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**IMPROVING SCHOOL SHOOTING PREVENTION AND RESPONSE
TRAINING IN MONTEREY COUNTY**

APPENDICES

IMPROVING SCHOOL SHOOTING PREVENTION AND RESPONSE TRAINING IN MONTEREY COUNTY

APPENDIX A

List of Stakeholders for School Shooting Prevention and Response Training

- Principals
- School resource officers (when used)
- On campus probation officers (when used)
- Security officers (including campus monitors)
- Substitute teachers
- Special needs teachers
- General education teachers
- Paid teacher aids (including instructional assistants, behavior techs, academic coaches)
- Athletic coaches
- Special needs students
- General education students
- Guidance counselors
- School psychologists
- School bus drivers
- Cafeteria workers
- School nurses
- Custodial personnel
- Maintenance personnel
- Clerical personnel
- Parents
- Fire, police, and emergency medical first responders and their command personnel

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APPENDIX B

School Shooting Prevention and Response Training Survey

Version 5 Section I

Admonition:

You are hereby directed to not to reveal to any person, except as directed by the Court, any questions you are asked or what responses were given or any other matters concerning the nature or subject of this Grand Jury's inquiry, unless a final report of this Grand Jury proceeding is made public. A violation of this admonition is punishable as contempt of court.

Signature: _____ Date: _____

Contact Information (Please Print):

Name of Principal: _____

Name and Address of School _____

Telephone Number: _____

E-mail Address: _____

On-line Training Availability:

Does your school have access to a means of providing on-line instruction? ____ Yes ____ No

If so, is school safety training information currently available on-line for your high school students and other school stakeholders who have not yet received in-person training? ____

Yes ____ No

If so, are recipients of that on-line school safety training quizzed by either that system or by in-class instructors to help ensure their comprehension of that material? ____ Yes ____ No

____ N/A

School Safety Plan:

In accordance with Education Code 32280-32289 did your school review and update (if needed) its Comprehensive School Safety Plan by March 1, 2018? ____ Yes ____ No

If yes, did it submit a form for:

A. Small school districts with a district-wide safety plan ____ Yes ____ No

B. Schools with their own school safety plan ____ yes ____ No

If it did not meet the March 1st deadline, did it submit a safety plan after March 1st and is now current? ____ Yes ____ No

School Safety Training Completed by Principal:

Check (√) which of the following types of school safety training you have personally completed during the last two years:

A. ½ day ALICE _____

B. 1 day ALICE _____

C. 2 day ALICE Certified Trainer Instruction _____

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- D. Another type of (Non-ALICE) Active Shooter _____
 - E. Suicide Prevention _____
 - F. Anti-Bullying (Including tolerance, harassment and conflict resolution) _____
 - G. When, how, why, and to whom issues of violence should be reported _____
 - H. How to assess and mitigate potential threats of violence _____
 - I. Other, please describe _____
-

School Safety Resources:

Check which of the following government and professional organization school violence documents and websites that your school has used to help improve its safety plan:

1. *The Final Report and Findings of the Safe School Initiative: Implications for the Prevention of School Attacks in the United States*, United States Secret Service and US Department of Education, 2004. ___ used ___ not used ___ unsure
2. *Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence*, United States Secret Service, 2018. ___ used ___ not used ___ unsure
3. *Guide for Preventing and Responding to School Violence, 2nd Edition*, International Association of Chiefs of Police, Bureau of Justice Assistance, US Department of Justice, Updated 2009. ___ used ___ not used ___ unsure
4. *Best Practice Considerations for Schools in Active Shooter and Other Armed Assailant Drills: Guidance from the National Association of School Psychologists and the National Association of School Resource Officers*, Updated April 2017. ___ used ___ not used ___ unsure
5. *School Safety Resources, Resources for school safety and violence prevention, useful for safe school planning and implementation*. California Department of Education. ___ used ___ not used ___ unsure
6. *School Violence Prevention Resources*, Centers for Disease Control. ___ used ___ not used ___ unsure
7. *ALICE School Violence Resources*, ALICE Training Institute. ___ used ___ not used ___ unsure
8. Others resources, if any, you have used, Please list:

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Section II

For the questions in this section, if the people you are considering serve in more than one role (e.g., teacher & coach, teacher & administrator, etc.), only include them in the role they worked in the most at your school.

In the event it would be too difficult for you to provide the specific number of people in a given roll category (e.g., Gen Ed teachers) who have completed a specific type of training (e.g., ½ day ALICE), you may provide your best estimated percentage (Est XX%) instead.

1.a How many **School Resource Officers (SROs)** currently work at your school? _____

During the last two years:

1.b How many of those SROs have completed the ½ day ALICE training? _____

1.c How many of those people have completed the 1 day ALICE training? _____

1.d How many of those SROs have completed the 2 day ALICE certification training? _____

1.e How many of those SROs have completed some other type (not ALICE) of active shooter training? _____

During the last two years, how many of those SROs have completed training addressing each of the following areas:

1.A Suicide prevention _____

1.B Anti-bullying (including tolerance, harassment and conflict resolution) _____

1.C When, how, why, and to whom they should report issues of violence concern _____

1.D How to assess and mitigate potential threats of violence _____

1.E Other, please describe _____

2.a How many **Probation Officers (POs)** currently work at your school? _____

During the last two years:

2.b How many of those POs have completed the ½ day ALICE training? _____

2.c How many of those POs have completed the 1 day ALICE training? _____

2.d How many of those POs have completed the 2 day ALICE certification training? _____

2.e How many of those POs have completed some other type (not ALICE) of active shooter training? _____

During the last two years, how many of those POs have completed training addressing each of the following areas:

2.A Suicide prevention _____

2.B Anti-bullying (including tolerance, harassment and conflict resolution) _____

2.C When, how, why, and to whom they should report issues of violence concern _____

2.D How to assess and mitigate potential threats of violence _____

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2.E Other, please describe _____

3.a How many **Security Officers (SOs)** (including Campus Monitors) currently work at your school? _____

During the last two years:

3.b How many of those SOs have completed the ½ day ALICE training? _____

3.c How many of those SOs have completed the 1 day ALICE training? _____

3.d How many of those SOs have completed the 2 day ALICE certification training? _____

3.e How many of those SOs have completed some other type (not ALICE) of active shooter training? _____

During the last two years, how many of those SOs have completed training addressing each of the following areas:

3.A Suicide prevention _____

3.B Anti-bullying (including tolerance, harassment and conflict resolution) _____

3.C When, how, why, and to whom they should report issues of violence concern _____

3.D How to assess and mitigate potential threats of violence _____

3.E Other, please describe _____

4.a Excluding yourself, how many **Administrators (Admins)** currently work at your school? _____

During the last two years:

4.b How many of those Admins have completed the ½ day ALICE training? _____

4.c How many of those Admins have completed the 1 day ALICE training? _____

4.d How many of those Admins have completed the 2 day ALICE certification training? _____

4.e How many of those Admins have completed some other type of active shooter training? _____

During the last two years, how many of those Admins have completed training addressing each of the following areas:

4.A Suicide prevention _____

4.B Anti-bullying (including tolerance, harassment and conflict resolution) _____

4.C When, how, why, and to whom they should report issues of violence concern _____

4.D How to assess and mitigate potential threats of violence _____

4.E Other, please describe _____

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5.a How many District Approved **Substitute Teachers** worked at your school today (or last school day)? _____

During the last two years:

5.b How many of those Substitute Teachers have completed the ½ day ALICE training?

5.c How many of those Substitute Teachers have completed the 1 day ALICE training?

5.d How many of those Substitute Teachers have completed the 2 day ALICE certification training? _____

5.e How many of those Substitute Teachers have completed some other type of active shooter training? _____

During the last two years, how many of those Substitute Teachers have completed training addressing each of the following areas:

5.A Suicide prevention _____

5.B Anti-bullying (including tolerance, harassment and conflict resolution) _____

5.C When, how, why, and to whom they should report issues of violence concern _____

5.D How to assess and mitigate potential threats of violence _____

5.E Other, please describe _____

6.a How many **Special Needs Teachers** work at your school? _____

During the last two years:

6.b How many of those Special Needs Teachers have completed the ½ day ALICE training? _____

6.c How many of those Special Needs Teachers have completed the 1 day ALICE training? _____

6.d How many of those Special Needs Teachers have completed the 2 day ALICE certification training? _____

6.e How many of those Special Needs Teachers have completed some other type of active shooter training? _____

During the last two years, how many of those Special Needs Teachers have completed training addressing each of the following areas:

6.A Suicide prevention _____

6.B Anti-bullying (including tolerance, harassment and conflict resolution) _____

6.C When, how, why, and to whom they should report issues of violence concern _____

6.D How to assess and mitigate potential threats of violence _____

6.E Other, please describe _____

7.a How many **General Education (Gen Ed) Teachers** work at your school?

During the last two years:

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7.b How many of those Gen Ed Teachers have completed the ½ day ALICE training?

7.c How many of those Gen Ed Teachers have completed the 1 day ALICE training?

7.d How many of those Gen Ed Teachers have completed the 2 day ALICE certification training? _____

7.e How many of those Gen Ed Teachers have completed some other type of active shooter training? _____

During the last two years, how many of those Gen Ed Teachers have completed training addressing each of the following areas:

7.A Suicide prevention _____

7.B Anti-bullying (including tolerance, harassment and conflict resolution) _____

7.C When, how, why, and to whom they should report issues of violence concern _____

7.D How to assess and mitigate potential threats of violence _____

7.E Other, please describe _____

8.a How many **Paid Teacher Aids** (including Instructional Assistants, Behavior Techs, and Academic Coaches) work at your school? _____

During the last two years:

8.b How many of those Paid Teacher Aids have completed the ½ day ALICE training?

8.c How many of those paid Teacher Aids have completed the 1 day ALICE training?

8.d How many of those Paid Teacher Aids have completed the 2 day ALICE certification training? _____

8.e How many of those Paid Teacher Aids have completed some other type of active shooter training? _____

During the last two years, how many of those Paid Teacher Aids have completed training addressing each of the following areas:

8.A Suicide prevention _____

8.B Anti-bullying (including tolerance, harassment and conflict resolution) _____

8.C When, how, why, and to whom they should report issues of violence concern _____

8.D How to assess and mitigate potential threats of violence _____

8.E Other, please describe _____

9.a How many **Volunteer Teacher Aids** work at your school? _____

During the last two years:

9.b How many of those Volunteer Teacher Aids have completed the ½ day ALICE training? _____

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9.c How many of those Volunteer Teacher Aids have completed the 1 day ALICE training? _____

9.d How many of those Volunteer Teacher Aids have completed the 2 day ALICE certification training? _____

9.e How many of those Volunteer Teacher Aids have completed some other type of active shooter training? _____

During the last two years, how many of those Volunteer Teacher Aids have completed training addressing each of the following areas:

9.A Suicide prevention _____

9.B Anti-bullying (including tolerance, harassment and conflict resolution) _____

9.C When, how, why, and to whom they should report issues of violence concern _____

9.D How to assess and mitigate potential threats of violence _____

9.E Other, please describe _____

10.a How many paid walk-on **Athletic Coaches** (not employed more than ½ time by the school in any other capacity) work at your school? _____

During the last two years:

10.b How many of those Coaches have completed the ½ day ALICE training?

10.c How many of those Coaches have completed the 1 day ALICE training? _____

10.d How many of those Coaches have completed the 2 day ALICE certification training? _____

10.e How many of those Coaches have completed some other type of active shooter training? _____

During the last two years, how many of those Coaches have completed training addressing each of the following areas:

10.A Suicide prevention _____

10.B Anti-bullying (including tolerance, harassment and conflict resolution) _____

10.C When, how, why, and to whom they should report issues of violence concern

10.D How to assess and mitigate potential threats of violence _____

10.E Other, please describe _____

11.a How many **Special Needs Students** attend your school? _____

During the last two years:

11.b How many of those Special Needs Students have completed the ½ day ALICE training? _____

11.c How many of those Special Needs Students have completed the 1 day ALICE training? _____

11.d How many of those Special Needs Students completed the 2 day ALICE certification training? _____

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11.e How many of those Special Needs Students completed some other type of active shooter training? _____

During the last two years, how many of those Special Needs Students have completed training addressing each of the following areas:

11.A Suicide prevention _____

11.B Anti-bullying (including tolerance, harassment and conflict resolution) _____

11.C When, how, why, and to whom they should report issues of violence concern _____

11.D How to assess and mitigate potential threats of violence _____

11.E Other, please describe _____

12.a How many General Education (i.e., not Special Needs) **Students** attend your school? _____

During the last two years:

12.b How many of those Gen Ed Students have completed the ½ day ALICE training? _____

12.c How many of those Gen Ed Students have completed the 1 day ALICE training? _____

12.d How many of those Gen Ed Students have completed the 2 day ALICE certification training? _____

12.e How many of those Gen Ed Students have completed some other type of active shooter training? _____

During the last two years, how many of those Gen Ed Students have completed training addressing each of the following areas:

12.A Suicide prevention _____

12.B Anti-bullying (including tolerance, harassment and conflict resolution) _____

12.C When, how, why, and to whom they should report issues of violence concern _____

12.D How to assess and mitigate potential threats of violence _____

12.E Other, please describe _____

13.a How many **Guidance Counselors** work at your school? _____

During the last two years:

13.b How many of those Guidance Counselors have completed the ½ day ALICE training? _____

13.c How many of those Guidance Counselors have completed the 1 day ALICE training? _____

13.d How many of those Guidance Counselors have completed the 2 day ALICE certification training? _____

13.e How many of those Guidance Counselors completed some other type of active shooter training? _____

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During the last two years, how many of those Guidance Counselors have completed training addressing each of the following areas:

- 13.A Suicide prevention _____
- 13.B Anti-bullying (including tolerance, harassment and conflict resolution) _____
- 13.C When, how, why, and to whom they should report issues of violence concern _____
- 13.D How to assess and mitigate potential threats of violence _____
- 13.E Other, please describe _____

14.a How many **School Psychologists** work at your school? _____

During the last two years:

- 14.b How many of those School Psychologists have completed the ½ day ALICE training? _____
- 14.c How many of those School Psychologists have completed the 1 day ALICE training? _____
- 14.d How many of those School Psychologists have completed the 2 day ALICE certification training? _____
- 14.e How many of those School Psychologists completed some other type of active shooter training? _____

During the last two years, how many of those School Psychologists have completed training addressing each of the following areas:

- 14.A Suicide prevention _____
- 14.B Anti-bullying (including tolerance, harassment and conflict resolution) _____
- 14.C When, how, why, and to whom they should report issues of violence concern _____
- 14.D How to assess and mitigate potential threats of violence _____
- 14.E Other, please describe _____

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Additional Categories of School Personnel (insert number of people in each cell):

	School Bus Drivers	Cafeteria Workers	School Nurses	Custodial Personnel	Maintenance Personnel	Clerical Personnel
# at School	15.a:	16.a:	17.a:	18.a:	19.a:	20.a:
# who have completed ½ day ALICE training	15.b:	16.b:	17.b:	18.b:	19.b:	20.b:
# who have completed 1 day ALICE training	15.c:	16.c:	17.c:	18.c:	19.c:	20.c:
# who have completed 2 day ALICE certification training	15.d:	16.d:	17.d:	18.d:	19.d:	20.d:
# who have completed another type of active shooter training	15.e:	16.e:	17.e:	18.e:	19.e:	20.e:
# who have completed suicide prevention training	15.A:	16.A:	17.A:	18.A:	19.A:	20.A:
# who have completed anti-bulling training	15.B:	16.B:	17.B:	18.B:	19.B:	20.B:
# who have completed violence reporting training	15.C:	16.C:	17.C:	18.C:	19.C:	20.C:
# who have competed violence assessment & mitigation training	15.D:	16.D:	17.D:	18.D:	19.D:	20.D:
Other - # & describe	15.E:	16.E:	17.E:	18.E:	19.E:	20.E:

MONTEREY COUNTY ELECTIONS – TODAY AND TOMORROW

SUMMARY

Elections form the backbone of our individual participation in the representative democracy that we all enjoy as American citizens. It is the way we communicate our preferences for candidates and initiatives. Our confidence in this process plays a key part in our confidence in our government. Recent national news stories alleging outside influence in the U.S. elections process have heightened the attention paid to elections.

