



County of Monterey Board of Supervisors

Response to the

2022 - 2023 Monterey County Civil Grand Jury

Topic: "Noise Ordinance: Sleepless in Monterey County"

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REPORT TITLE: 2022 - 2023 Monterey County Civil Grand Jury

Topic: "Noise Ordinance: Sleepless in Monterey County"

RESPONSE BY: Housing and Community Development

RESPONSE TO: *Findings and Response* F1, F2, F3, F4, F5, F6, F7, F8, F9, F10 and F11

FINDINGS

With respect to each finding, pursuant to Penal Code, section 933 (c), the Department shall indicate one of the following:

- 1) That the Board agrees with the finding; or
- 2) That the Board disagrees wholly or partially with the finding, in which case the Board must specify the portion of the finding that is disputed and shall include in the response an explanation of the reasons for the disagreement.

F1		The Noise Complaint Hotline is only staffed for limited days and times; therefore, it is inadequately serving the community.
F1 Response: The Board agrees with the finding		
F2		A single HCD code enforcement officer is insufficient to respond to all complaints submitted during peak call times.
F2 Response: The Board agrees with the finding		
F3		The Sheriff's Office staffing is insufficient to respond to the number of noise complaints.
F3 Response: The Board partially disagrees with the finding. The Sheriff's Office has implemented a process to increase the number of deputy sheriffs assigned to the Enforcement Operations Bureau through the hiring of lateral peace officers who can be deployed to the Enforcement Operations Bureau immediately or the hiring and training of deputy sheriffs to transfer the backfill of deputy sheriffs from the Corrections Operations Bureau to the Enforcement Operations Bureau. For more information, please see the Sheriff's July 6, 2023 response to the Presiding Judge which is attached.		
F4		Because the MCSO considers noise complaints a lower priority than life, safety, and property calls, they are often unable to respond in a timely manner to noise complaints.
F4 Response: The Board agrees with the finding. Response to calls for service are prioritized based on the nature of the call. Response to noise complaints are prioritized after higher priority calls related to crimes of violence and property crimes.		
F5		HCD community outreach regarding permit requirements is insufficient to reach those who may be unaware of the need for special event permits.
F5 Response: The Board agrees with the finding		

F6		Certain property owners are knowingly renting their land to others who host large, for profit, public events without proper permits, causing nuisance and safety issues to adjacent residents.
F6 Response: The Board agrees with the finding		
F7		Certain property owners are repeat violators of permitting requirements and are undeterred by the current dollar amount of the fines placed against the property, creating a persistent nuisance.
F7 Response: The Board partially disagrees with the finding. The Board of Supervisors adopted Ordinance No. 5379 on June 21, 2022 to modify enforcement mechanisms for violations of Monterey County Code Chapter ("MCC") 10.60. Now violations of Chapter 10.60 are handled administratively pursuant to MCC Chapter 1.22. Specifically, the Enforcement Officer may issue verbal warnings of violation upon first contact of an occurrence within a 24 hour period. After such a warning is given, the Enforcement Officer may issue an administrative citation with the first violation punishable by a civil penalty of not more than \$500, the second violation punishable by a civil penalty of not more than \$1,000, and the third violation punishable by a civil penalty of not more than \$2,000. Importantly, each hour such violation is committed or permitted to continue is a separate offense and can be fined. Housing & Community Development code enforcement staff have been implementing the noise ordinance with some success. In many cases, noise violations are addressed after a warning is issued. The Board agrees that there are certain property owners who are repeat violators that are undeterred by the current fine amounts, but the amount of the fine is not the only factor. The current ordinance allows a warning of violation upon first contact within a 24 hour period. If the property owner complies with the warning one night, they could be subject to a warning again the following night. Progressive fines over a period of longer than 24 hours may be more effective as a deterrent.		
F8		Event organizers renting property in unincorporated Monterey County have no penalty or fines levied against them for lack of permits, thus allowing them to host large events repeatedly without consequence from the County.
F8 Response: The Board wholly disagrees with the finding. Events are somewhat distinct from noise regulations despite often being related. Events occurring without a permit are a violation of the Monterey County Code and are subject to fines with or without violations of the noise ordinance. Fines for violating the event permit requirements are \$100 for the first violation, \$200 for the second violation, and \$500 for the third and subsequent violations. Event may be subject to multiple fines for violations for each infraction including use of tents without a permit, food service without health clearance, and noise. These violations can be compounded.		
F9		MCSO has an effective working relationship with CHP to patrol roads within unincorporated areas, providing an opportunity to acquire assistance with the road-related repercussions of large, unpermitted events.
F9 Response: The Board agrees with the finding.		

