

ATTACHMENT A

Michael B.

ALL SUPS RECD



COUNTY OF SAN MATEO

Office of the Sheriff

GREG MUNKS
SHERIFF

CARLOS G. BOLANOS
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ADDRESS ALL COMMUNICATIONS TO THE SHERIFF

September 10, 2010

Honorable Clifford V. Cretan
Judge of the Superior Court
Hall of Justice
400 County Center, 2nd floor
Redwood City, CA 94063-1655

Dear Judge Cretan:

Please find attached the Sheriff's Office response to the Civil Grand Jury report of July 12, 2010, titled "Sex Offender Law Enforcement in San Mateo County." Thank you for the opportunity to provide this information with the hope that it informs and clarifies the Grand Jury inquiry from the Sheriff's Office perspective.

As always, we look forward to working with the Grand Jury on all matters pertaining to the efficient and effective operation of the Sheriff's Office.

Very truly yours,

A handwritten signature in black ink, appearing to read "Greg Munks".

Greg Munks
Sheriff

GRAND JURY RESPONSE

FINDINGS

Sexual Abuse and Assault Against Children

1. *Of sex offenses in San Mateo County 76% are committed against children.*

Response: Respondent agrees with the finding. These statistics and conclusions were provided by the San Mateo County Probation Department.

2. *When convicted sex offenders are not under consistent and intensive supervision (e.g., face to face contact with law enforcement, both at scheduled and random times), they re-offend at the same (or higher) severity levels and frequency as compared with sex offenders not under such supervision.*

Respondent agrees with the finding. These statistics and conclusions were provided by the San Mateo County Probation Department. Local law enforcement continues to conduct face to face registrations with sex offenders and conducts unannounced compliance checks at offender's residences. It is most unfortunate that state law now allows sex offenders to register as transient with no responsibility to give any address. We have seen a rise in the amount of sex offenders registering as transients which is allowed under the law. Even though this allows local law enforcement to have monthly contact with the sex offender, the fact that they register as transient makes the follow-up or ability to conduct unannounced visits of their "residence" very difficult.

3. *The percentage of children taken for examination of possible sexual abuse and assault to the San Mateo Medical Center's Keller Center by Sheriff's deputies declined in 2008-2009 by about 1/2 from 2004-2007 levels.*

The Sheriff's Office agrees that there was a drop in the number of children brought to the Keller Center for exams from 2007 to 2008. However, the Sheriff's Office believes that this drop is the result of an aberration as opposed to a trend. (See response to Conclusion #3)

Use of the Internet by Sexual Predators

1. *Sexual predators are increasingly using the internet to attract young children. In 2006, 250 minors per month received an online sexual solicitation in San Mateo County according to a Sheriff's Office estimate. With the explosion of social networking and internet-based communications during the last 3 years, current estimates could be several times higher.*

Respondent agrees with the finding and the statistics provided by the National Center for Missing and Exploited Children and the Office of Juvenile Delinquency Prevention.

2. *The Sheriff's Office maintains a sergeant and a detective that oversee on-line sexual predators a few hours each week. Local police departments have neither the specialized resources nor the personnel to pursue on-line predators.*

We agree with the first part of the finding in terms of a Sheriff's sergeant and detective overseeing on-line predators a few hours each week. We do not agree with the second part of the finding. Local agencies are varied in their capabilities and staffing resources. Some do have both the technological and personnel resources to pursue on-line predators while others do not. However, since these predators can live anywhere in the world, local departments must rely on Federal Agencies and/or local task forces to conduct proactive enforcement on-line. For example, the Federal Bureau of Investigation (FBI), US Immigrations Custom Enforcement (ICE), US Postal Inspectors and the San Jose Police Department have specific task forces dedicated to proactively seeking out online predators. On a local level, many departments participate in the Silicon Valley Internet Crimes Against Children (ICAC) task force which has responsibility for proactively investigating on-line predators in the nine bay area counties. Most recently in July, ICAC made 11 arrests effectuated by six detectives from San Mateo County agencies. Other arrests have taken place throughout San Mateo County all year long. These task forces conduct their own proactive investigations as well as provide assistance to any law enforcement agency upon request.

