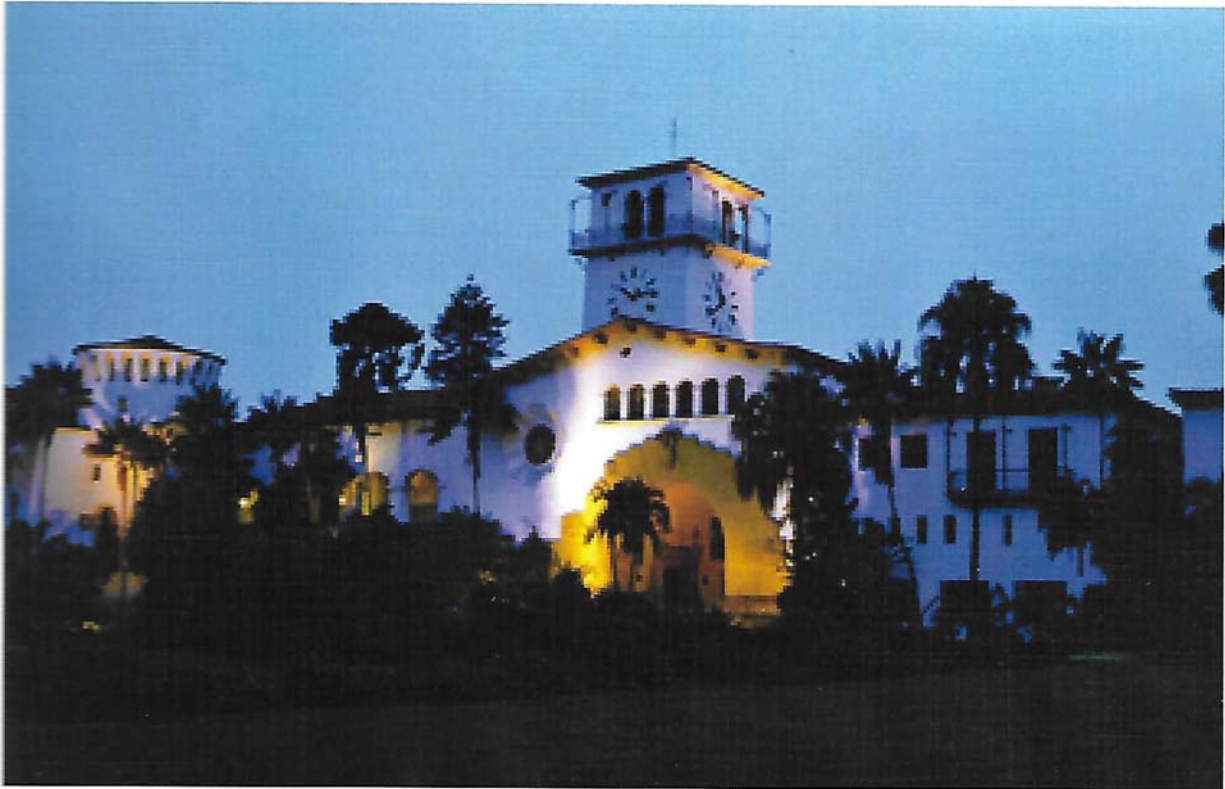


Santa Barbara County Grand Jury 2018-2019

FINAL REPORT



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**SANTA BARBARA COUNTY GRAND JURY
2018-2019**

FINAL REPORT



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GRAND JURY
SANTA BARBARA COUNTY

June 30, 2019

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

Dear Presiding Judge Carrozzo:

I am honored, on behalf of the 2018-2019 Santa Barbara County Grand Jury, to present this Consolidated Final Report to you and the residents of Santa Barbara County in compliance with Penal Code § 933.0S(a). The individual reports contained within this document have been posted to the Grand Jury website, www.sbcgj.org.

The individual members of this Jury represent a diverse group of dedicated individuals from the various supervisory districts of our county. The efforts extended by the Jurors in the investigation and report development process have allowed each report to represent a thorough evaluation of the inquiries.

This Jury was especially grateful for the input received and knowledge shared by each of the eight city administrators, the five members of the Board of Supervisors, multiple elected officials and appointed department heads of this great county.

The Jury sincerely appreciates the support of the Superior Court and Santa Barbara County staff members. Particularly noteworthy is the assistance provided by Grand Jury Counsel Marty McKenzie, Hana Miller and Daniel Rodriguez from the Court's IT department, and the Court's Executive Officer Darrel Parker and Carrie Taylor, his most able assistant. Their guidance enabled the Grand Jury to complete our responsibilities with a great deal of personal satisfaction.

Respectfully,

A handwritten signature in black ink, appearing to read 'R Downer', written in a cursive style.

Robert "Rand e" Downer, Foreperson
2018-2019 Santa Barbara County Grand Jury

**2018-2019 SANTA BARBARA COUNTY
GRAND JURY MEMBERS**

Ruth Abrams	Santa Barbara
James Baker, Treasurer	Santa Barbara
JoAnne Banks	Carpinteria
Eugene Bucciarelli	Santa Barbara
Rande Downer, Foreperson	Santa Maria
Pat Fallin, Recording Secretary	Solvang
Scott Grieve, Foreperson Pro Tem	Carpinteria
Wilja Happe	Carpinteria
John Lyddon	Orcutt
Linda Mier, Corresponding Secretary	Santa Barbara
Janet Napier	Santa Barbara
Lorelei Snyder	Goleta
Allan Stewart-Oaten	Santa Barbara
Robert Tirado	Santa Barbara
Kay Turbak	Santa Ynez
Stephen Weiss	Santa Barbara



Front Row

Kay Turbak, JoAnne Banks, Lorelei Snyder, Robert Tirado

Second Row

Pat Fallin, Jim Baker, Janet Napier, Ruth Abrams

Third Row

Allan Stewart-Oaten, Linda Mier, John Lyddon

Back Row

Rande Downer, Gene Bucciarelli, Scott Grieve, Steve Weiss

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THE CACHUMA PROJECT CONTRACT AND MANAGEMENT

*Whiskey Is For Drinking - But MUST We Fight Over Water?*¹

SUMMARY

The Santa Barbara County Grand Jury (Jury) studied plans for the renewal of the 1995 Contract² (Contract) between the Santa Barbara County Water Agency (SBCWA) and the United States Bureau of Reclamation (Bureau), which governs the Cachuma Project (Project). The renewal is due in September 2020 and the Jury reviewed information about the Project and related issues on the websites of water agencies within the County. It also sought ways to reduce disagreements among SBCWA and the five Member Units which receive and distribute Project Water.

The Jury recommends that SBCWA and the Member Units speak with one voice to the Bureau on vital decisions, especially in regard to the quantities of water to be diverted to the Member Units each year. Regular meetings of the technical staffs could alleviate disagreements prior to presentation to the Bureau. When disagreements do occur and cannot be resolved, the positions of all parties should be given equal weight.

The current Contract needs more than revision. Its terminology is often ambiguous as several different technical terms can mean the same thing, and a single technical term can have several meanings. Its coverage is outdated and does not address the challenges of the future, especially the expected disruptions due to climate change. The Jury recommends planning to revise outdated provisions every five years.

Local websites and other information sources leave questions for which documented answers are not readily available. This report fills some of the gaps and recommends that local agencies combine to create a website which provides the essentials about the Project and gives links to more complex material.

INTRODUCTION AND BACKGROUND

The Santa Barbara County Grand Jury (Jury) was asked to investigate plans for the renewal of the 1995 Contract² (Contract) between the Santa Barbara County Water Agency (SBCWA) and the US Bureau of Reclamation (Bureau), which governs the Cachuma Project (Project). The renewal, due in September 2020, is expected to be in effect for 25 years. The request asked the Jury to report on the 1995 Contract, the changes desired by SBCWA or any of the five Member Units (MUs, the Water Districts which receive and distribute Project Water), and measures needed to deal with climate change and other likely problems.

The Jury studied many documents, including two recent Grand Jury reports,^{3,4} to understand the meaning and purpose of terms contained in the 1995 Contract. These documents help explain why the Contract contains some of its provisions and the possible limitations on a renewal. They also describe much of the Project's history and governance. Appendix A of this report draws on them for a detailed account.

This Report has five parts: Report text, Report Endnotes, Appendix, Appendix Endnotes, and Glossary. Both sets of Endnotes are numbered 1,2, 3, They have some items in common but are different.

The Cachuma Project: History and Infrastructure

The primary purpose of the Project is to provide water to most of the South Coast (Gaviota to the Ventura County line). The Project consists of Bradbury Dam (Dam) on the Santa Ynez River creating Lake Cachuma (Cachuma), located on the northern edge of the Santa Ynez mountains, the Tecolote Tunnel (Tunnel) from Cachuma through the mountains, and the South Coast Conduit (Conduit). The Conduit meets the Tunnel and carries Cachuma water east as far as Carpinteria and west to Goleta.⁵

Cachuma is an artificial lake created by the Dam and fed by the Santa Ynez River, which begins in Ventura County and flows to the ocean. The river can dry up in summer but flood in winter. The Project's aim was a steady, reliable water supply. Water from Cachuma passes through the Tunnel to the Conduit, then to treatment facilities, from which it goes to the City of Santa Barbara and the Goleta, Montecito and Carpinteria Valley Water Districts.

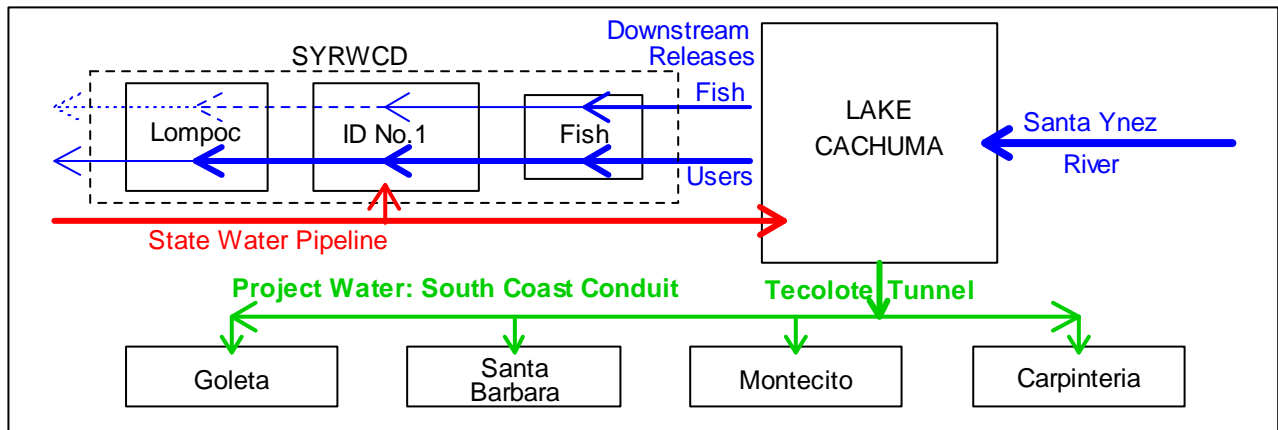
The Project also delivers water to a fifth MU, the Santa Ynez River Water Conservation District, Improvement District No. 1 (ID No.1). At first, this was a part of the Santa Ynez River Water Conservation District (SYRWCD), but it is now a separate agency. When it was first built, the Project sent water to ID No.1 via a pipeline from Cachuma. That pipeline is now used as the State Water Project's (SWP) last section to bring water from ID No.1 to Cachuma. An agreement among Project parties enabled ID No.1 to exchange its lost Cachuma water for SWP water delivered directly.⁶

With the construction of the Project, the users downstream of the Dam potentially lost access to an essential water source. For example, the City of Lompoc depends on groundwater replenished by the Santa Ynez River. A 50-year legal dispute was resolved in 2002 by a settlement agreeing to a schedule for downstream releases⁷ during summer and early fall, from a tunnel under the Dam.⁸

Plants, wildlife and fish, especially steelhead trout, also depended on the river below the Dam. The steelhead trout became subject to the Endangered Species Act and are protected by additional releases required by the National Marine Fisheries Service (NMFS). Most of these are relatively small.

Project water flow is shown schematically in Figure 1. It shows that ID No.1 gets water from three sources. It gets far more from the downstream releases than from the Project (the red State Water arrow).

**Figure 1.
Water Flow in the Cachuma Project⁹**



The quantities of water in Figure 1 vary wildly from year to year. The following values are approximate (Appendix A, Project Inflow and Outflow). Annual flow from the Santa Ynez River into Cachuma has an average of 74,000 acre-feet (AF).¹⁰ At capacity Cachuma contains 190,000 AF; it diverts⁷ 26,000 AF to Member Units, releases up to 18,000 AF to downstream users and 3,500 AF to fish, and loses up to 16,000 AF to evaporation.¹¹

Lake Cachuma was explicitly intended for water supply,^{3,12} but the Bureau often encourages or mandates the development of recreation areas at the sites of its water projects.¹³ In 1953 the County entered into a long-term lease with the Bureau to manage the 9,000 acre Cachuma Lake Recreation Area. Each year, this area has nearly a half-million visitors, with cost and revenue both slightly under \$3 million.

Project Governance

The main Agencies involved in the Project are shown in Table 1. The agencies of most interest in this report are SBCWA and the five Member Units (MUs).

TABLE 1
Agencies involved in the Cachuma Project

<u>Role¹⁴</u>	<u>Formal Name¹⁵</u>	<u>Name in this Report</u>
S	United States Bureau of Reclamation	the Bureau
S	Santa Barbara County Water Agency	SBCWA
PR	National Marine Fisheries Service	NMFS
PR	California State Water Resources Control Board	SWRCB
PR	Santa Ynez River Water Conservation District	SYRWCD
MU	Carpinteria Valley Water District	Carpinteria
MU	Goleta Water District	Goleta
MU	Montecito Water District	Montecito
MU	City of Santa Barbara	Santa Barbara
MU	Santa Ynez River Water Conservation District, Improvement District Number 1	ID No.1
JPA	Cachuma Conservation Release Board	CCRB
JPA	Cachuma Operations and Management Board	COMB
JPA	Central Coast Water Agency	CCWA

The Bureau, a branch of the US Department of the Interior, owns Lake Cachuma, the Dam, the Tunnel, the Conduit, and the four small regulating reservoirs along the Conduit: Glen Anne, Lauro, Ortega, and Carpinteria. It operates the Dam and makes final decisions about the allocation of water, but it must satisfy the requirements of the Endangered Species Act, the permits issued by SWRCB, legal settlements, and the Contract. Its decisions usually follow the advice of local Project agencies.

SBCWA is a dependent special district set up by the State and administered by the County as part of the Department of Public Works. Its employees are County employees and its Board of Directors is the Board of Supervisors. It was created by the state legislature in 1945 "to control and conserve storm, flood and other surface waters for beneficial use and to enter into contracts for water supply" with the federal government (the Bureau), municipalities, and water districts.¹⁶ It entered into the initial 1949 Contract with the Bureau for development of the Cachuma Project.¹² It also entered into subcontracts with SYRWCD, and with the Water Districts of Carpinteria, Goleta, Montecito, Summerland and the City of Santa Barbara, which were designated as Member Units of SBCWA. Later, ID No.1 separated from SYRWCD and Summerland merged with Montecito.

NMFS is a branch of the National Oceanographic and Atmospheric Administration. It issues Biological Opinions governing releases of Cachuma water for the survival of downstream steelhead trout.¹⁷

SWRCB is a State agency. Its permits² allow the Bureau to operate the Project. Their conditions ensure that the 2002 Settlement Agreement⁸ with downstream users is implemented,¹⁸ and help protect steelhead.

SYRWCD is a special district (or local service agency). Its primary role is protecting downstream rights, and it has a designated role in determining the times and quantities of downstream releases.¹⁹ It was the "parent" of ID No.1 but they are now separate agencies.

The MUs are the water agencies receiving water from the Project. Except for ID No.1, their names in this Report correspond to cities or unincorporated areas. The correspondence is only approximate. A MU's service area may not contain the entire city or area of its name and may contain other outside land. In this Report, these names always refer to the MUs. Each MU has an elected board of directors and a technical staff. The directors of the Santa Barbara MU are the members of the Santa Barbara City Council. In all other cases, the directors are elected specifically to manage the Water District.

CCRB is a Joint Powers Authority formed by Carpinteria (which dropped out), Goleta, Montecito, and Santa Barbara to protect their Cachuma rights. It helped develop a Fish Management Plan¹⁷ and continues to monitor Cachuma Project actions and decisions on behalf of its members.

COMB is a Joint Powers Authority formed by the MUs except for ID No.1. It operates and maintains the Tunnel, the Conduit (flow control valves, meters, etc.), and four regulating reservoirs (Lauro, Ortega, Carpinteria and Glen Anne). It implements the Fish Management Plan by conducting scientific studies, monitoring conditions, and installing fish passage improvements.

CCWA is a Joint Powers Authority formed by the MUs and the Cities of Buellton, Guadalupe and Santa Maria to manage the County's SWP facilities, including deliveries to Lake Cachuma. It is not otherwise directly involved in the Project.

The current Contract became effective in 1995, but was signed in 1996. It is mainly a renewal of the 1949 Contract, updated to cover changes of Member Units, acknowledge downstream Water Rights, and add such environmental goals as maintaining the steelhead fishery below the Dam and restoring the damaged habitat of rare, threatened, or endangered species. Some details of the downstream commitments are to be filled in later by legal settlements and agreements involving other entities such as SWRCB and environmental agencies.

METHODOLOGY

The Jury conducted interviews with local elected officials and professional or technical staff from SBCWA and all five Member Units. It studied the 1949 and 1995 Contracts, other documents dealing with the Project's Contracts, permits, legal settlements, planning, and history; the websites of all the agencies listed in Table 1; the agencies reports, letters, board meeting agendas and minutes, district newsletters; and accounts in the local press. It reviewed previous Grand Jury reports from 2006-2007²⁰, 2015-2016³ and 2016-2017.⁴

OBSERVATIONS

Clarity of Project Information

At the outset of this investigation, the Jury's focus was the renewal of the 1995 Contract. However, it soon found parts of the Contract to be unclear. It also learned that the Contract is not the only source of rules governing the Project. Some changes that seemed desirable were not possible because of rules imposed by permits, legal settlements, or State and Federal laws. Some Contract rules, or procedures based on the rules, seemed suboptimal at first but were based on reasons or compromises that were still valid.

The Jury sought Project records to educate itself on these matters. Most of the search was online: it was not expected to be difficult and could show how easily citizens with an active interest in water issues, or candidates for a Water District board, could find information they needed. The search revealed two problems. Terminology was unclear in both the 1949 and 1995 Contracts and in other related documents, and local websites provide little access to detailed information about the Project.