Technology changes are revolutionizing the means by which data and information are collected and distributed across all aspects of modern life. These changes have already added to the ways in which voters are educated about candidates and issues, votes are cast and tabulated, and outcomes are announced. Implementation of technology changes impacts the security around the election process, the timeliness of communicating results, and the cost of the election process.

In this environment, the Monterey County Civil Grand Jury launched an investigation into the elections process in Monterey County. Two main areas were at the center of the investigation:

1) NOVEMBER 2018 ELECTION

Were there noteworthy issues, either in process or outcome, with Monterey County's 2018 election process? Were there any problems with the execution of the election that would generate recommendations for improvements in future elections? Were sufficient resources available to conduct the election?

2) FUTURE ELECTIONS

Can new technology and procedures improve the efficiency and reduce the relative cost of future elections? What resources are available to the Elections Department to support new technology? How prepared is Monterey County for the eventual replacement of its existing voting and vote tabulation equipment? What can be done today to prepare both the county and voters for the changes to come?

Our investigation found that the current process for conducting elections is secure. It was also cost-effective relative to other counties. The Elections Department staff is very conscious of its role in supporting county voters and makes every effort to ensure a smooth voting process given available resources. The current election process, with its dependence on older equipment and volunteer-supported polling places, ran smoothly in the November 2018 election but is vulnerable to shortages and breakdowns in future elections.

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We also found that the planning and budgeting processes for acquiring equipment in the future are lacking. They fail to take full advantage of the central Information Technology (IT) resources of the county in preparation for election process changes. This is consistent with other county departments that maintain their own separate mini-IT departments.

As today's younger, more tech-savvy voters become a larger share of the county electorate, they will expect more convenient, mobile voting processes that are more flexible, faster, and rely less on large numbers of volunteer-staffed polling places.

Our recommendations call on the county to start preparing now for the transition to more technology-enabled, less labor-intensive elections. Current mobile voting systems used by military personnel stationed outside the US provide a useful starting place that can be expanded in future elections.

Changes to the county-wide budgeting process that set aside funds for future equipment investments would allow for the anticipation of needed replacements and plans for migration to new technology.

Finally, integrating the resources of the IT Department across all county departments would improve not only Elections Department operations, but county operations overall.

BACKGROUND

Much of the Monterey County election process is regulated at the state level by the Office of the Secretary of State¹. Ballots and educational materials are mailed to all registered voters a month before an election. Voters have the option of returning their completed ballots by mail or going to a polling place in their community to submit their ballots. Voters use paper ballots to make selections, which are then delivered to the Elections Department in Salinas. The votes are tabulated using machines that scan the marks on the ballot. The results of the election are certified by the Secretary of State after all ballots are counted and any recounts take place.

The cost of elections is dictated by the voting process. Costs include the printing and distribution of ballots, the staffing of polling places, and the capital and maintenance costs of acquiring and maintaining tabulating equipment. These expenses are borne by the county.

¹ <https://www.sos.ca.gov/elections/voting-systems/laws-and-standards/>

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There are many positive aspects to the existing process. It has created elections with results that have been determined in a relatively timely manner and have the general confidence of the voters. A secure paper trail is created which documents each individual vote in case there is any question as to the accuracy of the vote count.

Given the age of existing voting and tabulation equipment and the continuing development of innovations in technology and communications, changes of one kind or another in the future are inevitable. The decisions that are made in the coming years will have an impact on our method of choosing officials and approving initiatives for decades to come.

There are other approaches to the election process and vote tabulation. If one were to design a new voting system with today's technology, computing power, and Internet connectivity, one would have to consider the use of new processes in the design of elections. There are risks – both real and perceived – to transitioning into the execution of elections using new approaches. Regardless of the choices made, there are real costs associated with maintaining existing systems as well as implementing a next generation of election equipment.

Monterey County needs to confront those choices today, while we have time to have an informed discussion and evaluation. What can Monterey County learn from new approaches? What can we do to prepare for future elections in which our citizens increasingly expect more convenient voting processes and faster results, with no loss of security or confidence?

APPROACH

The Civil Grand Jury interviewed senior officials from the Elections Department, as well as county management, to understand the current state of the elections process and plans for future elections.

Several jury members observed the November 2018 election at polling places throughout the county. We also toured the Elections Department facility at 1441 Schilling Place in Salinas.

We conducted literature searches of reports of external influence on the 2018 elections, new approaches to voting, including technologies, in other jurisdictions, and changes to California law as it pertains to future elections.

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DISCUSSION

The facts listed below are the result of interviews conducted as a part of the grand jury investigation process, unless noted otherwise by footnotes.

GENERAL INFORMATION

- 1) Elections are legally mandated activities. Therefore, the costs of elections are not considered to be discretionary spending for Monterey County. Any costs associated with testing or purchasing new equipment would be considered discretionary.
- 2) There are 12 full-time employees of the Monterey County Elections Department and a few part-time employees. During an election year, the Elections Department adds temporary employees and about 900 poll workers.
- 3) Monterey County elections use paper ballots. Since 1968, ballots have been printed in both Spanish and English. This is mandated in Section 203 of the Voting Rights Act of 1965 by the federal government².
- 4) There were 84 polling places in the county for the November 2018 election.
- 5) There are three Information Technology (IT) specialists within the Elections Department that provide IT support for the elections process.
- 6) The involvement of the county IT Department personnel with the Elections Department operations is limited to providing network support and security assessments. They are not involved in the support of the election ballot collection or tabulation process. This is consistent with the county's decentralized approach to IT.

ELECTION COSTS

- 1) The annual budget for the Election Department ranges from \$4.5 to \$5.5 million (depending on whether there is a general election that year). Budgets are submitted for review and final approval by the Board of Supervisors under the auspices of the Chief Administrative Office (CAO). The budget is allocated as follows: printing ballots and voter guides (38%), salaries and benefits (43%), IT (11%), and overhead and administrative costs (8%).
- 2) Using data from a California Association of Clerks and Election Officials (CACEO) study of the 2012 presidential election, Monterey County election costs

² <https://elections.cdn.sos.ca.gov/ccrov/pdf/2016/december/16333ji.pdf>

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were compared to four other comparable counties (Santa Barbara, Solano, Sonoma and Santa Cruz). Monterey County elections were the least expensive on a cost per registered voter basis. Sonoma County costs were 50% higher, Santa Barbara and Solano Counties were 100% higher, and Santa Cruz County was 200% higher. Out of the 27 California counties whose data were included in the study, only Sutter, El Dorado and Yuba counties spent less per registered voter in 2012 than Monterey County.³

- 3) The Elections Department has consistently managed its costs to come in under budget during recent years. The Elections Department is not viewed as a current problem by county IT or CAO management. Relative to the size of the overall county government budget, the Elections Department budget is small.
- 4) In November 2018, 30.8% of Monterey County votes were cast at polling places. The remaining votes were mailed in.
- 5) In 2020, California counties can choose to have “vote-by-mail only” elections⁴.
- 6) The current conduct of elections is highly dependent on the availability of volunteers to staff polling places and vote processing and tabulation. The Elections Department had a difficult time finding enough volunteers for the November 2018 election.
- 7) The purchase or lease of new equipment and related capital costs are not included in the Elections Department operating budget. Any capital requests for equipment must be submitted to the Resource Management Agency and compete with other county equipment requests from other departments for approval.
- 8) Paid return postage will be included with the ballot return envelope in 2020. This new election expense is expected to be reimbursed by the state⁵.

³ <http://results.caceoelectioncosts.org>

⁴ Cal. Elec. Code §3017, 4005-4008

⁵ Cal. Elec. Code §3010

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ELECTION REGULATIONS

- 1) The National Voter Registration Act of 1993 (NVRA)⁶ requires states to designate state government agencies and offices that provide public assistance or services to people with disabilities at voter registration agencies.
- 2) The California Secretary of State and Department of Motor Vehicles (DMV) established the Motor Voter Program⁷ to increase the opportunities for voter registration to those who qualify by enabling voter registration during the driver's license application process.

VOTER REGISTRATION AND VALIDATION

- 1) A California voter must be a U.S. citizen; a resident of California; not in prison or on parole for the conviction of a felony; at least 18 years of age on the date of the election; and cannot have been determined to be mentally incompetent by a court. Citizens who are 16 and 17 years old may pre-register to vote.⁸
- 2) Voters assert their right to register by signing their driver's license applications under penalty of perjury that their eligibility information is true and correct.
- 3) Newly registered local voter information is sent to the Statewide Voter Registration Database⁹ and compared to records from the DMV. It is checked and compared against databases and validated to ensure the registration is legal.
- 4) People who are incarcerated or on parole cannot vote, but once they have completed their sentence, they are entitled to vote again.
- 5) Any Monterey County citizen who can provide a mailing address (either general delivery at a post office, a post office box or a street address) and is otherwise legally qualified to vote may register to vote. The U.S. Postal Service provides general delivery service free of charge.

ELECTION SECURITY

- 1) All Election Department staff must take a certification course and training in security.

⁶ <https://www.justice.gov/crt/national-voter-registration-act-1993-nvra>

⁷ <https://www.sos.ca.gov/elections/california-motor-voter/>

⁸ <https://www.sos.ca.gov/elections/pre-register-16-vote-18/>

⁹ <https://www.sos.ca.gov/administration/regulations/current-regulations/elections/statewide-voter-registration-database>

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- 2) Tabulation equipment is air-gapped (not connected to any outside network, including the Internet) to prevent outside access.
- 3) There are external security cameras in the Elections Department building, along with security guards available 24 hours a day, 7 days a week. A second line of defense includes interior cameras and an alarm system. Records are kept of all who enter the facility (including employees).
- 4) The only Internet-enabled voting currently permitted in Monterey County is the system for military personnel stationed overseas¹⁰. They use an Internet web site with a link to a service that creates a hard copy of a ballot that is then faxed to the Elections Department. The expanded use of this system by disabled and handicapped voters has been discussed for the 2020 elections.

ELECTION EQUIPMENT

- 1) The Elections Department uses eight small tabulator machines that are provided by Dominion Voting Systems. These tabulators are in the second year of a six-year lease.
- 2) The Elections Department uses an automated mail opener and sorter for use with mail-in ballots. It has a laser beam that cuts open a window and compares the signature with the one on file. Ballots are extracted from the envelope manually, and then taken to the tabulators for scanning and counting the votes.
- 3) Direct Recording Electronic (DRE) equipment, located at each polling place, is used by handicapped voters. This equipment has reached the end of its useful life. In some cases, replacement parts are no longer available. The DRE equipment needs to be replaced. Replacement before the 2020 election depends on the availability of \$1.1 million in matching fund reimbursement for previous equipment purchases.
- 4) All voting equipment must be certified by the Secretary of State's office before it can be considered for use in any California county election.

ELECTION TABULATION PROCESS

- 1) Mail-in ballots begin to be tabulated 10 days before an election.
- 2) An unregistered voter may conditionally register at the Elections Department on Election Day and cast a provisional ballot for inclusion in that election. About 600 provisional ballots were cast in the November 2018 election. The provisional

¹⁰ www.fvap.gov

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ballots were counted after elections officials confirmed the validity of the voter's registration.

- 3) November 2018 election results were certified on November 27, 2018, which was earlier than planned. There are 187,286 voters currently registered in Monterey County and 62.81% of registered voters cast ballots. The number of persons who voted at their polling place was 28,284 and 89,347 cast vote-by-mail ballots. There were no reports of unusually long waits (over 10-15 minutes).
- 4) The first November 2018 election partial vote totals were released within 15 minutes of polls closing. Regardless of what may be reported on county web sites, on television or in newspaper reports, election results are not final until they have been certified. Certification generally takes place several weeks after the election. Declarations of a winner, or concessions by a loser, have no legal impact on final election results.
- 5) The ballots for the November 2018 election were scheduled to be sent out a month before the election. The ballots for the voters in the city of Gonzales were delivered a week late. This problem was the result of issues with an outside agency that handles ballot printing and distribution. It was not discovered until voters inquired why they had not received ballots.

OTHER FUNCTIONS

- 6) The county IT department manages the delivery and storage of sensitive information on its computers and networks while maintaining data security and integrity.
- 7) The Elections Department makes its own recommendations for the acquisition of new technology equipment. The county IT Department only reviews new technology purchases for security. IT is not involved in the budget process or in determining what equipment is selected or when equipment needs to be replaced.
- 8) The county Resource Management Agency sets priorities for capital spending and determines what Elections Department equipment purchases are placed into the annual operating budget. Monterey County does not accrue reserves for future capital expenditures by using depreciation expensing in its accounting. It operates on a cash budget basis. Recently, the county has begun capitalizing and expensing depreciation costs associated with buildings.

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FINDINGS

- F1) Elections in Monterey County are generally conducted in a cost-effective, efficient manner, considering the small staff size and labor-intensive election process used.
- F2) Costs for elections are in line with, or less than election costs at similar sized counties in the state. There are no obvious places for cost reduction given the existing tabulation process.
- F3) The Elections Department staff is genuinely interested in conducting a reliable election process and make reasonable efforts to reach out to voters to support their ability to vote.
- F4) Funds are not reserved for the replacement of equipment that has reached the end of its useful life, or for the acquisition of new equipment needed to support future elections.
- F5) There is no process for capitalizing and depreciating capital equipment in the Elections Department.
- F6) The CAO's office has begun the process of depreciating the cost of buildings and accruing funds for future replacement needs in their accounting processes.
- F7) With existing resources, efforts to register new voters are reasonable and effective.
- F8) Volunteers to support County election activity are becoming more difficult to find, which makes capital-labor substitution (automation) more important going forward.
- F9) The biggest immediate concern to the current election process involves the management of outside agencies that provide support services for the Elections Department. This includes all firms involved with the printing, distribution, and delivery of ballots and voter information, including the U.S. Postal Service (USPS).
- F10) The addition of prepaid postage to be processed by the USPS for return ballot envelopes creates a new set of concerns starting in 2020. The USPS will be responsible for the timely delivery, billing, and collection of postage for these returned ballots.

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- F11) Vote-by-mail is cost-effective relative to traditional voting at local polling stations. However, even with vote-by-mail elections, in-person voting stations must be provided to provide access to the voting process for some voters.
- F12) There was no evidence of any significant level of voter fraud or external influence in the outcome of the November 2018 elections.
- F13) The county IT Department currently manages and stores sensitive data for other county agencies. Internet voting ballots could be stored electronically with equal security and lower cost compared to the current system of storing paper ballots after an election.
- F14) As access to the Internet is not universally available throughout the county, alternative voting methods (like mail-in or voting station options) would have to augment any Internet-enabled voting system in the foreseeable future.
- F15) Internet-enabled voting would allow voters to vote using computers or smart phones in future elections. This would require the use of virtual private secure networks to communicate between voters and the Elections Department.
- F16) A transition to Internet-enabled voting would require infrastructure that is not present in the current Elections Department.
- F17) The Grand Jury did not find any evidence of a risk assessment of Internet-enabled voting relative to current voting processes.
- F18) The resources of the IT Department are not fully utilized by the Elections Department because of the decentralized approach to IT throughout the county. Currently, each department maintains its own IT resources.