F10		Once a large, unpermitted event is underway in unincorporated Monterey County, it becomes virtually impossible for a code enforcement officer and/or Sheriff Deputy to intervene and shut down the event. This results in potential adverse health and safety issues for attendees and neighbors as well as the safety of the responding code enforcement officer and/or Sheriff's Deputy.
F10 Response: The Board disagrees with the finding. Once a response occurs, it is feasible to shut down an event. Hazards can be mitigated, though not eliminated, by adequately assessing the support elements needed to shut down an event safely and effectively. For more information, please see the Sheriff's July 6, 2023 response to the Presiding Judge which is attached.		
F11		The Board of Supervisors has been ineffective in resolving noise complaints and providing the necessary funding for outreach and enforcement, causing confusion and frustration to residents in unincorporated Monterey County.
F11 Response: The Board partially disagrees with the finding. The Board of Supervisors adopted Ordinance No. 5379 on June 21, 2022 to modify enforcement mechanisms for violations of Monterey County Code Chapter ("MCC") 10.60. Now violations of Chapter 10.60 are handled administratively pursuant to MCC Chapter 1.22. Specifically, the Enforcement Officer may issue verbal warnings of violation upon first contact of an occurrence within a 24 hour period. After such a warning is given, the Enforcement Officer may issue an administrative citation with the first violation punishable by a civil penalty of not more than \$500, the second violation punishable by a civil penalty of not more than \$1,000, and the third violation punishable by a civil penalty of not more than \$2,000. Importantly, each hour such violation is committed or permitted to continue is a separate offense and can be fined. The Board of Supervisors also directed County staff to establish a noise hotline, dedicating a code enforcement officer to investigate night-time noise complaints. That some are frustrated that more is not being done does not unilaterally mean that the Board has been ineffective in resolving the matter. The Board of Supervisors provided Housing & Community Development with additional positions in code enforcement. It took some time to recruit and hire new staff but there are now staff dedicated to noise enforcement and this has had positive results. Costs of staff time and resources to address noise complaints must be weighed against the many other needs for resources within the County and the response must be reasonable so as to not unduly burden the ability of the people within the County to gather with family and friends.		

REPORT TITLE: 2022 - 2023 Monterey County Civil Grand Jury

Topic: "Noise Ordinance: Sleepless in Monterey County"

RESPONSE BY: Housing and Community Development

RESPONSE TO: *Recommendations and Response R1, R2, R3, R4, R5, R6, R7 and R8*

RECOMMENDATIONS:

Response

With respect to each recommendations, pursuant to Penal Code, section 933 (c), the Department shall indicate one of the following:

- 1) That the recommendation has been implemented, with a summary regarding the implemented action;
- 2) That the recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation; or
- 3) That the recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the Board (this timeframe not to exceed six months from the date of publication).
- 4) The recommendations will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

R1		HCD assign additional code enforcement officers whose focus will be noise complaints during high frequency call periods by December 31, 2023.
R1 Response: This recommendation has been partially implemented. A second code enforcement officer has been assigned to assist with enforcement of noise violations every other weekend. HCD has 9 Code Enforcement offices and over 2,000 code enforcement cases. Like the MCSO, Code Enforcement prioritizes health and safety responses as the first priority. Dedication additional Code Enforcement officers to respond to noise complaints will impact response to other code enforcement matters and is unlikely to result in full compliance with noise violations (i.e. shutting down all parties and events).		
R2		HCD extend the hours of the noise complaint hotline beyond 10 p.m. on weekends to accommodate the extended hours of special events by July 31, 2023.
R2 Response: This recommendation will be implemented. HCD will extend the hours of the noise complaint hotline to 11 p.m. on weekends by July 21, 2023..		
R3		HCD require code enforcement officers to consistently patrol areas known for noise complaints and unpermitted events by September 30, 2023.
R3 Response: This recommendation has been implemented. HCD staff now patrols areas known to have repeat complaints and issues warnings or violations proactively.		
R4		Monterey County Sheriff prioritize filling currently budgeted sworn peace officer positions available for patrol in the Monterey County Sheriff's Office by December 31, 2023.
R4 Response: The recommendation will not be implemented because it is not reasonable.		