Contract Terminology

Some key terms in the 1995 Contract are unclear or ambiguous. An important issue is the quantity of water to be diverted to the Member Units in a Water Year, currently October 1 to September 30. The Contract uses several terms in this context, but does not describe how any of them are to be calculated or used. "Available supply" and "annual project yield" are defined, but only as general concepts. Other terms, such as "sustained annual yield" and "entitlement," are given only as unexplained numbers. The "safe yield" is given only in an attachment (Exhibit C) as 25,714 acre-feet. This precision suggests a calculation method which achieves a clear purpose, but neither a method nor a reference to one is given for any of these quantities. The 1949 Contract also uses different terms for diversion quantities.

The background documents do not resolve these ambiguities. For example, the 1995 Contract was partly based on a draft environmental impact report written to comply with the California Environmental Quality Act. A version, dated 2003²¹, has different definitions of "safe yield" and "operational yield" from those assumed in the 1995 Contract. It also uses "entitlement" and "allocation" differently.

SBCWA and the MUs also use these terms indiscriminately at times. In the dispute discussed below, the MUs' request is an "entitlement request" and a "40% Allocation." The MUs ask for "10,285 acre-feet (AF) as Available Supply," which may seem to quantify the current Available Supply but means only that the Available Supply is sufficient for the request.

A related term is the "design drought." The Jury has been unable to find a clear origin or definition of this term.²² The Bureau's history²³ states that "the Cachuma Project was planned to weather a seven-year drought" but gives no definition of what it means to "weather" a drought, or a reference to one.

Some terms in a contract need to be defined vaguely because the quantity or item they describe may change over the life of the contract. The definitions of available supply and annual project yield in the 1995 Contract allow for natural changes, such as siltation, and for changes in laws or permits governing the Project's operation. Flexibility is important in a 25-year contract. However, it does not require the use of several terms all meaning the same thing, or of a single term having several different meanings, either in the same document or closely related ones. Standardized terminology could enhance flexibility by reducing uncertainty. In fact, both Contracts have inflexible features, such as the 1949 Contract's hard

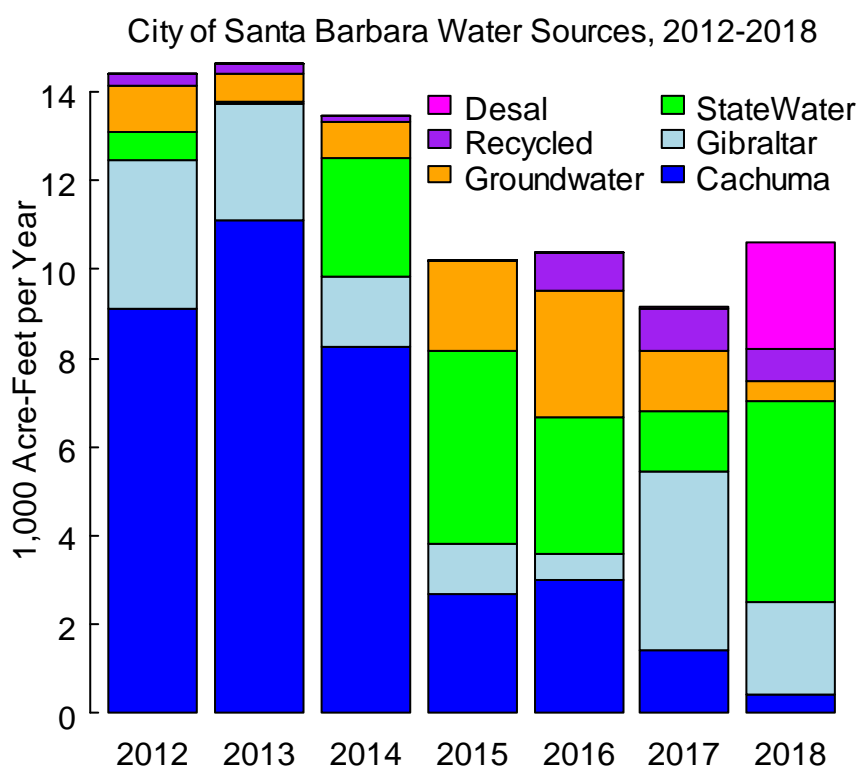
numbers for diversion quantities more than 35 years in the future (Article 11), and the 1995 Contract's hard number (25,714) for annual project yield and safe yield.

Access to Information

The Jury found that key Project information and documents, including the 1949 and 1995 Contracts, were often unavailable on local websites for SBCWA, the MUs, COMB and CCRB. These sites differ in organization and coverage, but some generalizations are possible. Ratepayer information, current news, conservation advice, and district governance (board meetings, budgets, and management plans), are well-covered.

Joint projects get less attention. All these sites describe the Cachuma Project mainly in terms of its

Figure 2



relationship to their own responsibilities. The Project's physical structure is outlined by Goleta and Santa Barbara, and given more briefly by Montecito, Carpinteria and SBCWA. The Urban Water Management plans²⁴ are more complete but the outlines do not refer to these plans. Links to more detailed information on State and Federal websites are not provided. Even less information is given about Project governance. COMB gives brief summaries of "History," "Operations," and "Fisheries." CCRB's²⁵ Documents section has the most thorough background information, but it is limited to downstream issues.

The need for a comprehensive local website

Of the thirteen agencies listed in Table 1, the Bureau and NMFS are

Federal, SWRCB is State, and the other ten are in Santa Barbara County. Six of these are governed by directly elected Boards; all but Santa Barbara are elected entirely to manage water issues. Three more (the JPAs) have Boards consisting of elected Directors of member agencies, appointed by their colleagues. SBCWA is less directly tied to elections but is ultimately responsible to the Board of Supervisors.

These agencies make or implement rules about State Water, groundwater, desalination, reclaimed water, sales or exchanges between districts, and other water issues.²⁶ They all interact with the Cachuma Project. For example, investment in facilities for groundwater, desalination and reclamation may depend on expected future Cachuma supplies.

Figure 2²⁷ shows how Cachuma supplies can affect demand for other sources. Cachuma was full in 2012. It then declined, reaching its smallest level in October, 2016. The decreased heights of the 2015-2018 bars in Figure 2 show the results of intense conservation efforts.

Thus, water management is of growing importance, directly sensitive to voter choices, and often complex. Clear information, readily available online, would encourage conservation and active involvement, and aid voters and potential candidates for water management offices.

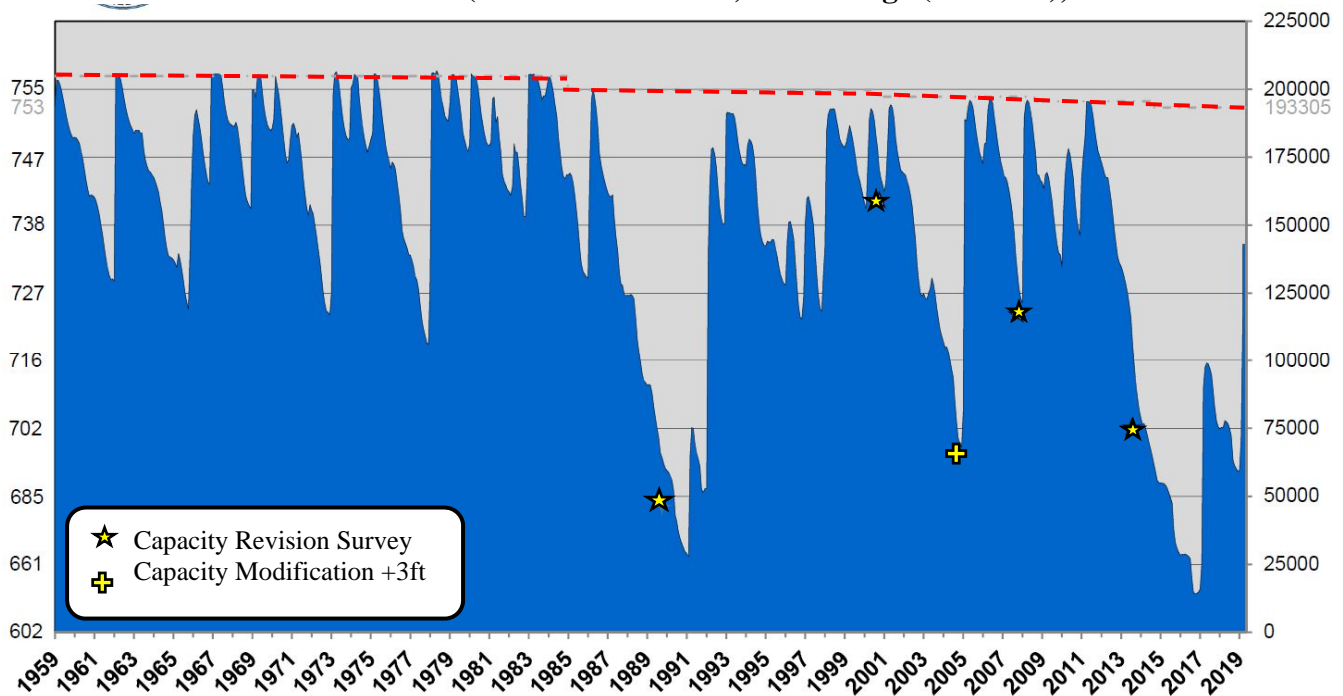
Water districts cannot provide decades of archived information. A single website, overseen by SBCWA and the MUs as a group, could provide more Project details than any one of them can at present, and give links to SWRCB, the Bureau, and other sites for older or more complex information. Districts could post items of special interest to them on their own sites, but otherwise avoid duplication by linking to this site.

Diversions Quantities

Multiple sources told the Jury that the most pressing current issue is how the quantity of water to be diverted to Member Units should be determined in each Water Year. Figure 3 suggests this decision is becoming increasingly difficult due to climate change. (The dashes show Cachuma's total capacity, which declines over time due to siltation.)

Figure 3

Lake Cachuma Water Level (feet above sea level) and storage (acre-feet), 1959 - 2019.²⁸



The role of SBCWA

In the 1995 Contract, Article 3(a) specifies that SBCWA will send to the Bureau any joint request from the MUs for the total quantity of water diversion and the monthly schedule of deliveries for the next Water Year. The deadline is July 1, three months before the Water Year begins.

The MUs made such a request on June 18, 2018.²⁹ SBCWA sent it to the Bureau on June 20 but asked for a one-month extension of the deadline to review the request.

On July 23, SBCWA sent the request again but, for the first time, as an attachment to its own recommendation for a two-stage procedure. Cachuma's rainy season is December-March, so SBCWA recommended that the MUs get half of their request in the first six months (October-March) and the balance if enough water was available.

The Jury heard arguments for each recommendation. SBCWA's professional staff felt a responsibility for the prudent management of Cachuma, which must provide water for fish and downstream users as well as MUs. They were especially concerned to avoid what they saw as the rainfall overestimates of Water Years 2014-2015 and 2015-2016 which reduced Cachuma to seven percent of capacity, its lowest level since the construction of the Dam. The MUs contend that their engineers and geologists are as capable and more focused on Cachuma than SBCWA's staff, who have a wider range of responsibilities. The MUs' conservation efforts demonstrate their prudence; for example, residential use (gallons per day per capita) dropped from 120 (late 1980s) through 93 (2007) to 59 (2016) in the City of Santa Barbara.³⁰

In November, MUs' Counsel wrote to County Counsel complaining that SBCWA's action was "contrary to the terms of the Contract," "not supported by data," and "expressly opposed" by the MUs. The SBCWA's recommendation "substantially reduced" the MUs' request.

County Counsel replied that the Contract does not "prohibit (SBCWA) from providing its own recommendation" and that "as a whole (it) shows the parties' intention ... for (SBCWA) to be actively involved in water conservation planning and implementation." The SBCWA's recommended diversion "was based on the actual conditions of Cachuma Lake ... accounting for evaporation and the ongoing drought." However, SBCWA's letter provides no quantitative support data. The MUs' original request shows projections allowing for evaporation, based on repeats of previous drought years.

Although the two proposals look similar, SBCWA had at first proposed a zero allocation, so MUs may not have been confident of getting the second half of their request. Further, the Jury was told that MUs much prefer to plan a year ahead, rather than six months.

The MUs also objected to SBCWA writing an earlier letter to the Bureau about Contract renewal, without telling them. County Counsel's response was that SBCWA had to make the renewal request at the time it did, and that it is the "first step in a long negotiation process."

There has been agreement among MUs on most issues recently, including diversions. However, there have been past disagreements. Each of the MUs is unique in its sources for water and the needs of its ratepayers. For example, ID No.1 depends more on downstream releases than on the Project while Goleta and Carpinteria have more groundwater capacity than Montecito or the City of Santa Barbara, which have Jameson and Gibraltar Reservoirs respectively. On the South Coast, Goleta and Carpinteria are likely to have different priorities for upgrades to the Conduit. Each MU has its own mix of agriculture, industry, hotels, urban and suburban housing, large estates, parks and campuses, and also of income levels, lifestyle preferences, and general values.

Reducing disagreements

The Jury heard several suggestions for reducing future conflict, especially about diversions.

1. Strengthen the role of SBCWA, as the "lead agency."

The 2016-2017 Grand Jury⁴ recommended one version of this proposal: grant SBCWA enforcement power over County water supplies. The responses from MUs, SBCWA, and the Board of Supervisors all rejected this as undesirable and legally impossible. A weaker version is for the new Contract to allow explicitly for SBCWA to add its own recommendation when sending the MUs' Water Year request to the Bureau. The MUs' objections apply to this version also. Several sources told the Jury that, despite the unanimity among the MUs or the strength of their arguments, the Bureau was almost sure to choose a recommendation from SBCWA because it is more familiar and represents the larger entity, which may seem more stable financially. However, SBCWA has "no water customers, water rights, or operational responsibilities with respect to the Cachuma Project."²⁹ Local agencies understand their own needs, constraints and unique powers. They are also closer to the people they serve. Directors of four of the five MUs are elected specifically to manage water supply. The Santa Barbara MU's directors (the City Council) are elected on a range of issues, but water is a major one; these directors, and their appointed Water Commissioners, interact closely with their Water Resources Division. By contrast, SBCWA is a small part of the responsibilities of its elected directors (the Board of Supervisors); the Board will expect reports, but frequent visits and close supervision are unlikely, unless there appear to be urgent problems. Thus, SBCWA will be less sensitive to the concerns of Cachuma Project stakeholders.

2. Weaken the role of SBCWA.

Apart from the arguments just listed, the Jury heard MUs' claims that the County may be biased because higher Cachuma levels would benefit the Recreation Area, which is a source of County revenue. One suggestion was to restrict SBCWA explicitly to its minimum role in the 1995 Contract: to act as the MUs' agent and convey their requests to the Bureau. This had little support among the MU officials interviewed by the Jury. Another suggestion was for SBCWA to make recommendations only in unusual circumstances, for example only when the MUs disagree, or only after obtaining approval from the Board of Supervisors. The first restriction had mild support, the second very little. While MU interviewees opposed SBCWA's 2018 intervention and preferred to trust their own criteria and the expertise of their own engineers and modelers in cases of strong disagreement, they supported active SBCWA involvement. They expressed respect for SBCWA's leaders and technical staff and welcomed their collaboration and input. They depend on SBCWA as a source of data, models, general information and feedback.

3. A seat at the table for the MUs.

In their interviews with the Jury, the most frequent suggestion by MU officials was for MUs and SBCWA to work together; one arena would be the contract negotiation. MU officials understand the Bureau prefers to work with a single partner, but the MUs want that partner to be constantly aware of their concerns and the reasons for them, to represent the MUs' positions firmly. They expect SBCWA to be the sole local signatory, but believe they can make valuable contributions, whether participating in the discussion at the table or just being in the room and available for consultation.

Another suggestion was regular meetings of technical staff of the MUs and SBCWA. This step was urged by officials from both the MUs and SBCWA. The letter from County Counsel²⁹ expresses

commitment to cooperative work with the MUs which "should occur primarily through staff-to-staff discussions."³¹ The Jury was told that such meetings had occurred in the recent past, but were sometimes hard to arrange, cancelled with little notice, or poorly attended. A well-organized schedule of meetings could include Bureau representatives from time to time.

It was suggested that the new Contract could provide for a "Standard Operating Procedure" whereby the Bureau would agree to follow the recommendations of formal meetings between SBCWA and the MUs when possible, especially concerning diversions; and otherwise give reasons based on legal requirements or the Project's physical limitations. Article 3(b) of the 1995 Contract² specifies these types of reasons but does not explicitly require the Bureau to give them.

Article 9(g) calls for SBCWA, the Member Units, and the Bureau to meet during the Contract period to discuss "changes to the operations of the Project." This Article is not ideal for the next Contract. First, the meetings are to occur "not more frequently than every five years." This allows meetings to be more than five years apart, perhaps at the whim of a single participant. It also prohibits meetings less than five years apart, even though rapid environmental changes could require emergency responses.

Second, these meetings are to "protect the environment and groundwater quality downstream ..., conserve Project Water, and promote efficient water management," and they must not "reduce the Available Supply in any Water Year." This ignores the possibility that engineering innovations or better models could lead to increased diversions to MUs without harm to any other Project functions, despite temporarily reducing available supply.

Third, the meetings are to be "an open, public process." This is required by California's "open meetings" laws, but as one MU official emphatically pointed out, such a setting does not encourage uninhibited exchange and discussion of information and ideas among technical staff. The official suggested—and the Jury concurs—that the 5-year meetings should be preceded by informal meetings of technical staff from the Bureau, SBCWA, and the Member Units. Those preliminary meetings of technical staff could give the decision-makers a better understanding of the problems to be addressed at their 5-year meetings, along with the most technically-sound options for resolving those problems.

4. More explicit use of quantitative methods.

Formal quantitative methods can help clarify the reasons for disagreements. Quantitative methods are mathematical strategies for comparing management options, based on probabilities of future outcomes that can be given a numerical preference score. For example, an option might be a formula for deciding how much water to divert to MUs in each year for five years. The option's outcome depends on the rainfall pattern of the next five years, each possible pattern has a probability, and the outcome it produces could be scored based on the supplies diverted to the MUs and the quantity remaining in the Lake.

In practice, there may be only a few management options, but many possible rainfall patterns, and outcomes might depend on the availability of alternative sources of water. Possible rainfall patterns and their probabilities might be estimated from past experience but might need to allow for climate change. Scoring would depend on trade-offs, such as between MU supplies and Cachuma reserves

or between reliability and total quantity in MU supplies (e.g., is five years of 2,000 AF better than three years of 4000 AF and two years of zero?). These problems exist but are not insurmountable.

The point of using this quantitative approach is not to micromanage engineers, but to clarify why their recommendations differ. It could be the rainfall patterns they believe most probable or their scores for outcomes. Knowing where the differences exist can make negotiation and compromise easier.

Several sources suggested parts of this formal approach. One was the option of a sliding-scale formula based on the volume of water in Cachuma. Another was to display outcomes by plots showing quantities diverted and quantities remaining over time. Several MU interviewees called for such yield curves, as did the Board of Supervisors and SBCWA in their responses to the 2016-2017 Grand Jury. A proposed scoring criterion was to keep enough water in Cachuma for the "dead pool" (a generally agreed essential minimum of 12,000 AF), downstream users and the fish, after allowing for evaporation and leaks. Outcomes missing this goal would get very low scores.