RECOMMENDATIONS

- R1) The Elections Department should implement a process of closer supervision and tracking of all levels of activity of outside agencies for the 2020 elections. This will minimize the reoccurrence of problems such as the one that occurred last November in Gonzales and any future problems related to the new prepaid postage mailing ballot system.
- R2) The Elections Department should evaluate and test new means to accommodate more voters in an efficient and cost-effective manner that is less dependent on volunteers starting in 2022.
- R3) The Elections Department should expand the Internet-enabled voting program now used by overseas military residents to the general voting public on a gradual

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basis starting in 2022. Testing this process on a limited basis will be necessary for the information and planning needed to support a potential broader rollout of Internet-enabled voting in the future. Planning must begin for changes to vote tabulation processes in anticipation of needed equipment necessary to process larger volumes of Internet-enabled votes.

- R4) During the next budget cycle, the Chief Administrative Office should work with the Board of Supervisors to expand the practice of depreciating and expensing capital equipment to include the equipment needed by the Elections Department. This would create a process for the replacement of aging existing equipment and the evaluation of new equipment needed to support future election processes. This could serve as a model for broader implementation of sound financial planning in other departments throughout the county.
- R5) The Elections Department should immediately start taking a leadership role in working with the Secretary of State to evaluate and recommend new voting systems. Through its direct involvement, the Elections Department can better prepare Monterey County voters with access to tools for future elections.
- R6) The Elections Department should immediately increase the level of coordination and involvement with the IT Department in the evaluation and planning for future elections. The county's current decentralized approach to managing technology transformation does not exploit the expertise of the IT Department to evaluate and deploy new technologies. With closer coordination between the IT Department and the Elections Department, we believe that a new, more effective model for managing and implementing technology in Monterey County can be achieved.
- R7) By 2022, the Elections Department should start taking steps to modernize the election process by upgrading equipment used in vote tabulation to accommodate Internet-enabled voting.

INVITED RESPONSES

- Monterey County Registrar of Voters: F1-F18 and R1-R7
- Chief Administrative Officer: F1-F18 and R1-R7

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- Director of the Information Technology Department:
F13-F18; R3, R4, R6, R7

Reports issued by the Civil 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

MONTEREY COUNTY'S UNENFORCED ROOSTER KEEPING ORDINANCE



An Illegal Rooster Keeping Operation in North Monterey County

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SUMMARY

Monterey County has an ordinance regulating rooster keeping operations in its unincorporated areas but has failed to enforce it. The Rooster Keeping Ordinance No. 5249, (hereafter known as The Ordinance)¹, passed by the Board of Supervisors (BoS) in 2014, is designed to "...establish a comprehensive approach to the keeping of five or more roosters that balances promotion of agriculture and agricultural education with prevention of rooster keeping operations that are unsanitary, inhumane, environmentally damaging or conducive of illegal cockfighting."²

The BoS had good intentions in their fight to eliminate illegal rooster keeping operations. Unfortunately, Monterey County agencies are operating under a process, created by Environmental Health Bureau, that effectively modifies the implementation and enforcement of The Ordinance. As a result, agencies are confused about their roles, have been poorly trained, and the public does not know where to turn to have their concerns addressed. The current process for implementation and enforcement must be revised to reflect the intent of The Ordinance in order to be effective. Policy makers need to reevaluate the way this ordinance is implemented.

The restrictions contained in the ordinance are legal and justified. The mechanism for enforcement is weak and illegal rooster keeping operations in Monterey County continue with impunity. The methodology used to implement and enforce The Ordinance is insufficient to bring about the intended change for rooster keeping practices.

The Ordinance has been upheld in the Sixth Appellate District Court of Appeals putting to rest the idea that the policy is overreaching.³ Nevertheless, since its passage, this ordinance has been left to languish while the number of illegal rooster keeping operations has flourished in Monterey County.

The reasons for this failure are complex. The Monterey County Civil Grand Jury (MCCGJ) found that implementation and enforcement of the ordinance failed due to three main reasons:

1. Lack of leadership and oversight from the BoS and the Health Department,

¹ [Link to: Rooster Keeping Ordinance 5249](#)

² <https://www.co.monterey.ca.us/home/showdocument?id=16498>

³ <https://caselaw.lexroll.com/2019/02/21/perez-v-county-of-monterey-no-h044364-cal-app-2-14-2019/>

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2. The hindrance to implementation and enforcement created by a process developed by Environmental Health Bureau, and
3. The unwillingness of multiple agencies to enforce it.

Monterey County needs to enforce its rooster keeping operations ordinance. All agencies involved must coordinate their efforts to end illegal rooster keeping and the associated crime and disease. Monterey County has a legal ordinance. Monterey County should enforce it with equanimity and impartiality.

The MCCGJ agrees with this quotation from the summary of *Perez V. County of Monterey*.⁴ "The County has an interest in establishing humane and sanitary standards for the keeping of roosters." It is the recommendation of the MCCGJ that The Ordinance should be immediately implemented and enforced in Monterey County.

GLOSSARY

ACS – Animal Control Services

ACO – Animal Control Officer

Agricultural Commissioner – Office of the Agricultural Commissioner

BoS – Board of Supervisors

CDFA – California Department of Food and Agriculture

County Code –The law in Monterey County which contains ordinances passed by the BoS

Environmental Health Bureau – The Environmental Health Bureau is a division within the Monterey County Health Department.

HSUS – Humane Society of the United States- A private non-profit, national agency, headquartered in Sacramento, California

The Ordinance – Ordinance No. 5249, which amended Chapter 8.04 of Title 8 and added Chapter 8.50 to Title 8 of the Monterey County Code

Process – A series of steps, operations, created by Environmental Health to implement and enforce The Ordinance

SPCA of Monterey County – Society for the Prevention of Cruelty to Animals- a private non-profit, agency in Monterey County

⁴ <https://www.law.com/therecorder/static/daily-opinion-services/?download=021919CDS.pdf&slreturn=20190418133513>

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RMA – Resource Management Agency, also known as Code Enforcement, which includes Code Compliance, Building Services, and Planning

SHARK – Showing Animals Respect and Kindness – An animal rights advocate group

Title 8 – Animal Control Code of Monterey County

Title 21- Zoning Ordinance of Monterey County applicable only to the unincorporated areas outside of the Coastal Zone in Monterey County

Virulent Newcastle Disease - formerly known as Exotic Newcastle Disease, is a contagious and fatal viral disease affecting the respiratory, nervous, and digestive systems of roosters and poultry. The disease is so virulent that many roosters and poultry die without showing any clinical signs.⁵

Zoonotic Disease – A disease spread between animals and people. Zoonotic diseases can be caused by viruses, bacteria, parasites, and fungi.⁶

BACKGROUND

Why we Investigated

The role of the MCCGJ is to shine light on the effectiveness or ineffectiveness of publicly funded agencies and to examine policies and procedures in order to ensure wise use of taxpayer funds. (CA Penal Code section 925).⁷ The MCCGJ received a complaint from a resident who discovered a well-established, alleged illegal rooster keeping operation in Monterey County during June of 2018. Unsure of where to turn, the complainant contacted four different County agencies and reported alleged animal abuse and animal cruelty including cockfighting. The complainant's concerns were not given sufficient consideration.

The MCCGJ investigated:

1. The restrictions and provisions set forth in The Ordinance
2. The duties and responsibilities of each of the agencies the complainant contacted for remedy
3. The reasons for the failure of The Ordinance to eliminate illegal rooster-keeping operations in Monterey County

⁵ <https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-disease-information/avian/virulent-newcastle/vnd>

⁶ <https://www.cdc.gov/parasites/animals.html>

⁷ https://california.public.law/codes/ca_penal_code_section_925

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4. What other counties are doing about the issue of illegal rooster keeping operations
5. What recommendations can be made by the MCCGJ to resolve this issue

The MCCGJ initially chose to review this complaint because of the alleged non-response of County agencies to address the concerns of the complainant. Our focus turned to the responses of the agencies named in The Ordinance as well as the agencies contacted by the complainant. The fundamental issue was the non-responsiveness on the part of multiple agencies with whom the issue was raised.

What we Investigated

Keeping five or more roosters without a permit in Monterey County is against the law. Obtaining a permit for the keeping of five or more roosters in Monterey County is part of The Ordinance. The MCCGJ found that The Ordinance is not being implemented or enforced. We learned that, with the exception of Animal Control Services (ACS), agencies required to understand this ordinance reported never having completely read it. We wanted to understand what made the ordinance so difficult to implement and enforce.

SUMMARY INTRODUCTION TO THE ORDINANCE STATES:

“This ordinance adds Chapter 8.50 to the Monterey County Code to regulate rooster keeping operations. The ordinance also adds new defined terms to Chapter 8.04. The purpose of this ordinance is to establish a comprehensive approach to the keeping of five or more roosters that balances promotion of agriculture and agricultural education with prevention of rooster keeping operations that are unsanitary, inhumane, environmentally damaging, or conducive of illegal cockfighting. The ordinance requires a permit, issued by the Monterey County Animal Control Officer, to keep five or more roosters per single property within unincorporated Monterey County. The ordinance sets standards for the feeding and housing of roosters and for waste disposal and other matters to address the health and environmental impacts of raising five or more roosters. The ordinance allows students participating in FFA, 4-H, and other school sponsored educational projects to raise five or more roosters if they obtain an exemption from the Animal Control Officer through a streamlined exemption process. Commercial poultry operations and poultry hobbyist activities may obtain an exemption if approved by the Agricultural Commissioner. Permits will not be issued to persons convicted of illegal cockfighting or animal cruelty crimes, and persons keeping roosters are required to attest that they will not be made available for illegal cockfighting. Compliance with these standards is enforced through inspection by the Monterey County Animal Control Officer and the enforcement provisions of the Monterey County Code.”

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Agencies Involved in Enforcement of The Ordinance

The relationship between the agencies involved in the enforcement of The Ordinance is problematic as outlined in this report. The BoS passed The Ordinance and designated the Agricultural Commissioner to accept, review, approve, or deny Poultry Operations and Poultry Hobbyist exemption permit applications. ACS is designated in The Ordinance to accept permit applications for rooster keeping operations with five or more roosters as well as exemptions for 4H and FFA. ACS is the enforcement agency. The Monterey County Sheriff's Office (MCSO) is called in to accompany and or assist when needed.

The MCGGJ heard testimony from staff within multiple agencies and learned there was insufficient training to implement The Ordinance. Staff within the Environmental Health Bureau instructed ACS Officers to not enforce The Ordinance. Although rooster keeping permits must be renewed annually, no permit is current in Monterey County as of the writing of this report. The only citation issued was forwarded to the District Attorney's Office for prosecution but subsequently returned by the DA's Office to an unknown recipient. (See Appendix D.) Additionally, an employment settlement for a lawsuit against the Environmental Health Bureau was taken from the ACS Salaries and Wages budget which left Monterey County ACS severely understaffed and weakened staff morale.

What Led Up to This Investigation

The complainant, who had become aware of an illegal rooster keeping operation and possible dog fighting ring in North Monterey County, tried to no avail to bring this issue to the attention of four different Monterey County agencies. Between June 21, 2018 and August 10, 2018, the complainant contacted, by phone and email, the following County agencies multiple times: District 2 Supervisor; ACS; RMA Code Enforcement; MCSO; and two non-County agencies: the SPCA and the HSUS. The complainant voiced concerns of animal abuse, cruelty, and illegal cockfighting.

The complainant then called The Monterey County Weekly who published an article on August 30, 2018.⁸ The publication of the article became the catalyst that brought the problem of illegal rooster keeping to the attention of the agencies who are tasked to understand or enforce this law.

⁸ http://www.montereycountyweekly.com/blogs/animal_blog/animal-rights-group-posts-video-of-supposed-cockfighting-operation-in/article_ae0add72-acb0-11e8-81f1-97fc21e5c826.html

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The MCCGJ learned that the owner of a known illegal rooster keeping operation in District 2 was used as a primary resource to write The Ordinance. After the passage of The Ordinance, Environmental Health created a multi-step process for implementation and enforcement that does not align with the ordinance that was passed by the BoS on December 16, 2014. The resulting confusion caused by this process added to an already difficult work environment between ACS staff and the Environmental Health Bureau.

The Ordinance names the ACO 53 times with specific authority, duties, and responsibilities. It names the Agricultural Commissioner 17 times with duties and authority. While the ACO was well versed with the requirements of The Ordinance, the Agricultural Commissioner had not once read The Ordinance in its entirety. Although the text of The Ordinance names the ACO as the enforcement agency, the MCCGJ discovered that ACS's authority to enforce the provisions of The Ordinance were prohibited by the Environmental Health Bureau. Therefore, it became impossible to implement or enforce The Ordinance. It must be noted that in November of 2018, while the MCCGJ was conducting this investigation, the leadership and oversight of ACS was transferred out of Environmental Health and made its own division within the Monterey County Health Department.

The MCCGJ investigated the alleged non-response by County agencies and a County ordinance that was not being enforced. We evaluated the conditions relating to the complaint site and the lack of communication and coordination between agencies to learn what might be done to resolve the problem. We looked at the purposes of rooster keeping operations, animal welfare as related to the complaint, and the copious amount of debris left in the wake of such vast operations.

An Illegal rooster keeping operation will often include hundreds of roosters kept in makeshift enclosures. Property owners frequently sublet their private property to multiple rooster owners, where they have easy access to their roosters. It is common for each rooster owner to have 50 or more roosters. The result is excessive noise, environmental pollution, health and safety issues, unsightly debris, building code violations, and the possibility of the spread of Viral Newcastle Disease, as well as other avian Zoonotic Diseases.⁹ Illegal rooster-keeping operations commonly involve illegal cockfighting or the sale of roosters for illegal cockfighting. Neighborhoods with abandoned illegal rooster keeping operations suffer depreciation of property values.

⁹ <https://ucanr.edu/sites/poultry/Resources/dz/>

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While not the focus of our investigation, cockfighting is a magnet for prostitution, gambling, illegal drugs, firearms activity, and organized crime. Cockfighting in Monterey County is one of the primary reasons for the passage of The Ordinance. Cockfighting is considered a blood sport.¹⁰ It is an organized fight between two roosters, often to the death. These roosters are called gamecocks. They are bred and conditioned for increased strength and stamina. They are often injected with steroids and other drugs to increase their metabolism making them stronger and harder to kill. Small knives are attached to their legs so that when they attack another rooster in a cock pit, blood will be quickly drawn. Wagers are often placed on the roosters and a winning purse can easily reach \$50,000. Purses of \$100,000 are not unusual.¹¹

From 2010 to November 2018, ACS was managed and directed by the Environmental Health Bureau. The Environmental Health Bureau is under the administration and leadership of the Monterey County Health Department. Since 2010, ineffective leadership and direction, as well as poor communication has resulted in a drastic reduction in personnel and morale at ACS. In 2010 there were six full time ACOs and a dedicated dispatcher on staff. By the Fall of 2018 there were only two remaining ACOs and no dispatcher. Open staff positions have not been filled and this has left ACS without the necessary human resources needed to effectively do their jobs.

ACS is now its own division within the Health Department. New leadership at ACS, coupled with better communication between ACS and the Health Department has been positive. Better policies are beginning to be implemented. This change in leadership has brought back a higher level of morale and confidence among staff.

¹⁰ <https://www.merriam-webster.com/dictionary/blood%20sport>

¹¹ <https://suffolkspca.org/fight-animal-cruelty/cock-fighting/>

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A Monterey County illegal rooster keeping operation showing roosters tethered to makeshift housing

APPROACH

After first interviewing the complainant and making the determination that the complaint was within our jurisdiction, the inquiry became an investigation. The MCCGJ soon began to understand the importance of the issue. The MCCGJ studied The Ordinance. From the text of The Ordinance, we determined which agency had responsibility for implementation and enforcement. The MCCGJ conducted multiple interviews with individuals from all agencies identified in the complaint and in The Ordinance. Emails

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between principals were obtained, as well as statistics pertaining to permits issued. Drone footage, ordinance text, expert testimony from animal welfare organizations and comparable California county ordinances were studied. Members of the MCCGJ visited the original site of the complaint three times to observe progress on cleanup and to obtain photographs for evidence.