The Sheriff's Office is currently operating within the terms and conditions of the Hernandez settlement pertaining to jail operations. This effectively prioritizes staffing of the Jail Division ahead of the Enforcement Operations Bureau. The Sheriff's Office has indicated that they fully intend to fill Patrol Division positions within the constraints of the hiring and training process. For more information, please see the Sheriff's July 6, 2023 response to the Presiding Judge, which is attached.		
R5		HCD develop an outreach program to encourage residents to report any advertisements of planned special events and to call the hotline by September 30, 2023.
R5 Response: Recommendation has not yet been implemented, but will be implemented in the future. HCD will work with the County's public information officer to develop and implement an outreach plan by September 30, 2023. This recommendation should be combined with R7		
R6		MCSO develop a protocol with CHP to share information about large, possibly unpermitted events, to increase safe driving conditions in the area of the event, to be completed by September 30, 2023.
R6 Response: This recommendation requires further analysis. The Sheriff's Office has a strong relationship with the California Highway Patrol. Analysis must be undertaken to determine what type of information should be shared for various types of events to ensure that disparate enforcement does not occur. The analysis will be completed by November, 2023. For more information, please see the Sheriff's July 6, 2023 response to the Presiding Judge, which is attached.		
R7		HCD develop a public outreach program to inform residents of permit requirements for special events by December 31, 2023.
R7 Response: Recommendation has not yet been implemented, but will be implemented in the future. HCD will work with the County's public information officer to develop and implement an outreach plan by December 31, 2023. This recommendation should be combined with R5.		
R8		Board of Supervisors impose stricter fines and penalties for repeat offenders of special event code violations by December 31, 2023.
R8 Response: This recommendation requires further analysis. Special event permits are currently required by Monterey County Code Chapter 14.04. County staff can evaluate potential amendments to this Chapter to further delineate the criteria for a special event, and to set separate fines for failure to obtain a special event permit. Likewise, staff can evaluate further amendments to Chapter 10.60 to set fines for noise violations for special events. Initial analysis will be completed by December 31, 2023.		



MONTEREY COUNTY, CALIFORNIA
SHERIFF'S OFFICE
Keeping the peace since 1850

Tina M. Nieto
Sheriff-Coroner

July 6, 2023

Honorable Stephanie Hulsey
Judge of the Superior Court
c/o Office of the County Counsel
Attention: Sandra Ontiveros
168 W. Alisal Street, 3rd Floor
Salinas, CA 93901

RE: Response by Sheriff-Coroner Tina M. Nieto to the 2022-2023 Civil Grand Jury Report Entitled, "Noise Ordinance: Sleepless in Monterey County"

Honorable Judge Hulsey,

As required by Penal Code Section 933.05, I offer the following response to the 2022-2023 Civil Grand Jury Report Entitled, "Noise Ordinance: Sleepless in Monterey County." This letter will serve as my response to the findings and recommendations of the Civil Grand Jury in my official capacity as the Sheriff-Coroner of Monterey County.

Finding 3: The Sheriff's Office staffing is insufficient to respond to the number of noise complaints.

Response: I partially disagree with this finding.

At the time of the writing of this response the Sheriff's Office had 22 vacant sworn positions across the ranks of deputy sheriff, sheriff's sergeant, and sheriff's commander with 16 of those positions located in the Enforcement Operations Bureau whose personnel respond to the noise complaints. In addition, since Fiscal Year 2015 the Sheriff's Office has seen a reduction of its budgeted staffing allocation by the Board of Supervisors eliminating or defunding a total of 13 sworn positions with the majority of those eliminated positions cut from the Enforcement Operations Bureau. During the Fiscal Year 24 budget process the Sheriff's Office was granted authorization by the Board of Supervisors to restore 7 of the sworn positions which were previously eliminated, but those 7 positions will be allocated to the Corrections Operations Bureau due to the Hernandez Federal Settlement. The Sheriff's Office has implemented a process to increase the number of deputy sheriffs assigned to the Enforcement Operations Bureau through the hiring of lateral peace officers who can be deployed to the Enforcement Operations Bureau immediately or the hiring and training of deputy sheriffs to backfill the transfer of deputy sheriffs from the Corrections Operations Bureau to the Enforcement Operations Bureau.

