

2016-17 Civil Grand Jury Report Follow-Ups:

- JUSTICE STILL DELAYED
- SCHOOL DISTRICTS STILL FAILING SENIORS
(PARCEL TAX EXEMPTION LAW)
- COUNTY STILL NOT APPRAISING
EMPLOYEES



2017-2018 Civil Grand Jury
of Santa Clara County

June 21, 2018

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SUMMARY

In its role of monitoring and evaluating responses to the findings and recommendations in the reports published¹ by its predecessor, the 2016-2017 Santa Clara County Civil Grand Jury (2017 Grand Jury), and the 2017-2018 Santa Clara County Civil Grand Jury (2018 Grand Jury) found unresolved issues in three of the reports.

For the report “Justice Delayed: Why Does it Take So Long to Resolve Felonies in Santa Clara County?” the 2018 Grand Jury found gains, but also a lack of progress in speeding up case resolution. Two local agencies report different figures when calculating 12-month felony-case resolution rates, and both use a different benchmark than does the State agency in charge of reporting statistics.

For the report “Show Me the Money: School Parcel Tax Exemptions for Seniors and Persons with Disabilities,” the 2018 Grand Jury’s review found that some districts fail to automatically renew these annual exemptions, as required by a California law² that went into effect Jan. 1, 2017. Also, some school districts still are not transparent on their websites in directing seniors and disabled persons to exemption information. Failure of a school board to follow the law can be considered misfeasance, or potentially malfeasance, in office.

For the report “To Have or Have Not: Performance Appraisals for Santa Clara County Employees,” the 2018 Grand Jury found that County officials might be backing away from a key recommendation.

The 2018 Grand Jury produced new Findings and Recommendations for the three above reports.

The 2018 Grand Jury found that all the required agencies responded by their 60- or 90-day deadlines to the six reports of the 2017 Grand Jury. Besides the three reports noted above, the other 2017 reports were: “You’ve Got Medi-Cal — But Can You Get Medical Care?”, “Update: Protecting Our Most Vulnerable Residents” and “LAFCO Denials: A High School Caught in the Middle.”

The 2018 Grand Jury tracked the responses for all six 2017 Grand Jury reports, which are detailed in the Response Scorecard.

¹ http://www.sccscourt.org/court_divisions/civil/cgi/grand_jury.shtml

² California Government Code section 50079(b)

METHODOLOGY

To follow up on “Justice Delayed,” the 2018 Grand Jury interviewed a total of six officials, several more than once, representing the State, County and Superior Court.

For “Show Me the Money,” the 2018 Grand Jury reviewed the websites of applicable school districts as late as May 9, 2018, following up with phone calls when necessary. The 2018 Grand Jury also sent follow-up letters to six school districts for more information, to double-check that the districts complied with the law, and to request additional information about other ways the districts could be more transparent about parcel tax exemptions and automatic renewal of those exemptions.

For “Performance Appraisals,” the 2018 Grand Jury interviewed a County official.

Discussion of Responses to “Justice Delayed”

The Santa Clara County District Attorney (DA), Santa Clara County (County) and the Santa Clara County Board of Supervisors (BOS) all responded as required. The County’s response included a separate response from the Santa Clara County Public Defender Office (PDO). Each agency agreed or partially agreed with every recommendation in “Justice Delayed.”³

The 2018 Grand Jury found ample evidence the report received attention from all the agencies and the matter has become a higher priority. All the agencies acknowledged the “culture of complacency” to the issue of slower-than-average 12-month felony-case dispositions in the County.

The DA and PDO indicate the County and the Superior Court have become more actively engaged and involved in seeking faster disposition of felonies, participating in quarterly “Good Ideas Committee” meetings. *The Civil Grand Jury has no authority to investigate or report on Court operations or employees. References to the Court were included in “Justice Delayed” and in this report for context and understanding.*

While “Justice Delayed” was published less than a year ago, all the agencies say they already had been working on this specific problem for several years. Still, there is limited evidence of improvement.

³ http://www.scscourt.org/court_divisions/civil/cgi/2017/Why_Does_It_Take_So_Long.pdf

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The key statistic from the original report shows the percentage of felonies in the County resolved within 12 months actually has declined, and that the County has fallen further behind its peers since “Justice Delayed” was published. The 2017 and 2018 Grand Juries found that one hurdle to felony resolutions is that many agencies are involved, with no entity in overall control. Yet, the same can be said for all 58 counties.

County residents pay for case delays. The “Justice Delayed” report indicated that at the time of publication, 122 felony inmates had waited at least three years in County jails for settlement, trial or sentencing. County officials say the average cost for housing inmates exceeds \$200 per day per inmate. Many of the pre-trial inmates are high security, requiring more supervision by jail custody staff.

