road. This forum should take place before September 1, 2022.

REQUEST FOR RESPONSES

The following responses, required pursuant to Penal Code sections 933 and 933.05, are requested from the following agency head within 60 days:

- Napa County CEO, for Napa County Office of Emergency Services

F1, F2, F3, F4

R1, R2, R3

INVITED RESPONSES

- Angwin Volunteer Fire Department Fire Chief

F1, F2, F3, F4

R1, R2, R3

- President, Angwin Community Council

F1, F2, F3, F4

R1, R2, R3

- Napa County Board of Supervisors

F1-F5

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**2021-2022 Grand Jury Compliance and Implementation Report
of
2019-2020 Grand Jury Report Recommendations and Responses**

“The City of Napa’s Sidewalks - Watch Your Step”



May 31, 2022

2021-2022 Grand Jury Report on Compliance and Implementation of 2019-2020 Grand Jury Report Recommendations and Responses

“The City of Napa’s Sidewalks - Watch Your Step”

SUMMARY

The 2021-2022 Napa County Civil Grand Jury performed a Compliance and Implementation Review of the City of Napa’s responses to a Report issued by the 2019-2020 Napa County Civil Grand Jury, “The City of Napa’s Sidewalks – Watch Your Step.” The earlier Report assessed compliance with the California Penal Code to ensure that the recommendations agreed upon for implementation by the City of Napa were being met and that Napa residents, particularly those affected by the need for sidewalk repair, were duly informed.¹

The complete text of the 2019-20 Report appears on the following website:

<https://www.napa.courts.ca.gov/general-information/grand-jury/grand-jury-reports-responses>

The website also provides links to the City of Napa’s responses to the Report’s findings and recommendations.

In addition, the City of Napa Public Works Department website on Sidewalks, Curbs, and Gutters provides information about how Napa manages sidewalk repair:

<https://www.cityofnapa.org/365/Sidewalks-Curbs-Gutters>

The Grand Jury’s review of the City of Napa’s responses could not find publicly available information to confirm compliance with all its responses or how residents might learn of sidewalk repair priorities and progress. The current investigation was opened to explore this concern.

BACKGROUND

On June 24, 2020, the City of Napa responded to the 2019-2020 Grand Jury report, “The City of Napa’s Sidewalks—Watch Your Step.” The City agreed to implement six of the report’s eight recommendations by December 31, 2020 (see Appendix for the full text of findings, recommendations and responses). The current 2021-2022 Grand Jury made a follow-up request in October of 2021 to determine whether implementation had occurred and whether the public had been informed about the changes made. It did so because an examination of the City’s website was not helpful. Napa’s City Manager responded to the Grand Jury’s request but did not provide the Grand Jury with information on some implementation items. The Grand Jury followed up by contacting the Public Works Department, the department responsible for managing sidewalk

¹ Responses to all Grand Jury reports are required pursuant to California Penal Code sections 933 and 933.05.

repairs. The Grand Jury asked for documentation about the action taken to address the Report's concerns. The Public Works Department answered the Grand Jury's questions about the City's program for sidewalk repair, but issues remained.

An investigation followed to understand: 1) how the City approaches sidewalk repair, given that more sidewalks need repair than the current annual budget can fund; and 2) whether the City is sufficiently transparent so that residents can learn how sidewalk repairs are addressed.

METHODOLOGY

In conducting this follow-up investigation, the Grand Jury conducted interviews and corresponded with the Public Works Department. It also conducted research focused on the following:

- The Sidewalk Repair Policy/Procedure, which listed all concrete repairs completed in 2020-2021; a description and map of the Napa Neighborhood Streets and Sidewalk program; and Prioritization Maps for Napa schools and Travel Paths.²
- The City of Napa's 2021 fiscal year settlements for claims relating to 'trip-and-fall' accidents on City sidewalks.
- City website pages focused on the Public Works Department's sidewalk maintenance and repair effort.
- Approaches taken by nearby cities and counties to sidewalk repair (e.g., Sacramento, Fairfield, Sonoma, San Rafael, Vallejo, and Santa Rosa) to provide comparisons to Napa's approach.

DISCUSSION

The 2019-2020 Grand Jury published a thorough report on Napa's sidewalk repair issues, "The City of Napa's Sidewalks—Watch Your Step." The Report made eight recommendations, six of which the City agreed to implement by December 31, 2020 (see Appendix). The current Grand Jury found that since that report, several positive actions have occurred which should address the City's sidewalk repair needs in both short- and long-term:

- Annual budget allocations for sidewalk repair have increased between 2019 to 2021 from approximately \$1.5M to \$2.5M.
- The Public Works Department amended its sidewalk repair policies/procedures in response to the 2019-2020 Grand Jury report; this information was not, however, available to the public.
- The City of Napa has increased the percentage of repair costs for which it reimburses residents who participate in the Sidewalk Cost Share Program from 50% to 60% as a result of the 2019-2020 Grand Jury report.
- The Public Works Department has also added a feature on its website so that citizens can report specific sidewalks in need of repair, but it is not easily accessible.

² Travel Paths exist throughout the County of Napa to support non-automotive transportation.

The City of Napa has many sidewalks in need of repair, but only a limited budget for such work, which is insufficient for repairing all damaged sidewalks in a single year.³ As a result of the Napa Neighborhood Streets and Sidewalk Program and its systematic prioritization of sidewalks to be repaired, the Public Works Department has on their website a map of Napa neighborhoods with sidewalks to be addressed for repair by year spanning the period 2009 to 2026. In lieu of a permanent replacement of a sidewalk, the City of Napa offers two types of temporary repairs to be done by the Public Works Department: 1) sidewalk shaving, if the displaced concrete is less than 2 inches high, or 2) an asphalt patch to make the sidewalk displacement smoother, rather than an abrupt rise.

The City of Napa also offers a Cost Share Program to encourage residents to hire their own contractors to replace sidewalks adjacent to their properties. If accepted, it will reimburse the property owner up to 60% of approved costs of the repair. On average, applications for the Cost Share Program receive a response within seven days from receipt and the resident receives reimbursement within 20-30 days after completion of the work by a property owner's contractor. When compared to several nearby cities (e.g., Sacramento, Fairfield, Santa Rosa, San Rafael, Sonoma, and Vallejo), the City of Napa's Sidewalk Cost Share Program offers generous reimbursement for residents' sidewalk repair work. The cities noted offer either no reimbursement, or a much smaller contribution to residents for costs incurred in repairing or replacing sidewalks adjacent to their property.

To summarize, the City of Napa has shown exceptional commitment to repairing heavily damaged sidewalks with three programs noted above. Its current website is outdated and only somewhat informative; it does not describe the management of full-time repair crews and contractors or describe the City's commitment to residents and what they can expect when they inquire about sidewalk repair. Residents could benefit from more information and links to frequently asked questions (FAQ's), a popular technique on consumer-oriented websites.

The Grand Jury found that much information already exists about Napa's sidewalk repair policy and procedures, but only on internal documents. Information such as the following is not readily available to the public:

- Annual budget for each repair program;
- How and why damaged sidewalks are prioritized, using specific criteria which is then calculated;
- How and why the Napa Neighborhood Streets and Sidewalks Program is significantly more efficient than would be a single priority repair program;
- How residents can use the cost sharing program to accelerate repairs and how quickly they should anticipate their applications to be approved and repair reimbursed; and
- When and why the City uses sidewalk 'shaving' and asphalt patching, rather than sidewalk replacement, to address sidewalks of lower priority.

³ Napa's sidewalk repair funds originate from grants, funding from Senate Bill 1, The Road Repair and Accountability Act of 2017, the gasoline tax, and the general fund.

FINDINGS

- F1. The City of Napa has developed a systematic and criteria-based approach to prioritizing sidewalk repairs.
- F2. The City of Napa strives for efficiency, due to its limited number of repair crew personnel (22 full time repair crew personnel), in order to maximize sidewalk repairs throughout the year.
- F3. The City of Napa has identified the following five important sidewalk conditions, each assigned a numerical score (1-5), to determine repair prioritization:
 - A. Pedestrian travel areas
 - B. Years until the sidewalk falls onto the schedule of repair under the Napa Neighborhood Streets and Sidewalk Program
 - C. Tree issues around the sidewalk
 - D. Proximity to schools
 - E. Size of concrete displacement
- F4. The Public Works Department goal for sidewalk repair is to group by proximity/location the highest-ranked priority projects, in order to develop a list of the maximum number of high priority repairs that can be completed as a single project. The goal is to complete repairs ranging from a minimum of 9 to a maximum of 15 locations to minimize movement of repair crews and maximize efficiency.
- F5. The Public Works Department views efficiency in sidewalk repairs as a major factor in the timely repair of all damaged sidewalks. The Public Works Department has evidence and experience that the sidewalk repair rates of the Napa Neighborhood Program are four to five times greater than completing individual priority locations.
- F6. City residents do not have easy access to sidewalk repair information due to the Public Works Department's outdated sidewalks website. An updated website could help to inform the public about the City of Napa's strong financial and operational commitment to sidewalk repair given budgetary constraints.

RECOMMENDATIONS

- R1. The City of Napa should describe the rationale and advantages of the Napa Neighborhood Streets and Sidewalk Program on the Public Works Department website.
- R2. The City of Napa should use its Public Works Department website to explain the prioritization of sidewalk repair, including shaving and asphalt patching under the Napa Neighborhood Streets and Sidewalks Program.
- R3. The City of Napa should use the Public Works Department website to explain how crew efficiency assists in getting more sidewalk repairs completed each year.

- R4. The City of Napa should use the Public Works Department website to emphasize the Cost Sharing program and the benefits it provides to residents whose sidewalks are not scheduled for near-term repairs.
- R5. The City of Napa should update the Public Works Department website to reflect its strong financial and operational commitment to sidewalk repair year over year and to describe any plans for the future.

REQUIRED RESPONSES

The 2021-2022 Napa County Civil Grand Jury requests the following responses pursuant to Penal Code sections 933 and 933.05:

The Napa City Council (F1-F6 and R1-R5)

The Mayor of the City of Napa (F1-F6 and R1-R5)

INVITED RESPONSES

- The Napa City Manager (F1-F6 and R1-R5)
- The City of Napa Director of the Public Works Department (F1-F6 and R1-R5)

APPENDIX

The 2019-2020 Grand Jury made the following *Recommendations*:

R1. The Jury recommends that Public Works Department publish definitions of the terms “priority,” “location,” and “one-off” whenever those terms are used in documents or information made available to the public, to be completed by December 31, 2020.

R2. The Jury recommends that the Public Works Department adhere to their published definitions of terms such as “priority,” “location,” and “one-off” in their recordkeeping efforts so that Public Works Department’s reporting on the number of sidewalk repairs is consistent and clear, to be completed by December 31, 2020.

R3. The Jury recommends that the Public Works Department adopt a written policy governing the selection of individual “one-off” or “priority” repair projects, to be completed by December 31, 2020.

R4. The Jury recommends that the Public Works Department adopt a written policy governing the timing of work on “one-off” or “priority” projects, to be completed by December 31, 2020.

R5. The Jury recommends that the Public Works Department develop a 5-year plan for repairing all sidewalks with a vertical displacement of four inches or more, to be completed by December 31, 2020.

R6. The Jury recommends that Public Works Department annually publish on the City of Napa’s website a street address list of priority projects completed each year, to be completed by December 31, 2020.

R7. The Jury recommends that the Public Works Department update its portion of the City of Napa’s website to better inform citizens. At a minimum, the update should include the most current schedule or map for sidewalk repairs as well as a link to facilitate citizen reporting of sidewalk issues, to be completed by December 31, 2020.

R8. The Jury recommends that the Public Works Department develop a schedule and methodology for assessing the success of the conversion to the Workorder Asset Management system and their ability to use it effectively, to be completed by December 31, 2020.

The Napa City Council responded to each of the above *Recommendations* committing to the following implementation schedule contained in a June 2020 communication from the Napa City Manager Steve Potter:

Implementation Date

R1	12/31/2020
R2	12/31/2020
R3	12/31/2020
R6	12/31/2020
R7	12/31/2020
R8	12/31/2020

On review, the 2021-2022 Napa County Grand Jury found that none of these commitments appeared to have been met. Accordingly, on October 14, 2021, the Grand Jury’s Foreperson sent a letter to Napa City Manager requesting a brief description of how and when the recommendations were completed, further noting that until such information was received the Grand Jury’s website would reflect responses that are past due or non-compliant.

OFFICE OF THE PUBLIC DEFENDER

Equal Justice for All?

**2021-2022 Napa County Civil Grand Jury
May 31, 2022**



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SUMMARY

The 2021-2022 Grand Jury learned that some misdemeanor defendants, those unfamiliar with the legal system, or suffering from mental disability, and particularly those with no or limited English, are at risk for poor outcomes, sometimes as serious as deportation, when their cases are settled without legal representation.¹ For those accused of crimes, whether felonies or misdemeanors, the court process can be confusing; this is particularly true for those with limited or no English skills. Legal representation can help to alleviate this problem. After an investigation which included interviews, review of data, and observation of arraignments, the Grand Jury recommends that to address this potential disparity and possible violation of the California Constitution, Napa County consider adding resources to the Napa County Public Defender so that all misdemeanor defendants have access to legal advice during their arraignments.

BACKGROUND

This investigation focused on the adequacy of representation of indigent misdemeanor defendants who were legally entitled to representation by the Napa County Public Defender in accordance with the Constitutions of the United States and California as well as California Penal Code Section 19.6.² Nonetheless, when no Public Defender is available in the courtroom, misdemeanor defendants may fail to request representation, preferring a rapid disposition of their matters, sometimes not understanding the legal impact such a decision.

METHODOLOGY

The Grand Jury's investigation included interviews of past and current staff in the Napa County Public Defender's Office and focused especially on attorneys who represent misdemeanor defendants in court. An attorney in the Napa County District Attorney's Office and an immigration consultant to the Public Defender's Office were also interviewed. In addition, the panel requested, received, and evaluated statistical data from the Napa County Public Defender; it also reviewed and compared online historical budget information for the Napa County Public Defender and the Napa County District Attorney; California and U. S. appellate court decisions addressing the legal rights of misdemeanor defendants; and legal cases against other counties in California involving public defender services. Grand Jurors also personally observed several court arraignments, using the court's public access video conferencing system.

¹ In California, a misdemeanor is described as any offense where the maximum sentence is no longer than one year in a county jail.

² The California Constitution, Article 1, § 15—Declaration of Rights, provides: "The defendant in a criminal case has the right to a speedy public trial, to compel attendance of witnesses in the defendants' behalf, to have the assistance of counsel for the defendant's defense, to be personally present with counsel, and to be confronted with the witnesses against the defendant."

DISCUSSION

A. General

All indigent defendants in California charged with a misdemeanor or felony offense are entitled to the services of a public defender if they so request; after such a request, attorneys are subsequently appointed by the court. In the case of felony defendants, most are initially held in custody after arrest and an attorney from the Office of the Public Defender is appointed routinely by the court at the time of their arraignment.³ In most situations, the Public Defender will have been informed about the person in custody and, prior to the arraignment, will have had the opportunity to meet with the defendant in jail,⁴ determine eligibility for the Public Defender's services, and determine whether the eligible defendant wants representation by the Public Defender.

Misdemeanor defendants face a different situation because most are not initially confined to jail. Instead, upon arrest, misdemeanor defendants are typically given a citation and Notice to Appear in court on a specific date, and then immediately released.⁵ Thus, unless the defendant initiates contact,⁶ Public Defender attorneys do not have the opportunity to meet with such defendants because they are not in custody prior to their initial arraignment in court. The Grand Jury has learned that most defendants do not understand their right to seek counsel and so do not seek contact with the Public Defender prior to arraignment. The first encounter between a Public Defender and a misdemeanor defendant not in custody thus usually could not occur, if it does at all, other than in the courtroom at the time of the arraignment.

B. Arraignments

Arraignments are scheduled by the court. Felony and misdemeanor arraignments are held separately, each type normally on the same days and times each week. However, each week some felony and misdemeanor arraignments are held outside the days and times of these fixed schedules. A District Attorney is required to be present at all arraignments to present the charges and interact with a defendant's attorney, if there is one. The Public Defender generally has lawyers who are available to appear at arraignments which are held at the usual fixed times, but not always available outside the fixed times. This results from the fact that Public Defender attorneys have many other duties to perform as part of their responsibilities, including, for example, preparing for and attending trials of their clients, obtaining evidence to assist them in representing defendants, interviewing clients, potential clients, and witnesses, preparing legal documents to file in court, and appearing at court hearings in matters involving their clients.

³ The arraignment is the formal court proceeding at which the charges against the defendant are set forth by the court, and the defendant may enter a plea to the charges (e.g., not guilty), agree to an offer from the District Attorney to resolve the case (a "proffer"), or ask for a delay in responding to the charges.

⁴ From early 2020 to date, visits to imprisoned defendants by the Public Defender have been restricted due to the prevalence of Covid-19.

⁵ This process is the same as a traffic citation, for example.

⁶ If a misdemeanor defendant is incarcerated, the Public Defender may be able to meet or interview the defendant in the same way as would be done with a felony defendant.

At arraignments, several matters are addressed by the judge presiding at the hearing. Importantly, the judge reads the charges against the defendant and asks if the defendant understands them. Nonetheless, the interactions between the judge and the defendant, if not represented by an attorney who speaks for the defendant, are limited and do not include providing legal advice. The judge determines whether the defendant appears to be mentally competent and has a basic understanding of English. If the defendant does not seem to have a grasp of English, the judge will have a Spanish-language interpreter translate for the defendant. The translators, however, are prohibited from rendering legal advice to the defendant; their sole role is to convert spoken and written English into Spanish.⁷

C. Right to Counsel

The judge will ask the defendant if he or she is represented by counsel. If the response is negative, which is quite typical, the judge asks the defendant if they want an attorney and tells the defendant if they cannot afford counsel, the court will appoint one without charge. If the defendant requests an attorney and qualifies for the services of a public defender, one will be appointed for the defendant. Until appointed by the court, a public defender cannot legally represent a defendant.

D. The Charges

After initial questions, the judge next reads defendants the charges against them, and asks if the defendant understands them. In addition, the defendant is informed of the right to see the evidence the District Attorney will use to prosecute the charges and the right to bring witnesses to court to testify on his or her behalf.

E. The Plea

In misdemeanor cases, the District Attorney presents the court with written charges and a proposed resolution, called a proffer. The proffer contains the proposed sanction(s) the defendant would face, if the defendant agrees to plead guilty to the charges. The proposed penalty can include monetary fines, time in the County Jail, and periods of probation. By accepting the proffer, the defendant agrees to the penalties as proposed.

The judge presents the proffer to the defendant once the defendant has been informed of their legal rights. If the defendant is represented by an attorney, the attorney can attempt to negotiate a modification of the proposed disposition of the case, although the District Attorney is not obligated to agree to do so. If the defendant does not have counsel, such a dialogue is unlikely to occur, since the defendant usually is not conversant with the process and the possibility and parameters of such negotiations. In addition, if the proffer would not require the defendant to serve time in jail, even if a defendant would be subject to a period of probation, defendants are often highly motivated to plead guilty without seeking advice from counsel, to avoid disruption in their daily lives and employment.

⁷ Non-English-speaking defendants in Napa County are primarily Spanish-speaking individuals, and an English-Spanish translator is present in court to serve them, if needed. If a defendant speaks a language other than English or Spanish, the court will delay the proceedings to arrange for a translator for that language.

Notably, some non-citizen defendants are not lawfully present in the United States, perhaps because of an illegal entry or overstaying a visa. Depending upon the crimes for which they are accused, if they plead or are found guilty, these defendants may face additional adverse consequences of which they are not aware, such as deportation, refusal of reentry into the U. S. if they leave, and increased penalties for future offenses. It is noted that there is a written advisement of potential immigration consequences included on the standard unrepresented misdemeanor plea form the defendant usually is provided when pleading guilty at arraignment. The plea form is translated for non-English speakers, and states: “CITIZENSHIP - If you are not a United States citizen, a plea of Guilty or No Contest could result in your deportation, exclusion from admission to this country, or denial of naturalization. You should consult an attorney prior to making any decisions and upon request, the Court will continue your case for that purpose.” The degree to which a defendant is capable of understanding the admonition and the listed consequences, and thus would initiate a request for counsel, however, is far from certain. Many interviewees believe that the likelihood that the defendant will understand the potential consequences of a guilty plea is significantly greater when the defendant is represented by counsel.

F. Staffing

The Public Defender’s Office reports that it has sufficient legal staff to be present in the courtroom where regularly scheduled weekly misdemeanor arraignments are held. Nonetheless, in addition to the regularly held arraignments, there are arraignments at other times during the week, when the Public Defender’s authorized legal staff may not be able to be present due to other responsibilities.

The Public Defender and key personnel on the staff uniformly told the Grand Jury that the addition of one staff attorney would enable the Office to provide attorneys at almost all misdemeanor ‘not-in-custody’ arraignments. The presence of a Public Defender increases the likelihood that a defendant will ask for counsel. The judge will always appoint a public defender to represent a defendant who qualifies for and requests representation. The designation of a public defender to represent the defendant offers the opportunity to consult with counsel before entering a plea. Where there are potential additional adverse consequences to a defendant for a plea of guilty, the defending attorney can advise the defendant of the risks, so that the defendant can make an informed decision about which plea he or she may wish to enter – guilty or not guilty.

FACTS

During its investigation, the Grand Jury established the following facts.

1. Public Defender services are available only to indigent defendants who request representation. Services are typically provided by a Deputy Public Defender, although the Public Defender can represent defendants as well.
2. If the defendant qualifies for such services and requests them, by law the Court must appoint a Public Defender to serve as the defendant’s attorney in order that representation can begin.

3. Qualifying felony defendants are generally provided Public Defender services automatically.
4. Misdemeanor defendants who have not been imprisoned (“not in custody”) for the offense charged generally do not have contact with a Public Defender, if at all, until after they are arraigned in court.
5. Misdemeanor defendants are more likely to request Public Defender services if there is a Public Defender in the courtroom at the time of their arraignment.
6. The Public Defender presently does not have the resources to staff an attorney in courtrooms for all misdemeanor arraignments.
7. Some misdemeanor defendants do not request the Public Defender’s services, due to: (a) a desire to enter a guilty plea to charges when no jail time is proposed by the District Attorney and their release is immediate; and (b) a lack of understanding of the nature of the charges against them and the potential adverse consequences of a guilty plea.
8. The lack of understanding can result from the following factors: (a) language issues – despite translators being used in the courtroom; (b) mental issues – despite the presiding judge screening for such issues; and (c) complex legal issues that only an attorney can explain to the defendant.
9. For non-citizen misdemeanor defendants there may be additional immigration consequences to a guilty plea or conviction, such as immediate or future deportation on further conviction.
10. Where there are potential immigration consequences, the Public Defender’s office has available the advice of a consulting immigration law expert, which can help the defendant avoid unintended adverse consequences associated with a guilty plea.

FINDINGS

- F1. A guilty plea can have serious consequences for any misdemeanor defendant, including an increase in potential penalties on future charges.
- F2. A guilty plea by a non-citizen misdemeanor defendant can have additional serious consequences, including immediate deportation on the charges, or deportation on future charges.
- F3. There are likely cases where unrepresented misdemeanor defendants pleaded guilty without full comprehension of the potential consequences on their immigration status or future penalty increases.
- F4. Where a Public Defender is appointed, the potential for a defendant to make a fully informed response to a proffer, i.e., a proposed resolution, is much greater.
- F5. Avoiding the unintended consequences described above would be enhanced if there was a Public Defender in the courtroom at every arraignment.

- F6. Funding of an additional attorney in the Office of the Public Defender would enable the office to provide a Public Defender at virtually all misdemeanor arraignments.
- F7. Given present resources and staffing, the Public Defender's office provides consistently high-quality representation to defendants in the cases in which it is appointed.

RECOMMENDATION

- R1. This Grand Jury recommends that the Board of Supervisors consider funding the Office of the Public Defender to support an additional attorney with the priority of attending misdemeanor arraignments not otherwise covered, and handling other work as needed.

REQUEST FOR RESPONSES

The following responses are required pursuant to Penal Code sections 933 and 933.05:

- The Napa County Board of Supervisors

F1, F2, F3, F4, F5, F6 and F7

R1

- The Public Defender

F1, F2, F3, F4, F5, F6 and F7

R1

- The District Attorney:

F1, F2, F3, F4, F5, F6 and F7

R1



**NAPA COUNTY CIVIL GRAND JURY
2021-2022**

**FINAL INVESTIGATIVE REPORT
MAY 31, 2022**

NAPA COUNTY ANIMAL SHELTER

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NAPA COUNTY ANIMAL SHELTER FINAL INVESTIGATIVE REPORT

SUMMARY

In March 2021, the 2021-2022 Napa County Civil Grand Jury learned of public concerns regarding compliance with a modification to the Napa County Municipal Code, Section 6.04.230 (see Appendix A), the result of a 2016 ballot initiative known as Measure A which became effective January 2017. Measure A required new practices and procedures for the Napa County Animal Shelter in euthanizing animals and was designed to reduce the number of animals that might otherwise have been destroyed.

Over several months the Grand Jury's investigation included interviews, document review, and a Shelter tour. At the conclusion of its investigation, the Grand Jury determined that the Shelter was adhering to the new requirements, an important result to alleviate public concerns about compliance with the new Napa County Code. However, during the investigation, other areas of concern were identified and the investigation was broadened to examine the impact of Measure A on animals, either with irremediable suffering or where aggressive behavior posed a danger to Shelter staff.

BACKGROUND

In March 2021, the Napa County Civil Grand Jury began an investigation initially focused on whether the Napa County Animal Shelter was in compliance with Measure A regarding the handling of animals, particularly as regards euthanasia. The investigation responded to concerns expressed by some Napa County residents.

Pursuant to that Ordinance and the Asilomar Accords Agreement,¹ the Shelter publishes a quarterly and annual report of Live Release Statistics. The complete text of the Accords can be found in Appendix B of this report.

The Asilomar Accords Agreement is a set of criteria, guiding principles, standardized definitions, and a statistics table for tracking shelter populations, with a formula for determining live release rates in shelters. The purpose of the Accords and the live release rate formula is to create a uniform system so that shelters and other concerned individuals can understand the progress of lifesaving efforts by shelters on a nationwide basis.

¹ In August 2003, Animal welfare organization leaders throughout the United States participated in a conference at the Asilomar Conference Center in Pacific Grove, California, designed to develop uniform definitions to standardize the categories of treatment for dogs and cats in both public and private shelter/rescue organizations. The goal was to create standard definitions for annual reporting as a first step toward collecting and reporting reliable data on the number of at-risk animals across the nation.

METHODOLOGY

The Grand Jury's Animal Shelter investigation included three activities:

- A review of the Shelter's population and Live Release Statistics;
- Interviews with multiple Shelter and related personnel; and
- A tour of the Shelter facility.

The Grand Jury received and reviewed documentation that formed the basis for the quarterly and annual reports required by Measure A. This documentation included results of blood work, x-rays, and conclusions from the attending veterinarian. The Grand Jury also requested and received documents regarding the policies and procedures governing Animal Services officers and their training requirements.

Interviews were conducted both in-person and via Zoom with seven individuals: three Shelter personnel, two volunteers, and two Animal Services members.

Shelter staff provided the Grand Jury with an extensive tour of the Animal Shelter facility, focusing on areas for housing dogs. The shelter area devoted to problem animals not suitable for adoption was also toured.

DISCUSSION

A. Overview

The Napa County Animal Shelter is a part of the County's Public Works Department. In March 2021 this Grand Jury began an evaluation of the Animal Shelter's compliance with Napa County Ordinance 2016-03, Measure A. As a result of a 2016 general election ballot initiative, this measure became effective in January 2017 and its full text was incorporated in the Napa County Code of Ordinances, Title 6, Chapter 6.04, Section 6.04.230 (see Appendix A). The Ordinance laid out specific practices required for Shelter personnel to follow prior to the destruction of any surrendered or impounded dog, cat or rabbit. The investigation's focus was to validate compliance with the Ordinance requirements by assessing the actual Live Release rates between 2018 and 2021.

In general, the Ordinance requires that the Shelter publish (on a website, or other publicly accessible location), the Live Release Rate for (a) the prior calendar quarter and (b) the annual Live Release Rate for the prior three years, using the methodology and formulas developed pursuant to the Asilomar Accords. A higher percentage indicates that more animals are being adopted, reclaimed, or transferred to another shelter or animal rescue group. Both quarterly and annual Live Release Statistics are available in report form on the Animal Shelter's website on the Napa County Government website.

Annual reports were obtained from 2018 through 2021, as well as two random quarterly reports, from 4Q2020 and 4Q2021. The Grand Jury requested and received timely

backup documentation for both of those quarterly reports, including the following documents:

- Copies of veterinary reports on animals euthanized in this period,
- The written mitigation plan when adoption challenges were determined,
- Copies of documents demonstrating that two county personnel authorized and consented to euthanasia of each animal,
- Documentation demonstrating that a minimum 48-hour notice be given to active non-profit animal welfare organizations prior to euthanasia, and
- Copies of any complaints and/or records of non-compliance violations for this same period.

This information allowed the Grand Jury to conclude that of 14 animals euthanized during the fourth quarter of 2020, 11 were determined to have irremediable suffering by an attending veterinarian and were subsequently euthanized. One dog had completed five weeks of socialization training through a local animal rescue site, but was ultimately unsuccessful in controlling its aggressive behavior, including biting. A second dog participated in behavioral assessment during this period but bit a handler who required medical attention. The third animal, a cat, was reported by its owner to demonstrate significant aggression, an assessment with which an Animal Services officer concurred and the cat was euthanized.

The Grand Jury also requested and received backup for the fourth quarter of 2021 Live Release Statistics. The outcomes reported were for one dog, one rabbit, and 11 cats and consisted of documents from participating veterinary hospitals providing euthanasia due to irremediable suffering.

B. Interviews and Site Visits

From July through October 2021, the Grand Jury interviewed seven county staff associated with the Shelter and participated in a tour of the facility. It learned that the Shelter has approximately 150-200 animals under its care at any given time. Animals are assigned a specific identification number, and all pertinent information is tracked on a paper record called the Daily Observation & Treatment Chart attached to each animal's enclosure. Examples of notations include consumption of food and water, urination, and visual cues as to health and vitality. This information is also entered into a database known as "Shelter Buddy." During the tour, the Grand Jury observed all containment facilities, including quarantine areas, an examination room, supply storage areas, an exercise yard, and a medical room used for first aid and the administration of vaccines and/or antibiotics.

The Grand Jury also learned that intake for cats and dogs includes administering specific vaccinations and that the Shelter has, when space is available, cared for pigs, cattle, chickens, and horses during emergency situations such as a wildfire.

The Grand Jury interviewed two volunteers, selected at random, in order to learn what activities volunteers handled. Each had 20 or more years' experience working with animals. They explained that some volunteers are dog walkers only, while others spend time helping cats and kittens learn to socialize. They described walking dogs, occasionally fostering animals, and administering medications when necessary. Both volunteers expressed a sense of personal satisfaction with their volunteer work.

The Grand Jury also interviewed Napa County Animal Services Officers, who report to the Napa County Undersheriff and are responsible for the control and care of wild or stray animals found in the county; these officers are required to have a valid P.C. 832 certificate (Arrest and Firearms). Due to the responsibility for impounding injured or stray animals, these officers interact with the Shelter personnel on a regular basis and have office space located in the Shelter building. When an owner cannot be immediately identified through licensing or microchipping, the animal, typically a dog, is impounded. In such cases, the Shelter will take the necessary steps prescribed by Measure A, among other things, providing necessary medical care, re-homing, locating the owner, or release to an animal rescue (501c) organization.

C. Non-Adoptable Animals

All animals, either surrendered or impounded, are subject to the provisions of Measure A. Animals may not be destroyed, regardless of health, injury, feral nature, or age, unless the Shelter has taken specific steps set forth in the Napa County Municipal Code, 6.04.230. "Feral nature" includes animals that are aggressive, pose a danger to the community, and/or are dangerously reactive to some type of triggering stimulus.

Upon intake, all medical and behavioral issues of the animal are evaluated by staff, and that information is recorded in the Shelter Buddy database; additional steps, required by the Ordinance are also followed:

- Notifying non-profit animal rescue organizations when material adoption challenges exist.
- Providing prompt and necessary veterinary care, training or fostering.
- Providing notice within 48 hours of all impounded or surrendered animals, and prior to destruction, to any active non-profit (501c status) who have requested such information.

Prior to the destruction of any impounded or surrendered animal, two county personnel, neither of whom may report to the other, must attest to meeting the required Ordinance steps. Each county official must also sign an acknowledgment statement and consent to euthanize.

To address unmanageable animals, the Shelter can engage an animal behaviorist, but only on a pro bono basis. This step may be limited with respect to modifying aggressive or reactive behavior, a process that can take weeks or months to complete. Such delays with animals (generally dogs) present a challenge to achieving adoption.

Obtaining the services of a pro bono animal behaviorist, even for one animal, can be a difficult and lengthy process. Often such efforts have not been accompanied by assurances of success, and consequently, the animal will not be suitable for adoption.

D. Irremediable Suffering

When an animal is surrendered or impounded and determined to have serious health and/or injury causing irremediable suffering, that animal *cannot* be euthanized without the prior approval of a licensed veterinarian. This restriction can lead to unreasonable time-consuming efforts.

The Shelter maintains a contractual agreement with one or more local veterinarians. To the extent possible, sick or injured animals are turned over to the care of these pet hospitals. In some instances, the Animal Services officer may take an animal directly to the veterinarian. Nonetheless, occasionally that step is not immediately possible or practical, and the animal may remain in the shelter and continue suffering.

The Shelter is able to perform euthanasia when requested by an animal's owner. This action is often taken when professional care becomes too expensive for the owner due to the need for prolonged medications, x-rays, surgeries, or repeated visits to the veterinarian. The Shelter will attempt to offer other alternatives such as re-homing, but this rarely succeeds, given the likely need for extensive medical care.

E. Live Release Outcomes

The two charts below represent data collected from the Shelter's website. The Live Release Statistics for cats are historically lower than that of dogs due to their free-roaming nature, greater risk of being hit by a vehicle, an absence of licensing and chip identification, venturing too far away from their owners, or un-spayed females without a home while caring for kittens.

**NAPA COUNTY ANIMAL SHELTER
LIVE RELEASE OUTCOMES BY YEAR**

	Adoptions	Reclaimed	Trf /Other *	Total	Euthanized**
2018					
Dogs	423	515	44	982	24
Cats	521	145	95	761	97
Rabbits	40	0	6	46	0
2019					
Dogs	338	478	27	843	11
Cats	574	53	94	721	79
Rabbits	28	0	23	51	0
2020					
Dogs	190	441	63	694	12
Cats	308	135	159	602	46
Rabbits	18	1	13	12	0
2021					
Dogs	183	350	36	569	9
Cats	353	67	43	463	49
Rabbits	19	4	1	24	1

* Transferred to Rescue Organizations/Re-homing ** Does not include owner Requested

LIVE RELEASE STATISTICS AS A % OF TOTAL SPECIFIC ANIMALS

2018	Dogs = 97.6%	Cats = 87.3%	Rabbits = 100%	Total = 93.2%
2019	Dogs = 98.7%	Cats = 89.0%	Rabbits = 100%	Total = 94.4%
2020	Dogs = 98.3%	Cats = 92.4%	Rabbits = 100%	Total = 95.6%
2021	Dogs = 98.4%	Cats = 90.7%	Rabbits = 95.8%	Total = 94.4%

FINDINGS

- F1. The Napa County Animal Shelter cares for approximately 150-200 animals every month. The Shelter has the ability to quarantine animals, administer medications, isolate problem animals when necessary, and rehabilitate some animals demonstrating problematic behaviors.
- F2. Impounded or surrendered animals with significant behavioral problems create an immediate barrier to adoption or foster care. The Napa County Code requires that a pro-bono Animal Behaviorist attend to these problematic situations; this can be difficult and time-consuming to manage. During the Grand Jury's visit to the Shelter, several dogs were observed to be agitated inside their enclosures and were generally unapproachable due to the potential for injury.
- F3. A dog with a feral nature must be offered to a non-profit organization for possible adoption.
- F4. Socialization, including a mitigation plan to deal with the behavior problems of aggressive animals, may not be achievable given the obstacle of obtaining a pro bono behaviorist. This path is rarely viable since the time devoted to the animal is limited and may be insufficient to change the animal's behavior and make it suitable for adoption.
- F5. Shelter managers explained that the requirement for approval to euthanize animals must be obtained by a licensed veterinarian via a telephone consultation. This requirement can result in unintended consequences when a veterinarian's approval cannot be quickly obtained. There may be requests for vital signs, injury identification, or other specific information, which take time to provide and are likely to lead to the same conclusion held by the Shelter personnel in the first case, i.e., the animal cannot be saved.

RECOMMENDATIONS

- R1. In order to resolve animal behavior problems more rapidly, this Grand Jury recommends that the Shelter secure a contract with a Certified Animal Behaviorist. This specialist would be asked to commit to a defined period of time each week/month to develop a program for each such animal that may ultimately lead to adoptability. In the contrary situation the Behaviorist, with concurrence from a Shelter supervisory person, may determine that no amount of behavior modification training will guarantee that an animal will be able to thrive in a home environment without the possibility of future aggression or unpredictable impulsive actions.
- R2. The Ordinance currently states that two county personnel, neither of whom reports to the other, have the authority to euthanize animals after seven specific steps outlined in the Ordinance have been completed regardless of health, injury, feral nature, or age. An exception to these conditions should be made when the suffering cannot be relieved, i.e., irremediable suffering. In this instance, this Grand Jury recommends that the two county personnel (a Shelter Attendant and

the Shelter Manager) should have the authority to euthanize an animal without having completed these steps, if it has been determined that an animal is suffering needlessly. A ballot measure with voter approval would be required to expand this exception to include Animal Shelter staff. Shelter personnel are fully trained and competent to perform owner requested euthanasia; this Grand Jury recommends that they should have the authority to do so when necessary to relieve irremediable suffering.

- R3. **COMMENDATION:** The Shelter personnel have a unique responsibility within Napa County governmental agencies. They must accommodate the needs of the public and provide shelter for animals sometimes under trying emotional circumstances. They are able to care for many species of animals besides dogs, cats, and rabbits, which are the focus of the Live Release Statistics. They have on occasion housed various birds, chickens, rodents, cattle, pigs, and horses particularly when a natural disaster occurs, such as recent wildfires.
- R4. **COMMENDATION:** Shelter personnel seek to find alternatives for surrendered animals, such as non-profit animal welfare organizations able to adopt animals and locate foster homes, often a difficult task.
- R5. **COMMENDATION:** Based on site visits and interviews with Shelter personnel, two Animal Services officers, and two volunteers, the Shelter has performed a very credible job in improving the Live Release outcomes while meeting Measure A requirements.

REQUEST FOR RESPONSES

REQUIRED RESPONSES

A response from the following governing body is requested within 90 days:

R2: Napa County Board of Supervisors

R1: Director, Napa County Public Works

INVITED RESPONSES

The following unelected local government officials are invited to respond:

Napa County Sheriff's Department, Undersheriff, Animal Services

Manager, Napa County Animal Shelter

APPENDIX A - NAPA COUNTY CODE, ANIMALS

6.04.230 - Impounded and surrendered animals—Notice to owner—Disposition.

A. The animal control officer and the animal shelter shall observe the following rules in the course of managing the lives of impounded and surrendered dogs, cats and rabbits:

1. Subject to the provisions of subsection (A)(3) of this section, in the case of impoundment of a dog, cat, or rabbit whose owner can reasonably be expected to be positively identified, the animal shall continue to be impounded for a period of six days while all reasonable steps necessary to notify the owner of the impoundment are taken. Such steps shall not be required to include publication of notice in a newspaper. If the owner or a representative of the owner is successfully notified, the animal shall continue to be impounded for a period of not more than four days from the date of notification, during which period the animal may be redeemed in accordance with Section 6.04.240 of this code. If at the end of the four-day period the owner has not redeemed the animal, it shall be handled in accordance with subsection (A)(3) of this section.

2. Subject to the provisions of subsection (A)(3) of this section, in the case of impoundment of a dog, cat, or rabbit whose owner cannot be reasonably expected to be positively identified, the animal shall continue to be impounded for a period in compliance with applicable California Food and Agriculture Code sections, during which period the animal may be redeemed in accordance with Section 6.04.240 of this code. If at the end of such period the animal has not been redeemed, it shall be handled in accordance with subsection (A)(3) of this section.

3. Subject to the exclusions in subsection (A)(4) of this section, any impounded or surrendered dog, cat, or rabbit being considered for destruction may not be destroyed, regardless of health, injury, feral nature, or age, unless the animal shelter shall have first taken the following steps:

a. Complete for each animal:

i. A written behavioral and medical evaluation of the animal by qualified staff, which evaluation shall be made available to the public and to non-profit organizations described in subsections (A)(3)(c) and (d);

ii. Notify the non-profit organizations described in subsections (A)(3)(c) and (d) upon initial identification by staff of material adoption challenges; and

iii. A mitigation plan when such adoption challenges are determined to exist for the animal;

b. Provide prompt and necessary veterinary care; appropriate socialization; exercise; reasonable accommodation of special needs in situations such as nursing mothers, un-weaned animals, geriatric animals, or extremely frightened animals; and seek a live

outcome in partnerships with non-profit animal welfare organizations, including, but not limited to, training, fostering, and veterinary/medical support.

c. Make provision for not less than forty-eight hours notice of all impounded and surrendered animal scheduled for destruction to any active non-profit (501(c)(3) status) animal welfare organizations who have requested such notification;

d. Permit the release of an impounded or surrendered animal scheduled for destruction to any active non-profit (501(c)(3) status) animal welfare organizations upon request of the organization, provided that owners shall retain the same right of reclamation as if the animal was still in the shelter; and no such request has been made within forty-eight hours of such notice; and

e. Prior to destruction of an impounded or surrendered animal, two county personnel, neither of which reports directly to the other, have each determined that the shelter has acted in accordance with this section and has each signed an acknowledgement and consent to euthanize the animal.

4.Exclusions. Subsection (A)(3) shall not apply to:

a. An animal suspected to carry and exhibiting signs of rabies, as determined by a licensed veterinarian;

b. A dog that, after physically attacking a person, has been determined to be dangerous either by:

1) qualified staff pursuant to the American Professional Dog Trainers' Dog Bite Scale or similar industry standard; or

2) a dog trainer or behaviorist provided by a non-profit organization described in subsections (A)(3)(c) and (d) at no cost to the shelter. A written record of the assessment prepared by qualified staff, dog trainer or behaviorist shall be made available to the public;

c. An animal experiencing irremediable physical suffering as determined by a licensed veterinarian via telephone consultation.

B. The animal shelter shall dispose of or destroy all other impounded animals in accordance with applicable provisions of the California Food and Agricultural Code.

C. The animal shelter shall maintain and publish on its website, or other publicly accessible location, the following:

1.List of active non-profit (501(c)(3) status) animal welfare organization partners who have requested notice of any animals scheduled for destruction;

2.Live release rate for the prior calendar quarter, and the annual live release rate for the prior three years, utilizing methodologies and formulas developed in the

Asilomar Accords of 2004D. For the purpose of this section, animal means dogs, cats, and rabbits.

(Ord. 1305 § 1 (part), 2008)

APPENDIX B – ASILOMAR ACCORDS

ASILOMAR ACCORDS

I. Preface

In August of 2004, a group of animal welfare industry leaders from across the nation convened at Asilomar in Pacific Grove, California for the purpose of building bridges across varying philosophies, developing relationships and creating goals focused on significantly reducing the euthanasia of healthy and treatable companion animals in the United States.

Through hard work, lively discussion and brainstorming, a common vision for the future was adopted. The leadership of the following organizations participated in the original, and/or subsequent meetings, and were involved in the drafting of the "**Asilomar Accords**":

Martha Armstrong	The Humane Society of the United States
Richard Avanzino	Maddie's Fund
Pamela Burns	Hawaiian Humane Society
Mark Byers	Spanish Fork Animal Control (UT) & the National Animal Control Association (NACA)
Perry Fina	North Shore Animal League and The Pet Savers Foundation
Mark Goldstein, D.V.M.	San Diego Humane Society and SPCA
Belinda Lewis	Fort Wayne Animal Care & Control
Dave Loftus	Pet-Ark
Jane McCall	Dubuque Humane Society
Jan McHugh-Smith	Humane Society of Boulder Valley
Steven McHugh	Unison Business Development
Nancy McKenney	Humane Society for Seattle/King County
Dan Morrison	Southeast Area Animal Control Authority
John Nagy	Dumb Friends League & the Society of Animal Welfare Administrators (SAWA)
Cheryl Naumann	Arizona Humane Society

Robert Rohde	Dumb Friends League
Edwin Sayres	American Society for the Prevention of Cruelty to Animals
John Snyder	The Humane Society of the United States
Karen Terpstra	Pasadena Humane Society & SPCA
Gary Tiscornia	SPCA of Monterey County & the Society of Animal Welfare Administrators (SAWA)
Marie Belew Wheatley	American Humane Association

II. Guiding Principles

1. The mission of those involved in creating the Asilomar Accords is to work together to save the lives of all healthy and treatable companion animals.
2. We recognize that all stakeholders in the animal welfare community have a passion for and are dedicated to the mutual goal of saving animals' lives.
3. We acknowledge that the euthanasia of healthy and treatable animals is the sad responsibility of some animal welfare organizations that neither desired nor sought this task. We believe that the euthanasia of healthy and treatable animals is a community-wide problem requiring community-based solutions. We also recognize that animal welfare organizations can be leaders in bringing about a change in social and other factors that result in the euthanasia of healthy and treatable animals, including the compounding problems of some pet owners'/guardians' failure to spay and neuter; properly socialize and train; be tolerant of; provide veterinary care to; or take responsibility for companion animals.
4. We, as animal welfare stakeholders, agree to foster a mutual respect for one another. When discussing differences of policy and opinion, either publicly or within and among our own agencies, we agree to refrain from denigrating or speaking ill of one another. We will also encourage those other individuals and organizations in our sphere of influence to do the same.
5. We encourage all communities to embrace the vision and spirit of these Accords, while acknowledging that differences exist between various communities and geographic regions of the country.
6. We encourage the creation of local "community coalitions" consisting of a variety of organizations (e.g., governmental animal control agencies, nonprofit shelters, grassroots foster care providers, feral cat groups, funders and veterinary associations) for the purpose of saving the lives of healthy and treatable animals. We are committed to the belief that no one organization or type of organization can achieve this goal alone, that we need one another, and that the only true
7. solution is to work together. We need to find common ground, put aside our

differences and work collaboratively to reach the ultimate goal of ending the euthanasia of healthy and treatable companion animals.

8. While we understand that other types of programs and efforts (including adoption, spay and neuter programs, education, cruelty investigations, enforcement of animal control laws and regulations, behavior and training assistance and feral cat management) play a critical role in impacting euthanasia figures, for purposes of this nationwide initiative we have elected to leave these programs in the hands of local organizations and encourage them to continue offering, and expanding upon, these critical services.

9. In order to achieve harmony and forward progress, we encourage each community coalition to discuss language and terminology which has been historically viewed as hurtful or divisive by some animal welfare stakeholders (whether intentional or inadvertent), identify "problem" language, and reach a consensus to modify or phase out language and terminology accordingly.

10. We believe in the importance of transparency and the open sharing of accurate, complete animal-sheltering data and statistics in a manner which is clear to both the animal welfare community and the public.

