

FINAL REPORT

2021/2022

MONTEREY COUNTY CIVIL GRAND JURY

JUNE 16, 2022

TABLE OF CONTENTS

Cover Letter	v.
2021/2022 Monterey County Civil Grand Jury	vii.
Mission Statement	ix.
Reports:	
Continuity and Compliance Report 2012-2021	1
Consolidation of Two North Monterey County Fire Districts.....	13
Excellence in Action: Monterey County’s Educational Response to Covid-19	35
Monterey County’s Cannabis Industry Up In Smoke.....	51
Monterey County’s Initial Response to the Covid-19 Pandemic	75
Public Safety At What Cost?	93
Sink or Swim: Moss Landing Harbor District.....	111

Monterey County Civil Grand Jury



P.O. Box 414
Salinas, CA 93902
Telephone: (831) 883-7553

May 18, 2022

Honorable Stephanie E. Hulsey
Superior Court of California
240 Church Street
Salinas, CA 93901

Honorable Judge Hulsey:

It is my honor and privilege, to present to you and the citizens of Monterey County, the 2021/2022 Monterey County Civil Grand Jury Final Report. In all, we addressed 19 complaints which resulted in 11 Investigation Committees. The committees conscientiously worked through the year, in an attempt to root out findings and offer recommendations to the investigated entities. In all, the 11 investigations ended with six committees writing reports. Even with the continuing threat of Covid, the Jurors worked tirelessly throughout the term in office to complete the annual Civil Grand Jury Final Report.

I wish to express my appreciation in having the honor of serving as Foreperson of the 2021/2022 Civil Grand Jury. I would also like to thank all the jurors who worked so diligently in investigating concerns and complaints, as well as compiling data for the Final Report.

On behalf of all Civil Grand Jury members, I would like to express gratitude to all the departments of the County of Monterey. The cooperation of the departments with the Civil Grand Jury was exemplary.

Our thanks to you, Judge Hulsey, for always being available, even on short notice. We also wish to thank County Counsel, Les Girard, who made himself available to provide counsel to this group, in addition to Sandra Ontiveros who was our "go to" person throughout this term. Again, thanks to everyone, for all the crucial support provided to the Monterey County Civil Grand Jury.

Our service as Civil Grand Jurors has been gratifying and enlightening. We thank you for the opportunity to serve our fellow citizens of the County of Monterey County.

Respectfully,

A handwritten signature in black ink, appearing to read "Tom Wiley", written over a white background.

Thomas A. Wiley
Foreperson

2021/2022 MONTEREY COUNTY

CIVIL GRAND JURY ROSTER

OFFICERS

Foreperson	Thomas Wiley
Foreperson Pro Tem	Michael Beck
Recording Secretary	Marilyn Maxner
Treasurer	Michelle Donovan

JURORS

Vivian Aizawa (Salinas)
Leticia Altamirano (Salinas)
Sandi Austin (Aromas)
Michael Beck (Salinas)
Karen Blank (Marina)
Christopher Bourke (Soledad)
Michelle Donovan (Carmel)
Gary Hoffmann (Carmel)
Rita Jacques (Salinas)
Marilyn Maxner (Monterey)
Mark Newman (Aromas)
Craig Orr (Pacific Grove)
Irwin Speizer (Carmel)
Gwen Usher (Prunedale)
Thomas Wiley (Royal Oaks)

2021/2022 Civil Grand Jury



Back Row from left to right -
Gary Hoffman, Irwin Speizer, Michael Beck, Mark Newman, Leticia Altamirano,
Rita Jacques, Karen Blank, Craig Orr

Front Row from left to right -
Gwen Usher, Sandi Austin, Vivian Aizawa, Judge Stephanie Hulsey,
County Counsel Leslie J. Girard, Thomas Wiley, Michelle Donovan,
Marilyn Maxner, Christopher Bourke

2021/2022 Monterey County Civil Grand Jury

MISSION STATEMENT



The principal mission of the Monterey County Civil Grand Jury is to serve the residents by performing a watchdog function in reviewing and evaluating the performance of county, municipal and special district agencies within Monterey County. The Civil Grand Jury accomplishes this mission by conducting selected independent inquiries of agency operations and annually publishing a report of its findings, recommendations, and commendations.

CIVIL GRAND JURY MISSION AND RESPONSE REQUIREMENTS

The primary mission of a civil grand jury in the State of California is to examine county and city governments, as well as districts and other offices, in order to ensure that the responsibilities of these entities are conducted lawfully and efficiently. The civil grand jury is also responsible for recommending measures for improving the functioning and accountability of these organizations, which are intended to serve the public interest.

Jury Selection

Each year, citizens of the county who apply for civil grand jury service are invited to an orientation session for an overview of the process. The court then interviews them, and approximately 40 names are forwarded for inclusion in the annual civil grand jury lottery. During the lottery, 19 panel members are selected, with the remaining to serve as alternates. Those selected to serve are sworn in and instructed to their charge by the presiding judge. Civil grand jurors take an oath of confidentiality regarding any civil grand jury matters for the rest of their lives.

Investigations

Each civil grand jury sets its own rules of procedures and creates committees to investigate and create reports. California Penal Code section 925 states:

The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving ex-officio capacity as officers of the districts.

Additionally, Section 919 prescribes that:

The grand jury shall inquire into the condition and management of the public prisons within the county, including inquiring into willful or corrupt misconduct in office of public officers of every description within the county.

The public may submit directly to the Monterey County Civil Grand Jury complaints requesting that it investigate issues of concern regarding public agencies or official in Monterey County. The public may request complaint forms by contacting the office of the Monterey County Civil Grand Jury at (831) 883-7553 or through the Grand Jury's website address at www.monterey.courts.ca.gov/grandjury or <http://www.co.monterey.ca.us/government/participate-get-involved/civil-grand-jury>.

Grand juries conduct proceedings behind closed doors, as required by law, primarily for the protection of people who file complaints or who testify during investigations. All who appear as witnesses or communicate in writing with a grand jury are protected by strict rules of confidentiality, for which violators are subject to legal sanction.

Reports

Section 933(a) of California Penal Code declares:

Each grand jury shall submit...a final report of its finding and recommendations that pertain to county government matters during the fiscal or calendar year.

The civil grand jury summarizes its findings and makes recommendations in a public report, completed at the end of its yearlong term. Each report is presented to the appropriate department or agency.

Section 933(b) declares:

One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

Each report is distributed to public officials, libraries, the news media and any entity that is the subject of any of the reports. The public may also view each year's final report through the Monterey County Civil Grand Jury's website at <http://www.co.monterey.ca.us/government/participate-get-involved/civil-grand-jury> or www.monterey.courts.ca.gov/grandjury.

Content of Responses

Section 933.05 of the California Penal Code declares:

- (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:
 - 1. The respondent agrees with the finding.
 - 2. The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

- (b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - 1. The recommendation has been implemented, with a summary regarding the implemented action.
 - 2. The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
 - 3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
 - 4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

Timeline of Responses

Section 933(c) states:

No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendation pertaining to matter under the control of that county officer or agency head any and agency or agencies which that officer or agency head supervises or controls...All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury.

Address for Delivery of Responses

The Honorable Stephanie E. Hulsey
Judge of the Superior Court
c/o County of Monterey
Civil Grand Jury Liaison
168 W. Alisal Street, 3rd Floor
Salinas, CA 93901

SITE VISITS

The isolation and quarantine in 2020 and 2021, due to the COVID-19 pandemic, prevented the Monterey County Civil Grand Jury (MCCGJ) from doing site visits within the county.

With the lifting of restrictions in 2021-2022, the MCCGJ was able to schedule tours to aid fact finding for inquiries and investigations. The jury visited the following sites:

- Monterey County Elections
- Monterey Regional Waste Management District
- Moss Landing Harbor District--- two dock tours, one by boat and one walking
- Monterey County Emergency Communications Department
- Monterey County Office of Education
- Lowell Farms processing plant and drying facilities
- A local Cannabis cultivator farm
- Monterey One Water

Section 919 of the California Penal Code requires each Grand Jury to inspect all correctional facilities within the county. In this capacity, the MCCGJ visited the Level I/II State prison in Soledad (Correctional Training Facility), the Monterey County Jail (with its recently opened new addition), and the new Monterey County Juvenile Hall, which was opened in 2020.

All three facilities showcased their expanding rehabilitation programs, supportive staff, and well-knit administrations. The tours were both enlightening and informative to the MCCGJ. Rehabilitation, recovery, and reintegration appeared to be the central cores for the correctional facilities in Monterey County today.

The MCCGJ wants to thank all these facilities for the extensive time and effort given.

CONTINUITY AND COMPLIANCE REPORT 2012-2021

MONTEREY COUNTY CIVIL GRAND JURY

SUMMARY

The grand jury is well suited to the effective investigation of local governments because it remains an independent body, operationally separate from the entities and officials it investigates. The term of each grand jury is one year.

The principal element of continuity is for a grand jury to review the responses to prior grand juries' reports: (1) to let the community know that someone is watching, (2) to publicize the responses and give credit where credit is due or admonish an agency for non-response, and (3) to keep the public informed about the continuous nature of grand jury work. Responses can take years to implement. Thus, it takes persistence by grand juries to record and publicize these achievements.

The past 10 years (2012-2021) of Monterey County Civil Grand Jury (MCCGJ) reports have been reviewed for compliance, content, and implementation. The 2021-2022 MCCGJ sent update letters to six of 51 entities to ascertain implementation of recommendations agreed upon in past Civil Grand Jury Reports or entities that never responded to their Civil Grand Jury report. These responses from the different county entities, special districts, school districts and cities could lead to new areas of investigation for future civil grand juries, if they so decide to re-investigate in the future.

GLOSSARY

BOS Board of Supervisors of Monterey County
MCCGJ Monterey County Civil Grand Jury

BACKGROUND

The 1849 -1850 California Constitution, Article 1, Section 23, mandates that civil grand juries are a formal body of volunteer civilians from each of California's 58 counties apply and are selected at least once a year. They publish an annual report at the end of their term with their findings and recommendations. Elected officials must respond in sixty (60) days. Entities have ninety (90) days to respond to the presiding Superior Court judge of the grand jury. These responses should include whether the entity agrees or disagrees with the recommendations made, as well as whether they have acted or will act on the recommendations. California has the last remaining comprehensive civil grand jury system in America.

Penal Code §916 authorizes the Civil Grand Jury to decide for itself what entities it feels it needs to investigate and how to do the investigation. Penal Code §933.05 requires the Civil Grand Jury to "submit to the presiding judge of the superior court a final report on its findings and recommendations that pertain to county government matters during the fiscal year."

The usefulness of the civil grand jury is embodied in its ability to illuminate issues it uncovers in its role as a watchdog on government within Monterey County. The Final Report is the vehicle used to officially release its findings and recommendations, with the substance and validity of each individual topic being subjected to thorough investigation.

Individual topics within a report are targeted at defined issues, and responses are requested from those who are legally empowered to reply to specific recommendations. While the grand jury acknowledges that compliance with recommendations is voluntary, it expects that most recommendations are accepted and implemented because respondents share the grand jury's desire to improve the functioning of government.

In *Monroe v Garrett (1971)*, it was found that in the United States' system of government a grand jury is the only agency free from possible political or official bias that has an opportunity to evaluate the operation of the government in great depth. It performs a valuable public service in presenting its conclusions drawn from that

overview. Some may conclude that the jury's findings were exaggerated or that its proposed recommendations were not warranted. The reports could provoke debate and lead to a better understanding of governmental operations. Civil grand juries should be encouraged, not prohibited.

Civil grand juries are sworn to secrecy for life in all their proceedings. Meeting minutes are not subject to subpoena and cannot be inspected by any member of the public. Confidentiality of interviewees and complainants is paramount for civil grand juries.

This Compliance and Continuity Report focuses only on the Penal Code requirements for responding to the grand jury's recommendations and implementation thereof.

Penal Code §933.05(b) states that the body or official designated in the report is required to select one of four responses to the recommendation:

- The recommendation has been implemented, with a summary of the action taken.
- It will be implemented, with a timeframe for implementation being provided.
- If a response indicated that a recommendation required further analysis or study, it must include an explanation of the scope, parameters, and timeframe of the proposed analysis or study.
- It will not be implemented because it is not warranted or is not reasonable, with an explanation to be provided.

This report looked at previous MCCGJ reports from 2012 through 2021. A continuity review of the year 2019-2020 was completed in last year's Civil Grand Jury report. This report addresses those entities which did not respond or verify implementation of specified recommendations.

METHODOLOGY

The 2021-2022 MCCGJ started this exercise by reviewing all reports listed from 2012 through 2021 to determine which required a response from a particular entity, and

to ensure compliance with the governing section of Penal Code §933.05(b). Many of the reports were accompanied by a response, but many reports had partial or no response. Six of the 51 entities received letters requesting either a formal response or verification of implementation.

DISCUSSION

This investigation found that a substantial number of the recommendations from the Grand Jury Reports have been implemented. Out of 231 entities that the Grand Jury required responses from, only 51 have not complied with the requirements of Penal Code §933.05(b). Situations occurred where:

- entities disagreed regarding responsibility for implementing recommendations,
- entities claimed that other entities needed to enact ordinances or the State to enact laws or funding to be approved,
- entities reported that further analysis was needed with no period specified as required,
- recommendations were implemented later than agreed to,
- implementation dates were agreed upon, but the Civil Grand Jury could not verify them.

Not all past MCCGJs have investigated the previous year's reports to see if identified entities responded, implemented, and verified recommendations. The 2021-2022 MCCGJ also looked at the previous 10 years of reports and required responses and implementations.

The 2021-2022 MCCGJ takes seriously its obligation to investigate issues that affect our county and municipal government operations. MCCGJ expects responding entities to fulfill their obligation under Penal Code §933.05. The expectation is that each entity will respond in a timely manner, addressing each finding and recommendation, as required by law.

Failure to respond as required undermines the civil grand jury system and its ability to support government entities by making recommendations which could result in

improved governmental effectiveness and efficiency. Failure to respond does not allow the public or future civil grand juries to know if their recommendations are being implemented.

In publishing this data, it is hoped that future respondents to MCCGJ reports will be encouraged to comply with the California Penal code. It is expected that future grand juries will remain vigilant about the continuity of civil grand jury reports. Residents of Monterey County deserve nothing less.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

BIBLIOGRAPHY

MCCGJ website for 2012 through 2021 reports and some responses.

<https://www.co.monterey.ca.us/government/participate-get-involved/civil-grand-jury>

MCCGJ report 2002-2003

<https://www.monterey.courts.ca.gov/GrandJury>

San Mateo County Civil Grand Jury report 2015

sanmateocourt.org/court-divisions/grand-jury

California Civil Grand Jury Association website

cgja.org/sites/default/files/the-california-grand-jury-system-edition3.pdf

APPENDICES

- APPENDIX A: 10-year review of MCCGJ reports (2012-2022) by the numbers
- APPENDIX B: List of Past Ten-Year Entities pending responses/implementation verification
- APPENDIX C: Sample Letters sent to six sample entities: a) did not respond b) did not implement
- APPENDIX D: Graphs showing reports, recommendations, responses, and entities

APPENDIX A: 10-year review of MCCGJ reports (2012-2022)

Year/Number of Reports	# FINDINGS	# RECOMMENDATIONS	# Entities
2012-2013 - 9 reports	53	43	22
2013-2014 - 12 reports	89	53	18
2014-2015 - 14 reports	154	132	22
2015-2016 - 7 reports	74	78	37
2016-2017 - 11 reports	66	23	22
2017-2018 - 7 reports	75	56	39
2018-2019 - 7 reports	98	67	37
2019-2020 - 7 reports	78	49	23
2020-2021 - 6 reports	47	28	11
2021-2022 - 7 reports	Pending	Pending	Pending
TOTALS - 87 reports	749	529	231

**APPENDIX B: List of Past Ten-Years Entities pending
Responses and implementation verification**

Cities

Carmel	Del Rey Oaks	Gonzales
Greenfield	King City	Marina
Monterey	Pacific Grove	Salinas
Salinas Police Dept.	Sand City	Seaside

County

Animal Control	Auditor-Controller
Board of Supervisors	District Attorney
Jail	Office of Education
Sheriff Office	Human Resources South County Use Permit Center

School Districts

Alisal Union	Big Sur Unified
Bradley Union	Carmel Unified
Chualar Union	Graves Elementary
Gonzales Unified	King City Union
Lagunita Elementary	Mission Union
Monterey Peninsula College	Monterey Peninsula Unified
North Monterey County Unified	Pacific Grove Unified
Salinas City Elementary	San Antonio Union
San Ardo Union	Soledad Unified
South Monterey County Joint Union High	Spreckels Union School District

Special Districts

Chualar Sewer	Marina Coast Water
Monterey Airport	Monterey Peninsula Water Management
North Salinas Mosquito Abatement	Salinas Valley Solid Waste Authority
South Monterey County Use Permit Center	

APPENDIX C(i): Sample letter sent to identified entity with past due

Response

(Date)
(Official's name and title)
(Entity)
(Entity's address)

Re: Your Response to (Title of grand jury report and its release date)

Dear (Name of official):

Neither the Superior Court nor the Grand Jury has received your response to the above-titled report, as required by Section §933(c) of the California Penal Code, quoted below.

Please advise us within 10 days of the date of this letter as to the date you will submit this response to the court and the Grand Jury.

We would also like you to be aware that it is our policy to indicate on the Grand Jury's website those responses that are past due or non-compliant. This status will be changed once a response is received or amended.

Sincerely,

(Signature)

(Name), Foreperson
FY (Name) Grand Jury

California Penal Code §933, subdivision(c) (excerpt, emphasis added)

(c) **No later than 90 days** after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment **within 60 days** to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls.

APPENDIX C(ii): Sample letter sent to identified entity with past due need for verification of implementation.

(Date)

(Official's name and title)

(Entity)

(Entity's address)

Re: Your Response to (Title of grand jury report and its release date)

Dear (Name of official):

The Grand Jury received your response to the above-titled report and finds that it does not comply with the requirements of Section §933.05 of the California Penal Code in the following respects:

Response to Recommendation (insert number): A response of "has been implemented" must include a summary regarding the implemented action, and your response failed to include such a summary.

Attached is an excerpt of Section §933.05 for your reference.

The Grand Jury requests that you resubmit your response in its entirety within ten days of the date of this letter, following the directions contained in the original letter of transmittal.

We would also like you to be aware that it is our policy to indicate on the Grand Jury's website those responses that are past due or non-compliant. This status will be changed once a response is received or amended.

Sincerely,

(Signature)

(Name), Foreperson

FY (Name) Grand Jury

Penal Code §933.05 (excerpt)

Subdivision (b) of §933.05 of the California Penal Code (excerpt, emphasis added)

For purposes of subdivision (b) of Section §933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, **with a timeframe** for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a **timeframe** for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This **timeframe shall not exceed six months** from the date of publication of the grand jury report.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation, therefore.

CONSOLIDATION OF TWO NORTH MONTEREY COUNTY FIRE DISTRICTS



SUMMARY

The 2021-2022 Monterey County Civil Grand Jury (MCCG) investigated a potential consolidation of North County Fire Protection District (NCFPD) and Monterey County Regional Fire District (MCRFD). Consolidation should improve coverage and call response times. It should lead to economies of scale for staffing, equipment, and capital improvements. These changes would utilize tax dollars more efficiently.

The Local Agency Formation Commission of Monterey County (LAFCO) released, on June 22, 2020, the report “Municipal Service Review and Sphere of Influence Study regarding Fire Protection and EMS in unincorporated Monterey County.” The report identified that property tax revenue apportionment inadequately funds fire districts. Most fire district revenue comes from property taxes. The county limits growth in unincorporated areas. This action inhibits an increase of property value for tax purposes. Therefore, property taxes remain inadequate to fund fire districts.

An underfunded district like NCFPD, with its aging facilities, equipment, and the recent threat of firefighter lay-offs and one fire station closure, approaches consolidation at a disadvantage. Residents within the NCFPD voted to approve an annual special

assessment fee in 2021, increasing funding for the fire district. This assessment fee is based upon the usage of the property and does not have a sunset clause.

Recent interviews with stakeholders indicate parties involved are amendable to consolidation if planned thoroughly, all steps are laid out in an orderly fashion, and equity is reached for all personnel involved.