Other Issues

Some interviewees strongly suggested that the next Contract should be a **new** Contract rather than a **renewal**.

Some issues such as terminology, the roles of SBCWA and the MUs, and their meetings with the Bureau, are mentioned above. Another is the need to address the challenge of rapid climate change. Droughts, storms, fires, and sea level rise can all affect water supply. A stress on flexibility and frequent review or adaptation is critically important. The Jury felt that the choice of words matters: a renewal suggests minor changes, but a new Contract implies the addition of new Articles and close scrutiny of existing ones.

There are two other issues the Jury decided to report without recommendations. One is the allocation of losses due to evaporation. For example, if Cachuma loses ten percent of its volume to evaporation, should every use category (fish, MUs, etc.) be reduced by ten percent, or should some categories (dead pool, downstream users, fish) be exempt? In the latter case, to compensate for the exemptions, the other categories must be reduced by more. One of these categories is carryover water, left in Cachuma by a MU which did not take its full share at an earlier release. Reducing this category discourages conservation by creating a "use it or lose it" situation.

The second issue is the fish releases. For example, the Winter 2019 issue of "ID No.1 News" says it must "budget hundreds of thousands of dollars to pay for fish studies, fish monitoring programs, habitat enhancements (oak tree restoration projects), and other related environmental programs, for less than 10 steelhead." A counter-argument is that this low count proves the steelhead are truly endangered.

FINDINGS AND RECOMMENDATIONS

Finding 1

The current Contract does not fully address future water management problems such as will arise from climate and other rapid environmental changes.

Recommendation 1

That the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, pursue the upcoming 2020 contract negotiations as an opportunity to create a completely new contract.

Finding 2

Public understanding and effective operation of the Cachuma Project would be enhanced if key terms in the Contract were defined and used more precisely.

Recommendation 2

That the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, require that key terms in the new Contract are defined clearly and used in a consistent manner.

Finding 3

The roles and responsibilities of SBCWA and the Member Units are not clearly defined in the current Contract.

Recommendation 3

That the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, ensure their roles and responsibilities are clearly defined in the new Contract.

Finding 4

The current Water Year, October 1 to September 30, makes diversion recommendations and decisions difficult because it comes just before the rainy season, when the quantity of water in Cachuma for the next few months is highly unpredictable.

Recommendation 4

That the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, strongly urge in negotiations for the new Cachuma Project Contract that the Water Year should run from May 1 to April 30, or a similar period, to allow diversion requests to be made soon after the usual winter rain period.

Finding 5

Provisions in the 2020 Contract will need more frequent updating than those in previous Contracts due to rapid climate change altering the natural conditions affecting water supply.

Recommendation 5

That the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, propose to the Bureau of Reclamation that the new Cachuma Project Contract require a meeting between them and the Bureau every five years, with a public agenda, to consider changes to Contract provisions which have become outdated.

Finding 6

Under the 1995 Contract, Article 9(g), the required five-year meetings cannot result in increased water diversion to Member Units.

Recommendation 6

That the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, propose to the Bureau of Reclamation that the required five-year meetings allow changes to the operations of the new Contract, including increased diversions, provided they are consistent with Federal law, State law, and Project Water Rights, and do not negatively affect the environment or the groundwater quality downstream of Bradbury Dam.

Finding 7

Member Units and SBCWA have expressed support for formal, quantitative methods of decision-making under uncertainty which can identify sources of disagreement, and thus facilitate compromise solutions.

Recommendation 7

That the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, establish a format for quantitative decision-making under uncertainty; and seek to narrow their differences on such components as probabilities of future rainfall patterns and criteria for desirable outcomes.

Finding 8

SBCWA and the Member Units agree that meetings of their technical staffs are valuable but disagree over the organizational concerns of past meetings, such as claims of infrequency, non-attendance, non-response and cancellation without notice.

Recommendation 8

That each year the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, determine a schedule of multiple meetings of key technical staff to discuss Cachuma Project operations, including upcoming diversions, and to report major points of potential agreement or disagreement to their Boards.

Finding 9

The websites of the Member Units and SBCWA lack clarity and detail on the Cachuma Project.

Recommendation 9

That the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, set up and maintain a specific website for detailed information on the Cachuma Project's history, structure, governance, and operations, with links to additional historical documents and records.

REQUEST FOR RESPONSE

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

Responses to Findings shall be either:

- Agree
- Disagree wholly
- Disagree partially with an explanation

Responses to Recommendations shall be one of the following:

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

Santa Barbara County Water Agency – 90 Days

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

Carpinteria Valley Water District – 90 Days

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

Goleta Water District – 90 Days

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

Montecito Water District – 90 Days

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

City of Santa Barbara – 90 Days

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

Santa Ynez River Water Conservation District, Improvement District No. 1 – 90 Days

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

Santa Barbara County Board of Supervisors – 90 Days

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

REPORT ENDNOTES

- ¹ "Whiskey is for drinking and water is for fighting over" has been attributed to Mark Twain.
- ² *Contract Between the United States and Santa Barbara County Water Agency Providing for Water Service from the Project.* Bureau of Reclamation, Cachuma Project, 1996. (Contract No. I75r-1802R). (Jury's copy from Santa Barbara County Water Agency.) Article 2 sets the renewal date.
- ³ <http://sbcgj.org/default.asp> 2015-2016, "Lake Cachuma – Protecting a Valuable Resource" Last visit 06012019.
- ⁴ <http://sbcgj.org/default.asp> 2016-17, "Managing Regional Water Supplies: Are There Better Solutions?" Last visit 06012019.
- ⁵ A map showing the Cachuma Project is in Appendix A.
- ⁶ <http://www.ccwa.com/docs/History1.pdf> "The State Water Project in Santa Barbara County." Last visit 06012019.
- ⁷ In this Jury report, a "release" refers to water released from Cachuma for downstream users or fish. A "diversion" is the total quantity of Project water made available to the Member Units in a Water Year. The quantity delivered may be less, because a Member Unit can choose to leave part of its share in Cachuma, as "carryover" for use at a later time.
- ⁸ www1.cityoflomdoc.com/councilagenda/2002/021203/021203No8A.pdf last visit 06012019.
- ⁹ Figure 1 is simplified. The Tecolote Tunnel emerges at the Conduit's Goleta end. See the map in Appendix A.
- ¹⁰ <https://www.countyofsb.org/pwd/waterreports.sbc> Select "Water Resources of Santa Barbara County 2000" Last visit 06182019.
- ¹¹ <http://cosb.countyofsb.org/uploadedFiles/pwd/Water/Hydrology/2016%20Hydrology%20Report.pdf> "Santa Barbara County Hydrology Report" (2016) Last visit 06012019.
- ¹² *Contract for the Furnishing of Water to Member Units of Santa Barbara County Water Agency.* United States Department of the Interior, Bureau of Reclamation, Santa Barbara County Project, 1949. Jury's copy from Santa Barbara County Water Agency.
- ¹³ <https://www.usbr.gov/recreation/partners.html> Last visit 06012019.
- ¹⁴ Roles are: S = Signatory to the Contract; PR = Agency with Prior Rights; MU = Member Unit; JPA = Joint Powers Authority
- ¹⁵ All these agencies have websites. The descriptions given here come partly from these.
- ¹⁶ <https://www.countyofsb.org/pwd/watermission.sbc> SB County Public Works Water Resources Mission.
- ¹⁷ <https://www.cachuma-board.org/annual-reports-and-documents> Last visit 06012019.
- ¹⁸ https://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/cachuma/ See especially "Revised Draft Order Amending Permits 11308 and 11310 (Applications 11331 and 11332)," March 27, 2019.

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- ¹⁹ https://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/cachuma/phase2/exhibits Click on "exhibits" then scroll down to "doi30.pdf". Its title is " Cachuma Project, California Guidelines for Operation, 2003." Last visit 06182019.
- ²⁰ <http://sbcgj.org/default.asp> The 2006-2007 report title is "Carpinteria Valley Water District."
- ²¹ https://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/cachuma/#deir2003 To download, click on "Draft Environmental Impact Report (DEIR)." Last visit 06012019.
- ²² But see "Water History of Santa Barbara County." (Page 37). <https://www.santabarbaraca.gov> Enter this title into the Search line and click Go. Click the link to download the file "2017-12-21_December_21_2017_Item_6-c_SB_County_Water_History.pdf" Last visit 06182019.
- ²³ <https://www.usbr.gov/projects/index.php?id=336>. Cachuma Project History. This history includes the building of the Dam, Tunnel, Conduit, and other facilities, which is not described in this Report. Last visit 06012019.
- ²⁴ SBCWA's plan is at <https://www.countyofsb.org/pwd/irwmp.sbc> Carpinteria's plan is available on its web site under "About" - "Public Information". The others can be found on their websites by entering "urban water management plan" in the Search line. ID No. 1 is not required to have a management plan. Last visit 06182019.
- ²⁵ <https://www.ccrb-board.org/> Last visit 06012019.
- ²⁶ <http://countyofsb.org/pwd/water/irwmp/plan-2019.sbc> (Chapter 2, especially sections 2.6 and 2.7.) Last visit 06012019. A clear, relatively brief, account of these multiple sources is in the 2016-2017 Grand Jury Report, endnote 4 above.
- ²⁷ Suggested years and data provided by City of Santa Barbara Water Resources Division. The years are Water Years, so "2012" means October 1, 2011 to September 30, 2012.
- ²⁸ <https://www.countyofsb.org/pwd/rainhistory.sbc> "Reservoir Storage Trends." Last visit 06022019.
- ²⁹ This account uses a letter from MUs' Counsel, attaching the MUs' request, SBCWA's recommendation, and the Bureau's response (11/13/2018); it also uses County Counsel's reply to MUs' Counsel (12/18/2018). These are public information but are not online. All were provided by SBCWA.
- ³⁰ <https://www.santabarbaraca.gov/gov/depts/pw/resources/system/docs/default.asp> "Water Facts – Past 10 Years" Last visit 06022019.
- ³¹ A MU official stressed this last point, saying that the Brown Act could require the meetings to be public if elected officials were present, which would inhibit compromises and imaginative ideas from technical staff.

APPENDIX

CACHUMA PROJECT DETAILS

Cachuma Project details are contained in documents of several types: permits, legal settlements, environmental impact reports, memorandums of understanding, management plans, and agency reports. Some of them are hundreds of pages long, unavailable online, or unknown to the Jury. However, the Jury believes that the details in this Appendix clarify the aims and effects of items in the 1949 and 1995 Cachuma Project Contracts, and their interactions with decisions found in these other documents.

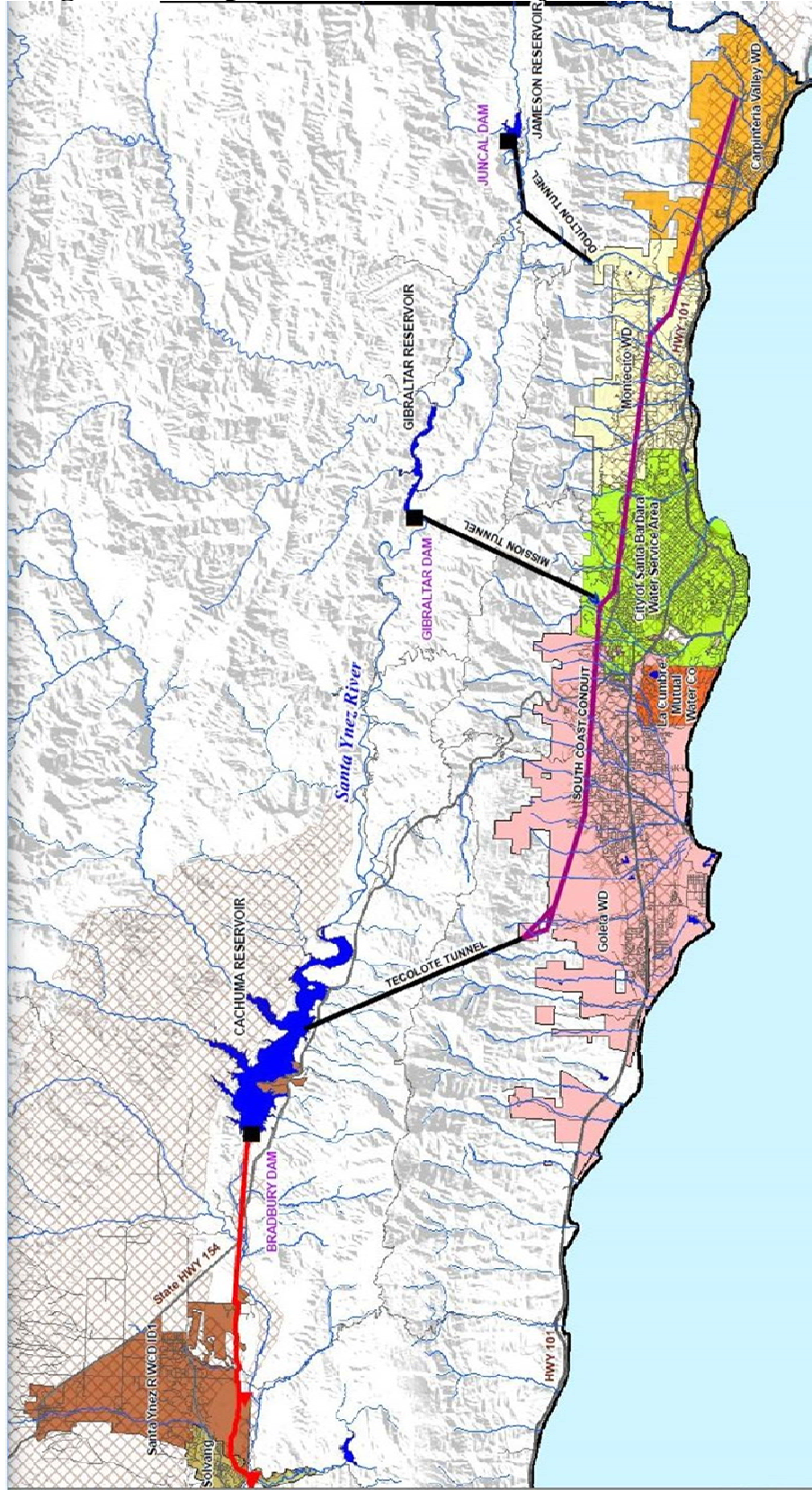
This Appendix overlaps with the Background sections of this and two previous Grand Jury Reports.^{1,2} However, there are details, and especially sources, here that are not found in those sections.

The Cachuma Project Background

The Project consists of Bradbury Dam, Tecolote Tunnel, and the South Coast Conduit.³ They bring water from the Santa Ynez River watershed to the South Coast. The Project also releases water to parts of the Santa Ynez Valley, as described later. It is shown in the map in Figure 1.⁴

Figure 1: Map of the Cachuma Project⁴

The Cachuma Project
 The colored areas are the Member Units, except for the Lake (blue) and La Cumbre Mutual Water Co. (bottom, middle). The State Water Project pipeline is in red, at left. Montecito owns Doulton Tunnel. Santa Barbara owns Mission Tunnel. It ends at Lauro Dam, not South Coast Conduit.



The City of Santa Barbara completed Gibraltar Dam and Reservoir in 1920, linking it to Mission Tunnel, built 1904-1911.⁵ Montecito Water District completed Juncal Dam and Jameson Reservoir, linked to Doulton Tunnel, in 1930.⁶ These facilities were clearly too small for the growing population by the 1930s. Major studies for a long-term solution began in 1938 and became a joint project of the County and the Bureau in 1941. Meanwhile, the Santa Ynez River Water Conservation District (SYWRCD) was formed to protect the water supplies of the Santa Ynez and Lompoc valleys.⁷

The Santa Barbara Water Agency (SBCWA) is described in this Grand Jury Report. In the initial Contract with the Bureau for development of the Cachuma Project,⁸ the City of Santa Barbara, SYRWCD, and the Water Districts of Carpinteria Valley, Goleta, Montecito, and Summerland were designated as "Member Units of Santa Barbara County Water Agency."⁹

There have been two changes of Member Units. The Project was to serve only a part of SYRWCD, which formed SYRWCD Improvement District No. 1 (ID No.1) to handle this service in 1963. ID No.1 became a separate agency in 1968 and replaced SYRWCD as a Member Unit in 1993.¹⁰ In 1995, the Summerland District was absorbed into the Montecito District.¹

In 1991, voters in 11 County cities and water districts, including all Cachuma Member Units, approved issuing bonds for the local facilities needed to import water from the State Water Project (SWP).¹¹ The Central Coast Water Authority (CCWA) was formed to construct and operate these facilities. To reduce capital costs, the SWP pipeline was extended from Vandenberg Air Force Base to Lake Cachuma, so deliveries to the South Coast could use Project infrastructure. The pipeline which had previously delivered water from Cachuma to ID No.1. was now used as the SWP pipeline's last section, to deliver water from ID No.1 to Cachuma. An agreement among Cachuma Project parties enabled ID No.1 to exchange its "lost" Cachuma water for SWP water.¹¹

The Project was explicitly intended for water supply.^{3,8} It was explicitly not for flood control, but the SBCWA developed a plan for Modified Storm Operations which the Bureau agreed to consider in making precautionary releases in preparation for large storms.¹² The Bureau is expected to coordinate with local authorities in recreation developments and encourage them to manage recreation at its project areas, especially water projects.¹³ In 1953, the County entered into a long-term lease with the Bureau to manage the 9,000 acre Cachuma Lake Recreation Area. Each year, this has nearly half a million visitors, with cost and revenue just under \$3 million. Recently, the Board of Supervisors designated \$12 million for upgrades.¹⁴ For comparison, the total County budget is just under \$1.1 billion, the Parks budget is just under \$13 million.¹⁵ In millions, the MUs' approximate budgets are ID No. 1: \$9; Carpinteria: \$13; Montecito: \$20; Goleta: \$45; and Santa Barbara: \$65.¹⁶

The current Contract¹⁷ became effective in 1995, but was signed in 1996. It is a renewal of the 1949 Contract, updated to cover changes of MUs,¹⁸ acknowledge downstream Water Rights, and add such environmental goals as restoring habitat that has been damaged by the Project, especially that of rare, threatened, or endangered species. Some details of the downstream commitments were to be filled in later by legal settlements and agreements involving SWRCB and environmental agencies and other entities.

Project Governance

The main Agencies involved in the Project are shown in Table 1 of this Grand Jury Report. The Bureau, NMFS, the MUs, and COMB are described there. The others are partly described; some details are added below.