District Attorney’s Office Response to “Justice Delayed” and Recent Actions

The DA agrees on the need for faster case resolutions. In its official response to “Justice Delayed,”⁴ the DA’s Office cites many factors in the delays that are out of its hands. The DA stated it is regularly addressing the topic of pre-trial delays in meetings among managers, supervisors and staff. The DA says training and education of new and veteran staff is a priority.

The DA reports it has instituted an internal system alerting top managers to every case that is more than a year old and then monitors these cases more closely.

The DA also states it continues to improve the case investigation process, moving steadily to an all-electronic/paperless process. Police departments, however, often still rely on paper reports in filing charges, and the DA says the volume of data and documents per case continues to rise, in part due to the use of body worn cameras by police officers.

Along these lines, the County is deep into a major process of developing a new case management system that will be used by the DA, PDO, Santa Clara County Sheriff’s Office (SO) and other elements of the County’s criminal justice system. This is a huge effort requiring custom development by the County. The new system will be designed to interface with the Court’s new Odyssey case management system. The Court is scheduled to start using Odyssey in October 2018. Because of their particular needs, the County and Courts are not using the same data management system, but officials all emphasize that a key element of the new systems will be to share data.

⁴ http://www.scsccourt.org/court_divisions/civil/cgj/2017/Responses/District%20Attorney%20Response-JusticeDelayed.pdf

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Odyssey is being designed to temporarily share data with the current County/Court homegrown, circa 1970s, Criminal Justice Information Control, or CJIC, system. Odyssey is being designed to also share data with the County's new data management system. County and court officials expect big improvements in data management and sharing as a result of the new systems. Officials are estimating it could be mid-2019, or later, before the new County data management system is operating and sharing data with the Court's Odyssey system.

The DA's Office told the 2018 Grand Jury that a new software system is in place to help prosecutors and supervisors track cases through the criminal justice system.

In addition, the County has agreed to be one of the first in California to join a national data portal called Measures for Justice.⁵ The portal, run by a nonprofit organization, seeks to use data to shine a light on county-level criminal justice systems. Measures for Justice aims for better transparency, helping county justice systems make better decisions about what to fund and where to focus.

While the DA says the results of the County's efforts to speed-up felony-case resolutions will take time, it points to faster resolution of non-gang-related murder cases in recent years. Last year saw a decline in gang-related murder-case resolutions.

**Table 1: Santa Clara County Murder Trials and Resolutions
Excluding Gang-Related Cases**

Year	Number of Trials	Number of Cases Otherwise Resolved	Total
2017	17	18	35
2016	7	16	23
2015	11	10	21
2014	7	5	12

⁵ <https://measuresforjustice.org/>

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Table 2: SCC Gang-Related Murder Trials and Resolutions

Year	Number of Gang Case Trials	Number of Gang Case Resolutions	Total
2017	6	14	20
2016	15	32	47
2015	2	24	26
2014	3	20	25

Source: Santa Clara County District Attorney's Office

Public Defender Office Response to "Justice Delayed" and Recent Actions

The PDO agrees on the need to speed up the process. The PDO, as did the DA, points to the many factors in felony case delays that are out of its hands. *The discretion of the DA and PDO in prosecuting and defending cases is outside the purview of the Grand Jury, but the subject features prominently in the official responses to "Justice Delayed."*

Like the DA, the PDO expects benefits from the County's new case management system, the Court's new Odyssey system and participation in Measures for Justice. (The 2018 Grand Jury did not follow up with the Alternate Public Defender (APD), an office under the PDO, nor with the Independent Defense Counsel, which is under the County Counsel's Office.)

Similar to the DA, the PDO says it is educating staff about the costs of felony-case delays.

The PDO, in its official response to "Justice Delayed," said it contacted some peer offices throughout the state for its best practices. The only example the PDO offered comes from San Bernardino County. Mirroring a practice of that office, supervisors in the Santa Clara County PDO now have a tickler system to alert them to cases that reach the nine-month mark, and those cases get extra attention.

The PDO also pointed out that the County has increased the pay rate for the Independent Defense Counsel, private attorneys who represent indigent persons who the PDO or APD cannot represent because of conflicts of interest. The limited number of such attorneys was noted in "Justice Delayed" as a factor in case delays. County officials confirm the increase and that it was done to recruit and retain more attorneys, but they note this took effect on Feb. 1, 2016, ahead of "Justice Delayed." The County increased hourly rates to \$129 per hour from \$115 but only for the most complex cases, such as homicides.

Actions Since “Justice Delayed” Published

The County has allocated funds to speed up resolution of felony cases. County officials told the 2018 Grand Jury that the DA and PDO will see the addition of 23 positions for this fiscal year ending June 30, 2018, and for the following year, assuming the BOS approves the additions proposed for fiscal 2019. Also, County officials say the current fiscal year saw \$300,000 in one-time funding to upgrade equipment for the DA and PDO, and another \$500,000 in one-time funding is proposed for fiscal 2019.