GLOSSARY

AB8	California Assembly Bill 8 (FY1979-1980) - provides the ongoing legal structure for distributing the 1% tax rate allocations initially created by Proposition 13
ACLS	Advance Cardiac Life Support (practiced by Paramedics who can start Intravenous therapy and give Intravenous and Intramuscular medications enroute).
BLS	Basic Life Support (CPR and first aid)
BOS	Monterey County Board of Supervisors
CAO	County Administrative Office
CalPERS	California Public Employees Retirement System, a detailed benefit plan funded by employees' contributions and earnings made on CalPERS investments. Most employees contribute a percentage of their salary, which accrues interest under their individual CalPERS account.
CFD	Castroville Fire District
EMS	Emergency Medical Services
EMT	Emergency Medical Technician who practices BLS
EBSSA	The Essential Service Buildings Seismic Safety Act of 1989 -- retrograde refitting for earthquakes
ISO	Insurance Service Office
LAFCO	Local Agency Formation Commission
MCCGJ	Monterey County Civil Grand Jury
MCRFD	Monterey County Regional Fire District
MLH	Moss Landing Harbor

- NFPA 1710** National Fire Protection Association: Standard for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by Career Fire Departments
- NFPA 1720** National Fire Protection Association: An Update on Volunteer Deployment Standard
- NCFPD** North County Fire Protection District
- Cal OSHA** California Occupational Safety & Health Administration
- Prop 13** California State Proposition (1978) - “People's Initiative to Limit Property Taxation” is an amendment to the Constitution of California, limiting property tax to 1% of assessed property value and restricts property value reassessments until a property is sold
- Prop 218** Proposition 218 bolsters Proposition 13’s limitations on property taxes and special taxes by placing new restrictions on the imposition of taxes, assessments, fees, and charges
- SB1207** (2010) Fire Hazard Impacts requiring volunteer firefighters to meet the same Cal OSHA training and safety standards as career firefighters

BACKGROUND

Formation of Special Fire Districts

In the late 19th and early 20th centuries, no real records were kept of wildfires in Monterey County and methods of fighting those fires were basic at best. It was up to residents to fight fires themselves. In 1934, the Salinas chapter of the California State Grange, an agricultural advocacy established in 1873, requested that a fire protection district be formed to serve the area under the 1923 state law authorizing creation of fire districts.

The Salinas Rural Fire Protection District, after several realignments, changed its name in 2009 to MCRFD. In 2011 it completed a merger with the Carmel Valley Fire Protection District, forming a 400 square mile district serving more than 38,000 residents.

NCFPD was founded in 1949 as the Castroville Fire Department (CFD). The CFD established fire protection services for Moss Landing and Elkhorn. In 1981, LAFCO recommended the consolidation of CFD and Area Two (Prunedale) into one agency and as a result, NCFPD was formed in 1982. The district is 122.0 square miles and serves 40,000 residents.

Fire protection and emergency services have evolved over the past 100 years in Monterey County. Many challenges remain. In unincorporated Monterey County, these services are provided by a network of Federal, State and local agencies, as well as by volunteer firefighters and private ambulance providers. In Monterey County, NCFPD and MCRFPD provide fire protection covering 522 square miles of the county's total 3,281 square miles and service to 16% of the county's population of 433,000. The entire county is included in the County Emergency Medical Services (EMS) Agency's jurisdiction.

Automatic Aid/Mutual Aid

Throughout the years, the development of "Auto-Aid" and "Mutual-Aid" fire protection coverage has become seamless in Monterey County, due to fire departments and districts working collaboratively. Automatic aid is assistance dispatched automatically by a contractual agreement between two fire departments, communities, or fire districts. Mutual aid is assistance dispatched, upon request, by the responding fire department at the scene of an emergency. Mutual aid should also be defined by a signed contractual agreement. True automatic aid has several advantages:

- response from the closest station
- avoiding apparatus duplication
- quickly getting to the National Fire Protection Association (NFPA) staffing levels for a structure fire
- sharing specialty services
- increased availability of staff officers for ICS (Incident Command System) at major incidents
- help with Insurance Services Office (ISO) class rating

Property Tax Revenue

Prior to the passage of Proposition 13 (Prop 13) in 1978, local governments were authorized to levy individual property tax rates. The total tax rate for any individual parcel was the sum of separate rates levied by each local taxing jurisdiction serving that property (e.g., county, city, special districts, school districts, community colleges, Office of Education). The statewide combined tax rate in 1977 was 2.6% of full cash assessed value of individual parcels. In 1978, Prop 13 changed the base tax rate for an individual parcel from 2.6% to 1%. State and local governments were prohibited from imposing any new *ad valorem* (based on value) taxes on real property. The State constitutional amendment reduced property tax revenue by \$7 billion within the first year.

The legislature quickly determined that to maintain essential services property tax would not be subject to a redistribution process each year. Assembly Bill 8 established the basic property tax apportionment system. It ensured that in any fiscal year a local government entity would receive property tax revenue equal to what it received in the prior fiscal year. It would also receive its share of tax revenue due to changes in assessed property values within its boundaries.

The State of California enacted property tax allocation formulas over 40 years ago that remain unchanged. The property tax base and factors used to allocate assessed property values are not responding to changing economic conditions. Property tax dollars are distributed by State statutorily prescribed formulas. For every dollar that is redistributed to one local government entity, another such entity must lose a dollar. Local citizens and their elected representatives lack effective fiscal authority to change State allocation of property taxes to reflect 21st Century community priorities.

Changes of property values have a significant effect on property tax revenue. The energy plant in Moss Landing is by far the largest taxpayer in the NCFPD. The reduction in the assessed value of the power plant from \$800,000 to \$400,000 had a significant impact on special district funding to provide rural fire protection services.

Fire Protection Coverage/Insurance

Insurance Services Office (ISO), a for-profit company, creates ratings for fire departments/districts and their surrounding communities. Each district has an ISO Rating. In the ISO rating scale, a lower number is better: 1 is the best possible rating, while 10 means the fire department does not meet the ISO's minimum requirements.

LAFCO

LAFCO was established in 1963. It is an independent regulatory agency with quasi-legislature authority. The State legislature mandates every county in California to have a LAFCO to encourage the orderly formation of local government agencies, preserve agricultural land resources, discourage urban sprawl, and encourage the efficient delivery of local government services. LAFCO coordinates logical and timely changes to local government boundaries. It coordinates annexations and detachment of territory, incorporation of cities, formation of special districts, and consolidation, merger, and dissolution of special districts. LAFCO is also charged with reviewing and approving ways to reorganize, simplify and streamline governmental organizations.

In June of 2020, LAFCO adopted its report, "2020 Municipal Service Review and Sphere of Influence Study: Special Districts Providing Fire Protection and Emergency Medical Services in Unincorporated Monterey County." The report encouraged all stakeholders in the wider fire/EMS community in Monterey County to expand existing partnerships and dialogues. This was part of an ongoing effort to support and improve services in unincorporated Monterey County.

Seamless Fire Protection Coverage

The agencies and fire districts within Monterey County have a long history of cooperation to coordinate activities. Examples of associations and alliances include:

- Operational Area Fire and Rescue Coordinator for mutual aid
- Monterey County Fire Chiefs Association
- Monterey County Training Officers Association
- Emergency Medical Care Commission

- Dedicated Fire Dispatch (DFD) Committee
- Fire Safety Council
- Monterey County Fire Prevention Officers Association

Mutual aid is an important part of assuring adequate depth of resources for larger emergencies. No single agency can afford to have all the resources necessary for the range of hazards today's fire districts face. The practice has become more common over the last twenty years due to the increase in fire activity and reduction of available volunteers at the local level, after passage of SB1207 in 2010.

Automatic aid is an enhanced form of mutual aid. It provides the response from the closest available resource regardless of jurisdictional boundary of the first responder. There is an expectation that the aid agreement is reciprocal and not lopsided in terms of numbers of responses. Monterey County fire agencies utilize both mutual aid and automatic aid extensively. The cooperation has led to a seamless web of fire protection coverage for the entire County.

Standards

The National Fire Protection Association (NFPA) is a national standards-setting entity that promulgates standards regarding the full range of protection matters. NFPA 1710 relates to staffing for career staffed fire agencies, while NFPA 1720 addresses volunteer fire agencies. NFPA is not a regulatory agency. Application of any standards requires adoption by an agency's governing board.

Another approach is to establish in-house standards based on expected outcomes of an incident. Factors to consider include:

- response time standards based on demographics and expected outcomes
- demographic factors such as residential population density, mobile population, assets at risk, land use, special hazards, incident history and volume of incident
- concentration and distribution for determining number of staff and equipment resources to mitigate the incident, as well as identification of high-volume areas with frequent simultaneous incidents
- equipment kind and type to meet the needs of the response area

- staffing levels to mitigate an incident adequately and safely, be it career, reserve, or volunteer

A common third option is to use Insurance Services Office (ISO) classifications. Their grading is broken down into three major categories: communications/receiving and handing of fire alarms (10%), soundness of fire department/district (50%) and water supply (40%). The grading is compared to adopted organizations' standards and helps determine property fire insurance costs.

Rural water supply ratios are based on developing a water flow where the nearest hydrant is greater than 1,000 feet from the protected structure. In many cases, there is not a hydrant within several miles of the structure and all water must be transported by water tender from a static water source. ISO Class 10 is assigned to all areas greater than five road miles from the nearest fire station or where responding apparatus does not meet the minimum requirements of Class 9 (a brush truck with a permanently mounted 50 gpm @150 psi pump and a 300-gallon tank). If a fire apparatus is in good working order, it will be given credit toward ISO ratings. A homeowner whose property is valued at \$100,000 will save \$433 per year if the fire department/district improves from an ISO of Class 9 to Class 5. ISO ratings are updated every five to eight years.

The 2010 Monterey County General Plan (Safety Element-Emergency Services Section) has established goals for response times for fire, ambulance and emergency services:

- 8 minutes or less, 90% of the time in urban and community areas
- 12 minutes or less, 90% of the time in suburban areas and rural centers
- 45 minutes or less, 90% of the time in rural areas

Service Areas

NCFPD covers 122.9 square miles in North County from the Santa Cruz County line to just short of the Salinas City Limits. It includes Pajaro, Moss Landing, Las Lomas, Castroville, and Prunedale. NCFPD added the Monterey Regional Waste Management

District (MRWMD) and Monterey One Water (M1W) properties into its fire service boundaries in 2017. As of 2020, the district serves 42,000 residents.

Major highways crisscross NCFPD, including US Highway 101, State Route (SR)1 along the coast, SR156 West, and SR183. SR1, in addition to connecting the coastal cities and communities along its path, provides access to beaches, parks, and other attractions along the coast, making it a popular route for tourists. SR156 is one of the major thoroughfares used by residents, commuters, tourists, and commercial trucks to travel from the Monterey Peninsula. It carries more than 32,000 vehicles each weekday, more on warm weather weekends. SR183 is a two-lane road that carries farmworkers and produce from Santa Cruz County, through Castroville to Salinas and points south, connecting SR156, SR1 and US Route 101.

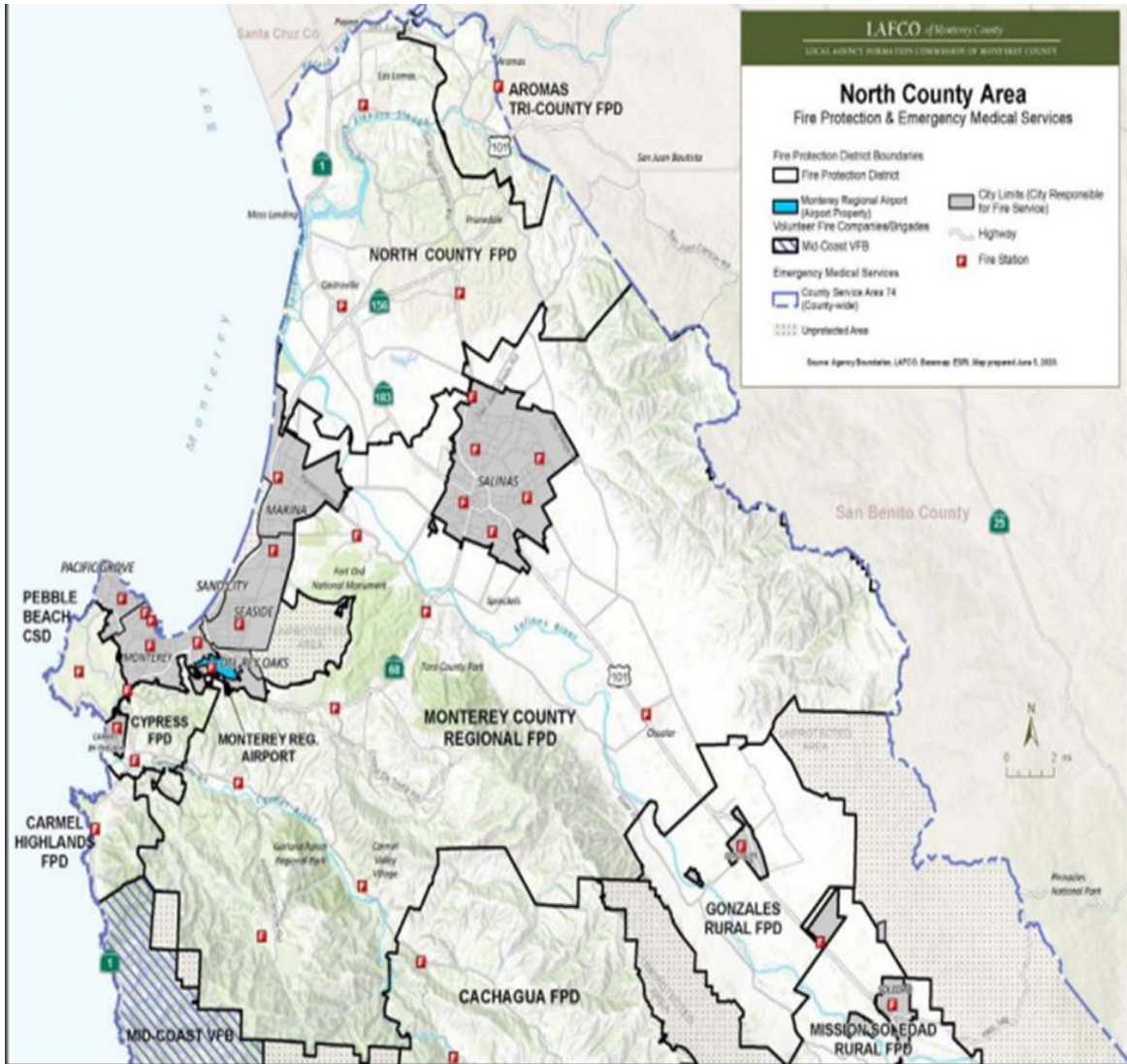
MCRFD covers triple the area of NCFPD. It stretches from the San Benito County Line on the east to Ryan Ranch and Carmel Valley on the west and south to the Gonzales Rural Fire Protection District. The district encompasses a fair number of Cannabis cultivation greenhouses in unincorporated areas that have been rehabilitated, increasing their property value tax.

Two main thoroughfares cross MCRFD. SR68 (Salinas-Monterey Highway) is a designated scenic route that connects the Monterey Peninsula to US Highway 101 and the Salinas Valley. SR68 is the key route for vehicular traffic that facilitates commute travel between Salinas and Monterey for 25,000 to 30,000 vehicles each day, as well as tourism and special event traffic. SR68 also aids freight and agricultural transport between the City of Salinas and River Road, as well as transport of goods and visitors to the Monterey Peninsula.

US Highway 101, the Pacific Coast Highway, runs north-south from Mexico to the Puget Sound and is a major parallel route between Los Angeles and San Francisco. More than 200,000 cars, trucks and farm vehicles use the roadway daily. For MCRFD, 85% of their service calls are medically related but only 35% involve motor vehicles.

Higher tourism and increased use of Monterey County highways bring rising demands for emergency services. Questions of reimbursement for such services strain each rural fire district budget.

NCFPD & MCRFP MAP



METHODOLOGY

- Interviewed fire personnel from various fire districts
- Interviewed other county government agencies and elected officials
- Reviewed LAFCO's 2020 Report, "Municipal Service Review and Sphere of Influence Study regarding Fire Protection and EMS in Unincorporated Monterey County."
- Reviewed various industry webpages, prior MCCGJ reports, and news media reports
- Reviewed fire districts' budgets, procedure manuals and financial statements

DISCUSSION

Consolidation could provide efficiencies of scale, equalization of staff levels and talents, upgraded equipment, funds for rehabilitation and maintenance of aging fire stations, capital improvements, standardization of service costs, and improve coverage and response times. Administrative staff and costs would be reduced in consolidation. The challenge of consolidation lies with the willingness of districts to share resources and revenue.

Stakeholders

Both districts respond to an almost equal number of service calls. However, NCFPD has half the staff and gets approximately 33% less property tax revenue than MCRFD.

NCFPD currently has 37 staff and 10 volunteers, responds to 3,437 calls for service, and has an ISO Public Protection Classification of 4/10. The annual revenue for the year 2020 was \$7 million. In 2021, a Prop 218 special assessment fee was passed, averting closure of one fire station, having its ISO Classification degraded, and permanently losing six firefighter positions. The passage aided in hiring back six firefighters that had been laid off due to failing revenues and the end of the Safer Grant. Grants are not sustainable as there is no guarantee that the district will be awarded those grants. Yet, in the past six years, NCFPD has received ten grants totaling \$3

million. In 2020-2021, NCFPD collected \$190,995 on claims of \$225,066 from insurance companies for response services on roadways.

PRUNEDALE FIRE STATION (NCFPCD)



NCFPD relies on the county-contracted American Medical Response (AMR) for Advanced Life Support and transportation medical calls. NCFPD has three fire stations, built in the 1950s, are not Americans with Disabilities Act (ADA) compliant and in need of Essential Service Buildings Seismic Safety Act of 1989 (EBSSA) upgrades. NCFPD's aging fire apparatus, some 35 years old, need replacement.

As a result of the rehiring of firefighters after the passage of the Special Assessment Fee election in 2021, IAFF Union members are more confident about District finance stability. Paramedic Advance Life Support (ALS) training remains out of reach in NCFPD, with present budget constraints and other, more demanding issues.

EAST GARRISON FIRE STATION (MCRFD)



MCRFD has 77 staff and 12 volunteers, responds to 3,579 calls for service, and has an ISO Public Protection Classification of 3/10. The 2020 annual revenue was \$18 million.

MCRFD passed a special assessment fee in 2018 to augment fire inspectors needed to evaluate cannabis industries for fire permits. It generates \$350,000 yearly with no sunset date. MCRFD applied for 27 grants over the past 10 years and received \$5 million. Fire apparatus are staffed by paramedics, and MCRFD operates the ambulance service in Carmel Valley as a “grandfathered” service from the consolidation with the Carmel Valley Fire District in 2011, which encountered obstacles that took four years to resolve. Disparities in revenue, resources, and level in medical training of firefighters in NCFPD and MCRFD can present similar obstacles.

Fire District Attributes at a Glance		
Attributes	MCRFPD	NCFPD
District area (estimated square miles)	399.6	122.9
Population (2020 estimated)	38,350	42,000
Total Revenues (FY 2020)	\$ 18,104,876	\$ 7,042,901
Number of Stations	7	3
Square miles per station	57	41
Annual revenue per capita entire district	\$ 463	\$ 159

Liabilities

MCRFD needs \$12 million annually just to keep up with future medical insurance and retirement liabilities with CalPERS. As incorporated cities grow, they annex land adjacent to their city limits. This reduces property tax revenue for unincorporated area fire districts. MCRFD has an up-to-date fire station that serves East Garrison Community Service District (EGCSD), off Reservation Road. As the City of Marina grows, EGCSD is destined to be annexed into the city. Consequently, MCRFD would lose EGCSD property tax revenue.

Savings

Consolidation could reduce administrative costs. Rather than replicate departments within each fire district, there would only be a need for one fire chief, one human resources department, one finance department, one board. Purchasing could be centralized. Resource sharing could also consolidate grant writing, training, insurance reimbursement, and universal adoption of best practices.

CONCLUSION

MCCGJ recommends the North County Fire Protection District and Monterey Regional Fire District hire an outside consultant to do a feasibility study on consolidating the two districts. The study should investigate the current disparities in funding the fire districts, recommend short- and long-term strategic planning, and provide guidance on

reaching consensus. It is important that all stakeholders (fire districts, firefighters unions, LAFCO, the Monterey County Board of Supervisors, and the citizens of both districts) be involved from inception to get a workable agreement. Interviews with stakeholders indicate all parties are amenable to consolidation with thoughtful planning, steps laid out in an orderly fashion, and equity reached for all involved.

FINDINGS

- F1** Property values and tax allocations disproportionately underfund fire districts throughout Monterey County.
- F2** NCFPD tax revenue was drastically reduced when Duke Energy sold the decommissioned Moss Landing Power Plant.
- F3** In 2018, NCFPD annexed Monterey Regional Waste Management and Monterey One Water property with increased risk but no increase in tax revenue.
- F4** In 2020, NCFPD laid off six firefighters and considered closing one fire station due to budget constraints.
- F5** Voters in NCFPD had to enact a special assessment fee in 2021 to avert layoffs and station closures.
- F6** NCFPD fire stations are outdated and fire apparatus needs updating and/or replacement.
- F7** The number of service calls is similar between NCFPD and MCRFD. North County has only half the personnel and is responding with outdated equipment.
- F8** Automatic and mutual aid agreements alone are not sufficient to resolve fire coverage issues in the two districts.
- F9** Distinct differences of EMS services exist between NCFPD (EMTs) and MCRFD (Paramedics).
- F10** Though National Fire Standards recommend four firefighters per engine, NCFPD only staffs two and MCRFD three.
- F11** Consolidation could be supported if all stakeholders are actively involved in the planning process.
- F12** In consolidation, economies of scale (grant-writing, administrative costs, shared revenue, human resources) could benefit both districts.

RECOMMENDATIONS

R1 NCFPD and MCRFD hire an outside qualified consultant by December 31, 2022, to study the feasibility of consolidating the two districts.

