



**TO IMPLEMENT, OR NOT TO IMPLEMENT,
THAT IS THE QUESTION**
**RESPONSES TO THE 2022–2023 MARIN COUNTY CIVIL GRAND JURY
REPORTS: AN OVERVIEW**
December 15, 2023

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SUMMARY

Each year, the Marin County Civil Grand Jury investigates local governmental operations and issues reports recommending areas for improvement. Publication of these reports often results in widespread media coverage. However, the public rarely learns how the agencies respond and whether they agree to implement the Grand Jury's recommendations.

This report summarizes the agencies' responses to the eight 2022–2023 Grand Jury reports, all of which included recommendations. In the eight reports, a total of 47 recommendations were made. A total of 62 agencies including the Board of Supervisors, the District Attorney, the Sheriff, the cities and towns, the Office of Education, the public school districts, the fire protection districts, the sanitary districts, and the water districts were each requested to respond to at least one report.

Excluding the report regarding building more ADUs, most of the respondents stated that a recommendation had been implemented or would be implemented; many of the respondents stated that a recommendation needed further analysis; and some of the respondents replied that they would not implement a recommendation.

One hundred seventeen responses to the Grand Jury's recommendations from fifty-seven different respondents were required to the recommendations in the Build More ADUs report. The Board of Supervisors and the municipalities were each required to respond to all six recommendations; the remaining respondents were each required to respond to only one recommendation. Several of the respondents stated that a recommendation had been implemented or would be implemented; many of the respondents stated that a recommendation needed further analysis; and some of the respondents stated they will not implement a recommendation because it is not warranted or reasonable.

BACKGROUND

The California Constitution requires that each year every county impanel a civil grand jury charged with monitoring and inspecting the operations of local government and making recommendations for improvement. Each grand jury is required to publish at least one report on the outcome of investigations conducted during its term. California Penal Code §933 requires public agencies and elected officials to respond to grand jury report findings and recommendations.¹

Because of its one-year term, a grand jury that generates a report often is no longer in session and cannot ensure that elected officials and agencies comply with their legal obligations. Consequently, responsibility for monitoring the responses and addressing any deficiencies falls to the succeeding grand jury.

The 2022-2023 Grand Jury published eight reports requiring governmental agency and elected official responses to all the findings and recommendations. As defined by the Penal Code, responses were due within 60 days of report publication for elected officials and within 90 days of publication for public agencies. Each finding required a response of Agree, Partially Disagree, or Wholly Disagree, with an explanation of any disagreement. Each recommendation required a response of Implemented, Will Be Implemented, Requires Further Analysis, or Will Not Be Implemented, with associated timelines and explanations.

The 2023–2024 Grand Jury reviewed those reports and the subsequent responses provided by the agencies. This report presents the results of that review. Each of the reports and the agency responses can be accessed at Marin County’s website.²

OBJECTIVES AND APPROACH

The objectives of this report are to:

- Update Marin’s residents on actual progress with issues of public concern and governmental effectiveness.
- Highlight developments achieved by local governments in the areas that the grand jury investigated.
- Facilitate seamless continuity through annual grand jury transitions and thereby reinforce the accountability of local public agencies.

This report includes extracts from the 2022-2023 Grand Jury Reports and information from the individual agency responses to the eight reports for which responses were required. This review includes information available as of December 5, 2023.

¹ California Penal Code §933

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=933

² <https://www.marincounty.org/depts/gj/reports-and-responses>

DISCUSSION

A synopsis and update for each report from the Grand Jury 2022-2023 follows:

Justice Delayed Is Justice Denied — Marin District Attorney's Office in Crisis

Released on May 15, 2023

The 2022-2023 Grand Jury's Summary

The Grand Jury concluded that there is a substantial backlog of criminal cases pending in Marin County. This backlog affects the community at large, including victims of crime, people charged with crimes, and the law enforcement agencies responsible for investigating and prosecuting criminal cases. Once charges are filed in Marin, there is an unreasonable delay in bringing these cases to a resolution - in many cases more than a year.

The scope and impact of the delays in resolving cases in Marin are considerable:

- 1. Of the 1,896 misdemeanor cases pending in February 2023, 42.4 percent had been pending for more than a year and 17.9 percent for more than two years.*
- 2. Of the 458 felony cases pending in February 2023, 38.4 percent had been pending for more than a year and 12 percent for more than two years.*
- 3. Of the 251 people in the Marin County Jail as of February 28, 2023, 79 percent (199) were awaiting trial. Twenty percent (40) of those people had been in the county jail for more than a year.*

The Grand Jury's investigation concluded that the District Attorney's Office is the primary reason for the delays in resolving criminal cases in Marin. The District Attorney's Office faces significant challenges, including the following:

- 1. Deputy district attorneys struggle to carry out their legal duties due to the backlog of pending cases and overwhelming individual caseloads.*
- 2. During the past four years, the District Attorney's Office has experienced a high turnover of attorneys, especially among the more experienced attorneys, including 13 attorneys departing in the last fourteen months as of February 2023.*
- 3. The District Attorney's Office lacks the internal organizational structure and procedures to facilitate the processing and resolution of cases.*
- 4. There are multiple lawsuits filed by current and former employees pending against the office alleging various claims, including discrimination based on race, gender, and age.*

