



2021-22 SUTTER COUNTY GRAND JURY ANNUAL REPORT

REPORTS

**CONTINUITY
IMPLEMENTATION
COMPLIANCE**

**SUTTER COUNTY
CORRECTIONS AND
REHABILITATION REFORM:
GREAT PROGRESS, HEADED IN
THE RIGHT DIRECTION**

**CITY OF LIVE OAK: CRISIS OF
MUNICIPAL DISFUNCTION**

**SUTTER YUBA BEHAVIORAL
HEALTH: BEHIND THE TIMES**



SUPERIOR COURT OF CALIFORNIA
COUNTY OF SUTTER

The Honorable Sarah H. Heckman

May 23, 2022

Sutter County Superior Court
1175 Civic Center Boulevard
Yuba City, CA 95993

Dear Judge Heckman,

The Sutter County Civil Grand Jury empaneled for 2021-2022 would like to put forward to the Court and all residing in Sutter County our final report responding to and respecting California Penal Code Section 933(a).

Working with this year's Grand Jury and its committed and highly capable jurors was a joy. At a point early in the term the Grand Jury found a fair number of jurors were unable to perform their duties. Every circumstance was unique, but the result for all was the same, that each needed to vacate the body. The reduction in manpower was a challenge, but the large majority who remained stepped up when needed to advance the cause of the community. With the appreciated assistance from the Court, we were most fortunate to receive replacement jurors who were of great help and contribution to the Grand Jury for the balance of the term.

I want to thank Grand Jury Pro-Tem, Sukhi Bhungal. His knowledge and insight were invaluable.

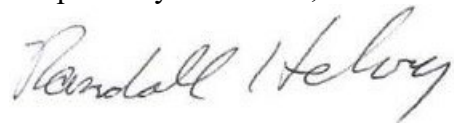
I cannot thank enough our Secretary, Tina Ridinger-Miguel. Her labors have kept our great efforts for Sutter County accurately recorded for future reference and in turn have assisted in protecting the legitimacy of the Grand Jury.

A very great thanks must be given to two of our Grand Jury committee chairs: Jennifer Kellogg and Gary Underhill. They bore an immense burden and responsibility playing key roles in this year's successes.

Additional special thanks should also be given to the rest of the 2021-2022 Grand Jury. Collectively, they were a tireless working body, with the kind of public spiritedness that represents the best of Sutter County. It was a pleasure and honor serving as Foreperson working alongside these pillars of our community.

This year's Grand Jury is proud to present our 2021-2022 Final Report on our investigations for Sutter County.

Respectfully Submitted,



Randy B. Helvey
2021-2022 Sutter County Civil Grand Jury Foreperson

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Michael Lewis Ayote

DeJuan Jeray Glover

Carl Edward Hall

Dr. Jennifer Anne Kellogg

Tina Ridinger-Miguel

Douglas James Heacock

Sukhvinder Singh Bhungal

Gary Michael Underhill

Gisela Marie Hamilton

Diane Carol Leighton

Margaret Ellan Walker

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Makhan Singh Dhillon*

Lorri Lynn Han*

Josiah Ogden Hoffman

Steven Bradley Reyes

Mary Hannah Tice

Makayla Lynn Fawcett

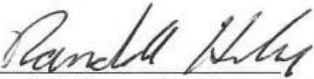
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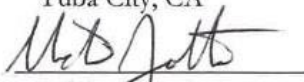
GRAND JURY APPROVAL

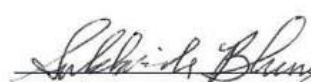
California Penal Code §933(a) states:

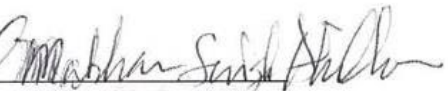
"Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year..."

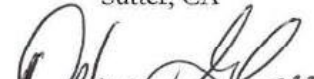
In conformance with the aforementioned Penal Code requirement, the 2022 Sutter County Grand Jury approves and respectfully submits this report to the Honorable Judge Heckman, Presiding Judge, Superior Court of California, County of San Luis Obispo.



Randall Barnard Helvey, Foreperson
Yuba City, CA

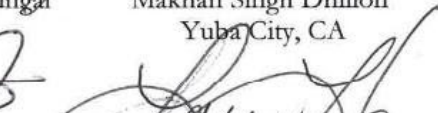

Michael Lewis Ayote
Sutter, CA



Sukhvinder Singh Bhungal
Yuba City, CA

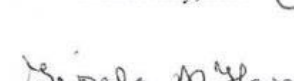

Makhan Singh Dhillon
Yuba City, CA



DeJuan Jeray Glover
Live Oak, CA



Gary Michael Underhill
Yuba City, CA

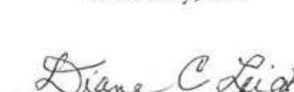

Lorri Lynn Han
Live Oak, CA

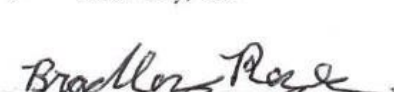

Carl Edward Hall
Yuba City, CA

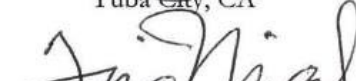

Gisela Marie Hamilton
Yuba City, CA

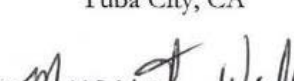

Josiah Ogden Hoffman
Yuba City, CA

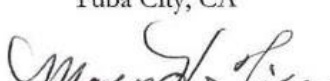

Dr. Jennifer Anne Kellogg
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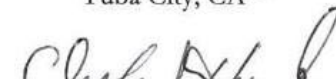

Diane Carol Leighton
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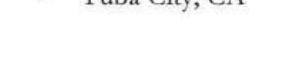

Steven Bradley Reyes
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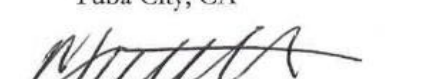

Tina Ridinger-Miguel
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Margaret Ellan Walker
Yuba City, CA


Mary Hannah Tice
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Douglas James Heacock
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David Phillip Boyer
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Makayla Lynn Fowler
Yuba City, CA FAWCETT

California Grand Juries – An Overview

The Grand Jury is primarily an investigative body created by the United States Constitution's Fifth Amendment and the California Constitution and is part of the county judicial system. It is advised by the Sutter County Superior Court and is not accountable to elected officials or government employees. Its findings and recommendations are unbiased and impartial and are offered to the public in their final report.

The primary duty of the grand jury is to evaluate local government entities through a systematic fact-finding process and to investigate citizen complaints. The objective of the investigations is to produce beneficial reports that persuade local officials to run agencies more effectively and efficiently. The final report is the result of investigative efforts and is the only public record of that endeavor. Grand jurors are sworn to secrecy and, other than the final reports, their work is kept strictly confidential.

The Civil Grand Jury is comprised of a group of ordinary citizens. Sutter County impanels a Grand Jury of 19 members for a one-year term that begins July 1st and ends June 30th the following year.

The grand jury's fact-finding efforts result in written reports which contain specific recommendations aimed at identifying problems and offering recommendations for improving government operations and enhancing responsiveness. In this way, the grand jury acts as a representative of county residents in promoting government accountability.

The Penal Code requires the Grand Jury to:

1. Inquire into the condition and management of the detention facilities within the County
2. Investigate and report on the operations, accounts and records of county and other local public agencies, officers, departments or functions
3. Inquire into the willful or corrupt misconduct in office of public officers
4. Submit a final report of its Findings and Recommendations no later than the end of its term to the Presiding Judge of the Superior Court

Conditions for Juror Recusal

Under Penal Code section 916.2 grand jurors who have been employed during the prior three years by a local government agency must recuse themselves from the investigation of their employing agency. In addition, the Political Reform Act, which prohibits government officials and employees from having financial conflicts of interest, applies to grand jurors and can require their recusal from all aspects of a grand jury investigation and report. Grand jurors must also recuse themselves in situations involving other types of real or perceived conflicts of interest or bias.

Members of the 2021-22 Sutter County Grand Jury recused themselves from parts of the investigations this term when any of these conflicts of interest conditions existed during the jury's investigating and reporting process.

SUTTER COUNTY GRAND JURY 2021-2022



Continuity Implementation Compliance Report

Summary

The 2021-2022 Sutter County Grand Jury reviewed the responses to investigative reports issued by the 2020-2021 Grand Jury, to assess compliance with the California Penal Code. The complete text of these reports can be accessed at the following website:

<https://www.suttercourts.com/general-info/grand-jury/reports>

The website also provides links to the responses given by various counties and other agencies to the Findings and Recommendations contained in the reports.

Reason for the Study

Grand Jury investigations have little value unless recommendations are taken seriously by responding entities and are addressed in a manner transparent to the public. Positive actions to Grand Jury recommendations are extremely important, yet late, incomplete, and missing responses continue to drop out of public view. The 2021-2022 Grand Jury sought to determine the level of response of each agency recently investigated by the Grand Jury and what mechanisms may be available to increase agency response.



Method of Study

The 2021-2022 Grand Jury reviewed responses to prior 2020-2021 Grand Jury reports as follows:

- The Grand Jury attended and reviewed Board of Supervisors meetings and agenda items and minutes concerning the prior Grand Jury report responses.
- Grand Jury members interviewed county staff and Board of Supervisors and asked for summaries and time frame for responses still to be implemented.
- The Grand Jury documented the status of report responses from the 2020-2021 jury term.
- The Grand Jury reviewed responses in which a final resolution has not been reached or communicated and those that are to be implemented at a future date.
- The Grand Jury held interviews regarding responses that still needed implementation.
- The Grand Jury requested documentation to verify implementation where needed.

The Grand Jury seeks to create a framework that could be used by succeeding juries to keep open Grand Jury reports in public view and responding agencies accountable. We envision each subsequent Grand Jury will continue to report tracking for the prior year and also monitor and address open responses.

Background

California Penal Code Section 933(a) requires the Grand Jury to “submit to the presiding judge of the superior court a final report of its Findings and Recommendations that pertain to county government matters during the fiscal or calendar year.” Governing bodies or department officials are required to respond to the Findings and Recommendations directed to them within 90 days of the release of a Grand Jury’s report. Elected County officials are required to respond within 60 days. (PC §933(c)). This Compliance and Continuity Report focuses only on the Penal Code requirements for responding to the Recommendations.

Penal Code Section §933.05 states that the body or official is required to select one of four possible responses to the Recommendations (PC §933.05(b)):

1. The Recommendation has been implemented, with a summary of the action taken;
2. It will be implemented, with a timeframe for implementation being provided;
3. It requires further analysis, with an explanation and the scope of the analysis and a timeframe for response being provided of not more than six months from the release of the report; or
4. It will not be implemented because it is not warranted or is not reasonable, with an explanation being provided.

This Continuity Implementation Compliance Report focuses on responses to the recommendations made by the 2020-2021 Grand Jury.

All responses were filed by and were within the Penal Code’s specified timeframes.

Methodology

The 2021-2022 Grand Jury evaluated responses to the 2020-2021 Grand Jury recommendations to ensure compliance with the governing sections of the Penal Code (PC §933.05(b)). The following criteria were considered:

1. If a response indicated that a recommendation had been implemented, did it include a summary of what was done?
2. If a response indicated that a recommendation would be implemented, did it include a summary and timeframe for what would be done?
3. If a response indicated that a recommendation required further analysis or study, did it include an explanation of the scope, parameters, and timeframe of the proposed analysis or study?
4. If a response indicated that a recommendation would not be implemented because it was unwarranted or unreasonable, did the respondent include a reasoned explanation supporting that position?

Discussion

The following pages of matrix tables offer a summary of the responses provided to the 2020-2021 Grand Jury as assessed by the 2021-2022 Grand Jury:

SUTTER COUNTY FIRE AND EMERGENCY SERVICES – Is Sutter County Playing with Fire?

GRAY AVENUE PROPERTY - Making it Right, Gray Avenue Finally Sees the Light!

DEVELOPMENT IN SOUTH SUTTER COUNTY- Fowl Play in the Natomas Basin?

SUTTER COUNTY CODE ENFORCEMENT – Fight the Blight – Keep Sutter County Beautiful!

The Grand Jury received response letters for the 2020-2021 Grand Jury report - “DEVELOPMENT IN SOUTH SUTTER COUNTY- Fowl Play in the Natomas Basin?” from The Natomas Basin Conservancy, Sacramento County Planning and Environmental Review, as well as the Grandpark Project Manager. These entities are outside Sutter County so their responses are provided in attachment A for transparency.

Sutter Local Agency Formation Commission (LAFCO) provided a response to 2020-2021 Grand Jury report - “SUTTER COUNTY FIRE AND EMERGENCY SERVICES – Is Sutter County Playing with Fire? This was a general response letter and is provided in attachment B for transparency.

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Sutter County Code Enforcement F1

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
F1: The County has been lacking in collecting fines from citations for the last three years.	R1: The Board of Supervisors require the County to collect or mitigate the outstanding fines before new policies take effect.	<p>F1: Disagree with the Finding.</p> <p>R1: The recommendation will not be implemented because it is not warranted. The report identified \$1,143,991.15 in outstanding fines based upon a spreadsheet that was provided by the Development Services Department to the Grand Jury as the result of a Public Records Request. In consultation with Code Enforcement, consultant TRB+ Associates have indicated, based upon their experience and court rulings, that the County's Administrative Penalties Ordinance, Section 87, was incorrectly interpreted to accrue daily fines and is flawed as applied. TRB+ Associates advised that daily fines should be accumulated on any day that a site inspection is made, and an existing violation is confirmed. As a result of this guidance, the revised accrued fine balance is approximately \$168,000.</p>	<p>This recommendation has not been implemented.</p> <p>The County revised the fines from \$1,143,991.15 to approximately \$168,000 after interpreting the code enforcement policies differently. After reviewing the county data and interviewing county staff, the Sutter County Grand Jury (SCGJ) cannot determine if any of the revised amount has been collected.</p>

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Sutter County Code Enforcement F2

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
F2: The County has understaffed Code Enforcement for the last three years.	R2: The Board of Supervisors have to hire additional code enforcement officers to adequately address the workload immediately.	<p>F2: Agree with the Finding.</p> <p>R2: The recommendation will be implemented by August 31, 2021. The Board of Supervisors approved an additional Code Enforcement Officer position at its meeting on April 27, 2021. Funding for the additional positions will be included in the FY 2021-22 Recommended Budget.</p>	<p>This recommendation has been implemented. The County hired two additional code enforcement officers in June of 2021. One code enforcement officer resigned and the county reposted the position. A replacement code enforcement officer was hired in February 2022.</p>

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Sutter County Code Enforcement F3

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
F3: The County has been negligent in pursuing violations and citations for the last three years.	R3: The County Administrator inform the Board of Supervisors of the progress that code enforcement has been making at monthly board meetings starting immediately.	<p>F3: Disagree with the Finding.</p> <p>R3: The recommendation will not be implemented because it is not warranted. Instead, the Development Services Department will include a monthly summary of Code Enforcement activities on an agenda of the Board of Supervisors in the Correspondence section. The report will include information on new cases, existing cases investigated, existing cases closed, the number of administrative hearings held, and the value of administrative penalties collected and outstanding. The County Administrator will also verbally address the report as appropriate to update the Board of Supervisors on the progress of the program.</p>	<p>This recommendation has been implemented. The Grand Jury verified that as of the Nov 16th, 2021 Board of Supervisors (BOS) meeting, the progress for code enforcements cases was added in the Correspondence section of the Agenda Packet as well as verbally presenting it to the Supervisors. As of April 2022, the county has continued this progress reporting every month.</p>

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Sutter County Code Enforcement F4 and F5

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
<p>F4: The County has been closing cases without inspecting them with no valid reason given.</p> <p>F5: Some legitimate complaints, possible citations and fines are being ignored.</p>	<p>R4: The County Administration publicly explain why each of the cases were closed without investigation within the next six months and reopen those cases for investigation, if the reason for closure was insufficient.</p>	<p>F4: The Board of Supervisors disagrees with this finding.</p> <p>F5: The Board of Supervisors disagrees with this finding.</p> <p>R4: The recommendation will be implemented by June 30, 2021</p>	<p>This recommendation has not been implemented. The Grand Jury reviewed the agendas for the BOS meetings from June 2021 through April 2022 and found no evidence of the county staff publicly presenting Code Enforcement cases that were closed without inspection.</p>

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Development in South Sutter County - Fowl Play in the Natomas Basin F1

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
F1: There was a serious communication breakdown between the Conservancy, Sutter County Board of Supervisors and County appointees, both in the time consuming and unclear method of selecting Conservancy board members and ensuring our county liaison is actively involved.	R2: The Sutter County Board of Supervisors direct the Chief Administrative Officer to create a board and commission appointment procedure that is consistent for all boards and commissions to be completed within a set timeframe minimizing the impact to the County within one month of receipt.	F1: Disagree with the Finding. R2: This recommendation has been implemented. Effective immediately, the Clerk of the Board of Supervisors will return to the previous policy, which is to have the Board of Supervisors consider any vacancy where the applications exceed vacancies under Appearance for discussion and appointment as early as the Maddy Act will allow.	This recommendation has been implemented. The Grand Jury was provided the “Sutter County Clerk of the Board Procedures Boards and Commissions Last Updated: November 2021”. Other than the appointment letter the procedures for appointment are consistent across all boards in the new updated policy.

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Development in South Sutter County - Fowl Play in the Natomas Basin F2

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
<p>F2: The Grand Jury found no evidence that the Board of Supervisors was informed of the appointees' resignations, causing a lack of corrective measures being taken to ease concerns about Conservancy management and the County's development interests in southern Sutter County.</p>	<p>R1: The Sutter County Board of Supervisors immediately create a procedure to receive briefings of any letters of resignation sent to it and have that information relayed during a public meeting for full transparency.</p>	<p>F2: Disagree with the Finding.</p> <p>R1: This recommendation will not be implemented. Instead, County staff will include letters of resignation from committee/commission members in the correspondence section of the Board of Supervisors agenda. Staff will continue to email resignation letters to each Supervisor. Regarding Finding #2, the County Administrator, in fact, notified the Board of Supervisors via email the same day the CAO's Office received notice of the resignations (emails attached).</p>	<p>This recommendation has not been implemented.</p> <p>The Grand Jury was provided proof that the Board of Supervisors (BOS) were forwarded the resignation letters via email by the CAO.</p>

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Development in South Sutter County - Fowl Play in the Natomas Basin F3

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
F3: Past board of directors at the Conservancy approved risky investments of Sutter County mitigation funds which are still in place and could lead to financial problems in the future.	R4: The Sutter County Board of Supervisors immediately direct its members to the Conservancy board of directors to investigate management of the Conservancy endowment fund investments and change procedures to minimize the financial impact on Sutter County.	<p>F3: Disagree with the Finding.</p> <p>R4: This recommendation will not be implemented. The Grand Jury did not specify what policies it believes are risky. However, County staff, including the Acting Treasurer-Tax Collector, have reviewed the Natomas Basin Conservancy's investment policy. Investment priorities are safety, diversification, liquidity and returns. The current policy's diversification, allocation and restriction on investments reduces the risk of any single asset class or investment category.</p>	This recommendation has not been implemented. According to Sutter County staff the County looked into the Conservancy investment policy and at this time they have no concerns that the policy exposes the County to unnecessary risk.

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Development in South Sutter County - Fowl Play in the Natomas Basin F4

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
F4: Commissions representing the City of Sacramento ignored the objections from Sutter County on developing outside Conservation Plan borders and proceeded with development.	R3: The Sutter County Board of Supervisors establish procedures to receive regular annual updates from the Conservancy on the impacts of all development in the area within the next 90 days.	F4: Agree with the Finding. R3: This recommendation will be implemented by October 1, 2021. Staff will provide an annual presentation to the Board of Supervisors based upon the Natomas Basin Conservancy annual report and answer any related questions.	This recommendation has been implemented. The Grand Jury checked the BOS agendas through 31 October 2021, there was no presentation related to the Natomas Basin Conservancy Annual Report published on 30 July 2021. The Natomas Basin Conservancy Annual Report was on the BOS Agenda for the 22 Feb 2022 meeting. Interviews with county staff revealed the County is aware of future Sacramento County development plans and will comment on them once an Environmental Impact Report is published.

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Development in South Sutter County - Fowl Play in the Natomas Basin F5

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
F5: Current development outside of the Conservation Plan by the City of Sacramento jeopardizes the Plan requiring renegotiation and impacting development in south Sutter County.	R5: The Sutter County Board of Supervisors immediately start proceedings to renegotiate the Conservation Plan with the City of Sacramento and other Plan permittees to remediate the encroachment done by the City and its impact on wildlife in the new plan. Sutter County should include Sacramento County in its negotiations for a comprehensive conservation plan for the Natomas Basin.	R5: This recommendation will not be implemented. The County does not believe renegotiating the Plan is in the County's best interest because it could jeopardize benefits the County enjoys under the current Plan approval. If the Plan is renegotiated it would likely require a new biological opinion be prepared, which is a lengthy and expensive process, subject to legal challenge. The current plan has been successfully defended in Federal Court twice. Renegotiation of the Plan would likely result in a mitigation requirement greater than the 0.5:1 ratio in effect today. This could result in an increased cost burden for development in South Sutter County making development non-competitive in the region due to the high cost of developing urban infrastructure in an area where little exists today. If determined necessary, the County, in coordination with the City of Sacramento, may pursue activating "Area B" where the Plan contemplates up to 20 percent of mitigation land may be obtained.	This recommendation has not been implemented. Interviews with county staff revealed that the County officials are not concerned and feel the current conservation agreement does not need renegotiation. If and when City of Sacramento or Sacramento County development plans impact the Sutter County development plans then Sutter County will respond appropriately.