REQUIRED RESPONSE

The following responses are required pursuant to Penal Code §933 and §933.05:
From the following governing bodies within 90 days:

- North County Fire Protection District
Findings: F1-12
Recommendations: R1 by September 30, 2022
- Monterey County Regional Fire District
Findings: F1-12
Recommendations: R1-by September 30, 2022

INVITED RESPONSES

- LAFCO
Findings: F1-12
Recommendations: R1

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

BIBLIOGRAPHY

- (1) Auditor.lacounty.gov "what is the Educational Revenue Augmentation Fund (ERAF) 02.15.2017
- (2) CaliforniaLocal.com "Monterey County Fire Districts Explained, A History," Dec. 5, 2021
- (3) "Demystifying the California Property Tax Apportionment System," March 2006, David Elledge, County of Santa Clara Controller-Treasurer.
- (4) dot.ca.gov 2017 Traffic Volumes: Route 101 (Central Coast)
- (5) ettfire.com Emerging Technology and Tactics, "Automatic versus Mutual Aid," 01.11.2018.
- (6) firerescue1.com 03.02.20, "Automatic and Mutual Aid, The Response Conundrum" by Robert Rielago.
- (7) LAFCO of Monterey County, "2020 Municipal Service Review and Sphere of Influence Study: Special Districts Providing Fire Protection in Unincorporated Monterey County, June 22, 2020.
- (8) Legislative Analysis Office, 03.02.2020, "Reconsidering AB8: Exploring Alternate Ways to Allocate Property Taxes."
- (9) Legislative Analyst's Office, "Excess ERAF: A Review of the Calculations Affecting School Funding," 03.6.2020.
- (10) montereyherald.com "Guest Opinion: Funding emergency facing North County Fire District," Grant Leonard, 04.17.2

APPENDICES

APPENDIX A: Distinctions between paramedics and EMTs

APPENDIX B: NCFPD Fire Apparatus Fleet Age

APPENDIX C: Sources of Revenue

APPENDIX A

MEDICAL RESPONSE SERVICES PROVIDED BY FIRE DISTRICTS

MCRFPD Paramedic Advanced Life Support	NCFPD EMT Basic Life Support
Administer medication, insert IV's, resuscitate patients, provide breathing support using tubes and ventilation devices	Stop external bleeding, administer CPR, stabilize patients
Training includes 1,200 to 1,800 hours of classroom, clinical and field internship	Training is 120 to 150 hours
Paramedics take the NREMT and National Registry Paramedic Cognitive exam	EMTs take National Registry of Emergency Medical Technicians (NREMT) exam

APPENDIX B

NCFPD FIRE APPARATUS FLEET AGE

Type of Vehicle	Purchase Year	Purchase Price	Life Span	Replace Year	Replacement Cost as of 2019
Brush Fire Engine	1988	\$ 107,570	20	2008	\$ 575,000
Fire Engine Pumper	1990	\$ 170,000	20	2010	\$ 575,000
Beach Rescue	1998	\$ 26,800	15	2013	\$ 65,000
Utility Pick Up	1998	\$ 25,693	15	2013	\$ 55,000
Command Vehicle	2004	\$ 22,545	10	2014	\$ 70,000
Fire Engine Pumper	1996	\$ 266,059	20	2016	\$ 575,000
Fire Engine Pumper	1996	\$ 170,000	20	2016	\$ 575,000
Command Vehicle	2006	\$ 37,145	10	2016	\$ 70,000
Utility SUV	2001	\$ 50,000	15	2016	\$ 75,000
Command Vehicle	2007	\$ 43,238	10	2017	\$ 70,000
Utility Pick Up	2002	\$ 45,000	15	2017	\$ 55,000
Command Vehicle	2008	\$ 22,545	10	2018	\$ 70,000
Water Tender	1995	\$ 280,511	25	2020	\$ 435,000
Bush Fire Engine	2001	\$ 200,271	20	2021	\$ 438,818
Bush Fire Engine	2001	\$ 200,271	20	2021	\$ 438,818
Fire Engine Pumper	2003	\$ 350,327	20	2023	\$ 575,000
Fire Engine Pumper	2003	\$ 350,327	20	2023	\$ 575,000
Heavy Rescue	2005	\$ 247,034	20	2025	\$ 400,282
Ladder/Pump Truck	2001	\$ 490,310	25	2026	\$ 850,500
Water Tender	2004	\$ 192,629	25	2029	\$ 435,000
Fire Engine Pumper	2010	\$ 435,000	20	2030	\$ 575,000
Total Apparatus Replacement Costs:					\$ 7,553,418

APPENDIX C

SOURCES OF REVENUE

Property Tax	Proposition 13 – 40% goes to special districts, allocation is set by law.
Sales Tax	Proposition 172, 9.13% goes to special districts. Fire districts allocate revenue.
Special Assessments	NCFPD voters approved an assessment in 2020 for NCFPD only, \$98/residential parcel.
Cannabis Tax	\$0.18/sq ft on cultivation, \$0.10/sq ft on nurseries, \$1.00/sq ft on manufacturing and retailers for MCRFD only
Grants	Beneficial for one-time purchases and improvements. Underutilized due to lack of resources to provide follow up administration.
Bonds	Can only be used for facility improvements and must receive approval by 2/3 of voters.
Insurance Reimbursement	Outsourced agency bills insurance for medical reimbursement.

EXCELLENCE IN ACTION: MONTEREY COUNTY'S EDUCATIONAL RESPONSE TO COVID-19

SUMMARY

The Monterey County Civil Grand Jury (MCCGJ) felt compelled to investigate Monterey County's educational response to Coronavirus Disease of 2019 (COVID-19) due to the persuasive concerns expressed by members of the public about the impacts of COVID-19 on students' mental health and students' academic learning loss. The eventual end of additional federal and state funding and the haste with which it must be used are also concerns.

The 2021/2022 MCCGJ conducted numerous interviews with staff members of the Monterey County Office of Education (MCOE) and other educators in Monterey County. Those interviews led to research into the many support services the MCOE provided to its 24 public school districts (135 schools) during the transition from in-person learning to distance learning in March 2020. School districts, teachers, and educational support personnel demonstrated initiative and flexibility in meeting the needs of students in the first years of the pandemic. The MCCGJ found that MCOE was proactive and instrumental in providing support and services to the school districts and other educational facilities in Monterey County.

MCOE played a leading role in the success of students and teachers by providing personal protective equipment (PPE) and professional development, ensuring technology was available to all, functioning as a central distribution center, increasing fiscal oversight of additional federal and state funding, creating a network to share information, and maintaining the operational capability of the MCOE during the pandemic.

GLOSSARY AND ACRONYMS

ADA	Average Daily Attendance
CDC	Centers for Disease Control

CDE	California Department of Education
COVID-19	Coronavirus Disease of 2019
ESSER	Elementary and Secondary School Emergency Relief fund
GEER	Governor’s Emergency Education Relief fund
LCAP	Local Control Accountability Plan
LEA	Local Education Agency (usually a school district)
LLMF	Learning Loss Mitigation Fund
MCCGJ	Monterey County Civil Grand Jury
MCHD	Monterey County Health Department
MCOE	Monterey County Office of Education
OES	California Office of Emergency Services
PPE	Personal Protective Equipment
SEL	Social Emotional Learning
WhatsApp	Message application for group chats

BACKGROUND

The MCOE was established more than 160 years ago by California’s Constitution. All counties are required to provide educational resources to the citizens of their cities and towns. The mission of the MCOE is to “provide leadership, support, and service excellence needed to prepare the diverse students of Monterey County for success.” With an annual budget of \$179 million, the MCOE provides a wide range of resources to support the 75,600 students and 11,000 school staff members in the county public schools.

The MCOE started planning in December of 2019 for COVID-19 and by January of 2020 was actively preparing for COVID-19’s impacts.

Schools normally have in-person instruction, defined as, “instruction under the physical supervision and control of a certificated employee of the local educational agency (LEA).” With a national emergency declared on March 13, 2020, due to COVID-19, in-person instruction stopped. Given the uncertainty of the impact of the COVID-19

pandemic, in-person instruction was not immediately allowable under state and local health orders and the transition to various online distance learning platforms began. Some schools began instruction through distance learning or online in late March 2020. The 2020-2021 school year started online and continued until May 2021, when LEAs were given the option to return to in-person instruction.

METHODOLOGY

The MCCGJ employed four methods of research:

- We reviewed publicly available documents, including those from the California Department of Education (CDE), the MCOE, and County school districts
- We interviewed members of the Board of Supervisors, MCOE staff, and district superintendents
- We performed internet searches for documents and news articles about COVID-19 and education in Monterey County
- We obtained and studied documents from MCOE, received a briefing from the MCOE Superintendent, and then toured the MCOE



DISCUSSION

Buildings Closed, But Schools Remained Open

COVID-19 severely impacted education in Monterey County. It was not just the quantity of changes that occurred, but also the speed at which they happened. California Governor Gavin Newsom declared a state of emergency on March 4, 2020; Monterey County Board of Supervisors declared a state of emergency on March 10, 2020; President Trump declared a national state of emergency on March 13, 2020; and Monterey County schools closed on March 16, 2020, with a planned reopening on March 31, 2020. However, Governor Newsom said on March 17, 2020, that schools might be closed to in-person learning until the end of the school year. Schools remained closed to in-person learning the rest of that school year and much of the next school year, until May 2021, when LEAs had the option to return to in-person instruction.

When schools transitioned from in-person education to distance learning, the MCOE, LEAs, teachers, staff, parents, and students all faced major challenges. The unexpected closure of schools impacted the physical, emotional, social, and educational environments of students, which resulted in behavioral health issues and learning loss. The Centers for Disease Control (CDC) reported that trauma in early life, like prolonged social isolation, unpredictable routines, economic hardship, housing insecurity, and grief over missed significant life events, can continue to impact some students' long-term psychological and physiological well-being throughout their lifetimes. Mental health professionals have identified increases in anxiety, depression, PTSD symptoms, suicidal ideation (thinking about or planning to take your own life), and substance abuse. Between March and October of 2020, the number of mental-health related visits to the emergency room increased by 24% for ages 5-11 and by 31% for ages 12-17 over 2019 numbers. The impacts of the switch to distance learning in March 2020 and throughout the 2020-2021 school year will be felt for some time, particularly by students.

To assist in the mental health recovery from the pandemic, the Little Hoover Commission recommends that "schools become hubs of mental well-being" and "centers of wellness." Schools have eyes on children and can identify mental and

behavioral issues and then coordinate and integrate data, services, and funding among mental health support providers. Using funding from the Children and Youth Behavioral Health Initiative, included in the Governor’s May revision to the 2021-2022 budget, schools can increase the number of school counselors, school psychologists, and school social workers.

Response To The Transition

School districts, teachers, classified staff, educational support personnel, and the MCOE met these challenges with initiative and flexibility. Educators, at all levels, went beyond their job descriptions to provide support and services to students and their families. Schools were used as food distribution centers, and COVID-19 testing and vaccination clinics. Schools invested in behavioral health support systems. Schools created new professional development for teachers to learn how to change from in-person to distance learning in one to two weeks. Some bigger school districts even provided clothing and housing. School districts and their schools stepped up in a tough situation to provide holistic student support, which included food, healthcare, academics, and mental health services.

Teachers had to undertake extensive online training to learn new software, such as Google Classroom, Canvas, and Zoom. Some teachers had to learn how to use new electronic devices. Professional development also included learning new teaching techniques for online instruction and about social-emotional learning (SEL), so that teachers could identify signs of needed support. To further support their students, 5,000 teachers voluntarily signed up for extra SEL training, which was offered by MCOE.



While teachers worked from home, the classified staff worked from school, which exposed them to greater risk from COVID-19. Food service workers distributed hundreds of thousands of free meals to students, including home deliveries, when necessary. The daily free and reduced-cost lunch program continued during school closures. Bus drivers moved supplies and made deliveries of food and lessons to student homes. Buses served as wi-fi hot spots. Eighty percent of Monterey County's Early Childhood Education Centers remained open to provide services when schools were closed. Whether due to COVID-19, competition from industry, or the law of supply and demand, these services were provided despite school districts reporting shortages of teachers, substitutes, mental health workers, and bus drivers.

Monterey County Office Of Education Responds To The Pandemic

MCOE provided school districts with resources and support, mental health services, and increased collaboration among community agencies to provide support and services. Not all districts needed the same resources, and larger school districts with more infrastructure and resources required less support from MCOE and could provide more resources independently to students. MCOE maintained continuity of operation during these first two years of COVID-19 while undertaking new initiatives, and met the needs of districts, teachers, students, and families. It produced a catalog of services that they could provide to support school districts during the crisis. MCOE's website offered a variety of resources, including information on free school meals, distance learning supports, mental health supports, and much more.

MCOE served as a central distribution point for PPE and information. It became the regional hub for PPE and coordinated with the CDE and the Governor's Office of Emergency Services (OES) to secure PPE. They distributed over 714,000 masks, gloves, hand sanitizer, and other PPE to schools. Within three days of school closure, a WhatsApp communication system was set up among district superintendents. MCOE gathered information from the CDC, CDE, and the Monterey County Health Department (MCHD) and shared it in weekly meetings with superintendents and instructional leaders and daily with small school districts.

MCOE created professional development to address issues of technology, social-emotional learning, English language development, and others. They produced 650 webinars, provided thousands of hours of virtual coaching, and had open “tech” hours. With the demand for behavioral health specialists increasing amidst a shortage of providers, MCOE followed its 2020-2025 Strategic Plan and priorities. Strategic Priority Three is, “All schools will promote the physical and mental health of their students...” The specific priorities are 3D, “Leverage and align community resources to meet student needs and social and emotional wellness,” and 3F, “Strengthen communication and collaboration between educators and outside organizations working on physical and mental health.”



One of MCOE’s biggest contributions to education during the pandemic was the creation of the Digital Equity Task Force. MCOE conducted a survey that showed in March 2020, 9,839 students did not have electronic devices and 11,291 students did not have internet access. That number was reduced by August 19, 2020, to 1,120 students without electronic devices and 1,082 with no internet. By the start of the 2020-2021 school year, both numbers were zero. This was accomplished by an extensive fundraising effort for technology, which raised \$2,659,960 from 26 donors with the goal of \$3,513,950. Federal funding made raising the rest of the funds a moot point. The first \$569,000 bought 1,300 devices. The six biggest donors were:

1. Monterey County \$1,000,000,

2. Bruce Taylor and Taylor Farms \$890,510,
3. Harden Foundation \$500,000,
4. Monterey Peninsula Foundation \$85,000,
5. Community Foundation for Monterey County \$30,000, and
6. Nancy Buck Ransom Foundation \$30,000.

Federal And State Funding

Substantial amounts of federal and state funding have been received by Monterey County schools to “prevent, prepare for, and respond” to the COVID-19 pandemic. Sixteen categories of allowable uses for any COVID-19 funding were identified by the federal government. The Coronavirus Act, Relief, and Economic Security Act, which includes the Elementary and Secondary Schools Emergency Relief (ESSER I) fund and the Governor’s Emergency Education Relief (GEER I) fund all passed on March 27, 2020, and the funds must be spent by Sept. 30, 2022. California received \$1.6 billion in ESSER I and \$355 million in GEER 1. Most of the GEER 1 funds went to special education. Monterey County schools received \$13,519,507 from these acts. There was also a federal learning loss mitigation fund (LLMF) of \$5 billion to support pupil academic achievement and mitigate learning loss related to COVID-19 school closures.

The Coronavirus Response and Relief Supplemental Appropriations Act, including ESSER II and GEER II, was passed on Dec. 27, 2020, and the funds must be spent by Sept. 30, 2023. California received \$6.7 billion in ESSER II and \$341 million in GEER II. Monterey County schools received \$62,595,419. Sixteen categories of allowable uses for any COVID-19 funding were identified by the federal government.

The American Rescue Plan Act of 2021, which included funding for ESSER III was passed on March 11, 2021; the funds must be spent by the end of the 2024/2025 school year. California received an additional \$98.7 million for homeless students, but most of California’s funding was for grants from the LLMF established by the State.

California received \$15 billion in ESSER III funding, and Monterey County received \$140,681,284.

At least twenty percent of a district's allocation of the GEER and ESSER funds must be reserved to address the academic impact of lost instructional time through implementation of evidence-based interventions. Allowable uses include summer learning, an extended school day, after-school programs, extended school year programs, mental health services and supports, and adoption or integration of SEL into the core curriculum and the school day. There is persuasive anecdotal evidence that learning loss took place, but no quantitative data because statewide California Assessment of Student Performance and Progress tests did not take place in 2020 or 2021.

Some school districts spent their funds on PPE, adding additional custodial staff, hiring learning acceleration specialists, securing mental health support staff, adding classroom aides, hiring more teachers to prevent mixed-grade classes, and creating extended learning opportunities. Some schools upgraded their heating and ventilation systems, installed contact-less water fountains, faucets, hand sanitizer dispensers, paper towel dispensers, and completed other physical plant improvements.

Monitoring all this spending has been MCOE. The MCOE has statutory oversight of school district budgets under Assembly Bill 1200, passed by the legislature in 1991. The MCOE Superintendent's major statutory responsibility is to provide fiscal oversight, and this encompasses reviewing and approving the financial status of district budgets, Local Control Accountability Plans (LCAP) and certifying reports. MCOE has made fiscal stability a strategic priority.

In its 2020-2025 Strategic Plan, Strategic Priority 5 states, "MCOE policies and systems will proactively and creatively align resources to support dynamic teaching and learning while remaining fiscally solvent." Priority 5A states that MCOE will "monitor financial information and provide direction to assist MCOE and all LEAs in maintaining fiscal stability." MCOE accomplishes this by monitoring the quarterly reports that go to the federal government, reviewing and approving Federal LCAPs that include the

federal funding which goes to the CDE before arriving at the federal government and holding regular discussions about allowable expenses.

Accountability is achieved with the use of State templates, accountability checklists, additional documentation to the federal government, and MCOE's constant oversight. MCOE provides an official review letter with each submission of an adopted budget, 1st interim budget, 2nd interim budget, and end-of-the-year unaudited actuals. An official review letter from the MCOE Business Services Department accompanies the return of a school district's financial report and provides guidance and identifies areas of concern. In addition, there is a yearly audit by an independent agency. Transparency is maintained through public stakeholder meetings on LCAP and its passage at an open board meeting. Audits and budgets are public documents and are accepted and approved in open board meetings.

Concern has been expressed about two financial issues: the end of the federal funding and the drop in Average Daily Attendance (ADA). Although attempts are being made to extend the deadline to the end of 2024-2025 school year for the expenditure of COVID-19 funding, that is not a certainty. MCOE has made it clear to districts that those temporary revenues should not be used for permanent expenses. However, after four years of extra funding, it will come to a stop at the same time as school districts are experiencing a drop in ADA. County-wide ADA has dropped 10% over last year, with some districts dropping as low as 5% or as high as 18%. Since ADA generates most of the revenue for school districts, the matter is of concern. The combination of the end of the federal emergency funding with the drop in ADA while students still need behavioral intervention services and learning loss mitigation is problematic.

MCOE Leadership

In December of 2019, MCOE started planning for the pandemic, and by late January or early February of 2020 it was actively preparing for it. The Monterey County Superintendent of Schools provided critical proactive educational leadership in the early days of the pandemic. By establishing the WhatsApp network within three days of school closure, the superintendent provided essential information from the CDC, the CDE, and the MCHD. The information was shared on a weekly basis with district

superintendents. Superintendents could now collaborate on shared issues and best practices with confidentiality.

The superintendent initiated a survey to identify needed technology and then created a Digital Equity Task Force on April 9, 2020, with over 40 representatives from education, industry, and information technology to meet those needs, primarily lack of technology and access to the internet across the County. The superintendent immediately started fundraising with a goal of \$3.5 million to provide almost 10,000 students with devices. The fundraising team raised \$2.6 million before federal funding arrived.

Under the superintendent's leadership, MCOE maintained continuity of operation while taking on additional tasks of increased financial monitoring, becoming a distribution hub, creating new professional development for teachers and staff, fundraising for technology, and serving as a communication center.

FINDINGS

- F1** Educators and classified staff in Monterey County are to be commended for their initiative and flexibility in meeting the challenges of COVID-19. From the MCOE Superintendent to the newest part-time classroom aide, county educational employees went beyond their job descriptions in meeting the needs of students and their families during the pandemic.
- F2** The Monterey County Superintendent of Schools is to be commended for proactive leadership in a time of crisis. Without such leadership, Monterey County's educational response to COVID-19 would have been inadequate.
- F3** MCOE is to be commended for maintaining continuity of operations while increasing support services for school districts under the most challenging of circumstances.
- F4** All the donors who contributed to the Digital Equity Fund are to be commended for their generosity.
- F5** Administrators, teachers, and information technology staff in Monterey County are to be commended for making great strides in providing remote learning devices and solving internet access problems during the COVID-19 pandemic.
- F6** MCOE is working with all school districts to assure fiscal accountability and stewardship of the public's education dollars.

- F7** MCOE's service departments continue working diligently to provide support, guidance, training, and resources for all members of Monterey County's educational community.
- F8** Despite a lack of preparedness at many levels of government, MCOE, school districts, and staff responded to the impact of the pandemic in a timely manner.
- F9** Monterey County successfully expanded internet connectivity due to the efforts of MCOE, industry partners, grant institutions, the Digital Task Force, and school district investment in technology.
- F10** There is increased collaboration and coordination among agencies that provide services and support, including the MCOE, Monterey County Behavioral Health, the Monterey County Health Department, internet partners, school districts, support providers, and community groups.
- F11** Administrators, teachers, parents, and students are all extremely concerned about students' social-emotional issues arising from COVID-19.
- F12** Administrators, teachers, parents, and students are concerned about the learning loss that took place during the 2020-2021 school year. There is an urgent need for mitigation of such a loss.
- F13** There is the potential for significant fiscal disruption with the continuing loss of ADA and the end of additional federal funding occurring at the same time.