As a dependent special district, the SBCWA has a guaranteed share of County property tax. In theory it has property-taxing power of its own, but only with a popular vote, due to Proposition 13. Its exact role in the Project is disputed: opinions range from active leader of the Member Units to passive messenger for them. It is involved in several water supply projects other than Cachuma, such as cloud seeding, regional water efficiency, development of hydrologic data and models, groundwater assessment, the Twitchell project, and State Water.¹⁹

SWRCB is a five-member Board appointed by California's Governor.²⁰ It sets statewide water policy, oversees and supports the nine Regional Water Boards, and is solely responsible for assigning surface water rights. Its permits¹⁷ allow the Bureau to operate the Project. Their conditions initially protected prior downstream rights holders²¹ and now ensure that the 2002 Settlement Agreement²² between the Bureau, CCRB, SYRWCD, ID No.1, and Lompoc is implemented²³. This is accomplished by releases from a tunnel under the Bradbury Dam during summer and early fall. ID No.1 gets more water this way, using wells adjacent to the river, than it gets from the Project. This agreement ended nearly 50 years of dispute and litigation. The permits have also protected steelhead populations (before, and now complementary to, the orders of NMFS) by requiring additional releases.

SYRWCD is a special district with an elected Board of Directors.

CCRB helped develop a Fish Management Plan²⁴ for downstream, and was the primary implementing agency until 2011 when COMB took over.

CCWA is a Joint Powers Agency formed to construct, manage and operate Santa Barbara County's local facilities for distribution and treatment of State water. Its directors are appointed by its eight member agencies: the five MUs and the Cities of Buellton, Guadalupe and Santa Maria. It has five other "Project (SWP) Participants." Its operations include deliveries to Lake Cachuma, but it is not otherwise directly involved in the Project.

Project Inflow and Outflow²⁵

In principle, the amount of water flowing naturally into Cachuma should equal the amount of Project water flowing out. In practice, neither calculation is easy.

The main reason for the Project is that inflow is highly variable: inflow and outflow will be equal only on average over many years. Most of the inflow is from the Santa Ynez river. SBCWA²⁶ gives the annual flow into Cachuma as having a median of 20,000 acre-feet (AF), an average of approximately 74,000 AF, and a maximum of approximately 500,000 AF. In 2009, the Bureau's Operations Chief responsible for the Dam testified²⁷ that average flow of the Santa Ynez river below Gibraltar Dam was 42,000 AF for 1921-2002, but 50,000 AF for 1953-2002. Below Cachuma, at a metering station near Santa Ynez, the 1953-2002 average was 74,000, and the average "computed inflow" to Cachuma was 89,000 AF. This measures inflow by adding Cachuma's increase, releases, diversions, evaporation, and spills, and subtracting SWP and rain on the surface (about 4,000 AF). Carpinteria's 2016 Agricultural Water Management Plan²⁸ estimated the average Santa Ynez flow as 66,000 AF. The US Geological

Survey's annual means at Los Laureles²⁹ (about a mile upstream from Cachuma) averaged 63,000 AF for 1952-2018, but 70,000 AF for 1952-2002. Thus, different measurement methods (computed inflow, or gages at different sites, or models using several gages) can give quite different estimates.

Outflow includes metered diversions and releases, but evaporation, spill and leakage are more difficult to measure. For example, SBCWA's 2016 Hydrology Report³⁰ estimates annual evaporation to be 16,000 AF but its Integrated Regional Water Management (IRWM) plans³¹ estimate 11,000 AF based on "a standard evaporation rate" of 3.6 feet per year and a lake area of 3100 acres. The annual estimates for 1953-1996 in SWRCB's Environmental Impact Report³² (EIR) also average 11,000 AF. Neither estimate would claim to be reliable in all circumstances, since evaporation depends on the area of Cachuma exposed to sun and wind, which decreases as the water level falls: the SWRCB data show less evaporation during droughts.

A common term is "safe yield." The EIR defines this as "the amount of water a project can be expected to deliver, on average, over a sustained hydrologic period – a period that preferably is long enough to contain representative wet periods as well as droughts." The meaning of "on average" is unclear, and it seems to have been ignored, assuming that the safe yield could be delivered in every year. The concept of a "design drought" plays a role, but it seems clear that the survival of supplies through such a drought must depend on further assumptions, such as Cachuma's initial volume and the inflow during the drought. Cachuma's first "safe yield" seems to arise from the 1949 Contract's Article 11, which specifies all Water Year diversion amounts for each MU, for each five-year period between May 1960 and May 1995. These are treated as maximum values: more diversion would cost extra, and there may be shortages. The amounts for 1990-1995 add to 32,000 AF, which the 1995 Contract calls the "safe yield" (before changing it in Exhibit C of the 1995 Contract). When the 1949 diversion amounts are divided by their total (32,000 AF), the resulting fractions are those used for the 1995 Contract's "allocations," and will remain as the relative shares in the next Contract; the Jury was told that no party wants to renegotiate them. While all these numbers seem reasonable, the Jury was unable to find sources giving the calculation methods or a rationale.

Some Effects of Changing Climate

The quantities discussed in this section, and other important ones, will be even more difficult to estimate, or predict, in future, due to climate change. All local agencies have shown acute awareness of the need to plan for its effects, many of them now inevitable though of unpredictable size.³³

APPENDIX ENDNOTES

- ¹ <http://sbcgj.org/default.asp> "Lake Cachuma – Protecting a Valuable Resource," 2015-16 Grand Jury Report. Last visit 06012019.
- ² <http://sbcgj.org/default.asp> "Managing Regional Water Supplies: Are There Better Solutions?" 2016-17 Grand Jury Report. Last visit 06012019.
- ³ <https://www.usbr.gov/projects/index.php?id=336> Cachuma Project History. This history includes the building of the Dam, Tunnel, Conduit, and other facilities, which is not described in this Report. Last visit 06012019.
- ⁴ <https://www.countyofsb.org/pwd/waterreports.sbc> (Map of "Water Sources.") Last visit 06062019.
- ⁵ <https://www.santabarbaraca.gov/gov/depts/pw/resources/system/sources/misstunnel.asp> Last visit 06062019.
- ⁶ <http://www.countyofsb.org/pwd/water/irwmp/plan-2013.sbc> (Chapter 3.) Last visit 06062019.
- ⁷ <https://syrwcd.com/annual-report> 40th Annual Report (2017-2018). Last visit 06062019.
- ⁸ *Contract for the Furnishing of Water to Member Units of Santa Barbara County Water Agency.* United States Department of the Interior, Bureau of Reclamation, Santa Barbara County Project, 1949. (Jury's copy from Santa Barbara County Water Agency.)
- ⁹ This terminology is in the title and Article 2 of the 1949 Contract, where it is attributed to the Santa Barbara County Water Agency Act, July 18, 1945. However, the Jury could not find this phrase in the Act.
- ¹⁰ <https://www.countyofsb.org/pwd/water/irwmp/plan-2019.sbc> Santa Barbara County IRWM Plan Update 2019, pp. 91-2. Last visit 06062019.
- ¹¹ <http://www.ccwa.com/about.html> "Our History" Last visit 06062019.
- ¹² https://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/cachuma/phase2/exhibits Scroll down to "doi30.pdf". Its title is " Cachuma Project, California Guidelines for Operation, 2003." Last visit 06182019.
- ¹³ <https://www.usbr.gov/recreation/partners.html> Last visit 06062019.
- ¹⁴ "Santa Barbara County supervisors affirm list of priority projects for capital improvements." Santa Maria Times, March 19, 2019.
- ¹⁵ <https://www.countyofsb.org/budgetbook.sbc> Recommended Budget 2017-2019. (pp. B-12, C-28.) Last visit 06062019.
- ¹⁶ <https://www.syrwd.org/article-categories/1640-budget> <http://www.goletawater.com/district-budget> <http://www.montecitowater.com/about-the-district/financials/> <http://www.cvwd.net/about/budget.htm> <https://www.santabarbaraca.gov/gov/depts/finance/budget/adopted.asp> All last visited 06062019.
- ¹⁷ *Contract Between the United States and Santa Barbara County Water Agency Providing for Water Service from the Project.* Bureau of Reclamation, Cachuma Project, 1996. Contract No. I75r-1802R. 2018-2019 Santa Barbara County Grand Jury

Jury's copy from Santa Barbara County Water Agency.

- ¹⁸ The phrase "Member Units of Santa Barbara County Water Agency" is not used in the 1995 Contract.
- ¹⁹ <https://www.countyofsb.org/pwd/wateragency.sbc> Last visit 06062019.
- ²⁰ <https://www.waterboards.ca.gov/> Last visit 06062019.
- ²¹ https://www.waterboards.ca.gov/waterrights/board_decisions/adopted_orders/decisions
Select "D850 to D899" and scroll down to "See Related, ORDER WR 73-09, ..., ORDER WR 94-05."
These all update decisions related to downstream users or fish (steelhead). Last visit 06062019.
- ²² www1.cityoflomdoc.com/councilagenda/2002/021203/021203No8A.pdf Last visit 06062019.
- ²³ https://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/cachuma/
Scroll down to the hearing of March 27, 2019. Last visit 06062019.
- ²⁴ <https://www.cachuma-board.org/annual-reports-and-documents>
- ²⁵ Water volumes in acre-feet (AF) are rounded to the nearest 1,000.
- ²⁶ <https://www.countyofsb.org/pwd/waterreports.sbc> Select "Water Resources of Santa Barbara County 2000." Last visit 06182019.
- ²⁷ https://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/cachuma/phase2/exhibits
Scroll down to "doi8.pdf". Its title is "Testimony of Antonio M. Buelna." Last visit 06182019.
- ²⁸ http://www.cvwd.net/pdf/about/public_info/CarpinteriaVWD-AWMP-Final--4-22-2016-all.pdf
- ²⁹ <https://waterdata.usgs.gov/ca/nwis/annual/> Select by the Site Number: 11123500. Check the box next to Parameter Code 00060 and then "Submit."
- ³⁰ <https://www.countyofsb.org/pwd/hydrology.sbc> 2016 Hydrology Report. Last visit 06052019.
- ³¹ See endnote 10 above: Appendix 2-1, Table 2-4. Last visit 06062019.
- ³² https://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/cachuma/#feir2011
Final Environmental Impact Report, Volume III, Appendices A–D to the 2011 2nd RDEIR, Table 2.18.
Also obtainable from <https://www.ccrb-board.org/docsphotos.htm> Last visit 06192019.
- ³³ <http://www.countyofsb.org/pwd/water/irwmp/plan-2019.sbc> Last visit 06192019. Choose "IRWM 2019 Plan Update Appendices" (1700 pages); Section 2.6 (p. 2-18) of "Long Term Supplemental Water Supply Alternatives Report." Also see Section 3.6, Table 3.6 of endnote 6 above. Other examples are in Member Units' Management Plans: see Report Endnote 24 of this Grand Jury Report.

GLOSSARY

AF	Acre-foot. The volume in a container with area of one acre and depth of one foot. It equals 1,233.5 cubic meters, 43,560 cubic feet, and 325,851 US gallons
Bureau	United States Bureau of Reclamation
Carpinteria	Carpinteria Valley Water District
Carryover	Water which a Member Unit is entitled to take from Cachuma but chooses to keep there for use in a later Water Year
CCRB	Cachuma Conservation Release Board
CCWA	Central Coast Water Agency
COMB	Cachuma Operations and Management Board
Conduit	South Coast Conduit, a pipeline running from Goleta to Carpinteria
Dam	Bradbury Dam on Lake Cachuma
Diversion	The Project water made available to the Member Units in a Water Year. The amount delivered may be less, because a Member Unit can choose to leave part of its share in Cachuma, as "carryover" for use at a later time
Gallon	A US gallon equals 0.134 cubic feet, 3.785 liters, and 231 cubic inches.
Goleta	Goleta Water District
ID No.1	Santa Ynez River Water Conservation District, Improvement District Number 1, a separate agency from the Santa Ynez River Water Conservation District
IRWMP	Integrated Regional Water Management Plan
Montecito	Montecito Water District
MU	Member Unit
NMFS	National Marine Fisheries Service
Release	Water allowed to flow through the tunnel under the Bradbury Dam into the Santa Ynez riverbed for the benefit of downstream users and fish
Santa Barbara	City of Santa Barbara, regarded as a Water District
SBCWA	Santa Barbara County Water Agency
SWRCB	California State Water Resources Control Board
SYRWCD	Santa Ynez River Water Conservation District
Tunnel	Tecolote Tunnel from Lake Cachuma to the South Coast Conduit
Water Year	A one-year period set by the Contract, currently October 1 to September 30, over which diversions and releases are specified in advance by the Bureau

CUYAMA JOINT UNIFIED SCHOOL DISTRICT

SUMMARY

The 2018-19 Santa Barbara County Grand Jury (Jury) received a request for investigation of the Cuyama Joint Unified School District (District), specifically the District Business Office (DBO) operations. The request alleged that inefficiencies in the office operations had led to the disappearance of District funds, late payment of bills, payroll errors, and failure to produce teacher contracts. Additional concerns were that the DBO employees lacked necessary training and oversight. There is an ongoing investigation relating to the missing funds by the Santa Barbara County Sheriff's Office.

The Jury found that past Boards of Trustees failed to provide proper oversight by not keeping Board policies and job descriptions current. The Jury questioned the frequency of turnover of the Superintendent position.

During the investigation the Jury identified other concerns related to the operation and inefficiencies within the DBO, such as out-of-date job descriptions; disparate and unrelated duties assigned to the Chief Business Officer; payroll errors; and recurring financial audit findings.

BACKGROUND

The 2018-2019 Santa Barbara County Grand Jury (Jury) received a request for investigation of the Cuyama Joint Unified School District (District), specifically its Business Office (DBO) operations. This request was based on alleged irregularities in the operation of the DBO that resulted in the mysterious disappearance or theft of District funds and other financial deficiencies.

The Jury's inquiry began while the Santa Barbara County Sheriff's Office was investigating the possible theft of District funds that had occurred at an unspecified date during the Spring of 2018. At the time of this report, the Sheriff's Office investigation is still ongoing. The Jury, therefore, narrowed its investigation to policy and procedural matters, principally those related to the internal operations within the Business Office.

The community of Cuyama, which includes New Cuyama, is located in Supervisorial District 1 between Santa Maria and Bakersfield, each an hour away along Highway 166, and has a population of approximately 650. Agriculture and oil are the primary industries.¹ This remote community has minimal basic services available and requires travel of 31 miles to Taft or farther to Santa Maria or Bakersfield for subsistence shopping, major purchases and other services, such as banking.

The District is a small rural Kindergarten through 12 school system with an average enrollment of 210

¹ <https://suburbanstats/population.org> Suburban Stats, last visited 05/02/19

students.² It has two school sites: Cuyama Elementary/Middle School and Cuyama Valley High School. The current elementary K-6 student enrollment is 123 and the middle school, grades 7-8, has 30 students. The high school currently serves 48 students in grades 9-12. Sierra Madre Continuation High School, contained on the high school site, has no students currently enrolled. The Superintendent's office is at the high school and the business office is at the elementary/middle school site, approximately five miles apart.

METHODOLOGY

The Jury conducted on-site and telephone interviews with key District officials, other staff members and school board members. The Jury also interviewed a School Business Advisory Services (SBAS) staff member from the Santa Barbara County Education Office (SBCEO). The Jury reviewed annual audit reports for the current and prior three fiscal years, board minutes, job

descriptions, and organizational structure, including individual functions of each member of the business office. All those interviewed, administrators, staff and board members, were cooperative and forthcoming in answering questions and providing requested documentation during the investigative process.

OBSERVATIONS

A major role of the five-member elected Board of Trustees is to make policy. Board members interviewed indicated there was an internal indifference to updating Board Policy and Administrative Regulations (Policies). A district official stated that the Policies are out of date and a plan has been initiated to revise them. Each month the Board now reviews updates presented by the Superintendent, which, when approved, are incorporated into the Policies.

During the staff interviews, the Jury was advised that the District has experienced a high rate of turnover at the Superintendent position. The current Superintendent assumed the position on July 1, 2018. He was preceded by five superintendents since 2006. The last three superintendents, two of whom were part-time, served a total of four years.³

The Chief Business Officer (CBO) has served since July 2006. During the interview process with the Business Office staff members, the Jury learned that a calendar of significant events, such as key reports and due dates, does not exist. In one instance, the SBAS administrator reminded the District that a report requesting supplemental funding was due and the District risked not receiving entitled funds.

² <https://www.cuyamaunified.org> CJUSD Website, last visited 05/02/19

³ Cuyama Joint Unified School District Personnel Records

Staff members in the DBO have requested additional training in the use and application of Escape, the integrated software program used by SBCEO, and in day-to-day duties. A SBAS staff member has been assigned to provide training on the software program.

The Jury was informed that there is no cross-training of DBO employees to perform essential business office functions due to absences of any duration. When the Account Clerk (AC) abruptly resigned, the CBO assumed responsibility for the payment of invoices. The lack of knowledge in processing invoices resulted in substantial late fees.

Job descriptions provided by the District for the CBO and AC were reviewed. The current CBO job description was adopted in 1993, while the current AC job description was adopted in 1992, and neither has been updated. The District also provided the duties currently performed in each position. The Jury found job descriptions out-of-date. In particular, some current CBO functions are unrelated to fiscal responsibilities.

The Business Office staff members were also asked if annual performance evaluations had been performed and provided to them. Staff members stated they could not recall when their last performance reviews were conducted. A probationary employee in the DBO has not been evaluated since starting in July 2018.

A review of the state-mandated annual financial audits for 2014-2018 revealed that the same negative audit findings recurred from year-to-year because they were not corrected.⁴ Examples include lack of proper documentation, not depositing funds on a timely basis, improper coding, inaccurate time cards, non-compliance with state mandates, and failure to provide annual teacher contracts.

The staff stated they use the procedures outlined in the ASB Accounting Manual⁵ for the handling of cash from fundraising activities conducted by the Associated Student Body and other school site activities. In order to minimize the risk of future loss of District funds, the Superintendent modified the bank deposit process so that deposits occur more frequently.

CONCLUSION

The frequent turnover at the Superintendent position has negatively impacted critical functions: revisions to Board Policy and Administrative Regulations, job description updates, timely reporting, completion of annual employee evaluations and general oversight.

The community of Cuyama is in a rural and remote area with a small population, resulting in a limited pool of candidates available for open positions.

⁴ Cuyama Joint Unified School District Annual Audit Reports 2014-2018

⁵ Fiscal Crisis Management Assistance Team (FCMAT), *2015 ASB Accounting Manual, Fraud Prevention Guide and Desk Reference*

The lack of comprehensive knowledge of required tasks, of training, and of procedural guides for tasks performed by the business office staff, has led to inefficiencies and errors. Audit reports indicate recurring negative findings based on lack of oversight. They have not been corrected from year to year or on a timely basis immediately following noted discrepancies. Recently, District staff has received training in the handling of cash raised by ASB fundraising activities and demonstrated an understanding of the requirements. However, audits will continue to identify problems if training and oversight are not provided on an ongoing basis.

A significant cause of the inefficiencies in the business office is a direct result of duties assigned to the CBO unrelated to fiscal responsibilities.

Past Boards have been remiss in ensuring that Board Policy and Administrative Regulations and job descriptions are kept current.

The Jury commends the newly hired Superintendent for aggressively implementing a revision plan for Board Policy and Administrative Regulations as well as a training program for business office employees.

FINDINGS AND RECOMMENDATIONS

Finding 1

The frequent turnover in the Superintendent position has created inefficiencies.