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Development in South Sutter County - Fowl Play in the Natomas Basin F6

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
F6: Current plans for development in Sacramento County (not a member of the conservancy) disrupt planned Sutter County development in the Natomas Basin.	R6: The Sutter County Board of Supervisors direct the county staff to prepare a letter for signatures clarifying their position to both the County of Sacramento and the City of Sacramento and objecting to development not meeting the Conservation Plan.	<p>F6: The Board of Supervisors disagrees with this finding in part. There is not currently adequate information available on the mitigation measures Sacramento County plans to take. Sutter County will evaluate the environmental documents and mitigation measures once it is published.</p> <p>R6: This recommendation will not be implemented. Mitigation for the City of Sacramento's development outside of their permit area is a resolved matter. It is Sutter County's understanding the mitigation plan/strategy is a stand-alone approval by the California Department of Fish and Wildlife and the US Fish and Wildlife Service for this development. It is Sutter County's understanding the Greenbriar project developers pursued mitigation for their development independent of the Natomas Basin Habitat Conservation Plan.</p> <p>Sutter County is monitoring the processing of the "Grand Park" project by the County of Sacramento. At the time the project and its draft environmental impact report is released for public review, Sutter County will review and provide appropriate responses. The County has not reviewed a complete project plan, nor a proposed mitigation strategy for this development, so it is premature to comment on this project at this time.</p>	<p>This recommendation has not been implemented. Interviews with county staff revealed Sutter County officials are concerned about development by Sacramento County that is developed outside of the conservancy. When the new developments plans and Environmental Impact Reports are available then Sutter County will comment and file objections as appropriate.</p>

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Sutter County Fire and Emergency Services - Is Sutter County Playing with Fire? F1

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
F1: Only Sutter County CSA F has a Special Fire Tax that has not increased since its inception in 1997 and has not kept pace with the cost of living. An increase or imposition of a Special Fire Tax requires voter approval with a 2/3 majority.	R1: The Board of Supervisors direct staff to identify a sufficient permanent source of funding for each fire jurisdiction in the county that maintains pace with rising population, increased number of structures, equipment costs, optimal manning, salaries comparable to neighboring counties, and Workers Compensation insurance costs before the end of Fiscal Year 2022-2023.	<p>F1: The Board of Supervisors agrees with this finding.</p> <p>R1: This recommendation has not been implemented yet, but will be by the recommended timeframe of FY 2022-23. Staff estimate funding sources will be identified by June 2022. The County has established a Fire Services Ad Hoc Committee that is addressing the financial situation within the Fire Department and researching possible solutions including, but not limited to, an increase to the existing special fire tax, a new property-based tax assessment to cover all areas that are covered by Sutter County Fire and a possible sales tax measure. The Department was successful in receiving the FEMA SAFER grant for staffing bringing the total firefighters on each apparatus to two every day. This should help reduce future worker's compensation claims and the Department will be re- applying for the SAFER grant during calendar year 2022. Please note that identification of funding sources does not guarantee implementation of those funding sources. That implementation will likely require a vote by the citizens within CSA-F and/or Sutter County as a whole.</p>	This recommendation has not been implemented yet. Interviews with county staff revealed that it is the Counties intention to implement it by FY2022-23 as recommended by the SCGJ.

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Sutter County Fire and Emergency Services - Is Sutter County Playing with Fire? F2

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
F2: The County has yet to create new revenue streams such as recouping costs for services rendered in commercial and reckless or impaired driving accidents.	R2: The Board of Supervisors direct staff to immediately find or create alternate revenue streams such as recouping costs from motor vehicle accidents involving commercial and reckless or impaired drivers.	<p>F2: The Board of Supervisors agrees with this finding.</p> <p>R2: This recommendation will be implemented by December 1, 2021. Sutter County Fire will bring a resolution to the Board for consideration by October 1, 2021 to address cost recovery from motor vehicle accidents. The County will be looking to secure a contract with a third-party vendor to assist with the collection of fees charged to insurance companies. This will not have a direct financial impact on the public as these fees are already paid by auto insurance policies of those involved in the at-fault accidents. The Department will continue to recover costs related to DUI and Hazardous Materials accidents as allowed by California Penal Code.</p>	<p>This recommendation has been implemented. Through county staff interviews, the Grand Jury was informed that as of 1 Jan 2022, the cost recovery fees from motor vehicle accidents are being collected through a vendor hired by the county. The billing will be quarterly.</p>

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Sutter County Fire and Emergency Services - Is Sutter County Playing with Fire? F3 and F4

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
<p>F3: The County has a convoluted collection of financial accounts for fire districts and missed the opportunity to save money in the past by not combining the finances of all Fire Protection Districts and CSAs under one paid supervisory fire chief.</p> <p>F4: Areas in the County without the special fire tax do not compensate CSA F for emergency services rendered, leaving CSA F property owners to carry the financial burden.</p>	<p>R3: The Board of Supervisors direct staff to immediately start a planned campaign to educate the public on the need to increase the amount and scope of the CSA F Special Fire Tax to include the rest of the county and to include a Cost-of-Living adjustment for next open election cycle.</p>	<p>F3: The Board of Supervisors agrees with the finding that the CSAs need to be combined for maximum efficiency, but disagrees with the finding that the fund accounting mechanism that is employed (which is required by State law) is "convoluted".</p> <p>F4: The Board of Supervisors agrees with this finding.</p> <p>R3: This recommendation will be implemented by April of 2022. The County Fire Chief, along with the Ad Hoc Committee, will need to confirm what route of action will be taken to secure the needed funds, whether an increase to the current special tax, a new property- based assessment or a sales tax would be the most viable option. At that point the Fire Chief and Departmental staff will schedule town hall meetings to discuss the current financial situation of the Department and review the financial plan and fee/tax needed to continue the current level of service. These discussions are already in process and staff anticipates having adequate data to move forward by March of 2022.</p>	<p>This recommendation is partially implemented. The County has not yet decided what route of action it will take to secure the needed funds, whether an increase to the current special tax, a new property- based assessment or a sales tax would be the most viable option. The County staff has funded a survey of County voters to gauge voters support of additional funding for certain county services. The survey results indicate that 65% of the voters would support a 1/2 cent increase in the sales tax to support additional county services. Also, in the survey there was over 80% support for additional funding for the Fire Department. The county staff has been doing public outreach through town hall meetings to bring awareness to county funding issues for improved county services with the Fire Department as one of the highest priority issues.</p>

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Sutter County Fire and Emergency Services - Is Sutter County Playing with Fire? F5 and F6

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
<p>F5: The Sutter Basin (Robbins) Fire Station (located on Highway 113) is currently unresponsive, due to the fire chief vacancy and provides no service to the area.</p> <p>F6: Lack of funding for personnel has caused an increase of injuries and Workers' Compensation costs. This in turn leaves even less funds for future staffing.</p>	<p>R5: The Board of Supervisors direct staff to work with the LAFCO for consolidating all CSAs and Fire Protection Districts into one that is run by one paid supervisory fire chief by the end of Fiscal Year 2022-2023.</p>	<p>F5: The Board of Supervisors agrees with this finding.</p> <p>F6: The Board of Supervisors agrees with this finding.</p> <p>R5: This recommendation has not been implemented but a related municipal services review process of County CSA's F, C and D has begun. This is being done to prepare for the Sutter Pointe Phase One Response Plan and also to provide a better level of service to an area that is rapidly becoming busier with emergency response calls. This consolidation has been discussed with LAFCO and currently LAFCO is conducting the review. This study will assist in determining if a consolidation is warranted. This study will be completed by November 1, 2021.</p>	<p>This recommendation has not been implemented.</p> <p>There was no study or Municipal Services Review (MSR) report presented by LAFCO at their November 2021 meeting. In accordance with the County Administrative Officer (CAO) this MSR will be presented at the next LAFCO meeting in Feb 2022. LAFCO has continued the MSR to the 12 May 2022 meeting and subsequently continued it to the 14 July 2022 meeting.</p>

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Sutter County Fire and Emergency Services - Is Sutter County Playing with Fire? F7

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
F7: The County does not have a viable capital improvement fund or plan, even though a majority (65%) of the Sutter County CSAs' C, D and F fire apparatus are outdated and need to be replaced.	R4: The Board of Supervisors direct the County Administrative Officer to develop and institute a viable capital improvement plan for firefighting equipment in Sutter County before the end of the Fiscal Year 2022-2023.	<p>F7: The Board of Supervisors agrees with this finding.</p> <p>R4: This recommendation has commenced with the recent adoption of the Sutter County Fiscal Year 2021-22 Annual Budget and will be completed by the end of FY 2022-23, as recommended by the Grand Jury. The County has created a template which will serve as the capital improvement plan for all departments. However, only the purchases that have funding were included in the plan. Funding issues for the Fire Department need to be resolved before any capital improvement plan can be viable.</p>	<p>This recommendation has been implemented. The Sutter County Fire Chief has a capital improvement plan ready but the county does not have a capital improvement fund yet. Some high priority firefighting equipment was purchased through grant funding.</p> <p>Interviews of county staff revealed that the capital improvement fund will be implemented once new funding streams are implemented.</p>

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Gray Avenue Property - Making it Right, Gray Avenue Finally Sees the Light! F1

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
F1: Not having an approved policy or procedure for efficient lease operations and property purchasing causes costly delays in acquisitions.	R1: The Board of Supervisors oversee the County Administrator to create a policy that provides guidance and procedures for efficient leasing, purchasing, management and disposal of property to be completed in 120 days.	<p>F1: The Board of Supervisors disagrees with this finding. While the Board sees the value in having an adopted policy regarding leases, the lease of the Gray Avenue property was unusual in that it was acquired to secure use of the property. It was always the intent of the Board to purchase the property. This is not the case with most of the real property leases that the County enters into. The long-term lease at a very low price per square foot affected the salability of the property and, by extension, the market value. Using control of the lease as leverage, the County negotiated for the purchase of the entire property in good faith throughout the entire period but was unable to come to agreement with the property owners until 2020. Ultimately, the purchase price was significantly below the appraised value due to the County's leasehold interest through 2050.</p> <p>R1: This recommendation will not be implemented. It may be beneficial to adopt a policy regarding leasing, but subjecting transactions to a 120-day limitation may not be realistic as every transaction is different.</p>	<p>This recommendation has not been implemented.</p> <p>The BOS response misunderstood the Grand Jury recommendation to have a policy in place in 120 days to limiting real-estate transactions to 120 days. The county was made aware of this misunderstanding.</p> <p>Interviews with county staff revealed the Counties position is that it has various rules and regulations they follow and do not see the need for a property leasing, purchasing, management, and disposal policy at this time.</p>

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Gray Avenue Property - Making it Right, Gray Avenue Finally Sees the Light! F2

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
<p>F2: The County has been slow in their negotiations for pursuing the Gray Avenue Property lease, purchase, and renovation process while using county finances and staff resources for the last seven years.</p>	<p>R2: The County purchase the Gray Avenue Property as discussed during their February 9 and March 23, 2021 meetings, to be completed prior to June 2021.</p>	<p>F2: The Board of Supervisors disagrees with this finding. Real estate negotiations are two- sided, and the County could not compel the owners to sell the property. Throughout negotiations, the County continued to plan for renovation of the space. It would have been imprudent to take on significant debt to renovate space that the County would not own at the end of the lease.</p> <p>R2: This recommendation has been implemented. The purchase of the building is complete.</p>	<p>This recommendation has been implemented.</p> <p>The county completed the purchase of the property in June 2021.</p>

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Gray Avenue Property - Making it Right, Gray Avenue Finally Sees the Light! F3

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
F3: If Sutter County expedites the consolidation of the nine locations of the HHS Department, the County should see cost savings in leases, security and administration.	R3: The County Administrator work through the Development Services Department to complete the renovation of the facility and relocation of the HHS Services to be finished by summer of 2025.	<p>F3: The Board of Supervisors partially disagrees with this finding. While the County would realize savings from existing leases and gain efficiency in the consolidation of services, the cost of construction would not be entirely offset by the savings. Consolidation would, however, provide better coordination of services and access for clients, which has always been a top consideration for this project.</p> <p>R3: This recommendation will not be implemented. The County will work toward completing renovations. However, the current cost of building materials and labor has made construction under the current plan cost prohibitive. County staff, at the direction of the Board's Real Estate Ad Hoc Committee, is working on revised plans that incorporate post-pandemic work environments (including increased telework) to revise the design and layout of space. The timeline suggested by the Grand Jury may not be feasible given current construction conditions.</p>	<p>This recommendation has not been implemented.</p> <p>SCGJ spoke with various county officials and at this time the county does not have any firm plans for the renovation or the future use of the property.</p> <p>Sutter County CAO and BOS indicated through interviews that the county generated renovation and construction plans are now not feasible given the high cost of construction. New plans are being considered, which involve possibly demolishing the old structure and building a new multi-use two-story structure, selling the property, or bringing in a big box store to occupy the property and share in the tax revenue with the city.</p> <p>The county purchased the property citing a need to house all of the Health and Human Services (HHS) in one upgraded building. Currently HHS offices are in multiple old buildings. That need still exists.</p>

Follow up Responses to Recommendations 2020-21 Grand Jury Reports Gray Avenue Property - Making it Right, Gray Avenue Finally Sees the Light! R4

GJ Report	Recommendation	Response	2020-21 Grand Jury Follow up Response
	R4: The Board of Supervisors request the County Administrator provide a semi-annual report on financing, expenditures, renovation and relocation progress beginning six months after the close of escrow.	R4: This recommendation will be implemented with bi-annual reports to the Board of Supervisors beginning in December of 2021.	<p>This recommendation has not been implemented.</p> <p>The Grand Jury checked the BOS agendas December 2021 through April 2022 and there was no report presented on the financing, expenditures, renovation and relocation progress of the Gray Ave property.</p>

CONCLUSION

The Grand Jury annually completes its term of service with published reports on completed civil investigations. These reports generate findings and recommendations which require a variety of required and invited responses. The Grand Jury's investigation revealed all required responses and most invited responses were received from the investigated agencies. This is a marked improvement over past years when this level of response was lacking.

The Grand Jury appreciates all departments and agencies that replied to the 2020-2021 Grand Jury's findings. It is important for responses to be complete and responsive so the public can know when to expect actions to be taken to address investigated issues. Reporting publicly on the completion of previously committed actions goes a long way toward enhancing the positive impact of the Grand Jury in its role as a public watchdog.

Appendix A

Natomas Basin Conservancy Letter

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July 6, 2021

The Honorable Susan E. Green, Presiding Judge
Sutter County Superior Court
1175 Civic Center Blvd.
Yuba City, CA 95993

ENDORSED FILED

AUG 02 2021

SUPERIOR COURT OF CALIFORNIA
COUNTY OF BUTTER
CLERK OF THE COURT
By JACKIE LASWELL Deputy

RE: Response to the 2020-2021 Sutter County Civil Grand Jury Report,
"Development in South Sutter County; Fowl Play in the Natomas Basin?"

Dear Judge Green:

On behalf of The Natomas Basin Conservancy, a California Non-profit Public Benefit Corporation, I submit this response to the Sutter County Grand Jury's report titled, "Development in South Sutter County; Fowl Play in the Natomas Basin?" It pertains only to those remarks that are listed as "Findings" and "Recommendations" in the Grand Jury Report, and only those that have to do with the Natomas Basin Conservancy specifically. The Conservancy has no interest in commenting on, nor does it have purview, with respect to County government and the proposed developments the Grand Jury finds problematic.



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John R. Roberts
Executive Director

Response to Grand Jury Findings and Recommendations

F1. There is a serious communications breakdown between the Conservancy, Sutter County Board of Supervisors and County appointees, both in the time consuming and unclear method of selecting Conservancy board members and insuring our county liaison is actively involved.

Response: There has been no breakdown in communications between the Conservancy and County appointees to the Board of Directors or Sutter County leadership. There are periodic communications, mostly by email and telephone, with the County's CAO and its Principal Planner. These are well documented. Additionally, the County's Principal Planner is invited to and actively participates in the NBHCP Implementation Group, which meets periodically and consists of all "Parties" to the NBHCP, including the Conservancy, the City of Sacramento, the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service. Occasionally the County's Principal Planner is joined by the County's Development Services Director at these meetings. (Note: no meetings have been held during COVID-19.) Finally, the County's appointees to the Conservancy's Board of Directors meet in session every other month, receive periodic emails from the Conservancy's Executive Director, and a number of Sutter County appointees are contacted and consulted with on various matters, usually related to their expertise and engagement in Board activities (e.g., committee assignments, etc.).

F3. Past board of directors at the Conservancy approved risky investments of Sutter County mitigation funds which are still in place and could lead to financial problems in the future.

Response: It would be helpful if the Grand Jury would specify what investments the Conservancy's past Board of Directors approved which could

Appendix A

Natomas Basin Conservancy Letter (cont)

The Honorable Susan E. Green
Presiding Judge of the Sutter County Superior Court
Grand Jury Report comment
Page 2 of 4



be deemed "risky." If there were risky investments made, they would have been identified by the independent auditor, by other HCP fee payers (which regularly examine the Conservancy's operations), by the Conservancy's investment advisor, which continues to note the Conservancy's endowment funds are 100 percent invested in T. Rowe Price mutual funds and in accordance with a carefully-approved (by the Board of Directors) investment policy (considered by the investment advisor to be conservative). Or the alleged risky investments would have been identified by one or more of the knowledgeable people who serve and have served on the Conservancy's Board of Directors appointed by Sutter County, which include past members of the Sutter County Board of Supervisors, by attorneys or by the County's senior management appointed to the Conservancy's Board of Directors. Or by a long-standing former Sacramento City Mayor, City Councilmember, multiple former City Managers, an attorney and similar officials (such as City Treasurer's office management executive) appointed by the City of Sacramento. Or, more recently, a CPA in private practice. But we are unaware that any Board member has ever voiced to Conservancy management or the Board of Directors in meeting any concern about such "risky" investments. Instead, they regularly approve the investment policies, as amended, by unanimous vote, which investment policies are followed by the investment advisor (T. Rowe Price).

Additionally, the City of Sacramento's city management officials recently spent approximately a year reviewing details of the Conservancy financials in a due diligence effort, and having completed its review, awarded the Conservancy a non-interest bearing, non-recourse loan of \$2 million to use in purchasing additional mitigation land. If investments were risky, as alleged by the Grand Jury, the City would have identified that and recommended corrective action.

Finally, the Yolo County Grand Jury recently met with the Conservancy, extensively, and ended up posting in its final report that a consequential conservancy organization in Yolo County consider partnering with the Natomas Basin Conservancy,¹ having told Conservancy management that "everywhere we go, when we ask questions about successful conservancy organizations, it seems they always tell us to meet with you." (That is, with the Natomas Basin Conservancy.) If the Conservancy invested its endowment funds in risky investments, the Yolo County Grand Jury would surely not have made the recommendations it did.

¹ "Final Consolidated Report," 2019-20 Yolo County Grand Jury. page 67. As presented in the report, responses section: "The Plan provides the YHC Board of Directors with the authority to partner with an existing land management agency (a plan operator) such as the Natomas Basin Conservancy that has an existing staff with the required qualifications and infrastructure to manage the Plan and to hire and manage the necessary environmental consultants. Response [by Yolo Habitat Conservancy]: The respondents agree with this finding." Later: By June 30, 2021, the YHC Board of Directors and the member agencies of the JPA should evaluate whether the Plan would be best served by partnering with an existing plan operator, such as the Natomas Basin Conservancy."

Appendix A

Natomas Basin Conservancy Letter (cont)

The Honorable Susan E. Green
Presiding Judge of the Sutter County Superior Court
Grand Jury Report comment
Page 3 of 4



R3. The Sutter County Board of Supervisors establish procedures to receive regular annual updates from the Conservancy on impacts of all development in the area within the next 90 days.

Comment: The County has already approved and bound itself by unanimous vote of its Board of Supervisors under contract with the State of California and the U.S. Government the annual reporting process by the Conservancy to all Parties to the NBHCP, including the County. The Conservancy has followed and adhered to that reporting practice and responsibility in each of its 21 years. After the annual reporting process, the County (and all Parties to the Natomas Basin Habitat Conservation Plan) are invited to meet in public session to discuss the annual reporting.

R4. The Sutter County Board of Supervisors immediately direct its members to the Conservancy board of directors to investigate management of the Conservancy endowment funds and change procedures to minimize the financial impact on Sutter County.

Comment: This would be the fifth investigation of the Conservancy emanating from Sutter County in as many years. In contrast, after 21 years, the City of Sacramento has investigated the Conservancy zero times, and Metro Air Park's HCP group has also conducted zero investigations of the Conservancy in its long involvement. The Conservancy welcomes inquiry into the management of its endowment funds just as it has always encouraged and welcomed Sutter County engagement in Conservancy matters.

The Conservancy's investment policies have been shared with Sutter County officials (including as recently as February 1, 2021) and all of the Sutter County appointees to the Conservancy's Board of Directors on a regular basis. It was a Sutter County appointee to the Board that made the motion to accept and approve the investment policies when they were last approved by the Board (via unanimous vote).

Sutter County's Grand Jury has no authority to cause investigations to "change procedures" at the Conservancy. The Conservancy is not operated on behalf of any public entity. During the last federal litigation on the matter of the NBHCP, in which Sutter County was a defendant, Sutter County agreed with the other defendants that the Conservancy *is a separate and non-governmental organization*, and this is clearly stated in the NBHCP. This was approved by the Sutter County Board of Supervisors.

Also approved by the Sutter County Board of Supervisors is Section 8.16 of the NBHCP Implementation Agreement which states as follows: "Neither this Agreement nor the NBHCP shall make or be deemed to make any party to the Agreement the *agent for or the partner of any other party.*" (Emphasis added.)

Appendix A

Natomas Basin Conservancy Letter (cont)

The Honorable Susan E. Green
Presiding Judge of the Sutter County Superior Court
Grand Jury Report comment
Page 4 of 4

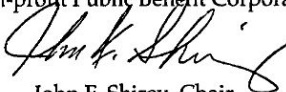
Conclusion

Finally, the Conservancy believes errors in the overall Grand Jury Report are extensive. Clearly, the manner in which the Grand Jury obtained its information to file its report and make its recommendations are suspect. Moreover, the Grand Jury substantially misrepresented itself when it requested a meeting with Conservancy officials.

Sutter County continues its campaign of one investigation after another of the Conservancy (never once finding any allegations that have been substantiated). In doing so, it is creating a serious burden on the Conservancy, creating higher HCP fees as a result, and burdening other HCP fee payers with needless costs. We encourage Sutter County to re-consider its path.