RECOMMENDATIONS

- R1** School districts maintain a minimum level of one behavioral support staff member at each school site until the end of the 2025-2026 school year.
- R2** School districts maintain learning loss mitigation programs and extended learning opportunities until the end of the 2025-2026 school year.
- R3** MCOE should continue to closely monitor district LCAPs and budgets for the impacts of ADA loss and the end of emergency federal funding.
- R4** MCOE be forward thinking about its emergency plans.
- R5** MCOE should establish partnerships and internships with CSU Monterey Bay, MCBH, and industry partners to increase the number of mental health workers, teachers, substitutes, and bus drivers

REQUIRED RESPONSES

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

From the following governing bodies within 90 days:

- Monterey County Board of Education
Findings: F1, F3-F13
Recommendations: R1-R5

- County school district boards of trustees:
Findings: F1, F5, F8-F13
Recommendations: R1-R2
 - Alisal Union School District
 - Big Sur Unified School District
 - Bradley Union School District
 - Carmel Unified School District
 - Chualar Union School District
 - Gonzales Unified School District
 - Graves School District
 - Greenfield Union School District
 - King City Union School District
 - Lagunita School District
 - Mission Union School District
 - Monterey Peninsula Unified School District
 - North Monterey County Unified School District
 - Pacific Grove Unified School District
 - Salinas City Elementary School District
 - Salinas Union High School District
 - San Antonio Union School District
 - San Ardo Union School District
 - San Lucas Union School District
 - Santa Rita Union School District
 - Soledad Unified School District
 - South Monterey County Joint Union High School District
 - Spreckels Union School District
 - Washington Union School District

INVITED RESPONSES

- Monterey County Superintendent of Schools
Findings: F1-F2, F4

BIBLIOGRAPHY

Californian. May 25, 2020

California Grand Jury News, "How did distance learning impact Mendocino County students/ The Civil Grand Jury took a look," September 1, 2021, page 1 to 4.

King City Rustler, November 2020.

KION News. Feb. 23, 2021.

Little Hoover Commission, Report # 262, Aug. 2021. "COVID-19 and Children's Mental Health: Addressing the Impact."

Mendocino County Grand Jury 2020-21 Report, "Mendocino County's Distance Learning: Problems and Productive Aspects," July 26, 2021, pages 71 to 90.

Monterey Bay Parent, Aug. 19, 2020

Monterey County Civil Grand Jury Report 2011-2012. "Monterey County Office of Education.

Monterey County Civil Grand Jury Report 2017-2018, "School Boards Make a Difference; Improving Education: The Role of Local School Boards", June 25, 2018, pages 71 to 92.

Monterey County Office of Education. *2020-21 Annual Report to the Community*, Superintendent's Office, Monterey County Office of Education.

Monterey County Office of Education. Communication Plan for COVID-19. April 25, 2020.

Monterey County Office of Education. 2020-2025 Strategic Plan, May 2021.

Monterey Herald. June 28, 2021

Monterey Herald. Nov. 30, 2020. "Youth Mental Health: The pandemic's toll on our kids."

Monterey Weekly, September 3, 2020, "The digital divide and widening educational gap is laid bare in a picture."

Santa Cruz Grand Jury Report 2020-2021, "Distance Learning During the Pandemic in the Pajaro Valley Unified School District; Successes, Pitfalls and Plans for Future," June 17, 2021, pages 103 to 116.

Santa Cruz Civil Grand Jury Report 2020 – 2021, “Turn On, Tune In, and Drop Out; Broadband Access in Santa Cruz County,” June 22, 2021, pages 61 to 71.

www.cde.ca.gov

www.montereycoe.org

Websites of various county school districts

MONTEREY COUNTY'S CANNABIS INDUSTRY UP IN SMOKE



SUMMARY

Monterey County's decision to legalize recreational cannabis in 2016 led to the rapid rise of the new industry, making Monterey County one of the state's leading producers of legal cannabis. New cannabis taxes on cultivation, production and processing have been a boon to county agencies and non-profit organizations. Millions of dollars in new revenue have paid for everything from police radios to a new Monterey County Free Library bookmobile. The value of cannabis produced in 2021 makes it the third most valuable agricultural product in Monterey County, estimated at \$484 million.

The haste in launching legal cannabis production has left lapses in transparency, oversight, and analysis that need to be addressed. There is no comprehensive, consistent reporting on the entire county cannabis tax revenue and spending. Information is scattered among numerous sources and reports. It would be a challenge for any citizen to review the program's finances and impact.

One-time allocations of cannabis tax revenue are done on an ad-hoc basis throughout the year by the Board of Supervisors (BOS), without clear policy direction or

MIXED LIGHT INDOOR GROW



a process for initiating and evaluating cannabis funding requests. No economic development analysis has been conducted to determine how well the program has met goals, the prospects for cannabis production, and jobs created.

At the start of this investigation there had been no evaluation of the effectiveness of the county's new cannabis regulatory apparatus and whether it is at an appropriate level and cost for the size and complexity of the cannabis industry. In March 2022, the BOS received a study of the county's regulatory process. Large, illegal marijuana growing operations in Monterey County and the rest of California continue to thrive and compete with the legal cannabis industry.

The Monterey County Civil Grand Jury calls for more comprehensive and regular reporting to the public on all aspects of the county's cannabis program. It should include

cannabis tax revenue, economic development impacts, and concise allocation reporting.

GLOSSARY

AUMA	Adult Use of Marijuana Act (2016)
BOS	Monterey County Board of Supervisors
CAF	Cannabis Allocation Fund
CAO	County Administrative Officer
CCA	California Cannabis Authority
CCC	California Cannabis Commission
CCGA	California Cannabis Growers Association
CCTT	California Cannabis Track and Trace
CP	Monterey County Cannabis Program
CTF	Cannabis Tax Fund (Cannabis Assignment Fund)
FTE	Full-time Employee
MCCGJ	Monterey County Civil Grand Jury
NAFTA	North American Free Trade Agreement (1994)
UCDAIC	UC Davis Agricultural Issues Center

BACKGROUND

In the 1970 Controlled Substances Act, the Federal Government classified Marijuana and any cannabis derivative as a Schedule 1 Narcotic—no medicinal value to the drug—despite its heavy use since the early 1800’s for a substantial number of health issues.

In 1996, California became the first state to allow medicinal cannabis when voters passed Proposition 215, the Compassionate Use Act. Twenty years later (2016), California voters approved legalization of recreational cannabis with the passing of Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (Prop 64).

On July 12, 2016, the BOS adopted inland zoning regulations establishing criteria for issuing local land use permits pursuant to the Medical Marijuana Regulation and

Safety Act (“MMRSA”) [Ordinance Numbers 5270]. Following the adoption of these ordinances BOS created the Cannabis Committee and regularly appoints two members of the BOS to serve on it.

On July 19, 2016, the BOS adopted ordinances establishing criteria for issuing local business permits pursuant to the MMRSA for commercial cultivation operations and activities [Ordinance 5272].

On November 8, 2016, the Monterey County voters approved Measure Y, the commercial cannabis tax for unincorporated Monterey County, and the Salinas City voters approved Measure L, the commercial tax for the city. Taxation for the cannabis Industry has three levels: state, county, and city. (See Appendix C)

State of California

The State of California created a framework for individual county cannabis programs guiding them through a myriad of state requirements, regulations, and taxation. Licensing and regulation were spread across four state agencies: Department of Food and Agriculture for cultivation, Department of Public Health for manufacturing and the Bureau of Cannabis Control partnering with the Department of Consumer Affairs for distribution, testing, and retailing. At this time, the State has combined the activities of the four agencies into one, The California Cannabis Authority (CCA). The statewide regulations establish guidelines under which local jurisdictions can (but are not required to) set their own additional taxes and regulations on cannabis businesses. As of Feb 1, 2022, 31 of 58 California counties have some form of active cannabis production, predominately cultivation. (See Appendix E)

Regulations pursuant to the law were initially issued through a series of emergency/temporary rules. Final regulations came into effect in January of 2022 (though many licensees continue to operate under provisional licenses as they work through the labyrinth of full permits).

At harvest time (which can be 4-6 times per calendar year), growers are required to pay the state a cultivation tax based on the gross weight of their harvest, currently

\$160/pound. Testing for impurities and product strength is required for any cannabis product marketed legally in California, an additional \$146/pound, at state licensed facilities. The entire harvest is held at a secure facility until the testing results pass or are rejected, subsequently accepted, or the entire shipment is rejected.

California Cannabis TRACK and TRACE (CCTT) is a system utilized by the State to track cannabis from seed to plant to purchase to disposal. The process tags each plant clone and follows through whatever process the crop goes through. Information is entered into a tracking database and updated whenever any process is performed on the clone product tag. This would include any refinement of the product through to the final sale to the end consumer.

If a cannabis product is either sold to another business or to a consumer direct from the provider, business taxes are collected from retailer and consumer. Manufacturing business taxes are currently 4.5% gross receipts, distribution business taxes are currently 4% gross, testing laboratory taxes 1% gross, dispensary business taxes are currently 4.5% of gross for the year.

Any county establishing a Cannabis Program must register and pay dues to the California Cannabis Authority (CCA). Each cannabis Industry business must also apply for a Cannabis Business License to operate within state boundaries. Monterey County currently pays \$50,000 per year. (See Appendix D)

Monterey County

In 1994, with the passage of the North American Free Trade Agreement, the local cut flower industry was gutted when jobs were shipped to Mexico. Hundreds of flower greenhouses in Monterey County closed permanently. Over nine million square feet (about the total floor space of the Pentagon) of greenhouses were abandoned and left vacant. Based on the permit taxes collected in 2021, the MCCGJ estimates that around 3 million square feet of greenhouses have been put into operation for cannabis cultivation. When Monterey County voters approved the cannabis measure in 2016 to allow cannabis production within the county's boundaries, the Board of Supervisors

hoped it would produce a significant economic redevelopment for the lost industry, both in jobs and capital improvements to the properties, increasing property taxes as well.

The Monterey County Cannabis Program (CP) was established in 2016, building the necessary government regulation structure. A program director and 5 FTEs staff the program. The CP has grown in five years to 28 FTEs spread among 10 county agencies. This number includes other department positions needed to enforce the regulations in the industry. (See Appendix A) The budget for 2021-22 is \$6.334 million, one third of all yearly cannabis tax revenues collected. Analysis by the MCCGJ found that \$69.4 million in total cannabis tax income has been collected since the program began. (See Appendix C)

SOURCE: MONTEREY COUNTY CANNABIS PROGRAM



The CP's Marijuana Eradication Team yearly reports search warrants and abatement activities. Anticipating a sizable influx of new cannabis tax revenue.

Monterey County surveyed residents of the county where this windfall should be spent, providing a priority and broad conceptional direction for future tax revenues.

In 2021, delinquency on permit fees which stood at 19%, has dropped to 12%. When cannabis businesses fall behind on their permit and tax duties, they often pull up their product and disappear into the night.

Permit Tax

Annual costs for required business licenses range from \$135 to \$8,665. Permit fees for actual cultivation are based on the type of growing facility as well as square footage of the growing area. Mixed outdoor/indoor lighting rate is \$5 per square foot. Total indoor lighting \$7/square foot, outdoor nursery (no artificial lighting) \$1/square foot. The regulations are so strenuous for outdoors, no one has applied for a license. The fees are due at the time the license is applied for (long before any crop has been planted) and are processed in 10,000 square feet allotments. A new company requires a minimum of \$500,000 in start-up costs before cultivation can even begin. Many counties have adopted the approach of charging a percentage of gross receipts, which allows the growers to hold off paying the tax until they sell their product.

Oversight/Inspections

Each cannabis operation, whether grower, processor or other, is subject to no-notice inspections by a five-member team each month. The inspections cover everything that can be imagined for an agricultural concern but also many issues related to a heavy industrial concern. Inconsistent inspection findings cloud improvements that are warranted. Chemicals used in processing centers are also highly regulated both for safety and concentration in finished products.

Waste Disposal

Any by-product or waste product (including the root ball and soil) or any other vegetable matter not used is required to be transported by a state-licensed cannabis transport company to a state licensed waste facility. This inert vegetable matter cannot be added to landfills but must be mixed with cat litter for special disposal. Even the size

of the waste product accumulation, ready for disposal, is regulated. Though water used in processing is strictly regulated as well, the cannabis industry has learned techniques that limit runoff or excess watering.

Air Filtration

Cannabis industries are required to have state-of-the-art charcoal-based air scrubbers to prevent cannabis odor escaping from the facility. Monterey County has chosen to issue permits to cultivation sites in unincorporated areas of the county, far from residential neighborhoods.

Fire Permits

Fire departments, over fears of spontaneous combustion of the drying plants (though not a property of harvested cannabis), require fire sprinkler systems in drying facilities. The cost is much more than just putting in an automatic fire sprinkler system; it may also require structural upgrades of the facility. Many small cultivators have had to contract their drying operations to a third party, raising costs for producer and customer. One county fire protection district also charges a separate surcharge on cultivation square footage to pay for added fire inspectors.

Capital Improvements

The changes require rehabilitating existing, rundown greenhouses into productive facilities, increasing property values. Cannabis operations are often required to upgrade from portable to permanent restrooms. The access roadways to the facility also require upgrading. These improvements are driving increased property tax revenue for the county.

Subsequently reassessed property taxes increased dramatically. The work required for these improvements for Cannabis cultivation does not qualify for an exemption from the Williamson Act Agricultural Preserve due to not meeting the minimum requirement of 100 acres.

Incorporated Cities

When AUMA (Adult Use of Marijuana Act) passed, cities were told they could individually opt to allow or disallow cannabis businesses within their city limits. Some cities welcomed the income from the sales tax against the cost of enforcement. Others have not, but by state law, cities cannot outlaw delivery of cannabis products by state licensed delivery businesses within their jurisdictions. Sales of unlicensed (illegal) cannabis have no limits. Illegal or black-market cannabis outgrows legal cannabis four-fold, gutting the market, lowering the price of the product.

METHODOLOGY

- 1) Conducted interviews with the Monterey County Cannabis Program, CAO office, the industry's California Growers Association, staff from the County Treasurer's Office, Auditor-Controller, and members of the BOS.
- 2) Reviewed county documents and websites for budgets, regulations, annual reports, and consultant studies.
- 3) Toured a cultivation farm, a regional drying shed/processing center, and a processing plant in the Salinas area.
- 4) Reviewed other County Cannabis Program websites.
- 5) Articles were gathered from the UC Davis Agricultural Issues Center and news media stories (San Francisco Chronicle, Monterey Herald, Monterey County Weekly, the Carmel Pine Cone weekly newspaper).

DISCUSSION

In interviews with various Monterey County officials, the MCGGJ learned that one of the most significant new sources of revenue for the county was the new cannabis tax, specifically the new tax on cultivation. In just a few years, cannabis production had grown into a crop with a market value of \$484 million in 2021, according to the County Agricultural Commissioner. That makes cannabis one of the top three most valuable crops in the county. Monterey County ranks as the fourth largest legal producer in the state.

Curious about this new industry and the taxes generated, the MCCGJ began looking into how this tax was collected and where it was being spent. It quickly became apparent that even the most basic questions about the CTF were difficult to answer.

While the County discloses considerable information, which the MCCGJ finds commendable, we admonish the County for this information is not collected in one location. We could find no comprehensive report or reports that would answer most of our questions on cannabis tax collection and spending, and there is no standard reference term for the fund. Cannabis Allocation Fund, Cannabis Tax Fund, Cannabis Contingency Fund, Cannabis Reserve Fund were terms used interchangeably.

Annual county budgets contained broad outlines of cannabis taxes collected, monies spent and forecasts for upcoming years, although much of the information was buried inside larger documents. To find details of exactly where those monies were spent required drilling into a maze of different reports in various locations.

There is information about cannabis financials in county budget reports, forecasts, and various attachments to budget reports. The Cannabis Program posts some information on its web site and issues periodic reports to the BOS, but finding those reports requires digging through past BOS agendas. The Monterey County Agricultural Commissioner issues reports on cannabis production that contain additional information. The Tax Collector/Treasurer provided information that enabled the MCCGJ to determine the deposits in the CTF. BOS actions at public meetings offer details about specific, one-time allocations from cannabis revenues.

Gaining a thorough understanding of one year of cannabis spending requires searching through at least a half dozen county sources for information and reports. Still, some questions remain unanswered.

The MCCGJ also found missteps in determining initial tax rates for growers. The county commissioned a study in 2015 that concluded the County could levy a tax of \$25 per square foot on mixed light cultivation, which is the main method used in greenhouses in Monterey County. However, when the County put a ballot measure

before voters asking for approval of cultivation, it called for a lower initial tax of \$15. The measure said the rate would increase by \$5 a year until it reached \$25. Voters overwhelmingly approved the ballot measure.

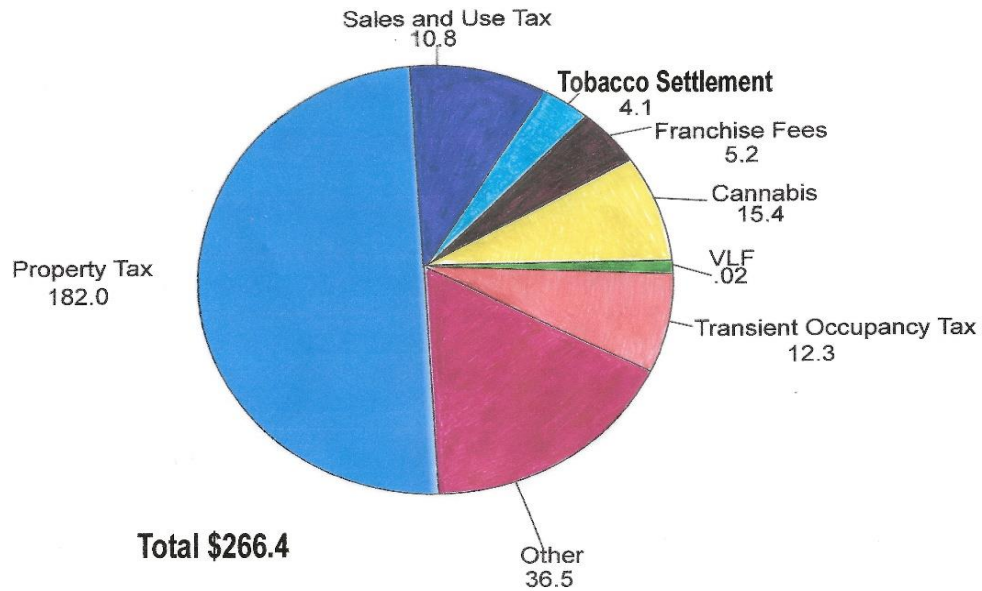
Instead of raising the rate from the initial \$15, the BOS has repeatedly decreased it. Growers lobbied for reductions, arguing that they faced powerful competitive pressures, including from illegal growers, that were driving down cannabis prices. From the initial \$15, the rate was reduced to \$8, then \$5. As of March of 2022, the BOS reduced the rate again to \$3. If the square footage permitted remains unchanged, this will result in a reduction of cannabis revenue of \$6,684,849 for 2022. Cannabis Program operational costs, which licenses and regulates cannabis, would engulf half of all cannabis taxes collected.

The BOS has not undertaken an analysis of why the original \$25 tax rate was so far off the mark, what the appropriate rate might be in the future, or how it will deal with the volatility of the cannabis industry.

The ad-hoc nature of setting tax rates is carried over into some of the spending process that is part of the convoluted cannabis tax system. County terminology for revenue and spending may create some confusion. All cannabis tax revenue is considered discretionary, which suggests it is treated differently from other spending on things like ongoing operations. In fact, the County budget describes nearly half of the General Fund budget (\$266 million in 2021-2022) as “discretionary.” The biggest source of this discretionary revenue is property taxes. The second biggest source over the past few years has been the cannabis tax.

SOURCE: MONTEREY COUNTY FINANCIAL FORECAST FOR FISCAL YEAR 2021-22

2021 General Fund Estimated Non-program (Millions of Dollars)



MCCGJ has attempted to determine revenue generated by cannabis taxes and allocations of said monies. There is no requirement to spend all revenue collected in the CTF each calendar year but reconciling what came in and what was allocated is extremely difficult to track down and put together.

The CTF generated \$20.4 million in 2021, and this was promptly deposited in the county's General Fund, where all monies collected go initially. Cannabis funds are spent two ways. First comes the cost of the regulatory structure – 28 FTEs. What remains is available for one-time allocations. BOS allocates the CTF discretionary funds to address the concerns of the community.

