



## 2005-2006 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

# SANTA CLARA COUNTY MEDICAL EXAMINER/CORONER'S OFFICE – ONE YEAR LATER

## Summary

The 2005-2006 Santa Clara County (County) Civil Grand Jury (Grand Jury) conducted a visit to the County Medical Examiner/Coroner's (MEC) Office on August 22, 2005. Follow-on visits and interviews were conducted both inside and outside the County. Findings and recommendations of this inquiry are summarized below:

1. The Grand Jury makes two observations about administration and organization:
  - a. The administrative services provided by the Sheriff's Office to the MEC Office appear to be efficient and effective. Most of the administrative and operational deficiencies that existed approximately 18 months ago have been corrected or are being addressed.
  - b. A permanent MEC Office organizational reporting structure needs to be defined and implemented rather than reconsidering the current Memorandum of Understanding (MOU) year after year.
2. The two board-certified Assistant Medical Examiners have limited experience. The addition of a Medical Examiner with substantial experience and credentials would be a good addition to the forensic staff.
3. Timeliness of the completion and submission of final Medical Examiner case reports needs improvement. Although this item is being addressed, a report tracking tool would be useful in this area.
4. Some equipment deficiencies were noted during the Grand Jury follow-on visit:
  - a. The "one size fits all" protective clothing for case investigators is a potential safety exposure. Clothing sized more closely to individual stature is recommended.
  - b. The current X-ray technology employed at the office uses conventional film recording, a technology that is rapidly becoming obsolete. An upgrade to digital X-ray imaging technology could be a worthwhile capital investment.

## Background

The most recent Grand Jury investigation of the MEC Office occurred in September 1997, under Section 925 of the California Penal Code. This investigation was conducted upon recommendations from the 1996-1997 Grand Jury and the District Attorney's Office. The report, submitted in March 1998, contained very strong recommendations, the first of which was, "to see to the retirement of the Chief Medical Examiner-Coroner as soon as a qualified replacement can be found". Other recommendations included the following:

- Develop and implement policies, procedures and training plans
- Arrange for investigator training, certification and ongoing education
- Create a documented disaster contingency plan
- Appoint an independent panel of experts to study and recommend the proper coroner system for Santa Clara County

Over the course of the next few years, the operation of the MEC Office continued without significant changes. Some key personnel were either fired or resigned voluntarily. The office reached a critical stage in early 2004, and an alternate organizational approach was sought.

On June 22, 2004, the County Executive, the Board of Supervisors (BOS), and the Office of the Sheriff approved a Memorandum of Understanding (MOU), to restructure the MEC Office. The MOU went into effect on July 1, 2004 for a trial period of one year. This document called for the transfer of supervisory and administrative oversight responsibility for the MEC Office from the County Executive to the Office of the Sheriff. The administrative management responsibility was transferred to three Sheriff's Office personnel who were then assigned to the MEC Office. The Medical Examiners continue to report to the County Executive (See Appendix A).

Public hearings, which led to the adoption of the MOU, revealed concerns from some MEC Office stakeholders (the District Attorney, local police departments, the Public Defender, the Sheriff, the County Executive and others). In August 2004, the Sheriff's Office contracted with RGN Consulting to evaluate the current status of the MEC Office, and to develop a transition plan to assist in implementing the provisions of the MOU. The RGN Consulting report of November 2004 acknowledges that the leadership of the MEC Office "was in disarray for at least the last few years", and also highlights many other organizational and operational problems. The report also notes that employees were competent and were dedicated in their work ethic.

The MEC Office has reported administratively to the Sheriff's Office under the MOU since July 2004. Three Deputy Sheriffs (a Captain, a Lieutenant and a Sergeant) manage the MEC Office, with one additional staff member. The remainder of the staff consists of three full-time Assistant Medical Examiners who are forensic pathologists, a

contract odontologist, four autopsy technicians, and eight case investigators. The Sergeant is the supervisor of the autopsy technicians and case investigators, while the forensic pathologists report to the County Executive for personnel and administrative matters.

