




# CONTINUITY REPORT



2019-2020 Civil Grand Jury  
of Santa Clara County

*December 10, 2020*



## Table of Contents

**INTRODUCTION** ..... 3

**I. San José – Unfunded Pension Liabilities (2018-2019)**..... 4

**II. The Santa Clara County Fairgrounds: A Diamond in The Rough (2018-2019)** ..... 7

**III. Improving San José Police Department’s 9-1-1 and 3-1-1 Call Answering Time (2018-2019)**..... 10

**IV. City of Santa Clara: Public Records Access (2018-2019)**..... 13

**V. Inquiry into The Governance of the Valley Transportation Authority (2018-2019)** ..... 15

**VI. Show Me the Money! Where Your Property Taxes Go (2018-2019)** ..... 20

**VII. Justice Still Delayed (2017-2018)**..... 22

**VIII. County Still Not Appraising Employees (2017-2018)**..... 26

**IX. Affordable Housing Crisis: Density Is Our Destiny (2017-2018)** ..... 28

**X. Alum Rock School District Board: Time To Put the ‘Trust’ Back in Trustee (2017-2018)** ..... 33

**XI. Police and the Mentally Ill: Improving Outcomes (2017-2018)**..... 35

**XII. Report on Detention Facilities in the Era of Reform (2017-2018)**..... 38

**APPENDIX: Summary of Responses to the 2018-2019 Reports** ..... 40

## INTRODUCTION

This continuity report examines the responses by public agencies to the 2018-2019 Civil Grand Jury reports, as well as several responses to four 2017-2018 Civil Grand Jury reports. The reports, together with responses from the public agencies, can be found at [http://www.scscourt.org/court\\_divisions/civil/cgj/grand\\_jury\\_archive.shtml](http://www.scscourt.org/court_divisions/civil/cgj/grand_jury_archive.shtml).

The California Penal Code requires a response from the public agency within 90 days from the time the original report was published. The respondent must either agree or disagree, or partially agree or partially disagree, with each finding. For each recommendation, the respondent must declare whether:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion...
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation....<sup>1</sup>

In cases where the response stated that further work would be done, the Civil Grand Jury requested a follow-up. This continuity report summarizes the responses to those requests.

---

<sup>1</sup> California Penal Code §933.05, accessed March 22, 2020, [http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=933.05.&lawCode=PEN](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=933.05.&lawCode=PEN).

## I. San José – Unfunded Pension Liabilities (2018-2019)<sup>2</sup>

Released June 19, 2019

### Scope

Unfunded pension liabilities are a source of concern to many cities in California, and San José is no exception. The Civil Grand Jury audited the operations, management structure, and financial performance of the pension funds managed for the City of San José (City) by the Police and Fire Board of Administration and the Federated Board of Administration. Taking an evidence-based approach, the Grand Jury reviewed retirement plans at other cities in California, examined an audit by the San José City Auditor, and an audit by an academic institution in order to evaluate the pension fund returns and factors that affect those returns.

### Key Findings

- The Boards' chosen investment plan has led to low returns.
- The funds are managed by too many investment managers and management fees are excessive.
- The City's mandated required contributions are putting an ever-increasing burden on the City.
- Maintaining two separate Boards has led to inefficiencies and duplication.
- Investment professionals are over-represented on the Boards.
- The negotiated Cost of Living Adjustment (COLA) for Tier 1 employees has a major impact on the City's unfunded liabilities.

### Key Recommendations

- The Boards should conduct a comprehensive review of their investment strategy and publicly report on this review.
- The Boards should study ways in which to reduce the number and the cost of investment managers and make their findings public.
- The City should work collaboratively with the employee's bargaining units to find ways to reduce the effect of the negotiated COLAs.

---

<sup>2</sup> [https://www.sccourt.org/court\\_divisions/civil/cgj/2019/San%20José%20-%20Unfunded%20Pension%20Liabilities.pdf](https://www.sccourt.org/court_divisions/civil/cgj/2019/San%20José%20-%20Unfunded%20Pension%20Liabilities.pdf).

- The City should examine the current Boards, evaluating a merger of the Boards. The Boards should evaluate their Chief Executive Officers (CEO) and Chief Information Officers (CIO) based upon performance metrics that have been made public.
- The City should find people with a broader range of experiences, from outside the investments industry, to be members of the Boards.
- The City should examine ways in which COLA liabilities can be fairly reduced.

### Response

The responses of the City of San José mostly agreed with the findings of the Civil Grand Jury and expressed a willingness to improve what it could. The Police and Fire Board of Administration and the Federated Board of Administration disagreed with all of the Civil Grand Jury's findings.

The Boards did not accept the finding of the Civil Grand Jury that their investment strategies led to low returns. The Boards responded that they had not experienced poor returns relative to their risk/return expectations. In the initial report, the Grand Jury referred to a study by the Stanford Institute for Economic Policy Research. This study showed that when compared to funds managed under similar constraints, the Boards' returns were much lower than average. The Boards agreed to implement the recommendations related to this finding but did not give any specific date.

The Boards did not accept the finding of the Civil Grand Jury as to the number of investment managers and their costs. The Boards agreed to implement the related recommendation, suggesting they “constantly strive” to reduce costs, but did not give any specific date.<sup>3</sup>

The City of San José accepted the Civil Grand Jury's finding on the COLA to the City and promised to work collaboratively with the bargaining units but pointed out that current contracts do not expire until 2025.

The City accepted the Civil Grand Jury's finding that having two Boards could lead to duplication but only agreed to analyze the recommendation to examine the Boards and to consider cost savings. The Boards did agree to implement the Civil Grand Jury's recommendation vis-à-vis CEO and CIO evaluations, but did not give any specific date for that implementation.

The City partially disagreed with the Civil Grand Jury's finding that the Boards are heavily weighted with investment professionals but expressed that this was intentional. Their agreement

---

<sup>3</sup> Response from Federated City Employees' Retirement System and Health Care Trust and Police and Fire Department Retirement Plan and Health Care Trust, p.2, accessed June 1, 2020, [https://www.scsccourt.org/court\\_divisions/civil/cgj/2019/Responses/Federated%20City%20Retirement%20System.pdf](https://www.scsccourt.org/court_divisions/civil/cgj/2019/Responses/Federated%20City%20Retirement%20System.pdf)

to implement this recommendation suggests that the City will increase outreach efforts to broaden the perspectives on the Boards.

The City agreed with the Civil Grand Jury's finding that COLAs are having an impact on the City's budget but declared they are unable to act on the recommendation before 2025, the expiration of the current labor contracts.

### **Follow-up**

In early 2020, the 2019-2020 Civil Grand Jury requested information from the Police and Fire Board of Administration and the Federated Board of Administration to verify the implementation of the Civil Grand Jury's recommendation concerning CEO and CIO performance evaluation. A committee of the Boards met numerous times in 2019 and 2020 and developed a recommended CEO Performance Evaluation Policy and a recommended CIO Performance Evaluation Policy. A set of identical policies was passed by the Boards in May and June of 2020.

## II. The Santa Clara County Fairgrounds: A Diamond in The Rough (2018-2019)<sup>4</sup>

Released June 19, 2019

### Scope

The 2018-2019 Civil Grand Jury assessed the daily management and long-term oversight of the County Fairgrounds (Fairgrounds).

### Key Findings

- Deferred maintenance costs far exceed the financial returns from Fairgrounds operations.
- Utilization of the Fairgrounds is inconsistent with the historical dedication of the property as stated in the 2000 Management Agreement (Agreement) between the County of Santa Clara (County) and Fairgrounds Management Corporation (FMC).
- Accounting and bookkeeping errors led to misstatements in reporting and a lack of transparency into the Fairgrounds' financial condition.
- FMC failed to comply with public meetings laws as specified in the Brown Act.