The analysis of the MCCGJ has determined that the CTF has collected \$69.7 million since its inception. The Cannabis program budget plus the documented allocations since 2016 total \$61.7 million with a remaining amount of \$8 million. The

rolling balance at the end of each year or its current balance was not provided to the Grand Jury. The cannabis tax revenue has grown into the second largest tax source for the County general fund. (See Appendix C)

The sprawling regulatory framework needs to be re-examined. The battery of inspections and requirements and the high regulatory burden placed on the newborn cannabis industry make it difficult for cannabis businesses to thrive. Growers complain that the battery of inspections and requirements places a high regulatory burden on the nascent cannabis industry. There is no standard inspection form that covers all regulations and requirements for the industry. The regulations, taxes and fees make it difficult for cannabis businesses to thrive, they say, especially with the recent fall in cannabis prices. Some cannabis greenhouses are closing their doors, pressured by the high cost of doing business and the falling prices that cannabis commands. A pound of product that sold for \$1,600 in 2020 was going for less than \$500 in 2021.

Monterey County has no limit on the number of cannabis licenses. In Montana, where only medical marijuana is allowed, the state ties the number of cultivator permits issued to a calculation of the capacity that the market can bear.

The Cannabis Program makes an annual presentation to the BOS, which includes a document listing many one-time allocations since 2017, although individual outlays are sorted by category (like health or education) rather than by year. This document lists \$3.4 million for 2021 and \$38.8 million in total allocations from the CTF since 2017.

One-time allocations of Cannabis revenue have included \$20,000 for a Prunedale senior center, \$158,740 for a Salinas homeless shelter, \$250,000 for a Salinas soccer center and \$929,000 for an emergency women's shelter. At the height of the pandemic, the BOS allocated \$16 - \$18 million from the CTF on measures to help deal with the crisis, including \$500,000 to the Food Bank for Monterey County and almost \$3 million for a community outreach program to provide vital coronavirus information to vulnerable and limited-English-speaking populations.

The MCCGJ could find no clear, consistent process for how these award requests get before the BOS. Sometimes it seems to be a “squeaky wheel” process, in which a community group or County agency that manages to get the attention of a supervisor can advance its request.

The agencies that inspect and review cannabis operations like the Health Department and the Agricultural Commissioner receive funds from the CTF. Money also goes to the Sheriff’s Department and the District Attorney to help fight illegal marijuana operations. Legalization was expected to undercut the illegal trade. But one effect appears to be an increase in the amount spent on policing illicit marijuana operations. As the MCCGJ was wrapping up its investigation, the BOS released a study (Feb. 2022) by City Gate Associates “Organization Review of the Current Cannabis Program, County of Monterey” at a cost of \$200,000, financed by the CTF. This study supports many of the findings of MCCGJ. In particular, the study found problems in the fragmented approach to regulation. The study also documented the difficulty in the permit process, sometimes taking years to complete the permit request. The study cited Resource Management Agency (Now Housing and Community Development) as a significant bottleneck.

While tracking cannabis taxes and spending was difficult, determining the economic impacts of the new cannabis industry was impossible. One of the primary stated reasons for legalization was economic development, but the county has done nothing to examine the economic impacts.

EXAMPLE OF MIXED LIGHT FACILITY



One economic goal was to revive idled greenhouses that had previously been used to grow flowers. We could find no inventory of how many closed greenhouses existed before legalization, or how many were repurposed by cannabis growers. We could find no accounting of how much additional property tax these repurposed greenhouses generated. Nor could we find any reckoning of how many jobs have been created and how much income these jobs created.

Significantly, the County had no economic development manager during the first five years of the cannabis cultivation program. The County finally hired an economic development manager in November 2021. We would expect the economic development manager to answer these questions, since cannabis production has been touted as one of the most significant economic development projects in unincorporated Monterey County.

Monterey County's cannabis industry got off to a fast start after voters approved cultivation. But it has hit some speed bumps recently. Residents who want to better understand this new industry, its impact on the County, and the prospects for the future need better and more easily accessible information. This action would establish Monterey County as a trailblazer among the State's counties in reporting the impact cannabis has in their communities.

FINDINGS

- F1** The estimated price for finished cannabis product dropped from \$1,600 per pound in 2020, to under \$500 per pound in 2021, due to a glut in the state cannabis supply.
- F2** The major source of cannabis revenue in Monterey County comes from assessed square footage of cultivation.
- F3** Growers paid around \$19 million in assessed taxes in 2021. An additional \$1.4 million in taxes were collected from other cannabis businesses, including dispensaries processors, quality assurance testing, delivery, transportation, and disposal.
- F4** In the past five years, just under \$70 million has been collected in Cannabis tax revenues.
- F5** Even with the glut of cannabis on the open market, Monterey County is still actively processing a nine-fold increase of provisional licenses over the active/complete licenses.
- F6** County FTEs (staff) have increased from 6 to 28 in fiscal 2021-22 involving multiple agencies that regulate, inspect legal cannabis, and enforce the eradication of illegal cannabis in the County.
- F7** The County Cannabis Program is the county regulatory infrastructure with a budget of \$6.3 million, a third of the cannabis tax revenue in 2021.
- F8** Consumers also pay state Sales Tax, state Excise Tax, and county or city sales taxes which results in a four-fold increase in price compared to unlicensed/illegal cannabis.
- F9** Allocation of the Cannabis Tax/Assignment Fund (CTF) is difficult to track. The increase of property values due to requirements of the Cannabis Program has not been available to the public.

- F10** To help the passage of AUMA, the Board of Supervisors stated the new industry would bring new economic development and jobs to counter losses from NAFTA twenty-two years prior.
- F11** Monterey County did not hire an Economic Development Manager and staff until November 2021, five years after the Cannabis Program was established. The number of new jobs remains unknown.
- F12** Many inspections do not operate in a consistent manner nor with a standardized check list.

RECOMMENDATIONS

- R1** Require the Monterey County Cannabis Program to provide a comprehensive annual report detailing all CTF revenues, allocations, and reserves. This report should include detailed information including budget and distributions to community service agencies. The Cannabis Program must publish its annual report on their website. Implementation by December 31, 2022.
- R2** Revise Monterey County Cannabis Program webpage to include easy-to-follow directions for accessing revenues and expenditures. Implementation by December 31, 2022.
- R3** Monterey County to monitor and report on improved property value and tax re-assessment due to Cannabis Compliance Regulations. Implementation by December 31, 2022.
- R4** Direct the Economic Development Manager to complete a study on new jobs created by the cannabis industry and its impact on the local economy. Implementation by June 30, 2023.
- R5** Include in the Cannabis Program annual report, an accounting of all FTEs funded by the CTF. Implementation by December 31, 2022.
- R6** Cannabis Program adopt a consistent process for inspection and check list. Implementation by December 31, 2022.

REQUIRED RESPONSES

Pursuant to Penal Code Penal Code §933 and 933.05, the Civil Grand Jury requests responses:

From the following elected county officials within 60 days:

- Auditor-Controller:
Findings: F1-F12
Recommendations: R1-R6

- Assessor/Clerk-Recorder:
Findings: F1-F12
Recommendations: R1-R6

From the following governing bodies within 90 days:

- Monterey County Board of Supervisors
Findings: F1-F12
Recommendations: R1-R6

INVITED RESPONSES

The following responses are invited responses and not required by law:

- Monterey County Cannabis Industry Association:
Recommendation: R1-R6
- Monterey County Cannabis Program Manager
Findings: F3, F4, F5, F7
Recommendations: R1-R3, R5-R6
- Monterey County Economic Development Manager:
Findings: F11
Recommendation: R4

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Civil Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.
--

BIBLIOGRAPHY

Monterey County Cannabis Program Webpage:

<https://www.co.monterey.ca.us/government/departments-a-h/administrative-office/intergovernmental-and-legislative-affairs/cannabis-program#mcp>

Santa Cruz County Cannabis Program Webpage: <https://www.sccocannabis.us/>

Yolo County Cannabis Program Webpage:

<https://www.yolocounty.org/government/general-government-departments/community-services/cannabis#:~:text=Yolo%20County%20Cannabis%20Program%20Overview%20In%20March%202016%2C,cannabis%20up%20to%201%20acre%20of%20garden%20canopy.>

UC Davis Project with articles on “Cannabis”:

<https://calag.ucanr.edu/archive/?article=ca.2019a0021>

San Francisco Chronicle newspaper

Monterey Herald newspaper

Monterey County Weekly newspaper

The Carmel Pine Cone weekly newspaper

California State Cannabis Portal: <https://www.counties.org/california-cannabis-authority>

California Cannabis Growers’ Webpage: <https://calgrowersassociation.org/>

Annual Cannabis Program presentation to the Monterey County Board of Supervisors

City Gate Associates “Organization Review of the Current Cannabis Program, County of Monterey.” (Feb. 2022)

APPENDICES

(MCCGJ found it to be challenging to gather these figures which were derived from many diverse sources)

Appendix A: Monterey County Budget from CTF

Appendix B: Cannabis Tax Burden Chart

Appendix C: Cannabis Law Timeline and Regulations

Appendix D: Cannabis Program Revenue and Expenditures

Appendix E: List of California counties that allow Cannabis production

APPENDIX A: MONTEREY COUNTY BUDGET FROM CTF

2021-2022		FTE	Staff Costs	Dept Total
Other Allocations Financed by Cannabis†		2.00	\$216,214.00	\$546,214.00
	Ag Commissioner	2.50	\$328,585.00	\$384,035.00
	Auditor Controller	1.00	\$184,997.00	\$184,997.00
	CAO Program	5.00	\$711,082.00	\$1,291,160.00
	CAO Finance	1.00	\$99,487.00	\$99,487.00
	CAO Membership	0.00	\$0.00	\$273,000.00
	CC	1.00	\$252,549.00	\$252,549.00
	DA	3.50	\$806,724.00	\$806,724.00
	Health	5.25	\$791,050.18	\$1,346,050.18
	HCD (Housing and Community Development)	3.00	\$410,999.00	\$410,999.00
	Sheriff Office	2.00	\$531,730.00	\$794,566.00
	TTC	1.98	\$279,015.00	\$393,482.00
	DSS	1.00	\$97,372.00	\$97,372.00
Total FY 21-22 Recurring Expenditures		27.23	\$4,493,590.18	\$6,334,421.18

APPENDIX B: CANNABIS TAX BURDEN CHART

Tax	Tax/gram	Tax/ounce	Tax/pound
Flower Price to Grower	\$1.000	\$28.38	\$454.00
Local Canopy Tax - Nursery & Cultivation @ \$265,000	\$0.08	\$2.25	\$36.03
License Fees 8 Licenses @ \$79,055	\$0.03	\$0.79	\$12.65
State Cultivation Tax @ \$10.08/oz	\$0.36	\$10.08	\$161.28
Distribution Tax @ 3% Gross Revenue	\$0.04	\$1.24	\$19.91
Excise Tax (27% = 15% with 80% markup)	\$0.41	\$11.53	\$184.52
Total to Farmer	\$1.00	\$28.38	\$454.00
Total to Local and State Governance	\$0.91	\$25.90	\$414.35
Wholesale price to retail	\$1.91	\$54.25	\$867.95
Retail Price to Consumer (2X markup)	\$3.83	\$108.49	\$1,735.89
Sales Tax (9.25%)	\$0.35	\$10.04	\$160.57
Customer Pays	\$4.18	\$118.53	\$1,896.47
		Total Tax	\$574.92
		Total Farmer	\$454.00
		Total Retailer	\$867.95

APPENDIX C: CANNABIS LAW TIMELINE AND REGULATIONS

Date	Title	Change
1970	Federal Control Substances Act	The Federal Government classified Marijuana and any Cannabis derivative as a Schedule 1 narcotic
1996	Compassionate Use Act	State Allows Medicinal Cannabis production and consumption
2015	MMRSA	Begins process of regulating cannabis in California
2016	Adult Use of Marijuana Act Proposition 64	State Allows Recreational Cannabis production and consumption
2017	Medicinal and Adult-Use Cannabis Regulation and Safety Act	State allows non-resident Cannabis purchase
2018	State and Monterey County regulations	State and County published guidelines document for Cannabis Industry and regulation
2022		California combines the Agencies into one Authority

APPENDIX D: CANNABIS PROGRAM REVENUE AND EXPENDITURES

Year	Cannabis Tax Revenue	Cannabis Program Budget	CAO approved Allocations	Total = Budget + Allocations
2016-17	\$2,057,951.00	\$228,491.00		\$228,491.00
2017-18	\$14,467,021.71	\$719,815.00	\$158,740.00	\$878,555.00
2018-19	\$15,261,634.75	\$3,735,933.50	\$3,575,741.00	\$7,311,674.50
2019-20	\$17,830,753.72	\$4,992,665.50	\$8,133,890.00	\$13,126,555.50
2020-21	\$20,097,419.83	\$5,575,795.50	\$23,433,947.50	\$29,009,743.00
2021-22		\$6,334,421.18	\$5,027,701.00	\$11,362,122.18
Total	\$69,714,780.98			\$61,917,141.18

APPENDIX E: LIST OF CALIFORNIA COUNTIES THAT ALLOW CANNABIS PRODUCTION

County	Cultivation	Manufacturing	Retail
Alameda	X	X	X
Contra Costa	X	X	X
Del Norte	X	X	X
El Dorado	X	X	X
Humboldt	X	X	X
Imperial	X	X	X
Inyo	X	X	X
Lake	X	X	X
Los Angeles	X	X	X
Mendocino	X	X	X
Mono	X	X	X
Monterey	X	X	X
Riverside	X	X	X
San Francisco	X	X	X
San Joaquin	X	X	X
San Luis Obispo	X	X	X
Santa Barbara	X	X	X
Santa Cruz	X	X	X
Sonoma	X	X	X
Stanislaus	X	X	X
Colusa	X	X	X
Trinity	X	X	X
Yolo	X	X	X
Calaveras	X		X
Nevada	X		
San Mateo	X		
Ventura	X		
San Diego	X- Medical		
San Benito		X	
Lassen			X

The 27 counties not listed do not participate in the State’s Cannabis program

MONTEREY COUNTY'S INITIAL RESPONSE TO THE COVID-19 PANDEMIC

SUMMARY

Monterey County was thrust into the nexus of a world-wide pandemic and was forced to deal with a situation it was not prepared for. Neither was the federal government, nor the California State government. Shutdowns, fear, and the unknown were shared across the world. Citizens were often confused about how they were supposed to protect themselves and their families. In the face of an unknown situation like the onset of the pandemic in 2020, Monterey County, like all other counties in the state, relied on the state's direction.

In its response to the pandemic, County government experienced lapses in planning, execution, and direction in its effort to calm the populace and keep them informed. Information sent out to the public was often confusing when it could be found. Information released through any number of channels was often conflicting and confounding. Some of the officials who were responsible for informing the public were reluctant to present themselves when needed.

An additional factor in getting the message out to the public is that often the public does not like the message, driving them to search elsewhere for information more to their liking. This further fractured the respect required to collectively conquer an event like a pandemic.

The Monterey County Civil Grand Jury (MCCGJ) focused on the crucial first 30-60 days of response. This report calls for the development of a more comprehensive plan for communicating with the diverse population of Monterey County in dire situations like a global pandemic or a natural disaster. Within reason, whatever channels that people are most familiar with should be used to pass along a single unified response from representative agencies.

This report focuses on recommendations to strengthen public information networks across the County. The intent is to ensure that our citizens receive clear, consistent information and guidance during all types of emergencies. MCCGJ also identified the need for additional training of key personnel involved in emergency operations.

GLOSSARY

AMC	Alert Monterey County system
ARPA	American Rescue Plan Act
BOS	(Monterey County) Board of Supervisors
CAO	County Administrative Office
CDC	Centers for Disease Control
CHW	Community Health Worker (in VIDA project)
COVID-19	Coronavirus disease (COVID-19) is an infectious disease caused by the SARS-CoV-2 virus.
CPHO	County Public Health Officer
CTF	Cannabis Tax Fund
DPH	(Monterey County) Department of Public Health
DSW	Disaster Service Workers
EMS	Emergency Medical Services
EOC	(Monterey County) Emergency Operations Center
IC	Incident Commander
ICS	Incident Command System
OES	(Monterey County) Office of Emergency Services
PIO	Public Information Officer
PPE	Personal Protective Equipment
SEMS	(California) Standardized Emergency Management System
VIDA	Virus Integrated Distribution of Aid (project)
WHO	World Health Organization

BACKGROUND

Since the first identified case of the Novel Coronavirus (COVID-19) in Wuhan, China, the world has been in turmoil dealing with the first major pandemic in over 100 years. As cases spread around the world, the first case of COVID-19 in the United States was detected in nursing homes in Washington state. It rapidly spread to major U.S. cities around the country. For the people of Monterey County, the COVID-19 pandemic was brought home when infected passengers from a cruise ship were quarantined at Asilomar State Park in Pacific Grove.

The overwhelming magnitude of the COVID-19 pandemic came into focus when Gov. Gavin Newsom declared a state of emergency on March 4, 2020. Since that day, cities and counties throughout the state have responded to the public health threat using all the resources that were developed over time to respond to an infectious disease outbreak.

Unfortunately, it became apparent early in the pandemic that the existing public health tools to combat infectious disease outbreaks were inadequate for this overwhelming situation. The public received conflicting guidance from all levels of government on how to best protect themselves, their families, and their communities. The issue of conflicting guidance persists to this day, after more than two years into the pandemic.

METHODOLOGY

MCCGJ investigated the early days of Monterey County's pandemic response, including an extensive review of documents and reports. MCCGJ also conducted in-depth interviews with relevant County personnel who were intimately involved in the response activities, as well as elected and appointed County officials. The MCCGJ also reviewed relevant State laws and County ordinances to determine the roles and responsibilities of the County in a public health emergency.

DISCUSSION

From the beginning of the COVID-19 pandemic, Monterey County relied upon its own website, social media accounts, and local media coverage to communicate with the public regarding the status of the pandemic and public health directives. The website posted County Public Health Officer (CPHO) Orders and updates, as well as other pertinent news and information regarding the pandemic.

County Public Health Officer and Health Department

On March 4, 2020, the governor issued a declaration of a statewide public health emergency. The CPHO's first "Shelter-in-Place" Order was issued on March 17, 2020. The Order was reissued on April 3, 2020, expanding restrictions, including the closure of all shared public recreational facilities, parks, and picnic areas. Residential and commercial construction was also prohibited, and funerals were limited to 10 people attending.

Additional CPHO Orders were issued April 10th, requiring all laboratories conducting COVID-19 testing to report all results to the Health Department. On April 28th, further orders were issued requiring face coverings when going out into the public to perform essential activities. The April 28th Order also strongly discouraged the use of medical/surgical (N95) masks for widespread use due to severe shortages of Personal Protective Equipment (PPE) across the State.

Throughout this time, investigation found no evidence that the issuance of CPHO Orders was coordinated with the Emergency Operations Center (EOC) and communicated to the public through the EOC Public Information Officer (PIO).

The County website also posted news and information on March 26th announcing Natividad Hospital had established a bilingual hotline to answer COVID-19 questions and was conducting virtual screening of people experiencing COVID-19 symptoms.

On April 23, 2020, the county website posted that Monterey County Behavioral Health announced the creation of a series of free opportunities to build coping and

resilience skills. Monterey County announced the opening of two COVID-19 testing sites in Salinas and Greenfield beginning May 5, 2020.

Subsequently in the first week of May 2020, the CPHO updated the Shelter-In-Place order to ease restrictions on construction, golf courses, nurseries, and drive-in churches, and to allow certain local businesses to begin providing curbside pickup services to customers.

In March 2020, the County Health Department determined that the establishment of a call center was necessary. Department staff were re-assigned from their normal duties and trained to operate the call center.

Approximately six weeks after the initial Shelter-In-Place order was issued, the County Health Department completed a draft “2019 Novel Coronavirus Disease (COVID-19) Surveillance Plan” to identify the systematic collection, analysis, and interpretation of health related COVID-19 data essential to planning, implementation, and evaluation of public health practice.

Office of Emergency Services (OES) and Emergency Operations Center (EOC)

State agencies and local governments are required to use the state-wide California Standardized Emergency Management System (SEMS) in responding to disaster events. The primary goal of SEMS is to aid in communication and response by providing a common management system and language. SEMS provides for a five-level emergency response organization, activated as needed, to provide an effective response to multi-agency and multi-jurisdictional emergencies. The basic framework of SEMS incorporates the use of the Incident Command System (ICS), which provides an incident commander (IC) with a clear framework to structure, organize, and manage an emergency.

When a natural/ medical disaster or pandemic occurs in the County, the standard practice is that the County Administrative Officer (CAO) activates the EOC, which operates under the structure and protocols of the ICS. The EOC is staffed with county personnel that have direct knowledge and expertise related to the specific emergency at hand. ICS protocols establish an EOC Public Information Officer (PIO) through which all

communications to the public on the status of the emergency are channeled and disseminated.

Under the ICS protocols for the activation of an EOC, an Incident Commander (IC) is designated to direct the operations of the EOC. The successful operation of an EOC requires the IC to be knowledgeable in a specific emergency and have the authority to act as an IC. A CPHO has the knowledge necessary to assume the role of IC during the pandemic.

This investigation found no evidence that the County Health Department or the CPHO participated in the operation of the EOC as the Incident Commander. Further, this investigation found that information on the pandemic was released to the public from multiple sources and not coordinated through the EOC.

The State of California Health and Safety Code provides each County Health Officer with broad powers and authorities to respond to medical disasters and infectious disease outbreaks. Specifically, Section 101040 (a) states that “*The local health officer may take any preventive measures that may be necessary to protect and preserve the public health from any public health hazard during any “state of emergency” as defined in Section 8558 of the Government Code, within his or her jurisdiction.*”

During an emergency declaration, all County employees are designated as Disaster Service Workers (DSW). Under this designation, County employees can be re-assigned to duties that are required in response to the emergency. It was reported that various County departments did not comply with DSW requests from the Office of Emergency Services (OES) to provide staffing to the EOC. Additionally, it was reported that some county staff that were assigned to fulfill positions in the EOC had received little or no training in ICS.