11. We believe it is essential to utilize a uniform method for collecting and reporting shelter data, in order to promote transparency and better assess the euthanasia rate of healthy and treatable animals. We determined that a uniform method of reporting needs to include the collection and analysis of animal-sheltering data as set forth in the "Animal Statistics Table." These statistics need to be collected for each individual organization and for the community as a whole and need to be reported to the public annually (e.g., web sites, newsletters, annual reports). In addition, we determined that each community's "Live Release Rate" needs to be calculated, shared and reported annually to the public, individually by each organization and jointly by each community coalition. Both individual organizations and community coalitions should strive for continuous improvement of these numbers. The "Animal Statistics Table" and formulas for calculating the "Live Release Rate" are set forth in Section IV of these Accords.

12. We developed several standard "definitions" to enable uniform and accurate collection, analysis and reporting of animal-sheltering data and statistics. We encourage all communities to adopt the definitions which are set forth in Section III, and implement the principles of these Accords.

13. While we recognize that many animal welfare organizations provide services to companion animals other than dogs and cats, for purposes of this nationwide initiative we have elected to collect and share data solely as it relates to dogs and cats.

14. We are committed to continuing dialogue, analysis and potential modification of this vision as needs change and as progress is made toward achieving our mission.

15. Those involved in the development of the Asilomar Accords have agreed to make a personal commitment to ensure the furtherance of these accords, and to use their professional influence to bring about a nationwide adoption of this vision.

III. Definitions

In order to facilitate the data collection process and assure consistent reporting across agencies, the following definitions have been developed. The Asilomar participants hope that these definitions are applied as a standard for categorizing dogs and cats in each organization. The definitions, however, are not meant to define the outcome for each animal entrusted to our care. A glossary and more specific details and examples are included in the appendix portion of this document.

Healthy: The term "healthy" means and includes all dogs and cats eight weeks of age or older that, at or subsequent to the time the animal is taken into possession, have manifested no sign of a behavioral or temperamental characteristic that could pose a health or safety risk or otherwise make the animal unsuitable for placement as a pet, and have manifested no sign of disease, injury, a congenital or hereditary condition that adversely affects the health of the animal or that is likely to adversely affect the animal's health in the future.

Treatable: The term "treatable" means and includes all dogs and cats who are "rehabilitatable" and all dogs and cats who are "manageable."

Rehabilitatable: The term "rehabilitatable" means and includes all dogs and cats who are not "healthy," but who are likely to become "healthy," if given medical, foster, behavioral, or other care equivalent to the care typically provided to pets by reasonable and caring pet owners/guardians in the community.

Manageable: The term "manageable" means and includes all dogs and cats who are not "healthy" and who are not likely to become "healthy," regardless of the care provided; but who would likely maintain a satisfactory quality of life, if given medical, foster, behavioral, or other care, including long-term care, equivalent to the care typically provided to pets by reasonable and caring owners/guardians in the community; provided, however, that the term "manageable" does not include any dog or cat who is determined to pose a significant risk to human health or safety or to the health or safety of other animals.

Unhealthy and Untreatable: The term "unhealthy and untreatable" means and includes all dogs and cats who, at or subsequent to the time they are taken into possession,

(1) have a behavioral or temperamental characteristic that poses a health or safety risk or otherwise makes the animal unsuitable for placement as a pet, and are not likely to become "healthy" or "treatable" even if provided the care typically provided to pets by reasonable and caring pet owners/guardians in the community; or

(2) are suffering from a disease, injury, or congenital or hereditary condition that adversely affects the animal's health or is likely to adversely affect the animal's health in the future, and are not likely to become "healthy" or "treatable" even if provided the care typically provided to pets by reasonable and caring pet owners/guardians in the community; or

(3) are under the age of eight weeks and are not likely to become "healthy" or "treatable," even if provided the care typically provided to pets by reasonable and caring pet owners/guardians in the community.

Glossary of Terms

A) Beginning Shelter Count (date): The number of dogs and cats in your shelter or in your care including fosters at the beginning of the reporting period. The reporting period is annual – either a calendar year or a fiscal year. (date) refers to the first day of the reporting period written in the following format: month/day/year.

Intake (Live Dogs & Cats Only): This table only deals with live dogs and cats for which your shelter or animal group assumed responsibility. Dogs and cats categorized as "dead on arrival" or DOA are not included in these statistics. For intake animals, status is determined at the time paperwork is initiated.

B) From the Public: The number of live dogs and cats your shelter or animal group received from the public. This includes dogs and cats turned in or surrendered by their owners/guardians; stray dogs and cats turned in by the public; stray dogs and cats picked up in the field; and dogs and cats impounded for cruelty investigation, custody care, and statutory/ordinance impoundment.

C) Incoming Transfers from Organizations within Community/Coalition: The number of dogs and cats your shelter or animal group received from other animal organizations participating in your collaborative group. (This only applies if the reporting organization is working collaboratively with other shelters/groups

in their area.) NOTE: On the community or coalition level, C (*Incoming Transfers from Organizations within Community/Coalition*) should equal J (*Outgoing Transfers to Organizations within Community/Coalition*)

D) Incoming Transfers from Organizations outside Community/Coalition: The number of dogs and cats your shelter or animal group received from animal organizations that are not participating in your collaborative group. NOTE: If you are not part of a collaboration that is compiling statistics, then all your incoming transfers would be listed here.

E) From Owners/Guardians Requesting Euthanasia: The number of dogs and cats turned in or surrendered to your shelter or animal group by their owners/guardians for the purpose of euthanasia. This includes all categories of dogs and cats (healthy, treatable-rehabilitatable, treatable-manageable, unhealthy & untreatable). [See M, N, O, P for definitions of healthy, treatable-rehabilitatable, treatable-manageable, unhealthy & untreatable.]

F) Total Intake: The sum of lines B through E. This includes all live dogs and cats for which your shelter or animal group assumed responsibility.

G) Owner/Guardian Requested Euthanasia (Unhealthy & Untreatable Only): The number of unhealthy & untreatable dogs and cats your shelter or animal group euthanized at the request of their owners/guardians and the number of dogs and cats ordered to be euthanized by legislative, judicial or administrative action. Do not include any dogs and cats your shelter or animal group euthanized at the request of their owners/guardians and who were considered to be healthy, treatable-rehabilitatable or treatable-manageable at the time of death. [See M, N, O, P for definitions of healthy, treatable-rehabilitatable, treatable-manageable, unhealthy & untreatable.]

H) Adjusted Total Intake: Lines F minus G. Total Intake minus the number of unhealthy & untreatable dogs and cats your shelter or animal group euthanized at the request of their owners/guardians. [See P for definition of unhealthy & untreatable category.]

I) Adoptions: The number of dogs and cats your shelter or animal group placed with members of the public. Do not include dogs and cats in foster homes or dogs and cats transferred to other animal welfare organizations.

J) Outgoing Transfers to Organizations within Community/Coalition: The number of dogs and cats your shelter or animal group turned over to other animal organizations within your collaborative group.

(This only applies if the reporting organization is working collaboratively with other shelters/groups in their area.) NOTE: On the community or coalition level, J

(Outgoing Transfers to Organizations within Community/Coalition) should be equal to C (Incoming Transfers from Organizations within Community/Coalition)

K) Outgoing Transfers to Organizations outside Community/Coalition: The number of dogs and cats your shelter or animal group turned over to animal organizations that are not part of your collaborative group. NOTE: If you are not part of a collaboration which is compiling statistics, then all your outgoing transfers would be listed here.

L) Return to Owner/Guardian: The number of stray dogs and cats your shelter or animal group reunited with their owners/guardians and the number of dogs and cats reclaimed by their owners/guardians. **Dogs & Cats Euthanized:** The number of dogs and cats your shelter or animal group euthanized, broken down into the following categories: healthy; treatable-rehabilitatable; treatable- manageable; and unhealthy & untreatable. Dogs and cats are categorized at the time of euthanasia. [See M, N, O, P for definitions of healthy, treatable-rehabilitatable, treatable-manageable, unhealthy & untreatable.]

M) Healthy (Includes Owner/Guardian Requested Euthanasia): The number of healthy dogs and cats that your shelter or animal group euthanized including the number of healthy dogs and cats your shelter or animal group euthanized at the request of their owners/guardians.

The term "healthy" means and includes all dogs and cats eight weeks of age or older that, at or subsequent to the time the animal is taken into possession, have manifested no sign of a behavioral or temperamental characteristic that could pose a health or safety risk or otherwise make the animal unsuitable for placement as a pet, and have manifested no sign of disease, injury, or congenital or hereditary condition that adversely affects the health of the animal or that is likely to adversely affect the animal's health in the future.

N) Treatable – Rehabilitatable (Includes Owner/Guardian Requested Euthanasia): The number of treatable – rehabilitatable dogs and cats that your shelter or animal group euthanized including the number of treatable – rehabilitatable dogs and cats your shelter or animal group euthanized at the request of their owners/guardians. (These conditions are generally considered to be curable.)

The term "treatable" means and includes all dogs and cats who are "rehabilitatable" and all dogs and cats who are "manageable." The term "rehabilitatable" means and includes all dogs and cats who are not "healthy," but who are likely to become "healthy," if given medical, foster, behavioral, or other care equivalent to the care typically provided to pets by reasonable and caring pet owners/guardians in the community.

O) Treatable – Manageable (Includes Owner/Guardian Requested Euthanasia): The number of treatable – manageable dogs and cats that your shelter or animal group euthanized including the number of treatable – manageable dogs and cats your shelter or animal group euthanized at the request of their owners/guardians. (These conditions are generally considered to be chronic.)

The term "treatable" means and includes *all dogs and cats who are "rehabilitatable" and all dogs and cats who are "manageable."* The term "manageable" means and includes *all dogs and cats who are not "healthy" and who are not likely to become "healthy," regardless of the care provided; but who would likely maintain a satisfactory quality of life, if given medical, foster, behavioral, or other care, including long-term care, equivalent to the care typically provided to pets by reasonable and caring pet owners/guardians in the community; provided, however, that the term "manageable" does not include any dog or cat who is determined to pose a significant risk to human health or safety or to the health or safety of other animals.*

P) Unhealthy & Untreatable (Includes Owner/Guardian Requested Euthanasia): The number of unhealthy & untreatable dogs and cats that your shelter or animal group euthanized including the number of unhealthy & untreatable dogs and cats your shelter or animal group euthanized at the request of their owners/guardians and the number of dogs and cats ordered to be euthanized by legislative, judicial or administrative action.

The term "Unhealthy and Untreatable" means and includes *all dogs and cats who, at or subsequent to the time they are taken into possession, (1) have a behavioral or temperamental characteristic that poses a health or safety risk or otherwise makes the animal unsuitable for placement as a pet, and are not likely to become "healthy" or "treatable" even if provided the care typically provided to pets by reasonable and caring pet owners/guardians in the community; or (2) are suffering from a disease, injury, or congenital or hereditary condition that adversely affects the animal's health or is likely to adversely affect the animal's health in the future, and are not likely to become "healthy" or "treatable" even if provided the care typically provided to pets by reasonable and caring pet owners/guardians in the community; or (3) are under the age of eight weeks and are not likely to become "healthy" or "treatable," even if provided the care typically provided to pets by reasonable and caring pet owners/guardians in the community.*

Q) Total Euthanasia: Sum of lines M through P. This includes all dogs and cats your shelter or animal group euthanized (Healthy, Treatable – Rehabilitatable, Treatable – Manageable, and Unhealthy & Untreatable). [See M, N, O, P for

definitions of healthy, treatable-rehabilitatable, treatable-manageable, unhealthy & untreatable.]

R) Owner/Guardian Requested Euthanasia (Unhealthy & Untreatable Only):

The number of unhealthy & untreatable dogs and cats that your shelter or animal group euthanized at the request of their owners/guardians and the number of dogs and cats ordered to be euthanized by legislative, judicial or administrative action. Do not include any dogs and cats your shelter or animal group euthanized at the request of their owners/guardians and who were considered to be healthy, treatable-rehabilitatable or treatable-manageable at the time of death. [See M, N, O, P for definitions of healthy, treatable- rehabilitatable, treatable-manageable, unhealthy & untreatable.]

S) Adjusted Total Euthanasia: Total Euthanasia minus Owner/Guardian Request Euthanasia (Unhealthy & Untreatable Only). [See P for definition of unhealthy & untreatable category.]

T) Subtotal Outcomes: Sum of lines I through L plus S. This includes the number of dogs and cats that your shelter or animal group adopted, transferred, returned to owner/guardian. Do not include the number of dogs and cats who died or were lost while in your shelter or in your care or the number of unhealthy & untreatable dogs and cats that your shelter or animal group euthanized at the request of their owners/guardians or the number of dogs and cats ordered to be euthanized by legislative, judicial or administrative action. [See P for definition of unhealthy & untreatable category.]

U) Died or Lost in Shelter/Care: The number of dogs and cats for which your shelter or animal group assumed responsibility and who died or could not be accounted for. This includes the number of dogs and cats who died of medical complications (and were not euthanized), died in foster care or in transit, or were lost or stolen from the shelter.

V) Total Outcomes: Sum of lines T and U. This is the total number of dog and cat outcomes which includes the number of dogs and cats your shelter or animal group adopted, transferred, returned to owner/guardian plus the number of dogs and cats for which your shelter or animal group assumed responsibility and who died of medical complications (and were not euthanized) or were lost or stolen (from the shelter or foster care). Total outcomes do not include the number of unhealthy & untreatable dogs and cats that your shelter or animal group euthanized at the request of their owners/guardians or the number of dogs and cats ordered to be euthanized by legislative, judicial or administrative action. [See P for definition of unhealthy & untreatable category.]

W) Ending Shelter Count (date): The number of dogs and cats in your shelter or in your care including fosters at the end of the reporting period. The reporting period is annual – either a calendar year or a fiscal year. (date) refers to the last day of the reporting period written in the following format: month/day/year.

NAPA COUNTY CIVIL GRAND JURY

2021-2022

FINAL INVESTIGATIVE REPORT

June 13, 2022

NAPA COUNTY'S CLIMATE ACTION COMMITTEE:

WHERE'S THE ACTION?

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SUMMARY

The 2021-2022 Napa Grand Jury undertook to examine the workings and accomplishments of the Napa County “Climate Action Committee,” now functioning under a formal cooperative Joint Powers Agreement (JPA). The Grand Jury concluded that the committee in its present form is not fulfilling the goals and responsibilities set forth in either its origin document or the JPA that currently governs its operation. While potentially well intentioned, it has failed to provide timely measurable goals and action plans to its constituent jurisdictions. It has accomplished little since its first public meeting in November 2019, notwithstanding that its members frequently express the need for concerted, coordinated efforts to address the climate emergency confronting the world.

BACKGROUND

After examining the status of Napa County’s Climate Action Plan (CAP), the previous 2017-2018 Napa County Grand Jury concluded that it remained a “work in progress,” notwithstanding that it had been proposed ten years previously. At the time of that investigation, climate change was described as an immediate and significant health, environmental, economic, and national security danger that would likely have planetary consequences.¹ Since the date of that Grand Jury report, the potential consequences of greenhouse gas emissions (GHG), in the estimation of the majority of the scientific community, has risen to the level of a planetary *emergency*.²

One of the findings of the previous Grand Jury was that there was the lack of climate action planning coordination existent between the jurisdictional communities within Napa County. Whether or not related to that finding and the recommendation that such a collaborative structure be created, the six Napa County governmental jurisdictions subsequently passed resolutions to form a Climate Action Committee (CAC) in June 2019. After much debate, the jurisdictions agreed to create a Joint Powers Agreement structure that was described in some meetings as a “middle of the road” solution which left the committee in an advisory capacity only. The 2021-2022 Grand Jury undertook an evaluation of that committee’s workings seeking to determine whether it has lived up to the modest goals it set for itself and, further, to determine whether the Climate Action Committee in its present iteration provides the Napa Valley community with the leadership necessary to effectively address the climate emergency which is upon us.

METHODOLOGY

In preparing this report about the Napa Climate Action Committee (CAC), the Grand Jury interviewed seven CAC members and several county and local jurisdiction staff members. The

¹ 2017-2018 Napa Grand Jury Final Report: Napa County Climate Action Plan – A Work in Progress.

² UN News, April 2022: “UN climate report: It’s ‘now or never’ to limit global warming to 1.5 degrees;” Scientific American, April 12, 2021: “We Are Living in a Climate Emergency, and We’re Going to Say So.”

Grand Jury also interviewed various Napa County community members active and knowledgeable in the promotion of Green House Gas (GHG) reduction efforts.

Monthly CAC meetings, mostly through the CAC video recordings were reviewed, along with articles in the Napa Register and Saint Helena Star about local climate action activities. Finally, the Grand Jury also reviewed websites of the following Agencies to better understand and follow their actions:

- California Air Resources Board (CARB)
- Bay Area Air Quality Management District (BAAQMD)
- California Energy Commission
- Upper Valley Waste Management District
- California Building Standards Commission
- Napa County 2018 Draft Climate Action Plan
- Charge Point Website
- EVGO Website
- State of California Public Utilities Commission
- Contra Costa County Climate Action Committee
- Sonoma County Climate Action Committee

DISCUSSION

This investigation sought to determine how effective Napa’s Climate Action Committee had been in coordinating and implementing county-wide programs seeking to address the effects of greenhouse gas emissions and to determine whether it provided meaningful assistance to the various member entities in their individual efforts to do so. As the investigation proceeded, the Grand Jury expanded its inquiry to consider whether the current CAC structure and charter can be effective in accomplishing its stated mission.

The CAC is the only body focused on county-wide climate change mitigation activities. The original resolutions upon which the Committee was formed proposed that the Committee would identify countywide goals and strategies for addressing climate change, including an updated greenhouse gas (GHG) inventory, countywide goals and timelines, and common GHG reduction standards for each jurisdiction to adopt independently and that it would “develop cost estimates and funding opportunities for shared projects”³ The Committee held its first public meeting in November 2019. In the January 2020 meeting, much discussion occurred about what the Committee should be and what it could be. The prevailing sentiment from the Committee members was that climate change was an emergent situation that required action rather than promises. One person suggested that the Committee might more accurately be identified as the “Emergency Climate Action Committee.” As another member pointed out, people come together best when they are confronted with an emergency that requires co-dependent conduct and that such an

³ Proclamation: “Countywide Commitment to Address Climate Change,” June 2019; Napa County Board of Supervisors Board Agenda Letter, April 20, 2021; Recitals in Cooperative Joint Powers Agreement to Fund and Administer The Napa Countywide Climate Action Program, adopted April 20, 2021

emergency is now in front of us. Unfortunately, that cooperative action-based spirit, to which Committee members have repeatedly given lip service, has not been backed with concrete action.

Nowhere is the lack of action, as opposed to rhetoric, better demonstrated than by the committee's path to organizing itself. Notwithstanding the fact that there was general agreement at the Committee's first public meeting in November 2019 that there was a need for an integrated plan within the County that would provide real, rather than aspirational, goals and a system to monitor the progress toward those goals, the Committee spent the next *fifteen months* developing an agreed upon Joint Powers Agreement (JPA). In the end, this JPA essentially preserved the independence of each jurisdiction within it and dictated that the organization would be advisory only. Although the Committee received presentations on various subjects during those intervening months and entertained public comment urging it to take action on the subject of GHG reduction, its only actual accomplishment was eventually to agree on funding an updated GHG inventory, a project that had been on the books for the County for many years.⁴

Similarly, the Committee initially identified the potential need for a collaborative approach to developing an Electric Vehicle (EV) charging station infrastructure in Napa Valley. It sought and was provided an inventory of the number, location and type of existing EV charging stations at its April 24, 2020 meeting. Even so, development of plans and budgets for EV charging expansion and procurement did not proceed. Moreover, CAC members as a group did not appear to be aware of the details and extent of EV charging station subsidy programs currently available through the California Energy Commission and the Bay Area Air Quality Management District. It was not until its most recent meeting (April 2022) that the Committee reached a general agreement on retaining a consultant to create an EV charging plan, a process estimated to take an additional six to nine months. Even so, that recommendation needs to return to each jurisdiction for its approval of funding before the RFP (Request for Proposal) process to retain such a consultant can begin.

In the course of its interviews, the Grand Jury was repeatedly told that much of the delay in completing action items was due to the lack of a current GHG inventory (now due in August/September 2022). All interviewees agreed, however, that percentage-wise, the new inventory will likely mirror the results of the 2009 inventory. By far the largest contributors to GHG in Napa Valley are transportation (including agricultural vehicles) and buildings. Essentially, the targets for GHG reduction have not and will not change. Nonetheless, the CAC has made no significant attempts to promote programs that would address these sectors since its inception in 2019. Neither has it sought out cooperation from, or the significant expertise existent in, the agricultural sector. It has thus failed to consider vineyard-related hydrocarbon emissions that might be addressed on a collaborative basis.

Further, the Grand Jury observed that, although most of the cities and towns within Napa County have some sort of Climate Action Plan or a commitment to complete one in the near future, there is absolutely no mechanism in place to determine whether such plans are current with technology and science, nor is there any monitoring to determine if the goals and actions to be taken have been actually accomplished. There is thus no plan underway to determine what potential efficiencies and cost savings might be accomplished by county-wide cooperation on various potential GHG mitigations. Models of well-developed county-wide plans that have implemented such methods

⁴ The County's existent GHG inventory was completed in 2009 and is based on data from 2005.

are available from nearby counties such as Sonoma County. Napa does not have to “reinvent the wheel.” It can and should take cues from these other neighboring jurisdictions.⁵

The attitude of each jurisdiction in Napa County is dominated by a tendency of wanting to ‘go their own way,’ examining and adopting programs that only make sense for each of them. The Grand Jury concluded that the CAC is not living up to its charter of “identifying mutually agreed upon climate goals and action items for consideration by the individual Member Agencies.” It has failed to recommend intelligent county-wide programs to address the climate change impact of transportation and buildings, and ways of measuring them, the only way of making progress towards realistic targets.

In its previous report of the still incomplete Napa County Climate Action Plan, the 2017-2018 Grand Jury observed:

“Almost to a person, there is agreement that a collaborative effort by all the County jurisdictions is the preferred method of dealing with climate change issues, yet, presently all are “going it alone.” They point to unaligned interests making consensus difficult to achieve as the reason. Many say their individual efforts are too far down the road now to make a joint project a reality, and don’t want the possible recriminations of being thought to be the one(s) that put the brakes on ongoing efforts”.⁶

Apparently, little has changed in the past four years. The various jurisdictions continue to have cooperation issues when action, rather than rhetoric is called for.

The Grand Jury’s investigation found that the CAC’s structure contributes to its lack of success. It is an ungainly body of mostly elected officials, limited by its advisory status. It lacks vision and county-wide leadership to bring the different jurisdictions together to adopt and address a set of common goals and to monitor the member jurisdictions’ progress. The individual CAC members express the intent to address climate change with new programs but their inability to agree on a structure that would elevate this body to something more than an “advisory only” status has blunted the committee’s impact and prevented it from addressing GHG issues on a timely county-wide basis.

In fairness, the Grand Jury observed that the CAC has provided a single point of contact with the public on the issue of GHG reduction. Potentially, individuals and group representatives no longer need to attend meetings at six different jurisdictions to make themselves heard on the subject. Yet this is blunted to some extent by the problem of each jurisdiction going its own way and operating on a non-collaborative course. The latter would be minimized if authority for GHG mitigation actions was centralized in the CAC.

⁵ See for example: Regional Climate Protection Authority (Sonoma County) at <https://rcpa.ca.gov/what-we-do/climate-action-2020/> Imbedded link to “Regional Climate Action Plan”

⁶ 2017-2018 Napa County Grand Jury Final Report, p. 9.

FINDINGS

- F1. The CAC has not been effective in developing and implementing actions for county-wide programs to combat climate change.
- F2. Interviews of Napa CAC members confirmed that the Napa County CAC has decided not to take any major steps toward greenhouse gas (GHG) reduction until the GHG study is released.
- F3. Interviews revealed that the CAC was generally unfamiliar with the EV charging station subsidy programs currently available through the California Energy Commission and the Bay Area Air Quality Management District.
- F4. The CAC struggles with a lack of county-wide GHG mitigation funding. However, it has not placed a priority on having an experienced, effective grant and funding pursuit individual on staff to seek and secure GHG reduction grants, even though grant subsidies for programs like EV charging stations currently exist.
- F5. Past studies have stated that the two largest GHG emission categories are Transportation and Buildings. The Grand Jury's interviews confirm that these two categories are expected to remain the top two items in the GHG study currently underway. The CAC in its three years of existence has not defined and proposed any action items to address the top two categories of emissions.

RECOMMENDATIONS

- R1. The CAC should increase the sense of urgency in implementing GHG emission reduction actions.
- R2. The CAC should create monitoring protocols that seek to identify what its individual members have set as goals and to identify whether they have met meaningful standards consistent with those goals. These should be formalized and reported to the CAC on a quarterly basis.
- R3. The CAC should provide a detailed prioritized list of potential projects for possible grant funding and either retain or designate a current staff person as a grant researcher and writer to identify and seek grants from any possible source.
- R4. The CAC should restructure itself to provide authority over and accountability of its member jurisdictions.

R5. To benefit its work, the CAC should consider the following actions:

- Reducing the number of CAC members, currently from 12 (2 per jurisdiction), to 6 (1 per jurisdiction) to facilitate faster action, use of advisors and plan development.
- Utilize county citizens familiar with GHG emission reduction strategies to assist the CAC in the preparation of recommended actions.

RESPONSES

The following responses under Penal Code sections 933 and 933.05 are requested from the following elected city officials:

REQUIRED RESPONSES

- Town Council of Yountville
- City Councils of Napa, American Canyon, St. Helena and Calistoga
- The Napa County Board of Supervisors
- The Climate Action Committee, a Joint Powers Agreement Authority under California law

**NAPA COUNTY CIVIL GRAND JURY
2021-2022**

**FINAL INVESTIGATIVE REPORT
June 13, 2022**

**CITY OF NAPA
COMMUNITY DEVELOPMENT DEPARTMENT**



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SUMMARY

Within the city limits of Napa, some residents wish to build new homes, add a separate dwelling or, in some cases, alter an existing dwelling. These efforts can range from simple improvements to major teardowns and remodels as well as new construction of condominiums, apartments, new single-family homes and estate-like properties with multiple structures.

All of these actions are regulated by the Napa City Community Development Department (CDD). The 2021-2022 Napa County Civil Grand Jury became aware of complaints about the CDD's review process and opened an investigation to assess the Department's responsiveness to the needs of residents, architects, and developers.

The five divisions within the CDD review building plans and construction for both residential and commercial purposes. The City's Department of Public Works must also review the plans for larger projects and for City entities outside of the CDD, such as the City of Napa Fire Department.

The process of reviewing blueprints and inspecting the subsequent construction falls within the purview of the CDD. This is relatively straightforward for home improvements as well as the addition of accessory dwelling units. For other new construction projects, however, the approval process is more involved. The Grand Jury examined the workings of this approval process and found that, for new construction, as many as seven different departments are required to approve the blueprints and plans.

The Grand Jury found that problems created by the COVID pandemic shutdown highlighted the need for improvements in the permitting process. First, digital tools should be improved so that blueprints can be reviewed on-line. Second, an expeditor should be assigned to monitor each project and make sure that the work of reviewing and sign-off by each department is completed in a timely fashion.

The Grand Jury also found that there is no systematic review of applications for permits on structures with potential historic importance.

BACKGROUND

The City of Napa Community Development Department (CDD) with the following five divisions is one of the largest and most diversified departments in Napa City Government:

1. Planning
2. Building
3. Economic Development and Housing
4. Code Enforcement
5. Parking

The Community Development Department’s mission statement is to “deliver professional and responsive services to enhance the quality of life in the community.” (See website at cityofnapa.org).

The CDD provides community planning, development review and inspection services for the City of Napa. The CDD facilitates the permitting process in a manner that is consistent with city, state, and federal standards. The Department is also responsible for regulating Historic Building Preservation. The CDD charges planning and building fees and also collects money generated from parking violations. This income adds to the General Fund of the City of Napa.

The COVID pandemic lockdown presented significant challenges to the functioning of the CDD. All of its offices were closed to the public and all documents had to be submitted online. The current CDD information technology system is outdated. Use of this outdated system has caused delays and complaints from the public, creating the impression that the Department was not being responsive.

The 2021-2022 Napa County Civil Grand Jury became aware of public concern expressed about the functioning of the CDD and opened this investigation to assess its responsiveness to the public.

METHODOLOGY

During its investigation, the Grand Jury reviewed the following documents:

- *City of Napa Community Development Department, Responsibilities, Policies and Procedures.*
- *City of Napa Planning Department, Responsibilities, Policies and Procedures.*
- *City of Napa Buildings Department, Responsibilities, Policies and Procedures.*
- *City of Napa Code Enforcement Division, Responsibilities, Policies and Procedures.*
- *City of Napa Cultural Heritage Commission, Responsibilities, Policies and Procedures*
- *City of Napa General Plan, Historic Resources.*
- *Napa County Landmarks, Mission Statement.*
- *Napa Register, Articles*

The Grand Jury also conducted a total of eight interviews, including architects, a non-profit agency that interacts with the Community Development Department, current and former City of Napa employees, and Commissioners from the Planning Commission who advise the Community Development Department.

DISCUSSION

The CDD, because of its broad responsibilities, deals with Napa residents and businesses in many areas. Its effectiveness was impacted by the COVID19 pandemic in various ways.

First, City offices were closed during much of 2020; thus, residents and businesses which sought approval for projects and permits could not have face-to-face access with department staff. Access to staff was strictly online, either through websites, email, or phone calls and texting.

Face-to-face interaction has been the traditional way for the CDD staff to work with the public. Moreover, a careful review of a common sets of plans is essential to any project approval. This might, however, have been accomplished just as efficiently using on-line meetings. Nonetheless, when COVID19 arrived, the Department did not have adequate technological capabilities to substitute face-to-face access to department staff, something key to enable residents to obtain necessary reviews. Because their review process was only possible with face-to-face interaction, CDD's goal of providing timely reviews and approvals was severely compromised during the pandemic shutdown.

Second, during this period delays in plan approvals were also exacerbated by other problems. Antiquated manual systems prevented digital submission of plans to CDD divisions. As a result, seven separate hard copies of plans were required to be submitted for each project because each division (and several outside of CDD) needed its own copy. This added extra time and expense for architects, developers, and residents as they sought approval for building permits. It also slowed response times for collaboration.

Moreover, often new information from citizen groups is presented at the public meetings; this can be a reason that a Planning Commission decision is delayed.

Further, during the pandemic, the department's budget was cut by 10% to address the City's unforeseen revenue shortfalls. This action affected staffing levels, which declined still further during 2020-2021 due to voluntary staff attrition. As a result, department staff was required to work remotely with insufficient digital capability for plan reviews. Subsequent attrition resulted in still more additional work for the remaining staff.

Third, the Project Approval and Permit process slowed even more because of the pandemic. The City required that CDD give existing businesses (e.g., restaurants) priority review of projects to help them remain in business by fast-tracking permit reviews for parklets and various outdoor dining areas. The Grand Jury commends the City for its support in keeping existing businesses open in the face of a public health crisis, but this resulted in delays of new project reviews.

Due to the frequency of complaints expressed by Napa residents regarding untimely project and permit approvals, the Grand Jury sought to understand why there is a

perceived lack of responsiveness by the CDD's Building and Planning Divisions¹ and opened this investigation.²

Efficient reviews by the CDD are important because of the continuing need to support new housing and businesses as well as existing project improvements in the City of Napa. All new building projects require approvals. The Grand Jury also tried to better understand how CDD processes and approval cycles vary when the owners of historical buildings seek to improve their properties.

During the course of the investigation the Grand Jury also learned about the development of the Napa 2040 General Plan. The General Plan touches all aspects of Community Development (e.g., neighborhood development, possible areas for constructing new housing, climate change, and transportation). The last General Plan was completed in 1998; the new one will set the stage for Napa's future.

At the beginning of the investigation, it was clear that two primary factors contributed to the long CDD response times on reviews and approvals of projects and permits. First, for many years the City deferred investment in new technologies that would allow digital submission of architectural and construction drawings for the CDD review process. Currently, hard copies of drawings are required for every project and permit application, including changes deemed necessary by the officials or modifications by the applicants. In most cases, seven separate hard copies are required because digital sharing and collaboration are not possible between the CDD divisions, and the Departments of Public Works, Fire, Utilities, Parks and Recreation, and sometimes the Cultural Heritage Commission, an advisory board to the City Council, if they are part of the review.

The Grand Jury also found that there is no single person who coordinates or expedites the entire plan submittal and approval process to ensure that all CDD divisions and all other Departments of Public Works, Fire, Utilities, Parks and Recreation that are involved work in a timely manner. A case manager for each project would be valuable for keeping the process on track.

The Grand Jury also learned that sophisticated civic software is commercially available and is used by other California cities of similar size to Napa to manage approval processes digitally. This software could speed up approval cycles, reduce errors, access necessary data bases, interface with other essential systems, and keep a digital record of all reviews and approvals.

The Grand Jury inquired into the status of the City's information technology (IT) capabilities. The City does not possess software like that described in the previous paragraph. Past City Managers apparently did not prioritize investment in newer technologies which would digitize certain manual activities associated with CDD project

¹ The Grand Jury did not investigate three other CDD divisions - Parking, Code Enforcement, and Economic Development.

² This investigation appears to be the first ever review of Divisions of the CDD by a Napa County Civil Grand Jury.

review. The current City Manager, however, has emphasized updating IT systems and last year the City Council approved a new investment in an IT management system called Tyler Intergov. This new system will automate much of the CDD's manual review and should decrease CDD review and response times. Unfortunately, the estimated time required to implement this new system is 16-18 months from project inception, which only began in February of 2022.

The Grand Jury is encouraged that the City is prioritizing these IT investments with budget allocations and a signed agreement with the vendor to proceed. The City should do everything possible to 'fast track' implementation of the Tyler Intergov system. This would entail early training and incentives to encourage CDD employees to increase understanding of the system's capabilities and new operational timeframes.

Nonetheless, given the amount of time required before the new system becomes operational, the Grand Jury recommends that other steps be taken to address the responsiveness and review time issues in the short term.

The Grand Jury recommends that the City invest in an experienced project manager to oversee the new system's conversion and implementation among the CDD's five divisions. A project manager could assure residents that the Department will meet or exceed the estimated conversion time of 16-18 months. The project manager could also help increase proficiency among CDD employees who will use the new system. These steps will help the City to take advantage of this new IT management system as soon as possible so that concerns about timely reviews and responsiveness can become a thing of the past.

In addition, the Grand Jury found that the City's response to the COVID pandemic further harmed CDD's responsiveness. City office closures, reduction in CDD's budget leading to staff layoffs, and management and staff attrition all contributed to a lack of responsiveness.

Management jobs were vacant or manned by an interim person, recruiting suffered, and positions went unfilled, all of which caused slowdowns in review of plans and projects. This unforeseen reduction in productivity, due to personnel changes and the manual review process, resulted in the delayed investment in IT technology. A reduction in responsiveness was inevitable.

Napa's development fees cannot be compared to other cities fees because they all use different formulas and policies and do not include identical items and or services. CDD fees are based on having fully staffed personnel so an applicant will not have to pay for an outside consultant.

The Grand Jury also learned about the review process for projects involving historic buildings. There are over 2,500 registered historic properties in Napa; the City has maintained a database of these properties since 1998. The Grand Jury found that no one

in CDD's Planning Division has training in historic preservation. This lack of competency causes two problems:

1. Historic preservation concerns may not be considered when the owner of a building on the department's list applies for a renovation improvement permit.
2. Without a CDD staff member trained in historic preservation, no one is cross-checking the inventory of historic buildings or consistently interfacing with the Cultural Heritage Commission³ to ensure that historic preservation is maintained throughout the renovation process. In several cases, the Commission has not been made aware of an impending renovation.

Given the number of Napa's historically significant properties, the City of Napa Building Division should add a staff member trained in historic preservation. Other California cities similar to Napa in population size and historic property inventory have done so.

The Grand Jury also recommends that the City develop an historic property resource data base and that it be incorporated into the new Tyler Intergov IT system. This will allow any historic building change received by the CDD to be flagged upon submission of an application. The appropriate internal and external historic property experts can then be brought into the approval process in a timely manner.

Because of the continuing demand for more housing in Napa, the Grand Jury also explored the relationship between the CDD Planning Division, the Planning Commission, and the City Council. The Planning Commission plays a dual role in the City's government. First, the Napa Planning Commission is an advisory body for the City Council on matters related to land use and planning, particularly related to amendments to the City's General Plan policies and zoning ordinance. The Planning Commission is also the decision-making body for specified land use actions, including conditional use permits and design review permits. The Planning Commission relies on staff from the City's Planning Division to accomplish its goals. Representatives of the Planning Division meet with the full Planning Commission before every bi-monthly meeting of the Commission to discuss current land use issues. In practice, most planning, building, and development decisions are made by the CDD and do not go the Planning Commission, except for large projects. CDD and Planning Commission decisions can be appealed to the City Council.

FINDINGS

- F1. The City of Napa's Community Development Department's IT system is obsolete, does not meet current needs, and has contributed to delays in review processes.

³ The Cultural Heritage Commission is a five-member advisory body to the City Council on matters related to preservation of historic resources.

- F2. A new IT system will be implemented by the City over the next 16-18 months starting in February 2022.
- F3. The contracts for the new IT system have been signed and the funds allocated. The CDD currently does not use the current IT system but in the future it will be integrated into the new IT system. The new system will be Tyler Intergov and is cloud based, which is a substantial advantage. This system will be integrated into all of the other City systems of the other departments that are involved in the application review process.
- F4. Most documents project applicants need to complete the CDD review process will be submitted and available online at full implementation of the new IT system. It will no longer be necessary to provide multiple copies of plans because all departments involved in the review process of projects will be able to access the same data online.
- F5. The CDD's application review process and general responsiveness to the public were adversely affected by the COVID pandemic.
- F6. Citizen groups often provide new information at the public meetings to the Planning Commission which can result in a delay of a project.
- F7. The Grand Jury believes that CDD's fees are appropriate since they cover services not provided by other jurisdictions.
- F8. The absence of expertise in CDD regarding the renovation of historic sites means that some historic building project applications might not receive appropriate review.

RECOMMENDATIONS

- R1. The Grand Jury recommends that management fast-track the implementation of the Tyler Intergov Information System and encourage CDD'S employees in their training and use of the new system.
- R2. The City should designate a project manager to have oversight over the review process for plans as they move through departments and oversee the timeframe to increase efficiency.
- R3. The City should develop an historic buildings resource database and integrate it into its new IT system.
- R4. The Grand Jury suggests that the Planning Commission and City Council meet yearly to discuss future growth and development issues.

- R5. The Community Development Department should educate the public about the Napa City fee structures to make clear they include services that are not offered by other cities. This approach results in extra costs outside the fee services in those other cities.
- R6. The Grand Jury recommends that the CDD either designate a planning staff member or contract with a consultant who specializes historic preservation.

REQUEST FOR RESPONSES

The following responses, required pursuant to Penal Code sections 933 and 933.05:

- The Napa City Council

F1 thru F7

R1 thru R6

INVITED RESPONSES

The following individuals are invited to respond:

- The Napa City Community Development Department Director

F1 thru F7

R1 thru R6

- The Napa City Manager

F1 thru F6

R1 thru R7

**NAPA COUNTY CIVIL GRAND JURY
2021-2022**

FINAL INVESTIGATIVE REPORT

ATTAINING OUR BROADBAND FUTURE IN NAPA COUNTY

June 7, 2022

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SUMMARY

Catastrophic fires and the pandemic vividly illustrate that fast, reliable, and affordable broadband¹ access for all Napa County (County) residents is not a luxury—it is a necessity. Amongst County leadership, there appears to be little debate that broadband access is as important as electricity or water, akin to a utility. It is true that the investment to expand broadband access to bridge the County’s digital divide,² will be substantial, and beyond the County’s current resources. But there is good news. Californians are nearing what many describe as a “once-in-a-generation” investment in broadband from both State and Federal funds totaling billions of dollars.

The Napa County Civil Grand Jury examined how prepared the County is to compete for these funds and whether they will be able to productively use them if they are awarded. Although the County has recently increased the pace of its preparations, the Grand Jury believes that the County should be ready now to compete for the funding; the competition for those funds from other public entities and Internet Service Providers (ISPs)³ will be fierce.

Despite the enthusiastic support for the notion of “broadband for all,” the County’s actions reveal the truth—broadband is not a high priority to County leadership, and the County currently exhibits few characteristics that make it an “attractive” broadband grant recipient. Unlike neighboring counties, Napa has not invested in a broadband strategic plan, designated a lead agency to strategize and implement a plan, dedicated resources, meaningfully engaged County stakeholders (towns, cities, public agencies, schools, healthcare providers and others), or made progress toward identifying “shovel-ready” projects.

The provision of fast, reliable, and affordable broadband services to all County residents is a complicated undertaking fraught with a shifting political environment, significant decisions (e.g., public versus private ownership) and a dynamic technological landscape. With only a few exceptions, County leadership (elected and non-elected) appear unaware of critical broadband issues, and unprepared for key choices that the County will soon confront.

However, with immediate action as outlined below, the County can position itself to compete more effectively as the funding floodgates open. Education, strategic plans, resource dedication, stakeholder coordination, and forums for community input are all actions the County should

¹ At its most basic level, broadband refers to a fast, constant and reliable high-speed internet communications network typically delivered through fiber optic, wireless, copper cable, DSL or satellite. The Federal Communications Commission has defined broadband in terms of speed (minimum of 25 Mbps download and 3 Mbps upload speeds). That definition is considered outdated, and today most experts agree that the speeds must be significantly higher. In California, the Governor’s office stated it should be at least 100 megabits per second download speed to guide infrastructure investments. See California Executive Order N-73-20 (<https://www.gov.ca.gov/wp-content/uploads/2020/08/8.14.20-EO-N-73-20.pdf>). The term “affordable” encompasses the idea that broadband needs to be reasonably available to all regardless of social or economic status. See also, the bibliography for several reference materials providing a more in-depth discussion of broadband.

² The ‘digital divide’ is the gap between those with fast and reliable internet access and those without it. The digital divide is multifaceted and includes many factors such as access, affordability, quality, and having the necessary skills and technology to make use of it.

³ An ISP is a company that provides subscribers with access to the internet.

undertake if it has the will to do so. Napa should not waste a once-in-a-generation opportunity to close the digital divide in the County. Napa should position itself for its digital future.

BACKGROUND

Initially, the Grand Jury, like many County residents, sought to understand why broadband and cellular access/reliability in the County is inconsistent and often non-existent. Certain areas of Napa County seem to lack any cellular coverage or access to fast broadband. The wildfires over the past several years demonstrated that the reliability of service during emergencies was terrible in many areas, leading to some potentially serious consequences. The Grand Jury also observed that the pandemic put immense pressure and increased demand on broadband resources as usage, bandwidth requirements, and need for consistent reliability skyrocketed, exacerbating access issues for many residents.

As the Grand Jury quickly discovered, most of the causes of broadband and cellular access and reliability were already known to those studying the problem for the County. Following the 2017 fires, the County retained the services of Magellan Advisors. The first Magellan study was conducted, in part, to assess the damage done by the 2017 fires and the overall quality of the remaining County cellular and broadband network. *See*, the Infrastructure Assessment Report. The purpose of the second study, was to examine opportunities to improve the network infrastructure and provide recommendations for expanding and strengthening it. *See*, the Recommendation Report. These reports are detailed and answer many technical questions regarding the inadequacy of the County's broadband infrastructure. The County's digital divide is exacerbated by geography, socio-economic status, and inconsistent service by ISPs. The cost to solve these issues, including addressing the inadequacy of the infrastructure and issues of affordability, is significant and beyond the financial means of the County on its own. The Grand Jury recommends that all interested parties read the two reports issued by Magellan Advisors.⁴

During the course of its review, the Grand Jury became aware that new broadband funding, which had long been a pipe dream of many, was going to occur as part of spending at both State and Federal levels to enhance infrastructure and stimulate the economy in response to the severe financial consequences of the pandemic. The Grand Jury also learned about the substantive steps taken by neighboring counties to address their broadband access issues (some of which were taken even before the pandemic). As the Grand Jury began looking at what steps the County had taken to move toward fast, reliable, and affordable broadband, both California and the Federal government enacted massive funding bills for broadband which will soon be distributed through grants. The processes and rules associated with obtaining those grants are close to being finalized by the administering agencies.

⁴ Magellan published the *Napa County Fiber Infrastructure Engineering Assessment Report*, (12/2018) (the "Infrastructure Assessment Report") (<http://www.mendocinobroadband.org/wp-content/uploads/Napa-County-Fiber-Infrastructure-Engineering-Assessment-Report.pdf>) and the *Napa County Network Infrastructure Assessment: Opportunity Analysis and Recommendation Report* (9/17/2020) (the "Recommendation Report") (<https://services.countyofnapa.org/AgendaNet/DownloadDocument.aspx?type=BOS&doctype=ATTACHMENT&id=55222>).

As opposed to looking at why broadband access/reliability in Napa County is so poor, the Grand Jury pivoted to reviewing whether the County is prepared to compete for the broadband grants becoming available. If the County acts decisively, those broadband grants have the potential to help bring “broadband to all” County residents. It is an enormous opportunity that must not be wasted.

METHODOLOGY

The Grand Jury’s broadband investigation employed the following methodology:

- Review of a broad range of pertinent broadband-related information including County consultant reports, Board of Supervisors materials, regulatory and legislative documents, media stories and analyses thereof, materials published by organizations in which the County is a member, and reports published by similarly situated counties.
- Interviews of County employees identified as having broadband responsibilities.
- Interviews of the senior County elected and non-elected officials.
- Interviews of non-County employees and official stakeholders.
- Development of facts, findings, and recommendations.
- Drafting a Final Report.

DISCUSSION

Few Napa residents can forget how the 2017 and 2020 wildfires caused vast hardship and devastation across the County, or how the ongoing Covid pandemic has changed lives. During these events, too many in Napa realized that there were significant internet limitations affecting the ability of County residents to communicate with others, receive health care/advice, educate children, obtain government services, work at jobs from home, or operate businesses. In many cases, the cause of this was the absence of fast, reliable, and affordable broadband service. There is a digital divide across our County due to factors including geography, socioeconomic status, and inconsistent service by ISPs which is intolerable. Worse, it is a gap which appears to be growing.

This is not a new problem. As the Federal Communication Commission (FCC) recognized in 2010, “Broadband is the great infrastructure challenge of the early 21st century. Like electricity a century ago, broadband is a foundation for economic growth, job creation, global competitiveness, and a better way of life.”⁵ Yet despite such pronouncements, including numerous comments from County leadership echoing the FCC’s utility sentiment to the Grand Jury,⁶ the County has made painfully slow progress since the 2017 fire to ensure improved broadband access for County residents, and only recently began ramping up its efforts.

⁵ Federal Communications Commission, National Broadband Plan, Executive Summary (<https://transition.fcc.gov/national-broadband-plan/national-broadband-plan-executive-summary.pdf>).

⁶ See also, Berry Eberling, “*Napa County worried about spotty cell, Internet service, especially in emergencies,*” *Napa Valley Register*, November 21, 2018. One County supervisor is quoted as saying, “We need to treat it the same as water. We need to treat it same as electricity, heat, garbage services,” and another said “Our goal here is to have this kind of access be like landline access was treated in the 1930s . . . Everyone should have it.”