The DA said the doubling of the number of assistant medical examiner-coroners to six, and the addition of five criminalists to the County Crime Lab, has been a big help. The PDO praises the hiring of two more sociologists, where it just had one. The PDO also moved three lawyers to its felony team.

County officials say they expect case-resolution improvements thanks to the County’s new data management system and the Court’s upcoming Odyssey case management system.

Issues That Remain Since “Justice Delayed” Published

What is unclear, or at least not transparent to the public, is just how the DA and PDO hold their attorneys and staff accountable for timely felony dispositions, and just how they are educating and training staff about the financial and human cost of delays.

Among the systemic delays the DA cited in its response to “Justice Delayed” is that the PDO, APD and Independent Defense Counsel almost always fail to enter a plea at arraignment, a delay they say is routinely granted by the Court.

“Justice Delayed” says the California Sentencing Initiative estimates that 74% of the County’s inmates are awaiting trial or settlement, vs. a 64% average statewide. While the County’s inmate population is falling in the face of jail reforms, the average length of stay in County jails nearly doubled to 200 days in 2017 from 107 days in 2007. That’s according to a March 2018 “Santa Clara County Jail System” report⁶ to the BOS from GAR Inc.

Felony Case Resolution Statistics

⁶ <http://sccgov.iqm2.com/citizens/FileOpen.aspx?Type=1&ID=9243&Inline=True> Page 629

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The 2018 Grand Jury found that the DA, Court and State each report different percentages of felony cases disposed of within 12 months. In addition, according to State figures, the County has regressed since the release of “Justice Delayed.”

“Justice Delayed” cited California Judicial Council statistics as its key evidence that the County is behind other populous California counties. Judicial Council statistics are provided by the counties, but the true picture proves murky for Santa Clara County.

As reported in “Justice Delayed,” the Judicial Council figures show the County disposed of 47% of its felonies within 12 months, for the 2013-14 fiscal year. Of eight populous California counties, only Riverside, at 50%, was nearly as low. San Francisco County, at 73%, was next lowest. The statewide average was 88%. (Los Angeles, San Diego and Orange counties currently do not provide 12-month statistics to the Judicial Council.)

But in its August 2017 response to “Justice Delayed,” the DA said the County disposed of 73% of its felony cases within 12 months for the 2013-14 fiscal year. And in January 2018, the Court separately reported 85% for that year.

Why are the DA and Court statistics different than the Judicial Council’s? Officials with the DA and Court say their figures encompass all cases and not just those cases that are “held to answer,” which are cases that continue beyond the initial preliminary hearing and take longer than other cases that are dismissed or settled with an early plea. In many cases, defendants who are held to answer are held in jail if they cannot post bail.

Why do the DA and Court statistics disagree with one another? The DA’s Office speculates the Court might “double count” some cases, such as cases involving multiple charges, while Court officials point to other reasons.

A Judicial Council official says its reported statistics are designed to be an apples-to-apples comparison of the counties and are for cases “held to answer,” as a footnote in the Council’s “Court Statistics Report”⁷ states. So, the 47% reported for 2013-14 is accurate.

But it gets more complicated. Local officials say it is not clear that the Judicial Council figures are apples-to-apples. They are not sure that every county’s statistics would improve greatly when including all cases, not just those “held to answer.”

⁷ <http://www.courts.ca.gov/documents/2017-Court-Statistics-Report.pdf>

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Also worth noting is that the Court's figures for 12-month resolution of all felony cases show a decline for most years, from 85% in 2013-14 to 83% in 2014-15 to 78% 2015-16, but then rising to 80% in 2016-17.

Officials with the DA and Court say the new software systems and participation in Measures for Justice will result in accurate statistics that will present a clear picture of the performance of the County legal system, including accurately tracking felony-case resolutions.

In any case, the Judicial Council's most recent official statistics (see Table 3 below), for the fiscal year ended June 30, 2016, show a County 12-month disposition rate of 43%, or four percentage points lower than in fiscal 2014. San Bernardino County became the second-slowest populous county in fiscal 2016, at 57%. Riverside is third-slowest, at 60%, or 10 percentage points higher than its 2014 number. (Alameda County figures were not recorded for fiscal 2016.)

Table 3: Felony-Case Dispositions Within 12 Months

County/State	Fiscal 2014 felony disposition rate	Fiscal 2016 felony disposition rate
Santa Clara	47%	43%
Riverside	50%	60%
San Francisco	73%	66%
San Bernardino	75%	57%
Contra Costa	77%	70%
San Mateo	92%	90%
Sacramento	97%	97%
California	88%	85%

FINDINGS AND RECOMMENDATIONS

Finding 1a

The true extent of the slower-than-average felony-case resolutions in the County is masked because:

- A. The Santa Clara County District Attorney's Office (DA) and Santa Clara County Superior Court (Court) use a different benchmark than the State to report felony-case resolutions
- B. The DA and Court's figures disagree with one another even when using the same benchmark.