Recommendation 1

That the Cuyama Joint Unified School District Board of Trustees, within six months, identify the reasons for frequent turnover at the Superintendent position and develop a corrective action plan.

Finding 2

The Board of Trustees has not kept the Board Policies and Administrative Regulations current.

Recommendation 2

That the Board of Trustees, within six months, develop and adopt a plan to annually review and revise Board Policies and Administrative Regulations to ensure they are kept current.

Finding 3

The Business Office staff relies routinely on the County Education Office School Business Advisory Service staff to provide notice of key events and dates.

Recommendation 3

That the Board of Trustees direct the Superintendent to ensure a district calendar, which includes required reports, budget, and payroll deadlines, is developed within 90 days and annually adopted by the Board.

Finding 4

Neither procedural guides nor cross-training for critical tasks exist in the District Business Office, creating disruptions when there are unexpected or extended absences.

Recommendation 4

That the Board of Trustees direct the Superintendent to develop procedural guides and a training program for critical tasks in the District Business Office within 90 days.

Finding 5

The District Business Office staff requires ongoing training on the specialized Escape software program and day-to-day duties.

Recommendation 5

That the Board of Trustees direct the Superintendent to develop and implement an ongoing training plan for each position within the District Business Office within six months.

Finding 6

The appropriate responsibilities of the District Business Office are not accurately reflected in the current job descriptions.

Recommendation 6

That the Board of Trustees direct the Superintendent to evaluate the District Business Office positions and develop job descriptions for the staff within 30 days.

Finding 7

Due to a lack of oversight and timely correction, multiple negative audit report findings recurred in succeeding years.

Recommendation 7

That the Board of Trustees and Superintendent ensure that negative findings identified in the audit report are corrected on a timely basis.

Finding 8

The District Business Office staff members have not received annual performance reports.

Recommendation 8

That the Board of Trustees and Superintendent ensure the District Business Office staff receives annual performance reports that identify strengths, weaknesses and performance goals.

REQUEST FOR RESPONSE

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

Responses to Findings shall be either:

- Agree
- Disagree Wholly with an explanation
- Disagree Partially with an explanation

Responses to Recommendations shall be one of the following:

- Has been implemented, with a brief summary of the implemented actions
- Will be implemented, with an implementation schedule
- Requires Further Analysis, with an explanation of the scope and parameters of an analysis or study and a completion date of less than 6 months after the issuance of this report
- Will not be implemented because it is not warranted or reasonable, with an explanation

CUYAMA JOINT UNIFIED SCHOOL DISTRICT BOARD OF TRUSTEES - 90 Days

Findings: 1, 2, 3, 4, 5, 6, 7, 8

Recommendations: 1, 2, 3, 4, 5, 6, 7, 8

CONTRABAND IN THE MAIN JAIL

SUMMARY

Pursuant to *California Penal Code* § 919(b) the Santa Barbara County Grand Jury (Jury) is vested with express authority to examine into the condition and management of the prisons in the county. Included within the broad scope of this statutory power is the ability of the Jury, in the exercise of its discretion to determine how effectively the Sheriff's Department is performing in preventing the introduction of contraband items into the jails. Contraband can take many forms, ranging from knives, guns and other items which can be weaponized, such as wood or metal objects, to cellular phones, currency, cigarette lighters, matches, tobacco, drugs and alcohol. Accordingly, the 2018-2019 Jury undertook to assess how successful the Sheriff's Department has been both in intercepting contraband at the Santa Barbara County Main Jail (Jail) and in discovering and confiscating illegal articles if they later are found within the facility itself.

BACKGROUND

The Jury's determination to explore the contraband issue was prompted in large part by its belief that many arrestees who enter or re-enter the Jail are addicted to drugs and/or alcohol. This disturbing situation creates a built-in, captive marketplace for persons who are more than willing for a variety of motives to serve the drug addictive needs of many in the jail population.

In November 2009, a Jail inmate died from a heroin overdose.⁶ Presumably, that inmate obtained the drug which led to fatal results from someone else since he had been booked into the facility two weeks before he died. Although there does not appear to have been a drug overdose death in custody since then, the continued introduction and presence of dangerous substances in the Jail, despite ongoing preventative efforts to control it, poses a constant risk of a fatal repetition.

METHODOLOGY

The primary investigative activity undertaken by the Jury consisted of personal interviews with several senior Sheriff's Department custody officials responsible for, or involved in, monitoring the day-to-day efforts taken within the Jail both to prevent contraband from entering the premise and to identify and implement additional steps that can be used to discover contraband once it enters the Jail clandestinely. In addition, the Jury reviewed pertinent Jail statistics concerning efforts to combat contraband.

⁶ 2009-2010 Santa Barbara County Grand Jury Final Report, "Deaths in Custody"

OBSERVATIONS

Contraband finds its way into the nation's jails in many ways. Typically, it is secreted somewhere on the person of inmates or visitors where it cannot be detected, mailed to inmates, including in the glue on stamps, or introduced by outside vendors or their employees. So too, unauthorized items of contraband can be fashioned within the facilities themselves from wood, metal or other readily available materials which are benign as originally intended but can be weaponized as well.

Contraband items also can be smuggled undetected into a correctional facility by custody staff members. However, as far as the interviewees were aware, within recent memory there have been no reported incidents which involved attempts to introduce contraband other than by arrestees themselves or their visitors, including attempted mail contacts. In that respect, as well, an Agreement for Services contract entered into between the County and an independent contractor at the Jail, reviewed by the Jury, expressly included a protocol requiring the training of contractor employees in matters of security and prescribing measures prohibiting unescorted entry.

Nevertheless, by whatever means it enters, contraband continues to find its way into the Jail. In August 2018, a substantial variety of illegal drugs and other contraband items were found on an incarcerated inmate's person in a housing unit, including heroin, methamphetamines and prescription medications. That contraband had an estimated value of \$15,000 to \$20,000. Also, in the previous month a female arrestee temporarily detained in a holding cell in Lompoc was found to have hidden heroin and methamphetamines in a plastic bag in a body cavity. Clearly, but not unexpectedly, these incidents demonstrate that there is a continuing contraband problem which obviously commands constant law enforcement vigilance.

In a further effort to gauge the current extent of the problem, the Jury obtained statistical data from the Sheriff's Department which logs, on a monthly basis, the total number of discovered instances in which controlled dangerous substances or alcohol were attempted to be brought into the Jail, or later found there. Examination of this data revealed that for the 12-month period from January 1, 2018 through December 31, 2018, the number of such drug related incidents totaled 214. Ninety-six of these incidents involved actual possession of controlled substances, alcohol, or drugs within the Jail itself, as opposed to intercepting persons attempting to bring them for use, barter or sale. Statistics as to how many items of contraband still manage to be introduced into the Jail completely undetected despite existing preventative efforts obviously are difficult to estimate.

The Jury also examined randomized sample incident reports from the past few years which described a variety of circumstances in which contraband was discovered. Most involved finding the contraband through unannounced cell searches, perimeter searches, personal observation, odor detection, information provided by other inmates, and by screening all mail received at the Jail intended for distribution to inmates. Examples of items found include postcards doused in methamphetamines, a syringe hidden in a pipe, and heroin found at a perimeter fence.⁷ In addition, the Jury also reviewed

⁷ Main Jail Incident Report Nos. 17-9248, 16-17442, 16-2067, 15-16049, 13-2029

recent minutes of the Medical Advisory (MAC) and Continuous Quality Improvement (CQI) committees which are composed of senior custody, health, contracted medical provider, Wellpath, and other relevant departmental representatives. The CQI minutes revealed that, in January 2019, there were two confirmed instances of drug overdoses. Both inmates were transported to Cottage Hospital for treatment, where they remained for multiple days. In one instance, Naloxone branded as NARCAN, which is indicated for use in an opioid overdose situation was administered to the inmate. However, since it is an opioid antagonist, and the inmate had ingested LSD and Ecstasy, which are not opioids, it was ineffective. The second inmate had self-administered two prescription medications later identified as a potentially fatal mixture of phenobarbital and Klonopin. Fortunately, both hospitalized inmates survived.

Prompted by the particular circumstances of the two overdose incidents, the “Critical Clinical Events” section of the CQI minutes pointedly observed that discussion needs to be had on better pat-down of new arrestees, especially since one inmate still had over 30 pills on his person. The Jury concluded that the need to offer this corrective suggestion indicates that more drug detection training, not to mention enhanced scrutiny by custody personnel generally, should be given priority attention, especially at the intake stage where pat-down of arrestees takes place. While one drug-sniffing dog, Krypto, presently is being utilized for drug detection by the Sheriff’s Department, competing demands county wide for his unique abilities has made it impossible to station the animal at the Jail’s arrestee intake area on any sort of a regular, no less permanent basis.

Although some correctional facilities nation-wide employ full body x-ray scanners identical or similar to those used at airports to discover contraband, the Jail does not. The Jury was advised by a senior custody officer that this was likely due to the high cost of purchasing such items. However, the Jury believes that their possible purchase should continue to be explored by the Sheriff’s Department and could be well worth the initial investment, given the potential beneficial results.

Finally, the Jury was advised that the purchase of one full-body x-ray scanner for use at the Northern Branch Jail is planned. The Jury posits that the additional purchase of one or more such scanners would be helpful in meaningfully fostering staff and inmate safety and getting ahead of the curve in contraband deterrence efforts at the new facility.

CONCLUSION

In July 2009, the Sheriff, in response to a 2008-2009 Grand Jury Report, conceded that dealing with contraband in a jail environment is very challenging. As a result, the jail staff conducts hundreds of inmate searches daily and random cell searches as often as possible. Now, over nine years later, this challenging situation has remained the same. Indeed, one experienced custody officer the Jury interviewed candidly observed that in the last few years the contraband problem actually worsened.

As long as many persons in our jail population continue to engage in addictive behaviors, efforts to introduce contraband to satisfy their dependence on drugs will continue to occur. Therefore, the task faced by law enforcement is to marshal all available resources to interrupt the flow of contraband into places where it should not be.

FINDINGS AND RECOMMENDATIONS

Finding 1

Pat-down searches of arrestees have proven to be inadequate to intercept all of the contraband introduced into the Jail.

Recommendation 1

That the Sheriff require all custody officers be trained specifically to pat-down arrestees more effectively at intake.

Finding 2

Currently there are no full-body x-ray scanners in use at the Main Jail to detect contraband secreted on the person of arrestees, inmates or visitors, and only one is planned to be purchased for use at the Northern Branch Jail to be opened later this year.

Recommendation 2

That the Sheriff purchase one or more full body x-ray scanners to be used at the Main Jail, and one more full body x-ray scanners to be used at the Northern Branch Jail, in order to scan all arrestees and visitors.

Finding 3

There is only one drug-sniffing dog and he is used only periodically at the Main Jail to detect contraband.

Recommendation 3

That the Sheriff purchase one more specially trained drug sniffing dog for posting at the Main Jail and one to be assigned to the Northern Branch Jail to assist in locating contraband at intake or elsewhere within these facilities.

REQUEST FOR RESPONSE

Pursuant to *California Penal Code §933 and §933.05* the Grand Jury requests the entity named below to respond to the enumerated Findings and Recommendations within the specified statutory time limit:

Responses to Findings shall be either:

- Agree
- Disagree Wholly, with an explanation
- Disagree Partially, with an explanation

Responses to Recommendations shall be one of the following:

- Has been implemented, with a brief summary of the implemented actions
- Will be implemented, with an implementation schedule
- Requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a completion date that is not more than six (6) months after the issuance of this report
- Will not be implemented because it is not warranted or is not reasonable, with an explanation.

Santa Barbara County Sheriff/Coroner – 60 Days

Findings 1, 2, 3

Recommendations 1, 2, 3

RAILWAY FATALITIES IN SANTA BARBARA COUNTY

SUMMARY

The Santa Barbara County Grand Jury (Jury) received a request to investigate railroad deaths in Santa Barbara County (County). During a four-year period from 2015 through 2018, 20 railroad-related fatal accidents occurred along the 109-mile County railroad corridor. Ninety-five percent of the fatalities were the result of pedestrian trespassing on the right-of-way owned by Union Pacific Railroad (UPR) and used by both UPR and Amtrak. The Jury identified high rates of “suicide by train” and deaths of transient/homeless persons as significant trends. The Jury found that a vast majority of fatalities occurred in two relatively small stretches of track: from Ortega Hill in Summerland to Milpas Street in the City of Santa Barbara and from Patterson Avenue to Glen Annie Road in Goleta. The Jury focused efforts on these high fatality zones and developed six recommendations that could enhance railroad safety in the County.

BACKGROUND

During the four-year period from 2015 through 2018, 20 railroad-related fatalities occurred along the 109-mile County railroad corridor (Figure 1). UPR owns all the track in the County, including the right-of-way which averages 100 feet in width for the majority of the corridor. Amtrak leases the UPR track for use in operating its passenger trains, which pass through the County rail corridor 12 times a day, six in each direction. UPR runs an average of two freight trains through the corridor each day.

UPR classifies any incident or accident that occurs on its tracks, or within its right-of-way, as a trespasser incident or trespasser accident. UPR uses this terminology to emphasize that anyone injured on its property was there without permission. When a pedestrian or vehicle is in a

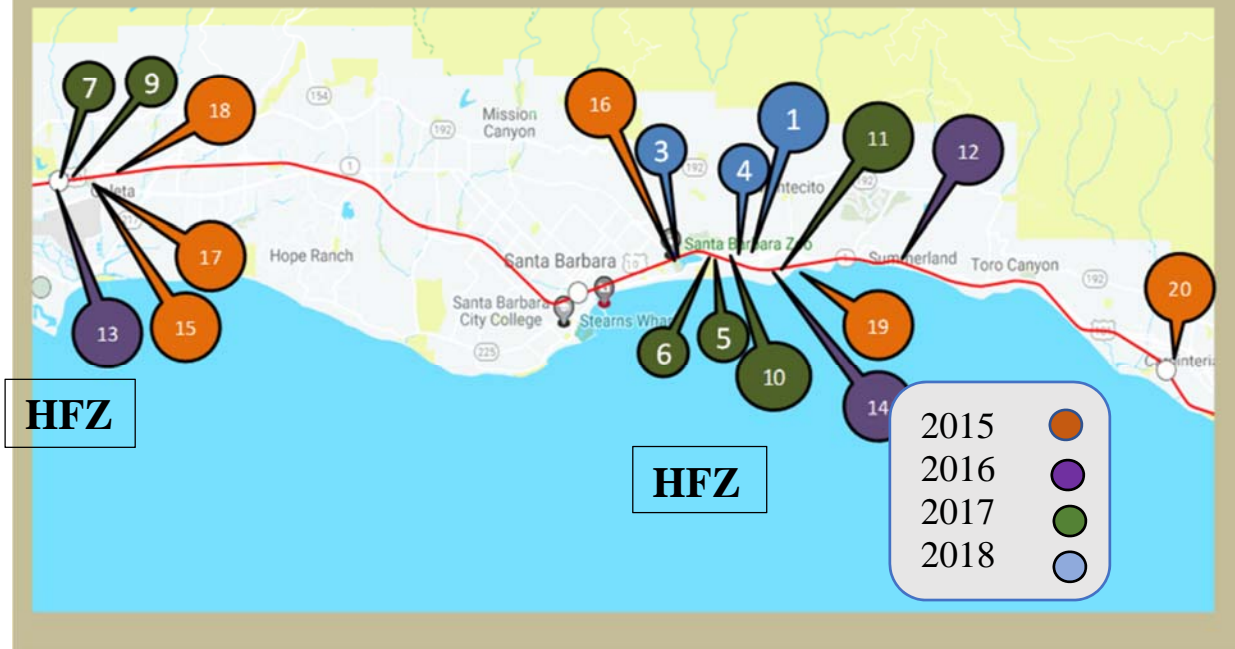


Source: Sheriff/Coroner Data

designated crossing, it is not considered trespassing. Of the 20 deaths recorded in the County, 19 were pedestrians and one was vehicle related. By the UPR classification, all the pedestrian fatalities were trespasser incidents.

Review of the data by the Jury revealed that the vast majority of fatalities occurred within two relatively short High Fatality Zones (HFZ), between Ortega Hill and Milpas Street (HFZ1) and between Patterson Avenue and Glen Annie Road (HFZ2) (Figure 2). Of the 19 pedestrian trespasser fatalities during this four-year period, 11 were in HFZ1 and six in HFZ2. Thus, 85 percent of fatalities occurred in approximately 12 percent (13 miles) of the 109-mile County railroad corridor.

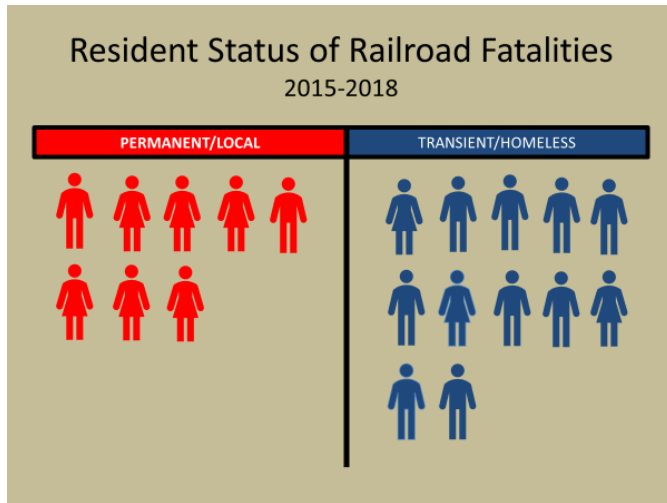
Santa Barbara County – South Coast Rail Deaths 2015-2018



Source: Sheriff/Coroner Data

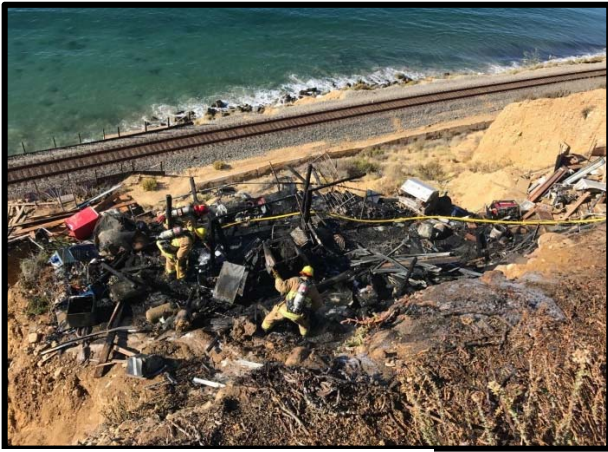
Figure 2

Most of the pedestrian trespasser fatalities have been classified as transient/homeless by the Sheriff/Coroner (Coroner) (Figure 3 and Exhibit A). The Jury found significant numbers of transient/homeless encampments in HFZ1 and HFZ2, as pictured below. These zones include stretches where right-of-way fencing has deteriorated or is nonexistent. Additionally, these portions of the corridor have extensive areas where scrub and trees have been allowed to grow in the of-way, providing natural shelter for transient/homeless encampments. Areas where brush has been cleared and trees properly managed have very few encampments.