In September 2004, a short time after the MOU became effective, the 2004-2005 Grand Jury toured the MEC Office facility. Several deficiencies were noted in the areas of recording, storage, and tracking of property and tissue samples. The Grand Jury noted that only a short period of time had passed since the MOU went into effect. The Sheriff's Captain assigned to the MEC Office stated that these areas were being addressed on a priority basis. In addition, potential conflicts of interest were acknowledged, such as a death involving a deputy sheriff. Because of the lack of an autonomous reporting structure and the other items listed above, the 2004-2005 Grand Jury recommended that the 2005-2006 Grand Jury conduct a follow-on review of the MEC Office.

The relatively new MEC facility opened in 1988. The 2005 MEC Office budget is approximately \$2.7 million, serving a county population of approximately 1.8 million. In calendar year 2004, a total of 10,089 deaths occurred in Santa Clara County, of which 4,651 (46%) were investigated by the MEC Office. With a staff of eight case investigators, this is equivalent to 581 cases per investigator annually. From January 1 through July 18, 2005, 5,546 deaths occurred in the County, with approximately 2,800 of them being investigated by the MEC Office. Annualized, this equates to approximately 10,172 deaths and 5,135 investigations respectively. This is equivalent to 642 cases per investigator annually. The projected number of investigations this year appears to be increasing by about 10%.

## **Discussion**

The 2005-2006 Grand Jury visit to this office commenced with the introduction of MEC Office management personnel, followed by a presentation and overview of the organization. The Grand Jury then toured the entire facility. Subsequently, at the invitation of the Sheriff's Captain heading the office, a follow-up visit was made on August 31. During this meeting, several informal discussions were held, which led to additional questions for follow-up meetings.

Additional interviews were conducted with representatives of Medical Examiner and Coroner Offices in two large Bay Area counties and with two former Bay Area Chief Medical Examiners. The Santa Clara County Executive, the Sheriff, and the District Attorney were also interviewed.

## OPERATIONAL OBSERVATIONS

During the August 31 visit to the County MEC Office, several areas of interest were identified:

- Staffing
- Evidence and personal property handling and tracking
- Equipment status
- Report timeliness
- Training

Several case investigators in the MEC Office were interviewed. They stated that the three Sheriff's Office Deputies assigned to the Office contributed significantly in the first year of transition, and helped to establish department stability. The Deputies also helped in working with the District Attorney's Office and other law enforcement agencies.

Opinions of those interviewed varied relative to the adequacy of case investigator staffing. Even though the investigator case load appears to be increasing in 2005 (see above), staff overtime in the MEC Office is only about 2.1%. This suggests that current staffing levels are adequate. MEC Office management agrees with this assessment, and has no plans to increase staffing levels. Alameda County investigates approximately 4,000 cases per year, and has 16 case investigators, double the number in Santa Clara County. Alameda County uses its case investigators for body removal from death scenes, whereas Santa Clara County contracts that function out to local mortuary personnel. Since two investigators are used per body for single deaths, that makes the investigator workload statistics comparable between the two counties.

Recruiting and retention issues were raised at the beginning of the MOU transition period. Concerns were expressed about the temporary nature of the reporting structure. The most experienced Medical Examiner, one other Medical Examiner, and two case investigators resigned. Once replacements were hired, there has been little additional staffing activity.

Evidence and personal property handling and storage now appear to be adequately controlled. This material is held in a secure room, accessible only by authorized personnel. It is organized by date, and the older, no-longer-needed material is continually purged. A bar-code system for control of evidence has been examined, but is not part of any current improvement plan.

Two equipment deficiencies were noted during the Grand Jury follow-on visit. First, a "one size fits all" approach to protective clothing for case investigators is used. Improperly fitting protective clothing could represent a significant safety issue.