Recommendations and Responses

The Grand Jury made eight recommendations to, and requested responses from, the Marin County District Attorney (Recommendation Nos. 2-7), the Marin County Board of Supervisors (Recommendation Nos. 1-8), and the Marin County Sheriff (Recommendation No. 8):

- R1. By November 1, 2023, the Marin County Board of Supervisors should request the Marin County Administrator to hire an independent consultant who reports to the County Administrator's Office to analyze operations of the District Attorney's Office with the following objectives: reducing the overwhelming caseloads of deputy district attorneys, facilitating timely production of discovery materials, implementing early evaluation of cases to promote plea negotiations, improving office morale, and updating the case management system.*
- The Board of Supervisors responded that this recommendation will be implemented.
- R2. By December 1, 2023, the District Attorney's Office should hire two or more highly experienced former deputy district attorneys on short term (6 - 12 mos.) contracts whose sole responsibility would be to reduce the backlog of cases through plea negotiations, starting with the longest pending cases.*
- The District Attorney responded that this recommendation has been implemented.
 - The Board of Supervisors responded that this recommendation needs further analysis because there is approximately \$750,000 available for short-term staffing in this year's budget.
- R3. Once the caseload has been significantly reduced, the District Attorney's Office should hire experienced deputy district attorneys to maintain caseloads at a manageable level.*
- The District Attorney responded that this recommendation has been implemented.
 - The Board of Supervisors responded that this recommendation needs further analysis. The County Administrator's Office will continue to work with the District Attorney to review and budget for appropriate staffing levels with the goal of maintaining caseloads at a manageable level.
- R4. By December 1, 2023, the District Attorney's Office should implement a new process to provide discovery materials (e.g., police report, defendant's criminal history, and camera footage) to defense counsel within a reasonable time of arraignment.*
- The District Attorney and the Board of Supervisors responded that this recommendation has been implemented.
- R5. By December 1, 2023, the District Attorney's Office should institute a position, such as an expediter, that is primarily responsible for facilitating plea negotiations in misdemeanor cases.*
- The District Attorney and the Board of Supervisors responded that this recommendation has been implemented.
- R6. By October 1, 2023, the District Attorney's Office should hire paralegals to assist attorneys with discovery, witness coordination, and trial preparation.*
- The District Attorney responded that this recommendation will be implemented.
 - The Board of Supervisors responded that this recommendation needs further analysis based on the results of an independent review by an outside expert to examine this issue and provide recommendations.

R7. By November 1, 2023, the District Attorney's Office should commence providing a quarterly update and statistical report to the Board of Supervisors and the County Administrator's Office on its progress to reduce the backlog of criminal cases.

- The District Attorney and the Board of Supervisors responded that this recommendation will be implemented.

R8. By October 1, 2023, people in custody who are awaiting trial should be granted more accommodations than inmates who have been convicted. Possible accommodations include, where appropriate, contact visits with family, utilization of technology (e.g., tablets) within their cells, and contact visits with defense counsel.

- The Board of Supervisors responded that this recommendation needs further analysis as this recommendation is within the purview of the Sheriff.
- The Marin County Sheriff responded that the County Jail does not have the space or adequate staffing to conduct these visits and ensure the safety of staff, incarcerated persons, and those visiting.

The Coming Wave of Older Adults — Is Marin Prepared?

Released on May 30, 2023

The 2022-2023 Grand Jury's Summary

The Grand Jury found that the average life expectancy in Marin is 85.2 years. Of Marin County's current population of 262,000, 33% are age 60 or older. The question the Grand Jury considered is whether Marin County is prepared to properly fund the level of social and special services required by Older Adults. Aside from funding, is Marin's Office of Aging and Adult Services properly staffed and organized to deliver these services? In January 2021 the State of California released a Master Plan for Aging, a comprehensive framework designed to prepare the state for the significant changes expected with the increase of California's population of older adults. Marin can use this blueprint to gauge how the county is prepared for the older adult population.

The Report identified Five Bold Goals for 2030:

- 1. Housing for all ages and stages: We will live where we choose as we age in communities that are age-, disability-, and dementia-friendly and climate- and disaster-ready.*
- 2. Health Reimagined: We will have access to the services we need to live at home in our communities and to optimize our health and quality of life.*
- 3. Inclusion and Equity—Not Isolation: We will have lifelong opportunities for work, volunteering, engagement, and leadership and will be protected from isolation, discrimination, abuse, neglect, and exploitation.*
- 4. Caregiving that Works: We will be prepared for and supported through the rewards and challenges of caring for aging loved ones.*
- 5. Affording Aging: We will have economic security for as long as we live.*

Even though Marin County is an affluent county, about 25% of Marin's Older Adults are financially insecure. Because of Marin County's high cost of living, about 60 percent of Marin County's employees live outside the County which means that the adult children of Older Adults or their Caregivers are not able to live in the County. The report identified gaps in Older Adult services and discovered that the County's Aging and Adult Services (AAS) is not being represented on the Health and Human Services Executive Team. The primary question was how to organize and financially achieve the Five Goals listed above.