3. *While sophisticated tools are available to identify violators of child pornography laws, Sheriff's Office personnel stated that County resources are insufficient to pursue investigation of these criminals in a timely manner.*

Response: Respondent agrees with this finding. The Sheriff's Office and local police departments aggressively use investigative resources when complaints are received from their community regarding on-line sexual predators. However, most departments lack the resources or personnel to proactively pursue on-line predators.

Sexual Offender Registration

1. *County funding available to monitor sexual offenders is declining.*

Response: Respondent agrees with this finding. While we agree that the funding available is declining (monies supporting the monitoring of sexual offenders was principally funded via the Adam Walsh Grant and the state's vehicle registration fees), the Sheriff's Office continues to monitor and investigate "290" registrants.

2. *While the number of Megan's Law registrants who have been convicted of sexual abuse and assault against children grew from 2004-2009, the number of Megan's Law registration violations prosecuted by the DA stayed about constant during this period.*

Response: Respondent is unable to respond to this finding. First, it is unclear whether the civil grand jury is stating that individuals have re-offended AFTER becoming Megan's Law registrants, or whether the claim is simply that the number of registrants has accumulated over the years. Regardless of the grand jury's contention, there do not appear to be statistics in the report which support either of these claims.

If the grand jury is presuming that the number of sex registrants is increasing BECAUSE the number of convicted sex offenders is increasing cumulatively, this presumption does not necessarily follow. In 2006, the law changed in California regarding the necessity for certain types of sex offenders to register per 290 Penal Code. In the case of People v. Hofscheier (2006) 37 Cal.4th 1185, the California Supreme Court ruled that persons convicted of certain "statutory" sex offenses cannot be mandated to register as sex offenders. Therefore, even if the number of persons convicted of sex offenses against children has remained steady over the past several years, the number of registered sex offenders would not have paralleled that trend.

3. *Sex offender registrants pursuant to Section 290 of the California Penal Code are required to register at the San Mateo County Sheriff's Office. The Sheriff's Office is only open for sex offender registration on Tuesdays and Thursdays between the hours of 8:00 AM and 12:00 PM. By contrast, the Santa Clara County Sheriff's Office is open 24 hours per day, 7 days per week, and 52 weeks a year for sex offenders to register.*

Response: Respondent agrees with the finding but would suggest that the comparison between San Mateo County and Santa Clara County is unsuitable or problematic. San Mateo County has a population of 718,000 with 792 registered sex offenders whereas Santa Clara County has a population of 1,784,000 with 3,507 registered sex offenders. The number of sex offenders in Santa Clara County may warrant 24/7 registration, however, the task is handled by records clerks and is simply a baseline conformance with the law. Sex offenders that register with the San Mateo County Sheriff's Office are not simply registered as required by law. They are also extensively interviewed by a detective. This process yields important information about the sex offender which is being used to create a database that may enable local agencies to identify sexual assault suspects through their physical description and M.O. We are in full compliance with the requirements of the law by conducting Tuesday and Thursday registrations and interviews.

Law Enforcement

1. *The most effective preventative measure against sexual offenders is making regularly scheduled and random contact, plus ongoing observation.*

Response: Respondent agrees with the finding. However, we also contend that the global positioning system (GPS) monitoring of all sex offenders is increasingly becoming the most effective monitoring strategy. The legality of GPS monitoring of sexual offenders not on parole or probation, is yet to be settled in the courts.

2. *Due to the economy as well as State budget reductions, the San Mateo County Board of Supervisors has had to reduce all department budgets, including law enforcement.*

Response: Respondent agrees with the finding.

3. *Sex offenders re-offend at a rate of 50% or more. In the past, the Sheriff's Office and all local law enforcement agencies actively monitored San Mateo County's offenders. Due to budget cuts, this activity has diminished and dedicated sex unit personnel have been rolled into general investigations.*

Response: Respondent agrees with the finding.