### Key Recommendations

- The County should exercise its oversight authority to address deferred maintenance at the Fairgrounds.
- The County should determine whether future Fairgrounds use will align with the purpose stated in the Agreement or revise the language in a new proposed contract to reflect the scope of ongoing activities currently situated on the Fairgrounds.
- FMC should identify and correct multiple bookkeeping irregularities and improve public financial disclosures.
- The FMC Board of Directors and senior management should participate in Brown Act training.

### Response

The County generally concurred with the Civil Grand Jury's assessment of the Fairgrounds' physical and financial condition. It identified three main strategies to tackle outstanding issues:

---

<sup>4</sup> [https://www.sccscourt.org/court\\_divisions/civil/cgj/2019/CGJ%20Final%20Report\\_The%20Santa%20Clara%20County%20Fairgrounds.pdf](https://www.sccscourt.org/court_divisions/civil/cgj/2019/CGJ%20Final%20Report_The%20Santa%20Clara%20County%20Fairgrounds.pdf).

1. Begin deferred maintenance projects.
2. Develop a master plan to identify the strengths, weaknesses, and opportunities as well as future potential of the Fairgrounds.
3. Create a new lease agreement that clarifies ambiguous language, spells out the roles and responsibilities of the County and the Fairgrounds manager, and explicitly defines permitted ancillary and supporting activities that would be allowed on the Fairgrounds.

FMC stated that it implemented or will be implementing recommendations related to accounting and financial reporting. FMC agreed to update Brown Act training for its governance team.

### **Media and Public Reaction**

According to media reports, the County “is considering a [revitalization] plan to turn the 158-acre county fairgrounds in San José into a ‘grand public space’ that could feature a 55-acre park, a museum displaying historic local neon signs and separate sports facilities for the San José Giants, San José Earthquakes and USA Cricket league. Supervisor Cindy Chavez [said] the changes would enhance family-oriented recreation already available at the fairgrounds while maintaining the site as the home of the annual county fair” with its related agricultural activities for groups such as the National 4-H Council, a nationwide organization that provides learning and leadership opportunities for youth, and Future Farmers of America.<sup>5</sup>

In late March 2020, the County announced plans to transfer dozens of homeless people vulnerable to the novel coronavirus (COVID-19) to the Fairgrounds. Officials set up cots and isolation trailers at the Fairgrounds to reduce the County’s overcrowded shelter population.<sup>6</sup>

### **Follow-up**

The County adopted a new Agreement with FMC, effective January 1, 2020, establishing a phased process for FMC to develop and submit a Master Plan that will outline expected projects and capital improvement plans for the County’s review and approval. These proposals will allow the County and FMC to negotiate the extent of any financial participation by the County. Furthermore, the phased process will allow future consideration of the County’s direction regarding designation

---

<sup>5</sup> “Newest ideas for revitalizing Santa Clara County Fairgrounds get supervisors’ support,” *San José Mercury News*, October 8, 2019, accessed November 25, 2020, <https://www.mercurynews.com/2019/10/08/newest-ideas-for-revitalizing-county-fairgrounds-gets-supervisors-support/>.

<sup>6</sup> “Santa Clara County Fairgrounds become center for homeless, virus test site,” *San Francisco Chronicle*, March 29, 2020.



of 55 acres of the Fairgrounds as a County park or for park uses, and potential development of a Heritage Concourse of local historic neon signs at the Fairgrounds event space.<sup>7</sup>

A Comparison of Terms sheet lays out the differences in terms between the 2000 and the 2020 Agreements. The new Agreement has a 20-year term; however, the County may cancel it without cause upon 90 days' notice, and FMC may cancel it without cause upon 180 days prior written notice to the County. Under the new agreement, the use of the Fairgrounds will no longer be “for promotion of any educational, charitable, informational, cultural, entertainment, or amusement purpose.” Rather, the new Agreement allows for use that furthers the County Fair or the Master Plan.<sup>8</sup>

---

<sup>7</sup> Memorandum dated December 17, 2019, from Bruce Knopf et al. to the Board of Supervisors, p.1184, accessed November 20, 2020, <http://sccgov.iqm2.com/Citizens/FileOpen.aspx?Type=1&ID=11144&Inline=True> .

<sup>8</sup> Memorandum, p.1183.

### III. Improving San José Police Department's 9-1-1 and 3-1-1 Call Answering Time (2018-2019)<sup>9</sup>

Released June 18, 2019

#### Scope

The 2018-2019 Santa Clara County Civil Grand Jury investigated the operations of the San José Police Department (SJPD) Dispatch Center. At the same time, the City of San José Auditor also conducted an audit of the SJPD Dispatch Center that was published in February 2019. Both investigations came to remarkably similar findings and recommendations which are detailed in this Continuity Report.

#### Key Findings

1. SJPD Communications is chronically understaffed due to ineffective recruiting practices, lengthy hiring timelines, staffing vacancies, and salaries that are lower than other local Public Safety Answering Points (PSAP).
2. Utilizing chronically understaffed highly trained emergency personnel to answer non-emergency and Telephone Reporting Automation Center (TRAC) calls is inefficient.
3. SJPD Communications personnel are civilian employees and often perceive their positions as less valued than sworn positions within the Department, thus adversely affecting their morale.
4. Most other PSAP in Santa Clara County use the South Bay Regional Public Safety Consortium for initial training. SJPD Communications conducts all its training in-house to the exclusion of other available training resources, adversely impacting its ability to timely fill positions.

#### Key Recommendations

1. To improve recruiting practices, the City recruiting staff should examine the delays associated with the current hiring process and develop a plan that reduces the time to fill SJPD Communications positions. The plan should review the salaries of local PSAP for competitiveness. It should look at creative solutions such as: recognizing external Peace Officer Standards and Training (POST) certified training programs to increase the recruiting pools; hiring part-time and per diem employees; and over hiring to address high attrition rates. The CGJ indicated the written plan should be completed by January 2020.

---

<sup>9</sup> [https://www.scscourt.org/court\\_divisions/civil/cgj/2019/CGJ%20SJPD%20Final%20Report%20-%2006.18.19.pdf](https://www.scscourt.org/court_divisions/civil/cgj/2019/CGJ%20SJPD%20Final%20Report%20-%2006.18.19.pdf).

2. While maintaining the current authorized headcount, the City should remove non-emergency call-taking and TRAC responsibilities from SJPD Communications by December 2020.
3. The City should conduct an employee survey of SJPD Communications staff with a commitment to discuss the results with employees. Additionally, the City should develop a plan to address issues that create poor morale.
4. The City should develop alternative training strategies by January 2020, that in addition to the in-house SJPD training, include use of other training resources.

### Response

The SJPD partially agreed with the first Civil Grand Jury finding, except for lateral transfer or external hiring of POST certified candidates without the requisite SJPD internal training. In their response to the Civil Grand Jury, SJPD asserted this training is necessary to work in the SJPD Communications center. The SJPD had started work on a new recruitment plan before the Civil Grand Jury report was published, and this plan has been implemented. The plan includes many of the Civil Grand Jury's recommendations, such as:

- a streamlined recruiting process
- competitive salaries
- a bonus and benefit plan
- 'hire ahead' to backfill attrition
- the use of qualified part-time employees
- improved media campaign to communicate the recruitment effort

The new plan is already showing benefits. In the current recruitment cycle, it yielded the largest group of qualified candidates to date. The SJPD plans to have a consultant study and review the recruiting and training programs and look for operational efficiencies to further improve the hiring and retention of qualified communication specialists. The goal is to complete the study by January 2021.

The SJPD agreed with the second finding of the report and worked with a consultant to move non-emergency 3-1-1 calls to the City Customer Contact Center by January 2020. As of February 2020, the City has moved non-emergency 3-1-1 calls to the City Customer Contact Center. Moving of TRAC requires further analysis by SJPD, since this involves discussions with several impacted labor unions. The SJPD is unable to provide a timeline for resolution of this issue.

The SJPD also agreed with the third finding. SJPD will be updating department photos to include Dispatchers and Communications Specialists, thus highlighting the role of civilians in law enforcement. Since 2014, the City has partnered with Gallup to administer a citywide Employee Engagement Survey. The latest survey was released in April 2019, and the SJPD was to receive the results of the survey in September 2019. SJPD managers will develop an action plan, which

will involve sharing the survey results with the Communications staff and working with them to improve engagement and morale.