It is unclear whether some of Napa's cellular and internet infrastructure and service have even recovered to 2017 service levels.⁷ Those fires destroyed cellular towers, impeded much of the County's electrical service, and often left emergency responders unable to use their phones or the internet to ascertain the extent or location of the fires. Perhaps more critical, responders were often left with few alternatives but knocking on doors to alert the affected public with vital warnings to evacuate and provide information regarding the progress of the fires. In many cases, emergency responders, county residents, and businesses had no reliable means of communication with the outside world for days - many for much longer.

Most parents will also recall their distress as the pandemic shut down schools, forcing their children into virtual learning. Unfortunately, for some their distress was far greater since they could not afford reliable internet access or perhaps lived in rural areas not serviced by an internet carrier.⁸ Imagine a child having to sit in a parking lot or on a bench outside a business just to access the business' free wi-fi in order to participate in school or do their homework. Even worse, imagine a young child living in those parts of the County that do not have any internet connectivity and being isolated for months at a time from even virtual contact with teachers or classmates, relying solely on hardcopy homework packets sent to his or her mailbox.

Interviewees provided reports of senior citizens with inadequate broadband access struggling to access needed health care through telemedicine or to find and schedule a Covid vaccination appointment. Others spoke of frustrated employees who were forced to work from home and unable to maintain a Zoom connection.. These and other similar examples make clear that fast and reliable broadband service is not a luxury, it has become a necessity for most of us.

There is good news. Californians are edging closer to what has frequently been described as a once-in-a-generation investment in broadband from both State and Federal sources. Of particular note is California Senate Bill 156,⁹ which provides approximately \$5 billion for broadband development in the State, and the Federal Infrastructure Investment and the Jobs Act, which

⁷ It is not easy to ascertain the facts regarding recovery since the County is reliant on ISPs, who are not forthcoming or transparent. The Grand Jury heard from several sources that the County is, as one official put it, "no better, or slightly worse," than before the fires. *See also*, the Magellan Infrastructure and Recommendation reports state that large areas of the county lack cell phone coverage. Places such as Aetna Springs, Chiles Valley, Pope Valley and Wooden Valley appear to effectively have no high-speed internet. *See also*, Napa County 2022 State Legislative and Regulatory Platform, (<https://www.countyofnapa.org/DocumentCenter/View/6495>), p.8, wherein the County supports requiring increased transparency from telecommunications service companies, like ISPs, regarding infrastructure damage after a disaster, such as the fires.

⁸ For a more detailed discussion of various perspectives on equity and broadband *see*, Kevin Taglang, "Broadband Equity: Addressing Disparities in Access and Affordability," *Benton Institute for Broadband and Society*, May 6, 2021 ("Not all households in the United States can subscribe to home internet service, sometimes due to non-existent or inadequate infrastructure and other times due to the inability to afford the cost of service. While a higher share of rural households lacks a broadband subscription compared to the share of urban households, by total numbers, three times as many non-subscribing households are located in non-rural areas. And while 80 percent of White adults report having home broadband, this is true of only 71 percent of Black adults and 65 percent of Hispanic adults).

⁹ Governor Newsom Signs Historic Broadband Legislation to Help Bridge Digital Divide (SB 156), (<https://www.gov.ca.gov/2021/07/20/governor-newsom-signs-historic-broadband-legislation-to-help-bridge-digital-divide/>).

allocates approximately \$65 billion to help enable fast and reliable high-speed internet.¹⁰ The amount of funds becoming available for broadband access improvement is extraordinary.

However, Napa County faces critical questions: *how prepared is it to compete for these funds, and will the County have the wherewithal to make productive use of the funds if they are awarded to Napa?* As one senior County official indicated, to win grants you have to compete and “be an attractive recipient.” Unfortunately, the Grand Jury found that the County is not yet as prepared to compete as it could be and currently exhibits few characteristics that could be characterized as “attractive.” On issues from broadband strategic planning to organization and staffing, to local partnerships, and community and stakeholder involvement, the County’s stance for several years has been more reactive than proactive, thus “unattractive”. Given the scale of the need throughout both California’s rural and urban counties for broadband investment, the competition for grants will be intense as other County governments, agencies, and even private ISPs,¹¹ seek a piece of the funding as the monetary flood gates open.

To be fair, it is not as though the County has done nothing and there are passionate County leaders (both elected and non-elected) who are both concerned and are trying to do something about improving broadband access. The County has participated with neighboring counties in the North Bay/North Coast Broadband Consortium (NBNCBC),¹² and more recently, through its membership in the Rural County Representatives of California (RCRC),¹³ joined the Golden State Connect Authority (GSCA).¹⁴ The GSCA is a joint powers authority (JPA) designed by the RCRC for the purpose of increasing access to reliable, affordable high-speed broadband for all rural Californians. The County also engaged Magellan, who, as stated previously, published two

¹⁰ Edward Booth, “Rep. Mike Thompson highlights Federal investments into broadband infrastructure,” *Napa Valley Register* Jan. 8, 2022 (“It’s the largest funding the Federal government has ever provided for broadband expansion,” Thompson said.”); *see also*, Fact Sheet: The Bipartisan Infrastructure Deal (<https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/06/fact-sheet-the-bipartisan-infrastructure-deal/>).

¹¹ Historically ISPs have successfully sought and obtained state and federal grants and funds to expand or improve their equipment or service areas. Moneys have often been allocated to these providers without any coordination with or approval by local governments. In California, even though public funds have typically paid for these improvements, the ownership of these assets is transferred to the provider upon work completion. With regard to the new funding coming available, it is unclear at present whether proposed CPUC rulemakings will require County signoff on proposals from private providers. Such a signoff requirement provides greater public input and better ensures that broadband accessibility improves in underserved or is extended to non-served areas. Given the unwillingness of ISPs to be transparent, and their obvious commercial motivations, local governments should not expect ISPs to solve their broadband access issues or use grant funding to the benefit of all their residents.

¹² The NBNCBC is a regional consortium made up of Sonoma, Marin, Mendocino, and Napa counties. It is funded in part by a grant from the California Advanced Services Fund (CASF) Rural and Urban Regional Broadband Consortium Grant Account. The stated vision of the NBNCBC is “to have the persistent digital divide in Marin, Mendocino, Napa, and Sonoma counties eliminated.” The mission of the NBNCBC, in part, is to “develop a strategic broadband plan for each county based on “last mile” community needs and integrate the county plans into a regional plan.” *See* <http://www.mendocinobroadband.org/wp-content/uploads/2.-NBNCBC-1st-Quarter-Report.pdf>.

¹³ *See*, <https://www.rcrcnet.org>. The RCRC currently has 38 member counties. Its economic development program has three main support focuses: (1) forest resiliency and fire prevention; (2) infrastructure (other than Broadband); and (3) Rural Broadband. It has recently focused significant successful efforts on obtaining state and federal funds that are directed towards improving the speed and reliability of broadband in rural areas and to assisting smaller counties to prepare themselves to compete successfully for funds to make that happen.

¹⁴ *See*, <https://goldenstateconnect.org/>.

reports.¹⁵ It more recently hired CBG Communications, Inc. (CBGC) to assist the County in developing a broadband road map and action plan. In addition, the County created an internal working group, composed initially of three employees who work on broadband-related issues part-time and who meet periodically¹⁶ to help formulate strategy and policy. In late 2021 the County held a meeting under the name of ‘The Napa County Broadband Partnership’ (NCBP), attended by an invited group of external stakeholders, composed of town and city officials, County agency, emergency response, medical, educational, and business representatives, and other interested parties. The County also recently included broadband as part of its 2022 State Legislative and Regulatory Platform as one of roughly forty Priority 2 subjects.¹⁷

It is also important to note that local governments have little authority or wherewithal to meaningfully participate in broadband issues. The primary entities that regulate the industry are the FCC and the California Public Utilities Commission (CPUC). Those two entities have attempted to incentivize or (when they can) require ISPs to improve access to underserved or non-served areas, but the improvements necessary to do so are usually very expensive and would not be cost-effective from the ISPs’ perspective. As a result, regulators’ efforts have often been unsuccessful. County and local governments have had little regulatory authority or money to affect where broadband infrastructure is located within their boundaries. Their involvement with ISPs has mostly been relegated to responding to things like provider requests for public right-of-way use and design or land use commission reviews for proposed tower locations. ISPs typically decide who gets what service since they own the equipment and usually make decisions about where it is located and how it is used.¹⁸

However, things are changing, and the County should be better prepared. In fact, as early as 2018, the NBNCBC (the County being a participant) published a report in the aftermath of the 2017 Northern California wildfires that said, “It is evident there is not enough public attention or awareness directed towards telecommunications issues in the affected counties.”¹⁹ The NBNCBC recommended that counties develop (a) a “*broadband strategic plan . . . with input from all stakeholders*,” (b) “*review internal processes* for all telecommunications related procedures and identify more efficient solutions to effectively deploy broadband,” and (c) form “*public-private*

¹⁵ See, The Infrastructure Assessment Report and the Recommendation Report.

¹⁶ Two part-time County employees were added just recently: an analyst in the County Executive’s office and an employee associated with the Lake Berryessa concession (an area with limited broadband access).

¹⁷ The Platform also contains another 5 Priority 1 items.

¹⁸ With respect to ISPs, it’s important recognize that their interests do not necessarily align with that of the County or its residents. Data provided to the CPUC by private ISPs about broadband availability in Napa County prior to 2017 incorrectly indicated that much of the population of the County had fast and reliable broadband. Magellan found in its Infrastructure Assessment Report that while more densely populated areas are reasonably well served by ISPs, who offer internet speeds that meet FCC minimums, large portions of the East County and smaller pockets along the Western County border were underserved or unserved. Even in more populated areas, like the towns of Napa and St. Helena, the speed and reliability of cellular and broadband service can differ markedly from neighborhood to neighborhood, and block-to-block. In addition, connectivity options through providers may not be affordable for rural and/or lower income residents (e.g., options like satellite connectivity in rural areas).

¹⁹ NBNCBC Telecommunications Outage Report: Northern California Firestorm 2017 (2018), p.8 (<https://ecfsapi.fcc.gov/file/1053130424752/EAS-1.-NBNCBC-Telecommunications-Outage-Report-2017-Firestorm.pdf>).

*partnerships among county and local governments and providers . . . to coordinate goals and pursuits.”*²⁰ The report also noted that with respect to loss of communications (e.g., cellular, landline and internet) during the 2017 fire, “*Napa County experience[ed] the most severe impacts.*”²¹

The 2020 Magellan Recommendation Report, created for the County, also echoed similar recommendations, including (a) prioritizing opportunities based on “Napa County *strategic goals and issues*,” (b) *formally assigning responsibility* for promoting and tracking broadband development to a *County agency or department*, (c) developing *organizational capacity* to engage. . . stakeholders,” and (d) *review policies* since “a cursory review of the County code suggests there may be multiple opportunities to promote network development via policy changes.”²²

Despite these recommendations made four years ago by the NBNCBC and two years ago by Magellan, the Grand Jury found little indication that the County’s leaders have a real sense of urgency to undertake the recommended actions.²³ None of the NBNCBC and Magellan recommendations would require significant public expenditure; the actions recommended could have been completed by now. All recommendations are needed sooner than later to better position the County to compete for additional funding and then make productive use of any funds that are awarded.

We recognize that many aspects of providing broadband access will require significant investment and the participation of the State or multiple jurisdictions. But that does not prevent the County from starting now to develop a strategic plan that will inform critical choices, prioritize public investments in alignment with strategic goals, provide positions on critical issues like reliability and affordability, influence planning and decision making, and create personnel and governance structures to execute the County’s vision.

After numerous interviews and reviews of many documents, the Grand Jury has seen limited evidence that the County has worked to complete a strategic plan and it is significantly behind neighboring Counties with respect to planning and communication with stakeholders. Multiple County officials told the Grand Jury that it does not have a broadband strategic plan; one individual even indicated uncertainty about where the County’s vision should come from.

The County’s current approach seems to be putting the proverbial cart before the horse, since it appears to be creating an action plan before developing a strategic plan. In a September 20, 2020 Board of Supervisors’ agenda letter (Agenda Letter), County staff stated the Magellan Assessment Report, is *not a strategic plan* and does not provide direction on how the above opportunities

²⁰ *Id.*, p.8.

²¹ *Id.*, p.6. The Magellan Infrastructure Assessment Report also estimated that the 2017 fires damaged: 25,000 feet of fiber-optic based network infrastructure, 300,000 feet of copper-based network infrastructure, and 21 cellular/fiber tower locations in the County.

²² See, Magellan Recommendation Report, pp. 62-64.

²³ In addition, there are other significant recommendations from both reports that are not discussed here because they would have required extensive public funds.

should be prioritized.”²⁴ But instead of recommending the creation of a County strategic plan, the Agenda Letter recommended that the “Board authorize a Request for Proposal to contract with a consultant(s) to develop an *action plan* based on the Assessment [Report], and apply for and seek grant funding to deploy broadband in priority areas and implement an action plan using future grant funding.”²⁵ Even this recommendation seemed to take a protracted period of time, since the County contracted with CBG in May 2021, nine months after the Agenda Letter.²⁶ That said, the Grand Jury was told that CBG is close to issuing a report and updating the Board of Supervisors.

The County is attempting to remedy its lack of a broadband strategic plan, which is acknowledged by interviewees as important. They have opted to join the GSCA’s application to the US Department of Commerce, Economic Development Administration (EDA) for grant funding to support the preparation of a strategic plan for the County. If successful, the GSCA will provide grant administration including project and fiscal reporting, as well as project management over the contractor hired by the grant. Unfortunately, as of the date of this report, the grant had not yet been awarded by the EDA. It is unclear when a plan will be completed and adopted if the grant is awarded or what the County will do if it is not awarded.

With the exception of Napa, all members of the NBNCBC developed broadband strategic plans for their counties. Nearby Marin, Sonoma, and Mendocino Counties all have county broadband strategic plans.²⁷ If broadband is a utility worthy of being a high priority, as many County leaders stated to the Grand Jury (and the other NBNCBC members found the funding to develop broadband strategic plans), why hasn’t our County developed its own plan?

Responsibility for broadband issues has not been assigned to any County agency or department, only an informal part-time workgroup. The Grand Jury saw no evidence that the County has reviewed its policies and procedures to identify how to speed up and/or simplify broadband implementation.²⁸ However, some interviewees were not sure what the Grand Jury meant when it asked whether policies and procedures have been reviewed, or why that might be necessary. Some interviewees mentioned that it might be useful to have a “dig once” policy similar to other counties. Another suggested that the policy might not be a good fit with County departments responsible for

²⁴ Napa County Board of Supervisors Board Agenda Letter from Chief Information Officer Information dated September 22, 2020 (<https://services.countyofnapa.org/AgendaNetDocs/Agendas/BOS/9-22-2020/10A.pdf>).

²⁵ *Id.*

²⁶ RFP-ITS112001---Napa-County-Broadband---Notice-Of-Intent (countyofnapa.org).

²⁷ See Mendocino County Digital Infrastructure Plan: 2019-2025 (<https://www.edfc.org/wp-content/uploads/2015/12/Final-Digital-Infrastructure-Plan-for-Mendocino-County-12.31.18.pdf>), Digital Marin Strategic Plan, (<https://godigitalmarin.org/strategic-plan/>), and Sonoma County Broadband Strategic Plan (<http://www.mendocinobroadband.org/wp-content/uploads/Sonoma-County-Broadband-Strategic-Plan.pdf>) Sonoma has also had its Access Sonoma Broadband Program for several years. See Access Sonoma Broadband (<https://sonomacounty.ca.gov/EDB/Access-Sonoma-Broadband/>).

²⁸ As noted in Magellan Recommendation Report, “County policies and processes can create barriers” and “inconsistent policies regarding local cities and neighboring counties impedes investment.” p.p. 64-65. For a more robust discussion of how policies and procedures can impact broadband development see the Sonoma County Broadband Strategic Plan, p.p. 104-5.

road construction and their funding authorities.²⁹ A review of policies and procedures that impact broadband development, in order to see if there are opportunities to simplify processes or speed approvals, seems like an important, low-cost, proactive action that the County could take in order to be better prepared to compete for broadband grant funding.

In addition, the Grand Jury could not identify any single County employee who is assigned to work full-time (or even a majority of their time) to move the County broadband agenda forward. In fact, when asked what steps the County could take, one senior County official agreed that acquiring and implementing broadband grants will take, in their words, “administrative infrastructure . . . which requires hiring people.” It seems likely that State and Federal grant funds will go to projects that are more shovel-ready, consistent with a clear strategy for that county, or supported by multiple agencies or stakeholders in the County, all of which take resources to organize.

As noted above, the Grand Jury did identify a working group comprised of County employees who were engaged part-time on issues related to broadband.³⁰ While the Grand Jury found members of the working group talented and clearly attuned to many of the relevant issues, all of them have significant primary job duties (and in some cases substantive secondary responsibilities as well). They cannot possibly spend sufficient time moving the very complex broadband agenda forward.³¹ A common refrain heard by the Grand Jury from many County officials was “we are spread thin.”³² Most likely, this group does not have the time or the knowledge to prepare a “queue” of broadband projects that could be shovel-ready, in preparation for grant funding. Neither would they be in a position to manage the implementation of any project that was funded. It also does not have time to organize or run a more active stakeholder group. The result of this lack of staffing is likely be a significant loss of state and federal broadband funding for Napa.

To remedy this staffing problem, the County should designate a lead agency or department, and staff it with knowledgeable full-time resources with an adequate budget. It is the Grand Jury’s

²⁹ “A ‘Dig Once’ Policy can be an important tool that can be utilized to maximize the efficiency and lower the cost of public works and infrastructure projects through combining efforts. For example, during road construction, installing conduit or conduit with fiber, at the same time as other trenching, reduces the cost of installing fiber and means that the road won’t have to be torn up to install it at a later date. This tactic can be used around any kind of sewer, water, or electrical infrastructure work.” Mendocino County Digital Infrastructure Plan: 2019-2025, p. 25.

³⁰ It is unclear to the Grand Jury whether this working group is the “Broadband Task Force” recommended in the Magellan Recommendation Report and that is a requirement of the grant application made by the GSCA to the EDA. The Magellan Recommendation Report describes the Broadband Task Force as “an inclusive body” with a “formal process to acquire resources, guide development, and provide oversight for network infrastructure.” See Magellan Recommendation Report, p. 62.

³¹ See Pew Charitable Trust, How States Are Expanding Broadband Access: New Research Identifies tactics for Connecting Unserved Communities, 2020 (<https://www.pewtrusts.org/en/research-and-analysis/reports/2020/02/how-states-are-expanding-broadband-access>) (“Having staff dedicated to broadband is important to avoid having work on the issue become ‘other duties as assigned.’ Staff who are focused on broadband can develop expertise. And assigning them to the issue creates accountability and responsibility and provides stakeholders with a point of contact”).

³² The Grand Jury is cognizant that the Covid pandemic has severely stretched many County resources. Members of the working group also have significant pandemic response duties and they are to be commended for their dedication to public service.

understanding that the County is taking initial steps toward establishing a full-time project manager; additional human infrastructure is vital to allow the County to organize its thoughts and efforts and better compete for and obtain available Federal or State funds. However, if the County does not adequately staff and manage the broadband issues, it will almost certainly miss out on funding opportunities which is a fear expressed by some of those interviewed by the Grand Jury. As a result, the fate of County residents' broadband future may remain in the hands of private ISPs, whose motivations are often misaligned with the interests of the County and its residents.³³

In addition, the County has not meaningfully engaged the County's towns, cities, medical, education, emergency response, businesses, and other stakeholders. It also has not provided a mechanism for citizen input about broadband issues.³⁴ The County cannot address reliable and fast broadband for County residents on its own and must work collaboratively with these parties and entities. The Grand Jury found no evidence of significant attempts at engagement by the County prior to a single stakeholder briefing given in late 2021. It did not meaningfully engage some of the primary stakeholders affected by the 2017 and 2020 fires or issues related to the Covid pandemic. In the case of one stakeholder, whose entity is heavily reliant on consistent broadband service, the Grand Jury was told that it is hard for them to plan or make investments of any kind when it is not known what the County may or may not do. Others indicated that they have had to expend significant amounts of their own money on contingency planning, based on that uncertainty.

Stakeholder engagement is critical because, as one senior County official told the Grand Jury, collaboration is often important to successful grant acquisition, i.e., to be "attractive." In the November 2021 NCBP briefing, the County described to invited attendees the status of County broadband efforts.³⁵ In a presentation shown at the meeting, the importance of improving the competitive stance of the County through collaboration was highlighted.³⁶ While the attendees interviewed by the Grand Jury thought that the meeting was a positive development, none were clear about (a) the group's purpose, or (b) whether it was intended to be an ongoing forum. The County conducted a follow-up survey after the meeting. However, the Grand Jury has learned that

³³ Based on multiple interviews, it is apparent to the Grand Jury that the County appears to be consciously taking a very conservative fiscal approach to broadband, and eyeing it from a transactional perspective (e.g., waiting to see if it can obtain grant funding for a strategic plan, or to hire full time staff) versus an ongoing requirement that must be sustained. Hopefully this is changing based on recent steps. The County appears to considering whether to hire a project manager (e.g., creating a job description, having discussions with Sonoma and San Francisco Counties regarding their broadband positions).

³⁴ Stakeholder engagement was a recommendation made in the Magellan Recommendation Report and the NBNCBC Telecommunications Outage Report: Northern California Firestorm 2017.

³⁵ Attendees included representatives of educational, public safety, medical, transportation, and business entities, along with local towns and cities.

³⁶ See Napa Countywide Broadband Partnership Meeting Presentation, November 3, 2021, pp 3-4. The presentation also highlighted the actions taken by the County from 2014 to 2021 "to increase broadband service". *Id.*, p.2. To the best of the Grand Jury's knowledge, over the course of the 7 years highlighted, no actions articulated (e.g., from joining the NBNCBC in 2014 to "Action plan and roadmap with CBG" in 2021) led to a direct increase in County broadband service. In addition, the reference to CBG refers to a plan and roadmap that the NCGJ understands is still in development as of the date of this report, and not one that was published in 2021.

the forum is unlikely to be an ongoing entity, at least in the near term. Unlike Napa County, other Northern California counties have had broadband stakeholder groups for several years that meet regularly.³⁷

An effective and active stakeholder task force would have a written purpose, scope, and timeline known and agreed upon by its members. It could (a) assist the County in developing a vision and strategic plan that addresses the needs of residents, local agencies, and commercial entities, and (b) help coordinate local partnerships to acquire grant funding and resolve project implementation issues. The task force could also foster community support and cooperation for the County's digital future. This may require forming one or more JPAs, developing a Memoranda of Understanding, or engaging other entities to achieve the County's goals, and it will certainly require the County and its stakeholders to reach consensus with respect to broadband issues, including a common vision and view of roles and leadership.

The Grand Jury also observed insufficient awareness on the part of senior County officials³⁸ of the critical broadband issues and the choices that they are likely to confront. To be fair, there are senior County officials who are well-versed about broadband issues, including one who has been actively involved in the NBNCBC and RCRC for several years, but is retiring at the end of 2022. However, others who will be key decision-makers appeared unaware of the significant activities or priorities of groups like the NBNCBC, RCRC, and GSCA or many details about recent broadband infrastructure funding sources. For instance, one key GSCA project is to help foster the installation and operation of open-access, municipal broadband infrastructure. The significance of this project is that it could help finally to bring broadband services to areas where it has not been economically viable for private providers to extend services. In these areas, some form of local public entity might install and end up owning and managing the broadband infrastructure, which would be a significant departure from past practices. ISPs could lease a connection to this publicly owned infrastructure and extend their services to remote areas in an economically viable manner. Even though Napa County is a participant in the GSCA, the Grand Jury found that most elected and senior County officials interviewed were not well-versed about the GSCA's and the RCRC's initiatives, including those involving public versus private ownership. Possibly for that reason alone, they appear to have a distinct bias against public ownership. The Grand Jury is not taking a position on the private versus public ownership issue, but this seems to be one of several strategic issues for which the County should develop a thoughtful position after significant briefing and discussion, and address as part of a strategic plan.³⁹

Conversely, as opposed to focusing on strategic issues, the Grand Jury found that some senior County officials seemed to have perspectives that were very tactical and narrow and had little understanding of broadband-related issues. The Grand Jury perceived hesitancy to take proactive steps for fear of increasing payroll and related expenses, and that a good starting point might be if ISPs came to the County and offered a plan for expanding broadband access, stating what they needed. The Grand Jury does not believe that this would be a good approach. If history is any

³⁷ See, e.g., Broadband Alliance of Mendocino County (<http://www.mendocinobroadband.org/about/>).

³⁸ To be clear, the Grand Jury is not referring to members of the working group referenced earlier.

indication, it is very doubtful that any provider will provide a plan that places the interests of all County residents ahead of the ISPs' profit motivations.

There are many ways that the Board of Supervisors and County Executive could better educate themselves on broadband issues and choices in order to provide more effective leadership, especially in light of the impending retirement of one key member who has been the Board member most actively involved in broadband issues for years. The provision of fast and reliable broadband services to all County residents is a very complicated undertaking fraught both with a shifting political environment, significant choices (e.g., public versus private), and a dynamic technological landscape. In order to provide informed guidance regarding policy direction and the organization of local government, the Board of Supervisors and County Executive need to develop a greater understanding of the County's digital needs, choices, and potential. This includes activities like regularly being briefed on progress towards completing the County's strategic plan by full-time County staff whose function is to move County broadband issues forward. The BOS could also benefit from regular briefings on RCRC and NBNBCB broadband initiatives. It could also gain valuable insight and stakeholder buy-in by making the NCBP an ongoing entity, emphasizing its role and importance by having briefings by its representatives, participating in NCBP events, and seeking its input.

In summary, the Grand Jury believes that the County should be better prepared to compete for the once-in-a-generation funding that is becoming available. The County has not yet attained momentum with respect to improving broadband access for County residents. While wildfires and the pandemic have vividly illustrated the necessity of fast and reliable broadband for all residents, and County leaders express enthusiastic support for the notion of broadband for all, the County's actions demonstrate that broadband is not a high priority. The Grand Jury understands the County's limited power and resources to address on its own the enormous costs associated with connecting all of its residents. We applaud the efforts of a few dedicated County employees, all with significant other primary responsibilities, who have somehow found time to drive these issues forward. Now is the time for reinforcements and renewed effort. There are several actions that the County could have taken and should take now. Many do not require significant capital expenditures and could have been undertaken before the pandemic. If broadband is as important as electricity or water - and the Grand Jury believes that it is--it warrants a much higher priority and the immediate attention of senior County leadership to ensure that Napa is prepared to compete for funds and make productive use of any received. Napa must not waste this opportunity to close the digital divide and position the County for its digital future.

FINDINGS

- F1. Recent fires and the pandemic have demonstrated that all County residents need access to fast, reliable, and affordable broadband.
- F2. The digital divide in the County (and the challenges and inequities it exacerbates), has not been significantly narrowed since the 2017 fires; in fact, it may have widened.
- F3. While most County leaders interviewed expressed support for fast and reliable broadband for all County residents, analogous to a utility, few articulated any substantive perspective on how to achieve this goal or what steps have been taken to do so.

- F4. In the past year, the broadband funding landscape has changed dramatically with Federal and State governments set to distribute billions of dollars through competitive grants to local governments and private providers.
- F5. The competition for broadband grants from other public entities and Internet Service Providers (ISPs), whose interests may not complement Napa County, is sure to be fierce.
- F6. Winning broadband grants will require the County to be prepared to compete. This will take extensive planning, adequate staffing, and coordination with County's cities and towns and other stakeholders.
- F7. The County's leadership has not devoted sufficient time and resources to broadband strategic planning. Leadership is insufficiently aware of the decisions regarding strategic and tactical options and choices that they will need to soon make and has not demonstrated adequate urgency considering how soon the funding process will begin. Waiting for that process to be fully defined before taking action will leave the County even further behind at the starting gate.
- F8. Despite recommendations urging it to do so as early as 2018, the County has not developed a broadband strategic plan that sets forth its vision and includes priorities, defines the choices that will need to be made, and provides for personnel and a governance structure.
- F9. The County has not taken steps, as recommended by its consultants, to establish a lead County agency or department to review local policies affecting broadband across various County jurisdictions to ensure they are consistent, sensible, and broadband-friendly.
- F10. The County has only allocated part-time staff resources (for whom broadband is only one of many important roles), to work on broadband issues, whereas other similarly situated counties appear better prepared, staffed, and are much further along in their planning processes.
- F11. Unlike neighboring counties, the County, its cities and towns, and other stakeholders have only recently started communicating with each other regarding their broadband needs. They do not seem prepared to coordinate strategies, development, the pursuit of grant funding, or project implementation.
- F12. The NCBP does not have a clearly articulated purpose or agenda that is understood by its participants and does not yet appear to be an effective stakeholder group.
- F13. While the County's involvement with the RCRC, NBNBCB, and GSCA is positive, the speed with which the County is moving seems to be stuck in an out-of-date paradigm, when State and Federal funds were largely unavailable, and local agencies did not play a significant role in efforts to extend fast and reliable broadband availability.
- F14. There are no established ongoing forums for County residents, businesses, governmental units, schools, medical and emergency response, and others to identify and communicate with County leadership about their broadband needs, except about one-off access or service complaints.
- F15. The County has no priorities or queue of broadband projects that are "shovel-ready" for implementation, nor any resources available to identify such projects or supervise their implementation if they are funded.

- F16. Without proper preparedness to compete for broadband grant funding (including a coherent strategic plan, adequate staffing, resources, and County-wide stakeholder coordination) the County may not be as successful at acquiring funds as it should be, and efforts may remain ad hoc and passive.

RECOMMENDATIONS

- R1. The Board of Supervisors and County Executive should, no later than October 1, 2022, prepare and execute a plan to better educate themselves about broadband issues and the choices that must be made.
- R2. The County should develop and publish a Strategic Plan no later than December 1, 2022, that is not simply a list of possible projects proposed by contractors or private providers, but instead includes, at a minimum, (a) a County vision for broadband that addresses issues like reliability and affordability, (b) the specific broadband access and performance enhancement goals it expects to achieve, (c) the County's priorities (so that, if needed, choices can be made), (d) how the County plans to accomplish those goals, and (e) the County staffing and governance structure to implement and oversee the plan.
- R3. The County should, no later than October 1, 2022, designate a lead agency or department, staff it with knowledgeable full-time resources, including a broadband project manager, and provide an adequate budget to help the County define its vision and priorities, understand grant authorities' policies and application procedures, coordinate with stakeholders, and prepare to compete for State and Federal funding in a well-organized, non-ad hoc fashion.
- R4. The County should, no later than December 1, 2022, create an effective and active stakeholder task force with a written purpose, scope, and timeline understood and agreed to by its members. The task force should (a) actively assist the County in developing a vision and strategic plan that addresses the needs of residents, local agencies, and commercial entities, and (b) help coordinate local partnerships to compete for, acquire, and implement grant funding.
- R5. The County should, no later than December 1, 2022, establish and actively foster ongoing forums for County residents, businesses, government, schools, and medical and emergency response entities to provide input and communicate with County leadership about their ongoing broadband access and telecommunication needs.

REQUEST FOR RESPONSES

The following responses are required pursuant to Penal Code sections 933 and 933.05:

- Napa County Board of Supervisors (R1, R2, R3, R4, R5)
- Napa County Chief Executive Officer (R1, R2, R3, R4, R5)

GLOSSARY

- CASF – California Advanced Services Fund
- CBG – CBG Communications, Inc.
- CPUC – California Public Utilities Commission
- DEICCF – Digital Equity Initiative California Community Foundation
- DSL – Digital Subscriber Line
- EDA – US Department of Commerce, Economic Development Administration
- FCC – Federal Communications Commission
- GIS – geographic information system
- GSCA – Golden State Connect Authority
- ISP – Internet Service Providers
- JPA – Joint Powers Authority
- Mbps – Megabytes Per Second
- NCBP – Napa County Broadband Partnership
- NBNCBC – North Bay/North Coast Broadband Consortium
- RCRA – Rural County Representatives of California

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**NAPA COUNTY CIVIL GRAND JURY
2021-2022**

FINAL INVESTIGATIVE REPORT

COVID VACCINATIONS IN NAPA COUNTY

June 13, 2022

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SUMMARY

The COVID-19 (Covid) pandemic dramatically impacted the Napa Valley and its residents. As of April 30, 2022 there were 27,343 recorded cases of Covid and 143 deaths in the County attributed to it.¹ Many residents have been hospitalized or suffered from symptoms of the disease. Lives, lifestyles, and behaviors have been irreparably altered. Education has been set back. Vital social interactions were interrupted. Families, co-workers, lovers, and friends could not safely meet in person for extended periods. Weddings were canceled. Family and friends could attend funerals only virtually. Differing opinions about Covid vaccinations and restrictions resulted in rifts, resentments, and threats of violence. Businesses and careers were devastated. Jobs disappeared.

COVID-19 would have been so much worse without the diligent and heroic efforts of the County's Public Health Division (PHD), the County's Public Health Officer (PHO), Dr. Karen Relucio, and the many other unsung heroes of the County's Covid pandemic response team.

The Napa County Civil Grand Jury investigated Napa County's rollout of Covid vaccinations to County residents because Covid might be the greatest public health threat faced in our lifetime. Even more, it may be a precursor of things to come. The investigation focused on a critical question: is Napa County prepared to respond to an event of similar magnitude? The Grand Jury sought to assess whether the County's Covid vaccination rollout might be repeatable if a similar level of countywide response was required in the future.

The Grand Jury found no easy answers but lessons which could be learned from Napa's experience in responding to COVID-19.

Metrics show that the County's overall vaccination efforts were successful—particularly when compared to other similarly sized California counties.

Thus, a very large portion of the County's population has received vaccinations. As a result, they are protected from the most severe symptoms of Covid and the risk of hospitalization from it.² As of April 30, 2022, 81.6% of Napa's eligible residents were “fully vaccinated” against Covid with a Federal Food and Drug Administration (FDA)-approved vaccine, and 64.7% had received a “booster” vaccination.³ These rates are among the top 10 for counties in the State of California. Moreover, all counties with higher “fully vaccinated” rates have significantly larger populations,

¹ COVID-19: Vaccinations and deaths in Napa County, *see* <https://insight-editor.livestories.com/s/v2/copy-of-vaccine/2b41b516-d82a-4292-8206-b36ffca0316c>; https://news.google.com/covid19/map?hl=en-US&mid=%2Fm%2F0121_&gl=US&ceid=US%3Aen.

² <https://insight-editor.livestories.com/s/v2/community-impact-of-vaccines/c510808a-d65b-4132-b3be-fd4ccc09d750>.

³ “Fully vaccinated” means that the recipient has received their full primary series of vaccination (e.g., in the case of the Pfizer-BioNTech vaccine, two doses).

with larger healthcare systems and public health programs than Napa.⁴ These metrics also indicate that many lives have been saved as a result of vaccination rollout efforts in Napa County.

Covid posed a challenge of daunting size. The County's response was only possible because of the diligence and energies of a huge network of responders. Large segments of the public workforces of the County, its towns and cities worked countless hours. Many volunteers and private entities (both commercial and non-profit) participated as well, contributing resources, goodwill and initiative as they cooperated with the county's healthcare community.

The vaccine rollout was not perfect. Nonetheless, failings resulted from uncertainties surrounding Covid and how to combat it, not from a lack of will or effort. Responders, led by PHD, successfully overcame:

- huge unknowns about the disease,
- a vaccine supply chain that took many months to meet demand,
- periodic complexities created by State and Federal governments,
- insufficient resources allocated to PHD and difficulties in hiring additional staff,
- inadequate County public information resources to effectively communicate with County residents about the vaccines and how obtain vaccinations, and
- remarkable burdens placed on the public workforce by County politicians, as well as agents of misinformation.

BACKGROUND

The first Covid case was reported in Northern California on February 26, 2020.⁵ On March 4, 2020, Governor Gavin Newsom declared a state-wide "state of emergency" related to Covid, pursuant to Section 8625(c) of the Government Code.

The Napa County response to the Covid pandemic was and continues to be led by the County's Department of Health & Human Services (H&HS) PHD, and the Napa County PHO, Dr. Karen Relucio.

California law and the Napa County Code assigns the County's PHO with the primary responsibility for leading the County's response to public health emergencies, such as the Covid pandemic. The PHO may take any preventive measure deemed necessary to protect and preserve the public from any public health hazard within his or her jurisdiction during any "state of emergency," or "local emergency," as defined by Section 8558 of the Government Code.

⁴ https://covid19.ca.gov/vaccination-progress-data/?gclid=CjwKCAjw6dmSBhBkEiwA_W-EoN1L6SDINfriEfQSpQcEj5YoQWQcUD94QE4BCDvuzD387Q--qQ48zBoC74wQAvD_BwE.

⁵ <https://www.sacbee.com/news/local/health-and-medicine/article240674471.html>.

In March 2020, Napa County initiated its Emergency Operations Center (EOC) to operate as the central focus of the County's response to the COVID pandemic. This is a personnel management structure which is also used by the County for other emergency responses, like fires and earthquakes, pursuant to the County's Emergency Operations Plan (HHSA-EOP). The EOP required that, instead of, or in addition to, performing their normal job functions, many County and local town/city personnel from other departments were required to support PHD and play vital roles in the County's Covid response. And they did. The County continued to employ an EOC incident command structure until November 2021.⁶ Many of these public employees worked extended overtime shifts without vacations or breaks throughout the County's response to the Covid epidemic; the lengthy use of the EOC is notable. Similarly, many other healthcare professionals outside of government also worked remarkably long hours for extended periods.

At the beginning of the Covid vaccination rollout, the HHSA-EOP did not include detailed regional vaccine distribution or vaccination procedures. PHD published a 'Napa County Covid-19 Vaccination Plan' (12/1/2020) which described some basic planning components for COVID vaccinations in the County. The plan was aligned with the California Department of Public Health (CDPH) guidance for the allocation and administration of vaccinations. However, many aspects of the vaccine rollout were very dynamic and PHD's approach had to be modified many times to conform to changing conditions.

The document also outlined general local vaccination strategies based on multi-sector collaboration with stakeholders who played significant roles in the response. However, little was known at the time the document was prepared about details of the State and Federal programs for supplying vaccines into the County and distributing them to the parties that administered the vaccine doses. The document did describe a multiagency County Healthcare Coalition, including representatives from hospitals, outpatient clinics, skilled nursing facilities, managed care organizations, Napa County Medical Society, pharmacists, pre-hospital providers, physicians, and others who worked together with PHD to coordinate the County's vaccination rollout.

METHODOLOGY

The Grand Jury's investigation of Napa County's Covid vaccination rollout employed the following methodology:

- Review of Covid response-related resources, including written materials, County records and meeting recordings, State and Federal regulatory and administrative records and documents, newspaper stories and analyses, websites and social media sites, and related materials;
- Interviews of current and former County employees involved in the County's Covid response efforts, including with the County PHD and Emergency Services, senior County officials, non-County employees and area medical professionals; and
- Development of findings and recommendations and drafting of this report.

⁶ The OEC was partially reinitiated in December 2021 with the onset of the Omicron Covid variant.

DISCUSSION

A. Vaccines Finally Arrive in Napa

Covid vaccines first arrived in the County and began to be administered in early December 2020, soon after the FDA's issuance of emergency use approvals for the Moderna and Pfizer-BioNTech vaccines. The first shipments of vaccines were received by the County and either used by PHD in its initial vaccination efforts or allocated by PHD to other entities in the County to administer the doses. When hospitals and other healthcare systems received their vaccine allocations, they first vaccinated their in-house healthcare workers so that they could continue to respond to the pandemic with the least possible risk.

PHD and other entities, like OLE Health, Kaiser Permanente, Adventist Health, and Providence Health, soon had enough vaccine doses to start deploying vaccination clinics (PHD's clinics used clinical and non-clinical County staff and volunteers, including from the county's Medical Reserve Corps [MRC]).⁷ PHD also focused its initial efforts on providing vaccinations at acute care facilities, nursing homes, and Napa State Hospital.⁸

The County initially employed a homegrown "Vaccine Interest Form" for County residents to register for vaccination appointments and a PrepMod software system to schedule them. In February 2021, the County was required to join the statewide MyTurn scheduling and recordkeeping program and stopped using its own software system. Thereafter, county residents registered with MyTurn and were supposed to be notified and have their vaccination appointments scheduled by that system.⁹ However, during the first months of its use, MyTurn proved to have many software problems and limitations. For example, it could not initially be used to schedule vaccinations with many large medical providers, pharmacies, or community clinics, or for homebound seniors.¹⁰ From the first use of MyTurn, scheduling vaccination appointments became a troubling 'black box' for many County residents.

Records of Covid vaccination administration are entered on the California Immunization Registry (CAIR), a web-based database. When doses are administered anywhere in the state, the CAIR required data elements are collected and conveyed to the CDPH.¹¹

⁷ The MRC is composed of medical and non-medical volunteers who complete core competency courses set by the national MRC program.

⁸ PHD does not have a mobile clinic vehicle to assist them in their off-site vaccination efforts. Adventist Health had a mobile clinic vehicle and has made frequent use of it throughout the Covid response, especially supporting their remote vaccination clinic efforts.

⁹ Scheduling programs in Napa and other counties that seemed to be working well were discarded and replaced with a system that proved troublesome. See, e.g., Spencer Custodio, "OC's Coronavirus Vaccine App Othena Could Be Irrelevant When Blue Shield Takes Over Statewide Distribution," *Voices of OC* (March 1, 2021). <https://voiceofoc.org/2021/03/ocs-coronavirus-vaccine-app-othena-could-be-irrelevant-when-blue-shield-takes-over-statewide-distribution>.

¹⁰ See, e.g., Barbara Ostrov, "State's 'MyTurn' website bypassed for most vaccine appointments" *Cal Matters* (April 22, 2021). <https://calmatters.org/health/coronavirus/2021/04/myturn-vaccine-appointments-problems/>.

¹¹ A personal digital California Covid Vaccination record is available at <https://myvaccinerecord.cdph.ca.gov/>.

B. Who Administered the Vaccinations?

As vaccine supplies increasingly came into the County from Federal and State sources during the winter and early spring of 2021, so did the number of entities who administered the vaccinations.

Eventually, Covid vaccines were sent by State and Federal sources directly to the entities that actually administered doses (rather than to the County to be further distributed by PHD as done initially).¹²

All of the entities listed in footnote 12 (as well as other healthcare entities and professionals) were key members of Napa's team of Covid vaccinators. OLE Health, St. Helena Hospital/Adventist Health, Kaiser Permanente, and PHD in particular appear to have administered the most doses of vaccine to County residents after December 2020, but all involved played very important roles.

The State's shipments of COVID vaccines to PHD and others are delivered under the federal Centers for Disease Control and Prevention (CDC) COVID-19 Vaccination Program. Under the CDC program and like the other Federal programs, vaccines are procured and distributed by the Federal government at no cost to enrolled COVID vaccination providers. Counties and MCEs request vaccines from the State through its CalVax portal, which was initially designed for distributing flu vaccines. The State decides who gets the vaccines and how much. Manufacturers are then instructed by the State to send the allocated vaccine doses directly to the counties or MCEs. In February 2021, the State of California designated Blue Shield as a "third party administrator" which took over responsibility for the allocation of State-distributed vaccine doses to MCEs and counties. In July 2021, CDPH took back that role from Blue Shield.¹³

To receive more allocations of vaccines from the State, the counties and MCEs were required to report to the State the vaccinations they administered in a timely manner and to use all the supplies that they were allocated.

PHD was generally not informed about the direct vaccine shipments sent to MCEs or to other entities through the various distribution channels. There was no formal coordination mechanism between the supply chains to help PHD determine to whom vaccine shipments were being sent, how much was being sent, nor how those entities receiving it planned to use it. PHD had to initiate and maintain a regular dialogue with the local recipients of vaccines and attempted to coordinate their vaccination efforts to try to ensure availability throughout the County.¹⁴

¹² Federal vaccine supply programs included the Retail Pharmacy Program for COVID-Vaccination (doses sent to local participants including Safeway, CVS, Pharmaca, Rite Aid, Lucky, and Walgreens), and the Pharmacy Partnership for Long-Term Care Program (CVS and Walgreens). Doses were also sent by the federal government directly to Health Resources and Services Administration (HRSA)-funded health centers (e.g., OLE Health). The State of California continued to allocate vaccines to the counties, but also sent them directly to entities like health systems that are multi-county entities (MCEs) (e.g., Kaiser Permanente, Adventist Health, and Providence Health).

¹³ See, e.g., Emily Hoeven. "Delays emerge in Blue Shield vaccine rollout," CalMatters. (February 25, 2021) <https://calmatters.org/newsletters/whatmatters/2021/02/delays-emerge-in-blue-shield-vaccine-rollout/>.

¹⁴ PH has also regularly participated with the Association of Bay Area Public Health officials that has met frequently throughout the Covid response to facilitate the counties' coordination efforts.

C. Vaccinations in Demand

For the first several months of 2021, doses of Covid vaccines were in short supply in the County and the surrounding region relative to the demand.

When PHD was initially scheduling vaccination appointments in the County, it used the relatively clear-cut criteria for identifying who gets vaccinated first, based on criteria that were employed in past mass-vaccination efforts (e.g., the H1N1 flu pandemic in 2009-10). These included vaccinating healthcare workers first so they could continue their work, and thereafter individuals based on their age and medical condition.

By late February 2021, the State began requiring that all counties use the State's relatively complicated set of vaccination eligibility criteria.¹⁵ This requirement was accompanied by a clear but somewhat competing message from the State that vaccinations were to be administered as fast as possible and no doses were to be wasted.

The State's eligibility criteria combined some of the past mass-vaccination administration factors (e.g., age and medical conditions), but also added eligible job sectors and other categories that prioritized certain groups over others. Some job categories used (e.g., educators, food workers, and agricultural workers) lacked clear or commonly used definitions so PHD was unable to proactively notify members of those groups about getting vaccinated. Also, operators of vaccination clinics could not readily distinguish between those who should be eligible and those who were not. The list of eligible health conditions became so long that they could not readily be verified at vaccine administration locations. Some locales also required proof of county residency to receive a vaccination. Most who administered vaccinations came to rely on self-attestations of eligibility from vaccine recipients rather than devoting the significant resources needed to evaluate evidence of job-related risk, residency, medical condition, and the other elements of the State's criteria.

The State's eligibility criteria to receive vaccinations not only caused complications for those administering vaccines, but also resulted in feelings of unfairness on the part of some residents about who was receiving vaccinations. This resulted in distrust, further fostered by rumors, many spread on social media, of people 'scamming' the system or using political influence to receive privileged treatment or lying about their eligibility to get vaccinations. The counties were on the front lines and were blamed whenever people felt aggrieved or unfairly treated. The counties often were the ones who had to try to rationalize or explain things like the State's criteria to those who were not yet eligible to receive vaccinations.

D. Public Health in Napa

Over the last few decades, the nature of Napa's public health function has changed. Funding for PHD has decreased and elected officials' view of the role of a public health department has changed. The number and scope of tasks that PHD itself has been expected to fulfill in the past (e.g., administering testing and vaccinations), has decreased. Increasingly, these services must be

¹⁵ The state's vaccination eligibility criteria became increasingly complicated over time as additional categories and factors were added.

obtained from private, non-governmental entities (some commercial and some non-profit entities). These trends are not unique to Napa County.