Finding 1b

Efforts to improve 12-month felony-case disposition rates are weakened by the DA and Court presenting higher figures than the State Judicial Council, perpetuating the "culture of complacency" cited in "Justice Delayed."

Recommendation 1

The DA should publish in its next annual report a reconciliation of its 12-month felony disposition figures with those of the Court and explain how and why its figures differ from those of the Judicial Council.

Finding 2

It is difficult for the public to judge the performance of the DA and the Santa Clara County Public Defender Office (PDO) in improving the speed of felony-case resolutions because they:

- Have not publicly provided details about how their respective offices are educating and training their staffs about the ramifications of slow felony-case dispositions
- Do not detail how they are holding their staffs accountable.

Recommendation 2a

The DA should issue a report explaining how it educates staff as to the ramifications of slow felony-case dispositions and how it holds staff accountable, by Dec. 31, 2018.

Recommendation 2b

The Santa Clara County Board of Supervisors should require the PDO to issue a report explaining how it educates its staff as to the ramifications of slow felony-case dispositions and how it holds its staff accountable, by Dec. 31, 2018.

Finding 3a

It is difficult for the public to judge the performance of the DA and the PDO in improving the speed of felony-case resolutions because neither office makes public its felony-case tracking data.

Finding 3b

It is difficult to improve 12-month felony-case resolutions when the DA is tracking cases for special attention only at the 12-month mark and the Public Defender at nine months.

Finding 3c

There is potential for more disparity in case-resolution statistics, since the County, the Public Defender and DA are implementing a data management system that differs from the new system being implemented by the Court.

Recommendation 3a

The DA and PDO should use identical benchmarks when publishing felony case statistics.

Recommendation 3b

The DA and PDO should start tracking cases for special attention when they have been in the process for six months, starting by Dec. 31, 2018.

Recommendation 3c

The DA should publish an annual report on the number of felony cases that remain unresolved after six months and include estimates on how many of those cases could be resolved within 12 months, starting Dec. 31, 2018.

Recommendation 3d

The PDO should publish an annual report on the number of felony cases that remain unresolved after six months and include estimates on how many of those cases could be resolved within 12 months, starting Dec. 31, 2018.

Recommendation 3e

The Santa Clara County Board of Supervisors should require the PDO to publish an annual report on the number of felony cases that remain outstanding after six months, and include estimates on how many of those cases could be resolved within 12 months, starting Dec. 31, 2018.

Finding 4

The offices of the Public Defender, Alternate Defender and Independent Defense Counsel often do not enter a plea in felony cases at the first arraignment hearing, which slows felony-case dispositions.

Recommendation 4

Santa Clara County should direct the offices of the Public Defender, the Alternate Defender and the Independent Defense Counsel to report annually on the average time from the filing of charges to the entry of a plea in its felony cases, and provide comparison figures for the counties in Table 3, starting with the 2019 fiscal year.

Discussion of “Show Me the Money”

The 2017 Grand Jury investigated the 23 County school districts that were offering exemptions from parcel tax assessments. Since that report was published, the Santa Clara Unified School District parcel tax has expired, while a parcel tax for the San Jose Unified School District took effect on July 1, 2017. The 2018 Grand Jury followed up with Santa Clara and San Jose, so thus looked at 23 districts, where the 2017 report looked at 22 districts.

The 2017 and the 2018 Grand Juries found that some school districts could improve both their exemption application and renewal procedures as well as how they make taxpayers aware of the exemptions.

All 23 school districts in the County that offer parcel tax exemptions to resident homeowners who are 65 or older or disabled responded by the deadline to the “Show Me the Money” report.⁸

⁸ http://www.sccourt.org/court_divisions/civil/cgi/2017/Show_Me_the_Money.pdf

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The districts mostly agreed with the report's Findings and Recommendations. In some cases, however, districts disagreed, saying that they already had been adequately publicizing the exemptions and the application process.

The "Show Me the Money" report also targeted the Santa Clara County Office of Education and Santa Clara County Board of Supervisors. The BOS agreed with its applicable Recommendations, while the Office of Education agreed in part and disagreed in part, the latter point being that the Recommendation was outside its purview.

California Government Code section 50079(b)⁹ does not specify how school districts should inform their residents of the availability of the senior and disabled parcel tax exemption for their districts. But the 2017 Grand Jury's report pointed out ways the districts could exercise good customer service and perhaps build support for their parcel taxes and the renewal of such taxes.