The SJPD disagrees with the fourth finding. SJPD believes external generic training, as provided by South Bay Regional Public Safety Consortium, is not sufficient. Furthermore, they believe internal SJPD specific training is necessary to work in their Communications center. The SJPD is committed to exploring other options.

## IV. City of Santa Clara: Public Records Access (2018-2019)<sup>10</sup>

Released June 18, 2019

### Scope

Having been stymied on a number of occasions in its attempts to obtain public records from the City of Santa Clara, the 2018–2019 Civil Grand Jury recalibrated its original investigation to ascertain the inordinate delays in obtaining public records that should be regularly available to the general public within the standard 10-day request period.

### Key Findings

- The City does not respond to California Public Records Act (CPRA) requests properly and within the specified time frames.
- The City lacks a written CPRA policy to mentor its staff in complying with California law regarding the public's access to its records.
- The City is bereft of a functional records management system allowing timely access to its public records along with a sufficient number of trained staff to meet the demand.

### Key Recommendations

- In addition to the City's Public Records Manager, all staff completing requests for public records should be formally trained so that a 10-day response period becomes the norm.
- Although the State of California provides general guidelines for government agencies to follow when fulfilling a demand for copies of its public records, the City should design and implement its own specific procedures for complying with CPRA requests.
- The City must fully utilize the capacity of a functional records management system to serve better the needs of the public.

### Response

In its legally mandated response, the City of Santa Clara (SC) disagreed in whole with each Civil Grand Jury finding. SC responded that it had implemented or would implement each recommendation.

---

<sup>10</sup>[https://www.scscourt.org/court\\_divisions/civil/cgj/2019/CGJ%20City%20of%20Santa%20Clara%20Final%20Report%20-%2006.18.19.pdf](https://www.scscourt.org/court_divisions/civil/cgj/2019/CGJ%20City%20of%20Santa%20Clara%20Final%20Report%20-%2006.18.19.pdf).

## **Follow-up**

The 2019–2020 Civil Grand Jury asked the City to provide written verification as to its current status in reaching full implementation of a functional record management system and requisite staff training in its use and operation.

The training of management and ‘front-line staff’ in the use of NextRequest, a public record request management system, has been completed.

The City is in the process, however, of implementing Laserfiche, which is a full records management system that is far more complex and sophisticated than NextRequest. The launch date for Laserfiche has not been set, but the City projects it to be in the near future. Once Laserfiche has been fully implemented, the Civil Grand Jury anticipates and expects that the City’s record management and staff will have been fully trained and versed in its use and operations.

## V. Inquiry into The Governance of the Valley Transportation Authority (2018-2019)<sup>11</sup>

Released June 18, 2019

### Scope

The 2018-2019 Civil Grand Jury investigated the composition, qualifications, and structure of Santa Clara Valley Transportation Authority (VTA) Board of Directors and the related work of earlier grand juries.

### Key Findings

- The VTA Board has consistently failed to adequately monitor VTA's financial performance, which has continued to deteriorate over the long term. Key reasons are lack of experience, continuity, engagement, and leadership of Board members. Domination of Board by representatives from the County of Santa Clara and City of San José results in service level favoring San José.
- The Board has been unwilling to review or reconsider decisions made years ago regarding large capital projects, such as the light rail extension to Eastridge, that are no longer financially viable or technologically sound.

### Key Recommendations

- VTA should commission a study on governance structures of successful large city transportation agencies, focusing on such elements as: board size, term of service, method of service, and director qualifications.
- Each of the cities in the County should prepare and deliver to VTA and the County Board of Supervisors a written report setting forth its views regarding VTA governance, with specific reference to the elements listed in the recommendation.
- VTA should undertake a thorough review of the light rail system, and its future role as a mode of transportation in Silicon Valley, before proceeding with the Eastridge extension project.

---

<sup>11</sup> [https://www.sccourt.org/court\\_divisions/civil/cgj/2019/CGJ%20VTA%20Final%20Report%20-%2006.18.19.pdf](https://www.sccourt.org/court_divisions/civil/cgj/2019/CGJ%20VTA%20Final%20Report%20-%2006.18.19.pdf).

## Response

Most respondents supported the general direction of the report's findings and recommendations. The cities of Campbell, Monte Sereno and Los Gatos partially agreed with the findings. They believed some of the Directors on the VTA Board were technically qualified and had the required experience. The cities felt some of the directors came prepared to the meetings and spent adequate time and effort. These cities, plus Palo Alto, would like the VTA study on governance to analyze a successful transportation agency serving a major metropolitan city, such as Portland, Oregon.

Palo Alto does not want the Chairperson's term to be increased to two years, since this would lead to greater dominance by the City of San José and County of Santa Clara.

Several of the cities said they did not have the resources to do an independent analysis and generate a report. They would prefer an agency, such as the Cities Association of Santa Clara County, to drive the analysis and deliver a report funded by VTA.

Sunnyvale and San José disagreed with the findings. San José defended their dominant position both within the VTA Board and its greater share of transit routes. In the City of San José's legally required response to the Civil Grand Jury's final report, the City postulated that since the City has 53% of the county residents and the majority of transit users, it should maintain a larger number of representatives on the VTA Board.

The Santa Clara County Board of Supervisors partially disagreed with the findings. They felt the County would not benefit in supporting governance structures other than what the state legislature has put in place, so there should be no changes to the VTA Board governance structure. The County Board of Supervisors also said that the Public Utilities Commission dictates that the appointments to the VTA Board should be of individuals with expertise, experience, and knowledge in transportation issues. They felt that the other areas of concern in the report can be addressed by VTA.

The VTA Board convened an [Ad Hoc Board Enhancement Committee](#) (BEC) in May 2019, prior to the publication of *Inquiry into the Governance of the Valley Transportation Authority*. The process is now shaping the proposals that may ultimately alter the VTA Board.

## Media and Public Reaction

This 2018-2019 Civil Grand Jury report received a lot of interest and coverage on local media. Some comments are listed below:



**Mercury News:** *A scathing [civil grand jury report](#) released earlier this week blasted a Silicon Valley bus and light-rail operator as one of “the most expensive and least efficient transit systems in the country.”*<sup>12</sup>

**SJ Spotlight:** *Political power struggle is the “elephant in the room” at VTA board meeting.*<sup>13</sup>

### Public comments:

*The grand jury is onto something when it writes, “Despite the serious ongoing structural financial deficit, the VTA Board has been unwilling to review and reconsider decisions made years or even decades ago regarding large capital projects (and their attendant operating costs) that are no longer technologically sound or financially viable, based on their costs and projected ridership.”*<sup>14</sup>

*Now [VTA Board Chairman Teresa O’Neil] has the impossible task to fix VTA. A 10% improvement isn’t going to do it. VTA needs a total revamp and I don’t believe the board is capable enough to do the difficult job. The valley needs a new more modern approach to transportation.*<sup>15</sup>

*If they were more efficient in the way they operated, then probably more people would use it.*<sup>16</sup>

*The VTA light rail is not being used because it is too slow for most routes.*<sup>17</sup>

---

<sup>12</sup> “Scathing grand jury report blasts VTS management,” *San José Mercury News*, June 21, 2019, accessed November 25, 2020, <https://www.mercurynews.com/2019/06/21/scathing-grand-jury-report-blasts-vta-as-most-expensive-and-least-efficient-transit-system-in-country/>.

<sup>13</sup> Hutton, Adam F., “Political power struggle is the ‘elephant in the rom’ at VTA board meeting,” *San José Spotlight*, January 25, 2020, accessed November 25, 2020, <https://sanjosespotlight.com/political-power-struggle-is-the-elephant-in-the-room-at-vta-board-meeting/>.