Over a period of nine months, the Civil Grand Jury:

1. Interviewed 20 witnesses, (some of them twice),
2. Interviewed prior employees from agencies who had moved away from Monterey County,
3. Interviewed individuals from each of the agencies identified in the formal complaint,
4. Studied the Monterey County Rooster Keeping operation requirements, verified that it was written to mirror the Monterey County Kennel Keeping permit application,
5. Obtained copies of all rooster keeping permits issued,
6. Inspected the site of the original complaint on three different occasions (See Appendix C for site report.),
7. Drafted a supplemental investigative report on our observations,
8. Documented the site with photographs and measurements,
9. Viewed drone footage of the site,
10. Viewed drone footage of several other illegal rooster keeping operations in Monterey County,
11. Viewed the PowerPoint presentation created by The Ordinance author, which was used to train personnel during the initial roll-out,
12. Reviewed emails sent between multiple agencies about the complainant site,
13. Reviewed the unpublished and unofficial memo describing how to implement and enforce The Ordinance sent outlining the procedure that effectively modified The Ordinance passed by the BoS,
14. Examined the way in which the Environmental Health Bureau instructed staff to implement The Ordinance and compared it to the way staff perceived how they were trained,
15. Studied and evaluated Supervisorial District boundaries to learn where the problem of illegal rooster keeping is most prevalent in Monterey County,
16. Studied Google Earth imagery in target areas of Monterey County and found dozens of rooster keeping operations,
17. Surveyed rooster keeping ordinances from other counties in California and compared elements of each ordinance to the ordinance in Monterey

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County,^{12 13}

18. Examined complaint logs from several agencies to understand policies and procedures for addressing complaints made by the public about rooster noise, operation debris, and cruelty to roosters,
19. Learned the difference between reactive and proactive agency response,
20. Reviewed California Penal Code Section 597, which applies to animal abuse and cruelty,
21. Sought out and interviewed subject matter expert testimony from private agencies and a federal agency, and
22. Researched the serious and very real possibility of the spread of Viral Newcastle disease as well as other Zoonotic Diseases in Monterey County.

DISCUSSION

The facts in this report are the result of multiple interviews conducted by the MCGJ during the investigation process or in documentation footnoted separately.

The Ordinance was originally created to address the issue of environmental damage caused by roosters and the illegal activity that typically accompanies rooster keeping. This includes animal cruelty, gang activities, organized crime, prostitution, illegal drug activity, and excessive traffic. The debris and waste left when a rooster-keeping operation is shut down can result in property devaluations and blight across rural unincorporated areas in the County.

Not all counties in California have specific policies or ordinances regulating the keeping of roosters. Of the 58 California counties, the counties of Los Angeles, Solano, Napa, Monterey, San Diego, Merced, Santa Clara, San Bernardino, Riverside, San Benito, and San Joaquin have rooster keeping ordinances that restrict rooster keeping by number, by parcel size, or by permit requirements. California law strictly forbids cockfighting in all counties.¹⁴ Prior to 2014, Monterey County did not have a rooster keeping ordinance. Numerous expert witnesses testified that today, in Monterey County, there are an estimated one thousand known illegal rooster keeping operations housing thousands of roosters.

¹² <https://www.codepublishing.com/CA/SolanoCounty/>

¹³ <http://animalcare.lacounty.gov/wp-content/uploads/2018/09/Press-Release-09-25-18-Final-Rooster-Ordinance.pdf>

¹⁴ https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=597

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New Rooster Keeping Standards

Based upon numerous complaints received, the BoS knew a change needed to be made specific to the rooster keeping operations. Illegal rooster keeping operations are more common in certain Supervisorial Districts of Monterey County. These operations are more common in District 2 (North County), District 3 (South County), and District 5 (Carmel Valley). (See Appendix B for district maps.)

The Monterey County BoS passed The Ordinance on December 16, 2014, with a vote of 3 Ayes and 2 Noes. The Ordinance amended Chapter 8.04 of Title 8 and added Chapter 8.50 to Title 8 of the Monterey County Code. Title 8 contains standards related to Animal Control. The amended chapter added definitions and the new added chapter created a regulatory permit, inspection, exemption, and appeal process for keeping five or more roosters within unincorporated Monterey County. The ACO is primarily responsible for the implementation and enforcement of Chapter 8.50. Training to make counties aware of cockfighting is available from the HSUS at little or no charge but has not been utilized by the Health Department.

How The Ordinance Was Written

At the time of the writing of this ordinance, ACS was under the management of the Environmental Health Bureau. Environmental Health was tasked with writing the ordinance without having the necessary qualifications and expertise in animal welfare, domestic or livestock. The author's background is in hazardous waste management. The author used an individual from a known local illegal rooster keeping operation as the resource for writing The Ordinance. ACS was never consulted or included during The Ordinance writing process.

The kennel keeping permit application was used as a framework for this ordinance. The requirements and needs of poultry compared to domestic animals are vastly different. An example would be the requirement to hose down and use sanitizer on the floors of all kennel enclosures daily. Roosters are not kept on solid flooring but are kept on dirt floors, so this required sanitation process is not possible.

How Is It Working?

The Ordinance hasn't solved the problem of noise, environmental waste, disease, or cockfighting because it is not enforced. It neither guarantees the humane treatment of roosters nor are there follow-up review processes to address the effectiveness of the permitting process.

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Each agency knew little about which had jurisdiction or how to enforce The Ordinance. The MCSO could not make an arrest unless a cockfight was in progress. ACS reported that they were prohibited from issuing citations by the Director of the Environmental Health Bureau. RMA could not issue citations for illegal rooster keeping but could issue citations for code violations for inadequately constructed animal enclosures. The SPCA could not issue citations for illegal rooster keeping but could issue citations for cruelty and neglect of roosters, which could lead to possible prosecution by the District Attorney.

Although some of the agencies contacted by the complainant already knew of this illegal operation as well as other illegal operations in the County, they said they could do nothing about it.

Thwarted Authority

The Ordinance is not complicated. It has just not been properly implemented or enforced. The authority to enforce The Ordinance lies with the Monterey County ACO. ACS is now under the Administrative arm of the Monterey County Health Department; however, until very recently ACS was overseen by the Environmental Health Bureau. The creation, implementation, and direction of The Ordinance resided with the Environmental Health Bureau. Upon passage, the Health Department/Environmental Health issued 14 permits between September 28, 2015 and July 20, 2016. Nine applicants were charged a permit fee. Five applicants had their permit fee waived at the discretion of the Director of Environmental Health.

Roadblocks to Leadership and Oversight

Although the text of The Ordinance passed by the BoS on December 16, 2014, names ACO as the implementation and enforcement agency, the MCCGJ discovered that ACO's authority to enforce the provisions of The Ordinance was prohibited by an onerous process created after The Ordinance was passed and made law. ACO's, who are highly skilled animal care professionals, were neither consulted nor advised during the creation of the process.

The Ordinance gave a definitive timeline of 31 days from its adoption to become effective and 180 days to be fully implemented. The Environmental Health Department created a one-year "soft rollout" before fully implementing or enforcing it. At the end of the soft roll out year it was still not fully implemented or enforced and four years later, The Ordinance is still not being implemented or enforced.

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Two other factors were involved in The Ordinance not being fully implemented. First, Staff were inadequately trained to implement The Ordinance. Second, the Environmental Health Bureau issued the following multi-step process for implementation which conflicted with The Ordinance:

1. *Mail out initial "informational letter" with 30-day response time.*
2. *Mail out second reminder "informational letter" with 20-day response time.*
3. *Mail out "notice of violation" letter with 15-day response time.*
4. *Advise EH Director of failure to comply. After review, Director will approve issuance of compliance notice.*
5. *Mail out "compliance notice" per Title 21, if no response by date indicated on "notice of violation" work with Code Enforcement to ensure we follow process as required.*
6. *County Counsel to be advised and consulted prior to sending out notice.*
7. *No staff will issue any infraction notice to any rooster operation. We will utilize Title 21. (Code Enforcement)*
8. *What to do if owner/operator threatens to release or abandon roosters?*
9. *Inform them we will refer them to SPCA humane officers for animal abandonment or cruelty citations.*
10. *Manager will inform SPCA of identified rooster operation not in compliance with ordinance to prevent release or abandonment of animals. We will need to meet with SPCA.¹⁵*

Agencies Involved in The Multi-Step Process

The process created by the Environmental Health Bureau that was used for implementation and enforcement created a dysfunctional structure. No agency was identified as the coordinating agency. Multiple agencies were not informed about their role in the process. For example, RMA was not referred to in The Ordinance, but was given a role in the process. RMA Code Enforcement can issue citations for non-compliant animal enclosures. They can ask owners to move their roosters, but they do not issue citations for illegal rooster keeping. They can give multiple extensions to remove roosters and debris from property. They do not contact ACS when animals are involved. Although the complaint occurred within the Coastal zone, RMA Code Enforcement did not contact the Coastal Commission.

Another example: the MCSO will make arrests for illegal activity if cockfighting is in progress, but cannot issue a citation or make an arrest for illegal rooster keeping operations in general. According to the process, County Counsel must be consulted and

¹⁵ *Unpublished interagency memo*

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advised prior to any notice of violation. As a result there is no coordinated effort between agencies, no shared database for information about permit applications, illegal rooster keeping operations or other illegal rooster keeping activities.

Ordinance Circumvented

The Environmental Health Bureau created a multi-step process that modified the provisions originally outlined. The author of that process injected three additional agencies into the ordinance process that were not named in the original text. The oversight of County Counsel is required to enforce the policy. These layers were outside the parameters of The Ordinance passed on December 16, 2014. The new agencies added by Environmental Health are:

- RMA (Code Enforcement),
- SPCA
- County Counsel

The Ordinance reads: *"Persons or entities keeping five or more roosters on a single property shall become subject to the requirements of this chapter one hundred eighty days (six months) after the effective date of Ordinance 5249 enacting this chapter."* Section 4 of the Ordinance stipulates that it (the Ordinance) *"shall" become effective on the thirty-first day following its adoption* (emphasis added).

However, in a PowerPoint presentation created by the Environmental Health Bureau, the process's "soft roll-out" was defined as a one-year period and left enforcement entirely out of the picture. The first permit was issued on 09/28/15, more than nine months after the ordinance was passed. Four permits for rooster keeping were issued during 2015. Ten permits were issued during 2016. No permits were issued after July 13, 2016. To date, no permits for rooster keeping are in effect. After the soft rollout, the Environmental Health Bureau still would not allow ACOs to enforce the law by issuing citations for violations of illegal rooster keeping. The only citation issued for illegal rooster keeping is dated March 31, 2016.

Permitting Process

The permit application process can be completed in person or online. A required fee of \$270.00, renewable annually, must be submitted. Zoning allowance verification for applicant's property must be obtained from RMA to ensure no outstanding code violations exist or bans on poultry keeping are in place. (An example of the latter would be property located in the Coastal Commission jurisdiction.) ACS must also verify that the applicant does not have convictions for cockfighting. It was learned that it frequently

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took days to weeks to get the necessary information from other county agencies, in part because there wasn't a designated contact person assigned in other agencies to respond to ACS requests for information. In the event of violations, the permit process stops until violations are resolved. The applicant may correct violations and request to be re-inspected. A fee of \$135.00 an hour is charged for re-inspection. The Ordinance permit process is lengthy and unnecessarily onerous.

An Increased Risk of Contracting Diseases Specific to Avian Species

Viral Newcastle disease is common worldwide, and currently California is experiencing a severe outbreak which is rapidly spreading to Northern California counties. As of the end of 2018, there were six million documented cases in Los Angeles County alone.¹⁶ During the week of March 25th, 2019, the Salinas Valley Fair, the Monterey County Fair, and the California Mid State Fair canceled all poultry exhibitions due to this disease.¹⁷ Highly contagious, it is an acute respiratory disease that is spread easily among avian populations both wild and domestic. This disease kills poultry and the primary way this disease spreads is by moving roosters that have the disease.¹⁸ Particularly devastating to domestic poultry, it has been known to wipe out whole commercial poultry operations. This disease is also transmittable to humans via clothing and avian contact resulting in conjunctivitis and influenza-like symptoms. Known as the poultry "Grim Reaper", California Department of Food and Agriculture (CDFA) recommends not moving roosters or other roosters to different locations. Viral Newcastle disease can be present in roosters before symptoms are present.

An Issued Citation Not Processed

The MCCGJ discovered what appeared to be a missing and unaccounted for citation. This is the only known citation issued for illegal rooster keeping. The citation was scanned into the District Attorney's computer system and a request was made by the reviewing attorney for additional information to proceed with the prosecution. This request for information was never received by the ACS Officer involved with issuing the citation. The citation was issued but was subsequently never processed nor were fines levied. (See Appendix D.)

¹⁶ <https://www.sfgate.com/bayarea/article/poultry-virulent-newcastle-disease-quarantine-bird-13715501.php>

¹⁷ <https://www.ksbw.com/article/outbreak-of-poultry-disease-cancels-chicken-exhibit-at-the-salinas-valley-fair/26901028>

¹⁸ <http://wp.sbcounty.gov/cao/countywire/?p=4207>

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The Role and Duty of The Animal Control Officer

The role of the Animal Control Officer (ACO) is crucial to the success of this policy implementation and enforcement. Named 53 times in The Ordinance, The ACO is authorized by the BoS to fulfill the following responsibilities and functions for implementing and enforcing The Ordinance:¹⁹

- Accepts applications with the required fee for Rooster Keeping Operations.
- Accepts information from the applicant which is deemed necessary to decide on the issuance of the permit.
- Reviews the application and associated documents and require additional information to complete the application.
- Specifies conditions and restrictions in the Rooster Keeping Operations permit process.
- Conducts an initial site survey and issues a Rooster Keeping Operation permit.
- Verifies, via inspection, Rooster Keeping Operations.
- Issues a Rooster Keeping permit provisionally.
- Maintains compliance oversight and verification by performing additional inspection(s).
- Notifies applicants of denied applications and the reasons therefore.
- Notifies the holder of a Rooster Keeping Ordinance permit the expiration date of the permit and offer the opportunity to renew the permit.
- Inspects Rooster Keeping Operations seeking renewal of an issued permit.
- Verifies that Rooster Keeping Operations maintain standards prescribed by the ordinance.
- Upon expiration of an existing Rooster Keeping Operations permit, ACO inspects the single property and verifies the operation has been dismantled and is no longer operative.
- Upon transfer of a Rooster Keeping Operations permit, ACO verifies, by inspection, the single property continues to meet the standards prescribed in The Ordinance.
- Inspects at determined intervals each Rooster Keeping Operation in which a permit has been issued.
- Upon complaint or notice of violations responds to such complaint, responds to an emergency, or accompanies or assists law enforcement personnel.
- Inspects using biosecurity protocols.
- Reviews plans for new or remodeled Rooster Keeping Operations facilities.

¹⁹ <https://www.co.monterey.ca.us/home/showdocument?id=16498>

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- Maintains records of exemptions granted to a Poultry Operation or Poultry Hobbyist.
- Notifies the holder of an exemption of the expiration date of the exemption and requirement to either apply for a Rooster Keeping Operation permit or to reapply for an exemption.
- Maintains records of denied exemptions and the Agricultural Commissioner's approval determination of a Poultry Operation or Poultry hobbyist exemption. He/she shall maintain records of denied exemptions.
- Verifies compliance provisions for those applicants whose request for an exemption was denied but wish to maintain a Rooster Keeping Operation.
- Maintains suspension of permits unless correction of violations has been verified by inspection.
- Revokes a Rooster Keeping Operation permit due to violations verified by inspection.
- Determines appropriate penalties for verified violations.
- Serves as the Enforcement Official in the event of appeal of a suspension or revocation of a Rooster Keeping Operation permit.
- Establishes guidelines and procedures to implement The Ordinance.
- Issues notice of violation(s)
- Imposes fines, penalties and collects administrative costs.