Second, the current X-ray technology employed at the MEC Office is an analog technology using conventional hard-copy film. This technology is becoming outdated and requires chemical processing to develop the film. The processed film is the sole source of imaging information. It requires special physical storage, could be lost, and cannot be viewed remotely from multiple locations at the same time. The possible procurement of digital X-Ray technology is being discussed. The Office of the Chief Medical Examiner in San Francisco County is already procuring this technology. No long-term capital improvement plan for the Santa Clara County MEC Office, including technology upgrades, was produced in response to Grand Jury questions on this topic.

The timeliness of reports written by case investigators was discussed. This had been a problem in the past, but through training and diligence, it is no longer a problem. Final Medical Examiner case reports are sometimes late. Both the Santa Clara County District Attorney's Office and the MEC Office stated that this was an area of concern. Opinions varied within the small number of county Coroners and former Chief Medical Examiners visited, as to what constituted acceptable report timing. A consensus appears to be that reports should be available within one month after receipt of all laboratory and forensic analyses. Cases older than 90 days are manually tracked. An off-the-shelf, computerized tracking tool would routinely highlight any timing deficiencies.

A training manual has been written. It is current and available on-line for case investigators. Assistant medical examiners and administrative staff also meet at least weekly to review and take action on open cases.

The "2005 Evaluation Report of the Memorandum of Understanding Between the County Executive and the Sheriff for Administrative Services to the Medical Examiner/Coroner's Office" is a comprehensive status report on the MEC Office performance under the MOU, and was written to support continuation of the MOU through fiscal year 2006.

The evaluation addressed seven areas of concern and returned positive assessments of the following areas:

1. Forensic pathologist recruitment
2. Independence of the MEC Office
3. Medical autonomy of the forensic pathologists
4. Administrative and operational issues in the Medical Examiner system
5. Costs
6. Key stakeholder feedback
7. Forensic pathologist assessments of the new organizational structure and operations

## ORGANIZATIONAL STRUCTURE

There are two primary models of Coroner reporting structures in California. The most common structure is that of the dual-role Sheriff-Coroner. It is used in over forty counties and is most often justified on the basis of lower cost because of shared personnel (see 1998-1999 Orange County Grand Jury report). A second model is that of a Chief Medical Examiner, generally reporting to the County Executive's Office. This model has been used in California since 1956, starting with Los Angeles County (see Hanzlick et al. 1998). Santa Clara County adopted this model in 1962 and by 1998, five of California's larger counties used this model, serving about 40% of the state's population. Santa Clara County adopted a hybrid model in 2004 (see below), but the Chief Medical Examiner model is still used in the remaining four counties.

Some counties do not fit either of these models—some have elected coroners, some have appointed coroners, and some have different and unique titles and responsibilities. Santa Clara County is now in this hybrid group, organizationally split between the County Executive's Office and the Sheriff's Office, and with the coroner's responsibilities shared among three Assistant Medical Examiners.

The 1997-1998 Grand Jury recommended that the County Executive "appoint a disinterested and impartial panel of experts to study and recommend the proper coroner system for Santa Clara County." Also, a recommendation of the RGN Consulting study was that an "off-site team building workshop be used to bring the various work units within the MEC together to strategize and develop a 5-year plan for the future. Such a document would provide a common vision and direction for the delivery of coroner services to the public and user agencies."

The MEC Office is now in its second year of operation under the MOU. The Grand Jury could not identify a common vision for a permanent organizational structure among those interviewed. One option mentioned was that of a dual-role Sheriff-Coroner. Under California Government Code § 24300, it appears that the BOS could consolidate the duties of the Sheriff with those of the Coroner by ordinance, and would not require any modification of the County Charter. Another option is to make the current organizational structure permanent.

Two sources oppose the Sheriff-Coroner model. The District Attorney's Office would prefer to have a Chief Medical Examiner reporting directly to the County Executive, independent of the Sheriff's Office. Also, two retired Chief Medical Examiners who were interviewed, one previously under contract with Alameda County and the other a former Santa Clara County Chief Medical Examiner, strongly support a reporting structure independent of law-enforcement agencies for the following reasons:

- It reduces potential conflicts of interest.
- It may make it easier to attract and retain a Chief Medical Examiner.