Like the 2017 Grand Jury, the 2018 Grand Jury found that some districts do not make it easy for homeowners to learn about, apply for or maintain the exemption. Homeowners 65 and older remain eligible as long as they still own that home in the district and it remains their primary residence. A State law that went into effect on Jan. 1, 2017, mandates these automatic renewals.

Most school districts, however, clearly identify the application process and how the exemptions automatically renew. The 2018 Grand Jury, however, found that one school district, Palo Alto Unified, requires those seeking exemptions must reapply each year, which does not comply with State law. The trustees of this district risk being accused of misfeasance, which could result in removal from office.

In addition, the 2018 Grand Jury found that eight school districts mail out renewal notices to homeowners who received the exemption the previous year, requiring that these homeowners return the form by mail declaring they remain eligible. The 2018 Grand Jury believes this violates the spirit of the law, since a homeowner could forget or neglect to mail back the notice and thus lose their exemption. State law is clear: "Any exemption granted shall remain in effect until the taxpayer becomes ineligible and that, if the taxpayer becomes ineligible, a new exemption may be granted by the school district in the same manner as the original exemption."

⁹ <https://codes.findlaw.com/ca/government-code/gov-sect-50079.html>

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These districts go a step further than required, offering refunds to eligible residents who did not file for the 2017 exemption by the deadline:

- Berryessa Union School District
- Fremont Union High School District
- Mount Pleasant School District
- Palo Alto Unified School District

Status of School Districts that Offer Parcel Tax Exemptions

Below are the school districts that offer parcel tax exemptions to resident homeowners who are 65 years or older or are disabled.

SCHOOL DISTRICT	Homepage Link	Homepage Dropdown Menu	Automatic Yearly Renewal	Annual Verification Letter	Reapplication Yearly	In-person Application	Mail Application	E-Mail Application	Online Application	Refund	Search Available
Berryessa Union School District	X			X		X	X			X	X
Campbell Union High School District		X	X			X					X
Campbell Union School District		X	X			X	X				X
Cupertino Union School District		X	X			X	X	X			X
Evergreen School District	X		X			X	X				X
Franklin-McKinley School District		X	X			X	X				X
Fremont Union High School District	X		X			X			X	X	X
Lakeside Joint School District	X		X			X	X				X
Loma Prieta Joint Union School District	X		X			X	X	X			X
Los Altos School District		X		X		X	X				X
Los Gatos Union School District	X			X		X	X	X			X
Los Gatos-Saratoga Joint Union High School District	X			X		X		X			X
Milpitas Unified School District	X		X			X	X		X		X
Moreland School District	X			X		X	X				X
Mount Pleasant School District	X			X		X				X	X
Mountain View-Whisman School District	X		X			X	X				X
Oak Grove School District	X			X		X	X	X			X
Palo Alto Unified School District		X			X	X	X			X	X
Santa Clara Unified School District	Parcel tax has expired										X
San Jose Unified School District		X	X				X	X			X
Saratoga Union School District	X			X		X	X				X
Sunnyvale School District	X		X					X			X
Union Elementary School District	X		X			X	X	X			X

(As of May 19, 2018)

FINDINGS AND RECOMMENDATIONS

Finding 1

The 2018 Grand Jury found that 7 of the 22 Santa Clara County school districts that offer parcel tax exemptions have failed to make it convenient for resident homeowners who are 65 or older or disabled to apply by not having a clearly marked parcel tax link on the home page of their website.

Recommendation 1

The following districts should place a parcel tax link clearly marked on the home page of their website that leads directly to parcel tax information and exemption forms, by Aug. 31, 2018.

- Campbell Union High School District
- Campbell Union School District
- Cupertino Union School District
- Franklin-McKinley School District
- Los Altos School District
- Palo Alto Unified School District
- San Jose Unified School District

Finding 2

The Grand Jury found that one school district, the Palo Alto Unified School District, still requires that residents reapply every year to maintain their parcel tax exemption.

Recommendation 2

The Palo Alto Unified School District should comply with state law and no longer require that residents reapply every year to maintain their parcel tax exemption, by Aug 31, 2018.

Finding 3

The 2018 Grand Jury commends the following school districts for offering online parcel-tax exemption applications or accepting e-mailed applications for persons who are 65 or older or disabled:

- Cupertino Union School District
- Fremont Union High School District
- Loma Prieta Joint Union School District
- Los Gatos Union School District
- Los Gatos-Saratoga Joint Union High School District
- Milpitas Unified School District

- Oak Grove School District
- San Jose Unified School District
- Sunnyvale School District
- Union Elementary School District

Discussion of Responses to “Performance Appraisals”

Santa Clara County responded as required to all the recommendations in “To Have or Have Not: Performance Appraisals for Santa Clara County Employees.”¹⁰ The County agreed with all six recommendations. The report pointed out that 95% of County employees have a provision to receive a performance appraisal in their respective labor union contracts. County Ordinance Code, Chapter VI, Article 8 governs the evaluation of the performance of employees in classified service.