Source: Sheriff/Coroner Data

Figure 3



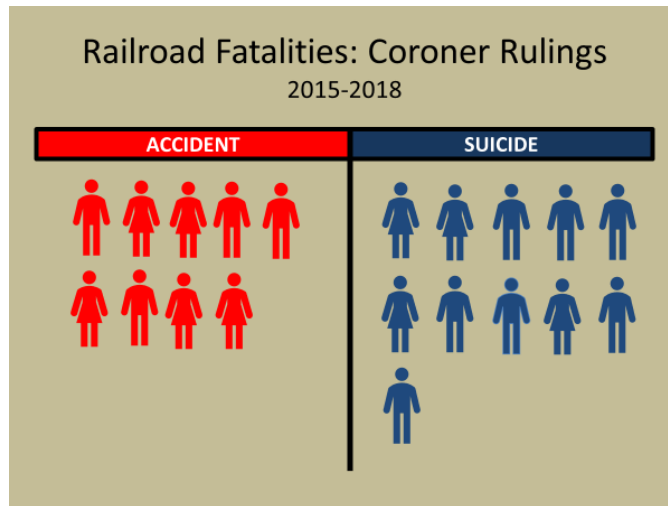
Source Carpinteria-Summerland Fire District



Source: Santa Barbara County Fire Department

UPR employs approximately 100 security personnel for the entire Western United States, which covers a total of 23,000 miles of track. In Santa Barbara County, local law enforcement agencies enforce trespassing and illegal camping ordinances in city, county, and state-owned land but do not pursue enforcement into the privately owned UPR right-of-way. In other locations, UPR has negotiated Memoranda of Understanding (MOU) with local law enforcement agencies to provide security along its right-of-way. In these cases, when pedestrian trespassing or encampments are observed, the local law enforcement agency is notified and takes the appropriate measures to remove the trespassers.

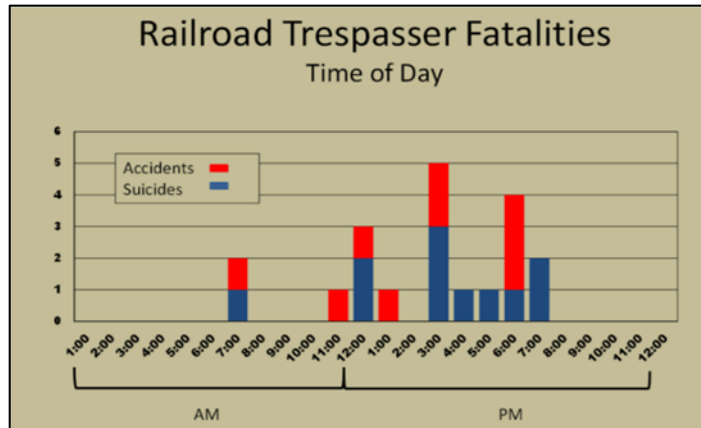
A disturbing observation is the number of incidents of “suicide by train.” The Coroner determined that 11 of the deaths in the county were suicides, of which seven were transients/homeless while four were local citizens or people with permanent addresses (Figure 4).



Source: Sheriff/Coroner Data

Figure 4

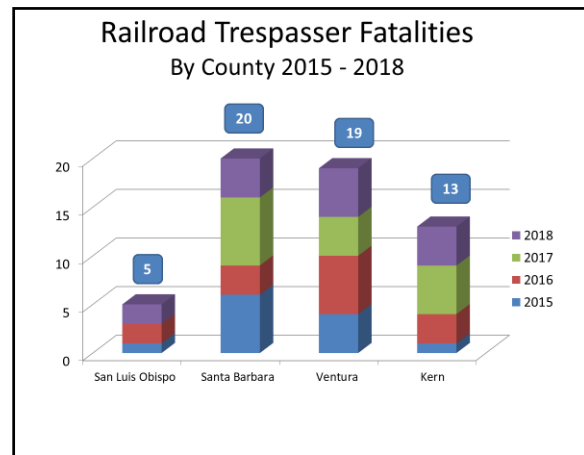
Ninety percent of the fatalities occurred between the hours of 11 a.m. and 7 p.m. None of the deaths occurred between 8 p.m. and 7 a.m. Ninety-five percent of all deaths involved the Amtrak trains.



Source: Sheriff/Coroner Data

Figure 5

A comparison of railroad deaths in the County with those in neighboring counties revealed a higher number and a much higher rate of railroad fatalities when compared to county population. Over the four-year period, the County had one railroad related death per 22,000 inhabitants, Ventura County had per 46,000 inhabitants, San Luis Obispo County one per 57,000 inhabitants, and Kern County had per 69,000 inhabitants⁸.



one
had
one

Source: California Public Utilities Commission Data

Figure 6

METHODOLOGY

The primary investigative activity undertaken by the Jury consisted of personal interviews with UPR officials and Santa Barbara County Association of Governments (SBCAG) officials. Also interviewed were representatives from the Los Angeles – San Diego – San Luis Obispo Rail Corridor (LOSSAN) which manages the rail corridor. The Jury examined records from the Santa Barbara County Coroner, the California Public Utilities Commission (CPUC), and the Federal Railroad Administration (FRA) to determine the scope and nature of the problem and to determine methods to remedy the situation. The Jury also conducted a site investigation of the rail corridor from Carpinteria to Goleta.

⁸ www.worldpopulationreview.com/us-counties/ca, last visited May 23, 2019

OBSERVATIONS

When compared to the number of railroad-related deaths for neighboring counties, the 20 deaths in the County were higher in number and percentage per population than deaths in San Luis Obispo, Kern, and Ventura counties over the same time period. The Jury found that 85 percent of the deaths occurred in two relatively small sections of the County's 109-mile-long railroad corridor. The high number of pedestrian fatalities that occurred in HFZ1 and HFZ2 indicates that these two areas should receive intense scrutiny with respect to pedestrian safety. HFZ1 and HFZ2 have several factors in common including:

- areas of damaged or nonexistent fencing
- stretches of scrub brush and overgrown trees
- high numbers of homeless encampments
- located near residential neighborhoods
- adjacent to Highway 101
- infrequently patrolled by security personnel

The high number of transient/homeless encampments plays a significant role in county railroad pedestrian deaths. Twelve of the 19 victims have been designated as transient/homeless. Deteriorating fences or no fencing at all provide easy access to the HFZs, while overgrown foliage provides the partial shelter and concealment that attract homeless encampments. As UPR employs few security personnel, the homeless encampments flourish in these zones.

Railroad service providers have worked in cooperation with local city and county agencies elsewhere in California to create sealed corridors. A sealed corridor is an area designed to enhance the safety of trains, passengers, motorists, pedestrians, and neighboring land users within and along a railroad corridor. It employs appropriate safety measures to systematically reduce the opportunity for accidents at grade crossings or elsewhere within the corridor.⁹ An example of this is the City of Glendale, California, where officials from Metrolink and city agencies combined to make safety improvements including roadway and curb widening, new automatic vehicle exit gates, new sidewalks, new pedestrian gates and traffic signal advance preemption technology. Officials from Metrolink and city agencies refer to this as positive train control.¹⁰ The combination of these measures and others, such as additional fencing, removal of excess foliage and increased security observation, can work to limit pedestrian access to railroad right-of-way and create a sealed corridor.

UPR and Amtrak, working in conjunction with local governmental agencies, could create a sealed corridor stretching from Ortega Hill to Glen Annie Road. Improvements should include the repair and replacement of fencing to eliminate access to the rights-of-way, clearing of overgrown foliage

to eliminate shelter areas and working with local law enforcement to provide security and eliminate

⁹ www.DOT.CA.gov/hg/ctc/2006 Southern California Regional Rail Authority Board of Directors Report, "Metrolinks Sealed Corridor Project 2006," last visited May 9, 2019

¹⁰ www.cvweekly.com *Crescenta Valley Weekly*, "Rail 'Sealed Corridor Inaugurated,'" November 22, 2012, page 1, last visited May 12, 2019

pedestrian trespassing.

Another component adding strength to the proposed sealed corridor would be to increase the security presence within the right-of-way area. In parts of Ventura County, the Sheriff's Department and UPR have adopted an MOU to provide security within the privately owned UPR right-of-way, and to investigate reports of pedestrian trespassing. If MOUs can be created with the Santa Barbara County Sheriff's Department and the Santa Barbara Police Department, security will be vastly improved within the proposed sealed corridor.

The introduction of video cameras within the HFZs can also act to seal the corridors. An eight-car passenger train traveling at 80 miles per hour needs about a mile to stop.¹¹ If video surveillance cameras were installed on poles every mile within the HFZs, the increased observation of the zones could alert UPR staff to the existence of pedestrian trespassers and homeless encampments within the right-of-way. Since 90 percent of the fatalities have occurred between 11 a.m. and 7 p.m., the cameras would need to be monitored only during this period.

The sealed corridor concept could reduce the "suicide by train" incidents. All of the 11 pedestrian suicides occurred in the HFZ1 and HFZ2 areas. Easy access to the right-of-way, the predictability of train arrivals, the overgrown foliage, and the secluded nature of the zones within populated neighborhoods make them likely places for suicide. While the Jury realizes that it would be impossible to prevent determined individuals from ending their lives, creating sealed corridors can reduce the likelihood of suicide by train.

CONCLUSIONS

The 20 railroad-related deaths that occurred in the 109-mile County railroad corridor during the 2015 through 2018 period are significant and are concentrated within two small areas of track, HFZ1 and HFZ2. A reduction in pedestrian trespassing deaths, including suicides and transient/homeless deaths, can best be secured by restricting access to and providing additional security in the HFZs. Other jurisdictions in the state of California have achieved success in reducing the number of railroad fatalities by constructing a sealed corridor. A sealed corridor could be constructed from Ortega Hill to Glen Annie Road, essentially spanning the cities of Santa Barbara and Goleta. For maximum effectiveness, the proposed Santa Barbara-Goleta corridor would require a program to:

- mend existing fences and erect new ones
- remove overgrown foliage in the right-of-way area
- improve security patrols by negotiating MOUs with local law enforcement
- increase surveillance by installing video cameras to monitor pedestrian trespassing and transient/homeless encampments.
- A collaboration between all stakeholders, including scheduling regular meetings, will improve railroad safety measures in the County.

¹¹ www.OLI.org Minnesota Operation Lifesaver, Inc., last visited May 23, 2019

Exhibit A

Santa Barbara County Railroad Fatalities Years 2015 through 2018

Year	Victim	Age	City	Location	Ruling ¹	Home ²	Time	
1	2018	Female	33	Montecito.	Southbound Olive Mill Exit	A	T	7:10 AM
2	2018	Male	59	Guadalupe	Pacheco and 12th Streets	A	T	3:03 PM
3	2018	Female	77	Santa Barbara	Milpas/Calle Puerto Vallarta	S	T	7:00 PM
4	2018	Male	50	Montecito.	Spring Road	A	T	6:00 PM
5	2017	Male	44	Santa Barbara	W. Montecito ST	S	T	5:22 PM
6	2017	Male	18	Montecito	1700 Fernald PT	A	L	1:30 PM
7	2017	Male	52	Goleta	San Pedro Creek	A	T	12:06 AM
8	2017	Female	74	Goleta	W. Main ST	A	L	3:00 PM
9	2017	Female	65	Goleta	15 S La Patera Ln.	S	L	12:05 AM
10	2017	Female	62	Montecito.	Butterfly Lane	S	T	3:00 PM
11	2017	Male	46	Montecito.	Mirmar Ave	S	T	7:00 PM
12	2016	Male	60	Summerland	Wallace Ave	S	T	4:30 PM
13	2016	Female	19	Goleta	Glen Annie	S	L	3:00 PM
14	2016	Male	61	Montecito.	Butterfly Lane	S	L	3:05 PM
15	2015	Female	49	Goleta	La Patera	A	T	11:30 AM
16	2015	Male	60	Santa Barbara	300 S Milpas	S	T	12:44 AM
17	2015	Female	21	Guadalupe	Magnolia Ave	A	L	6:11 PM
18	2015	Male	59	Goleta	500 Ninos Drive	S	T	6:00 PM
19	2015	Female	60	Guadalupe	Eucalytos	S	L	7:08 AM
20	2015	Female	54	Carpinteria	RR Tracks	A	L	6:56 PM

¹ S = Suicide, A = Accident

² T = Transient, L = Local Resident

Source: Sheriff/Coroner Data

FINDINGS AND RECOMMENDATIONS

Finding 1

Eighty-five percent of railroad-related deaths occurring in Santa Barbara County were pedestrian trespasser incidents that occurred in the High Fatality Zone One from Ortega Hill in Summerland to Milpas Street in Santa Barbara and High Fatality Zone Two from Patterson Avenue to Glen Annie Road in Goleta.

Recommendation 1

That the Cities of Santa Barbara and Goleta, the County of Santa Barbara and Santa Barbara County Association of Governments meet regularly with Union Pacific Railroad to create a safety plan to reduce trespasser deaths in High Fatality Zones.

Finding 2

A sealed corridor has been used effectively to enhance railroad safety.

Recommendation 2

That the Cities of Santa Barbara and Goleta, the County of Santa Barbara, and Santa Barbara County Association of Governments collaborate with Union Pacific Railroad to develop a sealed corridor from Ortega Hill in Summerland to Glen Annie Road in Goleta.

Finding 3

There is a need for increased security presence to reduce trespassing within the High Fatality Zones, and in other communities this has been achieved through Memoranda of Understanding between Union Pacific Railroad and local law enforcement.

Recommendation 3

That the Santa Barbara County Sheriff and City of Santa Barbara Police Department negotiate Memoranda of Understanding with Union Pacific Railroad to provide enhanced security within their respective High Fatality Zones.

Finding 4

Fencing along the railroad right-of-way in the High Fatality Zones is inadequate or nonexistent.

Recommendation 4

That the Cities of Santa Barbara and Goleta, the County of Santa Barbara, and Santa Barbara County Association of Governments collaborate with Union Pacific Railroad to repair and install fencing, to prevent easy access to the Union Pacific Railroad right-of-way in the High Fatality Zones.

Finding 5

Overgrown foliage and trees provide a natural shelter for homeless encampments.

Recommendation 5

That the County of Santa Barbara and the Cities of Santa Barbara and Goleta encourage Union Pacific Railroad to cut back or remove overgrown trees and foliage within the Union Pacific Railroad right-of-

way in the High Fatality Zones.

Finding 6

Video surveillance cameras provide increased observation of activity by pedestrian trespassers and homeless encampments within the Union Pacific Railroad right-of-way.

Recommendation 6a

That the Cities of Santa Barbara and Goleta, the County of Santa Barbara, and Santa Barbara County Association of Governments encourage Union Pacific Railroad to install and monitor video surveillance cameras on poles every mile within the High Fatality Zone.

Recommendation 6b

That County of Santa Barbara and the Cities of Santa Barbara and Goleta, together with Union Pacific Railroad, establish a schedule to monitor the video surveillance cameras between 11 a.m. and 7 p.m.

REQUEST FOR RESPONSE

Pursuant to *California Penal Code* §933 and 935.59.05, the Santa Barbara County Grand Jury requests each entity or individual named below to respond to the enumerated finds and recommendations within the specified statutory time limit. Responses to Findings shall be either:

- Agree
- Disagree wholly
- Disagree partially with an explanation

Responses to recommendations shall be one of the following:

- Has been implemented, with a brief, summary of the implementation actions taken
- Will be implemented, with an implementation schedule
- Requires Further Analysis, with an analysis completion date of less than six months after the issuance of the report
- Will not be implemented with an explanation of why

City of Goleta - 90 Days

Findings 1, 2, 3, 4, 5, 6
Recommendations 1, 2, 3, 4, 5, 6a, 6b

City of Santa Barbara - 90 Days

Findings 1, 2, 3, 4, 5, 6
Recommendations 1, 2, 3, 4, 5, 6a, 6b

Santa Barbara County Board of Supervisors - 90 Days

Findings 1, 2, 3, 4, 5, 6
Recommendations 1, 2, 3, 4, 5, 6a, 6b

Santa Barbara County Sheriff - 60 Days

Finding 3

Recommendation 3

Santa Barbara County Association of Governments - 90 Days

Findings 1, 2, 4, 6

Recommendations 1, 2, 4, 6a

CHILDREN AND YOUTH IN CRISIS

Weathering the Storms of Mental Disorders and Emotional Disturbances

SUMMARY

The 2018-19 Santa Barbara County Civil Grand Jury (Jury) received requests to investigate behavioral wellness resources for children and youth in Santa Barbara County (County), particularly for those experiencing a mental health crisis. These crises present themselves as extreme emotional difficulties, self-harm and suicidal behaviors which demand immediate attention. The Jury investigated various agencies and interviewed professional personnel who provide mental health services in the County, including school and community-based organizations. These school and community-based groups are commended for their efforts in attempting to educate the public to recognize and prevent mental disorders and emotional disturbances.

The Santa Barbara County Department of Behavioral Wellness (DBW) and its contracted agencies are mandated providers for children's crisis services including crisis intervention, stabilization and resolution. However, aftercare and ongoing treatment will only be provided for children who are Medi-Cal eligible. The Jury found that, though the DBW has dedicated professional staff, additional resources for children's services are needed, including the improved delivery of crisis responses, advanced training for contract services providers and the development of local crisis respite shelters. These would enhance the continuum of care in this County for children who are experiencing mental disorders and emotional disturbances.

Addressing these deficiencies in County crisis services will provide desperately needed care to the youngest among us and also provide some relief and assurance to those distraught parents and caregivers who also face these challenges with them.

BACKGROUND

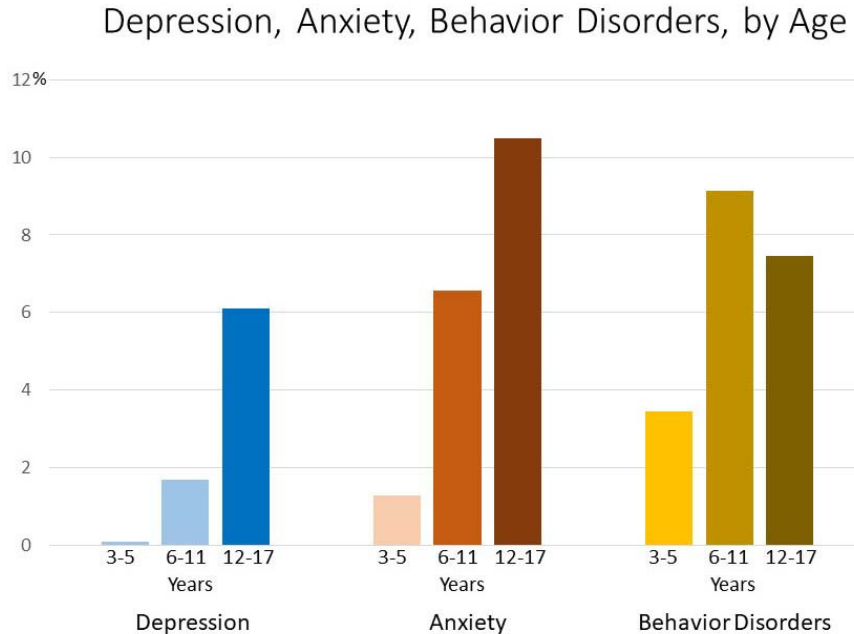
The 2018-2019 Santa Barbara County Civil Grand Jury responded to requests for investigation into mental health services for children and youth, with a special focus on those in crisis. For the purpose of this report, children and youth are those under the age of 18. A mental health disorder or illness is a disturbance that affects a person's thinking, emotions and behaviors, impacts daily functioning and learning, and ranges from mild to moderate to severe. The terms mental health and behavioral wellness are often used interchangeably, although behavioral wellness is the currently preferred term as it implies positive outcomes, resiliency and hope for recovery. Crises are defined as extreme emotional difficulties, dangerous thoughts, and behaviors demanding immediate attention.