Recommendations and Responses

The Grand Jury made seven recommendations to, and requested responses from, the Marin County Board of Supervisors. The Grand Jury also invited responses from the Marin County Commission on Aging. The Board of Supervisors and the Commission on Aging provided the following responses to those recommendations:

R1. By December 31, 2023, the Board of Supervisors should elevate the Office of Adult and Aging Services (AAS) to a division-level department within the Health and Human Services Department. The lead executive within AAS should be on a peer level with other directors within HHS as part of the HHS Executive team.

- The Board of Supervisors responded that this recommendation will not be implemented because creating a stand-alone Aging Department outside of Social Services would create a scenario where Social Services dollars could no longer support existing staffing costs.
- The Commission on Aging responded that this recommendation requires further analysis. The Commission contends that this recommendation is imperative and needs to be implemented as quickly as possible. While the Director of Aging and Adult Services will participate on the Health and Human Services (HHS) Executive team as of July 1, 2023, this position does not report to the Director of HHS, and AAS remains an office within the Social Services Division of HHS rather than a Division.

R2. By November 30, 2023, the Board of Supervisors should finish reviewing and then formally approve the Integrated Aging Services (IAS) Study accepted at the February 7, 2023, Board of Supervisors meeting.

- The Board of Supervisors responded that this recommendation has been implemented.
- The Commission on Aging responded that this recommendation has not yet been implemented. The Commission requested that this be on a Board of Supervisors' agenda by no later than November 1, 2023. The intent is to approve the IAS Study and support the recommendations in the Study.

R3. During the FY25 budget preparation cycle, the Board of Supervisors should direct AAS and HHS to prepare a larger AAS FY25 budget consistent with the IAS Study so as to be ready for implementation during the FY25 budget year.

- The Board of Supervisors responded that this recommendation requires further analysis because the IAS Study represents an important source of input, it does not capture the full investment in older adult services across all HHS programs, including Social Services, BHRS, Public Health, and Whole Person Care/Homeless Services.
- The Commission on Aging responded that this recommendation has not yet been implemented, but it will be implemented in the time frame noted.

R4. By December 31, 2023, the Board of Supervisors should direct HHS or AAS - as appropriate - to begin the design of a multilingual electronic "doorway" or portal for older residents and family members through which to access information regarding County services from a single point of entry, with initial design, operational goals and a preliminary budget defined.

- The Board of Supervisors responded that this recommendation requires further analysis because HHS already has a multilingual information and assistance line portal (415-473-INFO (4636)) designed to provide support and access to County and partner services for older adults.

- The Commission on Aging responded that this recommendation has not yet been implemented, but it will be implemented by AAS, with staffing support by HHS.
- R5. *By December 31, 2023, the Board of Supervisors should direct HHS or AAS - as appropriate - to begin the design of a comprehensive database-driven communication system. This should enable Older Adult County residents and/or family members to register and opt-in to receive information on aging services, and receive calls or texts as needed for natural disaster notification, wellness checks, etc.*
- The Board of Supervisors responded that this recommendation requires further analysis. There are systems already in place that allow for these types of notifications, especially in regard to disaster notification.
 - The Commission on Aging responded that this recommendation requires further analysis. Several different approaches may be needed to develop a registry of older adults and family members to receive calls/texts for natural disasters, wellness checks, and information on aging services.
- R6. *By December 31, 2023, the Board of Supervisors should direct HHS or AAS - to create an ombudsman position within AAS to assist CBOs and non-profits which provide aging services (e.g., West Marin Senior Services, Vivalon, etc.) in submitting funding and/or services requests.*
- The Board of Supervisors responded that this recommendation will not be implemented because a new Deputy County Administrator who acts as a liaison with communities and service providers in unincorporated areas of the County was added to the CAO in 2023.
 - The Commission on Aging responded that while this recommendation is innovative, it requires further analysis.
- R7. *By December 31, 2023, the Board of Supervisors should direct HHS or AAS - as appropriate - to fund a “travel stipend” based on the mileage to/from San Rafael County offices to client location based on the applicable IRS mileage rate for IHSS caregivers providing services in rural areas.*
- The Board of Supervisors responded that this recommendation requires further analysis. The County and the In-Home Supportive Services (IHSS) Public Authority of Marin await negotiations regarding a new contract for Marin's 1,800 IHSS providers effective January 1, 2024.
 - The Commission on Aging responded that this recommendation requires further analysis. This recommendation is important and should be relatively easy to analyze and implement. The analysis and eligibility requirements should include the county's fiscal office, Marin In Home Supportive Services (IHSS) Public Authority, and AAS. In addition, it should be completed by no later than December 31, 2023.

Electrical Resiliency — It's Time to Do More

Released on June 5, 2023

The 2022-2023 Grand Jury's Summary

The Grand Jury found that climate change, heat waves, atmospheric rivers, electric vehicles (EVs), and electrification are straining the fragile electrical grid which will only increase. Over the last several years, this has led to more and more brownouts and blackouts in Marin County. The increasing number of power outages, both planned and unplanned, made it clear that the county and all its communities must begin to envision and create new sources of alternative energy to improve their response to these threats to its residents. The Grand Jury found that what is required is the political will and motivation on the part of decision makers. As described in the report, microgrids can play a major role in providing a backup source of energy to critical infrastructure, disadvantaged communities, and neighborhoods. All electricity in Marin is delivered by Pacific Gas and Electric Co. (PG&E), a public utility supervised by the California Public Utilities Commission (CPUC). PG&E is finding it increasingly difficult to reliably meet Marin County's energy needs. The Grand Jury concluded that much more needs to be done by the County, and its local communities to help offset PG&E's systemic fragility. For the purpose of this investigation, resilience means a range of alternative sources of energy that together amplify the county's ability to reduce the number of brownouts and blackouts.