At this time, it is difficult to agree or wholly disagree with your finding so I must partially disagree as the 16 vacancies in the existing budgeted levels make it difficult to determine if the budgeted sworn staff allocation is sufficient to respond to the number of noise complaints.

Finding 4: Because the MCSO considers noise complaints a lower priority than life, safety, and property calls, they are often unable to respond in a timely manner to noise complaints.

Response: I agree with your finding.



MONTEREY COUNTY, CALIFORNIA
SHERIFF'S OFFICE
 Keeping the peace since 1850

TJna M. Nieto
 Sheriff-Coroner

The Sheriff's Office contracts dispatch services with the Monterey County Emergency Communications Department. The Communications Department utilizes a computer aided dispatch system which prioritizes call for service based on the nature of the call. Response to noise complaints is prioritized after higher priority calls relating to crimes of violence and crimes of property leading to delays in response by staff.

Finding 6: Certain property owners are knowingly renting their land to others who host large, for profit, public events without proper permits, causing nuisance and safety issues to adjacent residents.

Response: I agree with this finding.

Finding 9: MCSO has an effective working relationship with CHP to patrol roads within unincorporated areas, providing an opportunity to acquire assistance with the road-related repercussions of large, unpermitted events.

Response: I agree with this finding.

Finding 10: Once a large, unpermitted event is underway in unincorporated Monterey County, it becomes virtually impossible for a code enforcement officer and/or Sheriff Deputy to intervene and shut down the event. This results in potential adverse health and safety issues for attendees and neighbors as well as the safety of the responding code enforcement officer and/or Sheriff's Deputy.

Response: I wholly disagree with this finding.

Due to the prioritization of calls for service noise complaints are considered lower priority calls for service which can lead to delayed response. Though, once a response occurs it is feasible, with well written and enforceable ordinances, to shut down an event. There are inherent hazards conducting any enforcement action law enforcement undertakes yet the hazards can be mitigated, though not eliminated, by assessing the support elements needed to shut down the event safely and effectively.

Recommendation 4: Monterey County Sheriff prioritize filling currently budgeted sworn peace officer positions available for patrol in the Monterey County Sheriff's Office by December 31, 2023.

Response: The recommendation will not be implemented because it is not reasonable.

The Sheriff's Office is currently operating within the terms and conditions of the Hernandez Federal Settlement pertaining to jail operations. A portion of the settlement agreement mandates staffing levels assigned to the jail thus prioritizing the staffing of the Jail Division ahead of the Enforcement Operations Bureau. I agree there is a need to fill the vacant budgeted positions available for patrol, but it is unreasonable to expect the filling of the 16 vacancies in the Enforcement Operations Bureau by December 31, 2023 as there is a limited capacity of personnel whom can be in the Patrol Division training program at one time; the time required to complete the Patrol Division training program per deputy is approximately 16-20 weeks; and the need to backfill deputy sheriffs to be transferred to the Patrol Division training program from the Corrections Operations Bureau with trained Corrections Operation Bureau deputy sheriffs.



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Tina M. Nieto
Sheriff-Coroner

Recommendation 6: MCSO develop a protocol with CHP to share information about large, possibly unpermitted events, to increase safe driving conditions in the area of the event, to be completed by September 30, 2023.

Response: This recommendation requires further analysis.

The Sheriff's Office has a strong relationship with the California Highway Patrol and each routinely supports the efforts of the other. Analysis must be undertaken to identify what information should be shared based on the size and scope of the event in question to ensure fair and equitable treatment of all events when compared to each other to ensure disparate enforcement does not occur. The Sheriff's Office Fiscal Year 24 budget is fully allocated at the time of this response and completion of the analysis and review of accumulated data may require supplemental augmentation funding from the Board of Supervisors to conduct and complete. Analysis should be conducted and completed no later than November 15, 2023.

Respectfully submitted,

A handwritten signature in blue ink, appearing to be "Tina M. Nieto", written over a horizontal line.

Tina M. Nieto
Sheriff-Coroner

Cc: Sonia De La Rosa, County Administrative Officer
Nick Chiulos, Assistant County Administrative Officer
County of Monterey Board of Supervisors