- Some Medical Examiners prefer not to be associated with the term “Coroner”, which often refers to a lay person.

The views of the Bay Area Chief Medical Examiners interviewed are echoed in a noted reference work on medico-legal investigations (see DiMaio and DiMaio 2001):

“No medical examiner’s office should function under a police agency. There is a direct conflict in values, goals, and philosophies. The police want to make an arrest and clear a case. The Medical examiner’s office wants to determine the cause and manner of death, independent of who did what.

“Just as police agencies should be separate from the district attorney’s office, so, ideally, the medical examiner’s office should be reportable to only the highest authority, for example, the mayor, county commissioner, or governor.”

Other sources support the idea of the Sheriff-Coroner model. In the Orange County Civil Grand Jury report, “The Grand Jury found that there is no conflict of interest in such matters because investigation procedures by the Office of the District Attorney rule out the possibility of a conflict of interest.” The Santa Clara County Sheriff also sees no inherent source of conflict, as long as appropriate protocols are in place for switching control of cases with a potential conflict to the District Attorney or another source of objective investigation. The Sheriff takes no position on whether or not such a model should be put in place for Santa Clara County, recognizing that the authority for deciding that issue resides with the BOS.

## **DO WE NEED A CHIEF MEDICAL EXAMINER?**

Experience levels of the two board-certified forensic pathologists are approximately 2½ years and six months. In a key stakeholder’s opinion, the current MEC Office remains untested by a very high-profile complex case, or a case involving significant conflict of interest. The Grand Jury is not in a position to question the credentials or competence of the Assistant Medical Examiners. Nevertheless, because of their limited experience, some stakeholders stated that the Assistant Medical Examiners may not be able to testify as authoritatively as a more established Medical Examiner. The Grand Jury believes that having an experienced Chief Medical Examiner would serve to provide compelling and confident testimony in court and to hire, supervise, and mentor more junior examiners. This would also afford opportunities for professional relations with academic medical institutions in the area. The concern about being able to testify with authority was not shared by MEC administration, but they acknowledged that a more experienced medical examiner would be a positive addition to the MEC Office.

## **Conclusions**

It appears to the Grand Jury that the move of the MEC Office under the Sheriff's Office has been successful from an administrative perspective. There are a number of other concerns that should be addressed as noted below.

### **Finding 1a**

The Grand Jury finds that the Sheriff's Office has provided good administrative support to the MEC Office during its first 18 months of transition. Quarterly and annual operational assessments have been conducted and document positive results. The most recent evaluation report of the MOU supports this progress, and has led to continuation of the MOU for a second year.

### **Recommendation 1a**

None.

### **Finding 1b**

The Grand Jury could not identify a common vision among County management for a permanent organizational structure for the MEC Office. A permanent structure would give the MEC Office a sense of stability, and could also help in recruiting and retaining Medical Examiners.

### **Recommendation 1b**

The Board of Supervisors, County Executive, and key stakeholders should examine alternative MEC Office reporting structures with long-term objectives in mind, and select and implement a structure that best fits Santa Clara County's present and future needs. The Grand Jury believes there are compelling reasons for a Medical Examiner's Office that is independent of all law enforcement agencies.

### **Finding 2**

The experience of the two board-certified Assistant Medical Examiners is limited. Both the District Attorney and MEC Office Administrator acknowledged that a more experienced Medical Examiner would be a positive addition to the Office.

### **Recommendation 2**

Recruit a respected, board-certified, seasoned forensic pathologist for the Santa Clara County MEC Office, who would carry the title of Chief Medical Examiner. This person should be situated organizationally so as to ensure independence and objectivity of this Office.

### **Finding 3**

Some final Medical Examiner case reports are submitted late. Standards in other Bay Area MEC Offices are that once all laboratory and forensic analyses are received, reports are expected to be completed within one month.

### **Recommendation 3**

Implement a formal computerized case-tracking tool to monitor progress of all cases from opening to closure, and use this tool to ensure timely reporting. Report timeliness should be included as a factor in annual performance reviews of Medical Examiner personnel.