This report focused on the historical record of power outages in Marin, the electric resilience risks that the county faces going forward, and the steps that can be taken by individuals, communities, and the county to mitigate power outages in Marin. Specifically, the Grand Jury determined that Marin County should start to plan for alternative local sources of power, ideally "green," and especially microgrids. Resilience will provide residents both private and public opportunities for power during heat waves, storms, earthquakes and other climate and natural catastrophes. Resilience will also augment existing emergency services.

Recommendations and Responses

The Grand Jury made five recommendations to, and requested responses from, the Marin County Board of Supervisors. The Board of Supervisors provided the following responses to those recommendations:

- R1. By December 31, 2023, the Board of Supervisors should vote on funding a study to determine the viability of microgrids, and how they could be installed in Marin County.*
- The Board of Supervisors responded that this recommendation will not be implemented because allocating funding to study microgrid viability is not necessary as there are already several resiliency efforts and projects underway in Marin County.
- R2. By December 31, 2024, the Board of Supervisors will have committed to installing microgrids, in coordination with local leadership. Two sites should be chosen as pilot programs. The Grand Jury recommends Marin City and West Marin as the sites because they include underserved communities. Also, West Marin is a remote location that would benefit from reliable energy via alternative sources.*
- The Board of Supervisors responded that this recommendation will not be implemented because Marin Clean Energy (MCE), as the local community energy provider in Marin, is the more appropriate entity to develop community scale microgrids.
- R3. By September 30, 2024, the Board of Supervisors will update the County Strategic Plan to include microgrids and enlist public support for the project.*
- The Board of Supervisors responded that this recommendation has been implemented.
- R4. By September 30, 2024, the Board of Supervisors will engage with County Planning to develop permitting and construction guidelines to accelerate the development of microgrids.*
- The Board of Supervisors responded that this recommendation needs further analysis. County Planning and Building will evaluate existing permitting processes and local construction guidelines to identify if there are any barriers to development and/or streamlining opportunities for components of microgrids, including energy generation, storage, and distribution.
- R5. By December 30, 2024, the Board of Supervisors will investigate and identify public and private funding sources for the proposed microgrid(s).*
- The Board of Supervisors responded that this recommendation will not be implemented. As the local community energy provider in Marin, MCE is the most appropriate entity to develop community-scale microgrids.

Novato's Chronic Fiscal Deficits: A Call to Action

Released on June 8, 2023

The 2022-2023 Grand Jury's Summary

The Grand Jury found that while Novato's City Council has known for more than a decade about looming financial challenges and deficits, it has not taken sufficient measures to resolve them. In recent years, the City of Novato's revenues have not covered its operating expenses. The Grand Jury made seven recommendations designed to correct these deficiencies. Warnings regarding chronic fiscal deficits have been provided in writing by City Managers every year for over a decade, along with every City of Novato-approved budget. These deficits have been realized in recent years and are currently having an adverse impact on the City of Novato's revenue as well as on its operations, putting Novato's financial sustainability at risk. Attempts to curtail expenses have been ineffective in remedying these ongoing fiscal deficits. For example, budget cuts designed to reduce staffing levels left fewer people to perform the same or greater workload, resulting in overburdened staff members, low wages, difficulties in hiring and retaining employees, and reduced services for Novato's approximately 53,000 residents.

This report identified several challenges that face the City, such as a lower median household income than the County overall, property tax constraints, and complex factors that compromise the City's governance due to special districts located within and around the City. Despite these challenges, the Grand Jury found that the City Council has not adequately pursued options for ongoing sources of revenue. Included in this report are analyses of:

- *Novato's Ongoing Structural Financial Deficit*
- *Impact on Staff and the Community*
- *Records Management System*
- *Financial Staffing, Controls and Oversight*
- *Finance Advisory Commission*
- *City Properties*
- *Marin Valley Mobile Country Club*
- *Sales Tax*

Recommendations and Responses

The Grand Jury made seven recommendations to, and requested responses from, the City of Novato. The Novato City Council provided the following responses to those recommendations:

- R1. *By December 1, 2023, design and begin implementation of a plan to address Novato's ongoing structural financial deficit. This plan should include resources, staff, and systems necessary to institute strong financial controls to improve its financial condition and to enable timely independent financial audits.*
- The City Council responded that this recommendation will be implemented.
- R2. *By December 1, 2023, the City Council, in consultation with the Finance Advisory Commission, should consider creating and funding a new position of an independent internal auditor with the authority to investigate and report on City operations.*
- The City Council responded that this recommendation will not be implemented because the City already faces significant fiscal challenges and implementation of this recommendation will add new ongoing expenses to the City's already strained operating budget.
- R3. *By December 31, 2023, require the Finance Advisory Commission to issue quarterly financial reports on the City's financial condition and require that the reports be discussed at City Council meetings.*
- The City Council responded that this recommendation will not be implemented. The Finance Advisory Commission's role is advisory in nature; its responsibility is to review financial information, not prepare it.
- R4. *By December 31, 2023, develop a schedule to install and maintain comprehensive records management systems for all City operations by June 30, 2025.*
- The City Council responded that this recommendation needs further analysis. The City Council dedicated one-time funding in the amount of \$26,000 to implement a comprehensive records management system in fiscal year 2021/2022.
- R5. *By October 1, 2023, begin strategic planning to increase the City's sales tax.*
- The City Council responded that this recommendation needs further analysis. The City Council directed staff to study the potential for a sales tax measure and other revenue ideas at their Strategic Planning session on August 4 and August 5, 2023.
- R6. *By December 31, initiate a comprehensive inventory and review of the City's entire portfolio of properties to identify opportunities for more cost-effective use of each holding. The assessment, including recommendations and timelines for implementation, should be completed no later than May 1, 2024.*
- The City Council responded that this recommendation will be implemented.
- R7. *By December 31, 2023, implement a plan to address the operational and financial condition of the Marin Valley Mobile Country Club (MVMCC), including an evaluation of options for rent increases.*
- The City Council responded that this recommendation will be implemented.

Build More ADUs - An Rx to Increase Marin's Housing Supply

Released on June 15, 2023

The 2022-2023 Grand Jury's Summary

As a result of California's new state mandated Housing Element, Marin County and all its municipalities are obligated to build 14,210 new housing units by 2031. Accessory Dwelling Units ("ADUs") can help fill that need. Marin County's housing production is not keeping pace with demand. The lack of housing supply to meet people's needs impacts affordability and causes average housing costs, particularly for renters in Marin, to rise significantly. As affordable housing becomes less accessible, people drive longer distances between homes they can afford and their workplace, or pack themselves into smaller shared spaces, both of which reduce quality of life and produce negative environmental impacts. One approach that could help achieve these housing goals is based upon a recognition that many property owners and residents reside on land on which they could build additional or secondary housing units. These second units, variously called granny flats, in-law units, garage houses, and under state law ADUs and Junior Accessory Dwelling Units (collectively referred to as "ADUs") have become an increasingly popular form of housing. Unfortunately, they have not always been treated as "legal" under local law. Now, California law has effectively legalized their construction and occupancy. California's new law recognizes that ADUs can help fulfill the state's housing mandate and can do so affordably and with a lesser impact on land use and the environment.

The Grand Jury concluded that more housing in Marin is needed and ADUs are one solution. It is often difficult, if not impossible, for a Marin homeowner to determine the planning, building, connection, capacity and impact fees associated with developing an ADU in a particular jurisdiction. Many Bay Area cities and counties have implemented comprehensive websites and related support to help homeowners create ADUs. ADUs may be rented affordably and provide additional benefits for older adults and their caregivers. Most Marin jurisdictions could provide better resources offering or identifying financing incentives for ADU development. Impact, connection, and capacity fees vary considerably throughout the County and such fees can be a disincentive to homeowners considering ADU development. Not every jurisdiction in Marin has updated its planning and building policies to conform with current California ADU laws. Granting amnesty, following safety inspection, to existing non-conforming second units could help Marin meet its housing obligations. ADU Marin and HelloADU are a good start. However, they could be substantially enhanced and expanded.

Recommendations and Responses

The Grand Jury made six recommendations to the Marin County Board of Supervisors and the eleven municipalities in Marin.³ The Board of Supervisors and the municipalities responded as follows to the recommendations:

R1. On or before December 31, 2023, the Marin County Board of Supervisors should direct the Community Development Agency's Development Priority Setting Committee to: 1) Identify available funding/financing information for residents who need help with the cost of building an ADU, 2) Transmit the collected information to all the jurisdictions represented on the Committee. 3) Start a continuous monitoring program to update the information sources as they become available.

- The Board of Supervisors and nine municipalities responded that this recommendation will not be implemented. The Board of Supervisors contend that the Countywide Priority Setting Committee's purpose is to make initial recommendations for Countywide Housing funds as part of the allocation process for Community Development Block Grant (CDBG) funding, along with Local Area Committees and CDBG staff. The municipalities stated that they have no authority to direct the Board of Supervisors to take any action.
- Belvedere and Ross responded that this recommendation needs further analysis because they have no authority to direct the Board of Supervisors to take any action and the "Development Priority Setting Committee" does not currently exist.

R2. By December 1, 2023, begin investigation to consider an amnesty program to legalize existing unpermitted second units. Add a marketing communications plan so that citizens can be made aware of it.

- The Board of Supervisors and ten municipalities responded that this recommendation will not be implemented because amnesty programs typically waive violations of an existing zoning or development codes that have been identified as barriers to development. Such waivers are already required under state law, notably AB670. Codes related to public safety or environmental health cannot be waived by an amnesty program. In most cases where health and safety are the primary concern for permitting an ADU, the limiting factor for property owners is the associated cost to comply with building, septic, water, and fire codes, which pertain to the livability of a unit.
- Fairfax responded that this recommendation has been implemented.
- Novato responded that this recommendation will not be implemented because unpermitted ADUs are rare in Novato; unpermitted ADUs are typically converted from existing space within a residence; and offering amnesty would not be fair to property owners who obtained permits.