County compliance with the recommendations, however, is on hold. As of this 2018 Grand Jury follow-up report, top County executives do not know whether more (or fewer) County employees are receiving annual performance appraisals, because the County does not yet track this. For the same reason, it is also uncertain whether highest-level supervisors are evaluating whether managers are completing performance appraisals for the employees they supervise, and that managers provide annual reviews, and that highest-level supervisors track whether managers are doing this task, are among the recommendations in “Performance Appraisals.” County officials say, however, managers continue to receive some training in the performance appraisal process, which also is among the recommendations in the “Performance Appraisals” report.

There are two reasons for the hold up in appraisals.

One, the County needs to obtain software to enable such review tracking, a job County officials say is nearly impossible to do without such focused software, given the County’s nearly 20,000 employees. The County could buy such software off-the-shelf, but for various reasons the County prefers to add this module, or ability, to its existing PeopleSoft personnel software.

County officials say that starting July 1, 2018, they plan to award a contract to a consultant to create this PeopleSoft module. This task is difficult because the County has made many custom changes to its PeopleSoft system. Officials say that to add modules, some custom features must be stripped away. County officials say the contract, and the PeopleSoft module itself, are not budgeted for the 2018-2019

¹⁰ http://www.sccscourt.org/court_divisions/civil/cgj/2017/Performance_Appraisals.pdf

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fiscal year, which starts July 1, but they say the contract can be accommodated. A County official estimates that re-configuring PeopleSoft to create this module would be a three-year, roughly \$1 million process.

The second reason for lack of action is that the County has had no new union contract negotiations since the “Performance Appraisals” report. That changes next year, with nine union contracts up for negotiation from June 2019 through September/October 2019. The “Performance Appraisals” report recommends the County try to negotiate with its new union contracts a provision that performance appraisals be utilized for promotions, transfers and discipline. The County responded as follows:

Union contracts currently do not allow this, which some official’s say lessens motivation for annual performance appraisals.

This item is a major issue for unions, which fear the County could use performance appraisals as a weapon to punish employees. County officials say the performance appraisal can be cast in a more positive light, as they can be used as an opportunity for employees to learn, grow and further their development. County officials are looking to separate the annual performance review process from the discipline process.

FINDINGS AND RECOMMENDATIONS

Finding 1

Santa Clara County still has not given performance reviews a high enough priority by not budgeting for the software necessary to track annual employer performance reviews or appraisals, or finding other means to track the appraisals.

Recommendation 1

Santa Clara County should budget for annual performance appraisal software for the fiscal year that begins July 1, 2019.

Finding 2

Santa Clara County is backing away from asking its labor unions, in its upcoming contract negotiations, to approve a provision to enable that performance appraisals be utilized for promotions, transfers and discipline.

Recommendation 2

Santa Clara County should develop a plan to provide meaningful employee appraisals without having to negotiate for that ability with their labor unions by not linking the appraisals with job promotions, transfers, pay adjustments, discipline and promotions.

2016-17 RESPONSES SCORECARD

The following are all the required agency responses for the six reports published by the 2016-2017 Santa Clara County Civil Grand Jury.

Justice Delayed

Response from District Attorney

Recommendation 1a

The DA should:

- Identify practices that contribute to delays in the resolution of criminal cases.
- Educate staff about the financial and human impacts of such delays.
- Develop more efficient practices.
- Hold staff accountable for adopting those practices.

Recommendation 1b

The County should direct the Public Defender, Alternate Defender and Independent Defense Counsel to:

- Identify practices in their offices that contribute to delays.
- Educate staff about the financial and human impacts of such delays.
- Develop more efficient practices.
- Hold staff accountable for adopting those practices.

Recommendation 1c

The Board of Supervisors should require the DA, PD, ADO and Independent Defense Counsel to provide evidence of changes in practices that will lead to shorter disposition times for felony cases as a prerequisite to authorizing additional resources for these offices.

Recommendation 2

The County should expedite the updating and integration of criminal justice agencies' computer systems and databases.

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Recommendation 3

The County should work with the DA, PD, ADO and Independent Defense Counsel to evaluate the data management needs of criminal justice agencies in order to determine and prioritize training, hiring, and technology resources.

Recommendation	Agree	Implement
1a	X	X
1b	X	X
1c	X	X
2	X	X
3	X	X

BOS Response for Public Defender, the Alternate Defender, and the independent Defense Counsel Offices.

Recommendation	Agree	Implement	Comment
1b	X	X	Efforts underway.
1c	Partially agree	X	Review process already in place.
2	Partially agree	X	Updating IT system.
3	X	X	Efforts underway.

Show Me the Money

Recommendation 1a

The governing boards of the applicable school districts should include information about parcel tax exemptions and application procedures via public outreach to communicate with those who do not have access to or are uncomfortable using the Internet.