Sincerely,

The Natomas Basin Conservancy, a California
Non-profit Public Benefit Corporation


By: John F. Shirey, Chair
Board of Directors

c: Board of Directors
The Natomas Basin Conservancy

John Roberts, Executive Director
The Natomas Basin Conservancy

Edward J. Quinn, Jr.
Best, Best & Krieger



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SUPERIOR COURT OF CALIFORNIA
COUNTY OF BUTTE

Appendix A

Sacramento County Planning and Environmental Review Letter

Office of Planning and
Environmental Review
Leighann Moffitt, Director



Interim County Executive
Ann Edwards

July 15, 2021

Susan E. Green, Presiding Judge
Sutter County Superior Court
1175 Civic Center Boulevard
Yuba City, CA 95993

Re: Response to Sutter County Civil Grand Jury Report "Development in South Sutter – Fowl Play in the Natomas Basin?"

Dear Ms. Green:

The Sacramento County Office of Planning and Environmental Review appreciates the opportunity to review and respond to the 2020-2021 Sutter County Civil Grand Jury Report entitled "Development in South Sutter – Fowl Play in the Natomas Basin". Although the majority of the Report focuses on the City of Sacramento and Sutter County's development activities and the Natomas Basin Conservancy's efforts to acquire and/or manage lands consistent with the Natomas Basin Habitat Conservation Plan (NBHCP) and Metro Air Park Habitat Conservation Plan (MAPHCP), the Report mentions two pending Specific Plans proposed by private developers in unincorporated Sacramento County. Specifically, the report expresses concern that current plans for development in Sacramento County (not a member of the conservancy) will disrupt planned Sutter County development in the Natomas Basin.

The Report correctly states that Sacramento County is not a signatory to the NBHCP. However, the potential for additional urban development beyond the current City of Sacramento boundaries and approved Metro Air Park in unincorporated Natomas has been the subject of much discussion over the last three decades. Sacramento County, with the concurrence and cooperation of City of Sacramento management, took the lead in responding to requests from development interests to pursue potential development starting around 2008. The Sacramento County 2030 General Plan was approved in 2011 and includes an overlay on the Land Use Diagram recognizing the Natomas Joint Vision area as a location where Sacramento County would study potential urbanization. The related General Plan Policy LU-114 states:

"It is the policy of Sacramento County that development and open space preservation in the Natomas Joint Vision Overlay Area occur in a comprehensive, responsible and cohesive manner that best addresses land use, economic development and environmental opportunities and challenges in Natomas."

Applications from the various landowners led to the Board of Supervisors' formal initiation of the master plan process for Grandpark Specific Plan in March 2016 and the Upper Westside Specific Plan in February 2019. In initiating this master plan process, Sacramento County staff and the applicants for both Grandpark and Upper Westside were fully aware of the existing NBHCP and MAPHCP requirements that at the end of the 50-year permitting period, there be one preserve block of at least 2,500 contiguous acres and that the remaining preserves be in blocks of at least 400 acres and be connected by water. The preserves must be 50% in rice cultivation, 25% in managed marsh habitat and 25% in upland Swainson's hawk habitat. Both HCPs assume that above and beyond the mitigation lands and in-perpetuity preserves, an additional 15,095 acres of land will remain committed to agriculture in the basin and that 12,193 acres of exempt, already approved/entitled development exists.

Appendix A

Sacramento County Planning and Environmental Review Letter (cont)

Sacramento County is also cognizant of the fact that development in the Natomas Basin has been met with challenges from environmental groups due to the presence of numerous threatened, endangered or special status species. Two of the species of greatest concern are the giant garter snake and the Swainson's hawk. There have been several lawsuits filed over past environmental approvals associated with the NBHCP and the MAPHCP. A final ruling by United States District Judge David F. Levi on September 7, 2005 in the National Wildlife Federation, et al., v. Gale Norton case, declared the HCPs valid and cleared the way for development. Among other things, in the National Wildlife Federation case the environmental groups unsuccessfully argued that because Sacramento County was not a signatory to the HCPs, the HCPs were flawed because they relied on land in unincorporated Sacramento County for future mitigation. However, with respect to the issues of potential future growth in Sacramento County, Judge Levi ruled as follows:

"The NBHCP and Biological Opinion (BiOp) utilized by the Secretary of the Interior and United States Fish and Wildlife Service do assume that development in the basin will be limited to the 17,500 acres [15,517 acres under the NBHCP and 1,983 acres from the previously approved MAPHCP to total 17,500 acres cumulatively] in the permit areas and relies on that assumption in concluding that sufficient habitat will remain for the covered species. This assumption is based on the current land use plans of Sacramento County. The NBHCP, BiOp, and EIR/EIS also conclude that because any future development in the Basin not covered by the HCP and ITPs [Incidental Take Permit allowing for "take" of an endangered species] would likely result in injury to listed species, any future development in the Basin would require new federal approvals. Any such approvals would in turn require a new HCP and ITP for the particular project, and could also lead to revision of the existing NBHCP, were the additional development to exceed assumed limits."

Judge Levi went on to say:

"The NBHCP anticipates that development by the City and Sutter will be limited to 15,517 acres – 8,050 acres within the City [of Sacramento] and 7,467 acres in Sutter County – and provides that approval of any development beyond this limit – whether by the City and Sutter or by other entities – will trigger reevaluation and possible amendment of the plan, and could result in suspension or revocation of the City and Sutter permits."

With regard to the City/County Natomas Joint Vision, which plaintiffs claimed would fatally undermine the NBHCP, Judge Levi ruled as follows:

"The Service, and the court, are entitled to assume at this point that future development will not be permitted if sufficient mitigation land is unavailable and the development will result in jeopardy."

The judge footnoted the above sentence with the following statement:

"The court notes, however, that the Service and those seeking an ITP in the future will face an uphill battle if they attempt to argue that additional development in the Basin beyond 17,500 acres will not result in jeopardy. The NBHCP, BiOp, EIR/EIS, and Findings and Recommendations are all predicated on the assumption that development in the Basin will be limited to 17,500 acres and that the remaining lands will remain in agricultural use."

Sacramento County Planning staff recognizes that any new development in the Natomas Basin above the 17,500 acres already approved and permitted by the Natomas Basin and Metro Air Park HCPs will require careful coordination and consideration of existing approved developments, their mitigation strategies, and the regional conservation context. Sacramento County has no intention of jeopardizing the existing HCPs or ITPs in Natomas, and will include full analysis of the cumulative impacts of the proposed Grandpark and Upper Westside projects as well as other reasonably foreseeable development projects in the Environmental Impact Reports for both projects. Such analysis will also include an evaluation of each project's proposed conservation strategy and the potential effects on the viability of the existing HCPs in the context of seeking additional development within the Sacramento County unincorporated portion of the Basin as contemplated in the County's 2011 General Plan.

Appendix

Sacramento County Planning and Environmental Review Letter (cont)

We look forward to continuing dialogue regarding these important matters. Please contact Todd Smith, Principal Planner at (916) 874-6918 or smithtodd@sacounty.net if you have any questions.

Sincerely,



Digitally signed by Leighann Moffitt
DN: cn=Leighann Moffitt, o=Sacramento County, ou=Planning
and Environmental Review, email=moffitt@sacounty.net, c=US
Date: 2021.07.16 15:37:42 -0700

Leighann Moffitt, AICP
Planning Director

cc: Steven Hartwig, Deputy County Executive
Todd Smith, Principal Planner

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF BUTTE

Appendix A

Grandpark Owners Group Letter



May 20, 2021

Sutter County Grand Jury
P.O. Box A
Yuba City, CA 95992

ENDORSED FILED

SEP 23 2021

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SUTTER
CLERK OF THE COURT
By JACKIE LASWELL Deputy

Honorable Members of the Sutter County Grand Jury,

The landowner members of the Grandpark Development have asked that I submit our brief comments to you regarding your recent report titled, "Development in South Sutter County: Foul Play in the Natomas Basin".

We have read your report with great interest and applaud your efforts to improve the implementation of the Natomas Basin Habitat Conservation Plan (NBHCP). Landowner members of our development team own land in the Natomas Basin, in the City of Sacramento in North Natomas and land in Sutter Pointe in Sutter County. They hope to utilize the NBHCP for these properties in North Natomas and Sutter Pointe to address their required mitigation for threatened and endangered species. The viability of the NBHCP and the functions of the Natomas Basin Conservancy are, understandably, very important to them. We particularly note your findings relative to "risky investments" and funds held in "unnamed accounts". Matters such as these have the potential to do great harm and, as your report outlines, must be corrected.

As identified in your report, the Grandpark Development is located entirely in unincorporated Sacramento County. Sacramento County is not a party to the NBHCP and is in no way bound by its terms. The main court decision challenging the NBHCP acknowledges this fact and places no restrictions on Sacramento County pursuing development in the Natomas Basin. In fact, the Grandpark landowner group has been pursuing development for decades and has consistently made clear that its lands were not available to the Conservancy for purpose of mitigation. Of course, we will need and plan to address habitat mitigation independent from the NBHCP. Perhaps what is most important for your Grand Jury to know is that no proposal for mitigation by Grandpark will seek to acquire land within the Natomas Basin. Mitigation lands will be sought in other locations. From the beginning of our efforts, we have always made this fact clear. We have no intention of competing with the Conservancy for the acquisition of land.

GRANDPARK OWNERS GROUP

1017 L Street #157
Sacramento, CA 95814-3805
GrandparkSacramento.com

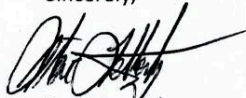
Appendix A

Grandpark Owners Group Letter (cont)



We hope that this information will assist you in this important effort.

Sincerely,



Steve Letterly
Grandpark Project Manager
sletterly@letterlymgmt.com
cell 949-422-2860

RECEIVED

MAY 28 2021

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SUTTER**

GRANDPARK OWNERS GROUP

1017 L Street #157
Sacramento, CA 95814-3805
GrandparkSacramento.com

Appendix B

LAFCO Letter

Sutter Local Agency Formation Commission

September 9, 2021

Honorable Susan F. Green, Grand Jury Presiding Judge
Superior Court of California, Sutter County
1175 Civic Center Blvd
Yuba City, CA 95993

FROM: John Benoit, Executive Officer

SUBJECT: Sutter LAFCo's invited response to the 2020-2021 Civil Grand Jury Report

Honorable Judge Green,

The Sutter Local Agency Formation Commission (LAFCo) has reviewed the 2020-2021 Grand Jury Report and would like to offer the following:

LAFCo is in the process of reviewing Fire and EMS (Emergency Medical) services included in its Municipal Service Review program. LAFCo will be examining fire and EMS service agencies and will make determinations pursuant to Government Code 56430. The determinations LAFCo will make regard the following:

Growth and Population Projections within Sutter County
Disadvantaged communities
Present and planned capacity of fire and EMS agencies
Financial ability of agencies to provide services including a detailed review of expenditure and revenue streams
Status and Opportunities for Shared Facilities

In addition to the above, this Service Review will be looking at the use volunteers

Of note, this Service Review will be exploring voter initiatives in Sutter County since these districts are no longer able to control funding levels through property tax policy but rather dependent upon registered voter opinion since the passage of Propositions 13 and 218.

The MSR will review local fire/EMS funding levels compared with service providers in comparable counties in the region and will clarify financing constraints faced by service providers in the County.

Lastly, Sutter County's registered voters and districts will be able to use this Service Review to assist in making decisions regarding future and sustainable funding of fire and EMS services.

LAFCo anticipates the Service Review will be completed by December 2021.

Thank you

Don Cochran
Chair, Sutter LAFCo

C/O John Benoit, Executive Officer P.O. Box 2694, Granite Bay, CA 95746
Email: jbenoit4@icloud.com (530) 619-5128 ph.

RECEIVED

SEP 13 2021

SUPERIOR COURT OF CALIFORNIA
COUNTY OF BUTTER

SUTTER COUNTY GRAND JURY 2021-2022



**Sutter County Corrections and
Rehabilitation Reform: Great Progress,
Headed in the Right Direction**

SUMMARY

The Sutter County Grand Jury (SCGJ) completed its annual inspection of the Sutter County jail along with a visit to the Tri-County Youth Rehabilitation Campus in Marysville. The Tri-County Youth Rehabilitation Campus includes the Tri-County Juvenile Rehabilitation Facility (Juvenile Hall) and the Maxine Singer Youth Guidance Center (Camp Singer). The SCGJ found that the staff at both agencies take pride in their facilities and work hard to ensure the safety of the adult inmates and youth. They also provide the adults and youth with programs that can better their lives and prepare them for the future. The SCGJ also discovered that the Sutter County Sheriff's Office (SCSO) is providing service to the community while being understaffed and underpaid.

BACKGROUND

The Sutter County jail, located at 1077 Civic Center Boulevard in Yuba City, was built in 1975. The kitchen facility was remodeled and expanded, and a new nursing and healthcare facility was built in 2019. The jail capacity is 396 inmates. Due to COVID-19 quarantine and social distance mandates, the capacity has been limited to 238 inmates. The average daily population prior to the pandemic in 2019 was 245.¹

The Tri-County Juvenile Rehabilitation Facility, located on 14th Street in Marysville, will be moving to their new location near the existing site when construction is complete. The new modern facility will be a safer, more secure facility that will be more easily managed by staff.

The 2019-2020 SCGJ conducted its inspection of the Sutter County jail and interviewed staff as well as inmates.

The grand jury reported the following findings:

- F1: There was a staffing issue in the jail
- F2: Drugs and other contraband were present in the jail
- F3: The medium security exercise yard was lacking overhead netting
- F4: The current search method for contraband at the jail was inadequate
- F5: The laundry room had no surveillance cameras present

With these findings, the 2019-2020 SCGJ made the following recommendations:

- R1: Expand jail employment
- R2: Invest in a full body scanner (Addresses both F1 and F4 above)
- R3: Purchase and install overhead netting
- R4: Add surveillance cameras to the laundry room

The 2020-2021 SCGJ followed up on the recommendations made by the previous grand jury. Their continuity report noted the following:

R1: Regarding jail staffing, the Sutter County Board of Supervisors approved an \$80,800 contract with Management Partners Inc. for an organizational structural study analysis

R2: The grand jury affirmed that the jail did purchase and install a full body scanner

R3: Overhead netting was not purchased due to the fact that the affected area was no longer being used

R4: The grand jury also affirmed that cameras were purchased and installed in the laundry room

The 2021-2022 SCGJ inspected the jail, interviewed staff, and researched relevant documentation with the previous findings and recommendations in mind. While the jail staff has made great strides in improving the quality and effectiveness of the jail, there are issues that still need to be resolved, mainly regarding staffing and the presence of drugs in the jail.

METHODOLOGY

The SCGJ visited the following facilities:

- Sutter County Jail – 09/15/2021
- Tri-County Youth Rehabilitation Campus – 10/26/2021
- Sutter County Sheriff's Office Training Facility – 11/04/2021

The SCGJ interviewed the following individuals:

- Sutter County Sheriff Department staff

The SCGJ reviewed the following documentation:

- California Board of State and Community Corrections (BSCC) Inspection and Report (Inspection – 08/19/2021, Report – 09/23/2021)
- BSCC Report – Average Daily Cost to House Youth in Detention Facilities (April 2019)
- Sutter County Nutritional Health Evaluation – 12/29/2020
- Sutter County Environmental Health Evaluation – 03/03/2021
- Sutter County Medical/Mental Health Evaluation – 1/28/2021
- 2020 Sutter County Sheriff's Annual Report
- Sutter County Sheriff's Office Organization Assessment and Staffing Study (Management Partners, January 2022. Available at <https://www.suttersheriff.org>)
- Appeal-Democrat articles

DISCUSSION

Safety and Well-Being

The SCGJ found that the inspected detention facilities put an emphasis on the safety and the well-being of the adult inmates as well as the youth.

The California Board of State and Community Corrections (BSCC) inspected the Sutter County Jail in August of 2021. The BSCC found that the jail staff conduct both fifteen minute and hourly safety checks; the SCGJ found the documentation to be timely and accurate. The jail staff document these safety checks both electronically (Guard One device) and with paper logs.

The full-time mental health provider at the jail frequently tours the jail in order to check on inmate stability. Telepsychiatry appointments are also available once a week at the jail.

The jail staff document in detail any incidents that occur and include all relevant information. They also take inmate grievances seriously and respond to the grievances in a timely manner.²

The jail uses the Medication Assisted Treatment (MAT) program. This is an FDA approved pharmacotherapy for opioid use disorder. The MAT program has been found to “*reduce drug use, disease rates, and overdose events, as well as promote recovery among individuals with opioid use disorders. Across the criminal justice system, MAT has been found to reduce criminal activity, arrests, as well as probation revocations and re-incarceration.*”³ The jail has also purchased back packs to provide to qualifying inmates that are being released. Each backpack is filled with underwear, socks, hygiene products, a bus pass, and Narcan (a medication designed to help reverse the effects of an opioid overdose).

The Juvenile Hall and Camp Singer have a full-time mental health therapist and youth are able to participate in individual and group therapy. The youth are also provided with services such as:

- **Dialectical Behavior Therapy** - provides skills to manage painful emotions and decrease conflict in relationships
- **Moral Reconation Therapy** - a program that seeks to decrease recidivism (relapse) among juvenile offenders by increasing moral reasoning based on the theory that thoughts, beliefs, and attitudes are the primary determinants of behavior
- **Self-Awareness and Recovery program**

The Juvenile Hall and Camp Singer staff emphasize a zero-tolerance policy regarding any kind of sexual abuse by other youth or adults. The Yuba County Probation Department reported that in 2020-2021 there were no cases of Youth-on-Youth Sexual Assaults, Staff-on-Youth Sexual Misconduct, or Staff-on-Youth Sexual Harassment. There were two substantiated cases of Youth-on-Youth Sexual Activity and three substantiated cases of Youth-on-Youth Sexual Harassment.⁴

Programs and Opportunities

Adult Facilities

The Sutter County jail's Inmate Education Program is developed and provided by Sheriff's Office personnel, Sutter County Mental Health, Sutter County Office of Education, and the Sutter County Probation Department. A six-week education program is available to inmates. Inmates have access to tablets, library services, the Law Library, books, newspapers, and periodicals. The jail also provides inmates with the opportunity to reduce their sentence. They are able to work in the kitchen or laundry (when COVID protocols are not in place). Inmates can participate in the Milestones program, which awards inmates sentenced to county jail time credits for participating in approved rehabilitation programs. Jail inmates can earn up to forty-two days off of their sentence.^v

Youth Facilities

The Tri-County Youth Rehabilitation Campus provides academic instruction through the Yuba County Office of Education. The instruction is provided by one full-time instructor as well as substitute teachers, para-educators, and part-time special education teachers as needed. Students can earn credits and graduate with a high school diploma. The education program is accredited by the Western Association for Schools and Colleges.

Along with traditional academic courses youth can participate in art classes, life skills classes, and Career Technical Education/Vocational courses. The Yuba County Office of Education has partnered with the Yuba County Probation Department to provide youth the opportunity to learn about construction and welding. Students recently completed construction of a greenhouse. Students taking welding courses have the opportunity to earn certification.⁵

Drugs in the Jail

During their inspection of the Sutter County jail, the 2019-2020 SCGJ found contraband and drugs to be an issue. The grand jury released their findings and made recommendations to help remedy the situation. They recommended the jail purchase a full-body scanner, netting be installed over an exercise yard, and cameras be installed in the laundry room.

The 2020-2021 SCGJ conducted a follow-up inspection and found two of the improvements were made; both the full-body scanner and laundry room cameras were purchased and installed. The netting was not purchased because the target area was no longer being used.

Even after the improvements drugs have been found in the jail. Drugs can be "dropped" in from the outside, can be sent through the mail, and sometimes can be missed on the full-body scanner.

In order to further ensure the safety of inmates and jail staff a drug-sniffing dog could be of great value in finding drugs coming into the jail that other preventative measures have missed.

Staffing, Pay, and Morale in the Sutter County Sheriff's Office

In January of 2022, a study of the Sutter County Sheriff's Office (SCSO) was completed by Management Partners, a consulting firm that specializes in local governments. Their report, Sutter County Sheriff's Office Organization Assessment and Staffing Study, made several recommendations, including a recommendation regarding staffing at the jail.

The study found that even though the jail capacity has been reduced due to the pandemic, the jail will need additional correctional officers when the jail is at full capacity again. The jail has four control rooms and related housing units, but currently is operating with three control rooms and related housing. The study recommended that 2.0 full-time equivalent (FTE) correctional officers be added per shift for a total of 8.0 FTE correctional officers.

Regarding SCSO pay, the study found that the SCSO budget is 8% of the total county budget, the lowest percentage among all peer counties. The study also found that "morale reportedly suffers from pressures caused by high turnover and insufficient staffing levels" and that employees leave for higher paying agencies.

Most of the hardships endured by the SCSO are a direct result of a lack of funding. The following are charts shown in the report submitted by Management Partners:

- The chart below (Table 1) shows the SCSO has \$10,000,000 less funding than the next lowest sheriff's department (Nevada County) in their group of peer counties:

Table 1. Comparison of Sutter County Sheriff's Office to Peer Counties

County	2021 Population Estimate ¹	Household Income ¹	Square Miles ¹	FY 2020-21 Sheriff's Office Expenditures	Number of Positions	Expenditures per Capita
Yuba	79,407	\$58,054	632	\$43,859,410	183	\$478
Nevada	97,466	\$66,096	958	\$41,313,998	170	\$430
Sutter	101,289	\$59,050	602	\$31,481,962	150	\$301
Kings	152,543	\$57,848	1,389	\$47,734,183	311	\$307
Madera	158,474	\$57,585	2,137	\$48,280,816	230	\$416
Butte	219,186	\$52,537	1,636	\$61,902,177	290	\$276

¹ 2015-2019 United States Census Estimate

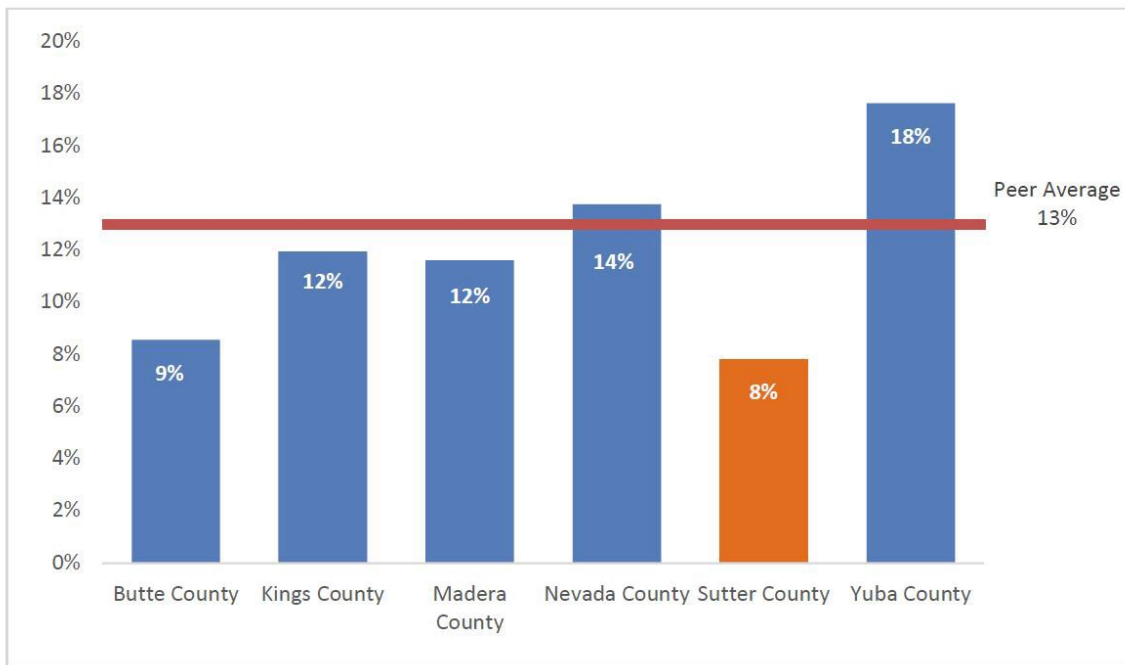
- The chart below (Table 2) shows the SCSO allocation of funds compared to the total county budget.