Notifying the Public

When Monterey County activated the EOC in response to the pandemic, the decision was made **not** to use the existing Alert Monterey County (AMC) system to communicate public health information to County residents and businesses. The reasoning behind the decision is the AMC system is a subscriber-based service that

requires individuals to proactively sign up to receive the alerts and the current subscriber base does not include a considerable proportion of the county population.

The AMC system has the capability to reach every County resident with a wireless telephone, landline, or computer, and the messaging can be sent in either English or Spanish. Additionally, messages can be targeted by neighborhood, city, or geographic area based on physical address. The 2014-15 MCCGJ issued a report stating that the county had not allocated sufficient resources or effort to effectively register county residents in the AMC system.

MCCGJ also noted that the County COVID-19 briefings did not include a person trained in American sign language to communicate with hearing-impaired residents. It was also recognized during the initial pandemic response that the County did not have adequate access to certified Spanish language translators for dissemination of Spanish language COVID-19 public information.

The role of informing the public involves a Public Information Officer (PIO) in each county department. When the pandemic began, the Monterey County PIO position, the voice for the Board of Supervisors (BoS), was vacant and there was no staffing provided for the PIO Office. The EOC had a PIO, but no support staff. The County Health Department had a PIO and assigned staffing, as did each hospital in the county. Consequently, the COVID-19 public messaging was not coordinated nor consistent across the county government. In early 2022, the BoS decided to fund the position of County PIO and support staffing for the office.

Hospitals

Early in the pandemic it was acknowledged that alternative patient overflow sites needed to be established and staffed by hospital workers when all the County hospitals were overwhelmed and unable to provide necessary treatment. The County also hired a former Monterey County CAO to negotiate an agreement among the various hospitals in the county to provide the necessary staffing for the identified alternate sites. MCCGJ's investigation could not find evidence that any agreement was reached with the hospitals for staffing the patient overflow sites.

MCCGJ investigation found that the non-profit Clinica de Salud provided valuable resources in outreach to agricultural workers throughout Monterey County, offering bilingual COVID-19 information, public education on the County “Shelter-In-Place” Orders, and initial COVID-19 testing and tracking of positive cases in the agricultural worker population.

County Actions

The BoS directed approximately \$16 - \$18 million from the Cannabis Tax Fund (CTF) to support the various COVID-19 pandemic response activities in fiscal years 2019-20 and 2020-21. The County was fortunate to have the cannabis tax revenue available to support the COVID-19 pandemic response activities. The cannabis tax revenue collected by the County is subject to fluctuations in cannabis market conditions. Consequently, reliance on this revenue source for future emergency response activities could be problematic for the County.

MCCGJ recognizes that the County eventually implemented effective measures to address some of the communication and outreach issues that plagued the County’s initial response. The BoS hired the consultant TMD Enterprises to improve the consistency and coordination of COVID-19 public information, which included reaching the diverse population in their languages throughout the County. The contract was approved in late June 2020.

When community groups recognized the lack of outreach to vulnerable, at-risk populations in the county they turned to the Monterey Community Foundation to help address the problem. The result was the creation of the Virus Integrated Distribution of Aid (VIDA) project which launched the Community Health Worker (CHW) program. Subsequently, in December 2020, the BoS directed \$4.9 million in federal funds from American Rescue Plan Act (ARPA) to fund the CHW program. The program goal was to provide outreach, education, and support to prevent the spread of COVID-19 and promote full recovery through ensuring adequate isolation and quarantine. VIDA began setting up the program in January 2021, nine months after the declaration of the pandemic. VIDA would go on to become a nationally recognized program for its outreach success.

However, as stated in the MCCGJ findings and recommendation of this investigation, significant structural issues with the County’s pandemic response persist today, more than two years into the pandemic.

FINDINGS

- F1** Monterey County does not have a Pandemic Response Plan that focuses on processes and procedures for addressing the public health needs of the public during a pandemic.
- F2** The Monterey County Health Department’s “Pandemic Influenza Plan” (last updated June 11, 2013) does not address how the Health Department would continue to provide essential county services to Monterey County during a pandemic crisis.
- F3** Monterey County did not use the existing AMC system to communicate public health information to the Monterey County residents and businesses subscribing to the service.
- F4** Monterey County’s EOC did not have sufficient certified speakers or translators to provide accurate and timely communication or messaging to the non-English speaking population in the County.
- F5** The County Health Department did not acknowledge its lead role and responsibilities as Incident Commander in the County EOC during a public health emergency.
- F6** The County Health Officer did not appear to use the full authority of his office to command and direct the County response to COVID-19 in Monterey County.
- F7** Monterey County did not follow the unified chain of command protocols of SEMS and ICS to communicate pandemic information to the public.
- F8** The County’s communications to the public did not address the needs of the hearing-impaired residents in Monterey County.

RECOMMENDATIONS

- R1** The County use the AMC system to communicate public health emergency information to County residents by Dec. 31, 2022.

- R2** The County implement a public service campaign to significantly increase the number of County residents signed up for the AMC system by Dec. 31, 2022.
- R3** The County Health Officer and Health Department management staff receive SEMS and ICS training to provide the requisite education on the roles and responsibilities of the Health Department during medical disaster or pandemic incidents by Dec. 31, 2022.
- R4** All County personnel that are assigned to fulfill duties in the EOC must be trained in SEMS and ICS by Dec. 31, 2022.
- R5** Monterey County develop an Infectious Disease Response Plan that addresses the health and safety requirements of county residents during infectious disease outbreaks by June 30, 2023.
- R6** The County adopt the SEMS and ICS protocols for communicating public health emergency information to the public during an ongoing incident by Dec. 31, 2022.
- R7** Public communications during an emergency incident address effective communication with the hearing impaired and non-English speaking County residents by Sept. 1, 2022.
- R8** The CAO clarify the authority and responsibilities of the Health Department and Health Officer under State Law in responding to medical disaster or infectious disease outbreaks and memorialize them in emergency response plans by Dec. 31, 2022.
- R9** The County enter Memorandums of Understanding with all hospital systems in Monterey County to establish the terms and conditions for cooperation and resource allocation during a designated countywide medical disaster or infectious disease outbreak by Jun. 30, 2023.

REQUIRED RESPONSES

Pursuant to Penal Code (Sect) 933 and 933.05, the Civil Grand Jury requests response from the following governing body:

- Monterey County Board of Supervisors
Findings: F1-F8
Recommendations: R1-R9

INVITED RESPONSE

- Monterey County Office of Emergency Services
Findings: F2-F7
Recommendations: R1-R2, R5-R6

- Monterey County Department of Health/Public Health Office
Findings: F1, F3-F8
Recommendations: R3-R7
- County Administrative Officer
Findings: F8,
Recommendations: R8-R9

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

BIBLIOGRAPHY

- (1) 2019 Novel Coronavirus Disease (COVID-19) Surveillance Plan (Drafted April 25, 2020)
- (2) County of Monterey COVID-19 Media Page Website
- (3) County of Monterey Health Department “Departmental Pandemic Influenza Plan (June 11, 2013)
- (4) County of Monterey Classification Specifications Health Officer. (February 2000)
- (5) County of Monterey Health Department FAQ’s (March 20, 2020)
- (6) Emergency Management during Global Health Crisis, Kelsey Scanlon
Monterey County Health Department “Disaster Medical Operations Plan”
November 2019
- (7) Monterey County Health Department Organization Chart (12.2.2021)
- (8) Monterey County Health Department Emergency Operations Plan (Basic Plan)
February 13, 2018
- (9) Monterey County Public Health Officer (Dr. Moreno) Shelter-in-Place order, Lab testing, take-out food, etc.)
- (10) Monterey County Board of Supervisors Board Report November 16, 2021 “The PHO continues to recommend social distancing measures for meetings of the legislative bodies.”
- (11) Monterey County Emergency Response Manual and COVID-19 Prevention Program March 2020
- (12) Monterey County Situation Report (7.9.21 COVID-19 Website (en Español)
- (13) Monterey County Civil Grand Jury Report 2007 “OES EVALUATION”
- (14) Press Releases from Monterey County Health Department (3.20.2020 onward)
- (15) Santa Cruz County Civil Grand Jury 2020-2021 Consolidated Final Report “Virtual Reality in the Year of the Pandemic”
- (16) Statutory Authority of the County Health Officer (California Legislative Information)
- (17) Tetra Tech “After Action” Report on EOC Covid 19 Pandemic Activation, including input from CAO Budget Office, County Counsel, Department of Social Services, Department of Health, Sheriff/Coroner, covering Economic Development; Administration; Health and Human Services; Infrastructure and Public Safety.
- (18) TMD Creative County of Monterey COVID-19 Scope of Work Retainer Agreement (June 2020), adopted March 26, 2022
- (19) <https://www.co.monterey.ca.us/government/departments-a-h/administrative-office-of-emergency-services/response/COVID-19>,
<https://www.santacruzhealth.org/HSAHome/HSADivisions/PublicHealth/CommunicableDiseaseControl/CoronavirusHome.aspx>

APPENDICES

Appendix A - Early Pandemic Timeline

Appendix B - State Pandemic Timeline

APPENDIX A: Early Pandemic Timeline:

December 21, 2019 -	first confirmed case of COVID-19 in Wuhan, China
January 21, 2020 -	first confirmed US case in Washington State
January 26, 2020 -	first confirmed case in California
January 30, 2020 -	WHO (World Health Organization) declares public health emergency of international concern.
February 4, 2020 -	USA declares public health emergency, travel restrictions put in place.
February 28, 2020 -	first case of community spread in California
March 2, 2020 -	Monterey County EOC (Emergency Operations Center) activates lowest level (3) three).
March 3, 2020 -	Monterey County Health Department DOC (Department Operations Center) activated
March 4, 2020 -	First COVID-19 death in California
March 4, 2020 -	Governor Newsom declares state emergency.
March 6, 2020 -	DPH (Department of Public Health) begins testing for COVID-19.
March 10, 2020 -	Board of Supervisors approves County Emergency declared on March 6, 2020
March 11, 2020 -	WHO (World Health Organization) declares Pandemic for COVID-19.
March 12, 2020 -	Governor Newsom issues Executive Order E0-N-25-20: "All residents heed any orders and guidance of state and local public health officials, including but not limited to the imposition of social distancing measures, to control the spread of COVID-19."
March 13, 2020 -	President Trump declares a National Emergency
March 13, 2020 -	12 Diamond Princess Cruise Ship passengers quarantined in Asilomar Hotel, Pacific Grove while undergoing testing.
March 13, 2020 -	Cities of Seaside, Marina, Monterey, Carmel, and Pacific Grove proclaim local emergencies.
March 16, 2020 -	Monterey County schools and libraries close per Governor Newsom's Executive Order.
March 16, 2020 -	Cities of Del Rey Oaks, Gonzales, Greenfield, King City and Soledad declares local emergencies.
March 17, 2020 -	Counties of Marin, Contra Costa, Alameda, Santa Clara, San Mateo, Santa Cruz, and San Francisco order "Shelter-in-Place" beginning March 18, 2020.
March 17, 2020 -	First two confirmed COVID-19 cases in Monterey County
March 17, 2020 -	Monterey County Public Health Officer, Dr. Moreno, issues "Shelter-in-Place" order.

March 17, 2020 -	City of Salinas, and Sand City proclaim the existence of a local emergency.
March 18, 2020 -	Monterey County Jail Visitation suspended.
March 18, 2020 -	EOC elevates action to Level (2) Two.
March 19, 2020 -	Governor Newsom issues Stay-At-Home order for the entire state.
March 21, 2020 -	First County death due to complications of COVID-19.
April 1, 2020 -	State Public Health releases "Face Coverings Guidance"
April 3, 2020 -	Public Health Officer amended original "Shelter-in-Place."
April 6, 2020 -	EOC elevates to Level I.
April 14, 2020 -	Monterey County Op Area EOC Announces Alternate Care and Alternate Housing Sites.
April 24, 2020 -	Monterey County Health Officer Issues Short Term Lodging Order.
May 8, 2020 -	Supplement to Shelter in Place Order issued, allowing local retail businesses to provide curbside pick-up service to customers. May 11, 2020 - Community Testing Sites are now open to the public.
May 19, 2020 -	Monterey County Road to Recovery released, charting the county's progress toward reopening.

APPENDIX B

The CAL OES State Operations Center (SOC) activated 03.20.20 at 0700 hours in support of the California Department of Public Health (CDPH) Medical Health Coordination Center's (MHCC) statewide response to COVID-1119. Cal OES will continue to provide resource coordination for the COVID-10 event, as well as situation status reporting and advance planning across multiple areas.

Situations Overview:

California State of Emergency Proclamation 03.04.20

Governor Newsom declared an Emergency for California, because of the global COVID-19 outbreak that began in December 2019, to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19.

Executive Order N-33-20 3.19.20

The California Public Health Officer and Director of the California Department of Public Health ordered all individuals living in the State of California to stay home or at their place of residence, except as needed to maintain Continuity of Operations of the Federal critical infrastructure sectors.

Global Health Advisory 3.19.20

The Department of State issued a Global Health Advisor at Level 4 (Do not travel) due to the global impact of COVID-19.

FEMA-4482-DR-CA 3.20.20

President Trump approved Major Declarations FEMA-4482-DR-CA (DR-4482) for the COVID-19 Pandemic

CONFIRMED Global COVID-19 Cases (per Worldometers COVID-19 Live Updates)

08.18.20 at 1000 hours:

Total Confirmed Cases in 213 countries: 22,173,219

Total Deaths: 779,976

Total Confirmed United States COVID-19 cases (per CDC): 5,422,242

Total US Deaths: 169,870

Total Confirmed COVID-19 Cases in California (per Medical Health Coordination and Prevention at CDC) 632,667

PUBLIC SAFETY AT WHAT COST?



SUMMARY

During the 2021 - 2022 Monterey County Civil Grand Jury (MCCGJ) term, a complaint was received concerning three recent escape attempts from Monterey County Jail (Jail) and the lack of communication about them, raising safety concerns for the community. California Penal Code § 919(b) states, "The grand jury shall inquire into the condition and management of the public prisons within the county."

Vulnerabilities in physical and technological security systems, as well as procedural violations were involved and identified in each escape attempt. The 911 Dispatch Center did not notify the Monterey County Sheriff's Office (Sheriff's Office) or the Jail. Mitigations have since been implemented but issues remain.

GLOSSARY

AB109	California Assembly Bill 109
AB1185	California Assembly Bill 1185

BOS	Monterey County Board of Supervisors
CAO	Monterey County Administrative Office
Jail	Monterey County Jail
MCCGJ	Monterey County Civil Grand Jury
Operations Manual	Monterey County Sheriff's Office Operations Manual
Sheriff's Office	Monterey County Sheriff's Office

BACKGROUND

The California State Constitution, Article XI, Sec. 4(c), designates County Sheriffs as publicly elected officers. California law requires a board of supervisors for each county to supervise the official conduct of all county officers and ensure that they faithfully perform their duties. Review and approval by the Monterey County Board of Supervisors (BOS) of the Sheriff's Office budget, submitted through the County Administrative Office (CAO), is performed annually. The BOS has no other formally required or authorized control of the operations of the Sheriff's Office.

California State Assembly Bill 109 (AB109), also known as "Criminal Justice Realignment," was signed into law on April 4, 2011. AB109's intended goal was to reduce recidivism among qualifying inmates by being incarcerated closer to home and having access to county-based programs and oversight. Inmates convicted of less violent and less serious felonies, unless disqualified due to previous serious convictions and whose sentences were only up to four years, are redirected to county jails, instead of state prisons. The State Department of Corrections hoped to reduce state prison populations and reduce costs to the state. One result is an increased population of prisoners serving longer sentences in county jails. AB109's implementation has had a significant impact on the Jail's staffing, training, operations, security systems, housing needs, and costs.

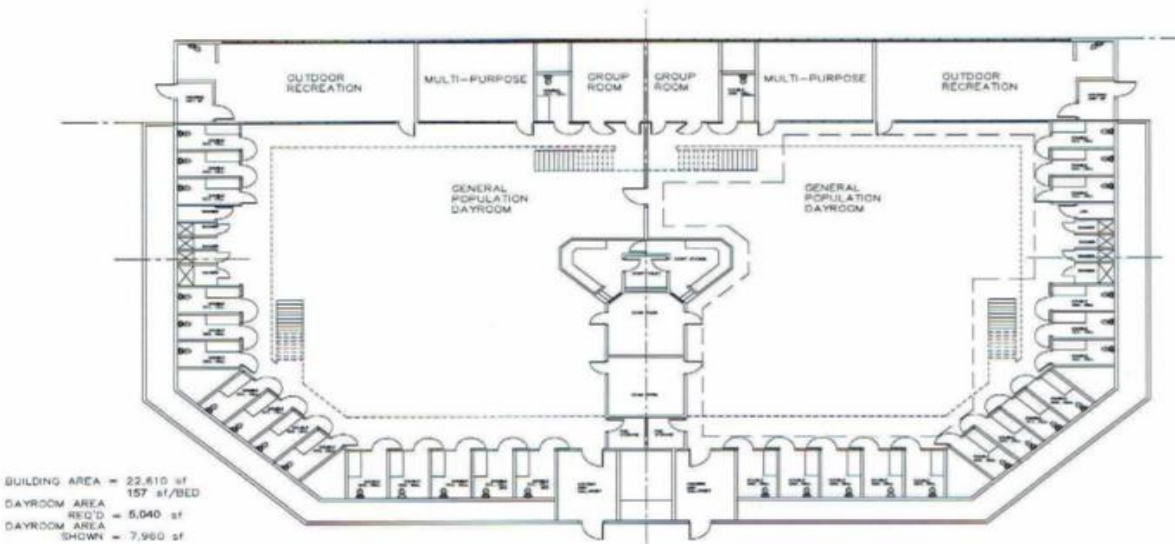
The expansion of the Jail, completed in March 2022, will leave available the old facility for uses such as the women's facility and mental health programs. This will increase the stated physical capacity of the facility to 1,401 inmates.

DESIGN OF NEW JAIL HOUSING POD



Elevation View
Housing, Entry Lobby and Administrative Spaces

COUNTY OF MOH
JAIL HOUSING ADDI
CONCEPTUAL DE



BUILDING AREA = 22,610 sf
DAYROOM AREA = 157 sf/BED
REQ'D = 5,040 sf
DAYROOM AREA SHOWN = 7,960 sf

144 BED UNIT
TYPICAL FLOOR PLAN

COUR
JAIL HOU
CONCE

METHODOLOGY

During its investigation, the MCCGJ:

- Conducted tours of the Jail and the 911 dispatch center
- Interviewed numerous officials and employees in the Sheriff's office and the CAO
- Interviewed members of the BOS
- Acquired and reviewed relevant documents
- Reviewed past Civil Grand Jury reports
- Performed internet searches for documents and news articles

It is noteworthy that all government agencies and interviewees involved are to be commended for their candor with the MCCGJ in its investigation.

DISCUSSION

Jail Escapes

Early in the morning on Sunday, Nov. 3, 2019, two murder suspects escaped from the Jail. Breaking their way through a section of their housing pod's bathroom ceiling, maneuvering through the ceiling and wall crawl space, they kicked open a utility access panel from inside the Jail giving access to the outside wall. They scaled the perimeter fence, walking to freedom undetected. They exploited a blind spot in the surveillance camera system and a temporary construction fence less secure than normal Jail perimeter fencing. They were apprehended on Tuesday, Nov. 5, at around 11:30 pm, attempting to cross back into the US from Mexico at the border near Tijuana.

Another murder suspect escaped about 3:00 pm on Monday, Jan. 18, 2021, from the rooftop exercise yard of the Jail during the supervised mid-day outdoor access time. He ducked around a partially obscured alcove as other inmates exited by an inside stairway. While the deputy was distracted, the inmate climbed a 15-foot-tall chain-link fence and dropped to the other side onto an open outer section of the rooftop. The inmate ran to the edge of the rooftop where, unimpeded by fencing or razor wire, he

jumped to the ground and escaped. The supervising deputies neglected to follow the required headcount procedures, leading to the escapee's absence being undetected for three hours. The escapee later turned himself in to the King City Police on Wednesday, Jan. 20, at around 2:00 am.

On Wednesday, Nov. 17, 2021, in an attempted escape, an inmate was able to climb a masonry column undetected. In just 13 seconds, the escapee exposed a long-standing weakness in the perimeter security.

Jail Inmate supervision procedures

The Monterey County Sheriff's Office Operations Manual has clear procedures for performing headcounts, both on a periodic basis when inmates are in their housing areas and when they are escorted from one location to another.

In the case of the January 2021 escape, the deputies failed to perform a headcount of the inmates when they were escorted from the rooftop yard to their housing area. This oversight was the single most critical lapse in security. Immediate identification of the inmate's absence would have certainly ended the event. The Sheriff's post-incident evaluation revealed these procedural violations, resulting in discipline of the deputies involved and subsequent reinforcement of training on custody procedures.