### **Finding 4a**

The current “one size fits all” protective clothing can be both cumbersome and a serious safety problem for smaller or larger stature personnel.

### **Recommendation 4a**

Procure protective clothing in proper sizes for all personnel to eliminate any potential safety problems.

### **Finding 4b**

No comprehensive long-term capital improvement plan existed for the MEC Office at the time of the Grand Jury visit, for example, to upgrade X-ray technology.

### **Recommendation 4b**

MEC Office personnel should stay abreast of relevant technologies and procedures. A long-term comprehensive capital improvement plan should be developed for the Office as a basis for justifying needed technology and facility upgrades.

PASSED and ADOPTED by the Santa Clara County Civil Grand Jury on this 1<sup>st</sup> day of March 2006.

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Thomas C. Rindfleisch  
Foreperson

## References

### Documents

1. 1997-1998 Santa Clara County Civil Grand Jury report "Investigation of the Office of Medical-Examiner-Coroner".
2. June 22, 2004. Memorandum of Understanding Between the County Executive and the Sheriff for the Provision of Administrative Services to the Medical Examiner-Coroner Department.
3. November 2004. RGN Consulting, Coroner Transition Plan, County of Santa Clara, Sheriff's Department.
4. October 18, 2005. Agenda, Santa Clara County Board of Supervisors.
5. October 18, 2005. 2005 Evaluation Report of the Memorandum of Understanding between the County Executive and the Sheriff for the Provision of Administrative Services to the Medical Examiner/Coroner's Office, attachment to #3 above.
6. 1998-1999 Orange County Civil Grand Jury, "Orange County Sheriff-Coroner Conflict Of Interest Study." (<http://www.ocgrandjury.org/pdfs/SherifGJ.pdf> last visited on February 17, 2006.)
7. Hanzlick R and Combs D, "Medical examiner and coroner systems: history and trends," JAMA (Journal of the American Medical Association); 279(11):870-4, 1998 Mar 18.
8. DiMaio VJ and DiMaio D, *Forensic Pathology, Second Edition*, CRC Press (2001).

### Interviews

1. August 31, 2005. Captain, Coroner's Office, Office of the Sheriff, Santa Clara County.
2. October 28, 2005. Santa Clara County District Attorney.
3. November 1, 2005. Former Chief Forensic Pathologist of Western Laboratories, the laboratory formerly under contract with the Alameda County Sheriff-Coroner Office.
4. November 21, 2005. Former Chief Medical Examiner of the Medical Examiner/Coroner's Office, Santa Clara County.
5. December 7, 2005. Captain, Coroner's Office, Office of the Sheriff, Santa Clara County.

## **Interviews** (continued)

6. December 16, 2005. County Executive, Santa Clara County.
7. February 21, 2006. Santa Clara County District Attorney.
8. February 24, 2006. Santa Clara County Sheriff.

## **Sites Visited**

1. August 22, 2005. Grand Jury visit to the Santa Clara County Medical Examiner/Coroner's Office.
2. November 28, 2005. Grand Jury subcommittee visit to the Alameda County Coroner's Bureau, Office of the Sheriff.
3. January 20, 2006. Grand Jury subcommittee visit to the San Francisco County Office of the Chief Medical Examiner.

## Appendix A

### Memorandum of Understanding Between The Santa Clara County Executive and Sheriff For The Provision of Administrative Services to The Medical Examiner-Coroner Department

**Purpose of this Memorandum of Understanding (MOU):** The parties to this MOU are County Executive of the County of Santa Clara and the Sheriff. By executing this MOU, the County Executive will transfer authority to the Sheriff to perform certain administrative functions for the Medical Examiner-Coroner Department. The Medical Examiner-Coroner Department will continue to perform the duties of a coroner set forth in the California Government Code, and other laws and regulations. The Sheriff will have authority to perform all other departmental duties provided in this MOU.