Table 2. Comparison of FY 2021-22 Budgets and Sheriff's Office Budgets, Peer Counties

Agency	Total County Budget	Sheriff's Office Budget	Patrol Budget	Jail Budget	Overtime Budget
Butte County	\$721,500,000	\$61,902,177	\$23,527,609	\$28,906,386	\$2,876,985
Kings County	\$398,939,197	\$47,734,183	\$12,915,984	\$25,530,401	\$2,386,000
Madera County	\$414,984,007	\$48,280,816	\$29,179,782	\$19,101,034	\$1,413,500
Nevada County	\$299,864,980	\$41,313,998	\$13,682,608	\$16,019,349	\$1,652,719
Sutter County	\$402,659,849	\$31,491,962	\$10,016,514	\$14,195,791	\$1,301,000
Yuba County	\$248,465,883	\$43,859,410	\$19,986,824	\$20,417,174	\$724,523

- The next chart (Figure 1) shows the SCSO budget is 8% of the county's total budget. If the SCSO budget were raised to the peer average of 13%, that would be an increase of over \$20,000,000 to the existing budget:

Figure 1. Sheriff's Office Budget as a Percentage of Total County Budget



Staffing shortages, low pay, and low morale, have made it difficult for recruitment and retention for the SCSO. It has been an incredible challenge for the department to continue to provide excellent service to the community. The SCSO leadership deserves great credit for running an efficient department under these conditions.

FINDINGS

- F1. The Sutter County jail and Tri-County Youth Rehabilitation Campus staff work hard to ensure the safety and well-being of their adult inmates and youth.
- F2. The Sutter County jail and Tri-County Youth Rehabilitation Campus provide inmates and youth with programs and opportunities.
- F3. Drugs are still getting into the Sutter County jail.
- F4. The Sutter County jail is under-staffed.
- F5. Sutter County Sheriff's Office staff are underpaid, which can lead to low morale and high staff turn-over.

RECOMMENDATIONS

- R1. Sutter County should invest in a drug-sniffing dog for use in the jail. (in response to finding F3)
- R2. Sutter County should follow the recommendations presented in the Sutter County Sheriff's Office Organization Assessment and Staffing Study regarding the hiring of additional jail staff. (in response to finding F4)
- R3. The excellent, in-depth report by Management Partners on the Sutter County Sheriff's Department budget should be a cause for action for the Sutter County Board of Supervisors. (in response to finding F5)

REQUIRED RESPONSES

The following responses are required, pursuant to Penal Code sections 933 and 933.05:
From the following elected county officials within 60 days:

- Sutter County Sheriff: F3, F4 and R1, R2

From the following governing bodies within 90 days:

- Sutter County Board of Supervisors: F5 and R3

ENDNOTES

¹ *Sutter County Sheriff's Office Organization Assessment and Staffing Study*. January 2022. Management Partners.

² *2020-2022 Biennial Inspection of the Sutter County Sheriff's Office Jail and Court Holding Facility*. September 2021. California Board of State and Community Corrections.

³ *Medication-Assisted Treatment (M.A.T.) in the Criminal Justice System: Brief Guidance to the States*. March 2019. United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration.

⁴ Yuba County Probation Department Prison Rape Elimination Act (PREA) statistics as reported on the Department of Justice Survey of Sexual Victimization. 2014 – 2021.

^v 2020-2022 Biennial Inspection of the Sutter County Sheriff's Office Jail and Court Holding Facility. September 2021. California Board of State and Community Corrections.

^{vi} *"Seeing Themselves in a Different Light."* December 16, 2021. Appeal-Democrat.

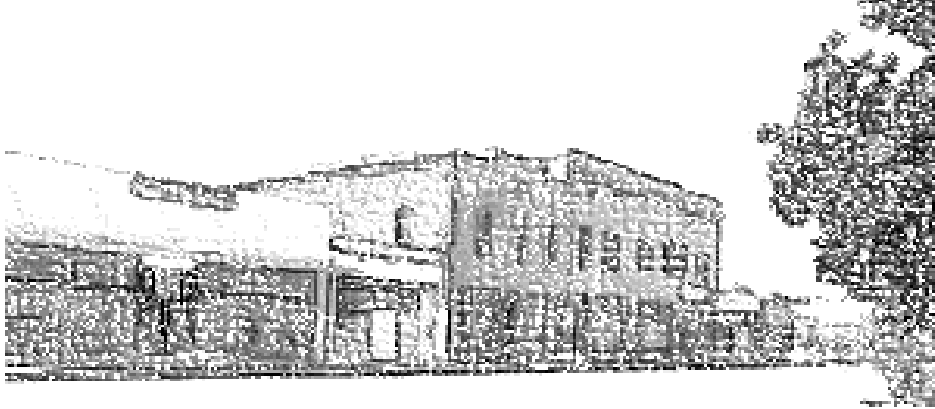
Exit Interview

The Sutter Grand Jury conducts exit interviews with the departments that reports are made on. This is done so that the Grand Jury can note those findings that may have been rectified in the interim between the investigation and the publishing of the report. There were two such findings that were addressed by the Sheriff's Department.

F4: During the covid pandemic much of the jail was shut down. Currently the staffing is appropriate for the population. The Board of Supervisors have added an additional officer for the jail.

F5 The Deputy Sheriff's Association, primarily composed of corrections officers, received raises that brought them within 10% of comparable counties. The Peace Officers Association, primarily comprised of Deputy Sheriffs, received raises that have brought them within 5 % of comparable counties.

SUTTER COUNTY GRAND JURY 2021-2022



City of Live Oak: Crisis of Municipal Dysfunction



SUMMARY

The City Council and the administration of the City of Live Oak have not diligently and judiciously served the citizens of Live Oak for several years, and this past year is no exception. In 2021 dysfunction has been the state of affairs in the City of Live Oak because of the failed performance of the city council in its due diligence duty to the people of that community. Our methods of investigation included: interviews with local officials and service staff, articles from local news publications, government websites, and public documents.

The Sutter County Civil Grand Jury for 2021/2022 investigated areas of dysfunction on the city council relating to its inability to fill a vacant seat on the council. This problem was compounded by an extended period of lack of consensus to pass a budget. Additionally, the council was unable to pass authorizations to collect taxes on the Community Financial Districts (CFDs) and special assessments for the city. Beyond the findings we submit for the public record a series of recommendations made by the grand jury.

In the opinion of the grand jury, the members of the City Council of Live Oak need to better communicate with one another to find common ground. Additionally, the council should pass a budget in a timely manner. They also would be wise to uniformly participate in budget workshops. The Grand Jury recommends that in the future the city council ought to pass all tax authorizations before the end of the fiscal year. Live Oak would be wise to take these recommendations and the rest of the Grand Jury's work very seriously for the betterment of their community.

BACKGROUND

The City of Live Oak is a small farming community in Sutter County which was incorporated in 1947 and is just north of Yuba City, California. This town with a population of 9,106 (according to the US Census Bureau) has been financially stable for many years; in fact, the financial stability of the city has been ranked in the top 50 cities (out of over 450 cities) in California by the California State Auditor's office for the past 4 years (2016-17 thru 2019-20.)⁶

The city budget has been passed by the city council in a timely fashion for the past 10 years 2011-2021, but this year, 2021-22 was different for several reasons.

- The city council as a body has been in turmoil and lost one of its members in May 2021 which was not replaced in the most expedient and efficient manner. This has contributed to a city council voting deadlock, often two votes *Yes* and two votes *No*.
- The city council did not have a spirit of cooperation among its members, so rather than seeking compromise and solutions, its members have remained entrenched in their own positions on most matters.
- Because the city council did not pass the budget resolution which would have authorized collecting the annual Community Facility District fees (CFDs) for 2021-22, the city lost this revenue of nearly one million dollars for this year. This caused a budget deficit.
- The 2020-21 and 2019-20 Sutter County Grand Jury reports showed ongoing unresolved issues in the Live Oak city government.

For these reasons the Sutter County Grand Jury believed it was imperative for the jury to perform an investigation looking into the circumstances and decisions which had led to these irregularities in the city finance and budget process.



METHODOLOGY

Tours or Visits:

- Live Oak City Council Meetings

Interviews:

- City of Live Oak Council members
- City of Live Oak administration
- Professional Services (consultants) retained by the city of Live Oak
- Sutter County staff

Research:

- Live Oak, California website ([Live Oak, CA | Home \(liveoakcity.org\)](http://liveoakcity.org))
- City of Live Oak regular council and special council meeting agendas, minutes, videos, and agenda packets (https://liveoakca.granicus.com/ViewPublisher.php?view_id=1)
- Articles in the Appeal-Democrat (appeal-democrat.com)
- City of Live Oak Annual Budget for previous years (<https://www.liveoakcity.org/government/city-budget/-folder-115>)
- CFD research, city of Live Oak City Council agendas and San Diego County (<https://arcc.sdcountry.ca.gov/pages/mello-roos-information.aspx>)
- California State Auditor website www.auditor.ca.gov
- California Government Code (<https://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=GOV&tocTitle=+Government+Code+-+GOV>)
- US Census Bureau www.census.gov



DISCUSSION

The Sutter County Civil Grand Jury investigated the budget crisis during the latter months of 2021. We found that a budget was not passed on time before the end of the fiscal year to avoid funding disruptions to the municipality. The city council failed to appoint a new fifth member and mayor to fill a vacancy from earlier in the year. Fiscal problems were compounded when the city council failed to pass a new CFD authorization to collect taxes and assessments from residents and to communicate those changes to residents.

The Need to Fill a Seat

In May 2021 a vacancy opened on the Live Oak City Council when the previous mayor resigned. The council attempted to fill the mayorship with a standing Council Member. His candidacy was rejected by a deadlock vote of 2-2. The best method of filling the vacant council seat is to have the current council vote on a replacement member from those individuals who have filled out an application. On July 7th the council nominated six of the nine individuals who applied to temporarily fill the vacant city council seat. The six were interviewed by the city council, however, all six were voted down 2-2. The council was unable to fill both the vacant council seat and the mayorship before the deadline. Had the council been able to fill the council seat this would have cost the city of Live Oak nothing rather than the over \$30,000 they ended up paying.

The council had until June 30th under Government Code 36512 to order a special election to ask the residents of Live Oak to resolve the dilemma.⁷ The Council of Live Oak failed to perform this task as well. Once the deadline of June 30th came and passed under Government Code 1770 the Sutter County Board of Supervisors was required to step in and call a special election for the city. On August 10th the Sutter County Board of Supervisors set a date for the election. This special election was held on December 7th.⁸ The people of Live Oak on that day chose Jeremy Chapdelaine with 42.21% of the vote to serve on the city council.⁹ The seating of Council Member Chapdelaine brought forth immediate beneficial results. This dysfunctional affair in how Live Oak finally resolved its vacancy problem cost the taxpayers \$30,696 according to Sutter County financial staff's information.

The Budget Crisis

The challenges with selecting a new member for city council during 2021 negatively impacted the budget process for the year. The vacancy resulted in a 2-2 deadlock on the Live Oak City Council over the failed passage of the fiscal year (FY) 2021/2022 budget on June 29, 2021.¹⁰ On July 14th the council failed to pass the budget during a special meeting and consequently all non-essential city operations were shut down. On July 21st, the council passed two months of the 2021/22 fiscal year budget, which reopened all city operations.

Multiple partial budgets were passed by the city council. This included a 5/12th continuing resolution on September 15th.¹¹ According to interviews with administrative staff the spending authorization was expected to fund operations until the week of December 20th. If a final budget was not passed before then, the city faced a deficit of six hundred thousand to seven hundred thousand dollars according to Live Oak consultants.

In multiple city council meetings, members of the city council were asked for an explanation for voting “no” to the budget resolution. No clear explanation was given by these council members. A workshop was held to educate all members of the Live Oak City Council about the budget. During the event, members of the council were permitted to present questions to a city contracted financial consultant to clarify any misgivings. The hope being that a common understanding of city finances might facilitate a resolution to the passage of a budget for the fiscal year. Two council members participated in the workshop with the two others not attending. These two members who took part in this educational service for the council should be commended for working in a manner that laid the foundation for a spirit of cooperation. Their behavior here is an example of where they often have sought to be productive for Live Oak. The two who were opposed to the proposed budget were the same who voted against prior budget resolutions.¹² As the contention over the budget progressed unresolved, morale collapsed among city employees due to fear that their jobs were at risk in the event that the city ran out of money. Once a new member was selected, the deadlock was broken on December 20th.¹³ With the deadlock broken, a budget was passed.



A Gap Year for Collecting CFD Taxes and Special Assessments

Along with the struggle to pass a budget there was also the contentious issue of the City Council of Live Oak passing a resolution authorizing the collection of taxes for the city's Community Financial Districts (CFD). CFD's are a form of property taxes (though distinct from formally understood property taxes.) They are collected to pay for capital projects such as upgrading a city's water treatment plant. These special taxes must be approved by the voters of a municipality. In the City of Live Oak, the schedule must be approved every thirty years. This schedule provides a financial range for taxing property owners during the period that this range is in effect. However, every year the city council must approve the implementation of this schedule through a resolution, with a tax amount set within the range. The city had been for years raising revenue in part from two Community Financial District authorization schedules: one passed in 1992 and another passed in 2004. However, the council is required to authorize each year the order to collect those taxes. Amidst, the budget debates of 2021 no resolution calling for the collection of those CFD taxes passed due to another 2-2 deadlock on the city council. This meant the city was gazing into a deficit of eight hundred and thirty thousand dollars for the fiscal year. In the end a resolution was never passed. The deficit was covered by raiding the Live Oak municipal emergency reserve fund with about four and a half million dollars in reserves. To avoid future deadlocks that waste the valuable tax dollars of the people of Live Oak and significantly disrupt municipal operations, the city council members must perform a better job understanding one another's positions and seek compromise. The council should always remember that they exist to serve the citizens of their fair city and not their own personal agendas.



FINDINGS

- F1 - When the LO city council did not appoint a council person to fill the vacant council seat it cost the citizens of Live Oak financially.
- F2 - The City Council of Live Oak did not pass the budget in a timely fashion.
- F3 - The City Council of Live Oak scheduled a budget workshop to resolve the budget deadlock, but all members of the council did not attend.
- F4 - The City Council of Live Oak did not pass the authorization to collect the annual CFDs and special assessments by September 2021, therefore these could not be added to the tax rolls.
- F5 - This year's CFD taxes could not be collected. This has cost the city over \$800,000 in budget reserves.

RECOMMENDATIONS

- R1 - The City Council of Live Oak will pass the budget in a timely fashion.
- R2 – The City Council of Live Oak will establish budget workshop dates with sufficient time to resolve any concerns prior to voting on the budget resolution.
- R3 - All members of the city council will participate in any scheduled budget workshops to understand the proposed budget and to discuss areas of concern.
- R4 - The City Council of Live Oak will pass the authorization to collect the annual CFDs and special assessments in a timely manner, so that these levies can be added to the current year tax rolls.

REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Grand Jury requests responses as follows:

- City of Live Oak City Council: Respond to Findings (F1-F6)

ENDNOTES

- ⁶ Auditor of the State of California. “Fiscal Health of California Cities.” *Auditor of the State of California*. February 20, 2022. https://www.auditor.ca.gov/local_high_risk/dashboard-csa
- ⁷ Long, Seti. “Live Oak Looking for a Mayor.” *The Gridley Herald*. 2021. <https://www.gridleyherald.com/articles/2021/0617-Live-Oak-Looking-for-a-Mayor/index.php?ID=11485>.
- ⁸ Wilson, David. “Sutter County supervisors call for Live Oak Special Election.” *The Appeal-Democrat*. August 11, 2021. https://www.appeal-democrat.com/news/sutter-county-supervisors-call-for-live-oak-special-election/article_4eb240aa-fb12-11eb-a1e7-0f976012dd01.html.
- ⁹ Sutter County Clerk-Recorder. “Live Oak City Council Vacancy Election: December 7, 2021: Final Official Results (Official Summary Report - Sutter 2021 Vacancy Election, December 7, 2021, VBM Summary Report).” *Sutter County Clerk-Recorder*. January 25, 2022. <https://www.suttercounty.org/home/showpublisheddocument/5112/637753568292200000>
- ¹⁰ Long, Seti. “City of Live Oak Struggles over Budget and Shutdown.” *The Gridley Herald*. 2021. <https://www.gridleyherald.com/articles/2021/0721-Live-Oak/index.php?ID=11808>
- ¹¹ Wilson, David. “Live Oak City Council passes another partial budget.” *The Appeal-Democrat*. September 16, 2021. https://www.appeal-democrat.com/news/live-oak-city-council-passes-another-partial-budget/article_10c8d438-1760-11ec-b8c3-43260838177e.html.
- ¹² City of Live Oak, CA. “Live Oak City Council: Special Meeting Minutes: 6pm.” *City of Live Oak, CA*. June 22, 2021. https://liveoakca.granicus.com/DocumentViewer.php?file=liveoakca_197bc597a71d6ec2b905fa1b4faa794b.pdf&view=1.
- ¹³ Summa, Robert. “Live Oak City Council passes 2021/2022 fiscal year budget.” *The Appeal-Democrat*. December 20, 2021. https://www.appeal-democrat.com/news/live-oak-city-council-passes-2021-22-fiscal-year-budget/article_76ef37e6-6208-11ec-a88f-db54ed7b15e6.html.

APPENDIX A

Live Oak City Council Resolution Regarding Special Assessments For 2021-22

CFD Fiscal Impacts (30 Year Special Levies)		
CFD 2004-1		
Existing Homes	\$ 690,301.00	same level for last 14 years
New KB Homes	\$ 65,489.00	to cover increased public safety costs
Subtotal:	\$ 755,790.00	
CFD 92-1		
	\$ 130,306.88	Live Oak Unified School District
	\$ 43,436.00	City's debt service for County animal shelter
Subtotal:	\$ 173,742.88	
TOTAL for CFDs	\$ 929,532.88	

WHEREAS, the City Council of the City of Live Oak, California, (hereinafter referred to as the “City Council”), has previously initiated proceedings, held a public hearing, conducted an election and received a favorable vote from the qualified electors relating to the levy of a special tax in a Community Facilities District, all as authorized pursuant to the terms and provisions of the “Mello Roos Community Facilities Act of 1982”, being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California. The Community Facilities District is designated as Community Facilities District No. 2004-1 (hereinafter referred to as the “District”); and

WHEREAS, the City Council, by Ordinance as authorized by Section 53340 of the Government Code of the State of California, has authorized the levy of a special tax to pay for costs and expenses related to said District, and the City Council is desirous to establish the specific rate of the special tax to be collected for Fiscal Year 2021/22; and

WHEREAS, the City has complied with all laws pertaining to the levy of the special taxes, including Proposition 218, to be collected per Government Code Chapter 2.5 Part 1, Division 2, Title 5; and

WHEREAS, the special tax is being levied without regard to property valuation of the properties involved.

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL, AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That the specific rate of the special tax to be collected to pay for the costs and expenses for Fiscal Year 2021/22 for the above referenced District is hereby determined and established in the table

below, and that a listing of each individual special tax rate for the referenced District is hereby determined and established as set forth in the attached, referenced, and incorporated.

SECTION 3. That the rate as set forth in the previous table does not exceed the amount as previously authorized by Ordinance of this legislative body and is not in excess of that as previously approved by the qualified electors of the District, and is exempt from Proposition 218, Section XIID of the California State Constitution. The special tax is being levied without regard to property valuation of the properties involved.

SECTION 4. That the proceeds of the special tax shall be used to pay, in whole or in part, the costs of the following:

A. Fire Services – suppression and prevention, rescue services and equipment, land and buildings, cost of personnel and professional contract services and services related thereto.

B. Law Enforcement - public protection and equipment, land and buildings, cost of personnel, equipment and professional contract services and services related thereto.

C. Animal Control – public protection, land and buildings, cost of personnel, equipment and professional contract services and services related thereto.

D. Street Light – street light maintenance, installation, repair, removal and replacement and for providing electric energy and services related thereto.

E. Parks & Recreation/Pool – operations and maintenance of City parks, pool facilities, operations and administration of City recreation programs, land and improvements, cost of personnel, equipment and services related thereto.

F. Storm Drainage Facilities – operations and maintenance of the City’s storm drainage facilities, water retention basins, land and improvements, culverts, cost of personnel, equipment and services related thereto.

The proceeds of the special taxes shall be used as set forth above and shall not be used for any other purpose.

SECTION 5. The special tax shall be collected in the same manner as ordinary ad valorem property taxes are collected and shall be subject to the same penalties and same procedure and sale in cases of any delinquency for ad valorem taxes, and the County Tax Collector is hereby authorized to deduct reasonable administrative costs incurred in collecting any said special tax.