<sup>14</sup> Comment following “Grand jury report blasts VTA for inefficiencies, poor oversight,” *Palo Alto Online*, July 4, 2019, accessed November 30, 2020, <https://www.paloaltoonline.com/news/2019/07/04/grand-jury-report-blasts-vta-for-inefficiencies-poor-oversight>.

<sup>15</sup> Comment following “VTA responds to the Grand Jury: Thanks but No Thanks,” *Santa Clara News Online*, October 2, 2019, accessed November 30, 2020, <https://santaclaranews.org/2019/10/02/vta-responds-to-grand-jury-thanks-but-no-thanks/>.

<sup>16</sup> “VTA Slammed in Santa Clara County Civil Grand Jury Report,” *NBC Bary Area*, June 21, 2019, accessed November 30, 2020, <https://www.nbcbayarea.com/news/local/vta-slammed-in-santa-clara-county-civil-grand-jury-report/173364/>.

<sup>17</sup> Comment following “Grand jury report blasts VTA for inefficiencies, poor oversight,” *Mountain View Voice*, July 2, 2019, accessed November 30, 2020, <https://mv-voice.com/news/2019/07/02/grand-jury-report-blasts-vta-for-inefficiencies-poor-oversight>.

*It is an expensive failure.*<sup>18</sup>

## **Follow-up**

The 2018-2019 Civil Grand Jury report and recommendations drove the VTA's BEC to look at a broad range of governance practices, and to help identify how to improve board engagement and effectiveness. The committee commissioned an independent review to objectively evaluate how the VTA's current governance structure and practices help support the organization's mission, goals, and objectives.

This effort, called the VTA Governance Assessment, was performed by RSM, a consulting firm. RSM completed their study and made 27 recommendations and sub-recommendations to improve the Board governance structure and practices. The recommendations cover the following areas: strategies/innovation, board capabilities and structure, accountability, engagement, policies and procedures, and performance monitoring.

The BEC reviewed the recommendations and sub-recommendations. It agreed in concept with some of them but felt further analysis of implementation was needed. The BEC did not agree with some sub-recommendations and added four new recommendations to the list.

The updated list of recommendations was reviewed by the VTA's Board in January 2020. The Board members also added a few more recommendations to the list. This resulted in a total of 85 individual recommendations, grouped into nine categories.

The VTA Governance & Audit Committee has identified four VTA standing committees to perform a detailed evaluation of each recommendation, and to determine which changes to recommend to the VTA Board for approval. The plan is to complete the evaluation of all recommendations, except the strategic plans, before the end of 2020.

No review is planned for the light rail system since the VTA disagrees with this finding. VTA is moving ahead with the Eastridge extension, as approved by the voters.

## **Conclusions**

The 2018-2019 Civil Grand Jury report on VTA governance identified key issues with the leadership, composition, and effectiveness of the VTA Board. The VTA and most of the cities in Santa Clara County agree with these findings. The key issues identified with board governance have been validated by the independent study done by RSM.

---

<sup>18</sup> Ibid.

The study and recommendations leverage the work done by the 2018-2019 Civil Grand Jury. The VTA should be commended for recognizing the governance issues and commissioning an independent study.

VTA's four standing committees are in the process of doing a detailed evaluation of the recommendations. The goal is to complete the evaluation and recommend changes for approval to the VTA Board before the end of 2020.

VTA disagreed with the Civil Grand Jury's finding regarding the light rail system and are proceeding with the Eastridge extension.

## VI. Show Me the Money! Where Your Property Taxes Go (2018-2019)<sup>19</sup>

Released April 9, 2019

### Scope

The 2018-2019 Civil Grand Jury examined the information provided on the County of Santa Clara property tax bills to determine if there is an adequate explanation for the distribution of the one-percent tax levy for each property.

The Civil Grand Jury concluded that the Santa Clara County Department of Tax and Collections provided easily accessible information but offered a recommendation to make the links easier to find.

### Key Findings

- Santa Clara County and the Department of Tax and Collections are commended for revising the format of the 2018-2019 tax bill. The tax bill contains links to a web site that provides details about how the tax levy is distributed. (No recommendation)
- Although the tax bill now provides links to find the distribution of the one-percent tax, the page links are not obvious.

### Key Recommendations

- Santa Clara County could clarify how to locate the one-percent tax distribution data by inserting an explanation with the tax bill.

### Response

The Santa Clara County Department of Tax and Collections agreed with both Findings and the Recommendation for Finding 2. The Department redesigned the “Details of Taxes” section and included a legend in each property tax bill.

---

<sup>19</sup> [https://www.scsccourt.org/court\\_divisions/civil/cgj/2019/Show%20Me%20The%20Money%20-%20Where%20Your%20Property%20Taxes%20Go.pdf](https://www.scsccourt.org/court_divisions/civil/cgj/2019/Show%20Me%20The%20Money%20-%20Where%20Your%20Property%20Taxes%20Go.pdf).

## **Follow-up**

No follow-up is needed because the Santa Clara County Department of Tax and Collections has implemented the recommendation.

## VII. Justice Still Delayed (2017-2018)<sup>20</sup>

Released June 21, 2018

### Scope

The 2017-2018 Civil Grand Jury completed an analysis of aggregate data on resolution time of felony cases in the County of Santa Clara that showed uneven results and persistent disparities in benchmarking since the 2016-2017 Civil Grand Jury Report *Justice Delayed*.<sup>21</sup>

### Key Findings

- The Santa Clara County District Attorney's Office (DAO) and Santa Clara County Superior Court (Court) rely on data that is inconsistent with each other and with the Judicial Council of California.
- Public evaluation of the performance of the DAO and the Santa Clara County Public Defender Office (PDO) is difficult due to a lack of transparency in the operations of their respective staff and a scarcity of relevant data.
- The DAO and the PDO utilize a data management system that differs from the Court system.
- Pleas not entered at the first arraignment hearing slow the time for felony-case resolution.

### Key Recommendations

- The DAO should explain how its data may be reconciled with the Court's statistics.
- The DAO and PDO should publicly report on staff training and accountability.
- The DAO and the PDO should track cases, publish data, and provide estimates based upon mutually agreed terms, parameters, and definitions.
- Annual public reporting of the average time from filing of charges to the entry of pleas in felony cases should commence in 2019.

---

<sup>20</sup> [https://www.sccourt.org/court\\_divisions/civil/cgj/2018/Continuity%20Report%20FINAL.pdf](https://www.sccourt.org/court_divisions/civil/cgj/2018/Continuity%20Report%20FINAL.pdf).

<sup>21</sup> [https://www.sccourt.org/court\\_divisions/civil/cgj/2017/Why\\_Does\\_It\\_Take\\_So\\_Long.pdf](https://www.sccourt.org/court_divisions/civil/cgj/2017/Why_Does_It_Take_So_Long.pdf).

## Summary of Required Responses

The PDO faulted the 2017-2018 Civil Grand Jury for relying on incomplete, inaccurate, and insufficient data on which to base many of its findings in this report, similar to errors made in the preceding *Justice Delayed* report. *Justice Still Delayed* failed to properly weigh defense counsel’s “ethical obligations to provide effective assistance of counsel pursuant to the U.S. Constitution, case law, and the [American Bar Association] guidelines and that adherence to those ethical obligations is paramount.”<sup>22</sup> Zealous and constitutionally sound representation “means that the best negotiated disposition that can be attained must be sought, and/or a jury trial prepared and presented.”<sup>23</sup>

Being aware that its vigorous representation should be carried out efficiently and effectively, the PDO implemented a new case management system that will help produce case-tracking data. The PDO agreed to work with the DAO to standardize benchmarks in published statistics.

The PDO asserted that not entering pleas at first arraignments does not contribute to delay and instead provides time for legal procedures such as discovery, investigation, records retrieval, and conferencing with clients.

The County agreed with most findings and recommendations, and recommended referrals to the County Public Safety and Justice Committee for further discussion. It disagreed with the finding that pleas made after the first arraignment slowed felony case disposition.