PHD played many vital roles in the County's Covid response. Yet, due to the large and dynamic scope of the Covid response and the size of PHD's budget and staff, there were some limits to what services PHD could perform. For example, while PHD played essential roles in coordinating vaccinations, larger scale administration of vaccinations or testing in the County had to be performed by other healthcare providers. Several local medical professionals (from outside of government) interviewed were consistently complementary of PHD. They nonetheless indicated surprise that PHD was not able to play a larger role in administering vaccinations or testing.

Many of the Covid response functions and activities performed by private, non-governmental entities were not made clear in the County's pandemic response plan. There were few County contracts, agreements, or memoranda of understanding executed with these entities, and, therefore, these entities operated without specific commitments to the County about the scope of their activities or obligations. Some of the County's more complicated tasks as it assesses its After-Action Review lessons learned from its Covid response will be assessing the appropriate scope of PHD's role in future public health emergencies and assessing whether response plans can better specify and document the responsibilities of non-governmental healthcare entities.¹⁶

One reason for limits on the number of functions PHD could perform was the frequent turnover of County personnel during the County's Covid response, especially for people assigned to certain PHD job categories. State and Federal funding has recently allowed the County to supplement some of its workforce who support PHD and the Covid response activities, but competition for qualified technical resources has been difficult.¹⁷

E. Public Information

The County's Public Information Officer (PIO) is the County's public "mouthpiece,"¹⁸ but there was frequent turnover in the PIO position for the County government and the County's Covid EOC's PIO function. The County has generally assigned both functions to a single individual. The recurrent turnover of personnel in the PIO role and the County's lack of resources allocated to communicate with residents about emergency responses resulted in poor communication and information gaps during the County's Covid response.

The County's communication to residents about its response to Covid and vaccination availability was insufficient and consisted mostly of posts and occasional News Flashes on PHD's otherwise

¹⁶ An "After-Action Review" looks back at how the County's OEC operated in responding to an emergency and assesses what changes should be made.

¹⁷ This is due in part to high demand from everywhere for workers with the required skills for the jobs, the cost of living in this area, and the fact that the job funding has generally been for temporary positions, which makes those positions less attractive to some applicants. For example, since the incumbent retired in 2021, PH has been unsuccessful in replacing its director of Public Health nursing for almost a year.

¹⁸ The PIO communicates and disseminates critical information from the county to its residents. The PIO also shares the county's perspective with the media and the public and responds to requests for information.

useful COVID website¹⁹ or the County’s general website. The County also conducted weekly Facebook Live updates and a weekly Public Health Officer’s report. Communication with local media outlets included briefings on metrics, including numbers of cases, deaths, and vaccination doses administered. However, the Grand Jury’s survey of Napa Valley Register stories about Covid vaccinations between December 2020 and the beginning of May 2021, revealed that during a key period the County shared little instructive information about how to obtain vaccinations.²⁰

The County’s minimalist approach to engaging with local media during the Covid vaccination rollout and its relatively sparse social media presence consistently left the County ‘playing catchup,’ instead of proactively informing its residents about important issues. The County did not adequately explain to residents the slow and inconsistent vaccine supply streams into the County and when and how vaccinations might be available for any but the initial groups who were vaccinated. The County provided little explanation about the criteria about who would receive vaccinations. As a result, some residents questioned the fairness of how doses were being distributed. Those dedicated to questioning facts or sharing misinformation about the efficacy of vaccines gained harmful inroads because the County was not effective in leading the dialogue and then seemed to do little to counter false reports.

Because no qualified County PIO resource was available, busy individuals like the County’s PHO and others were often thrust into playing additional roles, responding to media inquiries, in addition to their many other vital responsibilities.

F. Vaccination Appointment Availability

Throughout the Covid vaccination rollout, to succeed in locating and obtaining vaccination appointments (in Napa and elsewhere) one needed to have a computer, technical savviness, and a reliable internet connection. It was also necessary to have transportation, the ability to take off from work, obtain childcare, and access real-time information about where vaccinations might be available on a given day (at least until early in May 2021, when vaccine supplies arriving in Napa Valley began to catch up with demand). Information about vaccine availability was generally not obtainable from the County or MyTurn, and usually came from communicating with friends or from social media. Many County residents lacked these resources and were at a significant disadvantage in trying to obtain vaccinations.

Nonetheless, the County did set up an effective call center. This resource assisted many residents, and provided information about the County’s Covid response, vaccines, and means of obtaining vaccinations. Unfortunately, a lack of awareness about the call center’s services limited its reach.

The County did use multiple outreach tools to attempt to reach “hard-to-contact” segments of the population, employing “trusted messengers” to communicate about the need for vaccinations and how to arrange to get them.

¹⁹ <https://www.countyofnapa.org/2739/Coronavirus-COVID-19>.

²⁰ The exception being information about the “vaccine inquiry” involving a County Supervisor that was conducted by the law firm Meyers Nave at the behest of the Board of Supervisors (report dated 5/5/2021).

Some healthcare providers used their trusted messenger status to communicate with their patients and other County residents about vaccination eligibility. They also tried to help those eligible to schedule vaccination appointments. Unfortunately, these efforts were sporadic and uncoordinated, and many County residents were never contacted.

The need for computer savviness was especially great prior to late-April 2021 when the County's vaccine supplies were significantly less than the demand for vaccinations and uncertainty about future vaccine availability was at its apex. Residents were often unable to schedule nearby vaccinations; as many as 25% of vaccinated Napa residents took advantage of sources outside the County.²¹

Since early May 2021, vaccinations have generally been readily available from multiple sources, even after booster shots first were approved in September 2021 and April 2022.

FINDINGS

- F1. A very large portion of the County's population is protected from the most severe effects of Covid because they have received FDA-approved vaccinations. An increasingly large number of adults have received boosters and children are receiving vaccinations that have FDA emergency use approvals for vaccines for the younger age groups. As of the date of this report, however, approved vaccinations were still not available for children under age 5.
- F2. PHD staff, led by Dr. Karen Relucio, has worked long hours with high energy and great diligence to deal with the many challenges related to the Covid pandemic response. They have performed admirably and provided effective and needed leadership to the County's Covid vaccination rollout efforts.
- F3. The scope of services for which the Napa County PHD has been funded has decreased over the last several decades. During the County's Covid response, PHD worked extremely well within the limits of its funding and intended scope but lacked sufficient resources to be more fully involved in actually administering vaccinations and performing testing. The precise roles that PHD plays versus those of the rest of the healthcare system should be considered carefully. The Grand Jury found that the success of the County's Covid Pandemic response relied extensively on the participation, resources, goodwill, initiative, and cooperation of volunteers and private entities (commercial and non-profit). The current County public health model should be carefully evaluated to ensure that the success of PHD could be repeated predictably, should a County response of the magnitude required for Covid be necessary in the future.
- F4. The County did not have an adequate plan in place to readily guide the County's Covid vaccination rollout. While PHD communicated frequently and regularly with the many responding non-governmental entities, the roles, responsibilities, and scope of involvement of those entities were generally not well-articulated in a plan and not fully anticipated by some of the participants. Some of the responding entities were more cooperative and better-

²¹ PHD's vaccination statistics are not sufficiently precise to accurately calculate the extent of this phenomenon and there were many reasons for residents to seek their vaccinations elsewhere; however, during this period most neighboring counties imposed "residents only" restrictions on their vaccine applications, which would seem to make it more difficult to get vaccinations outside of Napa.

able (or better-resourced) than others. If these anticipated response participants and their roles are not better addressed by a County plan, or in agreements or memoranda of understanding with the parties, there may be inefficiencies, redundancies, and gaps in effort as a result.

- F5. Response plans for public health emergencies cannot anticipate all possible contingencies. On the other hand, the Covid response illustrated a range of issues for which advance work on identifying options and available resources is paramount. Alternatives for vaccine storage, handling, and distribution, possible eligibility criteria for the order in which individuals receive vaccinations, communication approaches for more effectively notifying residents about vaccines and vaccinations, and mechanisms for easier access to vaccination appointments for all county residents should all be assessed. The County does not always have significant leeway when it is required to follow the lead of State and Federal governments, but the County must be prepared for those instances where such leadership is not forthcoming or circumstances do not allow time to develop and evaluate options in a leisurely fashion.
- F6. The County's Covid Pandemic response was made more difficult at times by the vast scope of what was needed. In addition, some State and Federal government decisions, actions, policies, and policy changes caused complications, as did inconsistent communication from the State to the counties.
- F7. The County did not always effectively communicate with its residents during the Covid vaccine rollout. Insufficient PIO resources, frequent turnover in the PIO role, and a lack of support or emphasis by County leadership for open and proactive communication undercut the County's efforts. The County did not communicate enough with county residents about the effectiveness of Covid 19 vaccines and the availability of vaccinations at a time when residents deserved more. Residents were not given enough reassurance that the County was on top of the issues and up to the task of making sure that timely vaccinations would be available for everyone who wanted them (although thankfully, it turned out that they were). Some residents' concerns are illustrated by the large number who felt that they had to seek vaccinations from sources outside the County.
- F8. The Grand Jury observed that County government leaders devote few resources to the PIO function; as a result, those assigned to the task often had so many demands on their time that they had little capacity to engage in anything but reactive communication efforts. The County has usually had only one PIO on staff to handle communication about all County issues, even during emergencies. This staffing was clearly insufficient during the County's Covid response.
- F9. The Grand Jury found no evidence of a coordinated effort by the County to try to systematically deliver, directly or through healthcare providers, some form of individual communication to each County resident reassuring them about the utility and importance of receiving vaccinations and providing assistance about how to obtain them. Telling residents to sign up for MyTurn was not a panacea for the first five months of the vaccination rollout.
- F10. Many County residents, including "at-risk" groups, did not have sufficient access to computers, reliable internet access, or tech-savviness to get access to vaccination appointments. For these and other reasons, they were at a significant disadvantage. The County's call center and outreach efforts helped, but awareness about the scope of these

services was limited. The County seemed to provide insufficient assistance to these residents, especially when vaccine doses were in short supply.

- F11. The County's initial choice to use an EOC personnel structure for the Covid response was appropriate and important but using it continuously for over a year and a half resulted in a depleted and exhausted County workforce and left many other County services unperformed for a long period.
- F12. The County either did not sufficiently consider transitioning earlier to a different personnel structure than the EOC or allocated insufficient resources to evaluate and implement other options for continuing its Covid response. A different personnel structure than the "all hands-on deck" EOC approach used for Covid (even though its sense of urgency was toned down to some extent over time) could have allowed some County resources to return more quickly to their normal functions, while providing additional needed technical and other support to the PHD to continue their response work.
- F13. The County's ability to respond to other emergencies could have been significantly hindered by the long-term use of this EOC structure for the Covid response. Due to Napa County's relatively small size, many of the same resources must be employed whenever County responds to fires, earthquakes, and other emergencies, including substantial public health group resources. It is beyond the scope of this investigation to assess whether the County's emergency responses to the devastating fires from August through October 2020 were hampered by the continued use of the EOC structure approach for Covid, or whether key staff were over-stretched and not performing at peak efficiency. There is little question that the County was very lucky that the 2021 fire season in Napa was a relatively quiet one.
- F14. This investigation did not include a review of the "vaccine inquiry" involving a County Supervisor that was conducted by the law firm Meyers Nave at the behest of the Board of Supervisors (report dated 5/5/2021). However, multiple interviewees volunteered their concerns about the timing of the inquiry (seen as unnecessarily during the height of the vaccine rollout) and its purpose. During the investigation, PHD staff was diverted from their vital responsibilities responding to a public health emergency just to be scrutinized and questioned by Meyers Nave. The Grand Jury was told multiple times that the inquiry left an already over-taxed and over-stressed staff extremely demoralized. Apparently, those wounds have not healed.

COMMENDATION

The Grand Jury commends the Napa County PHD for their dedication, leadership, and commitment to the residents of Napa County in all aspects of the County's Covid response, including providing Covid vaccinations.

RECOMMENDATIONS

- R1. The County should conduct a Covid response After-Action Review, identify lessons learned from its response activities, and fund and implement the review's findings. The review should not be conducted solely by County government "insiders," but also should include other stakeholders and as well as County residents.
- R2. As part of this After-Action Review, the County should evaluate the role, staffing, and funding of PHD to determine what changes and enhancements should be made so that the division can both meet the County's ongoing public health needs and be optimally staffed to address its potential response roles in a future public health emergency. If the review determines that staffing and funding of PHD should be enhanced, a timeline and action plan should be established to implement the enhancements.
- R3. The County should revise its Emergency Response Plans so that it is better prepared should a similar public health emergency occur in the future. The plans should attempt to spell out or better provide for the significant roles that are expected to be performed by private, non-governmental entities. For example, in a pandemic response the PHD may be expected to play a largely oversight and coordination role and would not itself be staffed to perform large-volume administration of vaccines or testing of them. If that is the case, the roles of private, non-governmental entities that will do the bulk of the vaccinations and testing should be documented in the plans and, to the extent possible, in contracts or memoranda of understanding with the County. Their work should be financially supported by the County in appropriate cases. If significant roles and responsibilities are not better-documented, PHD will continue to spend a great deal of its energy during a response trying to enlist and coordinate the participation of others. If this happens, the County runs the risk that those parties will not be as able or willing to play certain key functions, including devoting and donating the needed resources, should the need arise.
- R4. Based on its Covid response experiences, PHD should assess what advance work can be done on identifying optional approaches and available resources to reduce its real time burden in the event of a similar future public health response.
- R5. Napa County's EOC model should be evaluated to determine how it can be better structured to manage concurrent emergencies. The EOC plan should also establish a process that requires the transition from "emergency" to "ongoing" response after a much shorter period of time than was employed for the Covid response. After the transition the focal activity (in this case Public Health) should be adequately reinforced to continue the County's response activities. This would allow (a) non-emergency County functions to more quickly return to normal and County staffers to return to their roles and responsibilities, (b) less-encumbered County emergency resources would be available should a concurrent emergency occur, and (c) the integrity of the County workforce would be maintained.
- R6. The County should also provide additional PIO resources so that the County government can more effectively, accurately, and proactively communicate with its residents about critical information. The County should, at a minimum, have separate PIOs for emergency operations and the County's day-to-day functions. Additional resources should be allocated

to develop public information support capacities throughout the County government, not just a single position at its center. This should include subject matter experts designated in key groups like Public Health who are trained and able to work on public information issues and assist those with PIO responsibilities. County residents deserve clear and informative communication from their government.

- R7. The EOC and the County's Response Plans for public health emergencies should include more detailed PIO/communication details than presently exist. They should define and allocate the needed communication approaches and resources and identify the technical and public information skills required to fill those roles. Communication plans should spell out available communication mechanisms, stress the importance of proactive communication to residents about the risks of the public health concern, and explain the importance of the treatment or vaccination and how to readily obtain it.
- R8. Whenever a mass-vaccination effort is needed, the County should identify mechanisms to systematically deliver, directly or through healthcare providers, individual communication to each resident about the importance of receiving vaccination or other treatment and assistance to readily obtain them.
- R9. The County should consider whether procuring a mobile clinic vehicle (or similar capability), along with sufficient staff to operate it, would assist PHD in their off-site vaccination efforts or other responsibilities.

REQUEST FOR RESPONSES

The following responses are required pursuant to Penal Code sections 933 and 933.05:

- Napa County Board of Supervisors (R1, R2, R3, R4, R5, R6, R7, R8, R9)
- Napa County Chief Executive Officer (R1, R2, R3, R4, R5, R6, R7, R8, R9)
- Napa County Public Health Officer (R1, R2, R3, R4, R5, R6, R7, R8, R9)
- Napa County Emergency Services Officer (R1, R2, R3, R4, R5, R7)

GLOSSARY

CAIR-- California Immunization Registry

CDC--Federal Centers for Disease Control and Prevention

CDPH—California Department of Public Health

DH&HS—Napa County Department of Health & Human Services

EOC--Napa County Emergency Operations Center

EOP—Emergency Operations Plan

FDA-- Federal Food and Drug Administration

HHSA-EOP—Napa County Emergency Operations Plan

MRC--Medical Reserve Corps

MCE—Health systems that are multi-county entities (e.g. (e.g., Kaiser Permanente, Adventist Health, and Providence Health)

PHD--Napa County Public Health Division

PHO—Napa County Public Health Officer

PIO—Public Information Officer

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Napa County Civil Grand Jury

2021-2022

Homelessness: Much is Being Done – More is Required

June 14, 2022



A Napa homeless camp called the Bowl had grown to include several dozen tents and structures. Residents were told to leave by Nov. 16, 2021, according to local agencies. Jennifer Huffman, Napa Valley Register

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SUMMARY

Homelessness, a serious widespread problem across the United States, continues to defy resolution, despite many efforts. In California, limited affordable housing exacerbates the problem. The February 2021 California State Auditor's report noted:

With more than 151,000 Californians who experienced homelessness in 2019, the state has the largest homeless population in the nation, but [the State's] approach to addressing homelessness is disjointed...At least nine state agencies administer and oversee 41 different programs that provide funding to mitigate homelessness, yet no single entity oversees the state's efforts or is responsible for developing a statewide strategic plan.¹

Napa County's approach to homelessness is similarly hampered. Over thirty entities provide services for Napa's homeless, but with little true coordination of their efforts or strategic planning. To attempt to address this, the City of Napa recently assigned an administrator to oversee the municipal services for the homeless.²

News reports and social media platforms, many replete with negative comment, raise concerns about the impact homelessness is having on local communities. Napa citizens have complained that the increase in the homeless population has led to vagrancy, sanitation problems, health and safety concerns related to increased presence of the mentally ill, and visible public drug and alcohol abuse. Responding to the significant level of citizen concern about the problem of homelessness, the 2021-2022 Napa Grand Jury opened this investigation.

In 2020 Napa County's homeless population was officially estimated at 464 people, a 46% increase over any of the last six years.³ Service providers estimate even higher numbers.⁴

At least 33 governmental, non-profit, faith-based, and volunteer organizations, work diligently with advisory committees and boards to address the challenges presented by homelessness in Napa County. Staff, volunteers, and outreach workers consistently demonstrate dedication, competence, and compassion in their work with the homeless. Better coordination of these efforts could provide services in a more efficient and cost-effective manner.

Issues related to homelessness are complicated. The primary cause is scarce and expensive housing. However, many local residents have resisted proposals to increase housing opportunities for the homeless. Some believe that most homeless suffer from mental illness and substance abuse; they see them as potentially dangerous and do not want housing projects located near their neighborhoods (*see*, Appendix B). In general, the public generally assumes that most homeless are "chronically homeless," as opposed to people who could otherwise be stable workers but cannot afford Napa housing.⁵

¹ Audit: California Effort to Solve Homelessness Disjointed and Ineffective" Courthouse News Service, Matthew Renda, February 11, 2021.

² "Napa city manager wants former county deputy CEO to tackle homelessness," Howard Yune, Apr 15, 2021, https://napavalleyregister.com/news/local/napa-city-manager-wants-former-county-deputy-ceo-to-tackle-homelessness/article_6d0d98c5-ac04-5530-9775-9c9da2082702.html

³ There are multiple ways used to estimate an area's homeless population. This discussion is based on the annual 'Point-in-Time' (PIT) survey. Napa PIT estimates were 323 people in 2019, 322 in 2018, 315 in 2017, and 317 in 2016.

⁴ Local school personnel interviewed by the Grand Jury have observed especially high numbers of homeless school children, who are often not included in official counts.

⁵ *See*, Appendix B--Read More About: The Community Sees Two Sides to Homelessness.

This Grand Jury report examines many issues related to homelessness and describes some of the barriers to local relief efforts. It also offers some potential solutions. In doing so, it notes the complexity of the problems and the difficulties faced by the various stakeholders and service providers in their efforts to reach common goals. More suggestions will be made in the “Recommendations” section of this report, but the Grand Jury has concluded that readers should focus on the following key areas of concern:

- (1) the need for coordinated leadership among City and County officials;
- (2) the need for increased case management to assist homeless persons struggling with mental illness and substance abuse;
- (3) increased temporary and permanent housing for the homeless;
- (4) the need for coordinated leadership among City and County officials; and
- (5) a better data collection and sharing system which can be used by all stakeholders to analyze trends and help with decisions about what are the best and most needed interventions.

BACKGROUND

The history of homeless in Napa dates to the 1970’s; reporting and actions to assist the homeless began in about 1982. Modest efforts followed to alleviate the problem. A permanent winter shelter was created at the Napa Valley Expo in 1983, operated until the present.⁶

Homelessness in Napa is growing. The most recent 2020 point in time (PIT) count⁷ estimates 464 homeless individuals in Napa County, an increase of 44% over a relatively static number between 2016-2019.⁸

Other systems, such as the Homeless Data Integration System (HMIS), are also used to estimate a community’s homelessness. The HMIS count relies on information from service providers and is not restricted to a count of homeless camps on a given morning. The 2021 survey counted 575 homeless individuals in Napa County. The Grand Jury found that these figures significantly underreported school age children, making the full extent of the problem less accurate.

⁶ See, “the Napa Valley Register, “The Birth of Homelessness,” Kevin Courtney, January 25, 2020. Mr. Courtney recalled that not much was written about homelessness in the 1970s. He wrote his first story in the Register in late 1982 about a homeless couple camping by Napa Creek near Highway 29. Four years later, he wrote about a homeless veteran in Yountville but by the next year “the homeless issue exploded in the Register.” A shelter was opened at the First Presbyterian Church but was considered only “a 10-week experiment”. Local activists then backed the creation of a tent city on Riverside Drive near downtown Napa, but the tent dwellers were ousted and subsequently moved to the entrance of Browns Valley. After nineteen days, the police issued a deadline for them to leave. That December, a permanent winter shelter opened in a county building at Third and Coombs. Napa has had a year-round shelter ever since.

⁷ The PIT survey is a snapshot of one January day and may fail to capture the true extent of homelessness since it may not tally some--like those who have no home in the traditional sense, but who may have temporary shelter with friends or family.

⁸ There are multiple ways used to estimate the homeless population in each area. The most frequently approach is the PIT survey, which is required by the U.S. Department of Housing and Urban Development (HUD). The PIT count, which is a physical count of sheltered and unsheltered people experiencing homelessness observed on a single night in January each year. The PIT is a creation of the Department of Housing and Urban Development (HUD) which requires that the local Continuum of Care (CoC) (an entity created pursuant to HUD regulations for all communities) to conduct the annual count. The CoC must also conduct a separate count of unsheltered people experiencing homelessness every other year (odd numbered years). The latest available PIT count is from 2020; no count was undertaken in 2021 due to the pandemic. The 2022 data is not yet available. The PIT is a well-structured standardized procedure which relies upon experienced and knowledgeable participants who are versed in the likely locations of homeless encampments, vehicles serving as “homes,” and other places where individuals are likely to seek shelter. Nonetheless, it is just a snapshot of what homelessness may look like on a specific day and time.

The homeless are Napa residents but without a fixed address, or at risk of losing their residence. They often face challenges due to personal and/or financial instability and sometimes suffer from mental and emotional challenges. Extreme poverty is the strongest predictor of homelessness for families, and at least 11% of American children living in poverty are homeless. There is a growing imbalance between housing costs and wages. Rising rental costs and falling vacancy rates makes those with low incomes ever more vulnerable to homelessness. Once someone loses a place to live, regaining permanent housing is difficult. This is particularly true in Napa.⁹



Tony Rodgers, who is homeless, received a care bag and water from OLE Health staffers. To mark National Health Center Week the nonprofit was distributing care packages at and near a Napa homeless camp called the Bowl. Jennifer Huffman, Register

Substance abuse and psychological disorders affect a significant part of the homeless community. These can include conditions like depression and bipolar disorder, schizophrenia, anxiety disorders and substance abuse.¹⁰ A recent Napa County review estimated that 54% of the County's homeless suffer from mental illness.¹¹ Traumatic brain injury affects over half of the adult homeless population,¹² while alcohol abuse and

⁹ Wages in 14 of the top 20 growth occupations in Napa have a mean starting wage of less than \$9/hour, much less than the \$16.25/hour needed to afford a one-bedroom apartment at federal fair market rates. The Napa County housing wage represents 122% of the national mean renter wage of \$13.34/hour.

¹⁰ In January 2015, the most extensive national survey ever undertaken found 564,708 people were homeless on a given night in the United States. Depending on the age group in question, and how homelessness is defined, the consensus estimate as of 2014 was that, at minimum, 25 percent of the American homeless—140,000 individuals—were seriously mentally ill at any given point in time. Forty-five percent of the homeless—250,000 individuals—had some indication of mental illness. More would be labeled homeless if these were annual counts rather than point-in-time counts. Read more at: <https://mentalillnesspolicy.org/consequences/homeless-mentally-ill.html>.

¹¹ Health and Human Services Client demographics (Health Management Information Services 2021).

¹² In a prospective review of studies, researchers found the lifetime prevalence of any severity of traumatic brain injury (TBI) in homeless and marginally housed individuals was 53.1 percent, and the lifetime prevalence of either moderate or severe TBI was 22.5 percent. https://journals.lww.com/neurotodayonline/fulltext/2020/02060/traumatic_brain_injury_in_homeless_people_is.4.aspx

drug dependency remain prevalent.¹³

But the homeless in Napa are not just statistics. They are people in need without a stable place to spend each night.

A traditional approach for managing homeless populations involves moving people from food and meal programs to emergency shelters and back to food and meal programs every day. Over time this has also included moving people in and out of motels, hospital emergency rooms, and even correctional institutions. This approach provides temporary relief from homelessness but appears to contribute to a seemingly endless cycle of homelessness due to the failure to shift persons from dependency on social supports to increased self-sufficiency.¹⁴

In Napa, those seeking homeless shelters (*See*, Appendix C) find the following:

- South Napa Shelter- Overnight and day services for adults (Capacity aged 18 and over), located at 100 Hartle Court.
- Winter Shelter- Overnight services from mid-November to mid-April, located at the Napa Valley Expo.
- Rainbow House Family Shelter.
- NEWS (domestic violence shelter).

Others are housed in less temporary arrangements and progress towards finding permanent homes. Still others find shelter wherever they can, including in homeless encampments.

In July 2021 California Governor Newsom signed an historic housing and homelessness funding package consisting of a \$12 billion investment over two years, focused on addressing behavioral health, housing, and solutions to tent encampments, and including housing options for people with severe mental health challenges. It also included \$5.8 billion for an additional 42,000 housing units (*see*, Appendix A).

Yet soon after the City of Napa took a different and less supportive path.

In November 2021, the Napa Valley Register reported the City of Napa's plan to close a local homeless encampment, "The Bowl," for the stated purpose of facilitating flood control and dredging of the Napa River.¹⁵ Some saw this development in a negative light. Although partner agencies had collaborated in efforts

¹³ According to the Substance Abuse and Mental Health Services Administration, 38% of homeless people are dependent on alcohol and 26% are found to abuse other drugs. The HMIS data collection system reported that 43% of homeless persons in Napa struggled with some type of substance abuse.

¹⁴ The Churn: Explaining the vicious cycle of homelessness (solutionsforchange.org).

¹⁵ In November 2021, the Napa Valley Register reported about a Napa homeless encampment called "The Bowl", and efforts by local officials to close it so the site can be used for flood control and dredging of the Napa River. A city press release described the plan for The Bowl's closure: "Our goal is to use proactive and client-centered strategies to help campers move indoors, engage in housing, and support services, and safely store their personal belongings while identifying permanent housing solution." Bowl residents responded to the news with anger and frustration. Some wanted to know what would happen to their possessions. Others were concerned about what would happen with their pets because the homeless shelter only allows pets used as service or companion animals. Many saw this decision as just another in a series of relocations of the homeless and another disruption in their lives. A local homeless shelter offered to rental storage spaces for peoples' possessions, but this did not entirely alleviate concerns.

to clean up The Bowl when Napa's winter homeless shelter opened, the eventual process employed by the City was poorly coordinated and unsupportive of homeless residents.¹⁶



Kelly Hampton of Napa empties a secondary storage tent at her campsite at the Bowl, once a south Napa homeless camp.
Jennifer Huffman, Register

These conflicting developments illustrate a basic conundrum of the homeless dilemma: at a strategic level, there is significant support to address the problem, but efforts struggle to find support for effective local implementation.

METHODOLOGY

To understand homelessness in Napa County, the Grand Jury conducted over 30 interviews with civic leaders and public administrators, elected officials, homeless outreach workers, clergy, service providers and data analysts from local governmental agencies, subject matter experts, clergy members and nonprofit service providers. The goal was to gain a variety of perspectives about homelessness and to learn about the services delivered.

The Grand Jury also reviewed a multitude of written materials, including reports and data generated by local government and private agencies, articles from the Napa Valley Register and other news sources, magazines, and websites, and other reports and plans describing strategies to combat homelessness.

¹⁶ Those affected by the closure were told that beds were reserved for them at the Napa Winter Homeless Shelter when it opened on November 16, 2021, but the transition was not smooth and many Bowl residents responded with anger and frustration.

The Grand Jury members also toured the South Napa Homeless Shelter at 100 Hartle Court.

The Grand Jury is sharing all that it has learned by including extensive information in the Appendices, Glossary and Bibliography included with this Report.

DISCUSSION

The challenge of homelessness is a national concern. Articles in newspapers across the country daily provide us with grim and heartbreaking stories about the economic pressures that have resulted in the loss of employment and subsequent homelessness. These pressures have increased since the start of COVID-19. Despite these challenges, however, there has been some progress toward providing shelter and housing for those forced to live on the street. The Grand Jury spoke with many dedicated, competent, and compassionate government officials, outreach workers, shelter staff and volunteers who are all dealing with aspects of trying to reduce homelessness.

The Grand Jury interviewed several individuals who spend their time in ongoing outreach efforts for the homeless. They have managed to develop closer ties with those persons living in shelters and in encampments and heard their stories about the circumstances leading to their homelessness. Initial outreach efforts can lead to “case management,” which involves consideration of a homeless person’s future housing needs as well as addressing their health care. There is general consensus that more outreach workers and case managers are needed to ensure ongoing stability. A large percentage of homeless persons suffer from significant mental health problems as well as substance abuse. These individuals often require long-term treatment and care (*see*, Appendix H).

There is some debate as to whether a “housing first” approach should be the preferred approach to solving homelessness, as opposed to helping a person first resolve mental health and substance abuse challenges. The federal and local official policy stance is clear: housing first. The Grand Jury believes that this is a false dichotomy. It is not one or the other first. A case can be made that for some homeless persons the provision of immediate housing will lead to a successful outcome of personal recovery. On the other hand, for others the providing of immediate housing is unlikely to guarantee a long-term resolution for individuals with significant mental health problems or substance abuse conditions. The Grand Jury has concluded that it is not an “either/or” situation of choosing housing first versus mental health treatment. Instead, Napa faces a “both/and” challenge--of needing to provide both housing and mental health treatment at the same time. This approach is referred to as “supportive housing”--housing with support services, not one or the other (*see*, Appendix E).

The shortage of available health and social services in Napa makes it difficult for homeless persons, especially those with physical, mental health or addiction disabilities, to get the assistance needed to maintain housing and stability (*see*, Appendix G).

The lack of available land for creating affordable housing was also examined during this investigation. The Grand Jury found no clear reason for why a portion of State Hospital property could not be used for a new shelter location or affordable housing projects (although negotiating a lease for the property would be required). Instead, it learned that State Hospital officials were developing a “Master Plan” for future property usage for assigning sites for NSH workforce, staff members who commuted long distances. Similarly, during this investigation, the Grand Jury learned about available parcels of land near Skyline Park and other locations, such as the Veterans Home in Yountville, church properties, and closed school sites (e.g., Harvest Middle School, Yountville Elementary and Stonebridge/Carneros). but found little progress towards finalizing new locations.

The new County Jail Reentry Facility is being considered by senior County officials for use as transitional housing of homeless people, as opposed to post-incarceration housing. The County was successful in obtaining permission from the State Board of Correctional Facilities to use the site for Isolation and Quarantine services during COVID and may have similar success in obtaining permission to alleviate the homelessness crisis. The facility may be available due to the insufficient number of eligible people for the reentry facility.

Survey of Napa Residents About Homelessness

Notwithstanding the bureaucratic inaction reported by some Napa residents, the Grand Jury believes that it may be the community's response to homelessness which constitutes the major obstacle to reducing its impact (*see*, Appendix B). In May 2021 Napa residents were surveyed regarding their views about the homelessness problem.¹⁷ Several responses indicated significant anger and frustration directed toward local officials, who, they believe, are failing to respond to violations of the law, unsafe encampments, and sanitation problems. There are those who are sympathetic to the plight of homeless persons but believe that there is a lack of treatment and care for the mentally ill and individuals struggling with addictions. There is strong sentiment that affordable housing projects should *not* be developed near residential neighborhoods. Finally, there were a number of respondents who acknowledged the fact that they have not taken any steps themselves to provide any aid or support to the homeless (*see*, Appendix D).

Many factors contribute to the losing one's home and living on the street. There are no quick solutions to resolving the problem of homelessness. On the other hand, there has been a considerable outlay of funds and resources by federal, state, and local agencies. Success is generally measured by how many homeless persons have received housing over the course of a year, and according to Napa County records there were 102 persons who received housing support in 2021. Unfortunately, there remains a significant shortage of affordable housing, or government supported housing, necessary to solve the homelessness crisis. This gap is clearly evidenced by the growing population of the homeless in Napa and the strain it places on local services.

The model of service in Napa has shifted from a collection of largely unrelated services toward a more focused strategy. This strategy moves beyond the policy of "Housing First" to a new model of supportive housing represented by the Valle Verde project and Wine Valley Lodge.¹⁸ To achieve this new direction, a "leadership council" should be established with those individuals or entities that control most of the resources involved in the provision of supportive housing. This council would have to have the political will to work with federal, state, and local agencies and would need to demonstrate a shared strategy of inviting all stakeholders to rally behind the supportive housing model (*see*, Appendix F).

Finally, evidence suggests that there is insufficient use of any formal organizational model by Napa agencies serving the homeless. As a result, there is no shared vision for how best to coordinate program funding decisions, track the impact of services, and maintain an understanding of how to maximize the numerous resources being offered by Federal, State, and local sources.

¹⁷ *See*, Appendix B--Read More About: The Community Sees Two Sides to Homelessness.

¹⁸ Napa County provides some funding for transitional and affordable housing. Heritage House and Rainbow House are examples of county transitional housing. The County received \$4 million from the American Rescue Plan Act for homeless housing projects and directed \$1.8 million to the renovation of Wine Valley Lodge.

The County is planning on further utilizing Wine Valley Lodge (made possible by Project Room Key), which will soon be converted to permanent housing for 54 individuals "with the highest acuity". There has been "enormous success with transferring clients from the shelter to the Lodge. Some clients reportedly look much healthier after a few months stay."

FINDINGS

- F.1 There are several City and County officials providing leadership toward the goal of reducing homelessness, but a lack of a unified integration of the various stakeholders.
- F.2 There is a lack of case management to ensure that all homeless persons are directed to the proper social services and health care.
- F.3 The Grand Jury found it difficult to determine how much money County departments spend on addressing homelessness issues. County budgets/spending information do not attribute expenditures to that level of detail.
- F.4 The current data collection systems used do not provide sufficient analytical data for examining the use of social services. Current data are not being used by administrative support staff to analyze trends specific to demographic groups and to develop enhanced utilization of local services.
- F.5 There is a lack of social services available for homeless persons in general, especially those with physical, mental health or addiction disabilities.
- F.6 The HHS' Crisis Stabilization Unit (CSU) lacks sufficient bed capacity to manage the increasing number of crisis cases which limits services for homeless people in crisis.
- F.7 There is available land which could be used for the development of housing for the homeless. Several interviewees stated that suitable land may be available on Napa State Hospital property, the Veterans Home in Yountville, church properties, and closed school sites (e.g., Harvest Middle School, Yountville Elementary and Stonebridge/Carneros).¹⁹ Unfortunately, there is no evidence of progress towards finalizing such new locations.
- F.8 Some potential affordable or temporary housing projects have not been approved due to community resistance or NIMBYism. Both the Heritage House and Valle Verde housing projects initially met with community resistance.
- F.9 Current unused space at Juvenile Hall could be converted to general housing for homeless youth, but only if authorized by the Court.

¹⁹ To attempt to address the shortage of available property for the development of emergency shelters and affordable housing, Governor Gavin Newsom issued Executive Order N6-19 directing the Department of General Services (DGS) and the Department of Housing and Community Development (HCD) to identify and prioritize excess state-owned property and aggressively pursue sustainable, innovative, cost-effective housing projects. The Napa County sites identified were: lower Skyline Wilderness Park; Caltrans properties near Imola Avenue, Redwood Road, and Stanley Lane; Highway 29 at Green Island Road in American Canyon; and along Highway 29 near Yountville. Napa State Hospital has also been considered as possible land for affordable housing development. County housing officials have approached Napa State Hospital administrators to discuss land usage but have been informed that the hospital is currently developing a Master Plan for future hospital land usage including the consideration of workforce housing for their own employees who have to commute long distances. Other sites mentioned as possibilities for housing projects are the Yountville Veterans Home, closed school sites, churches, and the Jail Reentry facility.

RECOMMENDATIONS

- R.1 A leadership council should be formed by those government officials and stakeholders who control the most resources directed to the goal of supportive housing.
- R.2 The Continuum of Care should compile an inventory of services available to homeless persons to better inform clients and promote increased collaboration and effective delivery of services by providers.
- R.3 County officials need to develop a more detailed program budget which would make it easier to determine how much money is spent toward homelessness on an ongoing basis.
- R.4 Homeless Management Information System data should be more easily accessible to all HMIS users from different City and County departments (while maintaining privacy requirements) to improve the efficiency and quality of service delivery.
- R.5 The Napa County HHSA should hire additional Mental Health and Substance Abuse counselors to assist in crisis management and outreach efforts for the homeless. In addition, the County should increase the number of beds at The Crisis Stabilization Unit to ensure that crisis cases are not diverted to Queen of the Valley Medical Center.
- R.6 The Napa County Public Health Division should form a task force, including personnel providing law enforcement, mental health, and emergency medical services, to treat people suffering from drug induced mental disorders, with special emphasis on crises resulting from the use of P2P methamphetamine and Fentanyl.
- R.7 Napa County Board of Supervisors and County Housing and Homeless service departments should enact policies and procedures to facilitate the use of land for low income and permanent supportive housing (e.g., the Wine Valley Lodge).
- R.8 City Managers and the County Executive Officer should disseminate more data and information about homelessness to educate Napa residents about the causes and extent of homelessness in Napa and its effect upon persons living on the street. An example of this would be developing respective government websites to include an information dashboard on homelessness and homelessness prevention.
- R.9 The County CEO and Napa County Director of Corrections should work to convert the current Reentry Facility to transitional housing for the homeless.

REQUEST FOR RESPONSES

The following responses are required pursuant to Penal Code sections 933 and 933.05:

- Napa County Board of Supervisors (R.1- R.9)
- Napa County Executive Officer (R.1 – R.9)
- Director, Napa County Housing and Homeless Services (R.2, R.5, R.8, R.9)
- Director, Department of Corrections (R.9)

INVITED RESPONSES

- The Napa City Manager (R1, R.3, R.4)
- The City of Napa, Assistant to the City Manager for Housing and Homeless Services (R.1, R.2, R.3, R.4, R.9)
- Continuum of Care Board (R.1–R.9)

APPENDIX A--Read More About: Napa County Spending Attributed to Homelessness

The Grand Jury found it difficult to determine how much money County departments spend on addressing homelessness issues. County budgets/spending information generally do not attribute expenditures to that level of detail. The following is what the Grand Jury could only estimate.

Napa County Adopted Budget for Fiscal Year 2021/2022						
https://www.countyofnapa.org/ArchiveCenter/ViewFile/Item/740						
				2019-2020	2020-2021	2021-2022
				ACTUAL	ACTUAL	BUDGETED
Fund	BU #	Description	Page #	Amount	Amount	Amount
PUBLIC ASSISTANCE						
1000	10215	Housing and Homeless Services	A47	\$ 9,519,441.19	\$ 7,491,291.14	\$ 2,349,000.00
2000	20006	HHSA-Self Sufficiency	A177	\$22,474,443.02	\$22,554,436.09	\$ 24,603,274.00
2030	20008	HHSA-Homelessness and Housing	A180	\$ 1,416,749.82	\$ -	\$ -
2080	20300	Housing and Homeless Services	A192	\$ -	\$ -	\$ 7,734,651.00
2080	20800	Affordable Housing	A205	\$ 6,222,168.40	\$ 2,327,445.42	\$ 3,354,337.00
				<u>\$39,632,802.43</u>	<u>\$36,267,895.63</u>	<u>\$ 40,909,093.40</u>

These amounts are from the Napa County budget for expenditures associated with homelessness. The numbers for Housing and Homeless Services refer to county expenditures for emergency shelters, encampment clean-up, and efforts to transition homeless people back into housing. HHSA-Self Sufficiency refers largely to costs related to handicapped people who are housed to assist them in maintaining their independence and to prevent them from becoming homeless. Amounts for Affordable Housing are included because the Grand Jury sees affordable housing as helping to prevent homelessness and as part of the exit strategy from homelessness.

Napa County Adopted Budget for Fiscal Year 2021/2022						
https://www.countyofnapa.org/ArchiveCenter/ViewFile/Item/740						
				2019-2020	2020-2021	2021-2022
				ACTUAL	ACTUAL	BUDGETED
Fund	BU #	Description	Page #	Amount	Amount	Amount
HEALTH AND SANITATION						
2000	20001	HHSA-Public Health	A156	\$11,784,914.50	\$14,782,538.08	\$ 15,084,458.00
2000	20002	HHSA-Mental Health	A161	\$15,891,428.30	\$20,458,607.17	\$ 21,116,500.00
2000	20003	HHSA-Alcohol and Drug Services	A165	\$ 5,770,458.16	\$ 6,179,594.98	\$ 7,923,660.00
2460	24602	Emergency Medical Services	B60	\$ 191,038.16	\$ 174,420.87	\$ 233,000.00
2460	24603	Vital and Health Statistics-Health	B61	\$ 13,000.00	\$ 19,000.00	\$ 13,600.00
2460	24605	HRSA-Health Resources and Services	B62	\$ 153,819.82	\$ 199,570.19	\$ 154,440.00
				<u>\$33,804,658.94</u>	<u>\$41,813,731.29</u>	<u>\$ 44,525,658.00</u>

A significant portion of the services listed under Health and Sanitation are used by homeless people. The Napa County Health and Human Services Agency (HHSA) does not separate the data between homeless and other clients in their record keeping. Many subject matter experts interviewed stated that a significant amount of the HHSA and Sanitation expenditures is used for helping homeless individuals. The numbers above reflect all county monies spent for any person within Napa County.

REFERENCES FOR APPENDIX A

[VI-SPDAT-v2.01-Single-US-Fillable.pdf \(pehgc.org\)](#)

Microsoft Word - Napa CoC New Project Scoring Tool 2017 R&R FINAL - approved 8.16.17.docx
(countyofnapa.org)

Napa County Amounts Spent for Fiscal Year 2020-2021 and Amounts Budgeted for 2021-2022.xlsx (14.6 KB)

APPENDIX B--Read More About: The Community Sees Two Sides to Homelessness

Many Napa residents work diligently to address the problem of homelessness. This Grand Jury is deeply impressed by their passion and commitment. But the issue of homelessness is complex and so are peoples' perceptions and opinions about it. A May 2021 survey of Napa residents by the City of Napa Homeless Services about their perceptions of homelessness produced a wide range of responses, as well as constructive ideas from Napa residents. The following list summarizes the main themes:²⁰

1. Some residents believe that the homeless are mentally ill, substance abusers and potentially dangerous.
2. Blame is often placed on City and County Government for contributing to homelessness by placing too much emphasis on tourism and lack of emphasis on creating affordable housing.
3. Some residents are troubled by the fact that certain laws are ignored to accommodate the homeless, such as trespassing and violation of public easement terms. Public drunkenness is also sometimes ignored.
4. Some residents believe that the availability of so many social services encourages homeless people from out of County to migrate here.
5. There is a perception that homeless encampments are not properly monitored for unsanitary conditions which develop from trash and waste build-up, that few rules appear either not to exist or are not enforced for preventing trash accumulation, and that property owners should be required to monitor and properly dispose of trash build-up.
6. Some residents believe that the homeless are not being treated like normal people and that they should be asked to indicate what resources they need.
7. Some residents opine that sites for tiny home villages for the homeless should be located away from residential areas.
8. Some respondents believe that Napa State Hospital would be a good location for creating homeless shelters and housing.
9. Some residents believe that there should be greater emphasis placed on helping the homeless "to get back on their feet" as opposed to diverting them into housing without solving their problems.
10. Some residents stated that they do not feel safe enjoying some of the local parks (e.g., Kennedy Park) due to the proximity of homeless encampments.
11. There is some perception that stakeholders or partners in resolving homelessness are not united by a single strategic plan for combatting homelessness.
12. Some residents feel that they lack adequate information about what is being done to address homelessness and how effective the current services have been with respect to alleviating it.

²⁰ <https://www.surveymonkey.com/r/NapaCity2021HomelessSurvey>.

APPENDIX C--Read More About: Shelter and Services



In 2015, the County and City of Napa launched a joint multi-year process to review and attempt to transform the region's homelessness crisis and response system. The goal was to identify and address the needs of the community with an in-depth systems analysis which produced detailed reports: (1) The 10 Year Plan to End Homelessness, and (2) the Official "Updated Napa Plan to End Homelessness") to drive the region's homeless system.²¹

In 2017, the County and City of Napa entered into a Joint Powers Agreement (JPA) aimed at achieving more cooperation between their homeless outreach and housing systems.²² The JPA's strategies to reduce homelessness in the Napa City and Council included:

- (1) Establishing the Napa Funders' Collaborative to bring together key community stakeholders with the goal of aligning homelessness funding and policy in the region;
- (2) Developing an affordable and supportive housing funding mechanism called the Napa Flexible Housing Funding Pool (Flex Pool);
- (3) Developing public and private resources for the operation of housing and supportive services for households experiencing homelessness;
- (4) The creation and implementation of a coordinated entry system to standardize the matching of housing and service resources to people experiencing a housing crisis in order to maximize positive housing outcomes and ensure equity and transparency in the system; and
- (5) Joint funding and County management and hiring of a Napa Homeless Services Coordinator.

²¹ NAPA COUNTY TEN YEAR PLAN TO END HOMELESSNESS

<https://services.countyofnapa.org/AgendaNet>.

Microsoft Word - Napa Homeless Plan Update - Community Review Final Draft - October 2018 (countyofnapa.org)

²² A-180225B Cooperative Joint Powers Homeless Services.pdf (1.1 MB).

In 2018 Napa County began to update its “10-Year Strategy to End Homelessness”, which was developed with input through community meetings, surveys, and feedback periods. This plan was recommended by the United States Interagency Council on Homelessness (USICH), a federal agency that supports and encourages local jurisdictions to develop and implement 10-year strategies to end homelessness.²³

In January 2019, the Napa CoC officially adopted the updated Napa Plan to End Homelessness.²⁴ A wide range of services were developed²⁵ so that by 2021, 1,377 persons had received Abode services, including housing navigation, day center attendance and shelter services. As a result, 102 individuals exited homelessness into permanent housing.