SECTION 6. All monies above collected shall be paid into the Community Facilities District funds, including any reserve fund.

SECTION 7. The County Auditor is hereby directed to enter in the next County tax roll on which taxes will become due, opposite each lot or parcel of land affected in a space marked “public services, special

tax” or by any other suitable designation, the installment of the special tax, and for the exact rate of special tax as stated above.

SECTION 8. The County Auditor shall then, at the close of the tax collection period, promptly render to this City a detailed report showing the amount and/or amounts of such special tax installments, interest, penalties and percentages so collected and from what property collected, and also provide a statement of any percentages retained for the expense of making any such collection.

Title: Resolution of the City Council of the City of Live Oak Approving a Tax Collection Schedule for Fiscal Year (FY) 2021-22 for Community Facilities District (CFD) No. 2004-1

Contact Information: (James Ramsey, Finance Director)

Background: In 2004, the Council approved the establishment of CFD 2004-1 and approved the recordation of liens on properties that petitioned the City for the formation of the CFD. Since then, there are 759 parcels that are subject to the levy. The tax roll included in the staff report covers all taxable parcels within the boundaries of CFD 2004-1; this development includes Pennington Ranch phases I-V, Peachtree III, Garden Glen, Sand Piper and Walnut View subdivisions, as well as the Kristen Court Apartments. The CFD rate for a single-family home has been \$909.56 per year since FY 2006-07.

The special assessment attributed to each parcel was computed in accordance with Resolutions 28-2003, 29-2003, 2-2004, 3-2004, 9-2004, 10-2004, 11- 2004, and 12-2004. Formation documents stipulate that CFD 2004-1 funding be used for services related to fire and police protection, animal control services, street lighting, storm drain maintenance, parks, pool and recreation services.

Street lighting and storm drain maintenance are funded entirely from CFD 2004-1 special tax revenues. Fire and police protection, animal control, and parks, pool and recreation services are partially funded via the City's General Fund.

The CFD formation documents provide for a maximum annual increase in the levy rate of 5% for each type of developed property. The maximum rate for FY 2021-22 amounts to \$1,890.91 per home. However, the city has not increased the tax levy since 2006-07. The resolution included in the staff report sets the annual tax levy to remain at \$909.56 for FY 2020-21 for single family detached properties. This levy will be the same amount that has been used for the previous 14 years. The current rate for a multi-family property is \$27.56 per apartment unit. The CFD revenues are recorded across 6 funds:

- * Fund 23: Fire CFD 2004-1 Mello Roos
- * Fund 24: Police CFD 2004-1 Mello Roos
- * Fund 25: Animal Services CFD 2004-1 Mello Roos

- * Fund 26: Street Lighting CFD 2004-1 Mello Roos
- * Fund 27: Parks / Rec/ Pool CFD 2004-1 Mello Roos
- * Fund 28: Storm Drainage CFD 2004-1 Mello Roos

The following General Fund departments are impacted by the CFD:

- * Fire
- * Police
- * Animal Services
- * Park Operations
- * Recreation Services
- * Pool

Recent development activity in the Pennington Ranch KB Homes provided for 72 new homes to begin paying the annual CFD 2004 levy. KB Homes nearly completed the occupancy of their development. In the upcoming years, we expect the remaining KB Homes to be added as well as some of the Garden Glen development. The last two years of new homes have provided enough revenue to offset the \$90,162 of annual payments for the City's fire engine.

Fiscal Impacts:

- 1) CFD 2004-1 taxes on new homes reduces General Fund burden
- 2) Levy remains at the same level as previous 14 years and will generate approximately \$690,301 in FY 2021-22.
- 3) New homes by KB Homes pay the FY 2021-22 tax levy and new collections will add \$65,489 to cover the increased public safety costs.

Resolution of the City Council of the City of Live Oak Approving a Tax Collection Schedule for Fiscal Year (FY) 2021-22 for Community Facilities District (CFD) No. 92-1

Contact Information: (Finance Director)

Background: For the previous 28 years, the City has applied these approved tax levies for collection on the County property tax roll. The listing included in the staff report of 226 parcels (Exhibit "A") covers all taxable levies within the boundaries of CFD No. 92-1; American Dram Homes, Phases I through V. Tax attributed to each parcel (226 parcels) was computed in accordance with Ordinances 380, 403, 438, and 439 and Resolutions 42-1992, 46-1992 and 55-1992.

The tax levies for CFD 92-1 totals \$130,306.88 for FY 2021-22 of which 2/3rds will be forwarded to the Live Oak Unified School District in accordance with the district formation documents. The remaining annual levies of \$43,436 has traditionally been used to cover the City's debt service contribution for the County animal shelter. The CFD 92-1 assessments to be used by the City are restricted for the purchase, construction, expansion or rehabilitation of sites and structures for general government, police, fire, parks, recreation, streets, and other government facilities.

The first levy was put into place during FY 1992 and is set to expire after the next levy in FY 2022-23.

Fiscal Impacts:

- 1) CFD 92-1 taxes reduces the burden on the City's General Fund for animal control facilities (\$43,436).
- 2) CFD 92-1 taxes provide facility funding to the Live Oak Unified School District (\$130,306.88)

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVE OAK APPROVING A
SPECIAL TAX COLLECTION SCHEDULE FOR FISCAL YEAR 2021/22 FOR THE
COMMUNITY FACILITIES DISTRICT NO. 92-1 OF THE CITY OF LIVE OAK**

RESOLVED, by the City Council of the City of Live Oak (herein “City Council”), that

WHEREAS, pursuant to Paragraph 4.D. of Category I and II of Exhibit “A” of Ordinance No. 380, an Ordinance Levying Special Taxes Within Community Facilities District No. 92-1 the City of Live Oak is to prepare a Tax Collection Schedule for Category I and II that includes the amount of annual installments of special taxes to be collected in the current fiscal year with respect to parcels within Community Facilities District No. 92-1 that have been issued building permits in the preceding fiscal year and whose owners have elected, pursuant to Paragraph 4.B. of Category I and II of the aforesaid Exhibit “A”, to pay the Development Agreement Amount in equal annual installments over a period of thirty (30) years; and

WHEREAS, the City Council, by adopting Ordinance Nos. 438 and 439, did provide alternative system of collecting the payments; and

WHEREAS, the City Council is desirous of approving a Tax Collection Schedule for Fiscal Year 2021/22 in accordance with the provision of aforesaid Exhibit “A” and as amended in Ordinance Nos. 438 and 439; and

WHEREAS, the City has complied with all laws pertaining to the levy of the special taxes, including Proposition 218, to be collected per Government Code Chapter 2.5 Part 1, Division 2, Title 5; and

WHEREAS, the special tax is being levied without regard to property valuation of the properties involved.

NOW, THEREFORE IT IS HEREBY ORDERED, DETERMINED AND FOUND AS FOLLOWS:

1. The Tax Collection Schedule for Fiscal Year 2021/22 for the City of Live Oak Community Facilities District No. 92-1 hereto attached as Exhibit “A” and incorporated herein by reference, is hereby approved.
2. The City Manager is hereby directed to cause a certified copy of this resolution, with a certified copy of Exhibit “A” attached to be filed immediately with the Sutter County Auditor/Controller’s Office and the Sutter County Treasurer/Tax Collector’s Office. The certification of the aforesaid Exhibit “A” shall certify, among other things, that it represents a list of all parcels of property within Community Facilities District No. 92-1 that are

affected by the special tax levied for the Fiscal Year 2021/22 and in the amounts shown therein under column Assigned Special Tax.

3. The amounts shown therein under column Assigned Special Tax represent the annual installment amounts to be collected as special taxes over a period of thirty (30) years with respect to affected parcels.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVE OAK CONFIRMING SPECIAL ASSESSMENT TAXES FOR FIRE PROTECTION AND LIGHTING MAINTENANCE FOR FISCAL YEAR 2021-22 FOR THE LIVE OAK LIGHTING AND MAINTENANCE ASSESSMENT DISTRICT OF THE CITY OF LIVE OAK

WHEREAS, the City Council of the City of Live Oak, California, (hereinafter referred to as the “City Council”), has previously initiated proceedings, held a public hearing, conducted an election and received a favorable vote from the qualified electors relating to the levy of special taxes for fire protection and lighting maintenance, of which Exhibits “A” and “B” cover all taxable County Assessor’s parcels of land within the boundaries of the Live Oak Lighting and Maintenance Assessment District of the City of Live Oak, except for new development including Pennington Ranch phase I-V, Peachtree II & III, Garden Glen, Sand Piper and Walnut View subdivisions, which are areas covered by Community Facilities District 2004-1; and

WHEREAS, the City, in accordance with Section 3.24.030 of the Live Oak Municipal Code, the City Council must annually confirm the special assessment taxes to be collected.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE CITY COUNCIL, AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. a. That the fire assessment uses a rate of .03 cents per square foot of each dwelling as the basis for the levy and totals \$131,679.84 for fire assessments: and b. The street light assessment uses the radius distance of the lot to the nearest street light pole as the basis for the levy and totals \$54,464.00 for street lighting assessments.

APPENDIX B

Mello Roos - Community Facilities District (CFD)

The California legislature passed the Mello-Roos Community Facilities Act of 1982, which became law in January of 1983 (California Government Code Section 53311 et. seq.) This act allows local governments to establish a Mello-Roos special tax assessment district in a developing area to finance specific public facilities and services needed by that particular area. A Mello-Roos Community Facilities District (CFD) is initiated by either: (1) a written request signed by two members of the legislative body (local government or school district); (2) a petition signed by 10% of the eligible voters in the area; or (3) a petition signed by the landowners of 10% of the area in the proposed district.

The legislative body then adopts a resolution of intention to establish a CFD. Public hearings are held by the legislative body and written protests are reviewed. If adequate support for formation of the district is found at the hearings, the legislative body adopts a resolution of formation and an election is held. The formation of a Mello-Roos CFD has to be approved by two-thirds of the eligible voters or landowners in the proposed district. If less than 12 registered voters reside within the proposed district, the vote shall be held by the landowners only of the proposed district with each landowner having one vote per acre owned.

Mello-Roos bonds can only be used to finance new or additional facilities and services. The services and facilities that can be financed by a Mello-Roos CFD are: elementary and secondary schools; police protection, including criminal justice facilities; fire protection, including ambulance and paramedic facilities; recreation program services; flood and storm protection services; libraries; natural gas pipeline facilities; telephone lines; electrical transmission lines and facilities; and any other government facility which is owned and operated by the local government. Financing existing facilities and services is not allowed by this act.

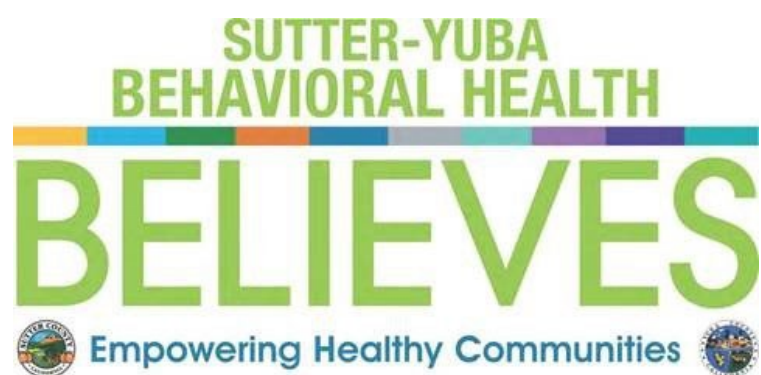
Once established, the Mello-Roos district has bonding and taxing authority. It can issue bonds to finance the designated public facilities or services, which are then repaid by a special tax levied by the Mello-Roos district. This special tax is added to the property tax bill by the County Auditor-Controller at the request of the district, and then collected by the County Tax Collector. Although the act does not specify how the special tax should be allocated, most districts apply it according to the benefit received by the parcel (i.e. square footage of new homes is commonly used for schools, and frontage is used for new roads).

A concern with Mello-Roos financing is the need for adequate disclosure to new buyers that the properties are within a Communities Facilities District, and that these changes will be added to the 1% tax rate as required by Proposition 13. It is essential to emphasize the amount and duration of these Mello-Roos charges to new buyers so that they fully understand that they are included in a district and will be paying higher property taxes to pay off the bonds.

For the disclosure of Mello-Roos on new home sales, the best source is the Public Report, commonly referred to as the "White Paper," Section 11010 of the California Government Code that requires disclosure of all indebtedness that is a lien on the subdivision or any part thereof. According to the California Department of Real Estate, the Public Report includes all information submitted to them in the Notice of Intention. Because the Public Report is required on all new subdivision lots, real estate agents are aware of any additional charges. Disclosure then becomes a simple matter of making sure the buyer is aware of these liens or bonds that must be paid off in the future by higher property taxes.

Re-sales of existing condominiums and homes may be problematic. Since a Public Report is not required on re-sales, the discovery of the amount and duration of the Mello-Roos bonds is not always immediately available. Therefore, the agent may have to do additional research to obtain this information for disclosure purposes.

Part of the requirements of forming a Mello-Roos Community Facilities District involves recording a notice of special tax lien in the County Recorder's Office. This recorded document is noted in any title search performed by a title insurance company as well as the Preliminary Title Report. While this report will note that the property is located in a Mello-Roos district, the particulars of the amount of special taxes and the duration of the tax bonds are not recorded and therefore not provided. Further, escrow provides current and delinquent tax bill information, but usually does not address future tax liens on the property such as Mello-Roos bonds.



Sutter-Yuba Behavioral Health: Behind the Times

Summary

Sutter Yuba Behavioral Health is a Joint Powers Authority between Sutter and Yuba counties serving their communities public behavioral health needs. Sutter Yuba Behavioral Health (SYBH) has a 55 million dollar budget for 2021-2022 fiscal year. On our site tour in the fall of 2021, Sutter County Grand Jury observed several safety concerns. Some of these concerns were also expressed by SYBH staff. The grand jury also observed the state of deterioration of buildings, the lack of general upkeep of the grounds, and the parking lot with large holes and blacktop erosion. This prompted the grand jury to further investigate how the main campus of the SYBH deteriorated to such a state and how safety issues on the Psychiatric Health Facility (PHF) were addressed. The Sutter County Grand Jury reviewed reports from California Department of Health Care Services (DHCS) regarding the PHF. This led to further investigation of other budgetary concerns after reviewing public records. After extensive research, interviews, and tours, Sutter County Grand Jury found many safety issues on the SYBH PHF unit, deterioration of the 1965 Live Oak Blvd campus, capital improvement delays, and budgetary mishandling.

Methodology

Tours or Site Visits:

- Sutter Yuba Behavioral Health (SYBH) Building at 1965 Live Oak Blvd
- Psychiatric Health Facility (PHF)
- Demonstration of the video and security system at SYBH
- Two private Tours of Psychiatric Health Facilities (PHF)

Interviews:

- Sutter County Employees
- Sutter County Elected Officials
- Sutter County Appointed Employees
- SYBH Administration Staff
- SYBH Staff
- Sutter County Auditor/Controller Administration Staff
- Sutter County Health and Human Services Administration Staff

Research:

- Minutes and Agendas of the Sutter County Board of Supervisors and the Sutter Yuba Behavioral Health Advisory Board
- Sutter Yuba Behavioral Health (SYBH) website
- Sutter County Health and Human Resources website
- Reviewed documents and educated ourselves on the following:
 - Mental Health Services Act
 - 1991 California Realignment Funding
 - 2011 California Realignment Funding
 - Mental Health Services Act (MHSA) Three-Year Program and Expenditure Plan (2021-2023) for SYBH
 - SYBH Budget for past 4 years
 - Numerous SYBH Fiscal Accounting Reports and budgetary items
- SYBH Policy and Procedures regarding “Away without Leave” (AWOL) and isolation/seclusion
- SYBH “Absent/Away Without Leave” (AWOL) reports and Incident/Hazard Reports (2021 and 2022)
- California Department of Health Care Services website
- SYBH 2021 reports/letters for their Substance Abuse Block Grant (SABG) and SYBH
- SYBH 2019 County Performance Contract Review Report (July 23-July 24, 2019)
- SYBH 2021 report/letter for the Psychiatric Health Facility (PHF)
- Articles in our local newspaper, Appeal Democrat as well as Associated Press articles related to local and statewide mental health funding, programs and proposed legislation
- Peer Reviewed Scientific articles on mental health and psychiatric treatment/concerns with AWOL
- Peer Reviewed Scientific articles on the effects of suicide in an inpatient hospital on staff
- California State Legislative Code for Welfare and Institutions 5150-5349.1
- Sutter County Civil Grand Jury (SCCGJ) performed Cost Analysis for the following:

- Upgrading fixtures to be ligature free/resistant for the PHF unit
 - A fencing system that reduces the risk of AWOL
 - Locking mechanisms and new steel doors to reduce AWOL or safety concerns
- Reviewed resources to help evaluate safe practices, procedures and policies as well as safety equipment in a psychiatric health facility
- Medicaid and Medi-Cal Websites
- Office of the Governor, Gavin Newsom

Glossary

Absconding: when a patient leaves a psychiatric facility without permission of health care providers.

Absent/Away Without Leave (AWOL): a term used to describe when a person who is hospitalized on a psychiatric hold (5101), leaves the psychiatric health facility without discharge by the hospital.

California Welfare and Institutions Code 5150: Under California law, only designated professional personnel can place a person in 72-hour hold. These professionals can be police officers, licensed members of a crisis team, or other mental health professionals authorized by their county. One of three conditions must be present for an individual to be placed on a 72-hour hold. A danger to himself or herself; A danger to others; or gravely disabled. The person placed in a 72-hour hold must be advised of their rights.

California Welfare and Institutions Code 5250: a 14-day long involuntary treatment hold in a hospital or mental health facility and an extension of a 5150. If the treating facility wants to extend a 5150 to a 5250, the peer has the right to a Certification Review Hearing.

Corrective Action Plan (CAP): A plan of action used when there is a deficiency identified by auditing, observation, monitoring, or other means by the Department of Health Care Services. A plan of correction should identify the non-compliance and include actions to resolve the deficiency. Used interchangeably with Plan of Correction (POC).

Department of Health Care Services (DHCS): The California state agency overseeing health and care of low income and/or disabled Californians. DHCS states its mission is “to provide Californians with access to affordable, integrated, high quality health care, including Medi-Cal, dental, mental health, substance use treatment services and long-term care.” This state agency oversees Sutter Yuba Behavioral Health Services. ¹

Joint Powers Authority (JPA): Two or more public entities who join together to provide more effective or efficient government services or to solve a service delivery problem.

Ligature Point: points where a cord, rope, bedsheet, or other fabric/material can be looped or tied to create a sustainable point of attachment that may result in self-harm or loss of life.

Medicaid: provides health coverage to millions of Americans, including eligible low-income adults, children, pregnant women, elderly adults and people with disabilities. Medicaid is administered by states, according to federal requirements. The program is funded jointly by states and the federal government. ²

Medi-Cal: is California's Medicaid program. This is a public health insurance program which provides needed health care services for low-income individuals including families with children, seniors, persons with disabilities, foster care, pregnant women, and low-income people with specific diseases such as tuberculosis, breast cancer, or HIV/AIDS. Medi-Cal is financed equally by the state and federal government. ³

Mental Health Services Act (MHSA): The MHSA was passed by California voters in 2004 and is funded by a one percent income tax on personal income in excess of \$1 million per year. It is designed to expand and transform California's behavioral health system to better serve individuals with, and at risk of, serious mental health issues, and their families. MHSA addresses a broad continuum of prevention, early intervention, and service needs and the necessary infrastructure, technology, and training elements that effectively support the public behavioral health system. MHSA has five components to it:

Community Services and Support (CSS):

The CSS component is the largest of all five MHSA components. Funding is used to provide direct services to adults and older adults with serious mental illness and children and youth with serious emotional disturbance who meet the criteria set forth in Welfare and Institutions Code (W&I Code) section 5600.3.

Prevention and Early Intervention (PEI):

The PEI component funds programs designed to prevent mental illnesses from becoming severe and disabling, with an emphasis on improving timely access to services for the underserved.

Innovation (INN):

The INN component funds projects designed to test time-limited new or changing mental health practices that have not yet been demonstrated as effective. The purpose of the INN component is to infuse new, effective mental health approaches into the mental health system, both for the originating county and throughout California. These projects may focus on increasing access to underserved groups, increasing the quality of services including measurable outcomes, promoting interagency and community collaboration, or increasing access to mental health services. AB 1467, chaptered in June 2012, reinstated the Mental Health Services Oversight and Accountability Commission's (MHSOAC) authority to approve county Innovation plans.

Capital Facilities and Technological Needs (CFTN):

The CFTN component funds projects designed to enhance the infrastructure needed to support the behavioral health system, which includes improving or replacing existing technology systems and/or developing capital facilities to meet increased needs of the local mental health system.

Workforce Education and Training (WET)

The WET component funds are used to fund programs designed to enhance the public mental health workforce. ⁴

Plan of Correction (POC): A plan of action used when there is a deficiency identified by auditing, observation, monitoring, or other means by the Department of Health Care Services. A plan of correction should identify the non-compliance and include actions to resolve the deficiency. Used interchangeably with Corrective Action Plan (CAP).

Psychiatric Health Facility (PHF): Psychiatric health facilities provide 24-hour inpatient care for those who are mentally disordered, incompetent, or others as described in Divisions Five and Six of the Welfare and Institutions Code. These facilities are licensed by the State Department for Health Care Services. Basic services provided are psychiatric, clinical psychology, psychiatric nursing, drug administration, social services and rehabilitation.

Realignment (Funding): In 1991, California voted to transfer funding responsibility of health, mental health, and social services costs from the state to the individual counties. This allowed the counties to receive dedicated funding sources to cover the transferred costs and some flexibility in how the funds were used. In 2011, a second realignment was established completing the transfer of both funding and responsibilities from the state to the counties for public mental health and public safety. Each county is responsible for the management, implementation, and administration of Realignment Funding. The funding comes with specific requirements of types of programs within specific categories. Counties have the ability to shift up to 10% of funding within the categorical areas.

Substance Abuse Block Grant (SABG): Is a program authorized by Congress to provide funds to States, Territories, and one Indian Tribe for the purpose of planning, implementing, and evaluating activities to prevent and treat substance abuse and is the largest Federal program dedicated to improving publicly-funded substance abuse prevention and treatment systems.