The DAO stated that the preceding *Justice Delayed* report led to paying greater attention to felony in-custody cases that have aged significantly, and “spurred greater cooperation between the Court, Defense Bar, [DAO] and County Executive in alleviating this backlog.”<sup>24</sup>

## Follow-up

The DAO provided the 2019-2020 Civil Grand Jury with an update concerning its efforts in felony case resolution since the 2017 report. Data collection and internal use of that data seems to be a high priority. Resources have been committed to the County’s pre-trial arraignment services to

---

<sup>22</sup> “Santa Clara County Board of Supervisors (re: Justice Still Delayed)”, p.2, accessed April 24, 2020, [https://www.scsccourt.org/court\\_divisions/civil/cgj/2018/Responses/Santa%20Clara%20County%20Board%20of%20Supervisors%20Justice%20Still%20Delayed.pdf](https://www.scsccourt.org/court_divisions/civil/cgj/2018/Responses/Santa%20Clara%20County%20Board%20of%20Supervisors%20Justice%20Still%20Delayed.pdf).

<sup>23</sup> Ibid.

<sup>24</sup> Response from the Office of the District Attorney, p. 2, accessed April 24, 2020, [https://www.scsccourt.org/court\\_divisions/civil/cgj/2018/Responses/District%20Attorney's%20Office%2008.15.18.pdf](https://www.scsccourt.org/court_divisions/civil/cgj/2018/Responses/District%20Attorney's%20Office%2008.15.18.pdf).

quickly evaluate every in-custody detention. The intervention process includes utilizing a risk analysis tool that must be locally validated based on the County's population characteristics.

The DAO update further revealed that improving pre-trial arraignment operations may have the effect of delaying defense pleas. Defendants who are not in-custody have less incentive to accept plea bargains and more opportunity to make all pre-trial defense motions legally available to them. The Independent Defense Counsel Office (IDO) manages a panel of criminal defense attorneys that can be provided to indigent defendants in complex cases involving multiple defendants who are already represented by the PDO and the Alternate Defender's Office. The DAO presented data showing that IDO has decreased its share of aging cases (defined as more than three years). The aging IDO cases were predominately at the pre-trial phase in 2016 (75%) but are now less than half (47%). Factors that contribute to delay of these cases during the pre-trial phase include appellate court review, attorney availability, late referrals to IDO, and new charges. Pending cases at the sentencing phase age due to many factors, including defendants who cooperate in other proceedings.

### **Conclusion**

Currently, County criminal justice agencies have prioritized aspects of their operations that do not necessarily lead to faster felony case resolution yet may produce meaningful and more humane outcomes throughout the system. The intense focus in the County on pre-trial interventions is partly due to a recognition that detention has a massive destabilizing effect within the first 48 hours due to the possible loss of the defendant's job and the subsequent impact on the family. The County's Public Safety and Justice Committee has highlighted areas for additional study:

- Explore the connection between mental health and criminal justice.
- Survey best practices and develop training to support staff that serve [the] inmate population with serious mental illness, including a review of options for services to address staff mental and emotional wellbeing.
- Consider ways to use current facilities more efficiently; for example, using empty juvenile hall pods for behavioral health services.
- Explore diversionary practices that provide structured, clinical interventions at every phase of justice involvement to address offender drug use and related criminal behavior.
- Strengthen partnerships with providers in workforce development as prevention against recidivism.



## CONTINUITY REPORT

- Explore the crossroads between public health and public safety, particularly around gun violence prevention.
- Divert whenever possible women with young children (including the prevention of the removal of children from a mother's custody.) Emphasize the reduction of cycles of trauma.
- Explore additional support services for women and their families after release from jail.<sup>25</sup>

Sudden and unanticipated public health efforts to stop the spread of COVID-19 have impacted the County's entire criminal justice system, including court proceedings and detention facilities.

---

<sup>25</sup> County of Santa Clara Public Safety and Justice Committee Regular Meeting, March 7, 2019, Agenda Item #8, accessed April 24, 2020, <http://sccgov.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=11433&Format=Minutes>.

## VIII. County Still Not Appraising Employees (2017-2018)<sup>26</sup>

Released June 21, 2018

### Scope of Report

A year after the 2016-2017 Civil Grand Jury's report on annual job reviews, *To Have or Have Not: Performance Appraisals for Santa Clara County Employees*,<sup>27</sup> the 2017-18 Civil Grand Jury assessed the progress the County of Santa Clara (County) had made in implementing the recommendations from that report.

### Key Finding

- By neither budgeting for the software necessary to track annual employee performance appraisals nor finding other means to track all employee appraisals, the County has not made annual performance appraisals a high priority.

### Key Recommendation

- The County should budget for annual performance appraisal software for the fiscal year that begins July 1, 2019.

### Required Response

The County stated that \$666,600 was appropriated for an upgrade to the Human Resources Information System (HRIS), which would enable performance appraisal tracking.<sup>28</sup>

### Follow-up

While the proposal for the HRIS upgrade project included tracking functionality, the upgrade was completed with no tracking capability.

No funding has been approved for a future appraisal tracking project. The County Employee Services Agency (ESA) had looked for opportunities to fund the tracking project from within

---

<sup>26</sup> [https://www.scsccourt.org/court\\_divisions/civil/cgj/2018/Continuity%20Report%20FINAL.pdf](https://www.scsccourt.org/court_divisions/civil/cgj/2018/Continuity%20Report%20FINAL.pdf).

<sup>27</sup> [https://www.scsccourt.org/court\\_divisions/civil/cgj/2017/Performance\\_Appraisals.pdf](https://www.scsccourt.org/court_divisions/civil/cgj/2017/Performance_Appraisals.pdf).

<sup>28</sup> The HRIS upgrade project was contracted to Cherry Road at an actual cost of \$671,069.

## CONTINUITY REPORT

existing ESA operating budget. Appraisal tracking would be one of several information technologies (IT) projects that ESA prioritized to replace the manual processes currently in place.<sup>29</sup>

The major constraint to completing these priority projects, including the appraisal tracking, has been an absence of a dedicated IT staff.<sup>30</sup> The County's Technology Services and Solutions (TSS) stated that the tracking system to "address the Grand Jury recommendation report from June 2017 [is an] approved project yet to start. No TSS resources available."<sup>31</sup>

The County advised the 2019-20 Civil Grand Jury that, based on current budgetary resources, funding for the appraisal tracking project within the ESA operating budget and meeting a target completion date of April 2021 are difficult to achieve.

---

<sup>29</sup> Memo from John P. Mills to BOS, December 17, 2019, pp.3-4, accessed July 23, 2020, <https://services.sccgov.org/OffAgenda/Home/ViewFile/316>.

<sup>30</sup> Ibid., p. 1; also see "improved systems and technological support is needed to propel ESA forward," from November 5, 2019 BOS agenda item #24, *ESA CLT Overview*," accessed July 24, 2020, <http://sccgov.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=11143&Format=Minutes>.

<sup>31</sup> *Fiscal Year 2020-2022 Technology Services and Solutions Strategic Plan*, p.38, accessed July 23, 2020, <https://www.sccgov.org/sites/tss/Documents/TSS-Strategic-Plan-FY20-FY22.pdf>.

## IX. Affordable Housing Crisis: Density Is Our Destiny (2017-2018)<sup>32</sup>

Released June 21, 2018

### Scope

The 2017-2018 Civil Grand Jury assessed numerous strategies for adding affordable housing to match the demand from households with income designated as Extremely Low Income, Very Low Income, Low Income, and Moderate in all fifteen cities and towns, including unincorporated areas of Santa Clara County (County).