Abode Services is based in Fremont, CA. and serves seven California counties. It is the main clearing house for homeless services in the region. Napa Abode operates the 101 bed South Shelter at 100 Hartle Ct. where one can be referred to services and programs, and the Winter Shelter at Napa Valley Expo (Capacity 45 beds). The Napa Abode has six outreach workers. Napa Abode shelter considers itself a “system,” not a place. People use the facility for a range of services, including taking showers, mail delivery, laundry, groceries, and mental health support. OLE Health operates a medical clinic at the shelter. The main requirement to be able to stay there is being able to exhibit “self-care,” the ability to conduct the activities of daily living. In addition, the shelter has other requirements which must be met in order to stay there. Residents are asked to sign an agreement that illegal substances and alcohol are prohibited on the premises, food is prohibited in the dorms, and people must abide by noise restrictions. A person can be banned from the shelter for possession of drugs or alcohol, fighting, and other violations listed in the agreement. If someone has alcohol or drug withdrawal symptoms, 911 is to be called for transport to the hospital. Referrals to the shelter are made by a variety of community organizations: St. Helena and Queen of the Valley hospitals, Catholic Charities, and family members. One does not need to be a Napa resident to be sheltered as there have been clients from Oakland, Richmond, Vallejo, Vacaville, and Fairfield.

²³ County of Riverside 10-Year Strategy to End Homelessness, p. 6, [Riv_County-10year.pdf \(riversideca.gov\)](#).

²⁴ [Microsoft Word - Napa Homeless Plan Update - Community Review Final Draft - October 2018 \(countyofnapa.org\)](#)

²⁵ A recommendation was made by one service provider managing homelessness services as “things had previously been kind of fractured.” The City of Napa would handle outreach activities through Abode while the County would manage the Whole Person Care program (with \$4 million funding), which ended on December 31, 2021. The new program is Cal-Aim (California Advancing and Innovating MediCal). It is a far reaching, multi-year plan to transform California’s Medi-Cal program and make it integrate more seamlessly with other social services. It is intended to help persons with the greatest needs by providing proactive outreach services. Partnership Health Plan will run the program locally. Cal-Aim defines homelessness as a medical concern for persons on Medi-Cal.

Fremont’s Abode Services contracted with the CoC as the main clearing house for homeless services. Napa Abode operates the South Shelter where one can be “linked” to programs and the Winter Shelter. It is considered a “system,” not a place and employs six outreach workers. Homeless individuals use the facility for services, including showers, mail delivery, laundry, groceries, and mental health support. OLE Health operates a medical clinic at the shelter. The main requirement to be able to stay in the shelter is “self-care,” the ability to take care of one’s activities of daily living. In addition, there are requirements which must be met in order to stay in the shelter. Residents are asked to sign an agreement that there will be no illegal substances on the premises, no food in the dorms, and noise restriction. A person can be banned from the shelter for possession of drugs or alcohol, fighting, and other violations listed in the agreement. Referrals to the shelter are made by a variety of community organizations: St. Helena and Queen of the Valley hospitals, Catholic Charities, and family members. One does not need to be a Napa resident to be sheltered and there have occasionally been “outsiders” coming from Oakland, Richmond, Vallejo, Vacaville, and Fairfield.

Over the course of 2021, Napa Abode provided services to 1,377 Napa County homeless. This number includes housing assistance, day center attendance and shelter services. One Hundred-Two individuals were able to use local Abode's services to exit homelessness into permanent housing.

The Abode shelter also serves as a "hub" where services are available for persons living on the street or in encampments. Abode also has an outreach team which coordinates with the outreach specialist at the Napa Police Department. The Adobe outreach team canvases nine locations to assist homeless individuals and connect them with services. Also, Abode is a "hands off" program which means that the staff do not place hands on the shelter residents, either for discipline or health care.

There are at least two Adobe staff present for each shift at the shelter. These staff persons are referred to as *shelter monitors* who are responsible for checking-in residents and coordinating clients' needs. They know most of the clients by first name. There is a *shelter coordinator* who is second in command and in training to become a manager. There are three *housing navigators or case managers* who help clients fill out applications and complete the process for housing placement. There are four *outreach staff* who work with the day center clients and canvas homeless target areas and other outdoor communities in order to provide information about the shelter.

A capital improvement project is underway to expand the South Napa shelter capacity from 69 to 101 beds. The project is slated to be completed by March 2023 and will feature a Day Center. The daily population of the shelter varies as renovations are currently underway. Current estimate is that, on average, 59 beds are used out of a 62-bed capacity. Before COVID-19, the capacity was 50 per day.

Abode is working with the Gasser Foundation, which donated both the land for the South Napa Shelter apartments for low-income individuals, and construction costs for the OLE Clinic building adjacent to the shelter. The Gasser Foundation has voiced concerns about whether an increase in the homeless population could potentially detract from nearby commercial interests. Gasser may require Abode to provide additional security services if the shelter size is expanded.

Abode coordinates its services with the Napa Police Department's outreach coordinator, serving nine locations with an impressive staff structure.

APPENDIX D--Read More About: Who are the Homeless?

The U.S. Department of Housing and Urban Development (HUD) has defined “homeless” and “at risk of homelessness.”

Those considered homeless include individuals and families who:

- (1) lack a fixed, regular, and adequate nighttime residence, such as those living in emergency shelters, transitional housing, or places not meant for habitation, or
- (2) will imminently lose their primary nighttime residence (within 14 days), provided that no subsequent housing has been identified and the individual/family lacks support networks or resources needed to obtain housing, or
- (3) (for unaccompanied youth under 25 years of age, or families with children and youth who qualify under other Federal Statutes, such as the Runaway and Homeless Youth Act,) have not had a lease or ownership interest in a housing unit in the last 60 days, and who are likely to continue to be unstably housed because of disability or multiple barriers to employment, or
- (4) (for an individual or family who is fleeing or attempting to flee domestic violence) has no other residence and lacks the resources or support networks to obtain other permanent housing.

Those at risk of homelessness include individuals and families who:

- (1) have an annual income below 30 percent of median family income for the area, as determined by HUD, and
- (2) do not have sufficient resources or support networks, immediately available to prevent them from moving to an emergency shelter or place not meant for habitation, and
- (3) exhibit one or more risk factors of homelessness, including recent housing instability or exiting a publicly funded institution or system of care such as foster care or a mental health facility.

In the 2018 PIT count summary report, the Napa Continuum of Care (CoC) identified the following sub-populations of those who are homeless:

- Chronically homeless: 158 persons met the HUD definition of Chronically Homelessness (92 unsheltered and 66 sheltered). The number of chronically homeless persons increased by 18% from 134 persons in 2017 to 158 persons in 2018, with a 74% increase in unsheltered individuals classified as chronically homeless (from 53 persons to 92 persons).
- Homeless Adults without Children: In 2018, 114 single adults met the HUD definition of homeless.
- Youth: The number of unsheltered unaccompanied homeless youth decreased from 16 persons in 2017 to five persons in 2018. The count of sheltered persons in youth-headed households (including unaccompanied youth and parenting youth and their families) increased from nine persons in 2017 to 11 persons in 2018.
- Veterans: the number of unsheltered veterans increased from eight persons in 2017 to 13 persons in 2018, while the count of sheltered veterans increased from nine persons in 2017 to 10 persons in 2018.

Results from the most recent Point-in-Time count (2020) are presented below:

	NAPA RESIDENTS EXPERIENCING HOMELESSNESS	
Definitions	Data	
	Point-in-Time (PIT) Count	Homeless Information System (HMIS) Count
HOMELESS: The Department of Housing and Urban Development (HUD) identifies individuals as HOMELESS across four categories of experience: 1. Literal homelessness. 2. At-risk of imminent homelessness. 3. Youth defined as experiencing homelessness under other federal statutory definitions including the definition used by school districts, 42 USC 11434a(2). OR 4. Survivors who are fleeing or attempting to flee domestic violence, have no other residence, and lack the resources or support networks to obtain other permanent housing.	464	1076
UNSHELTERED VS SHELTERED HOMELESS: Among those in category 1, individuals experiencing homelessness are further identified as either unsheltered or sheltered: • An UNSHELTERED individual is one whose primary nighttime residence is a public or private place not meant for human habitation. • A SHELTERED individual is one living in a designated publicly- or privately-operated emergency shelter providing temporary, safe living arrangements.	303 161	592 484
CHRONIC HOMELESSNESS: An individual experiencing homelessness is further identified as CHRONICALLY HOMELESS when: • The individual has experienced unsheltered or sheltered homelessness for more than 12 of the previous 36 months, and has a disability.	203	405
AT-RISK OF EXPERIENCING HOMELESSNESS: Individuals who have sought help from service providers to avoid experiencing homelessness.	NOT INCLUDED in PIT count	624

In 2020, the Napa Police Department Outreach Team posted the following data, which was collected separately from the HMIS data system and provides some perspective on the types of services received by those clients who were willing to speak with outreach workers:

	Number of People Served
Housed	32
Diverted to housing by paid bus with services or other modes of transportation.	79
Contacted in the Office	135
Contacted in the Field/ Street Outreach	929
Drug & Alcohol Crisis/detox Contacts	180
Mental Health Contacts	123
Homeless Prevention (Homes Saved from eviction)	55

APPENDIX E--Read More About: How Does the Transition from Homelessness to Housing Work?

Many factors contribute to homelessness. The horrors of childhood trauma and poverty, mental illness and chronic drug abuse are all predictors that a person will be homeless. Others, for example, the President of the National Alliance to End Homelessness, explain that the primary problem results from housing that is too scarce and expensive.

Certainly, high rents are a principal obstacle to finding housing for the homeless. The current tight rental market, with less than 2% vacancy overall and 0% vacancy of affordable housing units, is compounded by credit issues, a lack of identification, and criminal background problems. All of this is particularly true in Napa.²⁶

The Grand Jury's investigation also revealed an acute shortage of available property for developing emergency shelters and affordable housing. Unfortunately, despite State mandates, efforts by local officials to find potential properties have been unavailing.²⁷ Some successful service models are evolving including a "Housing First" policy and a new approach of "supportive housing" represented by the Valle Verde project and Wine Valley Lodge.

²⁶ In Napa there are approximately 75 housing vouchers dedicated to the homeless and another 100 vouchers dedicated to families that would lose their children to welfare if they became homeless. Given this number of vouchers, an estimated 14% of resources are devoted to homeless persons. Unfortunately, the vouchers can only provide temporary relief and there is the potential of falling back into homelessness after a year.

The County is working on providing the funding for transitional and affordable housing. (Heritage House and Rainbow House are examples of local transitional housing.) The County currently received 4 million dollars from the American Rescue Plan Act devoted to housing projects. \$1.8 million has been directed to the renovation of Wine Valley Lodge, which will soon be converted to permanent housing for 54 individuals "with the highest acuity". There has been "enormous success with transferring clients from the shelter to the Lodge. Some clients reportedly look much healthier after a few months stay."

²⁷ Governor Gavin Newsom issued Executive Order N6-19 and ordered the Department of General Services (DGS) and the Department of Housing and Community Development (HCD) to identify and prioritize excess state-owned property and aggressively pursue sustainable, innovative, cost-effective housing projects. The Napa County sites identified were: lower Skyline Wilderness Park; Caltrans properties near Imola Avenue, Redwood Road, and Stanley Lane; Highway 29 at Green Island Road in American Canyon; and along Highway 29 at Yountville. Napa State Hospital has also been considered as an area having possible available land for affordable housing development. County housing officials have approached Napa State Hospital administrators to discuss land usage, but they have been informed that the hospital is currently developing a Master Plan for future hospital land usage including the consideration of workforce housing for their own employees who must commute long distances to work.

Other sites mentioned as possibilities for housing projects are the Yountville Veterans Home, closed school sites, churches, and the Jail Reentry facility.

The Grand Jury believes that this new direction would benefit from the creation of a leadership council, composed of those who control the resources needed for supportive housing. This council would be better positioned to work with federal, state, and local agencies and to design and implement a common strategy, inviting all stakeholders to participate in and support the new model.

Such a leadership council would address the principal problem identified by the Grand Jury in examining the problem of homelessness: a lack of any formal organizational model to guide public and private Napa agencies serving the homeless. Without such a coherent shared vision for coordinating service, funding, and monitoring decisions, it is not possible to maximize the resources being available from federal, state, and local sources, both public and private.

Four strategies were designated as necessary to establish goals, outcome measures and timelines to develop a systematic response to ensure that homelessness is prevented when possible. These include:

- Better access to the homeless system for the most vulnerable homeless.
- Prioritization and alignment of resources to ensure effective use of resources.
- Increased exits from the homeless system into permanent housing; and
- Efforts to integrate homeless 'systems' into mainstream health, criminal justice, and child welfare systems.

APPENDIX F--Read More About: Who is In Charge?

The Continuum of Care (CoC) is a regional planning body required by HUD to coordinate housing and services funding for homeless families and individuals. It also serves as a “think tank” of volunteers working to improve services to Napa’s homeless population.²⁸

CoC’s goal is to promote communitywide commitment to ending homelessness. Its mission is funding nonprofit providers and gaining support from State and local governments to rehouse homeless individuals and families, minimizing the trauma and dislocation of their experience. while promoting access to and effective utilization of mainstream programs for optimized self-sufficiency (*see*, Glossary).

The CoC uses data to rate projects for the homeless. While not without criticism, it relies on a Vulnerability Index to prioritize those who are helped.²⁹ It uses the Homeless Data Integration System (HDIS) to gather data from across the state and to display it through dashboards which provides information about the participants served by the CoC, their demographics, and the services rendered. In Napa, this data shows that 346 families with children and 129 unaccompanied youth are being accessed by CoC services.

A scored report to determine future funding is provided annually to HUD about Napa’s CoC activities. Napa provides administrative support for the CoC, but has no authority over its activities.

The success of these efforts depends on the partnerships between CoC and those entities that distribute resources (e.g., state, and local governments and Public Housing Authorities). When these parties effectively work together on a shared mission to address homelessness, it can make a significant impact on local efforts to end homelessness.

²⁸Scoring criteria and selection priorities approved by the CoC determine the extent to which each project addresses HUD’s policy priorities. It contracts with Home Base to assist in the ranking through the consolidated application process made up of three parts: (1) the CoC application and system data; (2) the priority listing, which is the ranked list of projects requesting CoC renewal and new project funding; and (3) the project applications.

The CoC also uses data generated from an assessment tool called the Vulnerability Index- Service Prioritization Decision Assistance Tool (VI-SPDAT) to rate homeless persons according to need. The scores produced by this instrument are used to assist in determining housing funding priorities based on need.

²⁹It is claimed that some people, who could successfully overcome their problems with a little help, are ignored, while the most vulnerable are being helped over and over. Also, housing people who do not take care of themselves, discourages landlords from renting to people who receive rental assistance.

Who Else Contributes?

Beyond the governmental agencies involved in seeking to reduce homelessness, 33 non-governmental entities were identified as working in Napa to assist the homeless. Some are faith-based, others are not affiliated with any organized religion, but all are committed to reaching out to those in need.

NAPA COUNTY CONTINUUM OF CARE MEMBERS:

Napa Health and Human Services - Mental Health
VOICES Youth Center
Queen of the Valley Medical Center - CARE Network
Napa Police Department - Homeless Outreach
OLE Health
Community Representative
Abode Services
Veterans Resource Center
Housing Authority of the City of Napa
Fair Housing Napa Valley
Lived Homeless Experience
County of Napa Health and Human Services - Alcohol & Drug Services
NEWS (Napa Emergency Women's Services)

HMIS PARTICIPATING AGENCIES:

Abode Services
Health & Human Services Agency Programs
NPD-Outreach
Buckelew
Home to Stay Program
Progress Foundation-Hartle Court Housing

Catholic Charities

Mentis QVMC – Care Network

Napa County Housing & Homelessness Services

Nation's Finest (Formerly Veterans Resource Centers of America)

Napa Valley Housing Authority

The following entities are essential parties to preventing and ending homelessness in Napa. During the course of its investigation, the Grand Jury collected information related to each:

- Napa County Health and Human Services Agency (DHHS) (including Mental Health and Alcohol and Drug Services).
- Substance Abuse and Mental Health Services Administration (DHHS)
- Napa Police Department Outreach (in coordination with Applied Survey Research)
- City of Napa Housing Authority
- Greater Napa Fair Housing Center
- OLE Health
- Providence Queen of the Valley Medical Center; Adventist Health St. Helena; Kaiser Permanente Napa
- Partnership Health Plan and Providence/St. Joseph Health
- Catholic Charities
- Whole Person Care (designed to improve the health of high-risk, high utilization patients, focusing on homeless individuals or persons at risk for homelessness).
- Napa Homeless Management Information System (HMIS)
- Napa Valley Register
- South Napa Shelter (100 Hartle Court, 69 expanded to 101 beds); Nightingale Center (11 beds operated by Catholic Charities); Napa Valley Expo (winter shelter, 45 beds)
- Abode Services (Shelter Operator which oversees outreach efforts in partnership with Napa Police Department Homeless Outreach Team and Napa County Health and Human Services).
- Napa Continuum of Care (CoC): formed a coordinated entry system (CES) involving the coordination of intake, assessment, and referral processes.
- Napa Flexible Housing Funding Pool (Flex Pool)

- Napa County's CalWORKS Rapid Re-Housing Program: the CalWORKs Housing Support Program (HSP) was established by SB 855 (Chapter 29, Statutes of 2014) to assist homeless CalWORKs families in quickly obtaining permanent housing and to provide wrap-around supports to families to foster housing retention.
- City of Napa's Section 8 Landlord Mitigation Program: The Housing Authority of the City of Napa (HACN) administers rental assistance programs throughout the County for low-income seniors, families, and persons with disabilities. The City of Napa administers Tenant Based Rental Assistance within the City for income qualified households.
- Napa Funders Collaborative (oversaw the launch and operation of Napa's first-ever Flexible Housing Funding Pool (Flex Pool) in 2017. This is a new mechanism to pool funds and resources from multiple sources to create housing opportunities for the homeless).
- Napa Foundations: Napa Community Foundation; Napa Valley Vintners; Peter and Vernice Gasser Foundation.
- California Emergency Solutions and Housing (CESH): The California Emergency Solutions and Housing (CESH) Program provides funds for a variety of activities to assist persons experiencing or at risk of homelessness as authorized by SB 850 (Chapter 48, Statutes of 2018). The California Department of Housing and Community Development (HCD) administers the CESH Program with funding received from the Building Homes and Jobs Act Trust Fund (SB 2, Chapter 364, Statutes of 2017)
- National Alliance to End Homelessness: a nonpartisan, nonprofit organization whose sole purpose is to end homelessness in the United States.
- National Coalition for the Homeless (a national network of people who are currently experiencing or who have experienced homelessness, activists and advocates, community-based and faith-based service providers).
- National Health Care for the Homeless Council: their mission is to build an equitable, high-quality health care system through training, research, and advocacy in the movement to end homelessness.
- McKinney-Vento Homeless Assistance Program (The McKinney-Vento Homeless Assistance Act (PL100-77) was the first major federal legislative response to homelessness).
- No Place Like Home (NPLH): program which draws on the sale of \$1.8 billion in state bonds to pay for housing for the chronically homeless and mentally ill. Napa has been awarded \$7.9 million (more than a quarter of the estimated \$28.5 million cost). The Supportive Housing Pipeline Oversight Committee will implement No Place Like Home funding requirements.

- Corporation for Supportive Housing (CSH): Supportive housing is very affordable rental housing forming a platform of stability for vulnerable people who do not have a home or are leaving institutions or hospitals. It is linked to intensive case management and life-improving services like health care, workforce development and child welfare.
- U.S. Department of Housing and Urban Development (HUD)

APPENDIX G--Read More About: What's needed in Napa to help the homeless?

Outreach workers interviewed told the Grand Jury that they believe addressing the following needs would help the homeless in Napa:

- There is a need to help people obtain shared housing and to add to current homeless services. They said that there is also the need for self-sufficiency programs, where individuals can learn how to support themselves, to find jobs, to write resumes, and to learn trade skills.
- There is the need for outreach programs to provide homeless persons information about drug addiction and where they can receive treatment for drug addiction. The opioid epidemic poses new challenges due to the increased use of fentanyl and P2P methamphetamine.
- There is a need to have outreach workers who are licensed mental health workers with a clinical background. In addition, specific training is now found to be necessary for working with the homeless mentally ill.
- It would be useful to have a day center where people do not need to formally sign-in before receiving services. Another location, separate from the homeless shelter, would provide the range of additional services necessary.
- The crisis center currently has limited beds and resources to handle the high volume of homeless persons needing emergency psychiatric care.
- The homeless shelter used to have on site job training, provided by volunteers. Job training stopped March 2020 due to COVID. Job training, budgeting classes, and useful other adult education classes would be of great benefit. Also, expungement classes--where one learns how to get one's criminal record expunged, a serious impediment to obtaining housing—would be helpful.

APPENDIX H--Read More About: Mental Illness and Crisis Intervention

Many local residents believe that mentally ill homeless persons should be required to receive psychiatric care. Seriously mentally ill persons were previously forced to receive care through LPS Conservatorship proceedings which resulted in involuntary hospitalization to a psychiatric facility. Currently, Napa County has adopted Laura's Law which can provide mandatory outpatient care for individuals with significant mental health and criminal histories. Laura's Law had previously been considered an "opt in/opt out" program, with Napa County deciding to "opt in." Governor Newsom has recently announced his "Care Court" plan, which would also involve mandatory care for the severely mentally ill.

Medication use among the homeless mentally ill is complex and cannot be considered separately in the context of daily life struggles and efforts to meet basic needs. Multi-level interventions are needed to optimize medication use. Optimally, healthcare professionals including community pharmacists should reinforce beliefs that medication-related benefits outweigh the burdens and then tailor services given the context of homelessness.

Sometimes outreach workers accompany police officers when there might be the need to help deescalate someone who is showing signs of wanting to hurt oneself or others. Outreach workers can assist in transporting troubled individuals to the crisis center (with a capacity of seven adults and two youth), or follow-up with them at a later date. Section 5150 procedures can be implemented, if necessary, when a person is a danger to self or others, or gravely disabled (not being able to care for oneself). The Under the 5150 ensures procedures, that a person can be taken to a crisis center and held for up to 72 hours to undergo evaluation and treatment. A case worker can now attempt to obtain collateral information (for example, speaking with a relative) once someone has been involuntarily detained under this process. One case worker interviewed remarked, "We need to expand our crisis services. We want there to be enough staff and resources available so that if someone is in crisis, we can get them over there. If the crisis center is full, we have to take someone to the Queen of the Valley or St. Helena Hospital." Another case worker indicated that she has completed as many as six 5150s in a day and that there have been occasions when space was not available at the crisis center.

GLOSSARY

Abode Services: provides emergency shelter and outreach services, as well as manage several housing programs for residents of Napa County experiencing homelessness. Their services include emergency assistance, referral to community support services, and connection to housing interventions and landlord engagement and support. In Napa, Adobe has an outreach team of five, who are regularly out in the community proactively connecting homeless to services. Founded in Alameda County in 1989, Abode Services has expanded to serve Alameda, Santa Clara, Santa Cruz, San Mateo, and Napa counties.

Aldea: provides critical mental health treatment, foster care and adoption, and support services. Aldea helps more than **3,900** people annually in Napa and Solano counties who face obstacles to accessing and receiving effective treatment. Aldea Behavioral Health Services includes: outpatient rehabilitation, group counseling, substance abuse education, counseling for families, case management, and housing services.

All Home Program: advances regional solutions that disrupt the cycles of poverty and homelessness and create more economic mobility opportunities for extremely low-income (ELI) people.

American Rescue Plan Act: provides \$350 billion in emergency funding for state, local, territorial, and tribal governments to respond to the covid-19 public health emergency.

Applied Survey Research (ASR): helps its partners understand data and then transform data into action. In this way, communities and other stakeholders can access pure numbers, leverage it into accurate insights, determine how to apply it to planning and programs, and then implement the action steps necessary to create meaningful and lasting change.

Buckelew: a nonprofit with Supported Living Programs in *Napa* to assist people with serious mental illness who are homeless or at risk of homelessness to live as independently as possible. Currently, Buckelew also provides supported housing for homeless persons.

CalAIM: California Advancing and Innovating Medi-Cal is a far reaching, multiyear plan to transform California's Medi-Cal program and integrate it more seamlessly with other social services. Led by California's Department of Health Care Services, the goal of CalAIM is to improve outcomes for the millions of Californians covered by Medi-Cal, especially those with the most complex needs. CalAIM identifies homelessness as a health care problem.

CalWorks: CalWORKs is a public assistance program that provides cash aid and services to eligible families that have children in the home. The program serves all

fifty-eight counties in the State and is operated locally by County welfare departments.

Care Court (Community Assistance, Recovery and Empowerment Court):

CARE Court offers court-ordered individualized interventions and services, stabilization medication, advanced mental health directives, and housing assistance –while remaining community-based. Plans can extend from 12 to 24 months. In addition to their full clinical team, the client-centered approach also includes a public defender and a supporter to help individuals make self-directed care decisions.

Catholic Charities: employs the Housing First Model, the homeless assistance approach that prioritizes providing permanent housing to people experiencing homelessness, thus ending their homelessness, and serves as a platform to help them pursue personal goals and improve their quality of life. This approach is guided by the belief that people need basic necessities (e.g., food and a place to live) before attending less critical needs (e.g., getting a job, budgeting properly, attending to substance use issues). Additionally, Housing First is based on the theory that client choice is valuable in housing selection and supportive service participation, and that exercising that choice is likely to make a client more successful in remaining housed and improving their life.

Center Point: a residential addictions treatment program on the grounds of Napa State Hospital. Center Point operates the Co-Educational Adult Withdrawal Management and Residential Treatment Program in Napa County to assist those needing an intensive highly structured treatment environment, including withdrawal management with a one-to-seven-day length of stay, including non-medical interventions and preparation for entry into treatment.

Napa City Manager: responsible for planning, directing, managing, and reviewing all activities and operations of the City; coordinates programs, services, and activities among City departments and outside agencies; ensures the financial integrity of the municipal organization; and represents the City's interests.

Continuum of Care (CoC): a regional or local planning body required by HUD that coordinates housing and services funding for homeless families and individuals. The Napa City & County CoC is a consortium of non-profit, faith-based, and government agencies that supply homeless services to the population of Napa County and carry out the Ten-Year Plan to End Homelessness. CoC activities are guided by a steering committee, selected from the member agencies (e.g., nonprofit organizations, state and local governments and public housing agencies.)

CoC Program Project Ranking Tool: an optional tool that can be used by CoCs to evaluate project performance and rank projects based on CoC priorities. The CoC Program is an essential resource in helping HUD meet the national goals of

preventing and ending homelessness in the United States. CoCs use objective, performance-based scoring criteria and selection priorities approved by the CoC to determine the extent that each project addresses HUD policy priorities. CoCs reallocate funds to new projects whenever that would improve outcomes and reduce homelessness. They also consider how much each project spends to serve and house an individual or family as compared to other projects serving similar populations.

Corporation for Supportive Housing (CSH): founded in 1991, CSH works locally with the Continuum of Care (CoC) to provide technical assistance to improve housing solutions and realign data systems with the goal of ending homelessness.

County Executive Officer (CEO): Napa County's chief administrative officer, responsible to the Board of Supervisors for overseeing the day-to-day management and coordination of County operations. The CEO also recommends the appointment of and supervises ten non-elected department heads.

Crisis Stabilization Unit (CSU): provides immediate response on a short-term basis (i.e., less than 24 hours) to help individuals of all ages affected by problems and symptoms associated with acute mental health crises. The provided services are designed to stabilize and alleviate the crisis and symptoms, allowing individuals to return home or transition to the appropriate level of care. Crisis stabilization services also include medication evaluation and psychiatric medication for those with a serious mental health problem who may be at risk of experiencing an acute mental health crisis.

Diversion: an intervention to immediately address the needs of those who have just lost their housing and become homeless. Diversion uses a client-driven approach; its goal is to help the person or household find safe alternative housing immediately, rather than entering shelter or experiencing unsheltered homelessness. It is intended to ensure that the homelessness experience is as brief as possible, to prevent unsheltered homelessness, and to avert stays in a shelter.

Emergency Housing Vouchers: The Housing Authority accepts direct referrals for Emergency Housing Vouchers from the CoC's Coordinated Entry System and from NEWS. Eligibility criteria includes families and individuals who are homeless, recently homeless, at-risk of homelessness, and fleeing or attempting to flee domestic violence, dating violence, stalking, and human trafficking.

5150: Section 5150 of the Welfare and Institutions Code allows a person with a mental illness to be involuntarily detained for a 72-hour psychiatric hospitalization against their will.

Flexible Housing Subsidy Pools (FHPs or FHSPs): an emerging systems-level strategy to fund, locate, and secure housing for people experiencing

homelessness in a more coordinated and streamlined way. Its funding can be spent quickly to help end a client's existing homelessness or to prevent homelessness.

Gasser Foundation: a Napa foundation which annually contributes \$1.5 to \$2.0M to local hospitals, hospices, homeless shelters and cultural organizations. It also has a work force training initiative operating in conjunction with the local community college. As a long-standing leader in and a steward of the community, Gasser recently appended its mission to include environmental sustainability as a principal factor in all its activities.

Heritage House and Valle Verde Housing: a 2.9-acre project site located at 3700, 3710, and 3720 Valle Verde Drive, north of the intersection of Firefly Drive in the City of Napa. The project proposes to rehabilitate the vacant Sunrise Napa Assisted Living Facility with 58-unit single-room occupancy (SRO) units of permanent supportive housing with on-site supportive services and 8-one-bedroom accessible units (Heritage House). The project would also include construction of a new three-story multi-family apartment building with a 24-unit apartment complex (Valle Verde). City File No. PL17-011.

HomeBASE: a state program that assists families leaving emergency shelters to transition to permanent housing and can provide a maximum of \$10,000 over a 12-month period to cover housing-related costs (e.g., rental start-up costs, first and last month's rent, and security deposits).

HMIS: a Homeless Management Information System (HMIS) is a local information technology system used to collect client-level data and data on the provision of housing and services to homeless individuals and families and persons at risk of homelessness. Each CoC is responsible for selecting an HMIS software solution that complies with HUD's data collection, management, and reporting standards.

Housing Authority: The City's Housing Division staffs the Housing Authority of the City of Napa (HACN) and provides countywide Section 8 rental assistance.

Housing First: a policy that supports providing permanent housing as quickly as possible to homeless people, and other supportive services afterward. It is an alternative to a system of emergency shelter/transitional housing progressions. Housing First moves the homeless individual or family immediately from the streets or shelters into their own accommodations.

HUD: the U.S. Department of Housing and Urban Development is responsible for national policy and programs that address America's housing needs, in order to improve and develop the nation's communities, and enforce fair housing laws.

Joint Power Agreement (JPA): a contract between two or more public agencies (e.g., city, county, school district, or special district such as a municipal utility

authority) which allows the agencies to cooperatively provide services or exercise shared powers outside each agency's normal authority.

Landlord Risk Mitigation Pool: an added protection for landlords willing to rent to someone with limited income, a poor rental history, or a criminal history. The funds can cover excessive damages to the rental unit, lost rent, or legal fees beyond the security deposit.

Laura's Law "Laura's Law" is the name used for assisted outpatient treatment (AOT), which is sustained and intensive court-ordered treatment in the community for individuals with severe untreated mental illness and a history of violence or repeated hospitalization. Typically, AOT is only used until a person is well enough to maintain his or her own treatment regimen. In other states, it has been used as an alternative to court-ordered hospitalization and as a "bridge" to maintain psychiatric stability after discharge from hospitalization

Martin v. Boise: was a 2018 decision by the U.S. Court of Appeals for the Ninth Circuit in response to a 2009 lawsuit by six homeless plaintiffs against the City of Boise, Idaho regarding the City's anti-camping ordinance. The ruling held that cities cannot enforce anti-camping ordinances if they do not have enough homeless shelter beds available for their homeless population. The decision was based on the Eighth Amendment to the U.S. Constitution's prohibition on cruel and unusual punishment.

McKinney-Vento Homeless Assistance: The McKinney-Vento Act provides rights and services to children and youth experiencing homelessness, which includes those who are: sharing the housing of others due to loss of housing, economic hardship, or a similar reason; staying in motels, trailer parks, or campgrounds due to the lack of an adequate alternative; staying in shelters or transitional housing; or sleeping in cars, parks, abandoned buildings, substandard housing, or similar settings.

Mentis: is one of Napa's oldest nonprofits, providing bilingual affordable mental health services. The agency offers transitional and permanent housing programs with case management.

N6-19: To address the shortage of housing for Californians, Governor Newsom ordered the Department of General Services (DGS) and the Department of Housing and Community Development (HCD) to identify and prioritize excess state-owned property and aggressively pursue sustainable, innovative, cost-effective housing projects.

N23-20: Governor Newsom issued Executive Order N-23-20 to immediately and urgently provide state government assets to provide shelter and housing for those who are homeless, including state excess land and travel trailers.

Napa County Housing Authority (NCHA): primarily addresses the need for safe and affordable housing for farm workers, particularly those who are migrant/seasonal workers and support Napa County's agricultural economy. The three farm worker centers provide housing for a critical underserved segment of Napa residents.

Napa Funders Collaborative: formed in 2016, it comprises representatives from various departments in the City and County of Napa, health system partners, and philanthropic partners, some not historically engaged in addressing homelessness.

Napa Police Department: works to build rapport with clients by introducing them to the services available in Napa County. The police work as advocates, case managers, and housing counselors to help clients find the services needed to lead them to long-term stable housing. Their effort strengthens the community by helping those in need while working to reduce non-emergency calls to vital law enforcement and fire services in Napa County. A Napa Police Department Homeless Outreach Specialist leads efforts within the City of Napa.

National Alliance to End Homelessness: a nonprofit, non-partisan organization committed to preventing and ending homelessness in the United States.

NEWS: NEWS (Napa Emergency Women's Shelter) supports victims of domestic violence and sexual abuse.

NIMBYism: an acronym for the phrase "not in my back yard." NIMBY characterizes opposition by residents to proposed developments in their local area, as well as support for strict land use regulations.

No Place Like Home Program: legislation signed July 1, 2016 by then Governor Brown which dedicated up to \$2 billion in bond proceeds for the development of permanent supportive housing for persons in need mental health services who are experiencing homelessness, chronic homelessness, or otherwise at risk of chronic homelessness. The bonds are repaid by funding from the Mental Health Services Act (MHSA). In November 2018 voters approved Proposition 2, authorizing the sale of up to \$2B in revenue bonds and the use of a portion of Proposition 63 taxes for the NPLH program.

OLE Health Clinic: operates seven clinics in two counties, serving nearly 40,000 patients. It is the only nonprofit health center in Napa County and the non-government federally qualified health center in Fairfield. Comprehensive services are provided including medical, dental, optometry, behavioral health, and pharmacy across clinic sites.

Partnership Health Plan (PHC of California): a non-profit community-based health care organization that contracts with the State to administer Medi-Cal

benefits through local care providers to ensure Medi-Cal recipients have access to high-quality comprehensive cost-effective health care.

P2P (phenyl-2-propanone): a new type of more dangerous meth, with an increased likelihood of severe mental illness and other adverse mental health effects. P2P meth is often laced with other drugs like Fentanyl; users who seek help for their addiction have reported a detox process of nearly six months. Those using P2P meth will likely experience a rapid decline in physical health, including liver failure, after even short periods of use.

Point-in-Time (PIT) Count: an annual survey of homeless individuals in the United States, conducted by local CoCs on behalf of the U.S. Department of Housing and Urban Development.

Progress Foundation: founded in 1969 during the de-institutionalization movement, it is a reform effort which sought to move people from state psychiatric hospitals back into the community. However, local treatment systems were ill-equipped to support individuals with mental illness and for the next three decades the Progress Foundation developed supportive, community-based programs to support these clients—and keep them from returning to institutions or correctional facilities.

Project Roomkey: established in March 2020 as part of the State’s response to the COVID-19 pandemic, its purpose is to provide non-congregate shelter options for people experiencing homelessness, to protect human life, and to minimize strain on health care system capacity.

Safe Haven: a facility that provides shelter and services to hard-to-engage homeless persons with serious mental illness who are living on the streets and are unable or unwilling to participate in supportive services. Safe Havens usually follow a “harm reduction” model of services.

Section 8: vouchers for those who earn less than 50% of the area median income; 75% of the vouchers are restricted to people making below 30% of median income.

Senate Bill 20 (SB20): legislation introduced by Sen. Bill Dodd, D-Napa to allow Napa County to negotiate with the state Department of General Services to buy the 850-acre Skyline Wilderness Park.

Serenity Homes: a Sober Living Environment and residential addictions treatment program where people live for approximately one year in group homes. Developed by John Apodaca and sometimes referred to as Johnny A’s.

Single room occupancy (SRO): housing typically aimed at residents with low or minimal incomes, allowing them to rent small, single rooms with modest furnishings (e.g., bed, chair, and possibly a small desk, refrigerator, microwave, or

sink). Tenants typically share a kitchen, toilet, or bathroom. SRO units range in size from 80 to 140 sq ft. and are rented out as a permanent or primary residence within a multi-tenant building.

Sober Living Environment: a live-in facility where all residents are recovering addicts and receive group support. Someone convicted of a DUI may be required to join a sober living environment.

South Napa Shelter: a 69-bed facility for adults, it has served individuals experiencing homelessness since 2006. The South Napa Day Center (formerly known as the Hope Center) moved from its downtown location to the South Napa Shelter in 2018. Services during the day include showers, mail delivery, laundry, lunch, medical clinic, social services, and housing navigation.

Social Security Disability Income (SSDI): The difference between SSI and SSDI is SSI is based on income limitations while SSDI is based on the number of work credits obtained. To qualify for SSDI, one must have a specific number of work credits based on age. To qualify for SSI, one must be within specific income limits set by the Social Security Administration.

Supplemental Security Income (SSI): monthly benefits to people with limited income and resources who are disabled, blind, or age 65 or older. Blind or disabled children may also get SSI.

Supported Living Programs: a continuum of supported accommodations, ranging from high level integrated support, housing for complex needs, homelessness, low level step-down care, to housing in later life. In each, housing plays a central role in providing the necessary mental health support to individuals.

System Navigators: those who provide help connecting individuals and families in need to mental health services, transportation, resources, and referral services throughout Napa County, with a focus on the Latino community. They provide support and guidance in connecting with a variety of mainstream resources (e.g., mental health care, physical health, Medi-Cal, Food Stamps, and housing services).

System Performance Measure (SPM): seven metrics developed by HUD to measure the CoC's impact on ending homelessness. They evaluate progress towards reducing the number of people becoming homeless and helping people who are homeless obtain rapid and stable housing. SPMs are designed to show progress over time and are reported annually to HUD. They are also used to score the CoC Consolidated Application.

Transient Occupancy Tax (TOT): a temporary tax on lodging at Napa's hotels, motels, inns, hostels, and similar places, authorized under State Revenue and Taxation Code section 7280, as an additional source of non-property tax revenue for local governments. This tax is levied for the privilege of occupying a room or

rooms or other living space in a hotel, motel, inn, tourist home or house, or other lodging for a period of 30 days or less. The imposed tax rate for accommodations at lodging facilities in the unincorporated area of Napa County is 13%.

United States Interagency Council on Homelessness: the only Federal level agency with responsibility for ending homelessness, it works with nineteen federal agencies and departments, and other public and private partners to improve federal spending outcomes for homelessness.

VOICES Napa: provides young people aging out of foster care with family-like support, acceptance, and accountability as they set their own goals and pursue them across VOICES' youth-led core programs: Health and Wellness, Career and Education, and ILP-Independent Living Program.

VI-SPDAT Vulnerability Index- Service Prioritization Decision Assistance Tool: a questionnaire given to homeless individuals seeking services which asks questions about their living situation, disabilities, medical conditions, encounters with the justice system, whether they are in danger, financial situation, and psychosocial factors. The VI-SPDAT questionnaire yields a vulnerability score. With a score of 10 to 15 the client is eligible for Permanent Supportive Housing. With a score of 5 to 9 a client is eligible for Rapid Rehousing. If the score is lower than five, they are helped with diversion, which can include help with obstacles to reuniting with family, Cal-fresh or some other assistance.

Wine Valley Lodge: a facility operated by Napa County since March 2020 for homeless housing under Project Roomkey and for pandemic-related isolation and quarantines. The Napa City Council also approved a \$3M loan for the project from the affordable housing impact fee, adding to \$4M approved by the Napa County Board of Supervisors for the project.

Winter Shelter: a 59-bed facility at the Napa Valley Expo. From mid-November to mid-April, individuals can access an overnight stay with a bed at the Winter Shelter by signing up at South Napa Shelter the same day. First round of check-ins is from 5 p.m. to 5:30 p.m. Second round is from 7 p.m. to 7:30 p.m. Each Winter Shelter resident must depart the following morning.

Wraparound (Supportive) Services: services provided residents of supportive housing to facilitate residents' independence (e.g., case management, medical or psychological counseling and supervision, childcare, transportation, and job training).

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2021-2022 NAPA COUNTY CIVIL GRAND JURY

Adult Probation Department Final Report

June 15, 2022

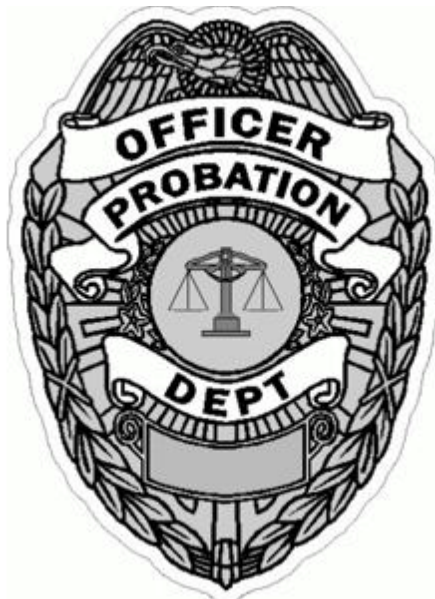


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SUMMARY

The California Penal Code 919(b) mandates that “the grand jury shall inquire into the condition and management of the public prisons within the county” on an annual basis. Prior Napa Grand Juries have reported on the management of the Napa County Jail, noting that construction of a new jail is targeted for completion in 2023. This year’s Grand Jury (2021-2022) chose to investigate the Adult Probation Department, which has not been formally investigated since the 2008-2009 Grand Jury investigation. The current Grand Jury wanted to know whether the Department was employing Evidenced-Based Practices to reduce recidivism¹ as mandated by the Adult Corrections System Master Plan; what progress has been made in assuring greater safety for probation officers; what opportunities have been made for career advancement; and to inquire about overall job satisfaction. The Grand Jury also toured the Adult Probation Department to survey the working environment and any remaining maintenance concerns resulting from reported water leaks from the adjacent Napa County Jail.

The Grand Jury found that Probation Officers must complete considerable training in order to:

- (1) understand the complexities of the legal system;
- (2) learn how to administer and interpret forensic risk assessment tools;
- (3) work effectively with probationers who struggle with a wide range of psychological and substance abuse problems;
- (4) manage the supervision of sizable caseloads of probationers;
- (5) perform numerous duties related to the completion of court reports; and
- (6) meet with victims and their family members.

The Grand Jury recommends an increase in the size of the Department to ensure that officers could more effectively manage their caseloads and perform Evidence-Based cognitive-behavioral counseling. In addition, the Grand Jury recommends modifying the CJNet data collection system to provide greater capability to support departmental data analysis which would support an evidence-based system to analyze the efficacy of therapeutic programs as well as to measure performance standards of departmental personnel. The Grand Jury believes that enhanced data analysis capability will provide the means of recognizing trends and drawing conclusions which should lead to greater efficiencies and demonstrate that their Cognitive Behavioral groups have been effective.

Finally, the Grand Jury commends the personnel of the Adult Probation Department for the wide range of services they provide with compassion to persons attempting to reenter society.

¹ The National Alliance on Mental Illness defines evidence-based practices (EBP) as therapies that have been studied academically or clinically, proved successful, and replicated by more than one investigation or review.

BACKGROUND

The American Probation System began in 1841 in Boston, Massachusetts.² In 1903, the California State Legislature directed California Courts to appoint probation officers and create a separate court for juveniles.

The Napa County Adult Probation Department operates as part of the Napa County Superior Court. Probation Officers have the combined responsibilities of protecting the community, serving the Court, and providing a range of services to probationers ordered to comply with court-mandated supervision.

There are two separate units of Adult Probation officers:

(1) the Investigations Unit, composed of eight probation officers and one supervisor, is responsible for investigating over 2,000 cases annually and providing court reports which include background information about defendants to support sentencing and supervision requirements; and

(2) the Supervision Unit, composed of 32 probation officers and four supervisors, is responsible for supervising 1300-1400 probationers annually.

In total, Napa's Probation Department has 92 staff members, including Juvenile Hall personnel, led by a Chief Probation Officer. The current Chief Probation Officer, in office since January 1, 2022, has worked in the department for over 20 years.

The 2008-2009 Napa County Grand Jury also investigated the Napa County Adult Probation Department. At that time, the Department had been restructured to facilitate employing Evidence-Based Practices (EBPs) with the goal of reducing probationer recidivism to address issues related to Napa Jail overcrowding. That earlier Grand Jury found that there were not enough rehabilitation programs and services for the mentally ill. In addition, it raised concerns related to the safety of Probation Officers when they were performing unannounced searches of probationers' residences or handling crises during office visits. They also investigated staff morale, opportunities for career advancement, and personnel turnover.

Many felony and misdemeanor crimes in California result in a jail or prison sentence. However, the law allows courts to sentence defendants to probation instead of the maximum amount of jail time allowed by statute. Because probation suspends "the imposition or execution of a sentence," people on probation are subject to certain rules and requirements (e.g., classes on drug and alcohol treatment, anger management, and sex offender treatment). If a person convicted of a felony or misdemeanor violates the terms of probation, the Court can send the person back to jail. There are two types of probation, informal and formal. Informal probation does not include supervision; formal probation involves supervision by a Probation Officer. The period of probation and degree of supervision depends on the criminal charges and whether a person is convicted of a felony or a misdemeanor.

A judge determines the terms of probation at sentencing; generally, this requires meeting certain conditions. Violation of probation may result from various reasons (e.g., failure to pay fines, appear in

² In 1841 a Boston, Massachusetts shoemaker named John Augustus offered to help the court in assisting drunks, vagrants, and petty thieves to better themselves. He asked the judge to put a common drunkard in his care. When he returned to Court after a period on probation, no one, not even the scrutinizing officers would have believed he was the same person. Thus was born the American Probation System.

court, complete a program or community service, report to one's Probation Officer, keep a job, or obey all laws, often even minor traffic offenses). When a person is found to be in a violation of probation, a judge can revoke probation and impose a jail or prison sentence.

Probation Officers are actively involved in the supervision of individuals on probation and make ongoing determinations about a person's success in meeting the conditions imposed by the court. When offenders violate the terms of their supervision, a Probation Officer responds according to departmental policy and procedure. If the violations are severe enough, Probation Officers have the responsibility of recommending revocation of the offender's probation. This means the person on probation will return to Court to be sentenced based on the original conviction considering their subsequent behavior while on supervision. In some instances, revocation may result in a jail or prison sentence depending on the original type of crime and any subsequent relevant legislation (e.g., AB109 recently reclassified certain felonies as misdemeanors). Officers commonly provide written reports or testimony for the Court to consider at a sentencing hearing. For those on parole or finishing their sentence in the community, revocation of this form of supervision means a return to prison.³ Officers also provide recommendations about the length of incarceration that a person should serve when probation has been revoked.