RMA Code Enforcement

RMA personnel were not previously familiar with The Ordinance and had not been trained or instructed by the Environmental Health Bureau on their role with enforcement. Subsequent to contact by the complainant, the responding RMA code enforcement inspector began to familiarize himself with The Ordinance. RMA inspected the site of the complaint and asserted jurisdiction regarding building code violations. RMA bypassed Animal Control Services and contacted the SPCA regarding the possibility of animal cruelty. RMA rarely deals with ACS. There is no written policy for working with ACS, nor is there a written policy for addressing illegal rooster keeping.

Monterey County employees are not mandated to report conditions of animal abuse, as is required in the case of child or elder abuse. Other illegal rooster keeping operations are located on the same road in North Monterey County. The complaint site is within the Coastal Zone, where rooster keeping is not allowed and where permits are prohibited. RMA did not notify the Coastal Commission. RMA's stated goal is 'voluntary compliance' which is determined by subjective criteria: RMA asks "Are they 'making an effort' to comply?" RMA gave multiple extensions to rooster owners to remove their roosters. RMA Code Enforcement mandated owners remove roosters without

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knowledge of the possibility of Viral Newcastle Disease. RMA has given multiple extensions to property owners to remove rooster enclosure debris. RMA is aware that rooster keeping permits come through Animal Control Services and the Agricultural Commissioner but is not required to ask to see permits. There is no coordination between RMA, Environmental Health, ACS or The Coastal Commission.

SPCA of Monterey County

The SPCA of Monterey County is a private non-profit organization and is not affiliated with the American SPCA or the County of Monterey. The organization is fully versed on Title 8 of the County Code and its amendments, Chapter 8.04 and Chapter 8.50. They receive over a thousand calls per year regarding both domestic and livestock animals. The SPCA has jurisdiction where animal cruelty or neglect is apparent. They interface with the Monterey County District Attorney's Office for possible prosecution of perpetrators of crimes against animals.

Although named in the multi-step process established by the Director of Environmental Health, the SPCA was not contacted, trained, or otherwise made aware of their involuntary inclusion in this process. The SPCA Humane Officers are sworn deputies in the State of California and have jurisdiction in Monterey County solely pertaining to cases of animal cruelty. It was after contact by the complainant that the SPCA began contacting county agencies to resolve the complaint, only to discover that no one was enforcing The Ordinance. The Environmental Health Bureau provided information that indicated that no one had been issued a permit since July 2016. After the complainant called the SPCA, the SPCA went to the property at the request of RMA but found no evidence of animal cruelty nor did they find any evidence of cockfighting.

District Supervisor

The Ordinance was passed before many of the current Monterey County Supervisors were in office and, upon multiple interviews, it was noted that Supervisors were only vaguely familiar with The Ordinance. The Supervisors were not aware there was a problem with illegal rooster keeping, except within the Boronda area of North Monterey County. Communication logs are kept by staff that record complaints by constituents, and the Supervisors did not recall any complaints regarding roosters. The BoS does not have any written policy or procedure in place requiring progress reports on the effectiveness of new ordinances. The Supervisors were unaware an ordinance they passed was not being enforced.

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Monterey County Sheriff's Office

According to testimony, the Monterey County Sheriff's sole task relating to The Ordinance is to respond to in-progress cockfights. Staff were never trained on The Ordinance and had never viewed the PowerPoint presentation created by the Environmental Health Bureau. They did not coordinate with other county agencies and did not have discussions regarding the expectations of and collaborations with other agencies. They have never read The Ordinance.

The Sheriff's Office was contacted by the complainant in 2018 regarding an alleged active cockfighting location. Subsequently, it was determined that an active fight was not in progress and they did not respond. The complainant also reported that there were caged dogs allegedly used in dog fights within the same property as the roosters. The complainant then contacted RMA Code Enforcement to get assistance on this property. RMA then contacted the Sheriff's Office for assistance with Vehicle Abatement at the site. The Sheriff's Office indicated it could issue citations for vehicle abatement, but found no violations at the site. The Sheriff's Office does not document their calls for service with follow-up rooster operation incidents.

The Office of Agricultural Commissioner

The Office of Agricultural Commissioner indicated having direct knowledge of most County Ordinances and Policies passed by the BoS that reference their office. The Office of Agricultural Commissioner had not read Title 8; Chapter 8.04 and 8.50, or Ordinance 5249. The Office of the Agricultural Commissioner was unfamiliar with any litigation involving The Ordinance. The Office of Agricultural Commissioner had no information of permits filed, on file or issued to FFA, 4H or Hobbyist. They were also unaware of any illegal rooster keeping within Monterey County.

The Office of the Agricultural Commissioner is aware of and has concerns about diseases generated by gameroosters that can be transmitted from flock to flock, especially if the gameroosters are moved around, and that Viral Newcastle disease can decimate an entire poultry operation.

Conditions of The Complaint Site

According to agencies that responded to the complaint site, hundreds of roosters were being kept on the property. The property owner was subleasing space to various owners. Each owner constructed his/her own substandard enclosures. Having no jurisdiction over the number of roosters being kept, RMA cited for substandard enclosures and zoning violations. There were piles of manure, an abandoned motor

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vehicle, and various piles of debris. The RMA policy is to encouraging compliance, not enforcement. The compliance process has been painstaking and slow.

MCCGJ Site Visit

With the owner's permission, the MCCGJ made several site visits beginning in late September 2018 to observe the site and progress of rooster keeping code compliance and debris removal. In January 2019, after months of extensions for compliance, forty to fifty roosters were still remaining. A large pile of debris, measuring approximately fifty yards by 20 yards and seven feet high, was observed. The MCCGJ observed that efforts were made to conceal the rooster enclosures and rooster keeping with locked fencing. This debris pile consisted of animal manure, scrap plywood, wire, concrete, and other miscellaneous materials. An individual was living in an illegal, crudely constructed shanty on County property to the rear of the homeowner with a dog chained to a tree. An abandoned dilapidated trailer was on the property. The illegal rooster keeping operation is located adjacent to a property with a childcare facility.

The following photos reveal the conditions MCCGJ observed six months after RMA Code Enforcement and Sheriff-Vehicle Abatement visited the site, (January 22, 2019).



**Remaining Rooster enclosures after half of the operation had been torn down.
January 2019**

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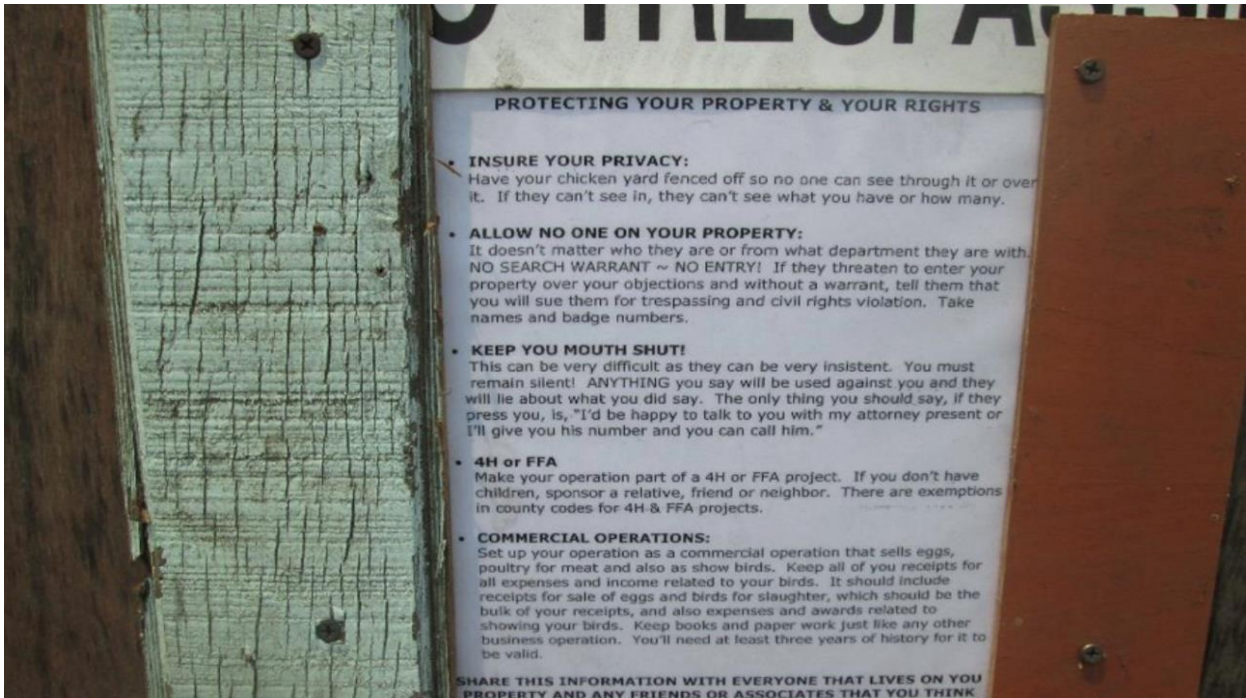


Debris pile after a portion of enclosures were demolished



**Abandoned trailer at rooster keeping operation which was not addressed by
Sheriff's Office Vehicle Abatement**

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**Warning to lessees of illegal rooster keeping operation site
Close-up view of Keep-Out No-trespassing sign**



The Aftermath of an illegal Rooster-Keeping Operation in District 2

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FINDINGS

- F1) There are reported to be more than a thousand illegal rooster keeping operations in Monterey County, which is why Monterey County desperately needs a workable rooster keeping operations ordinance.
- F2) The BOS approved a workable ordinance, but the added processes made implementation and enforcement impossible.
- F3) The lack of oversight from the Health Department, BoS, and RMA Code Enforcement, contributed to the failed implementation of The Ordinance.
- F4) The Environmental Health Bureau had no background in animal welfare and was insufficiently qualified to write a rooster keeping operations ordinance.
- F5) The process created to obtain a rooster keeping permit deters applicants from obtaining one.
- F6) The one-year roll-out period was not in keeping with the requirements of the ordinance.
- F7) To accommodate the community of rooster keepers, the Environmental Health Bureau created what was referred to as a "soft roll-out", intentionally circumventing the timeframe given in The Ordinance.
- F8) After the one-year soft roll-out period ended, no direction was given to any agency, creating confusion and inability to execute The Ordinance.
- F9) The Environmental Health Bureau enacted a multi-step process that hindered enforcement.
- F10) Staff from multiple agencies are inadequately trained to implement and enforce The Ordinance creating confusion with the public.
- F11) ACS staff morale suffered after learning that funds allocated for salaries and wages were diverted to settle a lawsuit against the Environmental Health Bureau.
- F12) Inadequate cooperation between ACS and The Office of the Agricultural Commissioner has caused poor implementation and enforcement of The Ordinance.
- F13) RMA Code Enforcement's current involvement in The Ordinance process hinders the effectiveness of the Animal ACO's responsibilities.
- F14) The ACO has authority to implement and enforce Title 8, Chapter 8.50 but was prohibited from doing so by the Director at Environmental Health.
- F15) ACS budget would benefit from keeping revenues generated from issuing permits, citations, and services.
- F16) ACS is severely understaffed, which prevents them from adequately and effectively implementing and enforcing The Ordinance
- F17) Illegal rooster keeping operations in Monterey County are so pervasive that current ACO's cannot eradicate the problem.
- F18) During the recession of 2010, ACS staff began to be reduced, which affected morale and quality of service.
- F19) A dedicated Assistant District Attorney (ADA) for animal cruelty cases is crucial to keeping up with enforcement and prosecution in Monterey County.
- F20) Ample revenues to cover additional staff could be generated from permitting and enforcement from rooster-keeping application and permitting fees.

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- F21) With new leadership at Animal Control Services, better communication and policies are beginning to be implemented. This has brought back a high level of morale and confidence among staff.
- F22) Without regard to the possibility of spreading Viral Newcastle Disease, RMA Code Enforcement mandated owners relocate roosters.
- F23) The Environmental Health Bureau did not follow the mandates of The Ordinance and did not provide adequate direction, training, and oversight to those who were to implement its provisions.
- F24) The debris and animal waste left after illegal rooster keeping operations are abandoned, create unsightly conditions and ultimately lower property values.

RECOMMENDATIONS

- R1) Immediately, The Health Department should remove the multi-step process required by the Environmental Health Bureau for implementation and enforcement and restore The Ordinance as written.
- R2) By March 2020, the Health Department should provide paid training for all Animal Control Services staff and any other necessary staff for the implementation and enforcement of The Ordinance.
- R3) By March 2020, the Director of the Health Dept. should fill all budgeted ACS staff positions.
- R4) Beginning March 2020, the Director of the Health Dept. should ensure that fees collected for applications and permits for rooster keeping are retained in the ACS budget to help subsidize enforcement of The Ordinance.
- R5) Immediately, The Health Department should create an interagency task force for the purposes of implementing and enforcing the rooster-keeping ordinance, to include the Health Department, ACS, Sheriff, The Agricultural Commissioner and SPCA.
- R6) By March 2020, the BoS should ensure that The Ordinance has been implemented and is being enforced.
- R7) The BoS should immediately institute a two-year mandatory feedback plan for ordinances they pass to ensure they are being implemented and enforced according to Monterey County Code.
- R8) By August 31, 2019, the Health Department should allow ACS to avail itself of training from the Humane Society subject matter experts pertaining to rooster keeping and cockfighting.
- R9) By July 2020, the BoS should pass an Ordinance mandating that all County employees report animal welfare concerns of cruelty and notify appropriate agencies.
- R10) Beginning immediately the Health Dept. should allow the ACO to fully execute the duties of their office as it relates to rooster keeping implementation and enforcement.
- R11) By January 2020, the District Attorney should assign a dedicated Assistant District Attorney (ADA) to accept and review all criminal animal cruelty referrals, from SPCA and Animal Control Services.

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- R12) By July 2020, the Director of Health should assign a dedicated ACO to specifically oversee rooster keeping operations.
- R13) By March 2020, the BoS should enact a process and procedure to remove and clean up abandoned rooster keeping operation blight.

REQUESTED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the grand jury requests responses from the following elected county officials within 60 days:

- Monterey County District Attorney's Office
Finding: F19, and
Recommendations: R9) and R11)

From the following governing body within 90 days:

- Monterey County Board of Supervisors;
Findings: F1)-F4), F6)-F7), F11)-F12), F14)-F17), F19)-F20), F23)-F24), and
Recommendations: R1), R3)-R13)

INVITED RESPONSES

From the following within 90 days:

- Director of Health, Monterey County Health Department:
Findings: F1)-F5), F6)-F11), F13)-F17), F20), F22)-F24)
Recommendations: R1)-R12)
- Office of the Agricultural Commissioner:
Findings: F12 and F22
Recommendation: R5)

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.