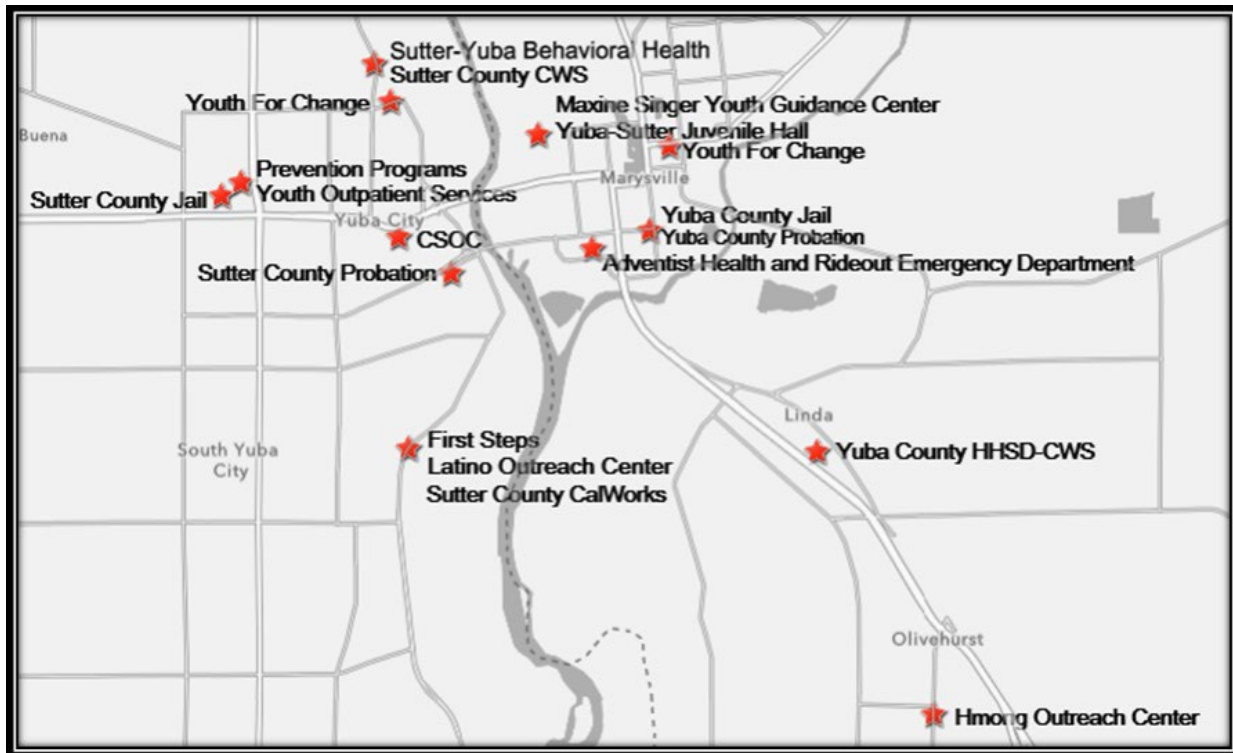
Sutter Yuba Behavioral Health (SYBH): The department that provides mental health services to adults, families, and youth who are experiencing both serious, ongoing mental health, and/or substance use disorders in the Yuba Sutter Area. Many of these services are free or low fee based upon the ability to pay.

Background

Sutter Yuba Behavioral Health (SYBH) is a Joint Powers Authority (JPA) formed in 1969 between Sutter and Yuba Counties to better serve the citizens of these counties. SYBH provides a wide variety of services for these counties under the following programs:

- **Acute Psychiatric Services** provides inpatient psychiatric services in the Psychiatric Health Facility as well as the psychiatric emergency services (PES) unit. Services include inpatient treatment of acute psychiatric conditions, crisis counseling, emergency assessment, crisis line intervention, safety planning and resource education.
- **Psychiatric Emergency Services** has partnered with Adventist Rideout Hospital to provide emergency psychiatric assessment and treatment to individuals who have been placed on a hold pursuant to California Welfare & Institutions Code 5150 and who are subsequently taken to the emergency department.
- **Youth and Family Services** is designed to meet the social-emotional and behavioral needs of children, youth and families. They coordinate with child welfare services, probation, and school systems.
- **Substance Use Disorder Services** provides outpatient, intensive outpatient, residential placements, and referrals for counseling.
- **Forensic Services** provides therapeutic services for youth who are incarcerated, psychiatric and therapeutic care for adults involved in the criminal justice system in both Sutter and Yuba Counties.
- **Adult Service** provides outpatient assessment, diagnosis, and treatment of serious mental health conditions.
- **Prevention and Early Intervention at Sutter-Yuba Behavioral Health** provides a multitude of free services and training for community members, school staff, and law enforcement personnel. It is designed to increase awareness of risk factors and early warning signs of mental health disorders and substance use disorders.
- **Cultural Services** Sutter-Yuba Behavioral Health Plan offers a full range of specialty behavioral health services provided by a culturally diverse network of community behavioral health programs, psychologists, therapists and intervention counselors/case managers.⁵

Sutter-Yuba Behavioral Health provides services at many sites throughout the Sutter and Yuba County communities. The map below shows all the service areas and site locations.



Within these service groups are a variety of programs designed to address specific needs related to mental and behavioral health of individuals and groups within the Sutter-Yuba area. Many of these services are embedded into programs that provide both immediate, specific direct services, and wrap-around services to some of the most vulnerable population in the communities of Sutter and Yuba Counties.

There has been a significant increase in national and statewide awareness, evaluation, and implementation of improved, publicly funded and administered mental health programs and services. Many of these are aimed at prevention. Most agree there is still a large need to address the challenges of those who are chronically, mentally ill/treatment seeking, individuals. One large shift has been the recognition there is a strong relationship between mental health and substance use disorders for those who are homeless. This has a great impact on our citizens, communities, and mental-health care systems. In conjunction, this creates a large impact on funding and implementation of publicly funded behavioral health programs.

In March of 2022, California Governor Gavin Newsom proposed a major shift in treatment of mental health and substance use disorders. The “Community Assistance, Recovery and Empowerment Court” (CARE court) aims to use the court system to help those with serious mental health, substance use disorders, and behavioral health issues into a court directed treatment”.⁶

In the 2021-2022 fiscal budget, SYBH stated one of two main goals is to, “Seek additional federal, state and local funding to support the expansion of services to individuals served by Sutter-Yuba Behavioral Health. This includes applying for state grants to support our homeless population who are suffering from mental illness.”⁷

Clearly the federal, state, and local government recognize the need to identify and provide mental and behavioral health services for those who are low income and/or are unhoused. Often these individuals and families do not have financial resources to afford services on their limited income. In order to assist these individuals and families and successfully implement programs, local governments must appropriately identify, obtain, and manage funding.

Funding For Behavioral Health:

California public health programs are a complex and an entangled funding system that receives funding from federal, state, and county resources. The majority of SYBH funding is from three sources: Medi-Cal reimbursement, 1991 and 2011 Realignment funds, and the Mental Health Services Act (MHSA).

Medi-Cal is California's Medicaid program that provides Medi-Cal services to low-income people at little or no cost. It is administered by the Centers for Medicare and Medicaid Services (CMS) and the California Department of Health Care Services (DHCS). Counties are responsible for administering Medi-Cal at the local level. Recent reports state that more than 14 million Californians, or approximately one third of the state's population, are eligible for enrollment in Medi-Cal. Services supported by Medi-Cal include:

- Outpatient (ambulatory) services
- Emergency services
- Hospitalization
- Maternity and newborn care
- Mental health and substance use disorder services, including behavioral health treatment
- Prescription drugs
- Programs such as physical and occupational therapy (known as rehabilitative and habilitative services) and devices
- Laboratory services
- Preventive and wellness services and chronic disease management
- Children's services, including oral and vision care ⁸

1991 and 2011 Realignment funding is a result of California voting to shift funding, administration, and program implementation of many health, mental health, human services, and some public safety programs from the state to the counties. In exchange for this shift, counties were able to have local control over how these programs were administered based upon the local needs. Although this has given local jurisdictions more control of these services, it is not without rules and regulations. There are many required programs that must be offered, funded, administered, and regulated. Within the departments, there is the ability to shift up to 10% of funds for the county's specific needs.

Mental Health Services Act (MHSA) is the last major source of funding for SYBH. The MHSA was passed in 2004 by Californians with the intention to address, fund, and implement better behavioral health care for those at risk for serious mental health and their families. It is funded by a one percent income tax on personal income more than \$1 million per year. MHSA addresses a broad continuum of prevention, early intervention, and service needs and the necessary

infrastructure, technology, and training elements that effectively support the public behavioral health system. Each county is responsible to create and implement a 3-year plan. In creating these plans, they seek input from stakeholders, county governing bodies, and communities. They are also responsible for managing the fiscal reporting to the state of those funds. SYBH current 3-year plan is for fiscal years 2021-2024.⁹

Beyond the three major funding sources, there are limited funds from grants and private pay-for-service fees. Most of the clients SYBH serves are of low-income socioeconomic status and receive services for low or no cost to the client.

Site Visit:

SCGJ's interest in Sutter Yuba Behavioral Health was very much like many other county departments: simply an interest in what they do, how they do it, and how it serves the community. Site visits are common practice and often encouraged by departments and can be a valuable resource for grand juries. Site visits aid grand juries to better understand and assess the county departments, their resources, specific services, and needs.

We requested a site visit in early September of 2021. We were initially met with significant resistance; eventually we were granted limited access to SYBH at 1965 Live Oak Blvd, which houses much of SYBH. The initial visit was informative and gave us some understanding of some of the services of SYBH. The general appearance of the grounds and parking lot is one of deterioration and neglect. The vegetation was overgrown, and large amounts of weeds were growing in unplanted areas. It lacks a sense of care. The parking lot has large, unsafe tripping hazards from erosion on the blacktop. The interior of the building is aged and outdated, though there appeared to be an effort to make it welcoming in the areas we were allowed to visit.

We requested an additional tour of the Psychiatric Health Facility (PHF), housed in the same building. On the second tour, we noticed several safety related concerns within the inpatient Psychiatric Health Facility (PHF). Upon further research we found the California Department of Health Care Services (DHCS), the state agency that oversees SYBH, had noted safety related issues in the PHF. Another report by DHCS found fiscal deficiencies within the federally funded program, Substance Abuse Block Grant (SABG) program. The observed safety concerns, the seemingly ignored basic maintenance of the facilities, and the two DHCS reports gave reason for the Sutter County Grand Jury to initiate an investigation into SYBH for safety concerns on the PHF and fiscal management concerns.

Discussion

Sutter Yuba Behavioral Health (SYBH) is a Joint Powers Authority (JPA) serving both Sutter and Yuba Counties. Sutter Yuba Behavioral Health (SYBH) provides a wide variety of services for these counties ranging from Acute Psychiatric Services, Youth and Family Services, Substance Use Disorder Treatment Programs, Prevention Services, Forensic Services and Cultural Services. SYBH has approximately 230 employees in a variety of positions, ranging from mental health worker, crisis counselor, therapists, nurses, psychiatrists, to branch managers and department heads.

It is important to note, SYBH budget funds both Sutter and Yuba Counties. The Sutter Yuba Behavioral Health (SYBH) currently has a budget of just over 55.7 million dollars for 2021-2022 budget year. This is up from the 2020-2021 budget of 53.4 million dollars and 48.5 million dollars in 2019-20. In a span of 4 years, this budget has increased approximately 7 million dollars. This is a significant amount for both Sutter and Yuba Counties. County Behavioral Health funding is a complex and complicated beast. The funding sources and regulations have a significant impact on the implementation and utilization of behavioral health programs and services for the Sutter-Yuba area. SYBH has the largest budget in all of Sutter County Departments. The next largest budget in Sutter County is for Social Services at approximately 34 million dollars, a 21-million-dollar difference.

In the 2021-2022 recommended budget, Sutter Yuba Behavioral Health (SYBH) states the following about their mission and program discussion: “SYBH also provides a broad continuum of prevention, early intervention, and service needs and the necessary infrastructure, technology, and training elements that support this system for both counties,...”.¹⁰ However, SCGJ found that “necessary infrastructure, technology, and training” were antiquated and lacking at best. At worst, some infrastructure is unsafe. When reviewing the 3-year MHSA, and given the substandard condition of the facilities, it is disconcerting that SYBH has designated no funding towards the Capital Facilities and Technological Needs (CFTN).

FY 2020-21 Through FY 2022-23 Three-Year Mental Health Services Act Expenditure Plan						
Funding Summary						
County:	Sutter-Yuba Behavioral Health				Date:	3/25/20
	MHSA Funding					
	A	B	C	D	E	F
	Community Services and Supports	Prevention and Early Intervention	Innovation	Workforce Education and Training	Capital Facilities and Technological Needs	Prudent Reserve
A. Estimated FY 2020-21 Funding						
1. Estimated Unspent Funds from Prior Fiscal Years	5,644,806	3,388,216	1,953,138	65,000	0	
2. Estimated New FY2020-21 Funding	8,084,671	2,021,168	100,000			
3. Transfer in FY2020-21						0
4. Access Local Prudent Reserve in FY2020-21						0
5. Estimated Available Funding for FY2020-21	13,729,477	5,409,384	2,053,138	65,000	0	
B. Estimated FY2020-21 MHSA Expenditures	6,858,925	1,739,400	1,475,800	65,000	0	
C. Estimated FY2021-22 Funding						
1. Estimated Unspent Funds from Prior Fiscal Years	6,870,551	3,669,984	577,338	0	0	
2. Estimated New FY2021-22 Funding	8,165,518	2,041,379	854,162			
3. Transfer in FY2021-22						0
4. Access Local Prudent Reserve in FY2021-22						0
5. Estimated Available Funding for FY2021-22	15,036,069	5,711,363	1,431,500	0	0	
D. Estimated FY2021-22 Expenditures	6,927,514	1,756,794	1,431,500	0	0	
E. Estimated FY2022-23 Funding						
1. Estimated Unspent Funds from Prior Fiscal Years	8,108,555	3,954,569	0	0	0	
2. Estimated New FY2022-23 Funding	8,083,862	2,020,966	1,209,300			
3. Transfer in FY2022-23						0
4. Access Local Prudent Reserve in FY2022-23						0
5. Estimated Available Funding for FY2022-23	16,192,417	5,975,535	1,209,300	0	0	
F. Estimated FY2022-23 Expenditures	6,996,790	1,774,362	1,209,300	0	0	
G. Estimated FY2022-23 Unspent Fund Balance	9,195,627	4,201,173	0	0	0	
H. Estimated Local Prudent Reserve Balance						
1. Estimated Local Prudent Reserve Balance on June 30, 2020		521,836				
2. Contributions to the Local Prudent Reserve in FY 2020-21		0				
3. Distributions from the Local Prudent Reserve in FY 2020-21		0				
4. Estimated Local Prudent Reserve Balance on June 30, 2021		521,836				
5. Contributions to the Local Prudent Reserve in FY 2021-22		0				
6. Distributions from the Local Prudent Reserve in FY 2021-22		0				
7. Estimated Local Prudent Reserve Balance on June 30, 2022		521,836				
8. Contributions to the Local Prudent Reserve in FY 2022-23		0				
9. Distributions from the Local Prudent Reserve in FY 2022-23		0				
10. Estimated Local Prudent Reserve Balance on June 30, 2023		521,836				

During both site visits, it was evident the building at 1965 Live Oak Blvd is old and outdated. This was the original hospital for Sutter County, built in 1967. The building's intended use and age is of concern because it does not meet the current needs of SYBH. In 2019, the County Fire Marshal found the building did not have a fire sprinkler system. The Board of Supervisors approved funding for this necessary safety improvement to comply with current code requirements. This is just one example of how the building continues to be an expensive and ongoing repair and replacement project.

SCGJ's focus of this investigation is on the Psychiatric Health Facility (PHF) safety issues, delayed capital improvements and maintenance of the building and grounds of 1965 Live Oak Blvd, budget and fiscal related issues. These issues are interrelated. We found that many of the safety and delayed capital improvements/maintenance issues are directly related to budgetary decision making, understanding and planning of state and federally funded programs, fiscal training, and implementation of funding.

Safety Concerns

Ligature Points:

Three quarters of patients who die by suicide in a psychiatric facility do so by strangulation or hanging. “The most common ligature points and ligatures were doors, hooks/handles, windows, and belts or sheets/towels, respectively. Use of shoelaces, doors, and windows increased over time.”¹¹ Recently, Medicaid has drafted a change to patient’s rights regarding ligature.

*“Patients at risk of suicide (or other forms of self-harm) or those who exhibit violent behaviors toward others receive healthcare services in both inpatient and outpatient locations of hospitals. The draft revised guidelines are intended to provide increased direction, clarity, and guidance regarding what constitutes a ligature risk and clarify the expectations that hospitals achieve a ligature “resistant” environment in psychiatric units of acute care hospitals, locked emergency department psychiatric units, and psychiatric hospitals.”*¹²

Medicaid, a major funding source for SYBH, recognizes and is emphasizing the risks associated with unresolved ligature points. In essence, Medicaid believes a psychiatric facility with ligature points is not only dangerous, soon it will consider unresolved ligature points as a violation of patient rights. Additionally, suicides on an inpatient psychiatric health facility have a significant impact on the treating staff. Suicide attempts and completion dramatically increase the risk of Post-Traumatic Stress Syndrome (PTSD) for those individuals who are on the psychiatric treatment team.¹³

While on our site visit of the PHF unit, SCGJ observed many unresolved ligature points. These ranged from doorknobs on patients’ rooms and bathrooms, door hinges, shower heads, shower curtain rods screwed into the shower, shower dials, exposed pipes on toilets in patient rooms, as well as access to a phone cord that could be used as a source of strangulation. Several SYBH staff and managers acknowledged the existence of these ligature points. However, there does not seem to be a sense of urgency to resolve these issues. When staff and managers were asked why these have not been corrected, the answer was “budgetary”. SCJG were informed there has been a self-harm/suicide attempt within the past several years by means of ligature. This *was not* a completed suicide, thankfully. However, it is even more concerning that SYBH has no sense of urgency to address reducing ligature points within the PHF unit.

Ligature points pose a clear risk to those who are at risk of death by suicide and increases the counties litigation risk if a death should occur. Additionally, it goes against the mission statement of Sutter County Health and Human Services Department, the parent of SYBH, “. . . promotes health, safety, economic stability, and quality of life for our community.”¹⁴ Having so many unresolved ligature points in the PHF unit does not promote health and safety for those who are being treated for serious mental health.



(In the above photos there are ligature points in the shower: shower head, curtain rod, shower dials. In the patient room there are ligature points: doorknobs, hinges, toilet seat cover and pipe behind toilet. In the shower the ADA grab bars have had plates welded in to address some of the ligature points)

SYBH has made some attempts to minimize ligature points on the PHF unit. However, in some cases, these attempts are rudimentary ‘patching’. For example, modifying an accessible shower grab bar by welding a plate on top of it. This unfortunately has now made this ADA grab bar inaccessible.



(In the above photo SYBH attempted to resolve two ligature points in the shower. However, one has the plate welded to the top of grab bar, essentially making it ADA incompatible)

SCGJ prepared cost estimates to retrofit the observed ligature points specific to the shower areas and standard patient rooms within the PHF unit.

We observed two shower areas within the PHF unit - one included a single shower stall and the other had two shower stalls. The following estimated costs per stall assumes removal and replacement of the existing shower valve and handle, shower head, grab bars, and curtain rod.

- The single stall shower area costs would likely range between \$8,000 - \$10,000
- The double stall shower area costs would likely range between \$16,000 - \$20,000

Reasonable estimated costs to address all known, observed ligature points in the showers areas would then likely range between \$24,000 - \$30,000.

Based on the patient rooms observed, an average room appeared to have two beds and a private sink and toilet area. The estimated costs to retrofit a standard room, assume bolting down all furniture, replacing all door hardware, replacing the grab bars; and replacing the toilet and sink, would likely range between \$14,000 - \$16,000 per room.

Reasonable estimated costs to address all known, observed ligature points in all patient rooms, assuming (16) rooms, would then likely range between \$224,000 – \$256,000.

Please note these costs estimates exclude all soft costs the County would incur related to a project bid preparation / solicitation process and oversight of the project.



(Examples of ligature resistant bathroom and door handles)

Medication Room Door:

The door on the locked medication room inside the PHF unit is a solid one-piece door. The door is located behind the nurse's station and within the patient day room. This area is accessible by patients who are in the PHF unit. The medication room is secure and there were no reported issues with administration or accountability of medication management documentation. The SCGJ observed the system and were impressed with how SYBH handled medication management and accountability on the PHF unit. However, several staff stated it was their preference for safety reasons, to have a ½ door ("Dutch style") in place. These staff stated it would be safer and easier to administer medication without the possibility of patients following

them into the medication room. Having the patient enter the medication room is a concern because of the ease in which a patient could gain unwanted access to the room while the nurses are administering medication. There are also patient personal items stored in this area.

When interviewing several staff and managers, we were told the project was started and stalled. When asked why this was so, we were told “budgetary issues”.

Doors:

During our site visit at the PHF unit of SYBH, SCGJ noticed two doors across from the nurses’ station and part of the open area patients use as their day room. One door has a sign that says “AWOL Risk” but there is no locking mechanism on the door. When we were shown where the door led, it was to the employee break room and the laundry area. Additionally, this area is the location of two isolation rooms. This “break room” and isolation room location has a door that leads directly out to the unsecured south parking area. It appeared to the SCGJ there was no locking mechanism preventing patients from exiting to the exterior from this break room and isolation room location. There was only a ‘push bar’ on the door which allowed easy patient access to the outside. The door was lockable from the outside to the inside. However, this means patients have the ability to walk through one door from the PHF unit, into the break room, and then through the exterior door to the unsecured outside area. If a patient were motivated to abscond from the unit the sign “AWOL Risk” does not seem a sufficient deterrent.



(Left: door to break room. Right: Door to outside from inside break room. Just to the right of the exit is one of the isolation rooms)

Additionally, while on the site visit, SCGJ observed the ‘break room’ had no locking mechanism on cabinets or drawers. Other items, such as glass coffee pots with hot liquid in them, were also accessible to patients who could enter through an interior unlockable door. When asked about the risk, the supervisor giving the tour was not concerned. When asking a key administrator about the doors in an interview, this person did not seem to know what SCGJ was speaking about. This person has been employed for many years by SYBH, including a key role in management of the

PHF unit. SCGJ found it disturbing that this key administrator was unaware of clear safety issues on the PFH unit.