METHODOLOGY

The Grand Jury conducted a series of interviews with Deputy Probation Officers, Probation Officer Supervisors, and both the past and present Chief Probation Officer. Sample reports from the Investigative Unit sent to the Superior Court were reviewed, including Pretrial Reports, Presentencing Reports, Bail Revocation Reports, and Probation Revocation Reports. Forensic assessment tools were examined. The Grand Jury also participated in a tour of the Adult Probation Department.

DISCUSSION

The Napa County Adult Probation Department serves a key role in Napa's criminal justice system. Probation Officers have sizable caseloads of persons who have committed crimes and have been sentenced to a period of court-ordered supervision. They are often called upon to provide information to assist a judge in sentencing matters. They complete a variety of written reports which focus on a person's potential for successfully meeting the conditions of probation. These reports help classify individuals by levels of risk. As of April 27, 2022, Napa's Probation Department was supervising 227 persons rated as Low Risk, 422 persons rated as Medium Risk, 568 persons rated as High Risk, and 278 persons rated as Very High Risk.⁴

In order to determine appropriate levels of supervision, officers in the Adult Probation Department must have received training in the use of a predictability instrument known as the "Level of Service/Case Management Inventory," or LS/CMI. The LS/CMI is a "paper and pencil" inventory, which has been

³ The main difference between parole vs. probation is who can receive each type of release. While parole is for people who have been convicted of a crime and have already served a portion of their prison sentence, probation is a community supervision option that does not require the convicted person to spend time in jail.

⁴ These rankings are generated by the use of forensic assessment tools: (1) The Level of Service/Case Management Inventory (LS/CMI) and (2) The Ohio Risk Assessment System (ORAS) (See Glossary). These two risk assessment tools are a key component of a background investigation and form the basis for determining the type of supervision to be ordered by the Court.

validated by independent research, is considered reliable,⁵ and is completed for each probationer. Once the Adult Probation Department has established a criminal profile, the probationer can be assessed on a Risk/Need Profile and assigned to a corresponding supervisory group. In general, these groups are segregated into areas of very high, high, medium, and low risk of recidivism.

The Probation Department personnel are also trained to administer the Ohio Risk Assessment System (ORAS). It is used to identify dynamic factors that drive a person toward negative or criminal behaviors. The data collected are used to establish a collaborative case plan and identify which reentry services and programs best meet each person's individual needs.

Probation Officers, experienced in the application of determinate sentencing laws⁶, provide departmental representation to the Napa County Courts. The Investigations Unit provides written and oral probation reports also known as pre-sentence investigations for the Napa County Courts. These reports contain information describing the circumstances of a crime, the prior criminal history of a defendant, and a recommendation for or against a grant of probation. Victims of crimes are also contacted to determine if any restitution may be owed and to advise them of their legal rights. The report is also utilized by Probation Officers of the Supervision Unit and correctional authorities if the defendant is ordered to undergo a psychological evaluation or sentenced to state prison.

Probation Officers need to have broad knowledge of the criminal justice system. This includes knowledge of the roles, relationships, and responsibilities that are distributed among the government agencies and outside organizations (e.g., courts, parole authority, prison system, local jails, prosecuting attorneys, other law enforcement and corrections agencies, treatment providers). Officers must also understand the applicable case law and sentencing guidelines and have the ability to work with an extremely diverse population of individuals convicted of various crimes. They must also accept the potential hazards of working closely with a criminal population.

A. General Supervision

General Supervision refers to caseloads that commonly consist of drug/alcohol-related offenses, assaults, and weapons-related crimes. Probationers are required to report to their assigned Probation Officer as directed. A typical appointment includes explaining the terms of probation, referring clients to community and public resources, establishing restitution, monitoring payment of restitution, counseling, and drug and alcohol testing. Other functions include providing written and oral reports to the court, arresting probation violators, and performing probation searches.

⁵ This assessment tool covers criminal history, education/employment, family/marital, leisure/ recreation, companions, alcohol/drug problems, pro-criminal attitude/orientation, and antisocial patterns. LS/CMI further evaluates personal problems with criminogenic potential, the nature of the offense, prison experience, social, health and mental health issues, and special responsivity factors.

⁶ Determinate sentencing is a criminal sentence that involves a set amount of jail time upon a criminal conviction. This differs from indeterminate sentencing, which provides a wide range of potential penalties and allows the judge leeway to hand down a sentence within that range.

Most often, probation and parole officers will meet with offenders on their caseload either in an office setting or at the offender's residence or place of employment.⁷ These appointments usually consist of ensuring conditions of supervision are being met by gathering information related to the offender's whereabouts and activities. This may also include drug testing, referrals to treatment programs based on court requirements, and assisting offenders in overcoming barriers such as unemployment, homelessness, mental and physical illness, etc.

Officers also collect payments made by offenders toward any owed restitution, court obligations, and any supervision obligations they owe. Depending on departmental policy and procedure, it is common for each individual offender to be evaluated and classified according to their risk to the community and their need for community correctional services.

Higher-risk offenders are provided the greatest level of supervision and scrutiny. Rules may include such things as obtaining permission before leaving the State of California, reporting residence and employment changes, avoiding contact with specific persons, use of zero tolerance for alcohol or illegal drug consumption, etc. In some instances, officers are permitted to conduct random offender residence inspections to search for contraband such as weapons and illegal drugs. Specialized officers such as those who supervise sexual offenders may be tasked with enforcing specialty rules that restrict, for example, a sexual offender's ability to access the internet or possess certain items.

Probation Officers need to be able to work with a wide variety of individuals who have committed serious crimes and are still capable of reoffending. They receive crisis management training to handle threats and displays of aggression. In addition, a large percentage of individuals placed on probation suffer from mental illness as well as substance abuse disorders and gang involvement. If not properly treated, mentally ill, drug-addicted probationers and gang members are prone to violating their probation. Consequently, Probation Officers require ongoing training to be able to recognize their symptoms and to ensure that they receive the necessary treatments for their conditions (*see*, Appendix A for required training).

B. Rehabilitation Programs

The Probation Department has added a significant number of rehabilitative programs since the last Grand Jury report which focused on mental health services and client wellbeing.⁸ A mental health counselor has been added to meet with clients and help them access services. There is also a Health and Human Services alcohol and drug counselor, and an eligibility worker to remove barriers to accessing services. The programs are offered morning and evening and are delivered in both English and Spanish year-round. Over twenty Probation Officers are certified as Cognitive Behavior Therapy (CBT) facilitators in several treatment modalities, and most facilitators lead groups on a regular basis.⁹

⁷ While both probation and parole officers work with those convicted of crimes, probation officers work with individuals sentenced to probation instead of jail time. Alternatively, parole officers work with those who are former inmates.

⁸ All programming interventions are Evidenced Based, registered with the National Registry of Evidenced-Based Programs and Practices (NREPP), and delivered using a strength-based approach. Motivational Interviewing strategies are the core of the program's delivery model and groups are incentivized using meaningful rewards to increase engagement.

⁹ Cognitive Behavioral Therapy (CBT) is a form of psychological treatment that has been demonstrated to be effective for a range of problems including depression, anxiety disorders, alcohol and drug use problems, marital problems,

For the past seven years, the Probation Department has implemented an ongoing schedule of programs available for all probationers, which includes a four-hour Probation Orientation program.¹⁰ Some probationers receive guidance from Napa County Child Protective Services and, when the need arises, they can participate in the Parent Project, a 10-week Evidenced-Based parenting program.

Probation Orientation, implemented in 2014, is the hub of the programming model. It is offered to all participants that score Medium and High Risk on the Level of Service/Case Management Inventory assessment tool and is immediately mandated following the grant of probation. In this program, offered in English and Spanish, probationers participate in multiple activities with the goal of gaining a better understanding of how criminal behavior occurs and how probation officers can assist them in making the changes needed to reduce or eliminate recidivism. Participants also begin developing their support team by looking at the barriers they may have and completing an inventory of personal strengths to increase their confidence and motivation for successful change. All participants are provided a list of services available to them within the community. They complete the course by writing a Readiness Statement which serves as their own personal mission statement outlining their commitment to personal growth. This program provides the Probation Department with the opportunity to build an alliance with probationers and to showcase the other internal CBT programs offered to support them throughout their probationary period. In the past 12 months, fourteen Probation Orientation groups have achieved nearly a 100% graduation rate.

At the onset of the Covid 19, program delivery was shifted to a Zoom platform to ensure there were no gaps in CBT services. Programs continued to be held in the morning and evening hours, and on Saturdays, to ensure program requirements did not conflict with employment or family obligations. Program incentives were modified to include grocery and gas gift cards due to the economic hardships brought on by the pandemic. One-on-one virtual CBT services were provided on an as-needed basis for those clients struggling during this period. This addition was intended to help mitigate rearrests and booking into the Napa County Department of Corrections.

Currently, facilitators are being trained in Decision Points, an open-ended, drop-in, cognitive behavior program that assists participants in developing better decision-making skills. This program will be offered to Post Release Community Supervision (PRCS) clients and other probationers who appear to be struggling. Lastly, this same quality of programming is also offered to all individuals who are diverted from the Criminal Justice System through Deferred Entry of Judgement.

C. Community Corrections Service Center

The Adult Probation Department can also direct probationers to receive rehabilitation services from the Community Corrections Service Center, (CCSC) which opened in 2010 following a recommendation

eating disorders, and severe mental illness. Numerous research studies suggest that CBT leads to significant improvement in functioning and quality of life. In many studies, CBT has been demonstrated to be as effective as, or more effective than, other forms of psychological therapy or psychiatric medications.

¹⁰ Probation Orientation groups offered include Self-Control, Responsible Thinking, Relationships and Communication, Anger Management, Victim Awareness, Building Strong Values, Substance Use/Relapse Prevention, and general Life Skills, which includes topics such as Stress Management, Decision Making and Goal Setting. Real Colors, a personality typology program, is also offered to help participants better understand themselves and those around them in a more healthy and non-judgmental way.

made by the Napa County Criminal Justice Committee in the Adult Correctional Master Plan.¹¹ This program was created to reduce the jail population by diverting individuals to community supervision and helping clients stay crime-free once released to the community. The goals of the CCSC are to:

- (1) Decrease the recidivism rate (offenders who go on to commit another crime),
- (2) Increase the safety and security of Napa County by effectively treating offenders both in custody and in the community, and
- (3) Increase the number of inmates who successfully reintegrate into the community.

Elements of the CCSC program are:

- (1) Deliver Evidence-Based practices and programming designed to identify and treat the reasons people commit crimes;
- (2) Tailor programming to meet each offender's individual criminogenic (i.e., crime-causing) needs;
- (3) Increase the emphasis on mental health and substance abuse treatment for the adult offender population, and
- (4) Include a formal quality assurance and performance evaluation component to ensure that the program is having a positive impact on recidivism.

D. Data Management

Since the 2008-2009 Grand Jury report, Napa's Probation Department and Information Technology Services have worked together to create and implement an integrated criminal justice case management system called CJNet. They are currently in the process of building a system of data analysis in the form of a data warehouse so that in the future users will be able to analyze trends in the data to provide more efficient service delivery. This system will result in a more integrated criminal justice network. It will include all stakeholders in the local criminal justice system so that key information can be shared to enhance government efficiency and provide case management details for handling Probation Officers' caseloads. Probation Officers will be able to create case plans within this system to identify each person's highest needs and develop treatment plans designed to reduce recidivism. It will integrate different aspects of the Justice Department: Probation, Jail, Courts, Police, District Attorney, and Public Defender's office. Probation also has links from the CJNet system to the Police Department and the Sheriff's department case management systems.

CJNet is a significant improvement over the use of paper files for communication and staff time that was previously needed just to obtain basic information. Probation officers will be able to create case plans identifying each person's psychological needs and develop treatment plans designed to ensure reduced recidivism.

E. Safety and Environmental Concerns

The 2008-2009 Grand Jury raised concerns about the safety of Probation Officers. The nature of their work can lead to dangerous situations. Probation Officers are peace officers and work daily with a wide

¹¹ See Appendix B.

variety of clientele, some of whom have been convicted of violent felony offenses. Probation Officers make arrests, conduct in-custody transportation and home searches, and make recommendations to the Court that can have life-altering consequences. The work can be challenging, but officers are provided with the training and tools that help them manage these situations and mitigate safety concerns. Since 2008, the Department has armed more Probation Officers, issued batons, radios, and provided substantial training in the use of force and de-escalation. Nonetheless, Probation Officers also focus on building rapport with clients, identifying their needs, and helping them reach goals to get out of the criminal justice system. The rapport officers build and the partnership with clients is the strongest foundation for having positive and safe interactions.

During this investigation, the 2021-2022 Grand Jury learned that duress alarms have been placed in drug testing bathrooms and on every phone located throughout the department. When an alarm is activated, each phone announces the exact location where officers can respond in the event of a crisis. When unannounced home visits are undertaken, probation officers are accompanied by a police officer who can offer assistance when weapons are discovered. In addition, eighteen Probation Officers are now licensed to carry arms due to the increased potential for danger given the number of weapons that have been found during home visits.

The Probation Officer Core Training covers several areas to promote safety: self-defense, defusing hostility, crisis negotiation, interpersonal communication, and crisis intervention. During several interviews with Probation Officers, there were reports that the office environment had been subject to water leaks over a period of several years.

The Department is located below the inmate housing areas of the jail; blackwater (waste) pipes and showers are directly above employee workspaces. When pipes crack, or toilets, showers, and sinks are flooded, this water comes through the ceiling and into the employee workspaces. Whenever this occurs Public Works is very responsive in identifying the cause of the leak and working to clean and disinfect the areas. When the leak is blackwater, the County will contract with an agency that specializes in cleaning up potentially hazardous materials. They will sanitize the areas thoroughly. In 2019, Public Works installed an electronic valve switch for the toilets which would limit the number of times an inmate could continuously flush their toilets to reduce the intentional flooding of cells. The County also conducted extensive air testing this year which indicated the air quality was safe.

F. Turnover of Probation Officers

Since the last Grand Jury report which raised concerns about a “relatively high turnover rate” and a “lack of upward mobility within the Department,” the responsibilities of Probation Officers have increased significantly. First, Assembly Bill 109, known as “Realignment,” diverted defendants convicted of less serious felonies to serve their time in local county jails rather than state prisons.¹² This realignment plan resulted in an increase in Probation Officers’ caseloads as greater numbers of previously incarcerated persons were diverted to probationary status. Second, the implementation of pre-trial services has

¹² AB 109, known as Public Safety Realignment, was an historic reform which shifted incarceration and supervision responsibility for many lower-level felons from the State Prison System to county sheriffs' and probation departments, based on the idea that locals can do a better job.

contributed to Department expansion over the past decade. This expansion led to the creation of additional staff positions at all levels, providing opportunities for upward mobility. Finally, the Probation Officers the Grand Jury interviewed expressed high job satisfaction, good morale, and minimal staff turnover. Only nine Probation Officers have left the Department in the past year. Five of these were retirements, one left the Department to pursue a law enforcement career (but returned when he realized that case management was his passion), and three left the department for other job opportunities. Of the three who left for other job opportunities, all three were commuting into Napa and took jobs closer to their homes.

FINDINGS

- F1. The current number of Probation Officers assigned to the Department appears to be sufficient with respect to maintaining the system. However, there are additional training and rehabilitation activities that are not being provided due to probation officers' high volume of Court appearances, submission of Court reports, meetings with victims and families, and ongoing supervision of probationers. The hiring of additional Probation Officers would help spread the work out more evenly and help to reduce recidivism.
- F2. The Probation Department is currently working to develop a coordinated case management system, which will assist Probation Officers in managing their caseloads and provide information about the types of services received by probationers.
- F3. There are no formal quality assurance and performance evaluation programs to measure the impact that therapeutic treatment activities are having on reducing recidivism. There should be in-house research examining whether cognitive-behavioral groups led by Probation Officers have a positive impact on reducing recidivism.
- F4. The Adult Probation Department utilizes Evidence-Based practices such as cognitive behavior therapy but does not collect its own data (outcome measures) as to the efficacy of these groups in reducing recidivism.
- F5. Water leaks in the Probation Department have been reported over a period of ten years. Air testing for contaminants such as lead and mold has been requested and air samples have been taken. Public Works has been responsive to reports of water leakage and has followed up with proper clean-up of potentially hazardous materials.
- F6. Violations of the terms of probation result primarily from the presence of mental illness, drug usage, or gang involvement, but the Department lacks the resources to effectively treat individuals with these designations.
- F7. The definition of recidivism used in the past is a new violation of the law that occurs during a probation supervision term. There are many ways that recidivism has been looked at in the past under previous administrations. Recidivism is a key subject for data analysis that must be looked at in the future.

- F8. The job satisfaction of Probation Officers is high yet there can be considerable stress given the constant exposure to handling complex and heart-rending cases involving victims and their families.
- F.9 Since the 2008-2009 Grand Jury investigation there has been a minimal turnover of Probation Officers and consistent reports of job satisfaction and good morale. In addition, opportunities for career advancement are available.

RECOMMENDATIONS

- R.1 The Adult Probation Department should hire additional staff to handle the 1,300 to 1,400 yearly supervision cases. Increased caseloads limit the ability to provide more individualized treatment services and case supervision.
- R.2 The Adult Probation Department should develop a formal quality assurance and performance evaluation component to ensure that treatment programs are having a positive impact on recidivism and that Probation Officers are meeting performance standards.
- R.3 The Adult Probation Department should generate its own evidence as to how effective treatment services are with respect to reducing recidivism.
- R.4 The Chief Probation Officer and Director of IT Services should continue to improve the Napa County Criminal Justice Network (CJNet) by increasing the capacity for analyzing data changes and trends over time in order to improve treatment delivery and case supervision. A data “warehouse” system would facilitate Information Technology (IT) coordination between the Police Department and other law enforcement agencies.
- R.5 The Chief Probation Officer and Director of Health and Human Services should explore ways of providing additional mental health, substance abuse, and gang affiliation treatment services with the goal of lowering recidivism rates.

COMMENDATIONS

The Grand Jury acknowledges the incredible work that is accomplished by the Probation Department’s staff. They have been charged with managing highly challenging and at times stressful circumstances tied to the supervision of probationers. There are ongoing risks of danger given their supervision duties.

The Probation Department staff plays an important role in providing the courts with key information and recommendations regarding bail, sentencing, probation revocation matters, and ongoing risk factors. They work with large caseloads and make decisions that are intended to reduce probationers’ recidivism. They deserve recognition for working with a difficult population and for showing compassion to individuals held in the criminal justice system so that they can achieve greater potential to reenter society.

REQUEST FOR RESPONSES

REQUIRED RESPONSES:

The following responses are required pursuant to Penal Code sections 933 and 933.05:

- Napa County Board of Supervisors
R1, R2 and R3
- Chief Probation Officer
R1, R2, R3, R4 and R5

INVITED RESPONSES

The following individuals are invited to respond within 90 days:

- Director of Health and Human Services
R5
- Director of Information Technology Services
R4

GLOSSARY

The Level of Service/Case Management Inventory (LS/CMI): A comprehensive measure of risk and need factors and serves as a fully functional case management tool. It is a multicomponent evaluation that requires obtaining information from many sources about aspects of an offender's life. The following aspects are assessed: (1) criminal history; (2) family/marital status; (3) education/employment; (4) leisure/recreation; (5) companions; (6) alcohol/drug problems; (7) pro-criminal attitude/orientation; and (8) antisocial pattern.

Ohio Risk Assessment System (ORAS): Used to identify dynamic factors that drive a person toward negative or criminal behaviors. The ORAS helps staff assess offenders, target interventions, and inform responses to behavior. The validated risk and needs assessment that identifies each person's risk of re-offending. Information garnered helps to ensure each person gets the right interventions and programming. The data collected are used to establish a collaborative case plan and identify which re-entry services and programs best meet each person's individual needs.

Napa County Criminal Justice Net (CJNet): The data collection system for the Napa courts, Department of Corrections, Probation Department, District Attorney's Office, and the Public Defender's Office. The Probation Department also has access to the case management systems of the Police and Sheriff's Department.

APPENDIX A

Probation Officer Core Courses:

Standard training usually includes the following courses:

- Use of force and restraints (i.e., handcuffs, leg-irons, belly chains, etc.)
- Weapons (firearms, taser, pepper spray, etc.)
- Self-defense and/or subject control
- First aid and CPR
- Report writing
- Courtroom testimony
- Defusing hostility
- Interpersonal communication
- Corrections law
- Criminal and criminal procedural law
- Casework and criminal investigations
- Gang intelligence
- Suicide prevention/crisis intervention
- Critical incident stress management
- Occupational Safety and Health Act
- Gang awareness and intervention

- Crisis negotiation
- Drug abuse training
- Rehabilitation programs
- Prison Rape Elimination Act (PREA)

APPENDIX B

Adult Corrections System Master Plan: The Adult Correctional System Master Plan has changed the way Napa County manages the criminal justice system by using evidence-based practices to effectively treat the offender population. The Criminal Justice Committee has worked during the period 2007 - 2011 on the implementation of the Adult Correctional System Master Plan, which provides a model for the County to not only punish, but treat, correct and reduce offender behavior. [Adult Correctional System | Napa County, CA \(countyofnapa.org\).](#)

2021-2022 NAPA CIVIL GRAND REPORT

NAPA COUNTY JUVENILE HALL

GOOD FACILITY

DYSFUNCTIONAL GOVERNANCE

UNUSED BEDS

OUTDATED PROGRAM

June 21, 2022

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SUMMARY

The Napa County Probation Department maintains a 55-bed modern facility known as Juvenile Hall. The facility holds minors in secure custody until further decisions are made through the justice system regarding their disposition. While in secure custody, the minors are overseen by a stable, competent, mature staff, who offer quality emotional, educational, and recreational programs, mostly based on university-based research.

The problem is that the facility is extremely underutilized; thus, numerous beds go unused and staff resources are wasted. There are multiple reasons for the underutilization. Declining demographics, along with effective prevention and diversion programs, and legal changes have resulted in a decreasing demand for the facility from a traditional secure custody perspective. There is also a lack of imagination regarding how Napa County might utilize the facility. Napa County needs to rethink this program in order to optimize this resource.

One idea has been to recruit other counties to use the facility to house their minors requiring secure custody. This is not feasible. The Napa County Probation Department does not have the management information system to track youth through the facility's programs; thus, there is no measure of participation or program effectiveness which is critical to the success of this type of recruitment initiative. Simply, in a competitive market Napa cannot sell quality programming it cannot document.

At the same time, there is a pressing need closer to home. Within Napa County there are homeless probationary youth, who could benefit greatly from the facility's beds and programs. These homeless youth could reside at the facility in a less-secure camp-type group setting, while taking advantage of its programs, including the educational curricula offered by the County's Camille Creek School. At the same time, the educational program can be strengthened with a stronger emphasis on literacy, a library program, and an expanded set of occupational experiences. The current misguided and underutilized program results largely from an ineffective advisory, governance system related to youth justice, which has also paid little attention to new reporting requirements in State law. Both the program at Juvenile Hall and its overview councils need to change in order to take advantage of this facility and its programs. Otherwise, Napa County will continue to underutilize a valuable resource.

METHODOLOGY

Individual interviews were conducted of Napa County government officials as well as Probation Department and JH administrators and staff. County employees from other departments and two information technology experts not involved with the County were interviewed. Given the Grand Jury's strict rule of confidentiality, those interviewed cannot be identified. Most interviews were held with three Grand Jurors present and a recording was made to permit verification of the information. The Grand Jury relied upon written interview guides and sought to triangulate information, asking the same questions of several interviewees. The Grand Jury also read many County documents, studied internet sites related to Napa County, state law and other counties' juvenile justice programs. The Grand Jury also reviewed prior Grand Jury reports on JH and

articles from the Napa Valley Register and other regional newspapers. Finally, the Grand Jury toured Juvenile Hall and observed a lesson in the Crossroads classroom within Juvenile Hall.

DISCUSSION

Napa County Juvenile Hall (JH) is operated by the Napa County Probation Department as a detention facility. JH was opened in 2005 to house 55-60 youth in a secure environment, combining education and recreation under one roof. The original focus was to punish youth and protect the community. The Grand Jury's inspection revealed a facility and programs that were generally rated as "good."

Nonetheless societal and legal changes in California's approach to juvenile justice have impacted Juvenile Hall. The most serious offenders were previously housed in State of California facilities, under the control of the California Youth Authority (CYA). New laws emphasize rehabilitation and retaining the connection to family and community as more beneficial than simple detention. As a result, juveniles involved in the state's system have been removed from state facilities and detention and supervision has moved to the county systems. The impact on Napa of this change will be minimal as only one youth has been transferred from CYA, along with state funds. (*See*, Appendix G for a description of how the juvenile justice system operates.)

In addition to high security juvenile detention centers, many larger counties have traditionally operated less secure alternatives, such as camps and group homes. Napa, however, has no such alternative placements. Given the changes, Napa is struggling to find ways to utilize juvenile hall better and to offer new options to youth.

Napa County Juvenile Justice system and Juvenile Hall face five major challenges: governance, management information, small enrollment, unused beds, and the nature of the educational program.

A. Challenge one: Governance

Within the last year the leadership of the juvenile justice and juvenile probation system has changed. Experienced and competent professionals are at the helm, but many of them are doing new jobs with increased responsibility. These professionals are aided by the two boards involved in the governance of the juvenile justice system.

First, there is the Juvenile Justice Commission (JJC), a state-mandated commission consisting of 7-15 volunteers, both adult and student members (14-21 years of age) appointed by the Presiding Judge of the Napa Superior Court (*see*, Appendix D). The Commission is responsible for an annual inspection and report on detention facilities for minors; investigating programs, policies, and procedures in the juvenile justice system; conducting hearings (public or closed); advocating for the juvenile justice system; and providing opportunities for public petitions and comments at its monthly meetings.

The second governance board is the Juvenile Justice Coordinating Council (JJCC) (*see*, Appendices B and C). The JJCC was established under AB 913 which declares that "each county shall be required to establish a multiagency juvenile justice coordinating council that shall develop and implement a continuum of county-based responses to juvenile crime." The Chief Probation

Officer is the mandated chair and as such is responsible for insuring transparency and communication with the public. In addition to the Chief Probation Officer as chair the membership must include a mandated roster that represents every County agency that serves youth, including the chairperson of the Juvenile Justice Commission, and must also include members of the public. The JJCC website describes its role as an advisory board to the Chief Probation Officer. It is tasked with requesting and distributing certain juvenile justice state grant money. Pursuant to that law “each county shall be required to establish a multiagency juvenile justice coordinating council that shall develop and implement a continuum of county-based responses to juvenile crime.” Annual reports are required by the California Board of State and Community Corrections (BSCC) and must contain data about trends in the county and the impact of these grant funds on those trends.

These governance boards have overlapping responsibility for reviewing the Juvenile Justice program but have somewhat different authorities and offer direction to different officials. Neither board has shown any leadership or vision about what to do with the poorly used JH. The two boards appear to operate independently and are not linked by a common data bank with relevant reports. The Grand Jury could find no evidence that they formally communicated with each other, even though they share a common public responsibility.

The Grand Jury found the lack of useful data about juvenile justice to be notable. The lack of data was discussed in a recent Juvenile Justice Coordinating Council meeting, because California’s BSCC had criticized the last annual report as lacking required data and requested that Napa’s next report present accurate data on trends with analysis of the impact of the grant funds, as required by state law. Currently these requirements cannot be met. Data has not been collected, reports cannot be produced, because of the lack of relevant data and lack of an analytics program. JJCC has failed to address the lack of a modern cloud-based case management and data analysis system that evaluates personal growth and programmatic results (*see*, Appendix F).

Neither the Commission nor the Council has addressed how Juvenile Hall’s physical facility, staff, and programs can be modified, restructured, remodeled, and repurposed to adapt to the new paradigm of juvenile justice which strives to avoid juvenile detention, keeps the JH census low, fosters connection to their communities, and emphasizes rehabilitation and occupational experiences. It is clear that at present JH is not being used to meet the needs of the many youth on probation. Although the JJCC is tasked with providing necessary coordination and collaboration, they have not provided the active oversight and direction necessary to maximize the public investment in Juvenile Hall and probationary youth.

JJCC has its own problems. To begin, it is chaired by the Chief Probation Officer. Since the JJCC is advisory to the Chief Probation Officer, she is essentially offering advice to herself. It cannot succeed in its present iteration, because JJCC does not meet regularly and does not communicate effectively. Information about JJCC’s goals, plans, accomplishments, or lack thereof, and its failures, is not transparent or accessible to the public or to its own members. The JJCC does not adhere to the mandated quarterly or tri-annual meeting schedule. When mandated meetings are canceled, they are not automatically rescheduled. There is little attempt to engage their constituency as meetings are not posted in a timely manner, agendas are sometimes not available, meetings are hastily canceled when quorums are not met, a regular occurrence. Similarly, meetings are scheduled without due notice, only a few meetings have minutes and no videotape of meetings are posted and accessible to the public. There are no recordings or videos of meetings

accessible from the county website. The Grand Jury could not find clear evidence that the Annual Plan for either 2021 or 2022 was actively discussed or approved by the full body as required. This is particularly unfortunate because the point of the JJCC is to collaborate across entities engaged in youth crime prevention. The 2022-23 plan seems to be a product of a subcommittee which lacks evidence of a charge. In spite of these apparent procedural irregularities, the County's JJCC submitted annual reports for both years by the deadline of May 1.

Likewise, the Commission has significant problems. The JJC's website clearly describes its role (*see*, Appendix D), but it is not transparent or accessible to the public. There is no e-mail address for public use. Similarly, the phone contact was not useful, as it is for the Superior Court, which refers the public to the Probation Department. The JJC monthly meetings provide no option for remote attendance; there is no link to the agenda or minutes or recordings of the JJC monthly meetings; the website does not provide information about the Commission's members and its link to annual reports does not work.

Across the board, from webpages to data analytics that support collaboration between juvenile justice's governing boards, the lack of a functional management information system is hampering both an evidence-based successful transformation of the juvenile justice system and its governance.

B. Challenge two: Management Information

Juvenile Hall staff acknowledged that their information system is inadequate as a management tool (*see*, Appendix F). Probation cannot track, coordinate/correlate or analyze the criminal, probationary, programmatic, academic, or life experiences of youth in probation. Case management is not possible. As a result, it is not possible to assess the effectiveness of Juvenile Hall or juvenile justice or their educational programs. No data system provides adequate information to determine what services youth actually receive or the impact of those services. The lack of useful data can be seen in the 2021-22 Annual Report, which is short on statistics and analysis. The JH website also lacks data and does not accurately portray programs currently offered to youth in custody. Some are no longer offered, while the innovative audio studio and barbering instruction have been added but are not described in program terms with useful data.

The CJNet system which has recently been introduced in JH, but not throughout juvenile probation, is a home-grown program. After 10 years the data system is still in the initial development stage. The irony is that the decision was made to develop a local system so that the different programmatic paths of youth through the local probation system could be captured. The youths' path to JH, for example, could be compared with other youths' path to the Evening Reporting Center [ERC], a far different experience within juvenile justice. After 10 years, the system still cannot compare programs, which was the original rationale for 'going local.'

From a case management perspective, probationary youth are legally supported by three different related, but currently un-coordinated, service systems: probation, education, and housing/homeless services. No case manager or data system coordinates these three systems for youth services.

Attending school is likely to be a condition of probation, and truancy can result in incarceration. "Attending school," however, has a variety of programmatic meanings based on students' interests, competency, and achievement. Unlike schooling that has data available, but

not to probation, there is no available data about housing or housing assistance available to homeless or abused youth. Housing insecurity can make school attendance erratic and gaps in schooling can make achievement unattainable. Hunger can make learning impossible, but food could be a part of supportive housing. If a youth has no secure and dependable housing, the chances of remaining in school and of engaging in personal growth are diminished. The expansive programs and services offered in Napa County for homeless adults ignores the special needs of youth for secure housing. Secure housing provides for basic needs and the supports necessary for taking steps to obeying the law, gaining success in school, establishing meaningful relationships, and progressing toward being a productive adult.

Without an adequate management information system, there is no way to monitor the provision of services, including housing, or the progress of probationary youth. While there is a plethora of programs and services offered in Napa County for homeless adults and families, the special needs of secure housing and food for adolescent and teen-age students, especially those on probation, is mostly ignored. A functional data system could track how probationary youth are served by entities dedicated to providing services to the homeless.

Given the need to track youth experiences across other services, such as education and housing, the design of the local management information system is already outdated: too little too late. Since it is inadequate for the management of the youth probation program, it probably should be abandoned. Furthermore, the completion of the locally developed system with its inherent limitations is described as being at least two years away. Implementation has no predicted timetable. There is no printed manual for CJNet, a real handicap for those trying to use the system that does exist. Youthful offenders, in JH and on probation, deserve a coordinated management approach that monitors and assesses the services they are due.

Up-to-date commercial off-the-shelf software to address the basic needs of the juvenile justice system are readily available. To capture the programmatic information and parallel data about education and housing, some customization of commercial software would be necessary, but that is easily accomplished and with an acceptable deadline.

C.Challenge three: Small Enrollment

There are too few youth in need of Juvenile Hall's traditional detention model. COVID-19 and other responses to juvenile crime further reduced the number of youth residing at JH. School enrollments for youth are projected to continue their decline, meaning that the need for traditional Juvenile Hall beds will also continue to decline. Changes in juvenile justice philosophy and police practices means that more youth will be diverted to treatments other than JH. In spite of this low projected census, however, Napa will continue to need a juvenile hall to house youth awaiting court hearings, trials, and an occasional sentence served at Juvenile Hall. Closing Juvenile Hall is thus not an option.

Nevertheless, there is a better path forward for this facility. There are probationary youth who need a range of services that Juvenile Hall could provide. Aside from serving as a holding facility, Juvenile Hall's purpose might expand beyond incarceration and focus on the development and re-entry of youth into the community as productive citizens. The Juvenile Hall staff has begun to explore this option. For budgetary and programmatic reasons Juvenile Hall can no longer remain

solely as a “detention hall.” Juvenile Hall could broaden its role in the juvenile justice system to become a transition center of youth development programs and housing.

D. Challenge four: Unused Beds

There is a sad irony that while Juvenile Hall has many unused beds, many probationary Napa youth are homeless. The youth who could use those beds need a redesigned educational program that focuses on development of youth.

Juvenile Hall has a core of experienced and competent staff, who could be more effectively used in the development of probationary youth. The Court currently has limited options: JH, home release with daily check ins, or the Evening Reporting Center (ERC). The ERC is staffed by professionals who offer activities, socialization, and support to keep probationary youth engaged outside the home. ERC also gives parents and guardians support and the reassurance that their children are in a safe place. The ERC program could be offered as one feature of the newly designed NHA.

New Horizon Academy (NHA) is being explored as another optional use of JH beds. NHA is at present a small “camp program” pilot project put on hold by COVID-19 restrictions. NHA is based on a successful supervised residential camp created in San Luis Obispo to facilitate successful reentry into society by probationary youth. NHA was introduced as a maximum 10 bed dormitory with supportive services. Participants had limited freedom to participate in the home community or in external occupational internships. Education would remain the responsibility of the NCOE with school at Camille Creek Community School, or perhaps at their home school. The concept behind NHA is to support probationary youth who need or would benefit from secure housing and food, an individualized educational plan, and a support system as they transition from Juvenile Hall detention or probation to becoming independent and responsible/capable adults.

Prior Grand Juries have described the JH staffing and operational costs as excessive given the small number of youths being served. The Napa Grand Jury explored whether the 10 bed NHA was sufficient to justify the costs. NHA could increase financial viability and its impact by serving youth on probation, but youth who have not ordinarily been inmates at JH. Even though NCOE provides formal education at JH, NCOE has done little to address the current misalignment between the costs of maintaining Juvenile Hall and its educational program and the needs of the broader population of probationary youth. The case study of Fernando (*see*, Appendix A) provides an example of the type of probationary youth who might benefit from such a program. To date, the effort to design NHA has been narrowly focused by probation staff on a very few youths in Juvenile Hall who need re-entry support, especially links to adult occupations. As a result, many probationary youths in need, some from abusive homes or indeed homeless, remain underserved, while Juvenile Hall maintains empty rooms/ beds and underutilized staff. The facility is built with 2 units, physically separated so that one unit could be reinvented as NHA and remain separate from the more secure detention wing.

In a recent funding proposal, NCOE provided an example of the type of probationary youth who could benefit from a bed and new programming at Juvenile Hall. The fictional example of ‘Fernando,’ is an example of the abused/homeless probationary students in need of New Horizons Academy (*see*, Fernando’s story, Appendix A).

E. Challenge five: Educational Program

The educational core, more than classroom instruction alone, of the New Horizon Academy is ill-defined. In fact, it is undefined. The Grand Jury's observation of JH revealed two competing views of education: the classroom vs. the audio studio. Either of these experiences could serve as the exemplar for NHA. Central to the difference in views of education embodied in these activities is the function of the computer and the role it creates for the student. The question is, "How is the computer to be used: as a delivery device for canned content or as a tool for the creation of content?" And the related question: "What is the role of the student, respondent, or agent?" When the student sits at a computer and responds to Beable, the current computer program for reading, the student primarily responds to simple prompts presented by a unknown adult who wrote the program. The student is not an agent. By contrast, in the audio studio, which functions as an extracurricular activity offered as a reward, the student is an agent and uses the computer as a tool for creation. In the audio studio students write, perform, and record lyrical poetry about their world view. They enact the occupational role of adults in the outside world. The audio studio is a powerful educational experience. It provides agency, literacy, and real work. The designers of NHA need to determine which of these experiences will drive their work in NHA. We suggest the audio studio is the preferred model.

NCOE and JH share a common mission: education, rehabilitation, and development of occupational interests. Their shared mission notwithstanding, there is inadequate cooperation, collaboration, and coordination of the two systems, resulting in operational inefficiencies and missed opportunities. We found no evidence, for example, that officials from the related systems had ever met to collaborate on the design of NHA. This in spite of the fact that NCOE has developed a visionary plan for Camille Creek and the fact that both programs will attempt to provide experiences supported by NCOE's office of technical and occupational education.

Moreover, although the NHA is a project with an essential educational component, the NCOE was not included in the initial development and trial implementation. The NCOE remains in the dark today about the role they will play in the NHA. From our perspective, the current classroom in JH should not serve as the model for NHA, but the audio studio developed by the JH superintendent should be that model.

Productive citizens are essentially literate. Teaching children to read at grade level is a primary goal that appears to go unmet for most students in JH. All activities at JH should be seen in terms of their capacity to promote literacy as written and spoken language. Our observation indicated that youth are most often encouraged not to use language in their daily activities: to be silent. As a core aspect of the literacy program, youth should have access to and instruction in how to use a modern library. The Grand Jury was surprised to learn that there is no collaboration between the Napa County Public Library, the probation department or the NCOE Camille Creek Community School (which includes JH), or the JH after school program. All students in the Napa Unified School District (NVUSD) have a Napa County Public Library card attached to their student ID number. No parental permission or guarantee is required to borrow or to participate in Library activities. Every staff member interviewed agreed that the Napa County Library could provide valuable services to support recreation and education at Juvenile Hall and to NCOE students. There are books available in the classroom and in libraries at both facilities, but they are curated by the

teachers and administration not by a professional librarian. There is no way to request special books, and no access to books on CD, Ebooks or audiobooks. Many students at JH and Camille Creek read below grade level (often grade 3-6) and because of their limited reading ability, the students often do not read for pleasure. The Grand Jury learned that other California counties have successfully worked with their local libraries to serve probationary youth, including those in detention. Contra Costa County (CCC) probation (Juvenile Hall and Byron Boys Ranch) has branch public libraries located at the facilities. This long successful history with the Contra Costa Public Library is a useful model. (See Bibliography). Research by CCC Juvenile Hall and by San Jose State University shows that allowing Juvenile Hall residents easy and regular access to librarians and books from the public library results in more books being read and over time leads to improvements in reading level and scholastic achievement. There is a body of research available online to guide the collaboration between a public library and the juvenile justice system. Leaving JH or probation with a comfortable relationship with the public library can be a re-entry steppingstone, a connection to the community, a pathway to continuing education and personal growth.

FINDINGS

- F1. The overall governance for juvenile justice is fragmented and ineffective. The administration and staff at JH are dedicated to youthful offenders, those in JH and those on probation. The Juvenile Justice Coordinating Council [JJCC] is a body required by state law to receive certain juvenile justice state grant money. The Council is expected to allocate funds across the member entities sitting on the Council. Generally the funds go only to Probation. Neither the JJCC nor the JJC has addressed how Juvenile Hall's physical facility can be modified, remodeled, and repurposed to serve more probationary youth. Although the JJCC is tasked with providing necessary coordination and collaboration, they have not provided the active oversight and direction necessary to maximize the public investment in Juvenile Hall and probationary youth.
- F2. Inadequate documentation of probationary program experience. There are multiple paths through the three service systems for probationary youth. No case manager or data system tracks these program experiences. As a result of an inadequate data system, there is no way to tell how effective the different paths or programs may be, as recently noted by the State BSCC.
- F3. Un-coordinated approach to service. From a case management perspective, probationary youth are supported by three different related, but currently un-coordinated, service systems: probation, education, and housing/homeless services. As a result, no one knows if probationary youth receive the services they legally deserve.
- F4. Reduced need for detention model. There are too few youth in need of Juvenile Hall's traditional detention model. A powerful design for NHA would be a better path forward for this facility and for the youth of Napa.

- F5. Probationary youth need unused beds. Juvenile Hall has many unused beds, while many probationary Napa youth are homeless.
- F6. Educational program in need of improvement. JH needs to develop a viable New Horizons Academy to serve a broader range of probationary youth. Crossroads needs a literacy program that permits social interaction about what is read; a computer-based program that focuses on individual interest with isolated youth does not do that. JH also needs to work with the county library to develop an educational program that teaches youth to use a sophisticated library system. In addition, JH needs to develop new occupational activities similar to those undertaken with the audio studio. Overall, adults involved in the education of youth in the probation system need to investigate how the agency, literacy, and real work features of the audio studio can be provided to all youth for whom they are responsible.

RECOMMENDATIONS

- R1. Under the leadership of its current chair or of a consultant hired for that purpose, the JJC, a state-mandated body, should generate a development program that expands its current understanding of the potential of its group for leadership for the juvenile justice system. The program should include, but not be limited to, activities such as those noted below.
- a. Confirm with the State of California that the Commission is properly interpreting and applying state legal requirements
 - b. Study websites presented by more active JJC's
 - c. Report on activities broader in scope than their own
 - d. Critique videos prepared to explain the functioning of JJC's
 - e. Conduct Zoom interviews with outstanding leaders of other JJC's
 - f. Consult with university researchers who focus on leadership for juvenile justice
 - g. Sponsor training sessions organized by external organizations for JJC leaders
 - h. Attend appropriate regional and State conferences
- R2. To insure oversight and transparency the Napa County Board of Supervisors should direct the Juvenile Justice Coordinating Council (JJCC) to report to the Board of Supervisors on a regular schedule at public meetings of the BOS. The JJCC should add more public members, meet regularly as required by law, provide timely public notice of meetings with agendas, provide minutes, recorded video, and follow the requirements of the Brown Act.
- R3. The Napa County Board of Supervisors should direct the JJCC to inform the public about participation in JJCC meetings, in person and by remote means and about obtaining agendas, minutes and reports necessary for participation. The JJCC should redo its webpage to create greater transparency. The Grand Jury suggests studying the San Francisco JJCC webpage (link below) as a model of transparency. The webpage should accurately reflect its origin in the law and its legal responsibilities and obligations. The webpage should also include the names and official contact information of JJCC members

and provide a contact number and email for questions about meetings and how to become a member.

See <https://www.sfsuperiorcourt.org/divisions/ufc/justice-commission>
<https://sfgov.org/juvprobation/juvenile-justice-coordinating-council>.

- R4. Under the leadership of the Chief Probation Officer, the JJCC, the JJ Commission, and Napa County's CEO should collaboratively develop a strategy for an external group's comparison of the functionality of the existing CJNET homegrown system to a modified commercial-off-the-shelf (COTS) system in use for juvenile justice in other counties. With the goal of providing meaningful data analysis and analytics, including tracking programmatic experiences and effectiveness along with required state reports, while enabling data transparency, the external comparison should include at least the features named below.
- a. Cost, including staff time and licensing costs. The functionality of each; especially the data analytics function. Will the system require additional IT personnel interface for data analysis and report generation (as CJNet reportedly does now) or can staff manage the system without the need to rely on an external data analyst? In sum, what functions will be delivered at the user level?
 - b. The relative times for development (acknowledging that any COTS system will likely need to be customized) and implementation of each system.
 - c. The availability and cost of training of each system, relying on an external data analyst. In sum, what functions will be delivered at the user level?
 - d. The relative times for development (acknowledging that any COTS system will likely need to be customized) and implementation of each system.
 - e. The availability and cost of training of each system.
- R5. The Chief Probation Officer should engage the JJCC, the Commission, and NCOE in the design, creation, and implementation of New Horizons Academy as a way to address excess Juvenile Hall capacity and the needs of a broader range of youth. The design should focus on the provision of additional services to probationary youth not requiring detention in a secure facility, but who would benefit from a supervised residential program with easy access to a comprehensive educational program and mental health services. Some of these needy youth may be homeless. The design should also focus on the beneficial features offered by the JH's audio studio.
- R6. Leaders from the Office of Probation, from NCOE, and from the Napa County Library should meet to study programs in other counties and to develop an informal memo of understanding to outline how youth in JH will have full access to robust library services. The library program in Contra Costa County should be one of those studied.

- R7. The NCOE should recognize the Crossroads classroom as a unique planning unit within Camille Creek School and allow the Crossroads teacher the discretion to identify appropriate instructional programs, especially those for language literacy. NCOE should also provide the Crossroads classroom with necessary budgetary resources for the chosen programs, especially those for language literacy.

REQUEST FOR RESPONSES

Required Responses

The following responses, required pursuant to Penal Code sections 933 and 933.05, are requested from the Napa County governing board, elected county officials, and unit leaders.

- The Napa County Board of Supervisors: R1, R2, R3, R4
- The Napa County Chief Probation Officer: R2, R3, R4, R5, R6
- NCOE Superintendent: R2, R5, R6, R7
- Juvenile Justice Coordinating Council: R2, R3, R4, R5
- Juvenile Justice Commission: R1, R3, R4, R5

Invited responses

The following individuals are invited to respond within 90 days:

- The Napa County CEO: R2, R3, R4
- Napa County Library Director: R6
- Superintendent of Juvenile Hall: R2, R4, R5, R6, R7

APPENDIX A: “Fernando:” An Example of New Horizons Academy Youth

A hypothetical case from NCOE proposal to Super School QX

Fernando is part of the juvenile justice system. His mother has returned to Mexico. Fernando’s father is intolerant and punitive. Fernando is on probation for fighting and for gang affiliation. Fernando is placed at Camille Creek for fighting and chronic truancy.

During the week, Fernando works at his academic studies individually and in groups; takes part in his class’ community service project at the senior center tutoring senior citizens on how to use their cellular devices; works on his art project in the maker/creative space, and works in the school kitchen learning to cook and serve. On Wednesdays, Fernando interns at a bicycle shop. He is a bicycle enthusiast. Fernando meets weekly with his class therapist and can request to see her outside his weekly appointments.

Fernando forms close and trusting relationships with the adults at Camille Creek. He likes being at school and is no longer truant... He is learning to communicate the source of his anger. He is getting much from his internship at the bicycle shop, but is thinking his welding project in art class is where his heart and talents lie. Next term, Fernando’s internship will be at the junior college assisting in the welding program.