Mental health disorders in children and youth have increased over the last few years, as evidenced by recent research:

More U.S. adolescents and young adults in the late 2010s, versus the mid-2000s, experienced serious psychological distress, major depression or suicidal thoughts,

and more attempted suicide.¹²

The latest data gathered by the Centers for Disease Control and Prevention show that, among children ages two through eight, one in six has a mental, behavioral or developmental disorder.¹³ The most common mental disorders are shown in the chart below.



Source: www.cdc.gov/childrensmmentalhealth

Research studies also indicate that 80 percent of chronic mental disorders begin in childhood, with 50 percent of these illnesses beginning by age 14.¹⁴ The problems faced by children and youth experiencing mental disorders are multifaceted. They may:

- perform poorly in school
- suffer from low self-esteem
- be at greater risk for displaying future behavioral problems
- not attain normal developmental markers
- not cope well with the stressors of life
- engage in poor decision-making
- be socially bullied, shamed or stigmatized

¹² Twenge, Jean, et al, “Age, Period, and Cohort Trends in Mood Disorder and Suicide-Related Outcomes in a Nationally Representative Dataset, 2005-2017,” *Journal of Abnormal Psychology*, published online March 14, 2019

¹³ www.cdc.gov/childrensmmentalhealth/data.html, last visited May 13, 2019

¹⁴ The ChildMind Institute, Inc., *2016 Children’s Mental Health Report*

The trend toward negative psychological symptoms among children and youth has been attributed to an increase in social media use. However, social media is not the sole or main cause of psychological distress. According to medical practitioners interviewed, genetics, physical health issues, history of abuse, unstable home life and environmental stressors can be causative factors. The most problematic issue for educators, parents, caregivers and mental health workers is suicidality.

The California Mental Health Services Act became effective on January 1, 2005. It imposes a one percent tax on personal income over one million dollars, which has resulted in increased funding of billions of dollars¹⁵ for mental health programs in California. Every three years, the California County Departments of Mental Health, in consultation with their stakeholders, must each develop a three-year Mental Health Service Plan (MHSP). These plans outline goals to deliver coordinated, comprehensive and culturally competent mental health services to their communities. One important goal of the current Santa Barbara County MHSP is to provide “timely access to needed help, including in times of crisis.”¹⁶

The Santa Barbara County Department of Behavioral Wellness (DBW) offers a range of services for children and youth with serious emotional disturbances, and treatment for those experiencing substance abuse disorders. DBW is also in charge of coordinating and contracting for crisis mental health services in the County, such as telephone and mobile response. For children’s services, it contracts with the Safe Alternatives for Treating Youth (SAFTY) program, which operates under the auspices of Casa Pacifica in Ventura County. Focusing on crisis resolution, SAFTY personnel are committed to providing “the least restrictive means, while also providing the best options to keep the youth safe.”¹⁷ SAFTY will also provide aftercare referrals and will follow-up with children and youth who have been acutely hospitalized.

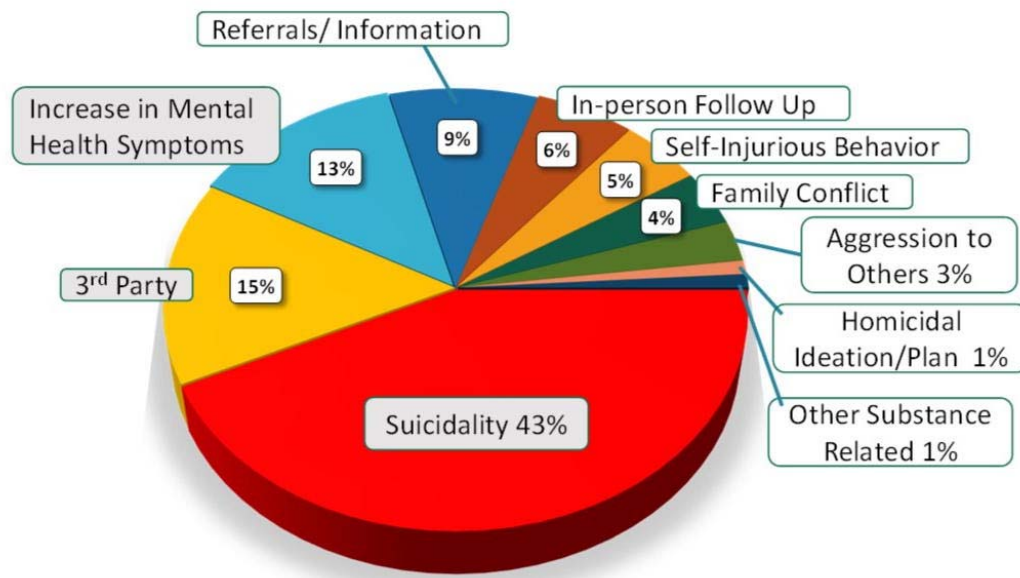
SAFTY maintains statistics on the reasons for calls to its crisis line.

Reasons for Calls to SAFTY July 2018-February 2019

¹⁵ www.dhcs.ca.gov Annual MHSA Revenue and Expenditure Reports, last visited May 23, 2019

¹⁶ www.countyofsb.org, Santa Barbara County Department of Behavioral Wellness, 2018-19 Budget, p. 7

¹⁷ SAFTY informational brochure



SAFTY and DBW’s ACCESS 24/7, Mobile Crisis team deliver crisis response services to anyone, regardless of ability to pay, whether they are uninsured, have private insurance or are insured through Medi-Cal.

A local psychiatrist stressed the importance of outpatient treatment on an ongoing basis after a crisis. In order to receive aftercare services at DBW’s clinics or in their special programs, children and youth must be eligible for, and become beneficiaries of, Medi-Cal. Despite the importance of receiving outpatient treatment on a timely basis, parents or caregivers, who have private insurance, experience great difficulty locating appropriate and available care providers, most of whom have long waiting lists.

METHODOLOGY

The Jury conducted extensive interviews with various Santa Barbara County stakeholders in children’s behavioral wellness, including several senior staff members of the Department of Behavioral Wellness and Casa Pacifica, law enforcement personnel, school-based and community-based leadership, a pediatrician, a psychiatrist and parents of children and youth who have undergone mental health crises. A variety of publications from school-based and community-based organizations were reviewed.

The Jury reviewed the budgets, mission statements and program descriptions for DBW and SAFTY, researched California state laws and regulations and studied behavioral wellness delivery systems in other California counties. The Jury made on-site visits to DBW’s 24/7 Access and Mobile Crisis Team, and Casa Pacifica’s Santa Barbara SAFTY office.

OBSERVATIONS

Throughout the County, resources are available that offer information, education, and coping skills, such

as the YouthWell Coalition, Family Service Agency, peer and parents' support groups, and off-campus and school-based programs, such as Signs of Suicide. Despite the available community resources and efforts at crisis prevention, many people throughout the County are unaware of them. Thus, the first step that most families or caregivers usually take when their child is in crisis is either to call 911 or go to the closest Emergency Room (ER). However, many ERs "are not equipped to provide the calming and therapeutic environment needed to manage behavioral health crises."¹⁸

When a child is in crisis, SAFTY offers a crisis hotline (1-888-334-2777) from 8 a.m. to 8 p.m. seven days a week. In response, staff first attempts to resolve the crisis on the phone. If a crisis demands more, a SAFTY counselor may be dispatched to the scene for a face-to-face, in-depth assessment and evaluation. After SAFTY hours, the DBW 24/7 ACCESS (1-888-868-1649) line staff takes over.

In late 2018, a Co-Response Team¹⁹ consisting of a DBW crisis worker and a county deputy sheriff who has received Crisis Intervention Training became available to respond and resolve crises in the southern part of the County. The Jury learned that mental health workers value the safety of this approach. Although this program may be in jeopardy of being eliminated, program funding discussions are ongoing. During interviews with professionals, they stated that the Co-Response team can often reduce the time required to contain the crisis. Recently, the Jury was told that the Co-Response team approach may be expanded to include the City of Santa Barbara Police Department.

Once the DBW response system is activated and the child in crisis is assessed and evaluated, there are several options for action. One is that the crisis is contained in the least restrictive way and the child safely remains at home or may be sheltered in another secure setting. The most restrictive option is for the crisis evaluator to write a California Welfare and Institutions Code §5585.50 hold that allows for an involuntary detainment of a minor in a psychiatric facility for up to 72 hours. The legal criteria for a 5585 hold are danger to self, danger to others, or gravely disabled. Under this code, a gravely disabled minor is "unable to use the elements of life that are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others."²⁰

If a 5585 hold is instituted, the child must be transported by ambulance to an ER to be medically cleared before being accepted into an appropriate inpatient facility. At the ER, the attending psychiatrist, if certified to do so, may rescind the hold. However, if the 5585 hold is instituted, a psychiatric bed must be located. All children's psychiatric hospitals are located out of County. If beds are available, children are transferred to Aurora Vista del Mar Hospital in Ventura. However, if not available, some children are transported as far away as San Francisco and San Diego. There is competition among California counties for these psychiatric beds. The Jury was unable to learn how many children have been sent to inpatient psychiatric facilities in recent years because it was told DBW does not have a computerized data record in place to track all 5585 holds and subsequent hospitalizations out of County, including the length of stay.

The Jury interviewed parents of children who had been psychiatrically hospitalized out of County. The

¹⁸ www.archive.mhsoac.ca.gov. Overview of Crisis Stabilization Services: California, February 26, 2015, last visited April 15, 2019.

¹⁹ www.sbsheriff.org. Sheriff's Roundup, 1st Quarter 2019

²⁰ California Welfare and Institutions Code §5585.25

stressors for children, parents and caregivers included the long distance from home and the difficulty communicating with both the child in the hospital and medical professionals attending to the child. The uncertainties of discharge planning added to the stress. Some of these stressors might have been alleviated if crisis respite shelters had been available locally.

In the past, delays occurred when certified crisis workers were called to the ER to evaluate the child and determine if a 5585 hold was required. Recently, a new program has been implemented to mitigate some of these ER delays. Licensed psychiatrists at local hospitals are now certified to write or rescind 5585 holds. This new protocol is designed to expedite the process of getting the child to an inpatient psychiatric facility through a written 5585 hold, or to resolve the crisis, rescind the hold and permit the child to return home.

In 2018, DBW was awarded a grant by the Mental Health Services Oversight and Accountability Commission of \$800,000 to improve mental health services for children in crisis.²¹ This grant provides funding for the creation of two hospital-based Children’s Triage Program teams located in North and South County, each consists of a licensed clinician and a parent partner. At the time of this report, only the triage team at Marian Regional Medical Center in Santa Maria is in operation.

The goal of the Children’s Triage Program is to assess the nature and severity of the mental health crisis, determine what treatment options best meet the needs of the child, and provide support and information to the parents and caregivers who are also present in the emergency room. The licensed practitioner and parent partner will work closely with the hospital staff, the child and the caregivers to de-escalate the crisis, develop safety plans and, if possible, rescind the hold. Additionally, the Children’s Triage Program team members will follow up to ensure effective community re-integration for children upon discharge, including assistance navigating the mental health system and providing linkages to services and supports. SAFTY also provides follow up, aftercare, referrals and linkage to mental health services in the community regardless of the child’s or caregiver’s health insurance.

The Jury became aware of perceived difficulties in the delivery of current DBW crisis services. This systemic issue revolves around the need to respond in a timely and efficient way, in keeping with the important MHSA goal of “timely access to needed help, including in times of crisis.”

The Jury received several reports that crisis calls made to both SAFTY and the DBW 24/7 ACCESS Team are not always answered or returned promptly and there are often long wait times for the on-scene arrival of SAFTY crisis workers or no on-scene responses at all. Some interviewees also mentioned SAFTY personnel often cannot write a 5585 hold without consulting their supervisor which causes an unacceptable delay in de-escalating the crisis. In fact, the Jury learned that SAFTY workers are no longer allowed to work in the Cottage ERs and UCSB medical services for this reason.

DBW has allocated considerable resources to provide crisis facilities for adults in the County, but not for children. The continuum of care for adults in crisis ranges from the most restrictive to the least restrictive

²¹ www.mhsoac.ca.gov. Triage Grant Awards, April 26, 2018, last visited May 23, 2019

setting. The most restrictive setting is the Psychiatric Health Facility, a 16-bed locked unit which accepts individuals 18 and older who have been placed on a 5150 involuntary hold, the adult equivalent of a 5585 hold. DBW also operates a Crisis Stabilization Unit (CSU), which offers adults an alternative to in-patient hospitalization, where they can stay up to 23 hours and receive evaluation, treatment, medications, and aftercare referrals. The DBW also contracts with outside providers to ensure those adults who require longer stabilization times can be placed in two crisis residential facilities in the County.

At the present time, there is no CSU, acute psychiatric hospital, licensed crisis residential, Temporary Shelter Care Facility (TSCF)²² or any other crisis respite shelter for children and youth in the County. The Jury was informed that DBW determined a CSU facility for children and youth only would not be economically feasible. However, the Jury learned that DBW is exploring the possibility of establishing a licensed CSU that can accommodate adults, children and youth in the Santa Maria area where there is facility availability.

There is another type of shelter that can provide safety and security for children in crisis. A licensed Temporary Shelter Care Facility is owned and operated by a county or on behalf of a county by a private, nonprofit agency and provides 24-hour non-medical care for up to 10 calendar days for children and youth under 18 years of age. TSCFs are safe and supportive places for recovery when more care is required than can be provided at home.

CONCLUSION

The most salient observation the Jury made is the need for greater mental health resources in the County for children and youth, including community and private psychiatrists, pediatricians who are experienced in diagnosing and treating mental illness and co-existing disorders, case managers who can navigate the complicated systems of health care and insurance companies, and in-county, short-term facilities for crisis de-escalation. While some community-based preventive and support services exist, many families are unaware of them.

The Santa Barbara County Civil Grand Jury agrees with the YouthWell Coalition that:

Early intervention resources are limited and there are many barriers to access regardless of ability to pay for services. There are significant gaps and lack of coordination in youth mental health services and as a result, many youth and families are not able to access resources when they are struggling, which often leads to unnecessary crisis.²³

The Santa Barbara County Grand Jury posits that all stakeholders in children's mental health must act to address the need for in-county facilities to avoid out-of-county placements. Placing children on 5585 holds and sending them to out-of-county psychiatric facilities is restrictive, expensive and stressful for children, parents, families and mental health care providers. Establishing and maintaining local sheltered environments where children and youth in crisis can go to cool off and stabilize while on-going safety

²² www.cdss.ca.gov/inforesources/Continuum-of-Care-Reform/Temporary-Shelter-Care-Facilities last visited May 30, 2019

²³ <https://youthmentalwellness.org> YouthWell Coalition, The Community Issue

plans are developed, may improve their mental health and well-being and will hopefully avert future crises.

FINDINGS AND RECOMMENDATIONS

Finding 1

There are no Crisis Stabilization Units for children and youth in Santa Barbara County as an alternative to out-of-county hospitalizations.

Recommendation 1

That the Board of Supervisors direct the Department of Behavioral Wellness to pursue the establishment of a licensed Crisis Stabilization Unit that can accommodate adults, children and youth in Santa Maria.

Finding 2

There are no licensed Temporary Shelter Care Facilities for children and youth in Santa Barbara County as an alternative to out-of-county hospitalizations.

Recommendation 2

That the Board of Supervisors direct the Department of Behavioral Wellness to explore partnerships with community agencies to sponsor and maintain licensed Temporary Shelter Care Facilities for children and youth in Santa Barbara County.

Finding 3

The crisis call-in phone service and mobile crisis staff of both the contracted provider SAFTY and the Department of Behavioral Wellness' ACCESS 24/7 Mobile Crisis teams often do not respond to the scene of a crisis or return phone calls in a timely manner.

Recommendation 3a

That the Board of Supervisors direct the Department of Behavioral Wellness to establish and implement measurable response times, and to track and evaluate the efficacy of their crisis response services.

Recommendation 3b

That the Board of Supervisors direct the Department of Behavioral Wellness to require its contracted partner SAFTY to respond in the field for face-to-face evaluations more quickly and frequently.

Finding 4

The SAFTY mobile crisis workers do not write 5585 holds in a timely manner because they lack authority to do so without first consulting a supervisor.

Recommendation 4

That the Board of Supervisors direct the Department of Behavioral Wellness to require the crisis response staff of their contracted partner, SAFTY, to receive more training to acquire the authority to write 5585 holds independently and in a timely manner.

Finding 5

The Department of Behavioral Wellness does not keep readily accessible data on the numbers of children on 5585 holds hospitalized out of County, where they are sent, their length of stay in each facility, and

the cost of their treatment.

Recommendation 5

That the Board of Supervisors direct the Department of Behavioral Wellness to design and implement a computerized record of the 5585 holds that are written, where the children are hospitalized out of County, their length of stay in each facility, and the cost of their treatment.

Finding 6

The Children’s Triage Program staff interacts with children and youth in crisis and their families in the Emergency Rooms and works to ensure community re-integration and linkage to behavioral health services upon discharge from the ER or psychiatric hospitals.

Recommendation 6a

That the Board of Supervisors direct the Department of Behavioral Wellness to evaluate the efficacy of the new Crisis Triage Program by keeping statistics on the number of children served and process outcomes.

Recommendation 6b

That the Board of Supervisors direct the Department of Behavioral Wellness to continue to pursue the full implementation of the Children’s Triage Program in South County.

Recommendation 6c

That the Board of Supervisors direct the Department of Behavioral Wellness to integrate the funding of the Children’s Triage Program into the Department of Behavioral Wellness budget on an ongoing basis.

Finding 7

On-line, comprehensive information on mental health services, community supports and resources for children and youth who are experiencing a crisis in Santa Barbara County is not readily available on a central website.

Recommendation 7

That the Board of Supervisors direct the Department of Behavioral Wellness to design, post and keep current an on-line dashboard that provides comprehensive contact information on mental health services and community resources for children and youth in all geographic areas of Santa Barbara County, and publicize this resource to the community at large.