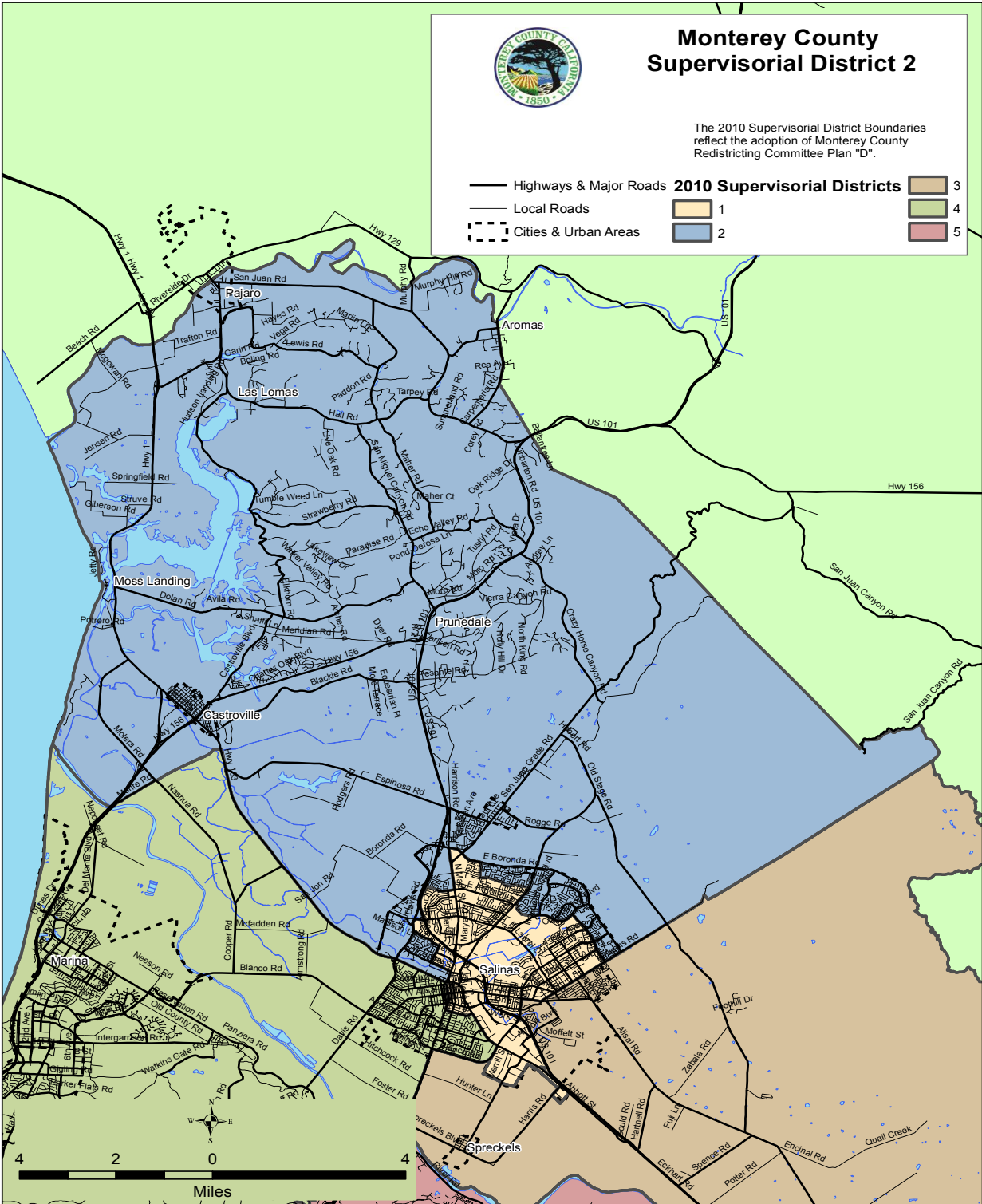
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APPENDICES

- A. Appeals Decision announced:
<http://www.courts.ca.gov/opinions/documents/H044364.PDF>
- B. Maps of Districts prone to illegal rooster keeping and illegal crimes associated with rooster keeping: Districts 2, 3 and 5
- C. Illegal Rooster Keeping Operation Site Report
- D. A copy of the only citation issued

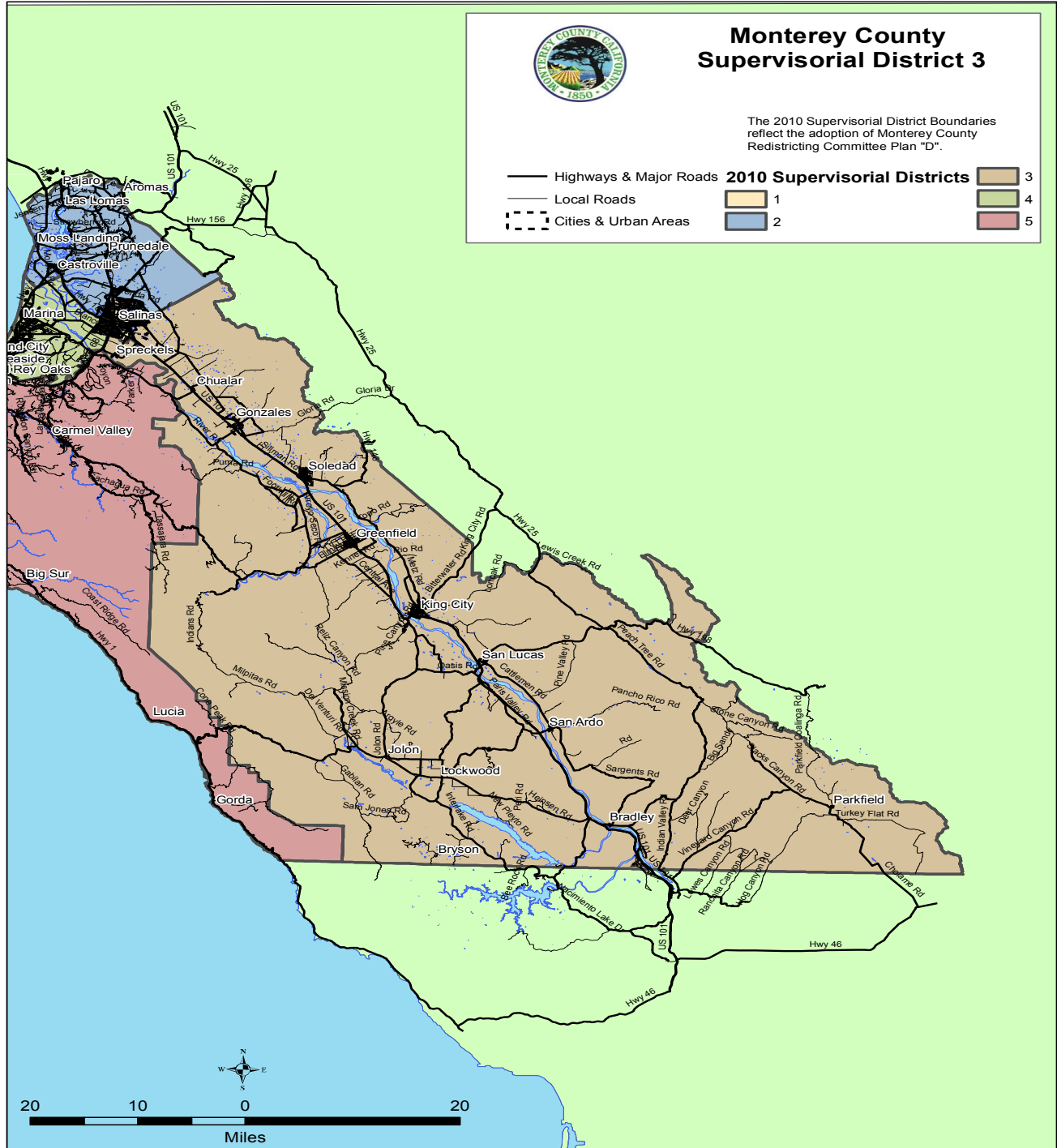
MONTEREY COUNTY'S UNENFORCED ROOSTER KEEPING ORDINANCE

- B. Maps of Districts prone to illegal rooster keeping and illegal crimes associated with rooster keeping



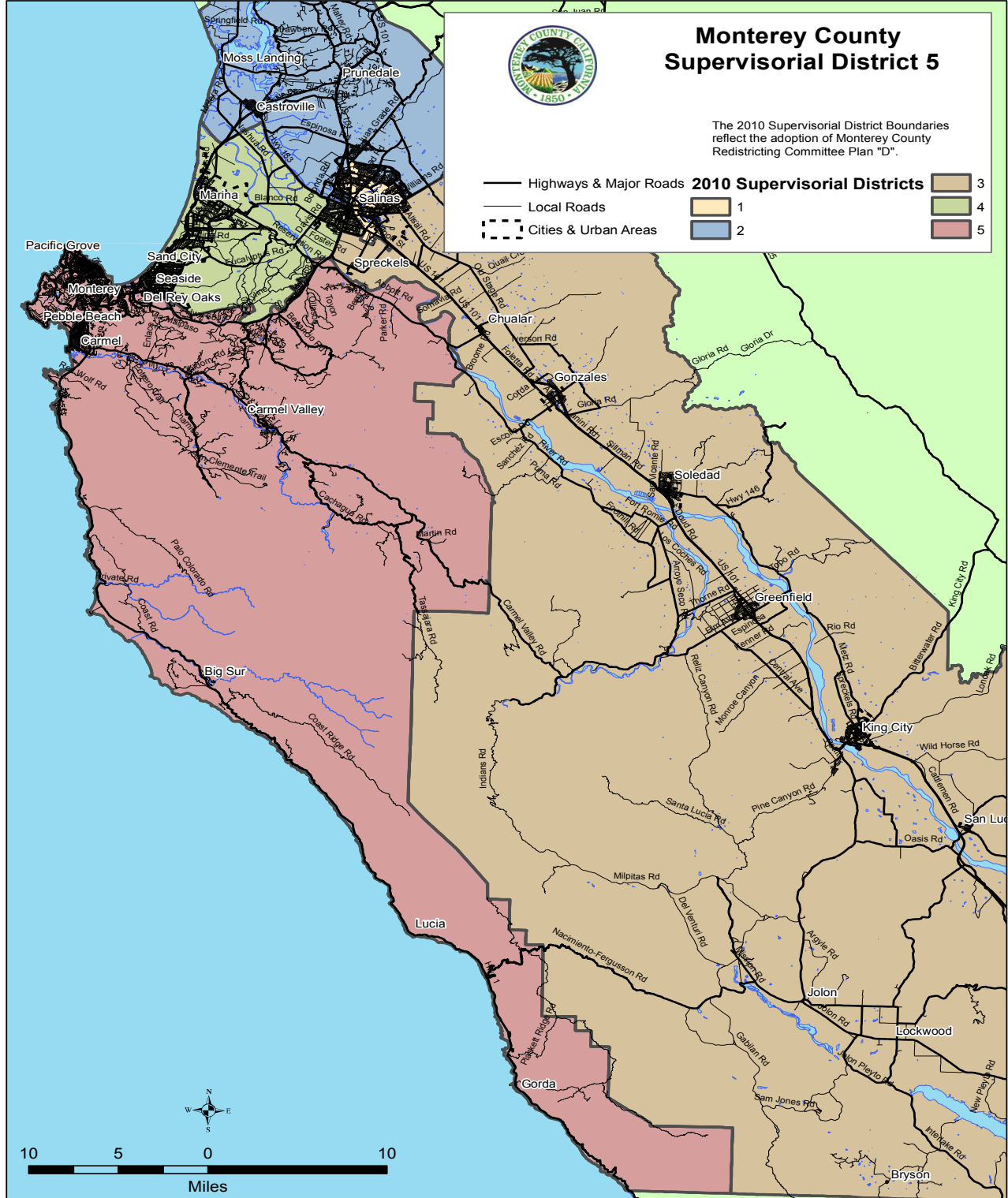
MONTEREY COUNTY'S UNENFORCED ROOSTER KEEPING ORDINANCE

B. Maps of Districts prone to illegal rooster keeping and illegal crimes associated with rooster keeping



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B. Maps of Districts prone to illegal rooster keeping and illegal crimes associated with rooster keeping



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C. Illegal Rooster Keeping Operation Site Report

On [REDACTED] approximately 11:30 am, fellow Grand Jurist [REDACTED] went on a site visit to a single-family residence w/ property at [REDACTED] Prunedale, California. This property was identified as the site of alleged Rooster Keeping Code violations in a complaint to the Grand Jury and had also been discussed several days earlier; [REDACTED] 2019, during an interview with [REDACTED].

Prior to observing the property to the rear of the house, which was open to public access and plain view from the roadway, we first attempted to contact the resident and property owner. [REDACTED] knocked on the door twice without response. [REDACTED] also rang the doorbell; however, no one answered the door or initially responded to our attempts for contact.

[REDACTED] proceeded to walk down the open dirt drive to see whether any recent attempt to correct code violations had been made. During the earlier interview on [REDACTED], [REDACTED] [REDACTED] indicated steady but slow progress had been made to correct previously noted violations.

The rear of the residence is an open field area with several nearby outbuildings. Between the residence and the outbuildings was an approx. 50-yard-long X 20-yard-wide X 6-foot-high trash pile. The heap consisted of discarded metal, wood, vegetation, dirt and rubbish. As we walked toward the outbuildings, we could hear roosters crowing from behind a crudely constructed metal and wood barrier perimeter fenced area.

As I got closer, [REDACTED] could see through openings in the barrier roosters housed in pens or coops. There were approx. ten pens housing about forty roosters. Approximately 3-4 roosters were housed together in each individual pen.

While pacing off the size of the trash heap, [REDACTED] hailed us from a rear door of the house. We spoke with [REDACTED]. [REDACTED] identified [REDACTED] as the resident owner. We explained to [REDACTED] that we were following up on a complaint made to the Grand Jury. The [REDACTED] said [REDACTED] understood and gave us further consent to be on the property. During the conversation, she referred to an earlier inspection by [REDACTED] believed to be [REDACTED]. Our entire conversation remained pleasant and cordial throughout our contact.

Using a digital SLR which [REDACTED] brought with her to document our findings, we photographed the general area, which included the housed roosters, the pens and coops, the fencing, and the discarded trash heap. The photos were entered as proof in this investigation. It should be noted that a section of pens to the rear of the enclosure (about ½ of the enclosure) did not contain any live roosters and appeared to have been previously cleaned out and abandoned.

[REDACTED] returned to our [REDACTED] parked on [REDACTED] and drove around to [REDACTED], which bordered the rear of the property. Railroad tracks

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paralleled the back of the property and the [REDACTED]. We saw a [REDACTED] living in a lean-to shanty. the [REDACTED] waved at us from the other side of the railroad tracks. The [REDACTED] appeared to be living in squalor, secluded in the rear of the property near the railroad tracks. The tracks formed a border to the rear of the property. A pit bull type dog believed to belong to [REDACTED] was tethered in place with a chain. We waved from a distance across the railroad tracks but did not converse with the [REDACTED] because of the distance and a language barrier.

At the conclusion of our site visit we formed the opinion that while some progress may have been made in correcting some code violations on the property, as evidenced by the pile, there was still much more to be done in bringing the noted violations into compliance. There seemed to be a lack of urgency in correcting noted violations and enforcing the ordinance as it was adopted. Follow-up site visitation was random, unscheduled, and not a priority.