APPENDIX B: State Definition of JJCC

The multiagency juvenile justice coordinating council as defined by statute:

WELFARE AND INSTITUTIONS CODE –

Section 749.22:

To be eligible for this grant, each county shall be required to establish a multiagency juvenile justice coordinating council that shall develop and implement a continuum of county-based responses to juvenile crime. The coordinating councils shall, at a minimum, include the Chief Probation Officer, as chair, and one representative each from the district attorney’s office, the public defender’s office, the sheriff’s department, the board of supervisors, the department of social services, the department of mental health, a community-based drug and alcohol program, a city police department, the county office of education or a school district, and an at-large community representative. In order to carry out its duties pursuant to this section, a coordinating council shall also include representatives from nonprofit community-based organizations providing services to minors. The board of supervisors shall be informed of community-based organizations participating on a coordinating council. The coordinating councils shall develop a comprehensive, multiagency plan that identifies the resources and strategies for providing an effective continuum of responses for the prevention, intervention, supervision, treatment, and incarceration of male and female juvenile offenders, including strategies to develop and implement locally based or regionally based out-of-home placement options for youths who are persons described in Section 602. Counties may utilize community punishment plans developed pursuant to grants awarded from funds included in the 1995 Budget Act to the extent the plans address juvenile crime and the juvenile justice system

or local action plans previously developed for this program. The plan shall include, but not be limited to, the following components:

(a) An assessment of existing law enforcement, probation, education, mental health, health, social services, drug and alcohol and youth services resources which specifically target at-risk juveniles, juvenile offenders, and their families.

(b) An identification and prioritization of the neighborhoods, schools, and other areas in the community that face a significant public safety risk from juvenile crime, such as gang activity, daylight burglary, late-night robbery, vandalism, truancy, controlled substance sales, firearm-related violence, and juvenile alcohol use within the council's jurisdiction.

(c) A local action plan (LAP) for improving and marshaling the resources set forth in subdivision (a) to reduce the incidence of juvenile crime and delinquency in the areas targeted pursuant to subdivision (b) and the greater community. The councils shall prepare their plans to maximize the provision of collaborative and integrated services of all the resources set forth in subdivision (a), and shall provide specified strategies for all elements of response, including prevention, intervention, suppression, and incapacitation, to provide a continuum for addressing the identified male and female juvenile crime problem, and strategies to develop and implement locally based or regionally based out-of-home placement options for youths who are persons described in Section 602.

(d) Develop information and intelligence-sharing systems to ensure that county actions are fully coordinated, and to provide data for measuring the success of the grantee in achieving its goals. The plan shall develop goals related to the outcome measures that shall be used to determine the effectiveness of the program.

(e) Identify outcome measures which shall include, but not be limited to, the following:

(1) The rate of juvenile arrests.

(2) The rate of successful completion of probation.

(3) The rate of successful completion of restitution and court-ordered community service responsibilities.

(Amended by Stats. 1998, Ch. 500, Sec. 6. Effective September 15, 1998.)

APPENDIX C: Napa County Description of JJCC

The description on the Napa County JJCC is quite different. *See*, <https://www.countyofnapa.org/1657/Juvenile-Justice-Coordinating-Council>
About the Council:

The Juvenile Justice Coordinating Council (JJCC) is designated by the Board of Supervisors, as part of AB 1913, the Juvenile Justice Crime Prevention Act.

JJCC is an advisory council to the Chief Probation Officer on juvenile funding coming into the County from the State.

Meets quarterly to discuss juvenile justice programs

Does an annual review of the funding plans required by the State?

Votes annually on funding given out to community non-profits from the Children's Trust Fund overseen by Child Welfare Services. What are the Responsibilities?

Within its statutory duty, the Commission's responsibilities include:

- Inspecting detention facilities used for the placement of any minor under the supervision of the Juvenile Court of Napa County.
- Investigating programs, policies, and procedures for these youth.
- Conducting public or closed hearings on matters relating to juvenile law in the county.
- Advocating for needed services for youth in the juvenile justice system.
- Providing an opportunity for the public to present oral petitions and public comments concerning juvenile justice at monthly meetings.

Frequently Asked Questions:

Is the Juvenile Justice Coordinating Council the same as the Juvenile Justice Commission?

No. The Juvenile Justice Coordinating Council is an advisory council to the Chief Probation Officer, and its primary role is to provide feedback to the Chief Probation Officer on the use of state funding for juvenile services. The Council meets quarterly to review current juvenile plans, updates, and changes. Members of the Juvenile Justice Coordinating Council are appointed by the Board of Supervisors.

Sample reports presented by JJ Commissions in other counties:

<https://www.sdcourt.ca.gov/sites/default/files/SDCOURT/JUVENILE3/JUVENILEJUSTICECOMMISSION/JJCREPORTS/2021%20Urban%20Camp%20JJ%20Inspection%20Worksheet.pdf>

https://www.occourts.org/directory/juvenile/jjc/ANNUAL_REPORT_2020.pdf

APPENDIX D: The Juvenile Justice Commission

The Juvenile Justice Commission is a state-mandated commission consisting of 7-15 volunteers, both adult members and student members (14-21 years of age) appointed by the Presiding Judge of the Napa Superior Court. The committee responsibilities are: An annual inspection of juvenile hall, and a report submitted to that court and the Board of Corrections. Furthermore, the JJC is mandated to investigate programs, policies, and procedures for these youth, conduct public or closed hearings on matters relating to juvenile law in the county, advocate for needed services for youth in the juvenile justice system, and provide an opportunity for the public to present oral petitions and public comments concerning juvenile justice at monthly meetings. According to <https://www.napa.courts.ca.gov/juvenile-justice-commission>. What are the Responsibilities?

Within its statutory duty, the Commission's responsibilities include:

- Inspecting detention facilities used for the placement of any minor under the supervision of the Juvenile Court of Napa County.
- Investigating programs, policies, and procedures for these youth.
- Conducting public or closed hearings on matters relating to juvenile law in the county.
- Advocating for needed services for youth in the juvenile justice system.
- Providing an opportunity for the public to present oral petitions and public comments concerning juvenile justice at monthly meetings.

Is the Juvenile Justice Coordinating Council the same as the Juvenile Justice Commission?

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Sample reports presented by JJ Commissions in other counties.

<https://www.sdcourt.ca.gov/sites/default/files/SDCOURT/JUVENILE3/JUVENILEJUSTICECOMMISSION/JJCREPORTS/2021%20Urban%20Camp%20JJC%20Inspection%20Worksheet.pdf>
https://www.occourts.org/directory/juvenile/jjc/ANNUAL_REPORT_2020.pdf

APPENDIX E: Definition of Homeless Children and Youth

The McKinney-Vento Act defines homeless children and youth as individuals who lack a fixed, regular, and adequate nighttime residence. This definition also includes:

- Children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason
- Children and youth who may be living in motels, hotels, trailer parks, shelters
- Children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings

- Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings, or
- Migratory children who qualify as homeless because they are children who are living in similar circumstances listed above, *see* <https://www.cde.ca.gov/sp/hs/homelessdef.asp>.

APPENDIX F: Analytic System Schematic

To investigate the educational system of JH, the Grand Jury needed to determine how the three systems interact for the rehabilitation and development of youth: justice, education, homelessness. Here is a schematic of the possible status of each youth in JH and, therefore, the services to which each is entitled. Each youth falls somewhere on this schematic. The case manager should know which status set applies to the individual youth the case manager serves and, therefore, which services are rightfully available. Similarly, the officials of the system should know the pattern of sets for any group of youth in the system. The leaders of the systems should also be able to provide information about the status of the individuals probation serves. Essentially, the Grand Jury wanted to know how many youth were in each status set and, thus, what rightful services the youth might experience. The Grand Jury was not able to determine the status set of youth in JH; thus, it was not possible to determine the level of educational services provided to the youth in JH. The Grand Jury did know that the housing system does not serve the JH youth. It found dedicated, competent adults working with and for youth, but their efforts were not coordinated through a data-based case management system. Thus, there was no way to determine if the education system was effective for rehabilitation.

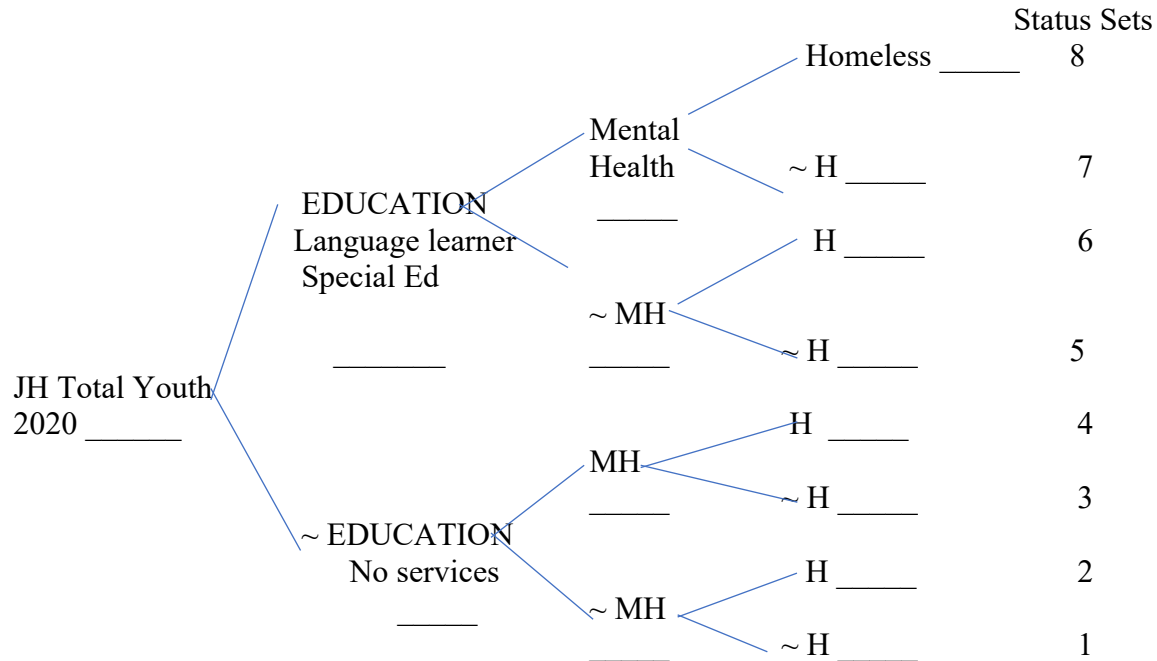
Here is the code for reading the schematic. In this model “mental health” has been used as a proxy for the different programs in the probation system. It is precisely this information that their current information system is not capable of tracking; thus, their need for a new management system. Note in this schematic the ~ symbol means “not,” so that ~ED means the youth is a regular English proficient student, who is “not” receiving special services. The youth does “not” have a right to any special educational services.

ED = Education status = has a right to language learner support and/or special education IEP
OR ~ ED and is a Regular English speaker with no special education support.

MH = Mental Health status = has a right to treatment for alcohol, drugs, and/or mental illness
OR ~ MH [*Note: here is where we should have their 4 programs or paths*]

H = Homeless status = Homeless according to education definition.
OR ~Homeless [not homeless]. This status is especially meaningful for re-entry.
[Use education definition, since when youth leaves s/he may be in the education system and the educational system is more sensitive to the home status of youth.]

One’s status across these 3 related systems can be defined as schematically noted below.



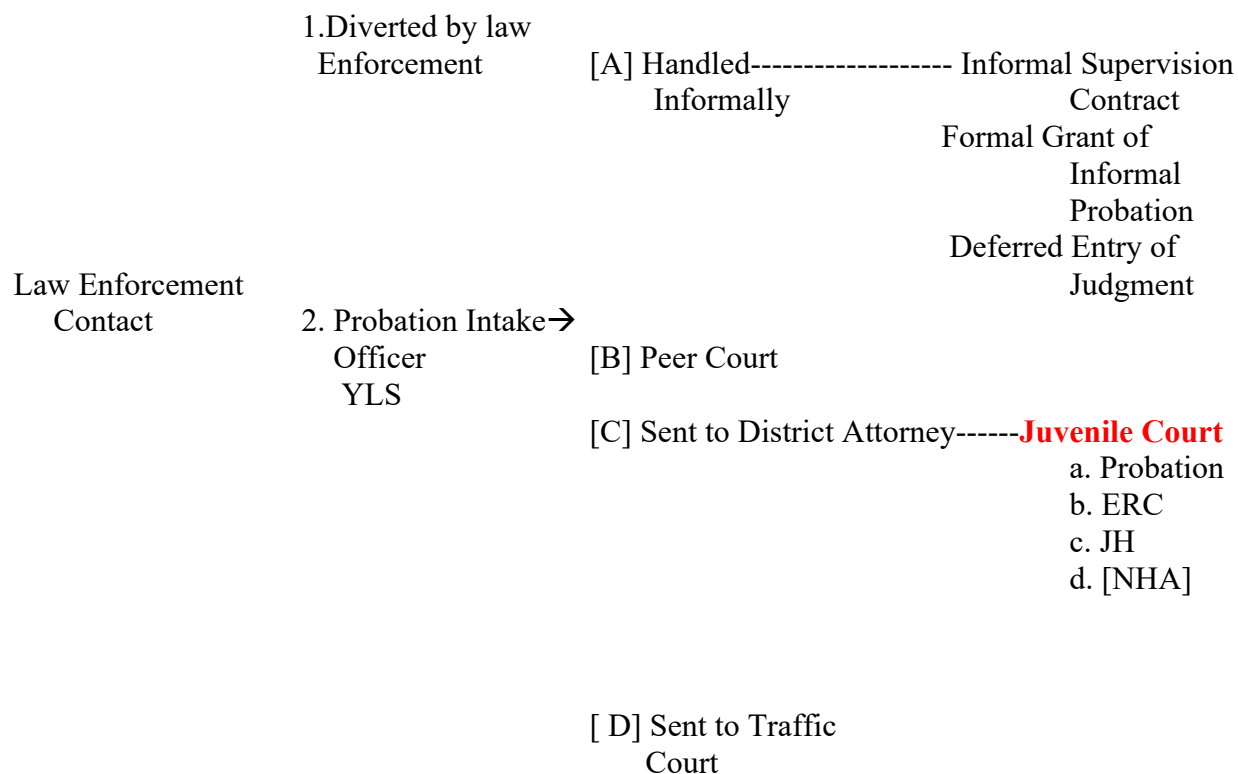
1. ~E ~MH ~H = number of youth: _____ Most favorable status set: no defined services.
2. ~E ~MH H = number of youth: _____
3. ~E MH ~H = number of youth: _____
4. ~E MH H = number of youth: _____
5. E ~MH ~H = number of youth: _____
6. E ~MH H = number of youth: _____
7. E MH ~H = number of youth: _____
8. **E MH H** = number of youth: _____ Most problematic status set: Receives educational services; receives probationary mental health services; and is homeless.

Using the data made available, the Grand Jury was not able to determine the status set of youth in JH; thus, it was not possible to determine the level of educational services provided to the youth in JH. The Grand Jury believes that in a JH that serves its youth most effectively, these data would have been readily available and the system could have accounted for its provision of legally required services that lead to the successful rehabilitation of youth in JH.

APPENDIX G: How Juvenile Justice Works Programmatically

The basic question the Grand Jury considered was how the JH functions in the JJ system. Who goes there? How do they get there? The graphic below presents an understanding of the flow of youth through the JJ system. The Grand Jury believes the system should have data that permits saying that in a given year X# of Napa youth have had contact with a law enforcement individual. Of that X, #Y are referred to a probation intake officer who administers the YLS/CMI. Of the Y who have a YLS/CMI score, the distribution of scores is ABC. Of the Y youth with ABC scores of 6-7-8, W% are sent to JH. Such analysis is not possible. In addition to telling us who went

where, probation should be able to describe the relative success of each of these programmatic paths through juvenile justice.



Glossary

Juvenile Hall (JH). The Office of Probation is responsible for the County's Juvenile Hall, a secure detention facility, which provides custody, counselling, medical care and guidance...in a variety of short- and medium-term programs." It is one component of Napa County's juvenile justice system. Under Court direction, Juvenile Hall is responsible for youth before and after sentencing and while they are on probation. The Grand Jury's required review of the facility found it generally 'good.'

Crossroads. Education of youth confined to Juvenile Hall is provided by the Napa County Office of Education (NCOE). The Camille Creek School, an NCOE school, is a free-standing physical facility which provides education to a large portion of Napa's probationary youth as well as youth who are not on probation but were not successful at their home schools; it also provides a teacher for classroom instruction within Juvenile Hall known as Crossroads.

Juvenile Justice Coordinating Council (JJCC). A State of California mandated body designed to "encourage coordination and collaboration among the various local agencies serving at-risk youth and young offenders. JJCPA requires a county Juvenile Justice Coordinating Council (JJCC) to develop and modify the county's juvenile justice plan. The JJCC is chaired by Napa's Chief Probation Officer. Its members include representatives of law enforcement and criminal justice agencies, the Board of Supervisors, social services, education, mental health, and community-based organizations. The JJCC is required to meet at least annually to review and update the county juvenile justice plan. *See*, Appendix B.

The Juvenile Justice Commission (JJC). A state-mandated commission consisting of 7-15 volunteers, both adult members and student members (14-21 years of age) appointed by the Presiding Judge of the Napa Superior Court. The committee responsibilities are: An annual inspection of juvenile hall, and a report Submitted to that court and the Board of Corrections. Furthermore, the JJC is mandated to investigate programs, policies, and procedures for these youth, conduct public or closed hearings on matters relating to juvenile law in the county, advocate for needed services for youth in the juvenile justice system, and provide an opportunity for the public to present oral petitions and public comments concerning juvenile justice at monthly meetings. According to <https://www.napa.courts.ca.gov/juvenile-justice-commission>.

**NAPA COUNTY CIVIL GRAND JURY
2021-2022**



FINAL INVESTIGATIVE REPORT

The Napa County Airport

Under the Radar: The Saga to Bring Napa's Airport Into the 21st Century

June 21, 2022

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SUMMARY

The Napa County Airport (Airport)¹ is one of the more significant assets owned by Napa County (County). Located on 800 acres toward the southern end of the County, it is often described as the “Skyport to the Wine Country.”² While its runways, taxiways, navigational aids and FAA control tower are worthy of a destination airport, its terminal and fixed base operation facilities (e.g., fueling, maintenance, etc.) appear to be from a bygone era, constrain operations and need to be replaced. At best, imagine an early 1960s airport movie set.

To remedy this situation, the Airport has been engaged in a protracted, and as many interviewees characterized it, non-transparent saga to upgrade and renovate the facilities. Few publicly owned airports use their own funds for such renovation, and instead leverage agreements with Fixed Base Operators³ (FBO) to modernize facilities. In return for long-term airport leaseholds, FBOs invest the necessary funds to renovate and upgrade airport facilities. In many instances, these FBO investments total between \$30 to \$50 million dollars, or more. FBOs make these substantial investments because the rights associated with fueling and other aviation support businesses are lucrative. Unfortunately, in part, because of the large sums involved, decisions regarding which FBO to award a leasehold become highly politicized.

Despite concerted efforts since at least 2016, the County has not reached an agreement with an FBO to modernize the facilities. There are several reasons why this process has been protracted, many of which the Napa County Civil Grand Jury (Grand Jury) found readily understandable. However, after an extensive investigation,⁴ the Grand Jury concluded that a lack of common vision, coupled with a failure to manage expectations and promote transparency (open communication), compounded by alleged misuse of Board of Supervisor (Board) closed sessions and allegations of leaked confidential information, have significantly undermined this process, and aggravated the politicization of it.

As of this report’s date, the outcome of this saga is unknown and whether the County has been able to “land the plane.” We hope it has. Regardless, the County needs to engage in serious

¹ In general, the Airport is a “general aviation” airport that does not have scheduled commercial air service (e.g., commercial airlines). General aviation includes corporate aviation (company owned and chartered), air tourism (self-flown or chartered), and recreational flying, to name a few types of aviation. *See*, https://en.wikipedia.org/wiki/General_aviation. The Federal Aviation Administration (FAA), the primary US aviation regulatory body, describes the Airport as national in scope (e.g., “supports the national airport system” and “has high levels of aviation activity with many jets and multiengine propeller aircraft”) and as a “reliever airport” (i.e., capable “of relieving congestion at a commercial service airport” and “provide[s] more general aviation access to the overall community”). *See*, https://www.faa.gov/airports/planning_capacity/categories/.

² <https://www.countyofnapa.org/1003/Airport>.

³ An FBO is “an organization granted the right by an airport to operate at the airport and provide aeronautical services such as fueling, hangaring, tie-down and parking, aircraft rental, aircraft maintenance, flight instruction, and similar services.” *See*, https://en.wikipedia.org/wiki/Fixed-base_operator.

⁴ Since this investigation involves substantive on-going negotiations, aspects of which should remain confidential so as not to undermine the County’s bargaining position, the Grand Jury decided not to detail many of the facts in its possession or use any of the names of the entities or individuals involved, even though many are in the public record.

introspection with respect to this process in order to ensure it never happens again. The County's "Skyport to the Wine Country" deserves better. And so do Napa and its residents.

BACKGROUND

A. Why investigate the FBO process?

Initially, the Grand Jury thought a review of the Airport was overdue, especially in light of the substantive runway and taxiway upgrade projects that, in general, are well known. The County received in excess of \$17 million in Federal Aviation Administration (FAA) grant funding to accomplish these projects, which in most interviewees' opinions were well run processes, delivered on time and within budget. However, as the Grand Jury quickly discovered, the Airport was in the midst of another significant "procurement" process which, if successful, would lead to (a) the renovation and upgrade of the terminal and fixed base operation facilities, (b) investments totaling tens of millions of dollars, (c) increased Airport revenues, (d) better customer/passenger services, and (e) a facility worthy of a world class destination airport. That process has been ongoing since at least 2016, but with few tangible signs of progress over the ensuing six years.

Thus, especially after certain initial allegations of non-transparency and leaked confidential information were made, the Grand Jury turned to an examination of the process to upgrade the terminal and fixed base operation facilities in an attempt to understand *why it was taking so long and whether the allegations were credible?* As noted in the Summary, few publicly owned airports use their own funds for such renovation, and instead leverage agreements with FBOs to modernize their facilities. In the case of Napa's Airport, this requires the County to grant leases to one or more FBOs, wherein the FBOs agree to develop the facilities in accordance with County requirements, in exchange typically for 30 to 40 year leases granting them the right to provide aviation services (e.g., fuel, maintenance, etc.) to Airport users. For its part, the County will derive revenue from the FBO leases, and taxes on fuel sales made by the FBO.

B. The role of the FAA and grant assurances

The Federal Aviation Administration (FAA) is the primary US aviation regulatory authority.⁵ Because the County has received FAA grant funding for runway and taxiway improvements, and other enhancements, the process to grant FBO leaseholds is subject to what are termed FAA "grant assurances."⁶ Non-compliance with grant assurances can have serious repercussions for the Airport, including the loss of grant eligibility, stricter scrutiny, and enforcement litigation, which in a severe case might result in the "claw back" of grant funds.⁷ While a complicated topic, certain FAA grant assurances are particularly important, since they impact what the County can or cannot do when granting FBO leaseholds.

⁵ See, <https://www.faa.gov/about/mission/activities>.

⁶ See, https://www.faa.gov/airports/aip/grant_assurances/.

⁷ See, <https://www.kaplankirsch.com/portalresource/lookup/wosid/cp-base-4-36902/overrideFile.name=/Session-04-Understanding-the-Foundation-of-Airport-Law-Grant-Assurances.pdf>.

The FAA grant assurances that are pertinent to this investigation are No. 22 (economic non-discrimination)⁸ and No. 23 (prohibition on exclusive rights and “land banking”).⁹ Grant assurance No. 22 prohibits the Airport from discriminating against similarly situated FBOs by, for example, providing one with an inferior site or denying benefits to one that it grants the other. Grant assurance No. 23 provides that (a) it is permissible to have only one FBO so long as the Airport takes no action to maintain only one FBO, and (b) if the Airport receives a qualified proposal from another FBO, who will compete with the existing FBO, the Airport must consider the proposal and cannot reject it if it is commercially reasonable. Grant assurance No. 23 also provides that the Airport cannot lease more land to an FBO than it needs or can put to immediate productive use.¹⁰ This practice is termed “land banking.”

These grant assurances have shaped many aspects of the County’s strategy and process to renovate and upgrade the terminal and fixed based operation facilities. Basically, in alignment with grant assurances Nos. 22 and 23, Airport staff envisioned a two FBO airport, wherein both FBOs would have equal 10-acre parcel leaseholds, similarly situated where the existing terminal resides today, with both leases based on comparable terms and conditions. The Airport already has one FBO (the “Incumbent FBO”), whose long-term leases will expire in a few years. The Incumbent FBO has resisted making any major facility investments without a renegotiated long-term lease because it believes that the time left on its leases is insufficient to warrant substantive investments. In addition, at times the Incumbent FBO has sought approval from the County to expand its leasehold to include the entire front of the Airport campus (e.g., from an operational perspective a potentially superior position at the Airport). Since the County has been trying to attract a second FBO, the Airport has been hesitant to conclude any renegotiation of the Incumbent FBO leasehold for fear it might run afoul of grant assurances No. 22 (non-discrimination) and No. 23 (exclusivity). To date, despite several years of trying, the County has not been able to negotiate a lease with a second FBO, nor has it entered into new lease with the Incumbent FBO.

C. The one or two FBO question

Central to this saga is the question of whether the Airport can commercially sustain a second FBO. This question has been hotly debated for years. If yes, the Airport might conceivably double the investment in the Airport, increase competition, attract more flight operations and passengers, and generate more operational income for the Airport. If no, the County might have been able to renegotiate the Incumbent FBO’s leasehold several years ago, and by today the County would have increased Airport revenues and have a renovated and updated terminal and fixed base operations complex worthy of Napa as a destination.

METHODOLOGY

The Grand Jury’s Airport investigation employed the following methodology:

⁸ See, https://www.faa.gov/airports/aip/grant_assurances/media/airport-sponsor-assurances-aip-2020.pdf.

⁹ *Id.* See also https://www.faa.gov/documentLibrary/media/advisory_circular/150-5190-6/150_5190_6.pdf.

¹⁰ See also, FAA Order 5190.6B (“Airport Compliance Manual”) at Section 8.9.

- Review of a broad range of pertinent Airport-related information including Board materials and hearing recordings; related Airport Advisory Commission minutes; County documentation and non-County documents, including emails, letters, consultant reports, professional advice, proposals, and presentations.
- Eighteen interviews including:
 - County employees and former employees with knowledge of the Airport and FBO discussions and negotiations;
 - Elected County officials; and
 - Non-County employees with knowledge of the Airport and FBO discussions and negotiations.
- Development of facts, findings, and recommendations.
- Drafting of this Final Report.

DISCUSSION

A. Airport Overview

The Airport is operated by the County within a division of the Department of Public Works (DPW) and governed by the Board of Supervisors. The Airport has its origins in the Second World War, which sparked the construction of numerous air defense fields, including the Napa Army Airfield. At the war's conclusion, the Napa Army Airfield was deeded to the County for civil aviation use by the War Assets Administration.¹¹ In the Airport's early days, the Board created the Airport Advisory Commission (Commission) to "foster development of airport plans and operations."¹²

By 1948 there was one FBO (the "Incumbent FBO") operating at the Airport, which since that time has rebranded itself at least once and has had two successors-in-interest. Thus, the Incumbent FBO traces its lineage almost to the Airport's inception.

The existing terminal was built in the 1950s and modified in the 1960s.¹³ The County last completed a Master Plan for the airport in 2007.¹⁴ The Master Plan states, "the existing terminal building will *clearly require replacement*, "the age and layout of the terminal building is increasingly becoming *a constraint*," and "the facility makes a *poor visual impression* as a gateway to the internationally known Napa Valley."¹⁵ The Master Plan also estimated that flight operations

¹¹ See, <https://www.countyofnapa.org/1006/Airport-History> and https://en.wikipedia.org/wiki/Napa_County_Airport.

¹² See, <https://www.countyofnapa.org/DocumentCenter/View/1985/Napa-County-Airport-Master-Plan-PDF>, chapter 1, p. 11. See also, the current Commission Bylaws (<https://www.countyofnapa.org/DocumentCenter/View/5457/Bylaws-Airport-Advisory-Commission-PDF?bidId=>). The Commission is an advisory body and does not make executive or operational decisions regarding the Airport. The Grand Jury relied heavily on Commission meeting minutes which can be found at <https://www.countyofnapa.org/AgendaCenter/Napa-County-Airport-Advisory-Commission-30>. The Grand Jury commends the Commission on the quality and timely posting of its minutes.

¹³ See, https://napavalleyregister.com/news/local/napa-county-continues-airport-renovation-push/article_1ce98002-fa0b-50c0-bcc7-7933fbd5df75.html.

¹⁴ See, <https://www.countyofnapa.org/DocumentCenter/View/1985/Napa-County-Airport-Master-Plan-PDF>.

¹⁵ *Id.*

would increase from 126,000 annually to “210,000 operations or a high of 260,000 operations by the year 2021.”¹⁶

In the early 1960s, the FAA constructed a control tower,¹⁷ and in the 1970s International Air Services Company (IASCO) began joint operations with Japan Air Lines (JAL) to train pilots at the Airport.¹⁸ They operated out of a large building which is relatively modern and located at 2000 Airport Rd. (2000 Building). JAL announced the closure of its training facility in 2010, as part of a bankruptcy reorganization plan.¹⁹ At the time, JAL was responsible for half of all aircraft flights and 15 percent of Airport revenue.”²⁰ JAL, and IASCO’s subsequent departure, has left the 2000 Building unleased to this day.

From a highwater mark of 126,000 flight operations in 2007-2008, flight operations began to drop precipitately;²¹ the 2010 decade began with slightly over 56,000 flight operations.²² In the 2020-2021 fiscal year, flight operations increased only slightly over the preceding decade to approximately 58,000,²³ a substantial deviation from the Master Plan’s estimate of 210,000 flight operations in 2021. In addition, hanger leases decreased during that same period from 153 to 151.²⁴ Using the FAA’s accepted multiplier of 2.5 passengers per operation (which the Airport has used to estimate users),²⁵ it is possible, but unlikely, that the Airport’s aggregate passenger volume was as high as 145,000 in 2020-21.²⁶ The County does not maintain records of how many passengers use the Airport.

Nonetheless, fuel sales, which generate fuel tax revenues for the Airport and also sustain the Incumbent FBO, have been growing. The Grand Jury was told that 2021 fuel sales were approximately 2.7 million gallons, compared to fuel sales of approximately 1.6 million gallons in 2011.²⁷ This represents approximately a 75% increase over that period.

¹⁶ *Id.* A flight operation is a landing or takeoff.

¹⁷ *See*, https://napavalleyregister.com/business/article_d36411d5-b811-5428-b834-d2dfe22665c8.html.

¹⁸ *Id.*

¹⁹ *See*, https://napavalleyregister.com/news/local/article_288bf472-7831-11df-9085-001cc4c002e0.html.

²⁰ *Id.*

²¹ *See*, <https://www.countyofnapa.org/ArchiveCenter/ViewFile/Item/196>.

²² *See*, <https://www.countyofnapa.org/ArchiveCenter/ViewFile/Item/744>.

²³ *Id.*

²⁴ *Id.*

²⁵ *See*, https://www.countyofnapa.org/DocumentCenter/View/14227/RFP-FBO-Release_82919?bidId=.

²⁶ This number can be deceiving and does not mean that 145,000 tourist or business travelers used the Airport to travel to the County or surrounding environs. Each operation (a landing and takeoff) does not involve a County visitor (e.g., it might involve a student learning to fly, a local pilot flying his or her plane, or a CHP flight).

²⁷ *See*, https://www.countyofnapa.org/DocumentCenter/View/14227/RFP-FBO-Release_82919?bidId=.

The Airport operates as a County enterprise fund,²⁸ and as such, it does not use County general funds.²⁹ From a County asset perspective, one interviewee described the Airport as a hub of significant money. In addition to fuel, maintenance, hangers, flight training and other sources of revenues, the Airport generates approximately 400 jobs (including all of the commercial businesses and governmental entities operating at, or supporting, the Airport) and significant property taxes (approximately \$2.3 million).³⁰

That said, while the Airport is solvent based on its significant assets (the Airport Enterprise Fund net position was \$24.1 million as of 2020-21),³¹ from an operational perspective it has run a deficit in recent years. Since at least 2007, the operational expenses have exceeded operational revenues (fees, leases and fuel taxes). In the 2020-21 fiscal year, operational expenses were \$4,125,208 and operational revenues were \$1,810,079.³² While there has been fluctuation, unrestricted net assets, which the County states is a measure of liquidity, have decreased from 115.7% in 2010-11³³ to 39% of the total operating expenditures in 2020-21.³⁴ As of 2020-21, net unrestricted assets were \$1.6 million.³⁵

Outside of the Master Plan, which is 15 years old, the Grand Jury did not find, nor hear, a coherent current vision for the Airport.³⁶ In fact, the Grand Jury found that members of the Board, senior County leadership and commissioners are not in alignment with respect to the Airport's use, goals and importance to the County. Some interviewees expressed a desire to make broader use of vacant facilities (e.g., support for non-profits), integrate the Airport into broader transportation

²⁸ See, <https://www.msrb.org/Glossary/Definition/ENTERPRISE-FUND.aspx> (“a fund established by a governmental entity to account for operations of an enterprise activity. Enterprise funds generally are segregated as to purpose and use from other funds and accounts of the governmental entity with the intent that revenues generated by the enterprise activity and deposited to the enterprise fund will be devoted principally for funding all operations of the enterprise activity”).

²⁹ A corollary to this is that non-property tax funds must remain in the Airport enterprise fund and are not for general fund use. See also, https://www.faa.gov/airports/aip/grant_assurances/media/airport-sponsor-assurances-aip-2020.pdf (Grant assurance No. 25 [Airport Revenues] provides that “all revenues generated by the airport and any local taxes on aviation fuel . . . will be expended by it for the capital or operating costs of the airport.”). While not the subject of this investigation, some interviewees noted that senior County officials have repeatedly queried how the County can acquire non-property tax funds generated by the Airport for general fund use, especially if the Airport attracts increased revenues through renovation of its facilities.

³⁰ See, <https://www.countyofnapa.org/1003/Airport#:~:text=Revenue%20Napa%20County%20Airport%20tenants%20provide%20406%20jobs,with%20Federal%20and%20State%20grants%20for%20capital%20improvements>.

³¹ <https://www.countyofnapa.org/ArchiveCenter/ViewFile/Item/744>.

³² *Id.*

³³ <https://www.countyofnapa.org/ArchiveCenter/ViewFile/Item/197>.

³⁴ <https://www.countyofnapa.org/ArchiveCenter/ViewFile/Item/744>.

³⁵ *Id.*

³⁶ Several interviewees indicated there was a lack of vision for the Airport and referenced other airports as examples to which the County should aspire. Truckee and Aspen were the most referenced airports. In the last few years, Aspen went through a process to develop a vision (see <http://389kndfjeyc2zewjj3xg9k4w-wpengine.netdna-ssl.com/wp-content/uploads/2022/04/ASE-VC-Final-Recommendations.pdf>). While a review of the vision document shows that Aspen is different in many respects to Napa Airport, it does provide a potential model for how to develop a vision and engage the larger community.

planning, attract “hop on jet service” carriers (e.g., Jet Suit X), or even establish the Airport as a special district, outside the control of Public Works. That said, all interviewees agreed that Airport’s renovation is necessary, and also understood the Airport’s potential to attract investment and additional revenue.

B. 2016: The Incumbent FBO’s proposal

From an operational perspective, one of the primary reasons to renovate and upgrade the Airport terminal and fixed based operations is to increase Airport revenues. While there were proposals prior to 2016, the current process has its roots in a 2016 proposal from the Incumbent FBO. In August 2016, the then current Airport Manager discussed with the Board the Incumbent FBO’s plans to improve the Airport.³⁷ The Incumbent FBO proposed a variety of improvements, including renovating the exterior of the existing terminal (which housed a restaurant, administrative offices and other spaces), constructing a new terminal for fixed-base operations and a new maintenance building, and relocating the self-service fuel facility.³⁸ The Incumbent FBO envisioned leasing the space today that encompasses the complete front of the Airport, where the current terminal resides. At the time, it was estimated that improvements would take 2-3 years.³⁹

As described to the Board, the proposal’s benefits were: (a) an improvement of the Airport facility and the customer experience, (b) an increase in Airport revenues, (c) a consolidation of the leases between the County and Incumbent FBO, and (d) the Incumbent FBO’s funding of the improvements.⁴⁰ The proposal was well received by the Board.⁴¹

However, as one interviewee suggested, everything regarding FBO decisions becomes politicized. Some senior County officials (elected and non-elected) fixated on the potential significant monetary streams involved.⁴² One interviewee even suggested that funding opportunities blinded them. Conversely, FBO’s were aggressive in trying to influence decisions given the potential revenue involved. An interviewee noted that if an FBO was the sole provider of aviation fuel at the Airport (effectively a monopoly), there were few constraints on what could be charged for fuel. Interviewees described individuals and entities impacted by decisions regarding the FBO concessions as influential, able to deal directly with Board, County and State Officials, sometimes even circumventing contracting processes meant to limit interaction.

³⁷ See, https://napa.granicus.com/player/clip/3419?view_id=2&meta_id=281078&redirect=true; see also, <https://services.countyofnapa.org/AgendaNet/GranicusMeetingDocuments.aspx?id=4564>.

³⁸ See, https://napavalleyregister.com/news/local/supervisors-like-proposed-stylish-makeover-of-napa-county-airport/article_e84576f0-d15a-5fcf-b492-4392a1f3756a.html.

³⁹ *Id.* The Incumbent FBO CEO said, “We’re ready to go . . . We have the architects, we have the designers, we have builders standing by.”

⁴⁰ See, https://napa.granicus.com/player/clip/3419?view_id=2&meta_id=281078&redirect=true.

⁴¹ *Id.* The Commission had already endorsed the proposal at its July 2016 meeting, with its Chairman stating, “unfortunately, this has been well overdue. We think it’s a great idea.”

⁴² As an example, a letter from a national FBO summarized the potential investment and revenues in the Airport as follows: direct payment to the County of \$50 million over 30 years, indirect benefit to the County of \$65 million, and \$14.25 million in facility investment.

Sometime in 2016 or 2017, the County hired a consulting firm to review the Incumbent FBO's proposal, and, for the first time of which the Grand Jury is aware, the viability of a second FBO. An operational audit of the Airport (including the Incumbent FBO) was also conducted. The consulting firm produced two reports: a confidential report which the Grand Jury believes addressed the Incumbent FBO proposal and the viability of a second FBO, and a publicly released operational audit of the Airport. One interviewee recalled that the consulting firm concluded that while the Incumbent FBO's proposal offered an increase in what it paid the County for its leases, the amount was objectively less than the true value of the leases. With regard to negotiations with the Incumbent FBO, the County placed them on hold, while it sought to see whether other FBOs might be interested in a second Airport leasehold.

C. Transparency concerns begin

The County's hiring of the consultant aggravated the Commission, which felt it should have been consulted about the decision and expressed its view that it was entitled to review the results of the confidential report.⁴³ Nonetheless, access to the report was denied. One interviewee felt that nothing was transparent. As stated in meeting notes, the County informed the Commission, "that real property negotiations were only under the purview of the [Board] and any information disseminated outside of Closed Sessions would most likely compromise the County's negotiating power. . . [and that there] is heightened concern due to the fact that one of the Commissioners represents the [Incumbent FBO] in the negotiations."⁴⁴ Commenting on this period, another interviewee acknowledged the need for confidentiality in certain communications and the potential conflict of interest (e.g., a Commissioner who was also representing the Incumbent FBO), yet analogized the County's position to an impenetrable black hole.

Over time, the need for confidentiality in real estate negotiations became a constant answer to inquiries about the status of the County's FBO process. All Grand Jury interviewees acknowledged the need for lease negotiation confidentiality so as not to disadvantage the County; yet many thought the County could have been more forthcoming, and some thought the Commission should have been more engaged.⁴⁵

The Board also used closed sessions, which kept FBO discussions from public view. The Brown Act requires all meetings of a public agency to be conducted in open session, but there are a handful of exemptions, including litigation strategy, settlement offers, personnel matters, threats, and real

⁴³ See, https://www.countyofnapa.org/AgendaCenter/ViewFile/Agenda/_10022017-443. Legally, the County is entitled to withhold confidential reports from an advisory committee. However, in this case, the question is whether the County has been too aggressive in its confidentiality stance? As noted, sharing summarized data or aspects of what the County learned regarding the core issue of whether the Airport could support two FBOs may have alleviated some transparency concerns and might also have been appropriate under applicable law.

⁴⁴ See, https://www.countyofnapa.org/AgendaCenter/ViewFile/Minutes/_10022017-443.

⁴⁵ One senior county official even suggested that perhaps certain Commission members could have been directly involved in County FBO discussions or proposal feedback, even though they would have had to maintain confidential what they heard or read. Moreover, one interviewee said that in hindsight, as opposed to maintaining a hardline regarding confidentiality, the County should have had more formal check-ins with stakeholders, provided periodic reminders of strategic goals, stated where the County was in the process, and engaged in more proactive public outreach. Instead, stakeholders felt alienated, rumors and allegations flew, and relationships frayed.

estate negotiations as permitted closed session topics. However, with respect to real estate negotiations, such closed sessions are limited, in general, to discussion of price and payment (with the exception of the final terms, which must be publicly communicated).⁴⁶ In addition, unless the Board decides to make discussions public, participants in those meetings must keep discussions confidential (subject to both civil and criminal penalties).⁴⁷

Several interviewees (some with firsthand knowledge) expressed the belief that closed sessions were overused; sometimes inappropriately (e.g., more than price and payment discussions were involved). Multiple interviewees believed that sometimes closed sessions were used to push particular Board member agendas or air significant differences amongst the Board regarding how to proceed, as opposed to stating positions publicly and giving staff direction openly and transparently. One interviewee indicated that because certain decisions were made in closed session and not in public, County staff thought they understood their instructions, only to be later undermined (and with no recourse to a public record). Another interviewee complained that the County interpreted rules aggressively when it came to closed sessions. More troubling, as set forth below, some interviewees alleged that confidential information was inappropriately leaked from closed sessions, ending up in the possession of the FBOs negotiating with the County, and sometimes undermining staff and other Board members.

D. 2017-19: Shifting process delays the RFP release

Throughout 2017 and 2018, the momentum to acquire a second FBO took on steam. In January 2018, Commission meeting notes state that, “the Board [is] possibly looking at having more than one FBO and *having no documentation as to why*.”⁴⁸ The Grand Jury was told by several interviewees that even to this day they have never seen data-driven information supporting a second FBO.⁴⁹ However, over the course of its investigation, the Grand Jury became aware of competing analyses from the County and Incumbent FBO.⁵⁰ The County’s position was that the

⁴⁶ “[A] local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.” Cal. Gov. Code § 54956.8 Ch. VI. It is the Grand Jury’s understanding that when deciding whether to use a closed session, the Brown Act should be narrowly construed. See <https://oag.ca.gov/system/files/media/the-brown-act.pdf>, p. 30.

⁴⁷ Cal. Gov. Code § 54963 provides that confidential information that is acquired by attending a proper closed session cannot be disclosed to a person not entitled to receive it unless the disclosure is authorized by the legislative body.

⁴⁸ https://www.countyofnapa.org/AgendaCenter/ViewFile/Minutes/_01082018-491.

⁴⁹ Typically, according to interviewees, current and potential fuel sales are key to determining the viability of FBOs at a given airport, and that one can use benchmark data from similarly situated airports to understand whether an airport can sustain more than one FBO (or the required aviation traffic to support more than one FBO). In this case, what makes the FBO question difficult is the Airport straddles the fence: in 2021 fuel sales (approximately 2.7 million gallons) were slightly below the threshold (3 million gallons per year) for most 2 FBO airports. However, at the time of this initial discussion (2017-2019), the Airport was significantly below 3 million gallons per year. That said, the Grand Jury does not dispute the County’s perspective, as detailed below, that the market is determinate (e.g., whether a second FBO executes a leasehold at the Airport and is able to sustain itself through fuel sales).

⁵⁰ The Grand Jury read the Incumbent FBO’s assessment, which was based on a large public accounting entity report that found a second FBO would generate inadequate returns on its investment and that *the Airport would be the lowest traffic general aviation airport in California to have a two FBOs*.

analyses of its consultant were confidential. Perhaps some of it was confidential, but after reviewing the analysis in its possession (including information later contained in the Request for Proposal referenced below), the Grand Jury questions why summarized data that supported the County's assertions was not shared with the Commission and/or the public earlier. Surely, some of the information could have been summarized and disclosed in a fashion that did not jeopardize negotiations. Instead, interviewees, who did not have a conflict of interest in the FBO decision, indicated that they felt the decision to pursue two FBOs was pulled out of thin air.

A new Airport Manager updated the Board in August 2018 regarding FBO plans,⁵¹ stating that the County should let the market determine the Airport's FBO potential through a competitive Request for Proposal (RFP).⁵² One interviewee characterized the RFP process as a proof-of-concept approach.⁵³ In fact, the County was under no obligation to conduct an RFP since the contract involved a leasehold. Also, once the RFP process was complete and a "winner" identified, the County's strategy was to negotiate the leases with the Incumbent FBO⁵⁴ and the prospective new FBO concurrently, in order to keep them in synch.⁵⁵

In hindsight, there were perhaps two flaws with the process. *First*, while it is reasonable to let market forces dictate the outcome of the FBO issue, it only works if senior County leadership is not simultaneously trying to influence the result. Because there was no common vision for the Airport, factions within senior County leadership continued to advocate for either a one FBO or two FBO Airport, that, as detailed below, undermined the "proof of concept" approach. *Second*, the decision to conclude the RFP process and then bring both the prospective FBO and Incumbent FBO to a position where the County could concurrently negotiate the two leases based on similarly situated leaseholds, with similar terms and conditions, proved to be a very complicated goal. The impact of that decision, while understandable, meant there were no increases in lease payments or substantial investments in the terminal or fixed base operations for over six years (2016 to 2022).

In addition, the County was not prepared to release an RFP. An impediment to the RFP's release was the Airport's outdated Primary Management and Compliance Documents (PMCDs), which inexplicitly *had not been updated for approximately four decades*. The PMCDs are comprised of the "Rules and Regulations, General Aviation Minimum Standards, General Aviation

⁵¹ See, https://napa.granicus.com/player/clip/4176?view_id=2&meta_id=340361&redirect=true.

⁵² "A request for proposal (RFP) is a business document that announces a project, describes it, and solicits bids from qualified contractors to complete it. Most organizations prefer to launch their projects using RFPs, and many governments always use them. When using an RFP, the entity requesting the bids is responsible for evaluating the feasibility of the bids submitted, the financial health of the bidding companies, and each bidder's ability to undertake the project." <https://www.investopedia.com/terms/r/request-for-proposal.asp>.

⁵³ One interviewee stated that staff was always clear that they did not know whether the Airport would support a second FBO, and that the only way to know was through an RFP process.

⁵⁴ At this point, a non-California domiciled company acquired the Incumbent FBO. Some interviewees suggested that the reason Incumbent FBO ownership changed twice during the 2016 to 2022 period was, in part, due to the inability to renegotiate existing leases. After each change in ownership, the Incumbent FBO reaffirmed its desire to renegotiate its leases and make significant investments in Airport facilities.