³ Belvedere, Corte Madera, Fairfax, Larkspur, Mill Valley, Novato, Ross, San Anselmo, San Rafael, Sausalito and Tiburon

R3. *By December 1, 2023, begin the process of merging and/or collaborating with Napa/Sonoma ADU, and hiring a full-time Marin ADU Program Coordinator. The program coordinator should work with all jurisdictions on the development of ADUs and identify impact and connection fees within each jurisdiction.*

- The Board of Supervisors and nine municipalities responded that this recommendation has been implemented or will be implemented.
- Fairfax responded that this recommendation will not be implemented because hiring the ADU coordinator is a role for Marin County Community Development Agency.
- Mill Valley responded that this recommendation needs further analysis because the Cities and Towns and Marin County have been communicating with the Napa/Sonoma ADU Center over the last several months through the Marin County Housing Collaborative Group, the Housing Working Group (HWG).

R4. *By December 1, 2023, begin a feasibility assessment of waiving or significantly lowering impact and connection fees for units smaller than 750 square feet.*

- Six municipalities responded that this recommendation has been implemented or will be implemented.
- Novato and San Rafael responded that this recommendation will not be implemented. California Government Code Section 65852.2(f)(3)(A) prohibits agencies from applying impact fees to ADUs less than 750 square feet in floor area.
- The Board of Supervisors, Belvedere, Mill Valley, and Ross responded that this recommendation needs further analysis. Under current state law, all ADUs under 750 square feet are already exempt from impact fees.

R5. *By December 1, 2023, begin creating plans to accelerate the permit approval process for ADU applications to within 30 days, or less, of submission. Implement such plans no later than July 1, 2024.*

- The Board of Supervisors and nine municipalities responded that this recommendation will not be implemented. State law requires that a local agency approve or deny an ADU permit within 60 days. Because the review process often includes multiple agencies and variables, a blanket reduction of the timeline to within 30 days is not feasible.
- Fairfax and Ross responded that this recommendation needs further analysis. Additional staff and electronic permitting technology may be needed to speed permitting further than the current level.

R6. *By December 1, 2023, begin feasibility assessments of new incentives for ADU development, such as pre-approved plans, technical assistance, property tax relief, development fee waivers, and forgivable loans; implement at least one such incentive no later than July 1, 2024.*

- Fairfax, Novato, and San Rafael responded that this recommendation has been implemented or will be implemented.
- The Board of Supervisors and eight municipalities responded that this recommendation needs further analysis. Incentives such as pre-approved plans, technical assistance, loans, and other financial assistance, are part of the benefit the County hopes to accomplish through a merger with the Napa/Sonoma ADU Center.

The Grand Jury also made one recommendation (number 4, above) to, and requested responses from, the Marin County Office of Education, sixteen school districts, thirteen sanitary districts, eleven fire protection districts, and four water districts in Marin.

- The school districts and the Office of Education provided the following responses to Recommendation No. 4: All sixteen school districts responded that this recommendation will not be implemented because it is not warranted or is not reasonable. Thirteen school districts noted that Government Code 65852.2, which concerns ADUs, does not apply to school districts. A separate law, Education Code 17620, authorizes school districts to impose developer fees on residential construction if the increase in assessable space is over 500 square feet. The remaining three school districts responded that this recommendation is not applicable because they do not collect fees related to ADUs of any size. The Office of Education responded that the recommendation is not applicable because county offices of education are not among the agencies authorized to collect such fees.
- The sanitary districts provided the following responses to Recommendation No. 4: Seven of the sanitary districts have implemented or will implement this recommendation. Five sanitary districts will not implement the recommendation because the current fee structure is needed to sustain the district's costs of operation. One sanitary district responded that the recommendation needs further analysis.
- The fire protection districts provided the following responses to Recommendation No. 4: Two fire districts responded that the recommendation has been implemented. Seven fire districts responded that they will not implement the recommendation because they do not collect impact or connection fees. One fire district responded that it will not implement the recommendation because it collects a flat plan review fee that is intended to recover costs for services rendered during a development and is not intended to create revenue for the general fund. One fire district responded that it will not implement the recommendation because it has traditionally been the lowest in fees for permits and reviews of all of Marin County fire jurisdictions.
- The water districts provided the following responses to Recommendation No. 4: MMWD responded that this recommendation has already been implemented. This recommendation will not be implemented by NMWD or Bolinas. Both districts stated this recommendation is not warranted, but for different reasons. Bolinas does not charge fees; NMWD does charge fees and will continue to do so. Stinson Beach responded that this recommendation needs further analysis. Stinson Beach will do a feasibility study within 6 months.

Marin's Behavioral Health Services: All Calls for Help Need to Be Answered

Released on June 20, 2023

The 2022-2023 Grand Jury's Summary

Marin County residents have demonstrated greater need than national and state averages in addressing behavioral issues. This is indicated by rates of suicide, medication for behavioral health issues, and substance use treatment. In Marin County, mental health issues frequently coexist with substance use. Behavioral health is receiving heightened community attention, and the need for critical crisis response services is increasing. After three years of living through a pandemic, plus economic concerns, political unrest, a war, unimagined gun violence, and a shortage of behavioral health providers, more individuals are seeking behavioral health services and support. Access to these resources in Marin County needs to keep pace.