(Inside break room: unlocked cabinets, hot water/coffee and drawers)

The interior main doors that go onto the PHF unit are the old, original wood hospital doors. There is a magnetic locking system on the doors which is only accessible with an authorized keycard. SCGJ was told there was an AWOL from this access point several years ago due to a malfunctioning, lower-powered magnetic locking mechanism. This has been replaced with new magnetic locking hardware. SCGJ was told by staff that though there is new hardware, there is still a concern it is not strong enough. Looking at the doors, they are old and worn, needing reconditioning or replacement. It appears that a long-term solution to replace the doors and a better locking mechanism has not been considered.

SCGJ prepared a cost estimate for replacing the existing doors at this location. To perform the work necessary to remove and replace the doors, frame and hardware; and associated work would likely range between \$8,000 - \$10,000.

Video Surveillance:

In February 2022, members of the SCGJ had the opportunity to visit the inpatient Psychiatric Health Facility (PHF) to examine the current video surveillance system. What we observed was a very outdated, low resolution monochrome configuration.

The images displayed on the monitor were grainy and lacked sharp detail. It was obvious from the monitors we viewed that some of the cameras were non-functional. SCGJ was informed by the IT technician responsible for the system, there were numerous cameras not functioning due to their age and replacement parts were not available. One of the cameras, located in the outside fenced area for patients, was in a fixed and frozen position. At one time, this camera had the ability to pan the area. A serious observation blind spot now exists in this area.



(Camera located in the outside fenced area for patients.)



(Cameras at the entrance of the Psychiatric Health Facility were poorly spaced, which provided inadequate coverage.)

Looking under the nurses' station revealed a mess of cables, both coax cable and ethernet. From the picture it is obvious, judging from the jagged ends and edges, that these cables were not factory made. There were several pieces of equipment controlling the system. The IT staff was unaware of the function of some of those pieces of equipment.



(Video system control system under nurse's station)

The SCGJ received the quote provided to SYBH from a vendor, dated September 2021, for an upgraded system. The quote included 10 new, high resolution, color, cameras and the network wiring and infrastructure required to support the system. This quote was for less than \$30,000. The SCGJ was told the work had not been started because they were waiting for grant money. When SYBH asked the administrators about the delay, SCGJ was repeatedly told that grant funding could be slow, yet again there seemed to be no urgency to attend to the situation.

Fence:

While on our site visit, SCGJ noticed the fenced yard used for daily exercise and outdoor activities on the PHF unit was in very poor condition. This fence is on the south side of the building and is right outside of a parking area for SYBH. There were sun damaged, broken, and missing plastic privacy slats in the chain link fencing. The fencing has large gaps in the area around the gate. This area is easily accessed by the public.

During COVID-19, in order to follow public health orders, and maintain a secure facility while reducing the risk of an outbreak, SYBH did not allow visitors on the unit. To continue to provide visitation for patients, SYBH allowed those who were on the inpatient unit to have limited visitation with family or friends through the fenced area. SCGJ was assured that the patients were supervised at all times, and this was a safe practice given the circumstances. The video surveillance system in this area is inadequate and security personnel are stationed on the northwest side of the grounds, over 75 yards away. The contracted security personnel make scheduled rounds on the SYBH campus, yet there are periods of time that are unsupervised by security around the fenced yard. The state of the fence, coupled with inadequate video and security guard surveillance, creates many safety concerns such as:

- Cuts or abrasions from the broken materials
- Gaps in which contraband or other items could be passed from

- outside the facility to the inpatient unit.
- AWOL risk



(Gaps in fence)



(Fencing in disrepair)

AWOL:

Within a 6-month period (2021-2022), SYBH has had four AWOL occurrences. Three of those have been from patients scaling the outside recreational fenced yard from a secure or “locked” psychiatric health facility. SCGJ could find little in the way of national rates of absconding. There has been some research and data collected on absconding/AWOL from a secure psychiatric facility in other countries. The most recent study (2020) AWOL from secure psychiatric facilities, the rate is approximately 1.8 in 1,000 admissions. AWOL is of great concern as it is related to a higher rate of suicide, interrupts the medication management and treatment, endangers the safety of the patient and can cause great distress to family and the treating staff.¹⁵

SCGJ reviewed redacted AWOL reports from SYBH. The redacted information is to protect the client/patient identifying information. In our review of the redacted AWOL and Incident/Hazard reports, it was noticeable there were inconsistencies in how the reports were generated and resolved. SYBH uses a Sutter County form, “Incident/Hazard Report Form” to report, describe, and seek corrective actions to resolve any potentially dangerous and hazardous events. SYBH also has an internal form for “AWOL Report” (form 1-104) which is more specific to the SYBH department. The AWOL form includes but is not limited to patient information, the time of the incident, the type of hold the person was placed on, medication, and attending physician and final outcome.

In one of the AWOL incidents, there is computer generated documentation on the Incident/Hazard Report Form of the event on one date. There are electronic and handwritten signatures by both the employee and the supervisor, yet no actual signature of the designated administrator on the form. There are added handwritten notes with dates and some initials. Of these handwritten notes, one was in the form of ‘x/x/xx’ and a cross-out of the day and replaced with a different day. Another with initials next to it with ‘x/x/xx’ and another with the written month, day, and full year with an initial. These handwritten notes are very difficult to read as well as the dates. There were inconsistencies in how the report was dated (the month written out or numerical).

On another Incident/Hazard Report Form, the entire form was computer generated and all signatures were within 10 days of the AWOL. This report was very easy to read and understandable of the incident and planned corrective action. However, the employee did not sign it and the time/date stamp is ½ filled in next to the signature line for the employee. The Supervisor did an electronic signature/date and the administrator used a digitally time-stamped signature.

The remaining Incident/Hazard Reports had a mixture of computer-typed and handwritten notes, with varying signatures or just initials of the administrator. Given the inconsistency of time frames used in the reports for when an event is resolved/finalized, missing or incomplete signatures, dates missing on signatures, it is difficult to tell how SYBH is utilizing the forms or following policy and procedures around AWOL’s. These inconsistencies, along with the “added” notes are not only difficult to understand the progression of the incident and resolution, it could be perceived as being “altered” after the approval of the original document.

SCGJ sought clarification from SYBH on their policies and procedures regarding AWOL's. We asked why there would be both computer and handwritten comments on an Incident/Hazard report. SYBH management stated that staff often observe the incident and type the information into the form(s). After the document has been created, the Director of Nursing, the Program Manager and Branch Manager will review and may add additional information of which the staff may or may not be aware of. The management staff can potentially add information to help clarify what actions need to be taken and to clarify the outcome prior to the report being finalized.

SCGJ sought clarification on SYBH policy and procedure about adding notation after an AWOL had been filed/finalized. SYBH management stated the Policy and Procedure does not address adding information to the report after it has been reviewed. Incident Reports are not considered finalized until after the Branch Director has signed off on the report.

SCGJ prepared a cost estimate to replace the existing chain link fencing around the yard with a painted 10' tall CMU (Concrete Masonry Units) wall. We also included (1) painted door assembly consisting of a HM (hollow metal) HM door, HM frame and requisite hardware. The estimated cost to remove the existing fence, install a new 10' tall x 8" thick painted new block wall, associated concrete foundation, and (1) lockable access door would likely range between \$70,000 - \$75,000.

Security Guards:

Violent and aggressive behaviors are common among psychiatric inpatients. ¹⁶

At 1965 Live Oak, SYBH has contracted a security company to patrol the outside of the facility. At each of our visits we have observed only one security guard, who was stationed outside. When asked about the security guards' responsibilities, several staff and administration stated the security was to patrol the outside of SYBH. The staff stated the security guard is required to walk to certain check points on the grounds and scan a bar reader to demonstrate they have walked the perimeter. This appears to be the extent of security service duties. Furthermore, SCGJ were told there was no reason to have security personnel on the unit as they felt safe with policy and procedures in place for aggressive or dangerous behaviors.

The use of security services appears to be minimal. Having them sit on a folding chair under a tree demonstrates a lack of care for the contracted personnel, the public, and the patients. It also lends to a sense of unprofessional security practices.

Isolation Room:

The SCGJ was shown the isolation and restraint rooms located on the PHF unit. The beds appeared to be safe yet very uncomfortable if someone should be required to be restrained. SCGJ was able to view two other PHF units and assess their use of restraints systems in the isolation room. The beds were curved with mattresses that were thicker and contoured to the bed. If a person needs to be restrained for their safety or the safety of staff or other patients, it is the obligation of the psychiatric health facility to make it as comfortable and dignified as possible. The beds and restraints in SYBH are safe. However, they are straight and with a thinner mattress, making it more uncomfortable than is necessary.

The location of the isolation rooms is also concerning. SCGJ observed and staff reported two rooms are located in the break room designated area. Thus, the patients and staff must go through the break room with unlocked cabinets, drawers, coffee/hot water station to access these isolation rooms. This poses unnecessary risk to staff and patient(s) should a person grab any unsecured items. Additionally, there is an exterior exit door immediately adjacent to this area. The location of the two isolation rooms within the break room area is not ideal. However, due to the constraints of the building, relocating these rooms does not seem feasible. There is an additional isolation room that is across from (west side) the nurses' station that is more easily and safely accessed. This room placement is more ideal.

SCGJ prepared a cost estimate to replace the existing beds and mattresses based on the bed type (pictured below) observed in and recommended by a private facility. Net costs to purchase these beds (assuming direct purchase by County) is estimated at \$2,200 per bed.



Delayed Capital Improvements

Electronic Health Care Records:

According to HealthIT.gov, Electronic Health Care Records are: “EHRs are real-time, patient-centered records that make information available instantly and securely to authorized users. While an EHR does contain the Medi-Cal and treatment histories of patients, an EHR system is built to go beyond standard clinical data collected in a provider’s office and can be inclusive of a broader view of a patient’s care. EHR can:

- Contain a patient’s Medi-Cal history, diagnoses, medications, treatment plans, immunization dates, allergies, radiology images, and laboratory and test results.
- Allow access to evidence-based tools that providers can use to make decisions about a patient’s care.
- Automate and streamline provider workflow.¹⁷

Currently, SYBH has an EHR for the outpatient services. However, while interviewing Behavioral Health administration, it was discovered that the current Electronic Health Record (EHR) system does not include the inpatient unit and much of the health care records are completed manually on the PHF unit. Additionally, it is also our understanding, the SYBH Psychiatric Emergency Services (PES) embedded in the Adventist Health and Rideout, does not have an integrated EHR with the SYBH outpatient nor the PHF.

SCGJ commends SYBH in their providing psychiatric emergency services jointly with our local hospital, Adventist Health and Rideout. This embedded program has made continuity of care invaluable in assessment, crisis intervention, treatment, and improved integrated care for those who are suffering a mental health crisis.

In the October 2020 site review/report by the Department of Health Care Services (DHCS) of the Sutter Yuba Psychiatric Health Facility (PHF), there were 10 deficiencies. Some of those deficiencies were repeat deficiencies. For example, the PHF unit had been repeatedly deficient in failing to provide documentation of quarterly fire drills. The PHF was also found deficient in several incidents in which the water temperature logs recorded the water to be over 120 degrees, which could lead to a scalding of a patient. DHCS had also found employee trainings were not done in the required time for: CPR, assaultive management training, and suicide prevention training. In response, SYBH plan of correction (POC) states this was due to employee’s transitioning from part time to full time, causing their employee records to be incorrectly updated. That being said, there was one person who had not had the CPR training in the required time.

Regarding EHR, there was an incident in which a patient needed emergency Medi-Cal services. This patient was transported to Adventist Rideout for Medi-Cal treatment. SYBH did not send an appropriate transfer summary. Transfer summaries include: information relative to the patient’s diagnosis, known residual behaviors or symptoms of mental disorder, medications, treatments, dietary requirements, rehabilitation potential, and known allergies and shall be signed by the clinical director or the clinical director’s designee.¹⁸ In SYBH plan of correction (POC), they agreed they did not send transfer summary because of a Medi-Cal emergency and there was no time to prepare a transfer summary. If SYBH had a functional EHR system in the PHF and PES,

it would simplify sharing important Medi-Cal information and be in compliance with DHCS with transfer summaries, if needed. Having all information stored in a central location will create a more efficient and accurate documentation of Medi-Cal information. In addition, if the EHR was connected to the PES located at Adventist Rideout, the treatment team there would also have easy access to all Medi-Cal records.

In the 2021-2022 Budget, SYBH states it has “\$880,957 for Software License & Maintenance for the purchase of a new Electronic Health Record (EHR) system. SYBH will be transitioning from Anasazi, the current EHR system, to InSync, which is the proposed contracted EHR system.”¹⁹ It was unclear to SCGJ if this was to replace the old system for outpatient, or if this also included a system for inpatient and possibly the Psychiatric Emergency Services (PES) at Adventist Health. When looking at the County Budget, we can see there are designated funds for Capital Improvement for vans, computer replacement, and New Electronic Health Care Record. When looking at the funding source, it states some will come from the MHSA. This is confusing, as in the 3-year plan, there are no designated funds in the CFTN.

FY 2021-22 CAPITAL IMPROVEMENT PROGRAM

BEHAVIORAL HEALTH 0007									
LAND - 54100 (over \$0)									
n/a								\$	-
LAND IMP. - 54101 (over \$60,000)									
n/a								\$	-
STRUCTURES & IMP. - 54200 (\$60,000)									
n/a								\$	-
VEHICLES - 54300 (over \$0)									
Passenger Van	Beh Hlth 4102	37,500						\$	37,500 MHSA
iCare Mobile Van	Beh Hlth 4102	260,000							MHSA
New Vehicle	Beh Hlth 4102		37,500					\$	37,500 MHSA
EQUIPMENT - 54301 (over \$5,000)									
Computer Replacement	Beh Hlth 4102		159,000					\$	159,000 Realignment, MHSA, Private Pay, etc
FY 22-23									
SOFTWARE - 54311 (over \$25,000)									
New Electronic Health Record	Beh Hlth 4102		762,500					\$	762,500 Realignment, MHSA, Private Pay, etc
- Insync									
INFRASTRUCTURE - 54400 (over \$100,000)									
n/a								\$	-
TOTAL BEH HEALTH 0007									
		\$	297,500	\$	959,000	\$	-	\$	-
						\$	-	\$	-
								\$	-
								\$	1,256,500

20

When asked, the SYBH did not have a timeline when it would be implemented. We have not received any additional information or update on the system.

Parking Lot:

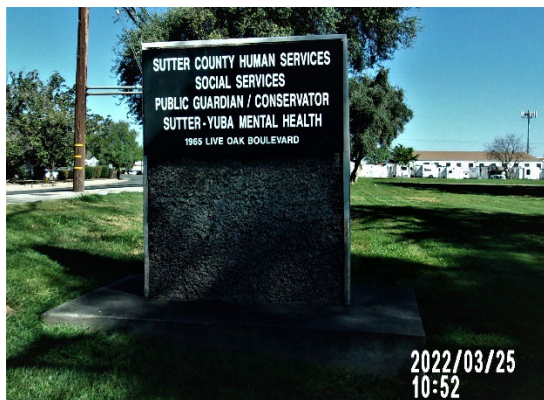
During our first visit to 1965 Live Oak, we noticed that the parking lot was in disrepair and unsightly. There are numerous potholes and cracks that are a tripping hazard and safety issue.

“Capital Project for Behavioral Health Parking Lot is budgeted in the Fund 0-016 Capital Project Budget unit 1-819; \$1,500,000 of Behavioral Health Realignments funding is transferred to 1-819 for project Phase 1.”²¹ During an interview with a manager, we were told that due to a revenue shortfall, the parking is not getting done at this time.



Signage:

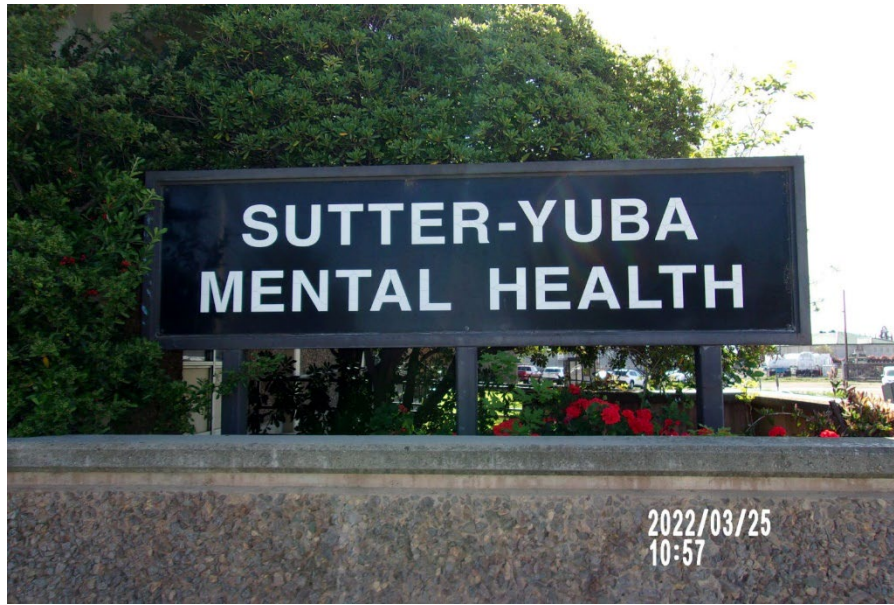
The signage at 1965 Live Oak for SYBH is antiquated and in poor condition. The monument sign at the main entrance along Live Oak Blvd is difficult to read due to the small lettering. This sign is also unlit making it difficult to read at night or in inclement weather.



(Monument Signage on Live Oak Blvd. Left: bright, sunny day. Right: slightly overcast and at dusk.)

The wording is not proper and should read Sutter Yuba ‘Behavioral Health’, not ‘Mental Health’. This is also true of the sign on the main building. When asked about this, SYBH administration stated that there was an open work-order to fix the sign on the building.

The rest of the signs on the property are also in poor condition. The entrance sign is small and unlit, again making it difficult for those driving at night, in inclement weather or who have vision difficulty. Most of the signage, including accessible signage, are difficult to read because they are weathered, faded, and many of the words are cracked and beginning to peel.



(Main Entrance Facility Sign along Live Oak Blvd)



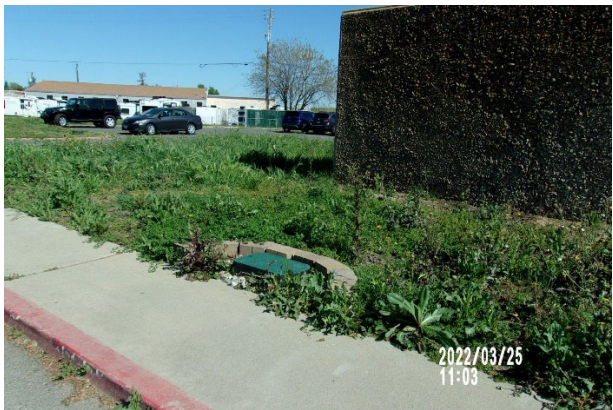
(Main entrance sign, ADA weathered sign, visitor, and main entrance to PHF)

General Appearance and Upkeep:

The SCGJ visited the 1965 Live Oak Blvd location numerous times. This site houses a significant amount of SYBH. SCGJ were taken aback by the general poor appearance and lack of basic maintenance of the facility. Some of this included the signage, weeds in the sidewalk, large unplanted areas overgrown with weeds, overgrown vegetation, old and grimy garbage cans, old-faded paint on curbs, and dirty exterior walls. The parking areas are not only in disrepair, but they also pose a tripping hazard with the potholes and buckling of the blacktop. The lighting around the facility is poor. The security guards' post is a chair, under a tree by the parking lot.

The interior of the building is not only aesthetically dated, but there are also known safety and security issues that could have been rectified long ago if there was some sense of care and pride of service. Many of these issues could easily be addressed with basic building and landscape maintenance. Weed control, pruning of vegetation, keeping the sidewalks and walls clean, and cleaning up dead or pruned limbs is neither costly nor time consuming. Allowing these basic

maintenance and capital improvements to reach this state, speaks to a lack of pride and care in the workplace. This translates as a lack of appreciation for the staff and a dismissal of the clients/patients served by the department.



In 1988, it seemed obvious the 1965 Live Oak Blvd building was the best choice to house the PHF unit and the majority of SYBH. It is now becoming an eye sore, unsafe and expensive to try to meet the updated federal and state guidelines as well as maintain the property. Sutter County needs to start now in proactively seeking a better, smarter solution to the growing need of our Behavioral Health Department.

The capital improvement projects that have been budgeted, have been put on hold or are waiting for a grant. SYBH is choosing to use funds elsewhere. Though there have been significant improvements in Innovations and Early Prevention by SYBH, it appears to be at a cost of other basic needs for the 1965 Live Oak Blvd building and in particular with the PHF unit. The PHF unit serves those who have been put on 5150 or 5250 hold, the most vulnerable population served by SYBH. When looking at the MHSA 3-year plan, SYBH has allotted no funding for capital improvements.

Budget/Fiscal

As stated in the background, the funding for county behavioral health is very complex. The three major funding sources for SYBH are the MHSA, 1991 and 2011 California Realignment, and Medi-Cal reimbursement. Additionally, many counties provided behavioral health programs find additional grant sourcing to help fund programs. SCGJ appreciates the difficulties SYBH has in understanding, applying, and optimizing these funding sources. The regulations associated with state and federal funded programs, the shifting needs within their counties for services, growing expenditures associated with employee and other associated costs, all contribute to the difficulties of managing budgets in behavioral health.

SCGJ spent a significant amount of time researching, reviewing records, informing themselves on these funding sources, as well as interviewing many county employees and officials who have direct input into the budget of SYBH. SCGJ found the intricacies and complexities of county behavioral health funding overwhelming. It requires a lot of knowledge, experience, and wisdom to navigate state and federal regulations and requirements. That being said, we did find some areas that appear to need improvement in order for SYBH to more effectively and efficiently use the funds for their clients and the citizens of Sutter (and Yuba) County(ies).