### Key Findings

- Density bonus programs are not being used aggressively enough to produce needed Below Market Rate (BMR) units around employment centers and transit hubs.
- Employer contributions to BMR housing are not mandated nor evenly shared.
- Forming Regional Housing Needs Allocation (RHNA) sub-regions in which multiple cities and the County cooperatively plan and allocate housing that collectively satisfies their BMR requirements is a promising strategy, especially for adjacent cities with disparate real estate values.
- Commercial linkage fees—impact fees on new commercial and/or non-residential developments (including offices, hotels, retail stores, and industrial space) that generate additional demand for affordable housing—can be an important revenue source to fund BMR housing.
- Inclusionary ordinances and in-lieu fees have generated too few BMR units.
- Not in My Back Yard (NIMBY) opposition adversely affects the supply of BMR housing units.
- Confirming the number of constructed BMR units is unnecessarily difficult.
- Accessory dwelling units (ADUs) offer a prime opportunity for cities with low housing density and limited developable land to produce more BMR units.
- For cities with limited commercial development or developable land, less funding for BMR housing has restricted BMR achievement.
- The Joint Development Program of the VTA is a valuable model for creating transit oriented high-density BMR housing on public lands.

---

<sup>32</sup> [https://www.sccourt.org/court\\_divisions/civil/cgj/2018/BMRH%20Rpt%202018-06-19%20REVISED%20FINAL.pdf](https://www.sccourt.org/court_divisions/civil/cgj/2018/BMRH%20Rpt%202018-06-19%20REVISED%20FINAL.pdf).

## Key Recommendations

- Cities should identify parcels where housing densities may be increased, particularly within one-half mile of transit hubs.
- To incentivize building affordable units on these identified parcels, cities should increase density bonuses offered by their local ordinances.
- Cities should enact employer housing impact fees to help finance BMR housing.
- Every city should participate in at least one RHNA sub-region to meet state housing goals.
- An anti-NIMBY task force to communicate the value and importance of each city meeting its RHNA objectives for BMR housing should be created and funded by the County and all fifteen cities.
- All fifteen cities and the County should annually publish the number of constructed BMR units, starting in April 2019.
- BMR inclusionary percentage requirements and in-lieu options should be revised to increase BMR production.
- ADU creation should be encouraged through decreased minimum lot size requirements, increased square footage maximums, and deed restrictions.
- Parcel taxes to fund BMR developments should be brought as ballot measures in cities with limited commercial development and developable land.
- Through a new agency modeled after the VTA's Joint Development Program, the County should seek development of public parcels suitable for BMR housing.

## Response

Generally, the recommendations that focused on denser building around transit hubs have been implemented. Sunnyvale's response highlighted the efforts it has taken to identify housing opportunities in areas that formerly served non-residential functions (industrial and federal defense) and thus require additional work before they are fully compatible with future housing.

Respondents positively viewed the report's support for more ADUs.

Several responses to the Civil Grand Jury's recommendations concerning RHNA sub-regions sounded lukewarm to the idea. Campbell, for example, stated that it would "explore participation in the discussion of a [County] sub-region" but it disagreed with the Civil Grand Jury's findings of tangible benefits to such multi-municipality partnerships.<sup>33</sup> Monte Sereno, like several other respondents, agreed to pursue participation in a RHNA sub-region but needed to further study the necessary conditions for successful partnerships.

---

<sup>33</sup> Response from the City of Campbell, p. 4, accessed November 21, 2020, [https://www.sccourt.org/court\\_divisions/civil/cgj/2018/Responses/City%20of%20Campbell%2009.19.18.pdf](https://www.sccourt.org/court_divisions/civil/cgj/2018/Responses/City%20of%20Campbell%2009.19.18.pdf).

Requiring employers to contribute to housing based on its headcount of employees was widely rejected by responding cities. Those with a limited private sector commercial presence, such as Los Altos Hills, pointed out that such fees have little impact. San José and other cities already assess taxes on businesses calculated using the number of employees located at facilities within their boundaries. As San José noted in its response, these taxes fund essential city services: police patrols, 9-1-1 emergency response, street repair, and parks maintenance.

Cities such as Palo Alto that levy taxes on developers based on the housing impact of their commercial tenants suggested that an additional employee tax directed at those commercial tenants would essentially tax the housing needs of employees twice.

### Media and Public Reaction

Voluntary corporate contributions to solve the housing crisis have made headlines. The *New York Times* considered how efforts by Silicon Valley-based Apple, Facebook and Google to address the housing crunch must contend with the forces that created it.<sup>34</sup>

The *Palo Alto Online* wrote:

The [Civil Grand Jury] report suggests that Palo Alto is in many ways in the eye of the housing storm. Palo Alto has by far the county's highest ratio of jobs per employed residents, estimated at 3.02 (the next closest city is Santa Clara, which has a ratio of 2.08), a discrepancy that fuels the city's traffic and parking problems. To narrow the gap, the City Council has pursued two broad strategies: hit the brakes on office developments and rev up housing construction...

While the report is chart-filled and data-heavy, it is also – as the name implies – very much an advocacy document for density.<sup>35</sup>

Posted by MyOpinion, a resident of Sylvan Park:

Density does not = affordability. ALL of the new high-density apartment complexes in Mountain View are luxury rentals 3-6K+ per month, which are excluded from rent control under current Law (Costa Hawkins) ... All of these projects are essentially transient

---

<sup>34</sup> “Why \$4.5 Billion From Big Tech Won’t End California Housing Crisis,” *New York Times*, November 6, 2019, accessed November 21, 2020, <https://www.nytimes.com/2019/11/06/business/economy/california-housing-apple.html>.

<sup>35</sup> “Grand jury calls for denser housing,” *Palo Alto Online*, July 6, 2018, accessed November 21, 2020, <https://www.paloaltoonline.com/news/2018/07/06/grand-jury-calls-for-denser-housing>.

housing for affluent tech workers passing through, when they want to settle down, they will move to a real community. Mountain View is becoming like Zhengzhou known as “iPhone City.” This is Mountain View's future.<sup>36</sup>

Posted by Single Family Homes are Dead, a resident of Old Mountain View:

Single Family Housing is a weird, antiquated concept that doesn't fit into a modern environment. It values the selfishness of needing a lawn, at the expense of pushing out so many other families who would \*happily\* raise their children in a high-density housing environment.

Let's be honest with ourselves: cities everywhere have people living happy, productive lives in high-density housing. It's time for the Bay Area to get with modern times and give up the weird sterility of 1950's suburban values.<sup>37</sup>

Kate posted a comment in a *New York Times* op-ed:

We also live in Santa Clara [C]ounty. A 1,000 square foot house easily sells for \$1.2m. Rent on a 2BR apartment starts at \$3500. The traffic is appalling. The entire area is blighted by hideous strip malls and crumbling roads. My spouse and I both work for large tech companies who do nothing to help their wider communities. I volunteer at my church's homeless shelter, and we give as generously as the cost of living here allows. Despite my votes, ultimately, I don't see any hope of improvement due to the prevalent NIMBYism that the author describes.<sup>38</sup>

### Follow-up

The California Legislature provided a big boost to ADU creation with Assembly Bill 68 (AB 68), making major changes to facilitate the development of more ADUs and address barriers to building. AB 68 expands the categories of ADUs that cities must approve to include an 800 square foot detached ADU. The bill also requires cities to allow junior ADUs, which in some instances can be developed in addition to a conventional ADU. “We need to build more damn housing,” Governor Gavin Newsom said at a press conference after formally signing AB 68 into law.

New RHNA subregions in the County are a possibility as the Cities Association of Santa Clara County (CASCC) in 2019 approved its RHNA task force's recommendations and prepared

---

<sup>36</sup> “Grand Jury Calls for Denser Housing,” *Mountain View Voice*, July 10, 2018.

<sup>37</sup> Ibid.

<sup>38</sup> “America's Cities are Unlivable. Blame Wealthy Liberals,” *New York Times*, May 22, 2019.

formation documents. CASCC cited three factors for moving forward on RHNA subregions: the *Affordable Housing Crisis: Density is Destiny* report, a favorable political climate, and the CASCC's investment in work on subregions since the prior RHNA cycle.<sup>39</sup>

CASCC has developed potential allocation factors to guide housing development planning in the subregions.<sup>40</sup> Some factors include issues highlighted in *Density is Destiny*: easy access to transit (a 35-minute auto commute or a 45-minute transit commute to region's job centers); existing and planned transit infrastructure; and a high job-to-housing ratio.