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D. A copy of the only citation issued

MONTEREY COUNTY ANIMAL SERVICES				<input checked="" type="checkbox"/> MISDEMEANOR			
NOTICE TO APPEAR				Nontraffic AC 13128			
Date of Violation		Time		<input type="checkbox"/> AM <input checked="" type="checkbox"/> PM		Day of Week	
3/31/16		1530		X		S M T W T F S	
Name (Print Middle Last)							
[REDACTED]							
Address							
[REDACTED]							
City		State		ZIP Code			
Salinas		CA		93907			
Driver Lic. No.		State		Class		Age	
[REDACTED]		CA		C		[REDACTED]	
Sex	Hair	Eyes	Height	Weight	Other Description		
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		
Code	Ordinance	Description	Misdemeanor or Infraction (Circle)				
			M I				
			M I				
			M I				
			M I				
			M I				
			M I				
			M I				
<input type="checkbox"/> Booking Required (See reverse)							
Location of Violation(s)				City/County of Occurrence			
[REDACTED]				Salinas MTC			
Comments							
Supplement Issued <input type="checkbox"/>							
<input type="checkbox"/> Violations not committed in my presence, declared on information and belief.							
I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.							
Arresting or Citing Officer				Badge ID No.			
[REDACTED]				[REDACTED]			
Date	Name of Arresting Officer, if different from Citing Officer					Badge ID No.	
1/1	[REDACTED]					[REDACTED]	
WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW.							
X Signature							
WHEN:	Date	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM				
WHAT TO DO:	FOLLOW THE INSTRUCTIONS ON THE REVERSE.						
WHERE:	<input type="checkbox"/> Marina Court, 3180 Del Monte Blvd., Marina, CA 93933 (831) 883-5300 <input type="checkbox"/> Salinas Court, 240 Church St., Salinas, CA 93901 (831) 775-5400 <input type="checkbox"/> Superior Court King City, 250 Franciscan Way, King City, CA 93930 (831) 386-5200						
<input type="checkbox"/> To be notified. <input type="checkbox"/> Night Court may be available, contact the clerk for information.							
Judicial Council of California Form Rev. 09/20/05 (Pen.Code, §853.9)						SEE REVERSE TR-120	

RAPE KIT PROCESSING IN MONTEREY COUNTY

SUMMARY

Reports of sexual assault forensic evidence, “rape kits”, being backlogged, untested, and destroyed nationwide have been reported by news networks and have sparked ongoing media coverage throughout the United States. A rape kit is a package of items used by medical personnel for gathering and preserving physical evidence following an allegation of sexual assault. It generally includes a checklist, materials, and instructions, along with envelopes and containers to package any specimens collected during a forensic medical exam.¹

These media reports allege that there are thousands of untested rape kits in the hands of Law Enforcement Agencies (LEAs) nationwide. If true, this jeopardizes public safety and potentially circumvents victims’ rights. As a result of the media exposure, LEAs have submitted thousands of rape kits for DNA testing and caused LEAs to reconsider how this evidence is processed and maintained.

The Monterey County Civil Grand Jury (MCCGJ) investigated how this critical forensic evidence is safeguarded and maintained to assure the protection of the rights of sexual assault victims. The focus of the investigation was to understand the process for rape kit processing and determine if LEAs in Monterey County have a backlog of untested rape kits.

The MCCGJ found that:

- LEAs in Monterey County lacked awareness and provided unclear and inconsistent information as to whether there are any backlogged rape kits.
- Most LEAs in Monterey County have implemented DNA testing protocols established by the California Department of Justice (CDOJ) which have reduced the likelihood of unprocessed DNA evidence. The Rapid DNA Service, or RADS, was instituted in Monterey County in 2016 and is facilitated through a Sexual Assault Response Team (SART).
- The data keeping related to these cases within and across the County LEAs is not unified and coordinated.

¹ <https://www.rainn.org/articles/rape-kit>

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- Staffing resources for investigators within LEAs are inadequate for the workload.
- Recently enacted California law requires LEAs and other organizations handling DNA evidence to report the status of rape kits to the CDOJ by July 1, 2019; and it is unclear if County LEAs are prepared to meet these requirements.

The MCCGJ recommends that each LEA:

- should develop an interagency method to track sexual assault occurrences via a centralized database to post information to facilitate investigations.
- should develop systems to track ongoing rape kit evidence to ensure effective management of cases and simplified reporting.
- should augment their personnel resources on detective unit teams.
- should develop a program to obtain funds for advanced forensic expertise training and recertification within the Sexual Assault and Forensic Division.
- should provide an informational report to the LEAs' governing bodies and the public to include the data sent to the CDOJ fulfilling the new requirements set forth in the California Penal Code.

GLOSSARY

CHOMP - Community Hospital of the Monterey Peninsula is a nonprofit healthcare provider with 248 licensed hospital beds and 28 skilled nursing beds.

CDOJ - California Department of Justice is a department in the State of California under the leadership of the California Attorney General. It includes three divisions, Legal Services, Law Enforcement and administration. The Attorney General is the State's chief law officer.²

CODIS - Combined DNA Index System (CODIS) is the United States national DNA database created and maintained by the Federal Bureau of Investigation.

DNA - Deoxyribonucleic acid, the molecule that contains the genetic code of organisms. DNA is found in almost every part of the body including skin, saliva, and live hair follicles.

LEA - Law Enforcement Agency. There are 18 unique LEAs in Monterey County.

² <https://oag.ca.gov/careers/aboutus>

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MCCGJ - Monterey County Civil Grand Jury.

NMC - Natividad Medical Center is a 172-bed acute-care teaching hospital located in Salinas, California. The hospital is owned and operated by Monterey County and the hospital's emergency department receives approximately 52,000 visits per year.

RADS - Rapid DNA Service. In 2011, the RADS team, part of the California Attorney General's Bureau of Forensic Services, introduced new technology that dramatically increased the speed with which sexual assault kits can be tested. The program uses automation to reduce the time it takes to process DNA samples.

Rape Kit - A rape kit is a package of items used by medical personnel for gathering and preserving physical evidence following an allegation of sexual assault. It generally includes a checklist, materials, and instructions, along with envelopes and containers to package any specimens collected during the exam.

SAFE-T - Sexual Assault Forensic Evidence Tracking is a California State database in the CDOJ for tracking rape kit status.

SANE – Sexual Assault Nurse Examiner, a registered nurse who has completed additional education and training to provide comprehensive care to survivors of sexual assault.

SART – Sexual Assault Response Team – A multidisciplinary team, comprised of medical, social work, and law enforcement personnel who respond together to address sexual assault. This team promotes the implementation of a coordinated, multidisciplinary, and victim-centered first response to victims of sexual assault.

BACKGROUND

The nationwide media reports of Rape Kit destruction, Rape Kit backlogs, and poorly conducted forensic investigations claiming this to be a systemic problem prompted the MCCGJ to investigate this issue in Monterey County. The inappropriate handling of evidence in these critical criminal cases has impacted victims of sexual assault and public safety in general.

Sexual assault and rape are not rare events in the United States. The Center for Disease Control notes that 1 in 5 women and 1 in 38 men have experienced an

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attempted or completed rape in their lifetimes.³ The National Center for Victims of Crime provides detailed information about the demographics of the victims of these crimes.⁴

Over the past four years, Monterey County and its constituent LEAs have investigated approximately 150 rape related crimes a year. Over the past 10 years, the frequency of rape crimes has steadily increased. (See Appendix A.)

In 2014, the District Attorney of Manhattan championed a nationwide initiative to test thousands of backlogged Rape Kits⁵. Thirty-eight million dollars were awarded over a period of 3 years to 36 jurisdictions in 20 states. California was one of the recipients of these grant funds.

In 2015, the California State Attorney General applied for and received a grant of \$1.6 million to increase the efficiencies of DNA analysis at the CDOJ laboratories⁶. The grant from the District Attorney of Manhattan's grant program was used to improve and enhance California's RADS program previously implemented by the CDOJ in 2011. Monterey County implemented these protocols in 2016.

In California, several laws have been passed to address the backlog of unprocessed evidence in rape cases. (See Appendix B for a listing of these laws.) These laws have incrementally built protections for victims into the law.

The passage of California Assembly Bill AB 3118 (September 2018) and the resulting changes to the law, are critical to the timing of this report. California Penal Code Section 680.4 (see below) now requires all relevant agencies and facilities to audit the Rape Kit evidence in their possession and report information regarding the status of their Rape Kit backlog to the CDOJ by July 1, 2019⁷.

³ <https://www.cdc.gov/violenceprevention/sexualviolence/fastfact.html>

⁴ http://victimsofcrime.org/docs/default-source/ncvrv2015/2015ncrvw_stats_sexualviolence.pdf?sfvrsn=2

⁵ <https://www.manhattanda.org/our-work/signature-projects/ending-the-rape-kit-backlog/>

⁶ <https://oag.ca.gov/news/press-releases/california-attorney-general's-office-awarded-16-million-grant-test-sexual>

⁷ https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB3118

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It reads:

“(a) Each law enforcement agency, medical facility, crime laboratory, and any other facility that receives, maintains, stores, or preserves sexual assault evidence kits shall conduct an audit of all untested sexual assault kits in their possession and shall, no later than July 1, 2019, submit a report to the Department of Justice containing the following information:

(1) The total number of untested sexual assault kits in their possession.

(2) For each kit, the following information:

(A) Whether or not the assault was reported to a law enforcement agency.

(B) For kits other than those described in subparagraph (C), the following data, as applicable:

(i) The date the kit was collected.

(ii) The date the kit was picked up by a law enforcement agency, for each law enforcement agency that has taken custody of the kit.

(iii) The date the kit was delivered to a crime laboratory.

(iv) The reason the kit has not been tested, if applicable.

(C) For kits where the victim has chosen not to pursue prosecution at the time of the audit, only the number of kits.

(b) The Department of Justice shall, by no later than July 1, 2020, prepare and submit a report to the Legislature summarizing the information received pursuant to subdivision (a).

(c) The report required by subdivision (b) shall be submitted in compliance with Section 9795 of the Government Code.

(d) Pursuant to Section 10231.5 of the Government Code, this section is repealed on July 1, 2024.”

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In December of 2018 and again in March of 2019, the California Attorney General released a formal notice of a State grant funding opportunity for local law enforcement agencies to provide funding to support local jurisdictions' readiness to comply with this new law.⁸

APPROACH

The MCCGJ reviewed evidence kit processing procedures, the method of tracking and storing evidence, and the size of the processing backlog that exists across jurisdictions within Monterey County.

The MCCGJ conducted numerous interviews to determine how our local agencies have addressed the timely testing of evidence in rape cases. Interviews were held with the California Department of Justice Bureau of Forensic Services, the Monterey County District Attorney's office, senior law enforcement agencies, the SART, the Monterey County Rape Crisis Center and representatives of the Salinas Police Department, and the Monterey County Sheriff's Office.

DISCUSSION

The facts listed below are the result of interviews conducted as a part of the MCCGJ investigation process, unless noted otherwise by footnotes.

The nationwide reports of Rape Kits going untested and even destroyed led the MCCGJ to research information regarding untested Rape Kits within the Monterey County LEAs.

Evidence Collection and Processing of Rape Kits in Monterey County

When a rape allegation is filed and reported to authorities, a consistent set of actions is initiated. If the victim consents, the victim is seen at one of two local hospitals where the SART is convened. This team includes a law enforcement officer, the SANE, and a victim's rights advocate. The SART, which serves all county LEAs, is designed to respond immediately to rape allegations. All LEAs have immediate access to the SART

⁸ <https://oag.ca.gov/news/press-releases/attorney-general-becerra-announces-new-grant-application-window-help-cities-and>

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and can activate the team when needed. The team performs its examinations in two medical facilities, the NMC and CHOMP. The SART performs the collection of bodily evidence and creates “Rape Kit”⁹. The SANE also collects a small set of samples that is sent to the CDOJ laboratory in Richmond, California for rapid analysis of the DNA samples (RADS).¹⁰ The RADS testing process has been used since 2016 in Monterey County.

The complete Rape Kit will contain more evidence than that which is sent through the RADS process. Evidence is forwarded via a formal chain of custody to the investigating LEA. From that point, the Rape Kit processing is in the hands of the responsible LEA and is subject to strict evidence handling policies. The investigation and subsequent processing of Rape Kit evidence is done solely within the jurisdiction of the investigating LEA. Not all of these Rape Kits are processed. There are a number of reasons for this. The victim may withdraw the allegation, the case may not be judged to be prosecutable, or the RADS sample may provide confirmation key to prosecution. The possibility that the Rape Kit may be maintained without processing exists. This evidence is retained and destroyed in alignment with sections (e) and (f) of Penal Code 680.¹¹

Rape Kit evidence (minus the RADS samples) is held within local jurisdictions’ evidence rooms. Because LEAs are independent entities with independent evidence processes, there is presently no method to ascertain how many Rape Kits remain untested across the County.

Not all rape allegations will have the evidence from a physical SART exam because not all reports of rape are current enough to gather evidence and some victims shower, bathe, etc. following an attack. Some victims choose not to have the SART exam because it is intrusive and potentially traumatizing.

When a victim is able and willing to have the SART exam, a set of RADS samples from that exam is sent to the CDOJ laboratory which processes the samples and has access to the State and National DNA databases for comparison.

⁹ <https://www.rainn.org/articles/rape-kit>

¹⁰ <https://www.fbi.gov/services/laboratory/biometric-analysis/codis/rapid-dna>

¹¹ [http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=680.](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=680)

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Monterey County, and its constituent LEAs, investigate approximately 150 rape related crimes per year. Of these, only a portion receive a SART exam.

The following table shows the number of SART exams by jurisdiction for the past five years, up to November of 2018 when the MCCGJ began its investigation.

Number of SART Exams by Jurisdiction 2014-2018

	2014	2015	2016	2017	2018 (Jan- Nov)
Salinas	35	31	41	38	34
MCSO	16	20	13	20	8
Monterey PD	14	14	14	9	9
Greenfield	4	5	0	2	4
Marina	5	3	7	3	2
Seaside	3	8	10	8	6
Soledad	3	2	4	2	2
Gonzales	2	2	0	0	0
CTF Soledad	1	2	0	1	2
SVSP	1	7	5	2	3
Presidio of Monterey PD	1	3	1	2	4
Del Rey Oaks	1	0	0	0	0
King City	1	2	1	5	2
NCIS	1	4	0	0	0
Other counties	0	3	6	0	2
CSUMB	0	2	1	3	7
CID	0	0	0	0	0
Carmel	0	1	0	1	0
CA State Parks	0	0	1	0	0
Pacific Grove	0	0	3	4	3
TOTAL	88	109	107	100	88

RADS was initiated in Monterey County in 2016. Since then there have been approximately 170 RADS packets sent to the CDOJ laboratory for processing. This

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process radically changes the timeline for DNA analysis and has been used as a first-tier approach to perpetrator identification.

If DNA evidence is obtained through the RADS process, further analysis of the Rape Kit evidence may not be processed if it is not critical to the prosecution's case.

The Rights of Every Victim

The effective and efficient processing of Rape Kit evidence promotes the protection of victims' rights. California has made strides to improve these protections through enacting laws, and by targeting funds to make improvements in the evidence processing technologies, e.g. RADS technology at the CDOJ.

In 2017, California created the Sexual Assault Victims DNA Bill of Rights.¹² This provides guidance and direction to law enforcement personnel receiving victim allegations and complaints. It also provides for protective and supportive actions for victims of these crimes.

The Monterey County District Attorney's Office also promotes the rights of victims of crimes and victims of sexual assault.¹³

Monterey County has a well-established process for providing voluntary services for victims of rape through victim advocates. The Monterey County Rape Crisis Center provides immediate response as part of the SART and can provide ongoing counseling and support as requested by the victim. In addition, the County District Attorney maintains the Victims/Witness Program, which provides financial assistance for certain prescribed services.

Monterey County instituted the RADS processes in 2016. From that point forward, the SART examination process included RADS protocols. This protocol consists of the collection of three samples from the victim which are sent directly to the CDOJ laboratory for rapid DNA testing. This protocol has decreased turnaround for these

¹² https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1312

¹³ <http://www.co.monterey.ca.us/government/departments-a-h/district-attorney/criminal-prosecution/child-sexual-assault>

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tests to as few as 20 days.¹⁴ The testing of evidence from the full Rape Kit in LEAs' possession occurs at a slower pace. DNA processing turnaround time prior to RADS implementation in California and Monterey is not available. A national study done in Connecticut in 2010 reported an average turnaround time of 152 days.¹⁵ In an article provided to an advocacy group, a CDOJ representative states:

“If we consider the traditional model of having the full kit transported to the law enforcement agency, waiting for a request to be made for analysis, and waiting for the kit to be analyzed in the crime laboratory, it is likely that many of the kits from the approximately 2,000 RADS cases would have taken years to process. Sadly, some would never have been processed.”¹⁶

Rape Kit Related Information Management

The MCCGJ sought to understand the process by which LEAs tracked and managed the status of Rape Kit processing. We learned that not all LEAs use the same information management tools, and that these tools are not designed to produce the type of information that would support ease of access to descriptive trended data about Rape Kit status and disposition. Given the recently passed law requiring the submission of a detailed status of Rape Kit evidence to the CDOJ, we emphasize the lack of this capability at this time. While this is partially explained by the complexity of factors involved in processing LEA held Rape Kits, it also indicated a gap in information management.