Not all school districts have complied with this recommendation.

Recommendation 1b

The governing boards of the school districts listed should have a link on **the home page** of their websites to direct users to information about the parcel tax, and include the words “parcel tax.”

School District	Implemented	Not Implemented
Campbell Union High School District		X
Cupertino Union School District		X
Loma Prieta Joint Union School District	X	
Los Gatos Union School District	X	

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Los Gatos-Saratoga Joint Union High School District	X	
Milpitas Unified School District	X	
Moreland School District	X	
Mountain View-Whisman School District	X	
Oak Grove School District	X	
Palo Alto Unified School District		X
Saratoga Union School District	X	
Union Elementary School District	X	

Recommendation 1c

The governing boards of the school districts below should add the words “parcel tax” to the link on their website home pages leading to exemption application procedures and forms.

School District	Implemented	Not Implemented
Berryessa Union School District	X	
Evergreen School District		X
Los Altos School District	X	
Mount Pleasant School District	X	

Recommendation 2

The governing boards of the applicable school districts should review and revise as necessary all forms required to apply for or renew parcel tax exemptions for clarity and accuracy.

All districts have complied

Recommendation 3a

The governing boards of applicable school districts should change their policies and procedures to specify that parcel tax exemption applicants can apply by mail without making a special request.

All districts have complied

Recommendation 3b

The governing boards of applicable school districts should develop an online process for parcel tax exemption and renewal applications.

Only the following districts offer online or accept emailed applications:

- Cupertino Union School District
- Fremont Union High School District
- Loma Prieta Joint Union School District
- Los Gatos Union School District
- Los Gatos-Saratoga Joint Union High School District

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- Milpitas Unified School District
- Oak Grove School District
- San Jose Unified School District
- Sunnyvale School District
- Union Elementary School District

Recommendation 4

The governing boards of applicable school districts should make exemption application forms for parcel taxes prominently available on their websites and in their offices year round.

All districts have complied

Recommendation 5

The governing boards of applicable school districts should agree on a standard date when applications for exemptions and renewals are due.

Application dates have not been standardized

Recommendation 6

The governing boards of applicable school districts that require renewal of parcel tax exemptions should initiate the renewal process by mailing an exemption renewal form and accepting renewal documentation by return mail.

This recommendation was made obsolete by a law. Section 50079, subdivision (d) to the Government Code, AB 1891 clarifies that any exemption granted shall remain in effect until the taxpayer becomes ineligible and that, if the taxpayer becomes ineligible, a new exemption may be granted by the school district in the same manner as the original exemption. This law took effect Jan. 1, 2017.

Recommendation 7 - San Jose Unified School District

In anticipation of the July 1, 2017, assessment of the \$72 parcel tax with a senior exemption, the governing board of the San Jose Unified School District should implement report Recommendations 1a, 1b, 1c, 3a, 3b, 4, 5, 6 and 9b.

San Jose Unified School District has complied with most recommendations

Performance Appraisals

Recommendation 1

The County should ensure that managers provide annual performance appraisals.

Recommendation 2

The County should evaluate its managers on the completion of annual performance appraisals.

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Recommendation 3

The County should require each manager to complete training on the performance appraisal process.

Recommendation 4

The County should direct that the appraisal process for its executives be revised to include a measurement on completed annual performance appraisals for all employees within their organization(s).

Recommendation 5

The County should try to negotiate in all new union contracts a provision that performance appraisals may be utilized for promotions, transfers, and discipline.

Recommendation 6a

The County should allocate or realign resources needed to track the status of appraisals for all County employees in PeopleSoft.

Recommendation 6b

The County should implement a system that accurately tracks the delivery of performance appraisals for all County employees if PeopleSoft proves inadequate for this purpose.

Recommendation	Agree	Implement	Not Implemented	Comment
1	X	X		Goal to provide annual performance appraisals
2	X	X		
3	X	X		
4	X	X		
5	X		X	Will evaluate
6a	X		X	Currently evaluating
6b	X		X	Currently evaluating

You've Got Medi-Cal

Recommendation 1a

The Santa Clara Family Health Plan should inform members that the printed directory should be used only with the assistance of a member services representative, who can verify the physician is accepting Medi-Cal patients.

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Recommendation 1b

The Health Plan should redesign its online provider directory to highlight which doctors are taking new Medi-Cal patients.

Recommendation 1c

The Health Plan should provide members with an English-only, Spanish-only, Vietnamese-only, Chinese-only or Tagalog-only online directory rather than combining all the languages in one document.

Recommendation 1d

The Health Plan should verify that the physician will treat new Medi-Cal patients before issuing a benefits card with that physician's name.

Recommendation 1e

The Health Plan should discuss the selection of a primary-care physician with the member who has not made his or her own choice before issuing a benefits card.