Other potential housing factors that CASCC found include:

- more housing in areas with low natural hazard risks
- high resource opportunity index scores<sup>41</sup>
- more segregation based on divergence index score (calculation of how different a jurisdiction's demographics are from the region)
- a high number of low wage jobs in relation to the number of low-cost rentals
- projected jobs per Plan Bay Area 2050<sup>42</sup>

In 2018, voters in Mountain View, which already had enacted housing impact fees ("head tax") that employers pay, approved Measure P. This measure modified the head tax to raise millions of dollars more from the largest employers. Starting in 2020, this new tax revenue will be allocated mostly to transportation; ten percent is earmarked for affordable housing.

---

<sup>39</sup> Cities Association of Santa Clara County, "RHNA Subregion Formation Update: October 10, 2019," accessed July 24, 2020, <https://citiesassociation.org/documents/rhna-subregion-formation-update-october-10-2019/>.

<sup>40</sup> "RHNA Potential Factors Cheat Sheet," April 9, 2020, accessed November 25, 2020, <https://citiesassociation.org/documents/rhna-potential-factors-cheat-sheet/>.

<sup>41</sup> "What is the Opportunity Index?," accessed November 25, 2020, <https://opportunityindex.org/about/>.

<sup>42</sup> Plan Bay Area 2050 is a roadmap for the Bay Area economy, environment, housing and transportation that will identify a path to make the Bay Area more equitable for all residents and more resilient in the face of unexpected challenges. Building on the work of [the Horizon initiative](#), this new regional plan will outline strategies for growth and investment through the year 2050, while simultaneously striving to meet and exceed federal and state requirements. The Metropolitan Transportation Commission and the Association of Bay Area Governments are expected to adopt Plan Bay Area 2050 in summer 2021.



### **X. Alum Rock School District Board: Time To Put the ‘Trust’ Back in Trustee (2017-2018)<sup>43</sup>**

**Released June 21, 2018**

#### **Scope**

Reviewing specific contract decisions and meeting procedures of the Alum Rock Union Elementary School District Board of Trustees (School Board), the 2017-2018 Civil Grand Jury analyzed the actions of the Board for compliance with applicable laws, regulations, and best practices.

#### **Key Findings**

- The School Board voted to expend public funds for construction contracts in violation of statutory proscriptions and non-statutory guidelines.
- Trustees failed to follow state meetings laws and School Board bylaws.

#### **Key Recommendations**

- The School Board should immediately implement reforms impacting future contracts and act to remediate past contracting violations.
- The School Board and senior administrators should participate in Brown Act training.

#### **Response**

Trustees disagreed with many findings and recommendations, and they accused the Civil Grand Jury of misconduct. However, the School Board committed to complying with requirements of the Brown Act and its own bylaws.

#### **Public Reaction**

Blanca Alvarado, a prominent former Santa Clara County Supervisor and San José City Councilmember, called for accountability of trustees who had misused the power of their positions.<sup>44</sup>

---

<sup>43</sup> [https://www.sccourt.org/court\\_divisions/civil/cgj/2018/Alum%20Rock%20FINAL%20REPORT.pdf](https://www.sccourt.org/court_divisions/civil/cgj/2018/Alum%20Rock%20FINAL%20REPORT.pdf).

<sup>44</sup> Letter, “3 Alum Rock trustees must be replaced, willingly or not,” *Mercury News*, May 31, 2018.

## CONTINUITY REPORT

In the November 2018 election, School District voters elevated two candidates who were new to the School Board.

State oversight of the District's financial condition and the School Board's operations dates back prior to the Grand Jury report and continues to present time.

### **Follow-up**

In response to a request from the 2019-2020 Civil Grand Jury, the current School Board documented its Brown Act and bylaws training. Also, the School Board approved a Code of Conduct for trustees.

## XI. Police and the Mentally Ill: Improving Outcomes (2017-2018)<sup>45</sup>

Released May 9, 2018

### Scope

The 2017-2018 Civil Grand Jury wanted to ascertain the professional preparation of law enforcement officers in crisis intervention and de-escalation techniques, especially as they pertain to the mentally ill. The goal was to discover tactics that may be employed before the use of force.

### Key Findings

- Annually, law enforcement agencies are required to collect and report all incidents where the use of force resulted in serious bodily injury, the discharge of a weapon, or death. However, the report (called AB-71) does not also mandate identification of whether the individual was mentally ill.
- Crisis Intervention Training (CIT) and De-Escalation Techniques (DET) enhance law enforcement's dealings with the mentally ill.
- Mobile Crisis Response Teams (MCRT) are a valuable asset to law enforcement officers in the field when they encounter the mentally ill.

### Key Recommendations

- Law enforcement agencies should collect and report the presence of mental illness when completing their annual AB-71 reports.
- Law enforcement agencies should plan, fund, and train all officers in CIT and DET beyond what each officer receives in a Peace Officers Standards and Training (POST) Academy.
- The County must increase the services of the MCRT program to ensure better law enforcement interactions with people suffering mental health issues and to deliver more geographically its services across the entire county.
- The County should recruit and train additional behavioral health professionals to staff current and future MCRT units.

---

<sup>45</sup>[https://www.scsccourt.org/court\\_divisions/civil/cgj/2018/Police\\_and\\_Mentally\\_Ill\\_Improving\\_Outcomes050818.pdf](https://www.scsccourt.org/court_divisions/civil/cgj/2018/Police_and_Mentally_Ill_Improving_Outcomes050818.pdf).

### **Response**

All law enforcement agencies implemented the recommendation to collect and report the use of force resulting in serious bodily injury, discharge of a weapon, or death with the additional identification of mental illness if the person was experiencing a psychological trauma during the episode with police.

All law enforcement agencies are planning, funding, and training their officers in CIT and DET beyond what each officer received in a police academy. These POST approved courses are becoming an integral part of each officer's professional training and retention of perishable skills.

The Santa Clara County Behavioral Health Services (BHS) Department has collaborated with the County's Employee Services Agency to assist with recruiting professional health clinicians. BHS pointed out there is historically a shortage of health clinicians in the Bay Area due to the high demand for them, in addition to the challenge of living in a high-cost housing market in the Bay Area. In addition, the Mobile Crisis staff requires significant clinical experience and expertise and a willingness to work evenings, weekends, and on-call periods. The County pointed out that it funds the MCRT and that additional funding is available for the Psychiatric Emergency Response Teams through the Mental Health Services Act Innovations Program. The County is also committed to increasing its geographical service area.

### **Follow-up**

The 2019-2020 Civil Grand Jury wanted to know what headway was being made in implementing the recommendations from the 2017–2018 Civil Grand Jury Report. To that end, the 2019-2020 Civil Grand Jury asked the various agencies to report on the current status and to what degree of full compliance with the recommendations have each of them attained.

Since January 2, 2016, all law enforcement agencies must file AB-71 reports showing all incidents where serious bodily injury occurred, discharge of a weapon, or death. In formalizing its process for capturing data when force was used with mentally ill individuals, each of the departments has updated all relevant software, hardcopy forms, training materials, and policy statements. The means employed in collecting and storing the data for this subcategory range from paper to a new Record Management Systems (RMS) with a specific feature to capture the data for this subcategory.

The planning, funding, and training of law enforcement officers in CIT and DET had the intention to improve and further develop the professional strategies and techniques of each officer's perishable skills. Over the past 18 months, the law enforcement agencies attained an average of 77% compliance in CIT and DET training of officers, with plans to meet full compliance in the near future. The agencies' compliances span from a low of 49% to a high of 100%.

The County reported that 10 of the 12 clinical positions for the MCRT are now filled (83%) and management is actively seeking viable candidates to fill the two remaining vacant positions. Two manager positions in the MCRT have been filled and the BHS is cross-training clinicians in other divisions of BHS to alleviate some of the personnel demands in the MCRT.