⁵⁵ The primarily reason for negotiating the leases concurrently is to ensure that the leases negotiated were materially the same (and not subject to a discrimination challenge under FAA grant assurance No. 22).

Leasing/Rents and Fees Policy, and Development Standards” that govern the Airport.⁵⁶ Since the PCMDs set the minimum standards that entities operating at the Airport must meet, County staff believed updated PCMDs were a prerequisite to the RFP’s release.⁵⁷ One interviewee characterized the project to update the PCMDs as very significant. Nonetheless, at the time, it was estimated that the PMCDs would be ready for Board approval in January 2019, after which release of the RFP would immediately occur.

County staff updated the Board again in February 2019.⁵⁸ The PCMDs were still not complete, and as a consequence the RFP had not been released. Staff did articulate the RFP’s goals as follows: (a) provide an open and fair process, (b) demonstrate the County’s proactiveness in not granting exclusive rights, (c) gain valuable information regarding market rates, (d) place the County in a strong negotiating position, and (e) determine the possible success of multiple FBOs.⁵⁹ Based on a revised March 2019 RFP release date, it was estimated that the Board might make an RFP award in the June 2019 timeframe. Board members asked *why the process was taking so long* and whether the County had *any metrics to judge whether the Airport could sustain two FBOs*. The Board also decided to exclude the Incumbent FBO from the RFP process.⁶⁰ At the conclusion of the public hearing, all Board members were, at least publicly, in favor of the RFP approach (which was premised on a two FBO Airport).

In May 2019, the updated PCMDs were finally approved by the Board.⁶¹ The undertaking to update the PCMDs took significantly more effort and time than initially thought. In addition, during the same month, the Commission’s bylaws were amended weakening its role.⁶² From the County’s perspective, this was an attempt to address, in part, what it perceived as potential Commission member conflicts of interest.⁶³ However, one interviewee’s comments summed-up what the Grand Jury heard often: it was unknown what the Commission’s role was, that it had no

⁵⁶ See, <https://www.countyofnapa.org/2459/Airport-Policies-PMCDs>.

⁵⁷ See also Airport Commission notes regarding the importance of PMCDs in setting a foundation for the Airport and minimum standards upon which an RFP could be based upon. The Commission did play a role in the revised PMCDs.

(https://www.countyofnapa.org/AgendaCenter/ViewFile/Minutes/_10012018-660).

⁵⁸ See, https://napa.granicus.com/player/clip/4272?view_id=2&redirect=true.

⁵⁹ See, <https://services.countyofnapa.org/AgendaNet/GranicusMeetingDocuments.aspx?id=5789>.

⁶⁰ The decision to exclude the Incumbent FBO from the RFP process was based, in part, on a two reasons: (a) if the Incumbent FBO received the highest score and “won” the RFP process it might result in granting exclusivity to the Incumbent FBO, and (b) it would be easier to enforce PMCDs if there were two FBOs at the Airport (e.g., the Airport can act against an FBO when it has two and is not dependent on just one FBO). See, https://napa.granicus.com/player/clip/4272?view_id=2&redirect=true. However, interviewees describe continued pressure from some Board members and senior County officials to let the Incumbent FBO participate in the RFP or begin immediate renegotiations of its leases.

⁶¹ See, https://napa.granicus.com/player/clip/4322?view_id=2&redirect=true.

⁶² See, <https://www.countyofnapa.org/DocumentCenter/View/5457/Bylaws-Airport-Advisory-Commission-PDF?bidId=>.

⁶³ The Grand Jury did see documentation where one Commissioner advocated on behalf of a prospective FBO, and in another case, prior to the amendment of the bylaws, another Commissioner was associated with the Incumbent FBO.

power and that its advice was often ignored. It seems clear that the Commission's original purpose of fostering development of airport plans and operations was an aspiration of the past.

By early August 2019, the RFP had still not been released. Further the timeline for concluding the process had been lengthened by a year because of the decision to perform an environmental assessment.⁶⁴ Listening to the hearing, the decision to complete an environmental assessment prior to the RFP due date appears reasonable. However, *similar to the failure to maintain updated PCMDs, why had not the need for an environmental assessment come-up previously, given its severe impact on the timeline?* The need to complete both PCMDs and the environmental assessment, and the significant change in RFP timelines, made it difficult for the County to manage expectations and adversely impacted perceptions of transparency.

Despite the Board's public support for the RFP, which was focused on acquiring a second FBO, interviewees spoke of pressures from some Board members (and Senior County leaders) who were convinced the Airport was a single FBO Airport. Board members "invited" staff to meetings with potential FBOs, who continued to advocate for a single FBO approach, making the process more difficult for staff (e.g., they often felt ignored or their advice discounted).⁶⁵ As described to the Grand Jury there was a great deal of politics underlying the process. Some Board members did not seem to want a thorough RFP process and appeared to have a predetermined view of the outcome. Other Board and senior County officials wanted to see the draft RFP repeatedly, questioning provisions about which staff already thought a conclusion had been reached.⁶⁶ Another interviewee described how even legal advice given by the County Counsel regarding FAA grant assurances was discounted by certain Board members based on information provided by prospective FBO's. The Grand Jury concluded that notwithstanding public support for the RFP, that was based on a two FBO Airport, the Board and Senior County leaders were not in agreement as to the process or whether the Airport could sustain a second FBO.

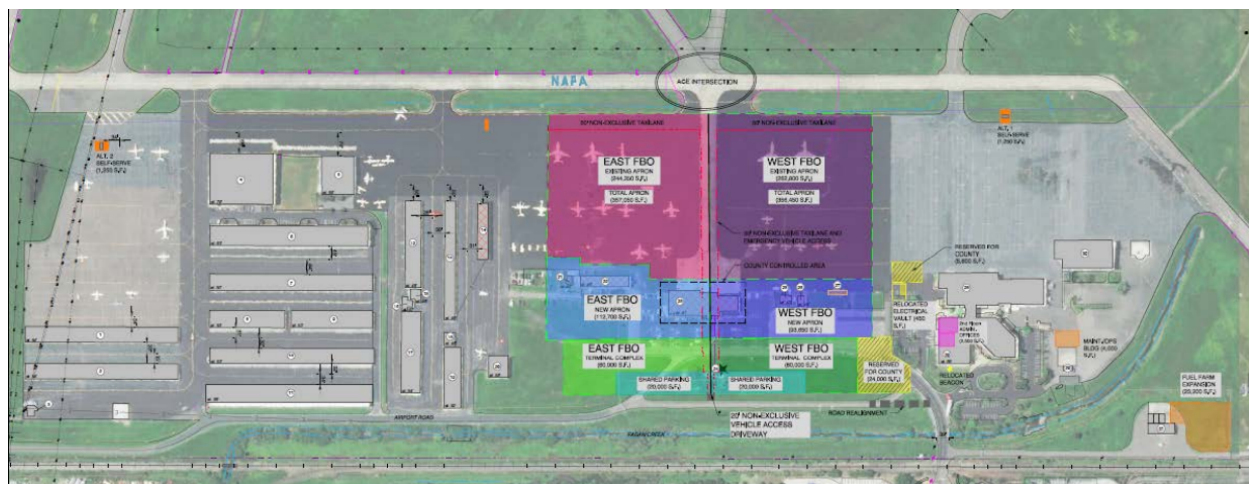
⁶⁴ See, https://napa.granicus.com/player/clip/4408?view_id=2&redirect=true. During the August 2019 Board meeting, staff advised the Board that the RFP process would take approximately a year to complete, with an award possible in the summer 2020. The reason given for the delay was the decision to complete an environmental impact assessment prior to the receipt of FBO proposals. Staff argued that this would result in more accurate proposals since the environmental assessment would provide respondents with a better understanding of what investments they might need to make. County staff was concerned that RFP respondents might seek to amend their proposals if the environmental assessment occurred after their proposals were submitted. Board members questioned that again and asked whether other counties had taken a similar approach? No other counties were identified, and ultimately the Board agreed to the elongated timeline.

⁶⁵ One interviewee recalls being in a meeting organized by a Board member prior to the release of the RFP with the entity below referred to as Respondent One. The entity stated that it would not compete in a two FBO market.

⁶⁶ In general, one interviewee described the working environment with senior County non-elected leadership as involving chaos and conflict. While not the subject of this report, numerous interviewees painted a similar picture, described working conditions at the County as difficult and called the Grand Jury's attention to significant staff turnover caused by these conditions, and unrelated to Covid or other external factors like outside opportunities.

E. 2019-21: An unsuccessful and undermined RFP process

The RFP was finally released August 29, 2019, with responses due in March 2020.⁶⁷ As set forth in the RFP, one key goal was to, “maintain compliance with FAA Grant Assurances, which includes encouraging on-field business competition.”⁶⁸ To that end, the RFP envisioned two FBOs occupying similar 10-acre leaseholds at the front of the Airport (where the current terminal resides). The Incumbent FBO would occupy the East FBO leasehold, and the RFP “winner” would occupy the West FBO leasehold.⁶⁹



Due to Covid, the RFP response due date was extended to July 2020.⁷⁰ The Grand Jury understands that, despite numerous FBO inquiries and participation in mandatory bidder meetings, the County only received two RFP proposals that were considered seriously.⁷¹ For purposes of this report, the proposal respondents are referred to as Respondent One and Respondent Two. Several interviewees described Respondent One, which ran multiple single airport FBO operations in California, as only feigning interest in being the second FBO at the Airport and as being very politically connected, with some Board members and State officials advocating for it. According to interviewees and a review of documents, Respondent One made two proposals: an “enhanced plan” in which it developed both East and West sites (similar to certain Incumbent FBO proposals), and a “base plan” which was for the West FBO site (which was in alignment with RFP requirements). Comparatively, interviewees described Respondent Two as willing to meet the RFP requirements, but after careful County consideration, as lacking a track record and sufficient assets to be a successful second FBO at the Airport.

⁶⁷ See, https://www.countyofnapa.org/DocumentCenter/View/14227/RFP-FBO-Release_82919?bidId=.

⁶⁸ *Id.*

⁶⁹ See, <https://services.countyofnapa.org/AgendaNet/GranicusMeetingDocuments.aspx?id=5789>. The Grand Jury was informed that sometime late in the process (after the termination of the RFP detailed later in the report) the designations were changed to South and North FBO leaseholds. To avoid confusion, the Grand Jury decided to refer to them as the East and West FBO leaseholds for purposes of this report.

⁷⁰ See, https://www.countyofnapa.org/AgendaCenter/ViewFile/Minutes/_06012020-900.

⁷¹ Another proposal received by the County was eliminated immediately because it was described as very weak.

In discussing issues with the RFP process, one knowledgeable interviewee asserted that the County failed to shut the door completely on the opportunity for an FBO to be the sole FBO at the Airport, which in their estimation made a mess of the process. As a result, the County received proposals like Respondent One's enhanced plan (similar to some of the plans put forth by the Incumbent FBO). The enhanced plan would have had the effect of locking down the entire front of the Airport in favor of one FBO (e.g., an opportunity for a monopoly referenced by another interviewee). While the RFP appeared clear in offering only the West FBO leasehold,⁷² multiple interviewees indicated that senior County officials (both elected and non-elected) may have intentionally or unintentionally encouraged, or at least not precluded, "enhanced" proposals."⁷³

It is notable that when the RFP proposals were submitted, the Incumbent FBO sent a letter from its counsel to the County, asserting that at a May 26, 2020 meeting, a senior County executive requested a complete campus development, which was contrary to the County's espoused strategy.⁷⁴ The Incumbent FBO complained in the letter that after investing significant resources in the development of the proposal, County staff decided that the proposal could not be considered. Staff was concerned that it undercut the RFP's two FBO model and potentially ran afoul of FAA grant assurances. The Incumbent FBO further referenced a letter to the County from Respondent One purporting to advocate for a single FBO operation at the Airport.

More seriously, multiple interviewees expressed their frustration that interested FBOs, or their representatives, were in possession of leaked information. Interviewees spoke about how bidders always appeared to know things they should not and were a step ahead of County staff involved in the discussions. One non-County interviewee *even acknowledged receipt of information that they should not have had* and questioned the process' integrity as a result. As articulated to the Grand Jury, the effect of the leaks was to elongate the process and make it more difficult to keep the process completely above board.

As of October 2020, the County had not brought the RFP process to a conclusion.⁷⁵ Roughly at the same time, according to interviews and government emails, a business development office within the California state government executive branch (CEB) injected itself into the Airport FBO discussion in favor of Respondent One, and against the Incumbent FBO. CEB alleged in an email that the Incumbent FBO's proposal was inferior and that County staff, "*with limited Board support*," was giving deference to the Incumbent FBO. CEB also said it understood the County would only support one FBO (interestingly, referencing the Incumbent FBO's study). CEB further

⁷² See, https://www.countyofnapa.org/DocumentCenter/View/14227/RFP-FBO-Release_82919?bidId= ("The County will require the Successful Respondent to lease the entire area labeled 'West FBO'").

⁷³ It is not the Grand Jury's intention to imply that senior County officials' actions were not well intentioned. We know that there were, and continue to be, serious discussions regarding the viability of two FBOs, and that even if a second FBO is selected and begins operations, whether it will result in both FBO's businesses struggling or even failing. Instead, the point is once the RFP strategy was determined, all County parties needed to support it, both in public and private.

⁷⁴ By complete campus development, the Incumbent FBO meant at least both the East and West FBO leaseholds.

⁷⁵ See, https://www.countyofnapa.org/AgendaCenter/ViewFile/Minutes/_10052020-949.

alleged that two Supervisors and the County Executive supported its position (e.g., backing a single FBO airport in favor of Respondent One). County staff objected to CEB's characterizations.

In February 2021, County staff provided the Commission with an update on the RFP, stating it had “selected [an FBO] from the RFP, while simultaneously negotiating with [the Incumbent FBO] ...that scheduled reoccurring future meetings have also been established with the goal of bringing two leases to the [Board] for their approval within the next 4 months.”⁷⁶ This goal would have placed Board approval in the May 2021 timeframe (21 months after the release of the RFP). During that meeting, according to the notes, Commissioners questioned whether the Commission had any role, and asserted they were “learning more about things after they happen.”⁷⁷ As in past meetings, the Commission was told that the RFP process involved real estate matters that needed to remain confidential. Based on interviews, the Grand Jury believes that Respondent One was the selected FBO.

In an April 2021 letter to the County Executive Officer and Board, Respondent One unexpectedly withdrew its FBO proposal stating that the “poor economics in the two-FBO model are compounded by onerous lease language.” Respondent One recapped how it had submitted two proposals: the enhanced model wherein it would develop the complete campus (e.g., similar to certain Incumbent FBO proposals) and one for the West FBO leasehold. The letter states that the County chose Respondent One's West FBO proposal and that “market economics simply do not support two healthy FBOs.” The letter further states that, “*both the Incumbent FBO and Respondent FBO believe a single FBO is best for all stakeholders,*” and Respondent One threw its backing behind the Incumbent FBO proposal.

Interviewees professed various theories about why Respondent One withdrew its proposal and backed the Incumbent FBO, including that (a) Respondent One knew it would not be the sole Airport FBO (and that the onerous lease language was a cover), (b) Respondent One was paid or accommodated somehow to withdraw (the Grand Jury saw no evidence of payment or an accommodation), and (c) Respondent One knew that the Incumbent FBO was going to be acquired by a significantly larger FBO later in the year and that Respondent One thought it would be unable to compete.⁷⁸ In the end, the Grand Jury was not able to determine why Respondent One threw its support behind the Incumbent FBO after withdrawing.

F. 2021-22: A new process and further concerns regarding transparency and integrity

The Grand Jury has learned that after a closed Board hearing on June 21, 2021, the County *canceled the RFP in favor of direct negotiations with other FBOs* who had expressed interest but

⁷⁶ See, https://www.countyofnapa.org/AgendaCenter/ViewFile/Minutes/_02012021-987. The County staff thought it was important to negotiate the leases concurrently so that they would be similar, and abide by FAA grant assurances (e.g., not result in unfairly discriminate against one or the other FBOs).

⁷⁷ *Id.*

⁷⁸ If true, Respondent One would have known of the acquisition significantly before it occurred. The withdrawal was in April, and the Incumbent FBO was acquired in November.

not submitted proposals as part of the RFP process.⁷⁹ Some interviewees asserted it was some time before they realized the process had changed, and that it was additional proof that the process lacked integrity. From their perspective, the County switched processes without explanation based on behind the scenes dynamics that were impossible to access or understand. The approach was also described as dysfunctional. To be fair, as of June 2021 (almost two years after the release of the RFP) there were no viable RFP respondents left.

Some interviewees expressed the opinion that failure of the RFP process should have been sufficient evidence that the Airport could only sustain one FBO (and satisfy FAA grant assurance requirements). After all, that was one of the articulated purposes for the RFP process (e.g., determining the possible success of multiple FBOs).⁸⁰ Other interviewees indicated that the issue was more complicated because two FBOs not involved in the RFP process had expressed interest.⁸¹ Under its grant assurances, the County was probably obligated to consider the two FBOs (one of whom was a national FBO entity (Respondent Three)), provided they submitted commercially reasonable proposals.

The County began direct discussions with Respondents Three and Four during the late summer and fall of 2021; both had submitted proposals to the County. The Incumbent FBO also engaged with the County regarding developing beyond its East FBO site, including the West FBO site and the 2000 Building (e.g., the complete campus proposal, which the County had previously rejected). It is the Grand Jury's understanding that in September 2021, the County expressed interest in discussing the Incumbent FBO's proposal with the FAA.

Also, during a Commission meeting in August 2021, one substantial non-FBO business at the Airport expressed concern regarding its business' future given the uncertainty surrounding the FBO RFP process. Quoting from the meeting notes, the business observed "that no information is available [regarding the] FBO RFP process."⁸² In response, a County representative indicated, "that multimillion dollar contracts are not negotiated in the public domain."⁸³ One interviewee described Commission meetings during this period as unprofessional and tense.

In October 2021, the Airport Manager discussed the current FBO process with the Commission, and introduced an aviation attorney, who provided a summary of FAA grant assurances (exclusivity, economic non-discrimination, land banking, etc.), the background of the RFP process, and the confidentiality required in real property negotiations.⁸⁴ During the meeting it was asked, as set forth in the notes, "why the County wouldn't make a deal with the current FBO due to the other entities backing out and therefore creating a playing field that they can then offer to any other

⁷⁹ It is unclear to the Grand Jury how the additional FBOs came forward (whether the interest was unsolicited or solicited by the County).

⁸⁰ See, <https://services.countyofnapa.org/AgendaNet/GranicusMeetingDocuments.aspx?id=5789>.

⁸¹ In accordance with FAA grant assurances, if the County receives a qualified proposal by another FBO, who will compete with the existing FBO, it must consider it and cannot reject it if it is commercially reasonable.

⁸² See, https://www.countyofnapa.org/AgendaCenter/ViewFile/Minutes/_08022021-1081.

⁸³ *Id.*

⁸⁴ See, https://www.countyofnapa.org/AgendaCenter/ViewFile/Minutes/_10042021-1104.

interested entities moving forward.”⁸⁵ A non-FBO business indicated it was, “unable to plan [its] future at the [Airport] without knowing what businesses are going to be here or who they’ll be dealing with . . . [and] that the current businesses at the Airport are being discriminated in this process.”⁸⁶

Notwithstanding the fact several years had passed with no additional revenue, another County representative told the Commission that if, “the County accepted the offer . . . from the Incumbent FBO in 2016, the County would have lost tens of millions of dollars.”⁸⁷ Putting aside FAA grant assurance restrictions, since the County had not successfully negotiated a second FBO leasehold, including assumptions regarding the substantial investments that would be associated with it, there was scant evidence of the County’s assertion regarding lost money at that point.⁸⁸

In late November 2021, the Incumbent FBO was acquired for the second time since 2016, this time by a much larger national FBO organization,⁸⁹ which is a direct competitor of Respondent Three. The new owners of the Incumbent FBO reaffirmed that it was, “eager to pursue a long-term lease and build new FBO facilities.”⁹⁰

On January 24, 2022, the day before another closed Board session to discuss the FBO process, the County received a response to its queries from the FAA regarding the Incumbent FBOs enhanced campus proposal in light of the current situation.⁹¹ The FAA describes the following facts, along with its conclusion:

The [FAA] understands that [the County] issued a [RFP] for prospective tenants interested in operating a second [FBO] operation on the [Airport]. As a result of the RFP, three parties expressed interest in the airport. Additionally, the incumbent FBO also submitted proposals which include options to develop both leaseholds presented in the RFP. *Subsequent to the RFP, the County received two additional proposals* from entities who are actively pursuing the opportunity to compete with the existing FBO.

...

Based upon our understanding of the facts provided, *the FAA may have significant concerns should the incumbent FBO secure both leaseholds*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ Conversely, a few interviewees discussed the lost opportunity cost of not renegotiating the Incumbent FBO’s leaseholds years before, which presumptively would have been at market rates and included renovation of facilities. Depending on how it is done, and providing that other FBOs are not excluded, it is the Grand Jury’s understanding that renegotiation of the Incumbent FBO’s leaseholds does not per se violate FAA grant assurances.

⁸⁹ See, https://www.countyofnapa.org/AgendaCenter/ViewFile/Minutes/_12062021-1141.

⁹⁰ *Id.*

⁹¹ Letter dated January 24, 2022, from FAA, San Francisco Airports District Office, to Napa County Airport Manager.

identified in the RFP without the County engaging in good faith negotiations with other interested parties (emphasis added).

The Incumbent FBO and Respondent Three submitted updated proposals in early 2022. Again, the Incumbent FBO submitted two options, one for the complete campus (e.g., both FBO East and West leaseholds and the 2000 Airport Road Building [Option 1], and the other for the East FBO position and the 2000 Airport Road Building [Option 2]). According to interviewees who were present, the night before the closed Board meeting on January 25, 2022, the Incumbent FBO was convinced to withdraw Option 1 during a dinner meeting. It is unclear whether the dinner participants knew of the FAA letter.

The Board held a closed session on January 25, 2022. From multiple sources, the Grand Jury heard several allegations regarding the meeting and its outcome. Without disclosing Board discussions regarding specific FBO proposals and the various risks associated with them, multiple Board members expressed frustration and their desire to get “shovels” in the ground and complete the FBO process. There was also purportedly disagreement regarding the clarity of instructions given to County staff as to how to proceed. In addition, the Grand Jury was told (corroborated by multiple sources) that *while the closed session was occurring*, confidential information was leaked to one of the interested FBO parties (from non-County staff present at the closed session), alleging that one Supervisor was harming its interest.

In February 2022, the Airport Manager told the Commission, according to its notes, that “staff met with the Board of Supervisors in a closed session where the agenda listed the three interested parties for FBO services [the Incumbent FBO and Respondents Three and Four] . . . The direction from the Board was to begin discussions with all three parties, but not let the lack of progress of any one FBO slow down the others. Staff requested all three parties to provide updated offers which will be reviewed by County staff in early March.”⁹²

As of June 2022, several years after the process began, a second FBO leasehold and/or renegotiated leasehold with the Incumbent FBO has not been finalized. It is the Grand Jury’s understanding that the County is presently close to a term sheet with Respondent Four and in negotiations with the Incumbent FBO. It is unclear what transpired with regard to Respondent Three’s proposal.

G. Conclusion

No one interviewed ever imagined an FBO process lasting over six years. A failure to manage expectations over a protracted period, the use of closed sessions, and a lack of consensus amongst the Board and senior County officials undermined transparency and the process. One interviewee said that in hindsight, the County could have been more forthcoming: provided more formal stakeholder check-ins, shared data, repeated reminders of strategic goals, focused on robust process status updates, and engaged in proactive public out-reach. Lack of consensus as to approach and alleged leaks of confidential information further undermined the process and

⁹² See, https://www.countyofnapa.org/AgendaCenter/ViewFile/Minutes/_02072022-1165.

aggravated the politicization of the process. All of this was detrimental to the Airport's future, but more importantly to County residents.

Now after six years of protracted discussions, Napa leaders must bring these negotiations to a conclusion. Whether as a one or two FBO Airport, the time has come to renovate the terminal and fixed base operations. Napa needs a 21st Century airport.

FINDINGS

- F1. The existing Airport terminal and fixed base operations need renovation and updating to be more efficient, generate more revenue, attract more aviation, and present a better visual representation of the County.
- F2. The Airport operates as a County enterprise fund; its non-property tax revenues can only be used for the benefit of the Airport according to FAA grant assurances.
- F3. The Airport has a yearly operational deficit that can be addressed or reduced through increased lease revenue and fees and fuel taxes, which are unlikely to occur without terminal and fixed base operation renovation and updating.
- F4. In order to renovate and update the Airport terminal and fixed base operations, the County needs to (a) acquire a second FBO long-term leasehold *and/or* (b) negotiate a new consolidated lease with the existing FBO.
- F5. It is unknown whether the Airport can sustain two FBOs.
- F6. The County is obligated to adhere to its FAA grant assurances in its dealing with any FBO, including ensuring any leasehold does not violate provisions governing economic non-discrimination, exclusive rights and land banking.
- F7. Outside of the 2007 Airport Master Plan (which assumptions have been proven by time to be significantly inaccurate), there is not a current vision for the Airport that is endorsed by the Board, which addresses issues like the use of facilities, attraction of commercial entities, relationship to broader transportation planning or public engagement.
- F8. The Board and Senior County Officials have often disagreed as to how best to renovate and upgrade the terminal and fixed based operations, including when to renegotiate with the Incumbent FBO, whether to acquire a second FBO, and the interpretation of its obligations under FAA grant assurances.
- F9. The County failed to keep Airport PMCDs current; failure to update them for approximately four decades caused delays in releasing the RFP.
- F10. After the County decided to use an RFP process to acquire a second FBO, it did not adequately think through the timeline and elements required (e.g., update PMCDs, complete an environmental assessment, etc.), leading to unrealistic timelines and expectations.
- F11. Failure to coalesce behind a two FBO strategy by all Board members and Senior County officials once the RFP strategy was adopted, led to FBOs (prospective and the Incumbent FBO) aggressively pursuing a sole FBO strategy in their proposals and discussions with the County, elongating and muddling the process.
- F12. While the County provided updates regarding the RFP process to the Commission, its members felt the County was not transparent (i.e., overusing confidentiality for real estate negotiations concerns as an excuse) and did not adequately consult them; as a result many of its members questioned the purpose of the Commission.
- F13. The County should have managed expectations better and been more transparent by having a communications plan which included more formal stakeholder check-ins, data sharing,

repeated reminders of strategic goals, robust process status updates, and proactive public outreach.

- F14. Allegations from multiple interviewees with first-hand knowledge that closed Board sessions were misused/overused are credible.
- F15. Allegations from multiple interviewees with first-hand knowledge that confidential information was leaked by non-County staff from closed Board sessions to entities and individuals who were not authorized to receive that information, including FBO entities involved in negotiations with the County, are credible.
- F16. Overuse of closed sessions, leaks and a failure of the Board and senior County officials to act in a unified manner, complicated and undercut the RFP process, undermined staff, complicated negotiations, and elongated the process.

RECOMMENDATIONS

- R1. By January 1, 2023 the Board should articulate and publish a clear written vision for the Airport which provides for the modernization of the Airport, accommodates Napa County's residents, tourism, and business needs, integrates with other transportation planning, and articulates a meaningful role for the Commission, while also remaining true to the character and values of Napa County.
- R2. In order to ensure the County is more transparent in the future, the Board and County Executive should complete a review by January 1, 2023, of the process to acquire a second FBO to determine how it could have been more transparent and managed expectations better and present its findings and recommendations during a public Board meeting.
- R3. By October 1, 2022, the Board should undertake a review of its use of, and the procedures associated with, closed sessions, to ensure that they are in accord with statutory requirements and further the interests of open government; its findings and recommendations should be presented in a public Board meeting.
- R4. By October 1, 2022, the Board should undertake a review of its procedures to ensure that information that should remain confidential during closed sessions is not inappropriately communicated to non-authorized entities and individuals; its findings and recommendations should be presented in a public Board meeting.
- R5. For fiscal year 2023, the Napa County Auditor-Controller should consider internal reviews/audits of (a) the Airport FBO RFP process, (b) the controls and processes governing the use of closed Board sessions, and (c) the controls and processes used to safeguard the confidentiality of information associated with County RFP processes and contractual negotiations.

REQUEST FOR RESPONSES

The following responses are required pursuant to Penal Code sections 933 and 933.05.

- Napa County Board of Supervisors (R1, R2, R3, R4)
- Napa County Chief Executive Officer (R2)
- Napa County Auditor-Controller (R5)

Napa County 2021-2022

Grand Jury Continuity/Response Report

for

2019-2020 Grand Jury Reports

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SUMMARY

The California Penal Code, Section 933(c) obligates elected officials or agency heads to respond within 60 days of publication of a Grand Jury report requiring their response; governing bodies must respond within 90 days.

Section 933.05 also specifies that responses should be transmitted to the presiding judge of the Superior Court in one of the following formats:

1. Disagreement with the *Finding*: the respondent disagrees wholly or partially with the finding, specifying reasons, within the following four formats:
2. The Recommendation was implemented, with the following action specified.
3. The Recommendation was not implemented but will be within a specified timeframe.
4. The recommendation requires further analysis, explanation and study, and a timeframe for completion six months from the Grand Jury Report publication date.
5. The recommendation shall not be implemented, as unwarranted, unreasonable, or without explanation.

The 2019-2020 Napa County Grand Jury published seven reports, between April 30 and August 1, 2020. Six reports are the Grand Jury's own final investigation reports about entities within its jurisdiction conducted during its term of office; the seventh report reviews in summary all investigation reports of the previous 2018-2019 Grand Jury along with the respective responses of the responsible elected officials, agency heads or governing bodies.

The six investigative reports of the 2019-2020 Grand Jury reviewed by the current 2021-2022 Grand Jury, together with the respective official respondents of each, are identified below:

REPORT	RESPONDENT
1. City of Napa Garbage Rate Hike Raises a Stink-What's Behind the Increases	Napa City Council
2. City of Napa's Sidewalks - Watch Your Step	Napa City Council
3. In Search of More Housing in Napa County	American Canyon City Council Napa City Council & Napa Community Development Director Napa County Board of Supervisors & Director of Planning Building Environmental Services
4. Napa County Elections-Results You Can Count on	Napa County Board of Supervisors Napa County Clerk Ex Officio Registrar of Voters
5. Napa County Juvenile Hall Exceptional Costs	Napa County Board of Supervisors & Chief Probation Officer
6. Napa County Probation & Department of Corrections Contract Administration-Who is Minding the Store	Napa County Board of Supervisors County Executive Officer Auditor-Controller Chief Probation Officer & Director of Corrections

METHODOLOGY

All Grand Jury reports must contain *Findings* and *Recommendations* which responding officials are required to address. After review of each of the six investigation reports issued by the 2019-2020 Grand Jury, along with their respective Findings and Recommendations, with the single exception of Report 2, “City of Napa’s Sidewalks,” the 2021-2022 Grand Jury found all responses of the designated officials to the remaining five reports to be timely and consistent with all relevant legal obligations, as set forth in California Penal Code Sections 933 and 933.05. With regard to “City of Napa’s Sidewalks,” as more fully described at Section III below, the 2021-2022 Grand Jury has asked for further responses from the City Manager of Napa, the relevant responding official for that report.

ANALYSIS OF 2019-2020 REPORTS

As summarized below, the 2021-2022 Grand Jury accepted the analysis of five of the above 2019-2020 investigative reports, as recommended by its Continuity and Response Committee. The report entitled “City of Napa Sidewalks - Watch Your Step” remains under review by the 2021-2022 Grand Jury.

1. “City of Napa Garbage Rate Hike Raises a Stink- What’s Behind the Increases”

The 2019-2020 Grand Jury recommended that:

R1. The City of Napa's Utilities Department Director should notify all ratepayers through their monthly bill where to locate information explaining how all revenues and expenditures are allocated and spent for the 2020 Solid Waste and Recycling budget. The Jury recommends that this information is to be sent out no later than December 31, 2020 and updated annually.

On May 4, 2020, the 2019-2020 Grand Jury published a second report which further investigated garbage rate hikes. The 2021-2022 Grand Jury analysis of the report and its responses follows.

The Napa City Council made the following responses to these *Recommendations*:

R1. This *Recommendation* has not yet been implemented but will be implemented by December 31, 2020. The city routinely provides reports to the City Council on the status of the Solid Waste and Recycling budget. The most recent report was presented at a public meeting on March 3, 2020, to identify the revenues and expenditures that occurred from July 1, 2019, to December 31, 2019. The city understands and agrees with the Grand Jury's interest in providing additional details to ratepayers beyond these budget reports to City Council. The Utilities Department's work plan for 2020 includes enhanced outreach to ratepayers to provide education and updates on budgets and projects. By December 31, 2020, information will be provided to ratepayers regarding actual revenues and expenditures in the Solid Waste and Recycling budget for fiscal year 2019-2020 as well as budgeted items for fiscal year 2021-2022. Information will be provided in the monthly bill on where to locate this information. Will be implemented by December 31, 2020.

R2. The City of Napa's Public Works Director continues to explore new sources of revenue for the sales of recyclable materials to both domestic and foreign markets to offset any future Solid Waste and Recycling budget shortfall. This *Recommendation* has been implemented.

As noted previously, the Solid Waste Fund is in the Utilities Department under the direction of the Utilities Director and not the Public Works Director. The Materials Diversion Administrator has primary responsibility for managing the Solid Waste

Fund within the Utilities Department. The Materials Diversion Administrator has been working closely with Napa Recycling and Waste Services (NRWS) to explore opportunities for system or program improvements that would help mitigate and/or enhance market values for recyclable materials sold from Napa. In addition to the cardboard screener, second baler, sorting robot and glass cleaner that were approved as part of the 2018 Contract Amendment with NRWS, the City and NRWS have already implemented some key items as described below to protect market value for Napa ratepayers and the Solid Waste Fund.

On October 15, 2019, the City Council adjusted gate fees for the public to cover operational and capital expenses. On April 21, 2020, the City Council approved and established a new gate rate for recyclable material (usually mixed "single stream" recyclables from other jurisdictions/haulers) as a new revenue source to offset declined market values, higher operating costs, and potential market volatility. The combined impact of these additional revenues is projected at approximately \$794,000 for FY2020/21. This revenue will help cover increasing expenses and variable market value for sale of recyclable materials. NRWS, at their expense, has also installed an "eddy" current to better capture high-value aluminum for the sort line as well as a second "sorting robot" to focus on other marketable materials like PET plastic bottles and milk/juice cartons. These improvements are currently operational and are expected to generate new revenue of \$300,000 to \$400,000 annually.

As part of managing the Solid Waste and Recycling budget, the city will continue to seek new sources of revenue and optimize the revenue from recyclable material sales.

No recommendation for follow up was made for this report.

Response to <i>Recommendations</i>	Implemented	Will be Implemented/Date	Further Study Date	Will not be Implemented
R1		12/31/2020		
R2	4/21/2020			

The 2021-2022 Grand Jury recommended no further follow up action on this 2019-2020 report.

2. “City of Napa Sidewalks - Watch Your Step”

The 2019-2020 Grand Jury made the following *Recommendations*:

R1. The Jury recommends that Public Works Department publish definitions of the terms “priority,” “location,” and “one-off” whenever those terms are used in documents or information made available to the public, to be completed by December 31, 2020.

R2. The Jury recommends that the Public Works Department adhere to their published definitions of terms such as “priority,” “location,” and “one-off” in their recordkeeping efforts so that Public Works Department’s reporting on the number of sidewalk repairs is consistent and clear, to be completed by December 31, 2020.

R3. The Jury recommends that the Public Works Department adopt a written policy governing the selection of individual “one-off” or “priority” repair projects, to be completed by December 31, 2020.

R4. The Jury recommends that the Public Works Department adopt a written policy governing the timing of work on “one-off” or “priority” projects, to be completed by December 31, 2020.

R5. The Jury recommends that the Public Works Department develop a 5-year plan for repairing all sidewalks with a vertical displacement of four inches or more, to be completed by December 31, 2020.

R6. The Jury recommends that Public Works Department annually publish on the City of Napa’s website a street address list of priority projects completed each year, to be completed by December 31, 2020.

R7. The Jury recommends that the Public Works Department update its portion of the City of Napa’s website to better inform citizens. At a minimum, the update should include the most current schedule or map for sidewalk repairs as well as a link to facilitate citizen reporting of sidewalk issues, to be completed by December 31, 2020.

R8. The Jury recommends that the Public Works Department develop a schedule and methodology for assessing the success of the conversion to the Workorder Asset Management system and their ability to use it effectively, to be completed by December 31, 2020.

The Napa City Council responded to each of the above *Recommendations* committing to the following implementation schedule contained in a June 2020 communication from the Napa City Manager Steve Potter:

Implementation Date

R1	12/31/2020
R2	12/31/2020
R3	12/31/2020
R6	12/31/2020
R7	12/31/2020
R8	12/31/2020

On review, the 2021-2022 Napa County Grand Jury found that none of these commitments appeared to have been satisfactorily met. Accordingly, on October 14, 2021, the Grand Jury's Foreperson sent a letter to the City requesting a brief description of how and when the recommendations were completed, further noting that until such information was received Grand Jury's website would reflect responses that are past due or non-compliant. Review of this investigation remains open.

3. "In Search of More Housing in Napa County"

The 2019-2020 Grand Jury investigated the factors that contribute to Napa's continuing lack of affordable housing. Its recommendations and the responses of the City Councils of Napa, the Napa Community Development Director, the Napa County Board of Supervisors and the Napa Director of Planning Building Environmental Services follow:

<i>Recommendation</i>	American Canyon	City of Napa	Napa County
1. Upgrade Web Site	12/ 31/2020	By 12/31/2020	Will, no date
2. Promote ADU education	Yes	By 12/31/2020	Before end of year
3. Name Point Person	Will do, no date	By 1st Quarter 21	By 12/31/2020
4. Develop Pre-approved plans	Contingent	Yes	No, cannot due to sites
5. Reduce Fees	Yes		No action required

The 2021-2022 Grand Jury recommended no further follow-up action on this 2019-2020 report.

4. “Napa County Elections - Results You Can Count On”

The 2019-2020 Grand Jury investigated the Elections Department of the Napa County Assessor and Recorder Office with the following recommendations.

1. The Grand Jury recommends the Napa County Elections Division and County Webmaster strengthen social media password policy including a robust schedule for password updates and dual authentication logins by November 1, 2020.

Napa County Board of Supervisors and Napa County Clerk Ex Officio Registrar of Voters responded as follows:

Response	Implemented	Implement Date	Further Study Date	Will not Implement
The Elections Division agrees with the finding, but the Election Division does not have any social media sites. We will work with county social media providers to make sure that we publish any election related messages only on county sponsored sites with multi-factor authentication.		12/31 2020		
Board of Supervisors: ITS will integrate multi-factor authentication on County social media sites no later than September 30, 2020, which will include a robust schedule for password updates. Updates to the existing Social Media Use Policy will be completed no later than December 31 2020		12/31/2020		

The 2021-2022 Grand Jury recommended no further follow-up action on this 2019-2020 report.

5. “Napa County Juvenile Hall Exceptional Costs”

The Napa County Juvenile Hall is required to be investigated annually. The 2019-2020 Grand Jury made the following recommendations.

R1: The Probation Department is to reduce its staffing level for Napa County Juvenile Hall to a level consistent with the historical trends of the past ten years and consistent with the requirements of Title 15. This reduction in staffing is to be accomplished no later than June 30, 2021, and reflected in the Napa County's Adopted Budget for Napa County Juvenile Hall for FY 2021-2022.

The Chief of Probation responded to this recommendation as follows:

The recommendation has not yet been implemented but will be by the next fiscal year. The decline in the juvenile hall population has been gradual and is happening throughout California because of significant change over the last decade in how the juvenile justice system responds to youth. During this same period, California's birthrate began to fall and the number of youths in custody continued to decrease, however, the need for programs required to support these youth increased as they were more challenging. Juvenile Hall Counselors were trained in Evidence Based Programming to provide services to youth with mental health and trauma issues. The same number of facility staff were needed to provide meaningful programming and not just supervise youth. As the population continued to decline the number of staff was reduced through attrition. The department recognizes the population may continue to decline after the pandemic and has already begun the process of reducing staff and exploring options for the facility as briefly outlined in the response to *Finding 5*. Response, Board of Supervisors: The Board of Supervisors agrees with the Chief.

The 2019-2020 further recommended:

R2: The Board of Supervisors should consider using The Tool Kit created from the Juvenile Hall Utilization Workgroup. The Board of Supervisors and the Probation Department are to convene a task force consisting of relevant governmental agencies to study and suggest alternative uses for the under-used Napa County Juvenile Hall facility. This task force is to convene no later than December 31, 2020, with directions to issue a public report with its recommendations no later than June 30, 2021.

The Chief of Probation responded to this recommendation as follows:

The recommendation has not yet been implemented and the goal is to establish alternatives by the next fiscal year. Use of the California State Association of Counties' Report and Tool Kit has been and will continue to be used as a guide. The Chief Probation Officer will continue to work closely with the Presiding Judge, District Attorney, Public Defender, and Corrections Director to discuss issues, trends, and challenges in the criminal justice arena. In future discussions with the group, the Juvenile Hall facility will be added to list of potential topics. With guidance from these partners, the Juvenile Justice Coordinating Committee, and in collaboration with the County Executive Officer and Board of Supervisors, we have the

knowledge, history, and ability to review the use of the facility and implement any changes that are most beneficial to the youth, families, and community we serve without the need for a formal task force. Numerous considerations are being evaluated and considered and pending legislation and shifting ideologies will affect the way Juvenile Justice is addressed in California and the country in the coming months.

The Napa County Board of Supervisors indicated its agreement with the Chief of Probation.

Responses	Implemented	Date to be Implemented	Further Study/Date	Will not Implement
R1		12/31/2020	6/30/2021	
R2		Pending further investigation		

The 2021-2022 Grand Jury recommended no further follow-up action on this 2019-2020 report.

6. “Napa County Probation and Department of Corrections Contract Administration - Who’s Minding the Store”

The Napa County Jail is required to be investigated annually. The 2019-2020 Grand Jury made the following recommendations.

R1: Napa County Department of Corrections and Napa County Probation Department require Wellpath to maintain the Procedures Manual in accordance with the provisions of the BSC Title 15 and the Wellpath Agreement. This action to be completed by December 31, 2020, and thereafter for the term of the Agreement.

The Director of Corrections and Chief of Probation responded as follows:

The recommendation has been implemented. The Procedures Manual is in compliance with CMA-IMQ accreditation standards, BSCC and CCR Title 15 Standards, and with the provisions of the Wellpath Agreement. In 2020, the review of the Procedures Manual was delayed due to COVID-19 and plans are in place for the 2020 review to be completed by December 31, 2020.

The Board of Supervisors responded that it agreed with the Director and the Chief.

The 2019-2020 Grand Jury further recommended:

R2: NCDC and NCPD require Wellpath to provide training for Probation and Correctional Personnel in accordance with the provisions of the Wellpath Agreement. This action to be completed by December 31, 2020, and annually thereafter.

The Director of Corrections and Chief of Probation responded:

The recommendation has been implemented. In accordance with the Agreement Wellpath will facilitate medical training as needed at each site. NCDC and NCPD are required to submit an annual training plan to BSCC for approval. Each employee is required to receive 24 hours of annual training.

Training topics are rotated for the year based on department need. NCPD Juvenile Hall Counselors (JHCs) have received four hours of Medication and Communicable Disease Training from Wellpath every two years at minimum and typically annually. First Aid/CPR is an annual requirement for all JHC's and provided by in-house trainers. Mental Health training is also provided annually by outside providers. NCDC and NCPD will collaborate with Wellpath when developing an annual training plan and ensure that it is monitored in accordance with the Wellpath agreement.

The Board of Supervisors responded that it agreed the Director and the Chief.

The 2019-2020 Grand Jury further recommended:

R3: NCDC and NCPD require Wellpath to certify the preparation of "Patient Safety activity work products." This action to be completed by December 31, 2020, and annually thereafter.

Response, Corrections Director and Chief of Probation: The recommendation has been implemented. Wellpath uses the term "Patient Safety Activity Work Products" to define a protected classification of information collected as part of its Quality Management Plan. This plan is available upon request by NCDC and NCPD and is reviewed by the Departments as needed.

The Board of Supervisors responded that it agreed the Director and the Chief.

The 2019-2020 Grand Jury further recommended:

R4: NCDC and NCPD are to establish the existence of those items required by the Wellpath Agreement, but which are not held by the County, to be verified by June 30, 2021.

The Director of Corrections and Chief of Probation responded:

The recommendation has been implemented. The Director and Chief have access to all information necessary to administer the contract with Wellpath.

The Board of Supervisor responded that it agreed the Director and the Chief.

The 2019-2020 Grand Jury further recommended:

R5: The Napa County Board of Supervisors institute a one-time audit of Wellpath's compliance with the Scope of Work contained in the Wellpath Agreement. This audit to be independent of the NCDC and NCPD, and to include a physician with contract administration experience. This audit to be completed no later than June 30, 2021.

The Director of Corrections Director and Chief of Probation responded:

The recommendation will not be implemented by the County because it is not warranted or reasonable. NCDC and NCPD are working closely with Wellpath to implement a more prescribed process for verification and/or review of the above-mentioned documents.

The Board of Supervisor responded that it agreed with the Director and the Chief.

The 2019-2020 Grand Jury further recommended:

R6: The Napa County Auditor-Controller, the Departments of Correction and Probation, County Counsel, and County Executive Officer are to review the provisions of the Wellpath Agreement, including Exhibit's "A" and "B," and institute the appropriate Services Agreement amendments or modifications, as provided for in the Agreement, necessary to reflect the actual contract requirements. This action to be completed by December 31, 2020.

The Director of Corrections Director and Chief of Probation responded:

The recommendation has not yet been implemented but will be implemented in the future. NCDC and NCPD are reviewing the existing contract and will request amendments, as necessary. Any contract amendments agreed to by Wellpath will be presented for Board of Supervisors approval before December 31, 2020.

The Board of Supervisors, Auditor-Controller and County Executive Officer responded that they agreed with the Director and the Chief.

The 2019-2020 Grand Jury further recommended:

R7: The Napa County Auditor-Controller, together with the Departments of Correction and Probation, is to establish clearly defined criteria for the confirmation that goods or services have been received from Wellpath. These criteria are to be put in place by December 31, 2020.

The Director of Corrections and Chief of Probation responded:

The recommendation has not yet been implemented but will be implemented in the future. NCDC and NCPD will review and ensure that the Procedure entitled "Accounts Payable Procedures for Departments" is implemented by December 31, 2020.

The Auditor-Controller responded that he agreed with the Director and Chief.

The 2019-2020 Grand Jury further recommended:

R8: The County of Napa should not accept Wellpath invoices submitted more frequently than quarterly. This policy to be implemented by the second quarter of fiscal year 2021-2022.

The Auditor-Controller responded that the recommendation was implemented as of July 2020.

Respondent <i>Recommendation</i>	Implemented	Will be Implemented/Date	Further Study Date	Will not be Implemented
R1	Already done	Update 12/31/2020		
R2	As needed at each site			
R3	Already done	Repeated as needed		
R4	Implemented			
R5				Not warranted, nor reasonable
R6		12/31/20		
R7		2nd Qtr., 2021		
R8	Done 7/20			

The 2021-2022 Grand Jury made no recommendation for follow up on this report.