This increased demand for behavioral health services led the Grand Jury to investigate how Marin County's Behavioral Health and Recovery Services (BHRS) is addressing the entire community's behavioral health needs. Specifically, the Grand Jury focused on how residents access BHRS services and how crisis mental and behavioral health calls are being answered. What is being done to provide 24-hours-a-day/7-days-a-week (24x7) behavioral health crisis response services to all Marin residents? Finding and accessing behavioral health services can be confusing for individuals seeking help. This report highlighted these challenges and the need for clear and immediate communication through quickly identified resources. Time is important in crisis situations.

Experts agree that it is highly preferable that all behavioral health request calls be answered "live" by a qualified behavioral health specialist. That specialist can then assist or provide a warm transfer (defined as a live person to another live person) to another resource who can address the specific behavioral health need. The longer that help is delayed, the fewer treatment resolutions are available to the individual, which may negatively impact outcomes. The Grand Jury concluded that BHRS did not consistently meet the need of answering all behavioral health calls with a live qualified specialist.

Recommendations and Responses

The Grand Jury made five recommendations to, and requested responses from, the Marin County Board of Supervisors. The Board of Supervisors provided the following responses to those recommendations:

- R1. *By December 31, 2023, the Marin County Board of Supervisors should direct the County's BHRS division to develop and begin to implement a written strategic plan and operating budget detailing the enhancement, expansion, and funding of the 988 Lifeline Call Navigation Center to become the one call/one door entry for county residents who are seeking immediate help with a behavioral health crisis.*
- The Board of Supervisors responded that this recommendation will not be implemented. BHRS has an existing contractual relationship with Buckelew Programs to support the 988 Lifeline and the County only provides a portion of the operational budget for 988. In addition, 988 is a nationally promoted call line for people who are in a behavioral health crisis. For individuals seeking outpatient, planned behavioral health services, 988 would not be an appropriate first contact.
- R2. *By December 31, 2023, the Marin County Board of Supervisors should direct the County's BHRS division to develop a new public awareness and educational outreach campaign promoting the 988 Lifeline Call Navigation Center.*
- The Board of Supervisors responded that this recommendation will be implemented.
- R3. *By December 31, 2023, the Marin County Board of Supervisors should direct the County's BHRS division to create a new Behavioral Health Crisis Services department reporting directly to the division director. The new department would integrate the Access Team, the Mobile Crisis Response Team, the Crisis Stabilization Unit, and oversight of the 988 Lifeline Call Navigation Center under a single responsible and accountable management structure.*
- The Board of Supervisors responded that this recommendation will not be implemented. Re-organizing existing programs and structures within BHRS would require significant further exploration and outreach. BHRS has limited resources to support administrative expansion, and a new Crisis Services system within BHRS would likely require additional management and administrative staff.
- R4. *By December 31, 2023, the Marin County Board of Supervisors should direct the County's BHRS division to create an organizational plan to improve its utilization and outcome reporting across the Mobile Crisis Response Team, the Crisis Stabilization Unit, the Access Team and the 988 Lifeline Navigation Call Center: 1) its sharing of that data across the units within BHRS; 2) its consolidated reporting and conclusions based on that consolidated data; and, 3) its ability to consequently make informed decisions regarding staffing, funding, program development, and new service opportunities to improve behavioral health outcomes.*
- The Board of Supervisors responded that this recommendation needs further analysis. Over the next six months, BHRS expects to conduct an analysis of the various data sharing and reporting mandates and the technological capabilities of a new electronic health record and health information exchange.
- R5. *By December 31, 2023, the Marin County Board of Supervisors should direct the County's BHRS division to develop a plan and operating budget to transition the Mobile Crisis Response Team to 24x7.*
- The Board of Supervisors responded that this recommendation will be implemented.

SMART at a Crossroads Here Today, Gone Tomorrow?

Released on June 22, 2023

The 2022-2023 Grand Jury's Summary

In March 2020, Marin County voters defeated a measure to extend the sales tax established to support SMART for another 30 years. This was a clear sign that voters did not believe that SMART's Board and existing management had accomplished what they promised, nor did voters have confidence and trust in the Board's performance. This vote occurred prior to the further reduction in ridership due to the Covid 19 pandemic when ridership was even more compromised. The Grand Jury found that the SMART Board and management team must continue to construct and improve the system and regain public support in the organization's mission or the service will be in even more serious jeopardy.

The 2022-2023 Civil Grand Jury's report examined the past and current funding and revenue sources, as well as recent ridership trends. The original financial models were based on ridership numbers that never materialized. Those ridership numbers were reduced during the pandemic. Ridership has thus far failed to return to pre-pandemic levels. It is clear from that report that there must be new sources of revenue and better marketing for the service in the near future. Without a marketing plan and new sources of funding, the service will continue to run at a loss and may cease to exist when sales tax funding ends in 2029.

Recommendations and Responses

The Grand Jury made three recommendations to, and requested responses from, the SMART Board of Directors. The Board of Directors provided the following responses to those recommendations:

- R1. By December 1, 2023, the Board of Directors should initiate a fully transparent, public process to be completed by April 1, 2024, that examines how SMART might continue funding its operations beyond April 2029, including an evaluation of when the voters would decide whether to continue levying a sales tax for SMART's operations.*
 - The SMART Board of Directors responded that this recommendation will be implemented.