MHSA and Realignment

SCGJ found that the current MHSA 3-year plan focuses a significant amount of its funding in Community Services and Support (CSS), Prevention and Early Intervention (PEI), and Innovation (INN). Part of the reason for putting much of the funding focus into these programs is due to rules and regulations. To receive funds for MHSA, SYBH had to seek community input to help identify community needs in ways of services and programs. Additionally, as noted in the current MHSA plan the branch directors and program directors have a great deal of influence as well.

“The MHSA team also participated in three program development meetings with the full Management team comprised of the Behavioral Health Director, Branch Directors and Managers on 8/21/19, 9/11/19 and 1/13/20 to look at the MHSA services as a whole, including background and data on each MHSA component, to receive budget updates and aid in prioritizing services for expansion as well as any new initiatives.” (MHSA 3-year Plan)

Given the amount of funding from MHSA over a 3-year period, and the designation of where the funding is going, the long overdue safety issues on the PHF unit, along with delayed capital improvements to the 1965 Live Oak Blvd building, it is surprising to SCGJ there was no identified funding in the Capital Facilities and Technology Needs.

Consultant

During our investigation, SCGJ learned SYBH has one consultant, Giess Consulting. SCGJ was told the contract states, “reviewing and providing input into strategic and fiscal aspect of proposed MHSA plan(s) and assisting with the development of a long-range fiscal plan for

Behavioral Health Programs.” The consultant also assists in Realignment revenue projections, cost reports, and other small projects. When asked in multiple interviews, with various managers if a consultant would be a good idea to help with MHSA and Realignment funding, SCGJ was told “yes” by all. Only one administration person said they thought there already was someone who did consulting. This appears key administrative personnel were seemingly unaware of the existing consultant. This consultant has been used by Sutter County since fiscal year 2017-2018 at approximately \$30,000 per year.

When further investigating budgetary issues, many county administrations in multiple departments acknowledged key fiscal knowledge and communication within and between departments were lacking. Upon further inquiry, multiple county administrators stated this was due to the loss of key employees with institutional knowledge, either by retirement or leaving their job. SCGJ was also told the impact of COVID-19 on the county hampered the ability to properly communicate and effectively build working knowledge with new key fiscal employees.

During two interviews with SYBH and HHS management positions, we asked several seemingly basic budgetary questions related to MHSA and Realignment funding and the standard response was, “I don’t know”. Additionally, SCGJ asked if there was a standard practice to review or discuss budgetary issues throughout the fiscal year. SCGJ was told that Branch Directors/Directors/Fiscal Department may meet once or twice a year to discuss the budget. Given the very large budget for SYBH, SCGJ wonders why there wouldn’t be quarterly meetings to better assess the ongoing budgetary demands of such a large department.

Training on MHSA and Realignment Funding

In several interviews, with several key administrative and fiscal staff, SCGJ found that many did not have some basic or even more complex understanding of both MHSA and Realignment Funding. When making inquiries about specific funding and allocations, we were often told, “I am not sure”, or “I don’t know”.

In an August of 2021 letter from DHCS to SYBH regarding their Annual Substance Abuse Block Grant (SABG) County Compliance Unit Findings Report, SYBH was found to have multiple deficiencies in many areas. Much of these were related to fiscal reporting, documentation, and expenditure plan. In the Fiscal Category, DHCS found deficiency in the Expense Allowability/Fiscal Documentation. DHCS states:

“If the allowability or appropriateness of an expense cannot be determined by DHCS because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles, and generally accepted governmental audit standards, all questionable costs may be disallowed, and payment may be withheld by DHCS”

The findings by DHCS regarding the SABG Application were, “The county did not make available evidence to demonstrate the County’s knowledge of SABG expense allowability and appropriate fiscal documentation to satisfy compliance with this requirement.”²²

Within the past several years, DHCS has found SYBH lacking in the *transparency and consistency* with their MHSA plan. In their County Performance Contract Review Report (2019), DHCS provided many recommendations for the MHSA plan for Transparency and Consistency. Here are just a few samples of their recommendations:

- “DHCS recommends the County provide a budget for each fiscal year in the approved Plan and Update. Any updates to the budget should be detailed in each subsequent Update.”
- “DHCS recommends the County develop and implement MHSA training and identify processes and supports...” (there are detailed and specific areas related to training within the MHSA plan in the DHCS report)²³

Recently, SYBH secured a new employee who has extensive training, working knowledge, and experience in both MHSA and Realignment Funding. This is encouraging, however may not be enough to address multiple issues across all the departments within HHS and SYBH.

SCGJ found through interviews there is no formal training for MHSA or Realignment Funding. This is very concerning as the majority of funding for SYBH is from MHSA and Realignment and Medicaid. Lastly, SYBH through HHS has struggled to get fiduciary reporting to the Auditor’s office in a timely manner. This has caused delays in budgetary management. It is another example of reactive rather than proactive management style.

New Facilities

Once again, we return to the issue of the Gray Ave Property. Initially, this was intended to be the new home for the Health and Human Services Department. Past SCGJ have found the County bought the lease from Sears and intended to renovate the building. Sutter County continued to pay over \$16,000 per month to lease a piece of property that was not used or utilized by the county. The purchase of the lease, the monthly lease, and consulting fees were from Development Impact Fees, from the Health and Human Resources, the parent of SYBH. This amount totaled over \$2.4 million dollars.

In 2021 Sutter County Board of Supervisors approved a resolution to purchase the Gray Ave property. Since then, it was determined the current building became cost prohibitive to renovate. Sutter County now has spent over 8 million in the purchase of the property, and over \$2.4 million in leasing and consulting. This project has taken over 5 years. This means those funds were ‘held hostage’ to this project and made unavailable for other more immediate and potentially successful developments for Health and Human Services as well as SYBH. Health and Human Services still does not have a central campus to serve its citizens. At this time, SCGJ is unaware of a clear goal for this property. It appears to be in limbo.

SYBH main building at 1965 Live Oak Blvd houses the PHF unit, much of the administrative and fiscal staff, as well as other programs. This building has become an immediate and long-term safety problem. The costs associated with bringing basic safety related infrastructure up to current acceptable standards is challenging at best. At worst, it puts SYBH in a position of reactive planning/fiscal management related to the building, rather than being able to be

proactive. This leaves many of the individuals and groups who receive services and treatment at these facilities, at continued risk of their health and safety, the very purpose of SYBH. Additionally, it poses risk for the staff and employees, and potential costly litigation for the county.

SCGJ encourages SYBH and the Board of Supervisors and other stakeholders, such as Yuba County, to think proactively about securing and pursuing funding from federal and state sources that are specific to infrastructure. The time to act is now. The current interest and concern for health and mental health, creates opportunities for small counties to address their long overdue needs to improve their facilities. If we do not address the housing of both Health and Human Services and its subsidiary department, SYBH, we will continue to put a patch-work solution akin to the child putting its finger in the small holes in the dam about to burst.

FINDINGS

- F1. The patient rooms at the Sutter-Yuba Behavioral Health (SYBH) Psychiatric Health Facility (PHF) contain multiple Ligature Points. Among staff and administrative personnel interviewed, there was a general awareness of these issues but no apparent sense of urgency to address them.
- F2. Based on site observations of the SYBH PHF Unit, various doors did not appear secure, leaving certain areas potentially vulnerable to unauthorized patient access.
- F3. The perimeter fencing at the SYBH PHF Unit's outdoor recreation area is vulnerable to the exchange of contraband, due to easy public access. It creates a sense of being "locked" in, which is not welcoming or comforting for the patients.
- F4. The perimeter fencing at the SYBH PHF Unit's outdoor recreation area is an AWOL risk.
- F5. Based on site observations and interviews with staff, the Video Monitoring System at the PHF Unit is an old and antiquated system. Components of the system are non-operational including many of the cameras. Repairs of the current system are either cost prohibitive or not possible due to the age of the system.
- F6. SYBH use of private security is inefficient and lacks good use of the services.
- F7. SYBH Policy and Procedure of recording an AWOL and Hazard/Incident Report is antiquated. It lacks sufficient information and structure to monitor and record AWOL incidents in a concise and professional manner.
- F8. Based on SCGJ observations, the signage at the County's PHF Unit is inadequate, outdated, and in very poor shape.
- F9. The beds in the Isolation Rooms at the PHF Unit are an old version that leave the patient in an uncomfortable position if restraint is required.
- F10. The parking lot at the SYBH facility is in disrepair and a hazard to the public.
- F11. The building and grounds at the County's PHF Unit show lack of regular maintenance. The vegetation is overgrown. Weeds growing up in sidewalks as well as in large unplanted areas. The exterior walls, concrete walkways, garbage receptacles are dingy or outright dirty. The window information signage is unprofessional in appearance.
- F12. Based on those interviewed and a review of budgetary documents, it appears some SYBH and Health and Human Services (HHS) management and key fiscal staff lack sufficient knowledge/understanding of the budget practices. This includes MHSA and Realignment funding.
- F13. Based on Sutter County Grand Jury research and those interviewed, there is no regular meeting of key fiscal staff, department heads, and directors to address changing budgetary issues. Currently, this is done once a year or on an "as needed" basis. This has created some issues with timely budgetary reporting.
- F14. Based on Grand Jury research and those interviewed, the existing SYBH Electronic Health Care Record System is inadequate.
- F15. Based on site observations, review of county plans for the Gray Ave Building, and SYBH administration interviews, the 1965 Live Oak Blvd Building is no longer adequate to house the Psychiatric Health Facility (PHF) and other SYBH offices/programs.

RECOMMENDATIONS

- R1. SYBH and the County must take the Ligature Points concerns seriously. SYBH needs to perform a needs assessment to clearly identify the issues and submit a comprehensive request to the County. The County, in turn, needs to share a sense of urgency and prioritize funding as soon as possible. These should be resolved by July 31st, 2022.
- R2. SYBH needs to perform an assessment of all access points with the PHF Unit and address any necessary modifications to ensure proper security and controls are in place for the safety and well-being of both the patients and the staff while mitigating AWOL opportunities. These should include: the doors leading to the staff break area just south of the nurses' station inside the PHF unit. The door leading from the breakroom to the south side of the building by the parking lot. The double doors to be replaced at the entrance of the PHF unit. Half "Dutch" door to the medication room.
- R3. SYBH and the County need to take all necessary measures to ensure constant supervision and safety of the perimeter of the outside fenced in recreation yard on the PHF unit to resolve the potential exchange of contraband. The simple practice of 1:1 of a mental health care worker to a patient is not enough to sufficiently address the situation. Contraband can be placed inside the fence at any time due to the openness of the current fencing system, not just during recreation or fresh air breaks.
- R4. SYBH needs to address the serious issue of AWOL from the PHF unit by means of the chain link fence recreation area. One option is to remove the chain link fence and replace it with concrete block. This would address the risk of AWOL, reduce the risk of contraband, and create a more welcoming and inviting recreation area for those on the PHF unit.
- R5. SYBH has identified a replacement Video Monitoring system and submitted its request. This system plays a key role in the facility's security, safety, and sense of well-being for both patients and staff. SYBH and the County need to recognize the importance of this system and prioritize funding by July 31st, 2022.
- R6. SYBH needs to re-evaluate where contracted security services are located on the grounds and the scope of services provided.
- R7. SYBH needs to update Policy and Procedure of recording of AWOL and related Hazard/Incident Report. The system should include:
 - Digitally date/time stamped signatures of any personnel that needs to be included of AWOL and Hazard/Incident Report
 - SYBH should consider a specific time frame for when *each* personnel needs to sign, review and finalize the AWOL report, no more than 7 days is recommended.
 - The system should include an "addendum" form, including a digital time/date stamp, if additional information about the AWOL has occurred from the original document time frame.
- R8. SYBH and the County need to add to and or replace the facilities exterior building, site and street signage that has appropriate names and lighting.

- R9. SYBH and the County need to address the importance of ensuring the comfort of patients in need of isolation and possible restraint. SYBH needs to identify and submit a replacement request to the County. The County in turn needs to recognize the importance by prioritizing funding by July 31st, 2022.
- R10. SYBH and the County need to prioritize the performance of the work needed to complete the parking lot by September 30st, 2022. If funding is still not available, an allocation of funds needs to take priority to ensure this work gets completed.
- R11. SYBH and the County need to take the initiative to clean up, enhance, and consistently maintain the overall appearance of the SYBH facility.
- R12. SYBH and HHS need to reevaluate the scope and value of their training program, as well as their outside 3rd party consultant contract(s) to make sure it is being used effectively.
- R13. SYBH needs to provide proper training and education to ensure sufficient knowledge / understanding of MHSA and Realignment funding in order to maximize the necessary funding required in order to support the county programs dependent upon this funding.
- R14. SYBH and HHS need to assess its current staff, training and processes related to its budget. They then need to develop standardized processes/procedures to facilitate necessary communication between department heads and key fiscal personnel as it relates to internal reporting, discussion, and evaluation of ongoing budgetary goals and or issues, etc.
- R15. There should be regularly scheduled meetings between Department Heads, Branch Directors, Administrators, and key fiscal staff. For transparency purposes, these meeting updates should be presented to the Sutter Yuba Behavioral Health Advisory Committee as well as Sutter County Board of Supervisor Meetings.
- R16. Based on the grand jury's research, a new Electronic Health Care Record System has been defined and budgeted by SYBH. SYBH needs an implementation plan. The County needs to prioritize and approve funding for a complete EHR for outpatient, inpatient, and PES.
- R17. The County needs to work with HHS to perform a needs assessment and begin developing a long-term strategy to address the clear need for a new facility for SYBH which includes housing the PHF Unit.

Required Responses

Pursuant to Penal Code sections 933 and 933.05, the Sutter County Grand Jury requests responses as follows:

- Sutter Yuba Behavioral Health (F1-15)
- Sutter County Health and Human Resources (F1-15)
- Sutter County Board of Supervisors (F1-15)

Invited Responses

- Yuba County Board of Supervisors
- California Department of Health Care Services
- Sutter Yuba Behavioral Health Advisory Board
- California Governor's Office

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

Endnotes

- ¹ <https://www.dhcs.ca.gov/Pages/AboutUs.aspx>
- ² <https://www.medicaid.gov/medicaid/index.html>
- ³ <https://www.dhcs.ca.gov/services/medi-cal/Pages/default.aspx>
- ⁴ https://www.dhcs.ca.gov/services/MH/Pages/MH_Prop63.aspx
- ⁵ <https://www.suttercounty.org/government/county-departments/health-and-human-services/sutter-yuba-behavioral-health>
- ⁶ <https://www.gov.ca.gov/2022/03/03/governor-newsom-launches-new-plan-to-help-californians-struggling-with-mental-health-challenges-homelessness>
- ⁷ <https://www.suttercounty.org/home/showpublisheddocument/4166/637586566568530000>
- ⁸ https://www.healthforcalifornia.com/covered-california/health-insurance-companies/medi-cal?gclid=CjwKCAjw0a-SBhBkEiwApljU0rn6Ofa3scsqJYbeG2oFWGLA4L8Z2VvoDYw9GOKRQqfYN-sl7cle3xoCdKEQAvD_BwE
- ⁹ https://www.dhcs.ca.gov/services/MH/Pages/MH_Prop63.aspx
- ¹⁰ <https://www.suttercounty.org/home/showpublisheddocument/4166/637586566568530000>

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- ¹¹ Ligature Point: According to a 2012 study, ligature points in psychiatric health facilities remains a risk. Hunt IM, Windfuhr K, Shaw J, Appleby L, Kapur N; National Confidential Inquiry into Suicide and Homicide. Ligature points and ligature types used by psychiatric inpatients who die by hanging: a national study. *Crisis*. 2012 Jan 1;33(2):87-94. doi: 10.1027/0227-5910/a000117. PMID: 22343063
- ¹² <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/QSO-19-12-Hospitals.pdf>
- ¹³ <https://bmcpsy psychiatry.biomedcentral.com/articles/10.1186/1471-244X-11-38>
- ¹⁴ <https://www.suttercounty.org/home/showpublisheddocument/4166/637586566568530000>
- ¹⁵ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7750842/>
- ¹⁶ Lawrence RE, Perez-Coste MM, Arkow SD, Appelbaum PS, Dixon LB. Use of Security Officers on Inpatient Psychiatry Units. *Psychiatr Serv*. 2018 Jul 1;69(7):777-783. doi: 10.1176/appi.ps.201700546. Epub 2018 Apr 2. PMID: 29606074
- ¹⁷ <https://www.healthit.gov/topic/health-it-and-health-information-exchange-basics/benefits-ehrs>
- ¹⁸ Plan of Correction letter from Health and Human Services Department, Sutter Yuba Behavioral Health to Department of Health Care Services Mental Health Services Division for the Sutter-Yuba Psychiatric Health Facility (Dated June 22nd, 2021)
- ¹⁹ <https://www.suttercounty.org/home/showpublisheddocument/4181/637583040275870000>
- ²⁰ <https://www.suttercounty.org/home/showpublisheddocument/4166/637586566568530000>
- ²¹ <https://www.suttercounty.org/home/showpublisheddocument/4166/637586566568530000>
- ²² California Department of Health Care Services Letter, Letter to Rick Bingham, Assistant Director Sutter County Health and Human Services Subject: Annual SABG County Compliance Unit Finding Report (Aug.30, 2021)
- ²³ https://www.dhcs.ca.gov/Documents/CSD_KS/County%20MHSA%20PCR%20Reports/Sutter-Yuba-PCR-Report.pdf

Appendix A – AWOL Form

Patient's Name: _____ Chart Number: _____
Time of AWOL: _____ AM/PM Date of AWOL: _____
Legal Status at Admission: 72-Hr Hold 14-Day Cert Conservatee
Legal Status at Time of AWOL: 72-Hr Hold 14-Day Cert Conservatee
Criteria: Danger to Self Danger to Others Gravely Disabled
Medication: _____

How did patient leave the facility? _____

Was physician notified at the time? Yes No

Physician's Name: _____

Missing Persons No: _____ Time Notified: _____ AM/PM

Names, Numbers, and Instructions to others notified:

FINAL OUTCOME:

PT RETURNED (BY WHOM): _____

DATE: _____ TIME: _____ AM/PM

PT DISCHARGED AS AWOL

DATE: _____ TIME: _____ AM/PM

OTHER: _____

Form Completed By: _____ Supervisor Signature: _____

SUTTER-YUBA BEHAVIORAL HEALTH AWOL REPORT PSYCHIATRIC HEALTH FACILITY	NAME: CHART #:
FORM # I-104 AWOL REPORT	URC APPROVED
	REV. 7/25/18

Appendix B – Hazard/Incident Form



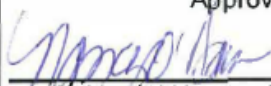


Sutter County Incident/ Hazard Report Form

*See page 3 below for helpful tips on filling out this form correctly.

SECTION A		<input type="checkbox"/> INJURY INCIDENT	<input type="checkbox"/> INCIDENT/NEAR MISS	<input type="checkbox"/> HAZARD
DATE & TIME OF INCIDENT:		LOCATION:		DATE REPORTED:
REPORTED TO:		REPORTED BY: (Optional)		DEPARTMENT:
SECTION B	DESCRIPTION OF INCIDENT (When and what happened in detail, pictures suggested)			
SECTION C	CAUSES (Describe in detail, what and why)			
SECTION D	SUGGESTED CORRECTIONS (How can this be prevented from happening again)			
SECTION E	CORRECTIVE ACTION (What has been done to address the incident or hazard)			DATE

Appendix C – Policies and Procedures

 Sutter County Health and Human Services Policies & Procedures	
Policy: 05-030	Title: Incident Reporting Involving Employees and Clients
Section: Workplace Safety	
Applicability: All Health & Human Services Employees	
Approved:  Assistant Director Health and Human Services	Approved:  Health and Human Services Director
<u>Original Date</u> 10-08	<u>Revised Date</u> 2-24-20

POLICY: It is the policy of Sutter County Health and Human Services (HHS) to maintain a safe and healthy work environment for all employees. Accidents and incidents, that occur on County property or during employment with HHS, must be reported. This policy requirement applies to all accidents and incidents involving HHS employees, clients, on-site vendors, contractors and visitors, which result in (or might have resulted in) personal injury or illness.

It is the intent of HHS to minimize accidents, injuries and illnesses by correcting identified causes when appropriate and feasible.

Definitions:

Accidents are events that cause injury or illness to a person. Even minor injuries such as cuts or sprains are considered accidents. If in doubt, treat a situation as if it were an accident.

Incidents are near-miss events that have the potential of causing personal injury. Any event that causes damage to County property is also considered an incident.

Occupational accidents are accidents that occur to an HHS employee while conducting work-related activities. See Sutter County Human Resources "Work-Related Injury-Illness Reporting Procedures" for more serious and/or medical emergency procedures. Failure to report an occupational accident may result in the denial of benefits under worker compensation laws.

PROCEDURE:

Employees shall be responsible for:

- Following safe work practices.
- Reporting any conditions that they consider unsafe to their immediate supervisor.
- Promptly reporting an occupational accident and incidents to their designated supervisor, Program Manager or designee within 48 hours.

In the event of an accident or injury on County Property or while conducting a work-related activity off county property, employees are expected to report all accidents or incidents resulting in injury or illness regardless of severity by completing the *Sutter County Incident/Hazard Report Forms* referenced below.

Incident reports shall be completed as thoroughly as possible within 48 hours of the incident or accident.

If the event involves an accident with a county vehicle, an "Accident Information" form must be completed. Refer to HHS Policy 05-032 "Accident Reporting and County Vehicle Insurance".

Branch Directors will review all Incident Reports in their area of operation and in consultation with the chair of the safety committee, determine if the incident should be submitted to Risk Management and reviewed by the safety committee.

REFERENCES:

- Sutter County Incident/Hazard Report Form
<http://scnet3/PDF/Human%20Resources/Risk/Incident-Hazard%20Report%20Form.pdf>
- Sutter County Human Resources "Work-Related Injury-Illness Reporting Procedures"
<http://scnet3/PDF/Human%20Resources/Risk/Work%20Related%20Injury-Illness%20Reporting%20Procedures.pdf>
- HHS Policy & Procedure 05-032 "Accident Reporting and County Vehicle Insurance"
- Supersedes SYBH Policy 08-024

REVISION HISTORY:

- 10-08; 1-14-05; 9-28-07; 9-9-08; 5-6-15; 10-4-16; 1-23-19; 2-24-20