The Jail's video surveillance system

In the November 2019 escape, no video surveillance coverage of the escape has been located. In the January 2021 escape, there was inadequate monitoring of the video surveillance to catch the escapee in the act. When replaying video recordings during the Jail's post-incident investigation, the escapee could be seen making his way to the rooftop yard fence following the other inmates' and deputies' departure. Later, the escapee could be seen on video running away from the Jail on foot after jumping to the ground from an unsecured area of the roof.

In the complaint to the MCCGJ, the issue was raised that motion detection alerts, a standard feature in modern video surveillance systems, were not used to aid in

detection of the escapes. The Grand Jury's investigation confirmed that this was the case. The explanation given by jail employees was that it was impractical due to the frequent normal physical activity present on the premises. This is a legitimate concern. However, if there are situations where selectively enabling the motion detection alarming feature would enhance security with minimal nuisance alarms, then concern over the decision to not use this feature at all is equally legitimate.

The fact that there are about 200 cameras with only a few people monitoring them lends legitimacy to both arguments.

Physical security at the Jail

In each escape (November 2019 and January 2021), physical security weaknesses in the Jail housing structure and fencing were revealed. In each case remedial measures were taken by the Jail to address the identified weaknesses. The new addition to the Jail, opened in March 2022, has engineered improvements in technological and physical infrastructure that will provide better security. However, since the old facility will still be part of the jail complex, security concerns remain.

The new Guardian RFID system

In 2020, the Jail implemented a new Guardian RFID system, designed for supervising inmates in detention facilities. It utilizes correctional officers' handheld devices for supervisory duties over the inmates, providing electronic functions. Existing required procedural practices, such as headcounts and scheduled health and safety checks on inmates, are now done using these devices. Since the devices automatically document and time stamp task performance, the need for manual documentation and the possibility of human error or falsification will be reduced. This increases accuracy, efficiency, and accountability in following procedures, which were found to be points of failure in the past for health and safety checks.

The 911 call

Within minutes of the January 2021 escape, a motorist driving on Laurel Avenue spotted the escapee running across the road and into an open field near to the Jail. The caller to the 911 Dispatch Center described a man wearing only shorts, barefoot, and

having a shaved head and tattoos. The caller also mentioned to the 911 dispatcher that it might be an escaped prisoner. When the dispatcher forwarded the information to Salinas Police Department, there was no mention of the caller's speculation that it might be a Jail escapee. The dispatcher did not notify the Jail to alert them of this possibility. After a short delay, the Salinas Police closed the matter, having found no one. This oversight on the part of the 911 Dispatch Center clearly contributed to the three-hour delay in the Jail's awareness of the escape.

Upon inquiry by the MCCGJ to the 911 Dispatch Center, it was found that due to this incident, their procedures were updated on March 31, 2021 (Operations Manual Policy No. 4930), to mitigate the chances of similar lapses in notifications during future events. (See Appendix A)

Notification by the Jail of escapes

The Sheriff's Operations Manual contains procedures for notifications when an escape occurs. Most of those notifications are within the Jail's own organization and other local and state law enforcement agencies. Three other notifications are specified:

- Call the agency or authority where the escapee resided if it was in Monterey County.
- Call Natividad Medical Center, ask for the Administrative Nurse on duty, and advise them of the escape from the jail.
- Call the Shelter for Battered and Homeless Women.

The BOS raised the concern that no requirements or procedural steps exist in the Operations Manual for notification to the BOS or the local community residents of escapes. During the MCCGJ's investigation, Jail employees pointed out that they use Facebook as a primary means of notification to the public, including the media. The Jail asserted the media regularly checks the Sheriff's office Facebook page for such notifications. Media reports of the escapes examined in this report were timely and indicative of this understanding. The decision to alert the media and public of escapes is itself a matter of public safety. Such information release, if premature, could interfere

with apprehension efforts and cause undue fear or panic among the public. Thus what, when, and to whom notification should occur is a fluctuating issue. In a time when evolving multifaceted methods of communication result in a fragmented landscape of how and to whom information flows, what methods of communication are appropriate to use under varying circumstances is also an issue.

AB1185

The relationship between the BOS and Sheriff's office remains a concern. The BOS is responsible for overseeing the Jail, but aside from annual budget approval, little other authority lies with the BOS to fulfill its oversight responsibility.

On September 30, 2020, California State Assembly Bill 1185 (AB1185) was passed, designed to augment communication, transparency, and accountability in this issue. It authorizes county boards of supervisors to appoint either an inspector general or an oversight board with subpoena powers which is designed to strengthen the BOS relationship with the Sheriff's Office and the Jail. The advantages presented by the implementation of AB1185 will include:

- Greater transparency for the BOS and the public, which elects the Sheriff.
- A constituency better informed about the operations of the Sheriff's office and Jail would be beneficial for all.
- A mediator and conduit of information between the BOS, which is responsible for oversight, and the Sheriff's Office and Jail, which depend on the BOS understanding for budget and operations.
- Continuity year after year, as the required oversight board would have powers that the BOS lacks.
- Mitigating personnel and working condition issues.

Note that AB1185 provides that the new oversight board or inspector general would not obstruct the independent prosecutorial functions of the Sheriff. It also provides that the existing authority of the BOS over the Sheriff's Office budget would be unchanged.

Staffing of Sheriff's Office and Jail

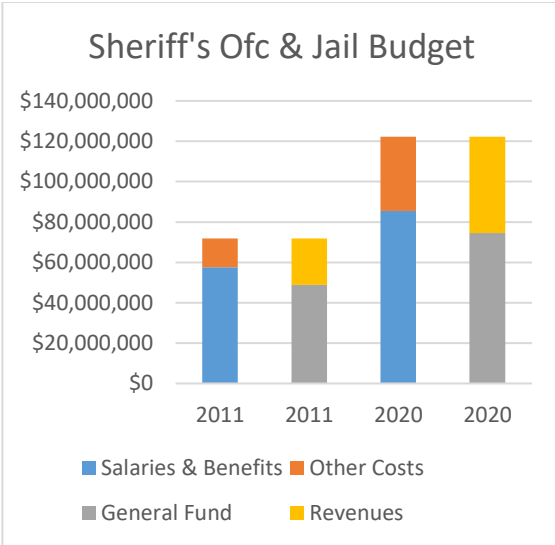
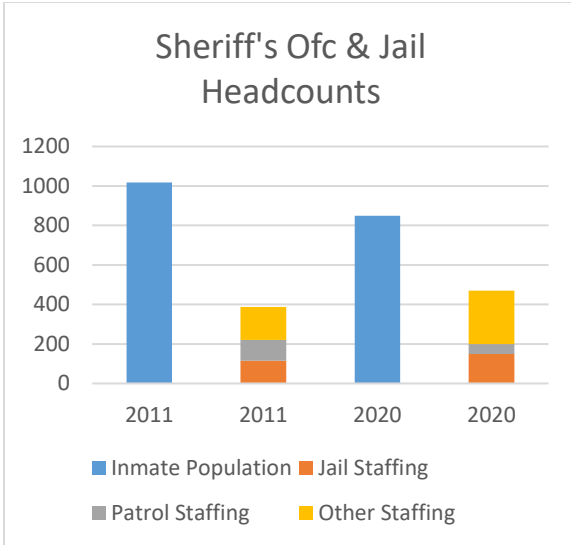
In its investigation, including reviewing past Grand Jury reports, the MCCGJ found that staffing of the Sheriff's Office and Jail has long been an issue and remains so today.

In 2012, with the implementation of AB109, the Sheriff's Office budget was decreased by nearly one million dollars. This resulted in the elimination of approximately 90 staff throughout the Sheriff's Office and highlighted the disconnect between the BOS and the Sheriff's Office. It is notable that sheriff's department staffing was cut from 473.5 to 388.5 from 2009 to 2011.

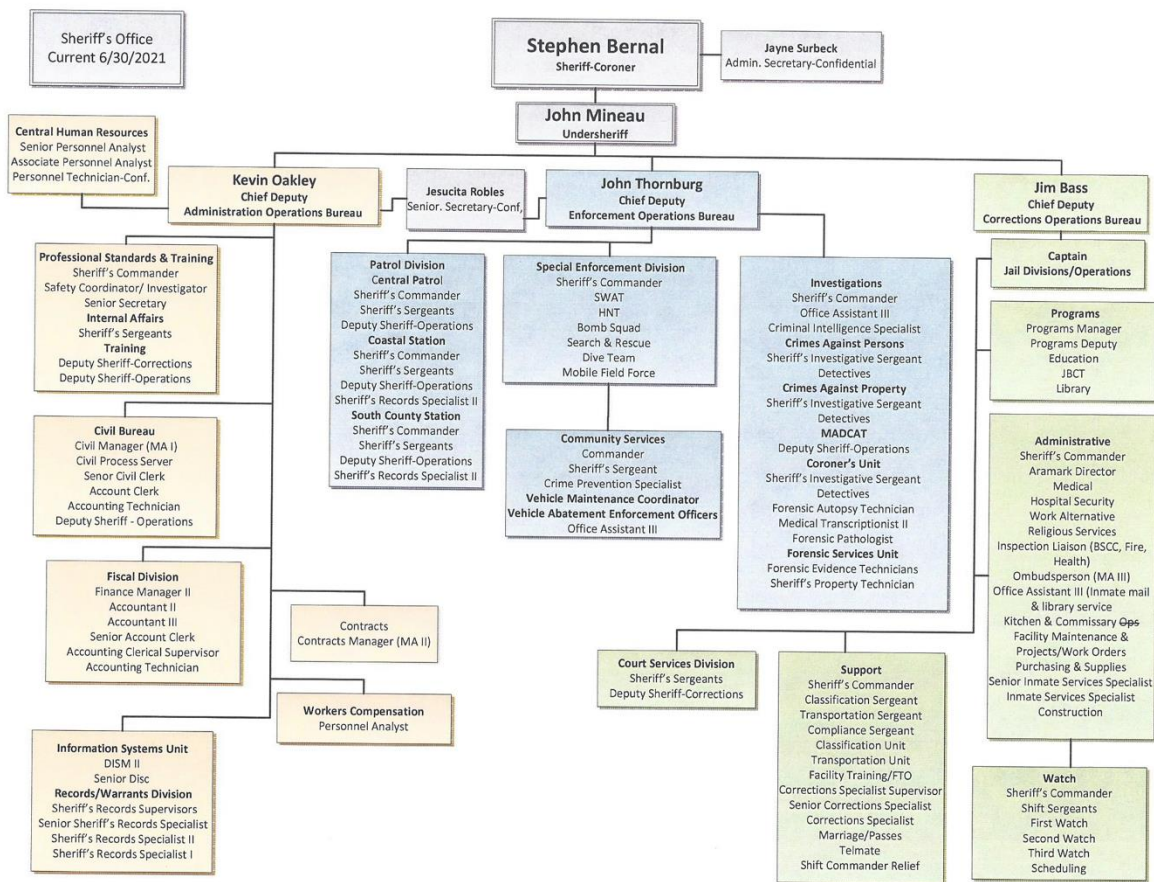
The case of *Jesse Hernandez, et al v. Monterey County, Monterey County Sheriff's Office (MCSO) and California Forensic Medical Group (CFMG)*, settled in 2015, identified shortcomings in the Jail's compliance with the law. To comply with the mandates in the settlement, some of the Sheriff's Office county-wide field patrol staffing was transferred to the Jail. This reduction in patrol staffing left the citizens of Monterey County underserved in comparison to previous years.

The Sheriff's Office Patrol Division operates out of three stations. The Central Station (Salinas) patrols all North County, the Salinas Valley south to Gonzales and west, halfway to Monterey. The Coastal Station (Monterey) covers unincorporated areas of the Monterey Peninsula, Carmel Valley, and the coastal areas to the San Luis Obispo County line. The South County Station (King City) provides coverage of southern Monterey County from Gonzales south to the San Luis Obispo County line, and west to the ridgeline of the Santa Lucia Mountain Range.

Below are charts for a ten-year comparison between staffing and budgets for the Sheriff's Office and Jail for the years 2010 and 2020. "Other Staffing" in the first chart includes administrative support, investigative, training, coroner's unit, and court services.



BELOW IS AN ORGANIZATION CHART FOR THE SHERIFF'S OFFICE



BELOW IS AN AERIAL VIEW OF MONTEREY COUNTY JAIL



FINDINGS

- F1** The advent of the Guardian RFID system provides a better process of tracking. It significantly reduces the likelihood of human error, negligence, and falsification of documentation of custody security and safety check procedures.
- F2** Weaknesses in the utilization of the video security camera system were involved in the lack of detection of all the escapes. The failure to utilize the video camera system to capture in progress escapes remains to this day.
- F3** In both the November 2019 and January 2021 escapes, weaknesses in the physical security structures were involved. Some remedial changes were implemented to alleviate or at least greatly lessen the known weaknesses.
- F4** The long-awaited new structure's addition to the Jail property holds promise of better security and safety for employees, inmates, and the public.
- F5** The new facility creates efficiency, relief from overcrowding, and reduces the need to escort inmates to ancillary and centralized services.
- F6** The 911 Dispatch Center has updated their notification procedures to mitigate lapses in communication of escapes from the Jail.
- F7** The Jail's Operations Manual does not provide communication algorithms for varying levels of risk with escapes dependent upon each situation.

- F8** The BOS does not have statutory powers to oversee the Sheriff's Office. AB1185 provides an opportunity to address this issue since historically, the communication between the BOS and Sheriff's Office has been trying at best.
- F9** The Sheriff's Office and Jail continue to have less than optimal staffing to meet the needs of both mandated Jail conditions and adequate field patrol staffing functions.
- F10** The Sheriff Office and Jail appear to be more reactive than proactive when addressing security weaknesses.

RECOMMENDATIONS

- R1** The Sheriff's Office hire an outside consultant to study the Jail's video surveillance motion detection alerting system capabilities activation to maximize desired alarms and minimize unwanted ones. Implementation by July 1, 2023.
- R2** The Sheriff's Office immediately hire an outside consultant to perform an audit of physical security systems of the entire facility and implement remediations by July 1, 2023.
- R3** The Sheriff's Office and BOS agree on appropriate practices for notifications when Jail escapes occur, based upon levels of risk to the community. Complete by June 30, 2022.
- R4** The BOS and the Sheriff's Office collaborate on the implementation of AB1185. Complete by Dec. 31, 2022
- R5** The BOS approve funding for mandatory staffing in the jail each fiscal year, starting July 1, 2023.
- R6** The BOS approve funding for optimal patrol coverage in the County each fiscal year, starting July 1, 2023.

REQUIRED RESPONSES

Pursuant to Penal Code §933 and §933.05, the Civil Grand Jury requests responses:

From the following elected official within 60 days:

- The Monterey County Sheriff
Findings: F1-F10
Recommendations: R1-R6

From the following governing body within 90 days:

- Monterey County Board of Supervisors
Findings: F1-F10
Recommendations: R1-R6

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Civil Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

BIBLIOGRAPHY

- (1) 2016 – 2017 MCCGJ (Monterey County Civil Grand Jury) Report on Monterey County Jail (Monterey County Jail Crisis: Our De Facto Mental Health Facility), (MCCGJJailReport.pdf)
<https://www.co.monterey.ca.us/home/showpublisheddocument/27571/636340890519800000>
- (2) 2020 – 2021 SCCCGJ Report on Santa Cruz County Jail (Justice in the Jail), (3_JailJustice_Report.pdf)
<https://www.co.monterey.ca.us/home/showpublisheddocument/27571/636340890519800000>
- (3) California Code of Regulations, Title 15
<https://govt.westlaw.com> > [CaliforniaCodeofRegulations](#)
- (4) California State Constitution (california_constitution_2019-20_0.pdf).
<https://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=CONS&tocTitle=+California+Constitution+--+CONS>
- (5) California Penal Code § 919(b) (codedisplayexpand.xhtml.pdf)
<https://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=PEN&tocTitle=+Penal+Code+--+PEN>
- (6) California State Assembly Bill No. 109 (billNavClient.xhtml.pdf)
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120AB109
- (7) California State Assembly Bill No 1185. (billNavClient.xhtml.pdf)
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1185
- (8) Hernandez v. County of Monterey, et al, Defendants. Case No. 13-cv-02354-BLF, United States District Court, N.D. California, San Jose Division
- (9) Monterey 2014 – 2015 Report on Monterey County Jail (THE MONTEREY COUNTY JAIL, “A REVIEW OF PAST AND CURRENT PROBLEMS,” The Monterey County Jail RPT_F.pdf)
<https://www.co.monterey.ca.us/home/showpublisheddocument/1533/636039379185130000>
- (10). Monterey County Emergency Communication, 911 call center Incident Detail Report, 01-18-2021 15:06:53.
- (11) Monterey County Emergency Communications Department Annual Report 2020.
- (12) Monterey County Sheriff Post-Incident Reports for 2019 and 2021 escapes.
- (13) Monterey County Sheriff Procedure Manual.
- (14) Monterey County Weekly, November 23, 2021, “Inmate attempts – and fails to escape from Monterey County Jail Nov. 17.”
- (15) Monterey Herald, January 19,2021, “SALINAS — A suspect awaiting trial in a Greenfield murder case escaped the Monterey County Jail Monday afternoon, according to the Monterey County Sheriff’s Office.
<https://www.montereyherald.com> > [2021/01/19](#) > [murd...](#)
- (16) NEXIE emergency notification system. www.NEXIE.com
- (17) The Californian, Salinas Nov 3rd, 2019 “2 Muder suspects escape from Monterey County Jail.”

- (18) Kion, February 02,2020, "EXCLUSIVE LOOK: New Monterey County jail could open for inmates early summer...."
<https://kion546.com/news/2020/02/12/exclusive-l...>

APPENDIX A

Monterey County Emergency Communications Standard Operating Procedures Manual		
SECTION 4000 LAW OPERATIONS		
High Profile Buildings		
Approved By: <i>Lee Ann Magoski</i>	Policy No. 4930	Adopted 03-31-2021
Lee Ann Magoski Director		Revised 00-00-0000

Policy

Communications Dispatchers shall make notifications, without delay, to appropriate agencies upon receiving a report of suspicious persons or activity around high-profile buildings. Dispatch of the law enforcement agency having jurisdiction will be made without delay. Considering the circumstances reported, Dispatchers may make notifications to additional agencies based on the location of the incident. An email to the ECD Supervisor and Management staff may be appropriate.

Definition

Suspicious activity can include, a person(s) loitering around the area with no apparent reason, or after hours/when the building is closed. Person(s) that appear to hide from passersby or someone taking pictures of high-profile buildings. Reported suspicious activity should not be dismissed or validity diminished by ECD staff and will be dispatched as described by the caller in a professional manner.

Procedure

1. Without delay, dispatch appropriate law agency having jurisdiction. If there are no available units, broadcast the information and notify the Watch Commander. Make note of the broadcast or WC advisement in the Computer Aided Dispatch (CAD) detail.
2. Although the law enforcement agency with jurisdiction will be dispatched for reporting purposes, it may be necessary to notify surrounding agencies who can assist or may benefit from the information. For example, the Department of Motor Vehicles (DMV) is a State facility and CHIP will respond, however the law enforcement agency in which the DMV facility is located should also be advised. Another example is an incident occurring at a County building that is located within a city limit. Both MCSO and the city law enforcement should be advised of the incident.
3. High Profile buildings include but are not limited to:
 - a. Monterey County Sheriff's office and Jail complex
 - i. Dispatch Salinas Police, notify MCSO Watch Commander and call the on duty Jail Sergeant via radio on the Jail 1 channel or landline. Other

considerations for notifications may be Probation, Juvenile Hall, and Natividad Medical Center (NMC) Security.

- b. Monterey, Marina, Salinas, and King City Courthouses
 - i. Notify appropriate law enforcement agency with jurisdiction and MCSO Bailiffs via radio on Bailiff channel 1 or telephone. Also consider making notifications to the District Attorney's Office (DA) for King City, Monterey, and Salinas Courthouse. Notify Probation staff at the Monterey Courthouse.
- c. Juvenile hall
 - i. Dispatch appropriate law enforcement agency and notify MCSO and Juvenile Hall personnel.
- d. DMV and other State facilities
 - i. Incidents occurring on State property will be handled by California Highway Patrol (see MCSO/CHP MOU). Notify surrounding law enforcement agency of CHP incident.
- e. Police and Fire Departments
 - i. Dispatch local police and consider notifying persons inside the building of the activity reported outside.
- f. ESC/OES
 - i. Dispatch Salinas Police Department. Consider notifying NMC Security, Probation and County Jail. Notify the ESC Duty Supervisor, if Salinas Police are not available consider notifying MCSO. Email ECD Supervisor and Management staff and consider sending a CAD page alerting incoming staff of suspicious activity that has yet to be resolved.
- g. Health Department – Salinas
 - i. Dispatch Salinas Police Department. Consider notifying NMC Security. Notify ESC Duty Supervisor.
- h. 1441 Schillings Place
 - i. Dispatch Salinas Police Department and notify ESC Duty Supervisor.
- i. Monterey County Government Center
 - i. Notify appropriate law enforcement agency with jurisdiction and MCSO Bailiffs via radio on Bailiff channel 1 or telephone. Also consider notifying the District Attorney's Office (DA)

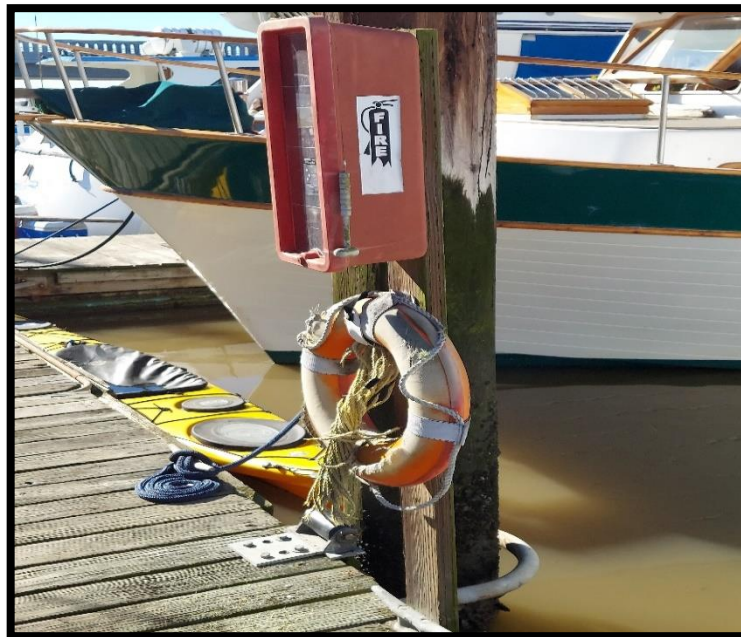
SINK OR SWIM:

MOSS LANDING HARBOR DISTRICT

SUMMARY

Multiple safety and maintenance complaints prompted a review by the Monterey County Civil Grand Jury (MCCGJ), of the Moss Landing Harbor District (MLHD). This investigation found systemic problems in the district safety program and maintenance procedures, as well as a lack of communication and financial foresight. There are few formal procedures or processes, with most work performed on an “as needed basis.” Most safety complaints that we reviewed are related to maintenance concerns.