- R2. By December 1, 2023, SMART's Board of Directors should direct staff to develop a written strategic marketing communications and public outreach plan and budget focused on educating voters in Marin County about the community benefits derived from the continued operation of the SMART rail system.*
 - The SMART Board of Directors responded that this recommendation will be implemented.

- R3. SMART's Board of Directors should consider hiring consultants to help evaluate the feasibility and timing of future tax measures.*
 - The SMART Board of Directors responded that this recommendation will be implemented.

Dam and Reservoir Safety

Water May Save Us - Water May Drown Us

Released on June 27, 2023

The 2022-2023 Grand Jury's Summary

Atmospheric rivers are long regions in the atmosphere that carry vast amounts of water vapor that eventually falls in the form of very large rainstorms. Such pronounced weather events may replenish dwindling water levels in dams and reservoirs (collectively referred to as “dams”). In light of protracted droughts, this water may save us. However, scientists worry that future deluges may bring these structures to the brink of failure and potentially major downstream floods. Thus, this water may drown us.

Scientists warn us that climate change is already causing increases in size and frequency of atmospheric rivers, which may contribute to dam and reservoir failures. From October 1, 2022, through March 31, 2023, there were over 30 atmospheric rivers across the West Coast. This exceeded the average for this period, which is nine. Marin Municipal Water District (MMWD, also known as Marin Water) and North Marin Water District (NMWD) are the owners of the only eight dams in Marin requiring regulation by the California Division of Safety of Dams (DOSD). This report focused on the fact that the latest science on changing climate's atmospheric weather events is not incorporated in these two districts' dam hazard mitigation plans.

The average age of dams in the U.S. is 50 years, yet, the average age of dams in Marin County is 87 years, or 37 years older than the national average. In the event of dam failure, risks to life, property, and the economy increase because populations downstream have grown significantly since dams were built. The Grand Jury concluded that regulatory agencies' requirements for dam safety do not incorporate the latest scientific information on climate change. These agencies do not require specific approaches or methodologies to define dam safety assessment and risk mitigation plans to be employed by dam owners. Further, they require that the dam owners be solely responsible for their dams' safety. Therefore, the Grand Jury recommended that the two Marin water districts should include new, state-of-the-art hazard mitigation strategies. Additionally, access to dam failure inundation maps (maps showing areas likely to flood), and Federal Emergency Management Agency (FEMA) information regarding flood insurance (the only flood insurance available in the United States) must be easily accessible by the public.

Recommendations and Responses

The Grand Jury made six recommendations to, and requested responses from, the MMWD and NMWD Board of Directors. The MMWD and NMWD Board of Directors provided the following responses to those recommendations:

- R1. By March 15, 2024, MMWD and NMWD should establish a Climate Change and atmospheric rivers working group to consider, and begin to develop, new hazard mitigation actions. These should be based on the current scientific projections regarding atmospheric rivers and other extreme precipitation events.*
- MMWD responded that this recommendation needs further analysis. The benefit of forming such a working group as compared to participation in existing groups engaged in the same issues is unclear. MMWD expects to evaluate this recommendation within the next six months.
 - NMWD responded that this recommendation will be implemented.
- R2. By December 31, 2023, the two water districts should begin work to expand their respective hazard mitigation plans, which should include a new section dedicated to climate change, and a discussion of atmospheric rivers and their accelerating potential threats to dam and reservoir safety.*
- MMWD responded that this recommendation will be implemented.
 - NMWD responded that this recommendation will be implemented.
- R3. By January 1, 2026, the water districts (at the time of their next dam inspections, and when their hazard mitigation plans are revised) should provide the public with new information about the updated plans. This information needs to ensure that they effectively consider flood risks in light of the new science, thus ensuring that the public is aware of this.*
- MMWD responded that this recommendation will be implemented.
 - NMWD responded that this recommendation will be implemented.
- R4. By September 30, 2023, both water districts should update their websites to include links to the inundation and FEMA maps. They should also provide links to the National Flood Insurance Program.*
- MMWD responded that this recommendation has been implemented.
 - NMWD responded that this recommendation has been implemented.
- R5. By December 31, 2023, dam owners should provide the public with easily accessible information on flood risks, as FEMA and National Flood Insurance may not have entirely incorporated the most recent dam inundation maps.*
- MMWD responded that this recommendation has been implemented.
 - NMWD responded that this recommendation will be implemented.
- R6. By December 2023, both water districts should begin to explore collaborations with scientific institutions to learn from, expand their toolkit of mitigation strategies, and thus augment the safety of their dams in light of growing risks posed by atmospheric rivers.*
- MMWD responded that this recommendation will be implemented.
 - NMWD responded that this recommendation will be implemented.

FINDING

- F1. The 2023–2024 Grand Jury finds that all of Marin County’s public agencies satisfied their legal obligations to respond to reports from the 2022-2023 Grand Jury.

RECOMMENDATION

There are no recommendations based on this report, and, thus, no responses are requested or required. The report is issued in the interest of transparency, accountability, and responsiveness of local governments.