Recommendation 1f

The Health Plan should improve the find-a-doctor tool to allow members to search for multiple primary-care specialties at one time.

Recommendation 2

The Health Plan should direct advice nurses to inform member services directly about access-to-care complaints.

Recommendation 3

The Health Plan should advocate to the governor and the Legislature to raise Medi-Cal reimbursement rates, simplify paperwork, and reduce payment delays.

Recommendation	Comment
1a	Staff directory available in several formats
1b	
1c	Note meaningful benefit to members
1d	
1e	Not feasible
1f	
2	
3	

Protecting Our Most Vulnerable Residents

Recommendation 1

The DA should provide the Civil Grand Jury with a copy of the Santa Clara County Protocol document once it is approved and released.

Recommendation	Agree	Implement
1	X	X

LAFCO Denials: A High School Caught In The Middle

Recommendation 1a

The Local Agency Formation Commission (LAFCO) should amend its Urban Service Area Policies to define "vacant land," "premature conversion of agricultural lands," and "adequacy of urban services," and all affected stakeholders should be able to participate in the process.

Recommendation 1b

LAFCO should consider a project's specific requirements, such as the size of the parcel needed and proximity to incompatible uses, in determining whether parcels in the Urban Service Area are "vacant land."

Recommendation 2

LAFCO should amend its Island Annexation Policies to clarify whether the annexation of all unincorporated urban islands is a prerequisite for Urban Service Area amendments, and all affected stakeholders should be able to participate in the process.

Recommendation 3a

LAFCO should amend its Agricultural Mitigation Policies to clarify whether the policies are advisory or mandatory, and all affected stakeholders should be able to participate in the process.

Recommendation 3b

LAFCO should amend its Agricultural Mitigation Policies to define a satisfactory agricultural mitigation program, and all affected stakeholders should be able to participate in the process.

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Recommendation 3c

LAFCO should amend its Agricultural Mitigation Policies to describe the relationship of a city's agricultural mitigation program to the County's agricultural mitigation programs, and all affected stakeholders should be able to participate in the process.

Recommendation 4

The County, City of Morgan Hill and LAFCO should work together to develop a funding mechanism to cover the acquisition and ongoing cost of agricultural easements in the Morgan Hill area.

Recommendation 5

LAFCO should investigate and take appropriate action to address the potential of bias by LAFCO staff.

Recommendation 6

LAFCO should develop procedures to investigate complaints confidentially and ensure complainants do not face retaliation.

Recommendation 7

LAFCO and the City of Morgan Hill should take steps to improve the working relationships of the staff of the two agencies.

Recommendation 8

LAFCO should establish by policy that a commissioner can serve in a specified position for a set number of years.

Recommendation 9

LAFCO should ensure that cities with agricultural land are represented fairly on the commission.

LAFCO Response:

Recommendation	Comment
1a	Recommendation requires analysis
1b	Recommendation requires analysis
2	Staff provided analysis of proposal's consistency with State law and Commission's policies
3a	Recommendation is not warranted
3b	Recommendation is not warranted

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3c	Recommendation is not warranted
4	County, City of Morgan Hill and LAFCO should work together
5	LAFCO disagrees wholly with finding
6	Grand Jury report did not cite evidence to support finding
7	Grand Jury report did not cite evidence to support finding
8	Recommendation is not warranted
9	Protecting agricultural lands is an issue of countywide interest and significance

Recommendation 10

The City of Morgan Hill should adopt a single, open, transparent process in future updates of its General Plan.

City of Morgan Hill Response:

Recommendation	Comment
4	Recommendation has been implemented
7	The City prides itself on developing and maintaining excellent working relationships with partner agencies.
10	

REQUIRED RESPONSES For 2018 Grand Jury Follow-up Inquiry

Pursuant to Penal Code sections 933 and 933.05, the Grand Jury requests responses as follows:

JUSTICE DELAYED

From the following governing bodies:

Responding Agency	Finding	Recommendation
District Attorney's Office and Santa Clara County Superior Court	1, 1b	1
District Attorney's Office and Public Defenders Office	2, 3a, 3b, 3c	2a, 2b, 3a, 3b, 3c, 3d
Public Defender, Alternative Defender and Independent Defense Counsel	4	4

SHOW ME THE MONEY

From the following governing bodies:

Responding Individual	Finding	Recommendation
All seven listed school districts	1	1
Palo Alto School District	2	2

PREFORMANCE APPRAISALS

From the following governing bodies:

Responding Individual	Finding	Recommendation
Santa Clara County Board of Supervisors	1	1
Santa Clara County Board of Supervisors	2	2

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This report was **ADOPTED** by the 2017-2018 Santa Clara County Civil Grand Jury on this
18 day of June, 2018.



Peter L. Hertan
Foreperson