During the calendar years 2018 and 2019, MCRT increased its service by 44% with 24 hours per day, 7 days a week response to calls. In total, 78% of these calls resulted in de-escalation and linkage to appropriate services in the community. The remaining 22% of calls involved persons who were placed on 5150 holds, and these calls were then routed to Emergency Psychiatric Services (EPS). A 5150 hold occurs when people are considered dangerous to themselves or others and may be held involuntary for 72 hours. In addition to increased service calls, the County has added a MCRT station in the Gilroy/South County area to better address the mental health needs of the entire county.

### **Conclusion**

The acceptance by law enforcement agencies and the County of the original recommendations in the 2017–2018 Civil Grand Jury Report, the spirit in which they addressed their responses to these recommendations, along with the 2019–2020 Civil Grand Jury’s request for progress reports is commendable. In particular, the progress over the past 18 months demonstrates that the law enforcement agencies and the County are committed to the professional development of police officers’ perishable skills and their desire to meet the current and future mental health concerns of the community.

## XII. Report on Detention Facilities in the Era of Reform (2017-2018)<sup>46</sup>

Released May 21, 2018

### Scope

The 2017-2018 Civil Grand Jury investigated the status of reforms to the Santa Clara County jail system following the 2015 beating death of a mentally ill inmate.

### Key Findings

Morale of the correctional deputies is low due to chronic understaffing, mandatory overtime shifts, and a new grievance system that deputies believe is open to abuse. There was a widespread perception among correctional deputies that they have diminished control over inmates.

The Santa Clara County Sheriff's Office (Sheriff's Office) has taken new steps in the past year to boost hiring in order to reduce the shortage of deputies.

### Key Recommendations

The Sheriff of Santa Clara County, Santa Clara County Board of Supervisors, and the Santa Clara County Correctional Peace Officers Association (SCCCPOA) should publish a formal plan to improve jail staff morale by June 30, 2019. Additionally, a plan should be developed to improve communications between staff and management, consider flexible work shifts, and examine the deputies' perception of diminished control over inmates.

### Response

The Sheriff's Office disagreed with the finding regarding low morale, stating that "the Sheriff's Office does not rely on anecdotal information."<sup>47</sup> Although disagreeing with the finding, the Sheriff's Office agreed with the recommendation. It was planning to hire an independent consultant to analyze staffing levels in early 2019. It was also planning to conduct employee surveys, and partner with SCCCPOA to develop a plan to address morale and staff issues.

The Sheriff's Office also disagreed with the finding that deputies felt unsafe due to diminished control over inmates. Still, the Sheriff's Office agreed that deputies need more tools to maintain a

---

<sup>46</sup> [https://www.sccourt.org/court\\_divisions/civil/cgj/2018/Detention\\_Facilities05212018.pdf](https://www.sccourt.org/court_divisions/civil/cgj/2018/Detention_Facilities05212018.pdf).

<sup>47</sup> Response from the Office of the Sheriff, p. 2, accessed August 12, 2020, [https://www.sccourt.org/court\\_divisions/civil/cgj/2018/Responses/SCC%20Office%20of%20the%20Sheriff%2010.09.18.pdf](https://www.sccourt.org/court_divisions/civil/cgj/2018/Responses/SCC%20Office%20of%20the%20Sheriff%2010.09.18.pdf).

safe custody environment for staff and inmates and was requesting tasers and improving training for high-risk transport of violent offenders.

### **Follow-up**

In January 2020, the Civil Grand Jury requested the Sheriff's Office to provide follow-up information regarding the staffing analysis from an independent consultant. The Sheriff's Office did not provide a response.

In late February 2020, the Civil Grand Jury requested information about the results of employee surveys, the plans for obtaining tasers for correctional deputies, and whether the Sheriff's Office had partnered with SCCCPOA. The Sheriff's Office did not provide a response.

Interviews with staff revealed that the Sheriff's Office administration has ongoing communication to receive feedback from deputies, and that the SCCCPOA has worked with the administration in an attempt to solve the staffing problems.

Tasers are still not available to deputies.

## APPENDIX: Summary of Responses to the 2018-2019 Reports

2018 -2019 CIVIL GRAND JURY REPORT FOLLOW-UPS:	RESPONDING AGENCY	FINDINGS		RECOMMENDATIONS			
		Agree	Disagree	Implementation Status			
				Has Been Implemented	Will Be Implemented	Requires Analysis	Will Not Be Implemented
<b>San José – Unfunded Pension Liabilities</b>	City of San José	3, 4, 6	5 (partial)		3, 5	4a	6
	Police and Fire Board of Administration		1, 2, 4		1, 2, 4b		
	Federated Board of Administration		1, 2, 4		1, 2, 4b		
<b>Santa Clara Fairgrounds: A Diamond in the Rough</b>	County of Santa Clara	1a, 1b, 2a (partial), 2b (partial), 3 (partial), 2c, 3 (partial), 4 (partial)	2a (partial), 2b (partial), 3 (partial), 4 (partial)		2, 3b, 4a	1, 3a	
	Fairgrounds Management Corporation	1b, 2c, 4 (partial), 6	2b, 3, 5, 7	5a, 5b, 6b	4b, 6a, 6c, 7		
<b>Improving San José Police Department’s 9-1-1/3-1-1 Call Answering Time</b>	City of San José	1, 3	2 (partial), 4	2a, 2b	2c, 3	1	2d, 4
<b>City of Santa Clara: Public Records Access</b>	City of Santa Clara		1, 2, 3, 4	1, 2, 3b, 4	3a		



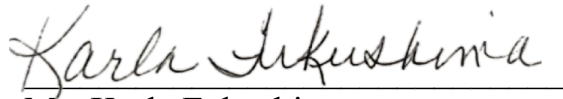
# CONTINUITY REPORT

2018 -2019 CIVIL GRAND JURY REPORT FOLLOW-UPS:	RESPONDING AGENCY	FINDINGS		RECOMMENDATIONS			
		Agree	Disagree	Implementation Status			
				Has Been Implemented	Will Be Implemented	Requires Analysis	Will Not Be Implemented
<b>Inquiry into Governance of the Valley Transportation Authority</b>	Santa Clara Valley Transportation Authority	2 (partial), 4	1 (partial), 3, 5	1a, 5a		1f, 5b	1g, 2, 3a, 3b
	County of Santa Clara		1 (partial)				1b, 1d, 1e
	City of Campbell	1 (partial)				1c, 1d, 1e	
	City of Cupertino	1				1c, 1d, 1e	
	City of Gilroy	1			1c	1d, 1e	
	City of Los Altos	1			1c	1e	1d
	City of Milpitas	1					1c, 1d, 1e
	City of Monte Sereno	1 (partial)				1c, 1d, 1e	
	City of Morgan Hill	1			1c	1d, 1e	
	City of Mountain View	1				1d, 1e	1c
	City of Palo Alto					1c, 1d, 1e	
	City of Santa Clara	1				1c, 1d, 1e	
	City of San José		1			1c, 1d, 1e	
	City of Saratoga	1					1c, 1d, 1e

# CONTINUITY REPORT

2018 -2019 CIVIL GRAND JURY REPORT FOLLOW-UPS:	RESPONDING AGENCY	FINDINGS		RECOMMENDATIONS			
		Agree	Disagree	Implementation Status			
				Has Been Implemented	Will Be Implemented	Requires Analysis	Will Not Be Implemented
	City of Sunnyvale		1 (partial)				1c, 1d, 1e
	Town of Los Altos Hills	1			1c		1d, 1e
	Town of Los Gatos	1 (partial)				1c, 1d, 1e	
<b>Show Me the Money! Where Your Property Taxes Go</b>	County of Santa Clara	2			2		

This report was **ADOPTED** by the 2019-2020 Santa Clara County Civil Grand Jury on this 10<sup>th</sup> day of December, 2020.

A handwritten signature in cursive script that reads "Karla Fukushima". The signature is written in black ink and is positioned above a horizontal line.

Ms. Karla Fukushima

Foreperson