**Term:** This MOU is effective beginning July 1, 2004, provided the Board of Supervisors approves this MOU and the revisions to the County Ordinance Code, and unless terminated earlier as set forth herein, will remain in full force and effect until June 30, 2005 (Term). The Term will automatically renew for a period of four months, ending October 30, 2005 unless the following conditions are met in which case the Term of this MOU will be extended for an additional one year period ending June 30, 2006:

- A. Quarterly progress reports will be provided to the Public Safety and Justice Committee,
- B. The County Executive conducts an evaluation of the model established by this MOU and presents the results of the evaluation to the Public Safety and Justice Committee for public discussion in September or October 2005, with recommendations forwarded to the Board of Supervisors.
- C. The County Executive will include the participation of the forensic pathologists employed by the Medical Examiner-Coroner Department in the evaluation process,
- D. The extension is approved by the County Board of Supervisors.

**Termination:** The County Executive may terminate this MOU at his discretion by providing written notice to the Sheriff.

**Scope:**

- A. The Medical Examiner-Coroner Department will perform all statutorily mandated duties of the coroner as set forth in Title 3, Chapter 10 of the California Government Code, relevant portions of which are attached hereto as Exhibit A and are incorporated herein by this reference, the County Charter, and the County Ordinance Code portions of which are attached hereto as Exhibit B and incorporated herein by this reference. The forensic

pathologists will retain sole authority and discretion to perform these mandated duties.

- B. Except as stated in the foregoing paragraph A, the Sheriff will perform all other duties necessary to administer the Medical Examiner-Coroner Department in conformance with the County Charter, the County Ordinance Code, and the provisions of this MOU.
  - 1. The Sheriff will not have authority or discretion to direct or otherwise control the forensic pathologists' performance of the mandated duties described in paragraph A above.
  - 2. The Sheriff will be responsible for the coordination, planning, organizing and direction of departmental activities, including administrative activities, and investigative and custodial activities other than investigative and custodial activities that are statutorily mandated by Chapter 10 of Part 3 of Division 2 of Title 3 of the Government Code to be performed by a coroner.
- C. The Medical Examiner-Coroner Department (MEC) will remain a separate Department. In order to minimize any potential conflicts of interest and to maintain an ethical wall between the MEC and the Sheriff, appropriate safeguards will be implemented to ensure the autonomy of the forensic pathologists and the MEC. These safeguards include: maintaining separate physical locations and staff; separate telephone and communications system; and separate file management systems and safeguards for confidential and private information about the deceased and their family members. The MEC and the Sheriff will adopt policies and procedures to ensure that these measures continue during the Term and to ensure there is an appropriate ethical wall to minimize any conflicts of interest.

**General Provisions:**

- A. MEC Staff and Forensic Pathologists:
  - 1. Staff will remain employees of the MEC and all current MEC positions and staff will remain unchanged during the Term of this MOU.
  - 2. Current MEC staff will not undergo background checks or investigations during the Term.
  - 3. If any MEC staff resigns or retires, or otherwise leaves the MEC during the Term, such staff will be replaced with another employee in the same classification using the employment qualifications in place at the time this MOU becomes effective.
  - 4. Collective bargaining rights and obligations under State Government Code (MMBA) will not be altered by this MOU.

5. The services of the office will not be contracted out or outsourced during the Term excluding contracting that currently occurs such as contracting for specialized services and other forensic needs which are not presently being performed by the current forensic pathologists; contracting for consultations; and contracting for forensic services which are required because the workload capacity of three forensic pathologists has been maximized.
6. The County Executive must approve discipline or termination of any forensic pathologist during the Term,
7. Performance appraisals will be conducted in accordance with the County labor contracts. The evaluation process for physicians will be based on a peer review process.

B. In the event of any conflict between this MOU and the County Ordinance Code or County Charter, the provisions in the County Ordinance Code and/or County Charter prevail.

Executed this \_\_\_\_\_ day of June 2004.

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Peter Kutras, Jr.  
County Executive

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Laurie Smith  
Sheriff

MOU between County Executive and Sheriff for Provision of  
Administrative Services to the Medical Examiner-Coroner Department

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