REQUEST FOR RESPONSE

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

Responses to Findings shall be either:

- Agree
- Disagree Wholly, with an explanation
- Disagree Partially, with an explanation

Responses to Recommendations shall be one of the following:

- Has been implemented, with a brief summary of the implemented actions
- Will be implemented, with an implementation schedule
- Requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a completion date that is not more than 6 months after the issuance of this report
- Will not be implemented because it is not warranted or is not reasonable, with an explanation

REQUIRED RESPONSES

Santa Barbara County Board of Supervisors – 90 Days

Findings and Recommendations 1, 2, 3a, 3b, 4, 5, 6a, 6b, 6c, 7

DEATH IN CUSTODY OF HJA

SUMMARY

Pursuant to the provisions of California Penal Code §919(b) the Santa Barbara County Grand Jury (Jury) is vested with the discretionary authority to, “inquire into the condition and management of the public prisons within the county.” In exercising that authority, the Jury historically has determined to review the circumstances surrounding inmate deaths occurring while they were in the custody of the Santa Barbara County Sheriff’s Department. This Activity Report addresses the Jury’s inquiry into the death of one such inmate, HJA, who suffered from multiple chronic medical conditions and died at Cottage Hospital on March 2018. Based upon its review, the Jury has concluded that HJA’s death was attributed to natural causes and no further action is required.

OBSERVATIONS AND ANALYSIS

In 2017, HJA, a 60-year-old homeless male, was booked into the Santa Barbara County Jail (Main Jail). HJA’s medical history revealed a veritable plethora of serious ailments, HJA had been incarcerated in the Main Jail on several occasions prior to May 2017, during which periods he often was non-compliant with his plan of care.

In early March 2018, after a custody deputy delivering HJA’s breakfast found the inmate lying on the floor of his cell, he was taken by ambulance to Cottage Hospital when he expired the following day.

During its investigation the Jury reviewed jail and medical records to familiarize itself with HJA’s incarceration history. Specifically, the Jury learned that HJA was discovered lying naked and unconscious on the floor of his isolation cell by a custody deputy who was delivering his breakfast tray. Present were two untouched dinner trays and one untouched breakfast tray indicating that HJA had not eaten for nearly two days. Medical staff quickly were notified, and a nurse practitioner summoned to the scene tried but was unable to obtain a “good” blood pressure reading. HJA was carried from his cell and transported to Cottage Hospital.

He was then transferred to “comfort care” having previously executed a Do Not Resuscitate (DNR) request at the Main Jail. HJA’s critical medical condition continued to decline rapidly and he passed away. An autopsy and toxicological tests later revealed that no foul play or trauma caused or contributed to HJA’S death and that it was due to natural causes.

CONCLUSION

The Jury has concluded from its inquiry into the circumstances surrounding HJA’s death in custody that all pertinent health rules, regulations and policies were followed by the Sheriff’s Department and that no further action is required. Accordingly, pursuant to California Penal Code §933.05, this Activity Report does not require an agency response.

SUICIDE IN CUSTODY

SUMMARY

Pursuant to California Penal Code section 919, subdivisions (a) and (b), “[t]he grand jury may inquire into the case of every person imprisoned in the jail of the county on a criminal charge and not indicted,” and “shall inquire into the condition and management of the public prisons within the county.” Under that statute, prior Santa Barbara County Grand Juries often have examined the circumstances surrounding inmate deaths at the Santa Barbara County Main Jail.

Four inmates have died at the Jail since March 2018; they will be identified here by the initials HJA, AB, JC, and ER. There has not been sufficient time for the Jury to consider the two most recent deaths (JC and ER). Both of those deaths were reported in the local press, appear to have been due to natural causes, and will be forwarded to the 2019-2020 Jury to review as it sees fit. The 2018-2019 Jury reviewed the death of AB, who committed suicide in a cell in July 2018, and of HJA, who died from natural causes at a local hospital in March 2018. This Report examines the circumstances of the suicide death of AB. The death of HJA is the subject of a separate Jury report.

METHODOLOGY

Information pertaining to the suicide of AB was obtained from a number of sources. Specifically, the Jury: conducted face to face and telephone interviews with many individuals having first-hand knowledge of the events; collected written reports from senior Sheriff Department (Sheriff) senior officers, custody and patrol deputies, and other sworn staff members of the Department; interviewed and obtained reports from officers and staff employees of Wellpath, the County’s current contracted Jail medical/mental health provider; interviewed AB’s two brothers; interviewed the forensic pathologist who conducted the autopsy; and reviewed many other miscellaneous documents and records, including the County contract with the medical provider and policy manuals.

Of special importance, as part of its investigation the Jury viewed several hours of video which—with one important exception—captured AB’s movements from the time he was arrested on July 5, 2018, through the removal of his body from the Jail later that day. These videos included officer body camera and Sheriff patrol vehicle dashboard videos taken at AB’s residence and during his transport by patrol car to the Jail, and videos showing him at the Jail booking desk and entering Cell C-9, where shortly thereafter he took his own life. The Jury also viewed videos of the investigative activities which took place in the cell after he died and inspected the cell twice.

Before discussing the specific circumstances of AB’s death, the Jury is compelled to comment on two procedural issues surrounding its efforts. First, throughout the investigation, the Sheriff’s Office impeded the Jury’s ability to obtain what we believed to be highly relevant documents and information, by ignoring requests, making delayed or partial responses, or flatly refusing to honor requests. On more than one occasion, the Jury needed to make two or more follow-up requests before the documents were produced. Moreover, a specific request for the production of important internal investigative reports pertinent to our inquiry - Risk Assessment Unit (RAU) and Criminal Investigation Division (CID) reports in particular – at first was ignored, and ultimately rejected. Although the Jury later interviewed some of the same persons who were questioned by the RAU and CID investigators (*e.g.*, Wellpath employees), the Sheriff’s Office’s refusal to produce not only the reports themselves, but the notes or transcripts of 2018-2019 Santa Barbara County Grand Jury

those interviews, or recordings of the interviews (if any), deprived the Jury of the opportunity to compare them with what we were told many months later by the same interviewees. As a result, assessing the credibility of these witnesses was made much more difficult.

The Jury chose for practical purposes not to challenge all of the refusals, although some records the Sheriff's Office originally withheld on "privilege" grounds eventually were produced in response to the Jury's persistence in seeking their disclosure. Ultimately, the Jury reluctantly concluded that pursuing production of all the withheld information through the subpoena process would be too time consuming, and the Jury proceeded without having obtained all of the information to which we continue to believe we were entitled

Nor did the Jury pursue Wellpath's refusal to produce pertinent documents without a subpoena. We believe this refusal directly violates the provider's contract with the County, which expressly declares such records to be the property of the County. Again, given the logistical and time constraints involved in the subpoena process, the Jury chose not to challenge the refusal, but a future Jury may do so.

The Jury learned during the course of its investigation that the Jail continues to carry on its medical/mental health functions without National Commission on Correctional Health Care (NCCHC) accreditation. The original 2015 contract between the County and Wellpath's corporate predecessor, CFMG, required this accreditation to be obtained no later than April 30, 2017. While the Jury understands that the certification process can be lengthy, the lack of accreditation constitutes a continuing violation of the contract and is a matter of real concern. Especially considering that the North Branch Jail is scheduled to open later this year, this issue should be addressed promptly by the Board of Supervisors.

OBSERVATIONS

The following are the essential facts surrounding AB's death in custody. On the afternoon of July 5, 2018, AB was arrested by Sheriff patrol deputies outside his home. The deputies had been dispatched to the premises as the result of a 9-1-1 telephone call reporting that AB was acting aggressively toward another resident in the house. When apprehended in a neighbor's backyard, AB appeared clearly to be under the influence of alcohol. Later, toxicology test results from a bodily fluid sample drawn at the autopsy on July 9, 2018, revealed AB had a blood alcohol level above the legal limit for driving while impaired. In addition, the presence of methamphetamines was detected.

Following his arrest, AB was handcuffed and placed in the rear seat of one of four responding patrol cars. In the meantime, the deputies, two of whom were still within their probationary period, continued their investigation inside and around the house. A family member who was present told the Jury they had important information about AB's mental health history but was not interviewed by the deputies.

Left alone in the rear of the vehicle, AB became increasingly agitated. Although he began loudly to complain that he was thirsty, no one brought him water. As observed on the dashboard camera video, AB then became even more agitated and began purposely to strike his head violently against the vehicle's interior.

California Welfare and Institutions Code §5150 provides that if a peace officer determines that probable cause exists to believe that a person has a mental health disorder creating a danger to himself or others (although not necessarily imminent), or is gravely disabled, the officer may take that person into custody

to be brought to a designated mental health facility for an evaluation. In Santa Barbara County, unlike all other counties in California, it is the Sheriff's Office policy that the arresting officer cannot make that preliminary judgment himself or herself and a mental health professional must first determine if the predicate exists. In this instance the deputy drove directly from AB's home to the Jail and there is no indication that he made any effort to arrange for a "5150" evaluation.

The patrol vehicle's dashboard camera video revealed that, while in transit from his home to the Jail, AB kept calling out to God for help and continued to strike his head forcefully against the vehicle's interior, causing contusions to his forehead. As a result, the deputy radioed ahead to the Jail that the arrestee was "combative." Thus, several custody deputies were posted outside the Jail sally-port to await AB's arrival and be available to help subdue him if necessary. Although the medical provider policy manual requires that a registered nurse (RN) conduct an initial evaluation to "clear" an arrestee medically and mentally, in this instance the RN initially directed a licensed vocational nurse (LVN) to meet the patrol vehicle when it arrived and to check AB's vital signs before he was escorted into the sally-port.

When the patrol car arrived, the LVN, as instructed, went out to the vehicle where she took AB's blood pressure. Then he was escorted into the sally-port where there is a separate small room expressly designed for use by the RN to privately interview an arrestee and evaluate his or her mental and medical condition. Importantly, a dedicated computer is located in that room on which prior medical/mental health records can be retrieved. Although video revealed that by then AB appeared to be compliant with directions and to pose no physical danger to the RN or others, the standard procedure for the RN to use that room was not followed. Rather, AB was escorted directly through the sally-port into the booking area, where the RN questioned him. In a "late entry" added to the computerized medical records after AB's death, the RN stated that AB had refused to answer questions about his mental state when questioned at booking. That refusal, even without his record of a "5150" hold at the time of a prior arrest, should have triggered an immediate psychiatric evaluation.

Yet, to this point, contrary to the medical provider's policy, it does not appear that anyone made any effort to review computerized or any other records of AB's mental health or arrest history or gave any consideration to whether a "5150" might be indicated. Even a quick review of available records would have revealed that AB was arrested in December 2015, at which time it was noted that AB engaged in "suicidal talk," which triggered a "5150" hold and his transport to the Cottage Hospital Emergency Department.

At this point in the booking process, according to a deputy whom the Jury interviewed, it appeared likely that AB would be treated as a "cite and release." This meant that he would not be classified for housing purposes since he would be detained at the Jail only long enough to "sleep it off." Thereafter, he would be released from custody and served with a citation to appear in court at a later date. Despite AB's prior arrest record, which included a 5150 hold, and despite his palpable agitation, his anger, his apparent state of intoxication, and his repeated self-harming behavior while seated in the patrol car, at his home, and in transit to the Jail, none of the patrol or custody deputies, or the Wellpath nursing staff, recognized that AB potentially was suicidal.

After AB was booked, several custody deputies escorted him from the booking desk intending to place him in a nearby cell. Initially, he was taken to Cell C-14 because it was unoccupied. However, since that cell had no toilet, and AB said that he had to use a toilet, he was taken past Cell C-14 and placed into Cell C-9, located in a short hallway further away. Neither cell is located on a main corridor.

Although a video camera is suspended in a fixed position from the ceiling at one end of the short hallway where Cell C-9 is located, and is intended to provide a complete view of both the entire cell and the hallway, the camera does not provide a full view of the interior of the cell. Specifically, the upper portion of the left corner of the cell as one faces into it from the front cannot be seen on the video monitor.

Video viewed by the Jury showed that, after AB entered Cell C-9 at 7:10 p.m., his handcuffs were removed. Since he had arrived at the Jail shirtless, clothed only in board shorts, he was directed to remove the shorts and custody personnel provided him with a white T-shirt and beltless blue pants. Approximately 15 minutes later, AB removed his T-shirt and, out of camera sight, he affixed it to the bars above a slightly elevated concrete sleeping area located in the cell's front left corner, tied the T-shirt to the upper portion of the bars, and proceeded to hang himself using the shirt as a ligature. It was not until nearly nine minutes later, at 7:35 p.m., that a custody deputy walked by and discovered AB hanging in the cell. The deputy immediately radioed for "man down" assistance, other custody deputies quickly arrived, and AB was lowered down and cut free from the ligature. Life-saving measures were begun, unfortunately to no avail, death was pronounced at 8:02 p.m. His body was later removed from the cell and an autopsy was performed on July 9, 2019. The forensic pathologist who conducted the autopsy attributed AB's death to asphyxiation.

Based upon the Jury's viewing of the video of the scene at Cell C-9 from the time life-saving measures were initiated to the time AB's death was pronounced, approximately sixteen people responded to the "man down" announcement. Although some clearly were engaged in resuscitation procedures, others in and around the cell did not appear to be doing anything but watching. No one appeared to take control of the scene and dismiss unnecessary personnel, despite a medical provider policy requiring that a licensed professional take charge in that situation.

The video also appeared to show a deputy removing a piece of evidence from the cell. The deputy told the Jury that the item was a towel; however, the Jury believes the item shown in the video was the T-shirt ligature, a potentially important piece of evidence. The T-shirt later reappeared inside a paper bag at the autopsy, as shown by autopsy photographs. However, the Sheriff's Department told the Jury the T-shirt was then "thrown away" and not preserved as evidence.

In viewing the video, the Jury also noted that Jail personnel did not appear to use emergency resuscitation equipment, such as suction apparatus to clear an airway. In investigating further, the Jury learned that, when AB was first discovered hanging in his cell, emergency resuscitation equipment could not be located, and when located, did not function properly. The Sheriff's Department told the Jury that the malfunctioning resuscitation equipment had not been retained as evidence, and more importantly, that there was no log or other documentation showing that required inspections of the Jail's life-saving equipment had occurred.

CONCLUSION

The purpose of this report is not to speculate whether AB's death could have been avoided had employees of the Sheriff's Office and Wellpath done a better job. The Jury's role in this case is to investigate the circumstances of the death, determine the facts, and make recommendations with the goal of improving local government operations. **The Jury regrets that, for the most part, the Sheriff's Office seemed more interested in obstructing than working cooperatively with the Jury toward that goal.** Dealing with persons who are under the influence of drugs, alcohol, and/or mental illness is no easy task.

Nevertheless, the Sheriff is responsible for the physical safety of every person taken into custody.

As a result of the RAU and CID investigation reports that were withheld from us, the Sheriff may already have identified and addressed the deficiencies we report here. The Sheriff's statutorily required response to the findings and recommendations below will show whether that has occurred, or whether more action is required by the Sheriff, the Board of Supervisors, or the 2019-2020 Grand Jury.

FINDINGS AND RECOMMENDATIONS

Finding 1

One witness who was at the scene of AB's arrest disclosed to the Jury information about AB that the Jury believes might have helped avoid AB's death if Sheriff's deputies or medical personnel had obtained it; however, Sheriff's deputies did not interview this witness.

Recommendation 1

That the Sheriff review and improve training for patrol deputies in responding to calls involving persons who appear to be under the influence of drugs or alcohol, or exhibiting symptoms of mental illness, including questioning persons at the scene who may have relevant information about the subject's condition.

Finding 2

The transporting deputy radioed ahead to the Jail that AB was "combative," without disclosing that AB had engaged in self-harming behavior in the patrol vehicle, which the Jury believes was relevant information for Jail personnel to have in determining whether to arrange an immediate psychiatric evaluation.

Recommendation 2

That the Sheriff review and improve training for all deputies in recognizing and accurately communicating to Jail staff any self-harming behavior by detainees.

Finding 3

The Wellpath RN failed to follow established procedure requiring that a medical/mental health evaluation be conducted in a private interview room where the arrestee's computerized records are available for immediate reference.

Recommendation 3

That the Sheriff require the current contract health care provider, Wellpath, to assure that its staff adhere to all policies, procedures, and contractual obligations regarding the assessment of the medical/mental health status of arrestees upon their arrival at the Jail.

Finding 4

Custody deputies at booking failed to closely examine AB's prior arrest records, which contained information that might have helped avoid AB's death.

Recommendation 4

That the Sheriff require custody staff to adhere to its booking policies and procedures, specifically informing themselves as to an arrestee's prior arrest records at booking.

Finding 5

AB was placed in an observation cell monitored by a video camera that failed to show the portion of the cell where AB committed suicide.

Recommendation 5

That the Sheriff either discontinue using Cell C-9 or improve the video equipment there to allow a complete view of the cell.

Finding 6

Sheriff's custody staff and Wellpath staff failed to follow "man down" procedures regarding management and control of responding personnel.

Recommendation 6

That the Sheriff require custody staff to receive continued training regarding policies and procedures to be followed in a "man down" situation, particularly to assure proper management and control of the scene and to release personnel no longer needed there.

Finding 7

Custody staff failed to properly handle and retain evidence for possible need in the event of further investigation and potential litigation.

Recommendation 7

That the Sheriff require custody staff to properly handle and preserve evidence connected to incidents occurring at the Jail which later may be needed.

Finding 8

Wellpath medical staff and Sheriff custody staff responding to the "man down" announcement was unaware of the location of life-saving resuscitation equipment and that it was not functional.

Recommendation 8

That the Sheriff require Wellpath to inspect, repair and replace emergency life-saving equipment on a regular schedule; maintain a service log; and train custody staff regarding the location of life-saving equipment.

Finding 9

The Jail is operating without National Commission on Correctional Health Care (NCCHC) accreditation, contrary to the contract requirement.

Recommendation 9

That the Board of Supervisors closely examine the provisions of the existing medical provider contract and enforce all of the current provider's obligations, especially with regard to the continuing failure to obtain National Commission on Correctional Health Care (NCCHC) accreditation for the Jail.

REQUEST FOR RESPONSE

Pursuant to California Penal Code §§ 933 and 933.05, the Grand Jury requests each entity named below to respond to the enumerated Findings and Recommendations within the specified statutory time limit:

Responses to Findings shall be either:

- Agree
- Disagree Wholly with an explanation
- Disagree Partially with an explanation

Responses to Recommendations shall be one of the following:

- Has been implemented, with a brief summary of the implemented actions
- Will be implemented, with an implementation schedule
- Requires Further Analysis, with an explanation of the scope and parameters of an analysis or study and a completion date of less than six (6) months after the issuance of this report
- Will not be implemented because it is not warranted or reasonable, with an explanation of why

SHERIFF–CORONER - 60 DAYS

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

Recommendations 1, 2, 3, 4, 5, 6, 7, 8

BOARD OF SUPERVISORS – 90 DAYS

Finding 9

Recommendation 9