MCCGJ review in 2002 identified many of the same problems and some of their findings and recommendations from twenty years ago remain unresolved today. The 2021/2022 MCCGJ developed recommendations to address safety and maintenance concerns; lack of formal processes for filing and cataloging complaints and maintenance requests, and lack of a schedule of regular inspections. Safety should be a regular agenda item for Board of Commissioners meetings.

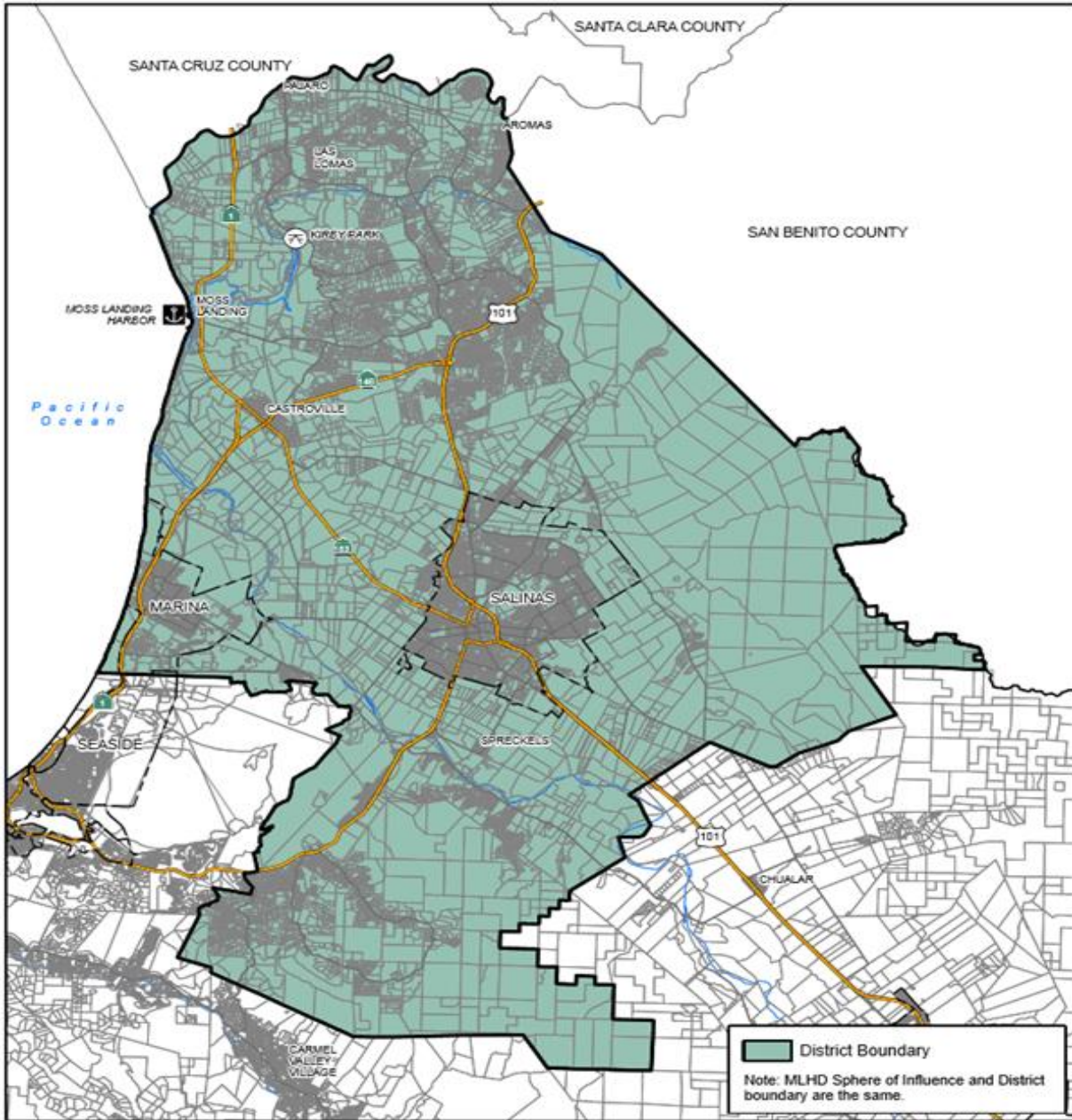


MLHD must improve its financial operations. The district should develop a capital improvement plan and establish a balanced budget while creating a reserve. The district should maximize its efforts to recover past–due berthing fees while adjusting its berthing fees to meet expenses.

Additionally, the district must ensure compliance with the Brown Act, and be open and transparent in its operations and communication.

GLOSSARY

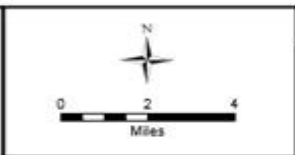
AB1234	California Assembly Bill 1234, Ethics Training
ACoE	Army Corp of Engineers
BOC	Board of Commissioners
BOS	Monterey County Board of Supervisors
LAFCO	Local Agency Formation Commission
MBARI	Monterey Bay Aquarium Research Institute
MCCGJ	Monterey County Civil Grand Jury
MLH	Moss Landing Harbor
MLHD	Moss Landing Harbor District
MLML	Moss Landing Marine Labs
NH	North Moss Landing Harbor
PG&E	Pacific Gas & Electric
SH	South Moss Landing Harbor
TAMC	Transportation Agency of Monterey County



LAFCO of Monterey County
 LOCAL AGENCY FORMATION COMMISSION

P.O. Box 1369
 Salinas, CA 99902
 Telephone (831) 754-3838

132 W. Galdran St., Suite 102
 Salinas, CA 99902
 FAX (831) 754-3831



SPECIAL DISTRICTS

MOSS LANDING HARBOR DISTRICT

Sphere of Influence affirmed: 12/05/2016
 Map prepared: Feb. 2017

BACKGROUND

Moss Landing is rapidly switching identities. The historic town is seeing its commercial fishing dominance challenged, as MLHD attracts marine research and ecotourism tenants.

A significant part of the harbor is occupied by Monterey Bay Aquarium Research Institute (MBARI), Moss Landing Marine Labs (MLML) and Gregg Marine, a company that develops and deploys marine drilling technology. There are 660 boat slips, which are occupied by research vessels, transient vessels, tour and charter boats, live-aboard vessels and slip tenants. The Harbor hosts a much larger number of commercial fishing boats and live-aboard vessels than either Monterey or Santa Cruz Harbors. In 2015, the National Marine Fishers Services listed Moss Landing Harbor (MLH) as the largest commercial fishing port in California, based on the weight of fish caught.

Located at the confluence of the Elkhorn Slough and Pacific Ocean, Moss Landing initially started as a whaling port in the late 1800s. Canneries later opened and Southern Pacific Railroad laid down tracks, which still run adjacent to the slough today.

MLHD was formed June 22, 1943 and is governed by a 5-member Board of Commissioners, each serving staggered 4-year terms. Thanks to updated dredging and stabilization of the harbor channel and the building of wharves and docks by the US Army Corp of Engineers, MLH was designated a year-round port of safe refuge. MLHD is California's largest special district (in square miles) with a population of 234,000. It extends from the Santa Cruz County line down to San Benancio and Corral de Tierra, off the Salinas-Monterey Highway, and east to the San Benito County line.

In 1951, the Elkhorn Yacht Club completed building approximately 60 boat slips and club room facilities in North Harbor. In 1966 California State University established MLML in Moss Landing and in the mid 1990's MBARI moved from the City of Pacific Grove to the South Harbor. Pajaro-Sunny Mesa Water District provides potable water and Castroville Community Services District provides sewer service to the MLH facilities.

The MLHD BOC stated that the historic “Little Baja” pottery store has been demolished to make way for a boutique 30-room inn on the waterfront. MLHD constructed a 9500 square foot commercial building in the North Harbor parking lot that remains vacant.

The North Harbor Improvement Project, which was completed in 2007, included a new 4-lane launch ramp, paving of the 5-acre site for parking, storm drains and a boat wash, a 900-foot public access wharf at the water’s edge, and a 110-foot visitor serving dock alongside the wharf.

The Elkhorn Slough Foundation estimates the impact of the harbor on the local economy in 2020 was: \$6 million from commercial fishing, \$7 million from recreational boating, \$1 million from charter boats, and a total of \$67 million from MBARI, MLML and The Synergy/Large Lithium Battery site.

METHODOLOGY

The Civil Grand Jury employed several methods of investigation of the MLHD. Initially, we gathered public documents pertaining to all aspects of MLHD via extensive internet searches as well as requested documents obtained from MLHD. We held several interviews. Finally, we performed two tours, one by boat and the other an impromptu walking tour of North Harbor docks and portions of South Harbor.

DISCUSSION

Twenty years ago, MLHD had 10 staff. Now MLHD has a staff of eight, with two maintenance worker vacancies. Berthing fees have steadily risen from \$5.40/linear foot in 2002 to \$8.40/linear foot in 2021. The budget for maintenance has fluctuated from a low of \$35,000 in FY 2017 to \$90,000 in FY 2020 but lowered to \$75,000 for FY ending June 30, 2021. \$2.5 million is held in reserve for periodic dredging. There is no evidence MLHD has developed a capital improvement plan or a long-term maintenance strategy.

One of the recommendations from the 2002 MCCGJ report was that the district develop and follow a comprehensive financial business plan to serve as an overall plan

for running the district. The MLHD response to the MCCGJ 2002 report stated that “Efforts would be made to better *memorialize* the unwritten plan...so although a general “master plan” has been implemented, it would be misleading to create a false sense of security in a more specific plan, only to have new regulations undermine the foundation of the plan. The district knows why it is experiencing a thin financial condition and is moving in a direction they hope will improve that condition.” Twenty years later, the memorialized plan has never been documented.

Two thirds of total revenue come from berth rental (\$2.54 million of total revenue of \$3.546 million.) The 2002 MCCGJ reported that while the district had raised berthing fees and taken measures to collect delinquent fees, it still did not have sufficient funds to finance long term maintenance or to address safety issues and periodic dredging.

The Elkhorn Yacht Club (a social club based in North Harbor for boat and non-boat owners) has an informal relationship with MLHD. The Elkhorn Yacht Club Port Captain, who lives close by and walks the North Harbor docks daily, is available as a source for observing and identifying the harbor safety conditions. However, this potential resource is not utilized by the district.

MCCGJ found that the harbor pump-out facility has failed in the past, causing slip tenants to find alternate harbors in which to discharge boat waste. There exists in South Harbor a mobile, pump-out barge that is no longer in service. Additionally, berth tenants are not notified when the pump-out facility is out of service or when service will be restored.

The district should establish a board safety committee, including a berth renter and a Yacht Club officer as advisory members. A written complaint log and a report on repairs done is mandatory to help develop a capital improvement plan and budget for on-going safety and maintenance needs.



BOC meetings have been observed to be informal, creating possibilities for violations of the Brown Act. BOC meeting notices are only posted outside the South Harbor office and the website is not updated in a timely manner. Given the large geographic size of the MLHD, it is unclear if the BOC is focused enough on the best interest of the harbor. Currently only one Commissioner has a boat in the Harbor.

MCCGJ recommends long-overdue changes to address these issues. The BOC should complete a comprehensive strategic planning study, a capital asset reserve study, a comprehensive Harbor safety review and a maintenance and replacement plan for harbor facilities. Board members need to attend Brown Act training and AB (Assembly Bill) 1234 Ethics training every two years. All board members must receive governance training when newly elected and existing board members receive ongoing board governance training.

Boat owners should have certificates of liability insurance, naming the harbor as additionally insured, to guarantee seawater worthiness of the vessel and with the goal of eliminating derelict boats.

FINDINGS

- F1** MCCGJ found that MLHD conducted a comprehensive Strategic Plan for the District in the 2002 MCCGJ report.
- F2** MCCGJ was unable to verify MLHD completed a comprehensive capital asset reserve study to establish capital reserves and replace aging District facilities over time.
- F3** MHLHD has not completed a comprehensive maintenance and replacement plan for the harbor facilities.
- F4** MLHD maintenance is conducted on an “as needed” basis, reacting to verbal complaints from slip tenants or staff observations.
- F5** The Sea Engineering, Inc.” Post-Tsunami Report”, dated February 2, 2022, validated many of the MCCGJ findings.
- F6** MHLHD lacks a formal process for reporting complaints received and/or data on the number, type, and resolution of complaints.
- F7** MCCGJ was unable to verify MLHD maintains a comprehensive maintenance log or database.
- F8** MHLHD fails to distribute copies of the 60 District Ordinances to all slip tenants. However, the District Ordinances are available on the district website.
- F9** MLHD fails to enforce District Ordinances uniformly.
- F10** MLHD lacks a formal process for tenants to submit requests and receive written board approval for personal modifications to the docks.
- F11** MLHD does not require tenants to procure boat liability insurance.
- F12** MCCGJ observed boats are in disrepair at the harbor that may not be seaworthy.
- F13** MLHD lacks any pump out facilities, showers, laundry, or paved and stripped parking areas designated for tenants at North Harbor.

- F14** MCCGJ observed safety equipment (life rings and ropes) that are in disrepair and require replacement.
- F15** MCCGJ did not find safety ladders placed appropriately to allow people to get out of the water safely.
- F16** MLHD BOC fails to consistently post the board agenda outside South Harbor office and does not post in any location of North Harbor.
- F17** MLHD fails to update BOC agendas on the webpage in a timely fashion.
- F18** MCCGJ verified that current board members had received Brown Act classes, AB 1234 ethics training, and board member receiving governance training from the California Special Districts Association or other qualified organization.
- F19** MCCGJ found MLH experiences recurring failures of the pump-out facility, forcing slip tenants to sail to other harbors to clean out waste. MLH does not post notices of the outages nor when service would be available again.

RECOMMENDATIONS

- R1** By December 31, 2022, MLHD contract with a qualified consultant to complete a comprehensive Business/Strategic/Marketing plan.
- R2** By December 31, 2022 MLHD should complete a plan to implement the district facilities and replacement plan.
- R3** By December 31, 2022 MLHD contract with qualified consultant to conduct a comprehensive maintenance study and develop a replacement plan.
- R4** By October 1, 2022, MLHD develop and adopt procedures to track complaints and tenant maintenance requests.
- R5** By October 1, 2022, MHL D distribute copies of all District Ordinances to all tenants, current and future.
- R6** By December 31, 2022, MHL D adopt a formal process for tenants to request dock modifications and approval by the board.
- R7** By December 31, 2022, MHL D implement an ordinance requiring all slip tenants to show proof of valid boat liability insurance, naming MLHD as additionally insured.
- R8** By September 1, 2022, MHL D inspects all existing safety equipment and make repairs and replacements, as necessary.

- R9** By March 1, 2023, MHLHD should require all board members to attend Brown Act classes, AB 1234 Ethics Training, and Board governance training.
- R10** By December 31, 2022, MLHD should form a committee with North and South harbor tenants.
- R11** By September 1, 2022, MLHD should post BOC meetings, agenda packets on the South Harbor bulletin board and in a prominent location at North Harbor. MLHD should post BOC meeting minutes in a timely manner to enhance transparency.
- R12** By December 31, 2022, the MLHD install required safety equipment on the docks.
- R13** MLHD should ensure continuous operation of pump-out facilities available at the harbor.

RESPONSES REQUIRED

Pursuant to Penal Code §933 and 933.05, the Civil Grand Jury requests responses from the following governing bodies within 90 days:

- Moss Landing Harbor District
Findings: F1-19
Recommendations: R1-13

INVITED REPOSSES

- Elkhorn Yacht Club
Findings: F1-19
Recommendations: R1-13

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

BIBLIOGRAPHY

- (1) 2002-2003 Monterey County Civil Grand Jury Report, “Moss Landing Harbor District”
- (2) “As Moss Landing reinvents itself,” The San Jose Mercury News, 12.30.2018
- (3) MLHD Agenda Items: Associated Pacific Constructors Moss Landing Pile Replacement 10/5/2020, Boyd Asphalt Services singular parking lot slurry 10.27.21
- (4) Boundary Map of the Moss Landing Harbor District, LAFCO February 2006
- (5) California Coastal Commission CDP Hearing 11.26.2019, “3-19-0340 Moss Landing Pathway”
- (6) California Code of Regulations, Section 4405, “Working Over Water,” re: dock ladders
- (7) California Legislative Information, Harbors and Navigation Code (NHC), Division 6, Harbors and Ports (1690-1699), Article 1. Legislative Findings (1690) and Article 2. Jurisdiction and Powers of the Board (6270-6276).
- (8) “The Changing Face of Moss Landing,” Santa Cruz Sentinel 12.22.2018, updated 09.20.21, Hannah Hagemann. Reprinted Monterey Herald 12.20.18.
- (9) County Office of Economic Development, Caroline Pomeroy, Ph.D. and Michal Dalton, Ph.D.
- (10) “Draft Environmental Assessment and 404 (b)(1) Analysis for MLHD Maintenance Dredging,” U.S. Army Corp of Engineers, San Francisco District, May 2020.
- (11) Job Description Harbor Master and Staff
- (12) LAFCO Moss Landing Harbor District Report 2021
- (13) “Electronic Latitude: Local Cruising Destinations—Moss Landing Harbor,” Tom Burden 06.01.2020. [latitude 38.com](http://latitude38.com),
- (14) Maintenance Request Slips 01.-16.2019 through 01.02.20--average 25-30/month
- (15) Maintenance Request Slips January through May 13, 2021, average 20+/month
- (16) Moss Landing Chamber of Commerce info@mosslandingchamber.com
- (17) Moss Landing Community Plan, November 2020 draft, www.co.monterey.ca.us/home/showpublisheddocument/97823/637400098590900000

- (18) Moss Landing's Live-aboard Exist by Their Own Rules," Monterey County Weekly, 10.19.2006, Stuart Thornton
- (19) MLHD www.mosslandingharbor.dst.ca.us
- (20) MLHD "Applications for Berthing-Non Liveboards
- (21) MLHD: "Budget FYE 06.30.21 (comparing FY 06.30.2015 through FYE 06.30.21)
- (22) MLHD Fee Schedule Revised July 1, 2016, Table 20.10
- (23) MLHD General Safety Policies for employees
- (24) MLHD Independent Auditor's Report and Financial Statements FYE 2018, 2019, 2020
- (25) MLHD Ordinance Code
- (26) MHL D Organization Chart (shows 14 employees, but only ten listed by name and two open maintenance positions.
- (27) MLHD Responses to 2002 MCCGJ Report; "Moss Landing Harbor District."
- (28) MLHD Staff Report 12.15.21 "Pending Projects" [three of four on hold or in permit processing; fourth cancellation of contract with Mahoney & Associates (MHL D's Listing Agent for North Harbor commercial building)
- (29) Resolution No. 99-1 (11.19.1999) Approval of By-Laws/Election of Officers for MLHD Financing Company
- (30) ROBSON Forensics "Marina Drownings, Life Rings, and Safety Ladders"
- (31) ROI Safety Services Invoice "Annual Safety Training (04.27.21) for Onsite Construction Safety, Fall Protection, Electrical Safety, Ladder, Caught In-Between (HAZCOM)
- (32) San Mateo LAFCO Report on San Mateo County Harbor District (07.15.2015)
- (33) "Socioeconomics of the Moss Landing Commercial Fishing Industry," Report to Monterey County
- (34) UFC 4-152-01 (January 2017) Pg. 7-9, "Safety Ladders and Life Rings"
- (35) U.S. Government Publishing Office, Congressional Record (Bound Edition), Vol. 153 (2007), Part 21, Pgs. 29151-29152, "60th Anniversary of the Moss Landing Harbor District"