There are two databases, one a federal and one a state level database, which centralize access to specific criminal justice data. These are CODIS and SAFE-T. They serve specific purposes described below. They do not provide the coordinated local data management that the MCCGJ expected to find.

- CODIS - Combined DNA Index System. The Federal Bureau of Investigation began development of CODIS as a pilot program in 1990. The program was formalized by the passage of DNA Identification Act of 1994, which established

¹⁴<http://www.endthebacklog.org/blog/guest-post-california-expands-rapid-dna-analysis-system>

¹⁵ <https://www.cga.ct.gov/2010/rpt/2010-R-0086.htm>

¹⁶ <http://www.endthebacklog.org/blog/guest-post-california-expands-rapid-dna-analysis-system>

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FBI jurisdiction over a DNA database. It is described as blending “forensic science and computer technology into a tool for linking violent crimes”¹⁷

- SAFE-T- Sexual Assault Forensic Evidence Tracking. A database that enables the State to track the collection and processing of sexual assault evidence kits¹⁸.

Discussions with various agencies and individuals also pointed to the need for a local centralized system to monitor and investigate sexual assault allegations across jurisdictions. While many LEAs use information management tools, our experience conducting this investigation led us to believe that these systems are not structured to support evidence status tracking across jurisdictions. Local cross jurisdictional evidence tracking could be an important tool for solving these crimes.

At the time of this writing, there are two bills in the California state legislature that support Rape Kit reform. AB 358¹⁹, which creates a statewide sexual assault evidence tracking system that allows victims to access the status of their Rape Kits, and AB 1496²⁰, which establishes an enforceable timeline for LEA submission of Rape Kit samples to a lab for testing.

Assuring Adequate Personnel with a High Level of Investigative Expertise

In order to assure timely and effective investigation of reported rapes, LEAs should be adequately staffed and investigative staff (detectives) should be trained and have the most current knowledge and tools. In our discussion with leaders in two LEA’s we learned that staffing has been limited. A high-ranking LEA official indicated that at one time their office was staffed with 37 investigators and now has approximately 12 investigators, a 67% decrease in qualified investigators.

The MCCGJ also learned that funding for training is constrained by budget limitations. Interviewees noted that training funds are often the last priority in the budgeting process. While sworn law enforcement personnel have a requirement for annual training, this may or may not include training to elevate expertise in the investigation of rape cases.

¹⁷ <https://www.fbi.gov/services/laboratory/biometric-analysis/codis>

¹⁸ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB41

¹⁹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB358

²⁰ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1496

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Preparing to Respond to AB 3118 (Penal Code 680.4)

The MCCGJ approached this investigation expecting to see evidence of local preparation for the reporting requirements set in place by PC 680.4. We found limited awareness of the requirements of this change in law and readiness to provide the data as required to the CDOJ. While the RADS testing protocols facilitate the swift testing of DNA samples to aid investigations, this method is not applicable to all investigations and the remaining Rape Kit evidence may be crucial to the identification of perpetrators and the prosecution of the crime.

What we have interpreted as the lack of local information technology that effectively tracks the details of rape case status contributes to the perception that LEAs are not prepared to report this information. The passage of legislation to create a statewide system could accomplish this critical tracking capacity. The status of this legislation is uncertain and, lacking that, local readiness to account for Rape Kit data is essential to assuring the rights of victims of rape crimes.

DESTROYING OR DISPOSING OF EVIDENCE:

For the past several years, nationwide media reports have focused on the hundreds of thousands of Rape Kits that have gone untested and left in crime lab storage rooms only to be destroyed at a later date. Rape kits are key evidence. Once the evidence is gone, it can never be used to prosecute a suspected rapist or release a wrongfully convicted person.

Causes for disposing of Rape Kits may include:

- Flawed and incomplete investigations
- Lack of LEA specialized training
- Victim refusal
- Victim lack of knowledge regarding their rights
- Victim fear and shame

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Section 680 of the Penal Code relating to evidence provides for the following²¹:

- (e) (1) If the law enforcement agency intends to destroy or dispose of Rape Kit evidence or other crime scene evidence from an unsolved assault case, a victim of a violation of Section 261, 261.5, 262, 286, 288a, or 289 shall be given written notification by the law enforcement agency of their intention.

(2) All law enforcement agencies shall not destroy or dispose of Rape Kit evidence from an unsolved sexual assault case before at least 20 years has passed, or if the victim was under 18 years of age at the time of the alleged offence, before the victim's 40th birthday
- (f) Written notification under subdivision (d) or (e) shall be made at least 60 days prior to the destruction or disposal of the Rape Kit evidence or other crimes scene evidence from an unsolved sexual assault case.

FINDINGS

- F1) LEAs in Monterey County lacked awareness and provided unclear and inconsistent information as to whether there are any backlogged Rape Kits.
- F2) The lack of a centralized place to post information has resulted in a lack of consistency in the way that LEAs manage and track sexual assaults.
- F3) At the beginning of this investigation, not all the LEAs were prepared to report the Rape Kit status information to the CDOJ as required by PC 680.4.
- F4) There is advanced training available for sexual assault investigators, but LEAs are instead relying upon senior investigators to provide "on the job training to other investigators within their respective departments."
- F5) Training for advanced skills in the forensics of sexual assault investigations is not prioritized in the budgeting process.
- F6) Some LEAs rely on cross-training less experienced patrol officers to supplement understaffed investigative teams rather than prioritizing the strategic increase of well-trained investigators.

²¹ http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=680

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- F7) All jurisdictions can expedite the investigations of rape crimes through access to the RADS processing to facilitate timely resolution of rape cases.
- F8) Most LEAs in Monterey County have implemented DNA testing protocols established by the CDOJ which have reduced the likelihood of unprocessed DNA evidence.
- F9) There is no centralized authority coordinating all LEAs in Monterey County regarding collection, processing and reporting of sexual assaults.

RECOMMENDATIONS

- R1) By January 15, 2020, Monterey County District Attorney's Office should initiate and take the lead in developing a centralized interagency method to post and track sexual assault occurrences, Rape Kit collection and reporting to facilitate investigations among all LEAs.
- R2) By January 15, 2020, the governing bodies of all Monterey County LEAs should assign a representative to participate in the DA-led centralized reporting initiative.
- R3) By July 1, 2019, every Monterey County LEA should report to the CDOJ the required data outlined in PC 680.4.
- R4) By July 1, 2019, and annually thereafter, every Monterey County LEA should report to their governing body and the public the required data outlined in PC 680.4.
- R5) By January 15, 2020, every Monterey County LEA should develop a funding source, such as grants, for additional expertise training and recertification within the Sexual Assault and Forensic Division.
- R6) By fiscal year 2020-2021, every Monterey County LEA should add or dedicate certified staff for Sexual Assault Investigations and include that increased cost in their budgets.

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REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the grand jury requests responses as follows:

From the following elected county officials within 60 days:

- Monterey County Sheriff
Findings: F1), F2), F3), F4), F5), F6), F7), F8), F9)
Recommendations: R2), R3), R4), R5), R6)
- Monterey County District Attorney:
Findings: F2) and F9)
Recommendations: R1), R2), R4)

From the following governing board officials within 90 days:

- Monterey County Board of Supervisors
Finding: F5)
Recommendation: R5)
- Salinas City Council
Findings: F1), F2), F3), F4), F5), F6), F7), F8), F9)
Recommendations: R2), R3), R4), R5), R6)
- Monterey City Council
Findings: F1), F2), F3), F4), F5), F6), F7), F8), F9)
Recommendations: R2), R3), R4), R5), R6)
- Greenfield City Council
Findings: F1), F2), F3), F4), F5), F6), F7), F8), F9)
Recommendations: R2), R3), R4), R5), R6)
- Marina City Council
Findings: F1), F2), F3), F4), F5), F6), F7), F8), F9)
Recommendations: R2), R3), R4), R5), R6)
- Seaside City Council
Findings: F1), F2), F3), F4), F5), F6), F7), F8), F9)
Recommendations: R2), R3), R4), R5), R6)
- Soledad City Council
Findings: F1), F2), F3), F4), F5), F6), F7), F8), F9)
Recommendations: R2), R3), R4), R5), R6)

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- Gonzales City Council
Findings: F1), F2), F3), F4), F5), F6), F7), F8), F9)
Recommendations: R2), R3), R4), R5), R6)
- Del Rey Oaks City Council
Findings: F1), F2), F3), F4), F5), F6), F7), F8), F9)
Recommendations: R2), R3), R4), R5), R6)
- King City City Council
Findings: F1), F2), F3), F4), F5), F6), F7), F8), F9)
Recommendations: R2), R3), R4), R5), R6)
- Carmel City Council
Findings: F1), F2), F3), F4), F5), F6), F7), F8), F9)
Recommendations: R2), R3), R4), R5), R6)
- Pacific Grove City Council
Findings: F1), F2), F3), F4), F5), F6), F7), F8), F9)
Recommendations: R2), R3), R4), R5), R6)

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.

DISCLAIMER

This report was issued by the MCCGJ with the exception of one juror who worked within the last five years for an organization being investigated. This juror was excluded from all parts of the investigation.

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APPENDICES

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Appendix A: Compiled from Open Justice Database:
<https://openjustice.doj.ca.gov/crime-statistics/crimes-clearances>

Total Number of Rapes and Attempted Rapes for Monterey County and By Jurisdiction 2006 to 2017													
		2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Monterey County Total	Categories												
	Rape	116	123	99	125	82	94	94	82	125	160	162	168
	Forcible Rape	106	116	94	112	74	89	84	76	113	145	156	159
	Attempted Rape	10	7	5	13	8	5	10	6	12	15	6	9
By Jurisdiction													
CSU Monterey Bay	Categories												
	Rape	0	1	1	1	2	3	2	1	5	6	2	4
	Forcible Rape	0	1	1	1	2	3	2	1	5	6	2	4
	Attempted Rape	0	0	0	0	0	0	0	0	0	0	0	0
Carmel	Categories												
	Rape	2	0	0	0	3	0	0	2	1	2	0	1
	Forcible Rape	2	0	0	0	2	0	0	0	1	2	0	1
	Attempted Rape	0	0	0	0	1	0	0	2	0	0	0	0
Del Rey Oaks	Categories												
	Rape	0	0	0	0	0	0	0	0	0	2	0	0
	Forcible Rape	0	0	0	0	0	0	0	0	0	2	0	0
	Attempted Rape	0	0	0	0	0	0	0	0	0	0	0	0
Gonzales	Categories												
	Rape	0	1	3	1	0	1	1	2	2	2	0	2
	Forcible Rape	0	1	3	1	0	1	1	2	2	2	0	1
	Attempted Rape	0	0	0	0	0	0	0	0	0	0	0	1
Greenfield	Categories												
	Rape	0	4	3	3	3	4	1	1	5	3	3	7
	Forcible Rape	0	4	3	2	3	4	1	1	5	3	3	7
	Attempted Rape	0	0	0	1	0	0	0	0	0	0	0	0
King City	Categories												
	Rape	7	6	5	8	7	9	4	0	4	8	4	9
	Forcible Rape	7	5	5	7	7	7	3	0	2	3	3	7
	Attempted Rape	0	1	0	1	0	2	1	0	2	5	1	2
Marina	Categories												
	Rape	3	5	5	5	2	6	6	4	4	5	12	7
	Forcible Rape	3	4	5	3	2	5	4	2	3	5	11	6
	Attempted Rape	0	1	0	2	0	1	2	2	1	0	1	1
Monterey *	Categories												
	Rape	19	17	11	15	7	6	10	10	19	13	15	17
	Forcible Rape	19	17	11	14	7	6	9	10	18	11	15	17
	Attempted Rape	0	0	0	1	0	0	1	0	1	2	0	0
Monterey Airport	Categories												
	Rape	0	0	0	0	0	0	0	0	0	0	0	0
	Forcible Rape	0	0	0	0	0	0	0	0	0	0	0	0
	Attempted Rape	0	0	0	0	0	0	0	0	0	0	0	0
Monterey Co. Sheriffs Dept.	Categories												
	Rape	19	20	15	26	19	19	17	11	38	31	IS	31
	Forcible Rape	19	20	15	26	17	19	17	11	35	29	18	28
	Attempted Rape	0	0	0	0	2	0	0	0	3	2	0	3
Monterey DPR	Categories												
	Rape	0	0	0	0	0	0	0	0	0	0	0	0
	Forcible Rape	0	0	0	0	0	0	0	0	0	0	0	0
	Attempted Rape	0	0	0	0	0	0	0	0	0	0	0	0
Pacific Grove	Categories												
	Rape	2	4	2	6	1	0	4	2	6	1	5	8
	Forcible Rape	2	4	2	5	2	0	3	2	6	1	5	8
	Attempted Rape	0	0	0	1	0	0	1	0	0	0	0	0
Salinas	Categories												
	Rape	45	51	38	47	23	34	41	56	32	76	86	71
	Forcible Rape	57	46	35	41	19	32	37	35	28	72	84	69
	Attempted Rape	8	5	3	6	4	2	4	1	4	4	2	2
Sand City	Categories												
	Rape	1	2	0	0	0	1	1	0	0	1	0	0
	Forcible Rape	1	2	0	0	0	1	1	0	0	1	0	0
	Attempted Rape	0	0	0	0	0	0	0	0	0	0	0	0
Seaside	Categories												
	Rape	12	11	13	13	10	7	4	7	5	7	10	8
	Forcible Rape	10	11	12	12	10	7	4	7	5	6	9	8
	Attempted Rape	2	0	1	1	0	0	0	0	0	1	1	0
Soledad	Categories												
	Rape	6	1	3	0	4	4	3	6	4	3	7	3
	Forcible Rape	6	1	2	0	3	4	2	5	3	2	6	3
	Attempted Rape	0	0	1	0	1	0	1	1	1	1	1	0
CA Highway Patrol	Categories												
	Rape	0	0	0	0	0	0	0	0	0	0	0	0
	Forcible Rape	0	0	0	0	0	0	0	0	0	0	0	0
	Attempted Rape	0	0	0	0	0	0	0	0	0	0	0	0
Union Pacific RR	Categories												
	Rape	0	0	0	0	0	0	0	0	0	0	0	0
	Forcible Rape	0	0	0	0	0	0	0	0	0	0	0	0
	Attempted Rape	0	0	0	0	0	0	0	0	0	0	0	0
Note: Forcible rape prior to 2014													

RAPE KIT PROCESSING IN MONTEREY COUNTY

APPENDIX B: California Laws Relevant to Rape Kit Processing

AB 3118- (2018) signed into law September 2018- requires all law enforcement agencies, Labs and medical facilities to report the status of untested Rape Kits in their position by July1, 2019.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB3118

AB 1312 (2017)- signed into law January 1, 2018 - Establishes the Sexual Assault Victims' DNA Bill of Rights.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1312

AB 1475 (2015) authorizes counties to establish interagency response teams (SART) to address interagency coordination for sexual assault cases.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB1475

AB 1517 (2014)- sets several nonbinding timelines for the submission and processing of Rape Kit evidence for LEAs and the DOJ.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201320140AB1517