4. *Consistent and intensive monitoring of convicted sex offenders when released from parole/probation is performed inconsistently throughout San Mateo County. Some city police departments have extensive procedures in place to monitor sex offenders while others perform the minimum required by law.*

Response: Respondent disagrees partially with the findings. While the number and length of policies may vary by department, the procedures for registering sex offenders are established within the guidelines of the California Penal Code and by the State Department of Justice (DOJ). The *Sex Offender Registration Field Guide* authored by the DOJ clearly states, "The registration of sex offenders is a collaborative effort involving numerous jurisdictions within the state, including the California Departments of Justice, Corrections and Rehabilitation and Mental Health, as well as local law enforcement agencies." The standards set forth for registration procedures set by the DOJ are completely followed by every department within San Mateo County regardless of the fact that this is an unfunded state mandate.

For each local law enforcement agency to have a separate policy regarding registration of sex offenders above the DOJ requirements is duplicative and could possibly be in conflict with state law. We agree with the grand jury that

procedures should be consistent among departments and believe the best way to accomplish that goal it to use the DOJ guidelines which are already in place.

5. *There is insufficient sharing and coordination of information about sexual offenders among law enforcement agencies within the County.*

Response: Respondent disagrees partially with the findings. What metric is used to determine "insufficiency?" There certainly is sharing that takes place among agencies. Could sharing be improved? Certainly. Is it insufficient? That is a conclusion without any apparent justification. We believe coordination, cooperation and sharing among the Sheriff's Office, the probation department, District Attorney's Office and local law enforcement agencies within San Mateo County may be the best anywhere in the State of California. These agencies have been working together and sharing information for decades. In San Mateo County, we pride ourselves in our ability to coordinate information quickly and effectively both in person and through the use of our technology capabilities and resources. Our communication success starts with the San Mateo County Police Chief's and Sheriff Association, which drives the regional cooperation through many county-wide protocols such as child abduction and children's sexual abuse policies.

In technology, San Mateo County has one of the first law enforcement intranet computer networks in the state, built in 2001 with the specific intent of sharing electronic criminal data to include information on sex offenders. Just this year alone, the Sheriff's Office was the lead agency for the Coplink records sharing project that not only shares this data within San Mateo County but will soon connect the Bay Area to other regions in California. San Mateo County law enforcement is out in front with other statewide sharing projects such as the new Department of Justice California Sex and Arson Registry (CSAR) which went live in August 2010.

Our police chiefs, commanders, detectives, gang officers and child abuse investigators all meet among themselves every month to share information. On a daily basis, detectives provide electronic sharing of any sex offender violations via the Critical Reach System, Violent Crime Information Network (VCIN) and Megan's Law Registry.

Additionally, San Mateo law enforcement agencies now have real-time access to GPS information for paroled sex offenders, one of the first counties in the state to receive that training. Once again, San Mateo County leads most law enforcements agencies in using these types of technologies to monitor and coordinate enforcement efforts of high risk offenders.

6. *The Sheriff requested a lieutenant's position from the BOS to oversee the new jail construction. The request was turned down. In order to fund the position, in April 2007 the Sheriff eliminated the sergeant's position for Sexual Habitual Offender Program (SHOP) and sexual offender/predator coordination. As a result, the San Mateo County sex crimes unit currently functions with one FTE composed of fractional commitments of four investigators.*

Response: Respondent disagrees partially with the findings. It is true that the Sheriff requested a lieutenant's position from the Board of Supervisors to oversee a replacement jail planning unit and that the request was denied. We consider the SHOP unit to have been absorbed into our Detective Bureau. Sexual investigations continue to be conducted by a sergeant, one full time detective and three other detectives in the Sheriff's Detective Bureau.

7. *The Sheriff's Office successfully oversees and coordinates many task forces in cooperation with San Mateo County cities' police forces: Gang, Drug, Vehicle Theft and White Collar Crime, among them. These task forces remained in place because they received funding from either the local, state or federal governments.*

Response: Respondent agrees with the finding.

8. *According to the Sheriff's Office, a joint task force for county-wide, coordinated investigation and enforcement of sexual offenses (similar to SAFE) could be implemented for \$1.55 million with 50/50 resource-sharing between the Sheriff's Office and cities similar to the funding model used for other joint task forces (e.g., white-collar crime, drugs, gangs).*

Response: Respondent agrees with the finding.

Conclusions

1. *The citizens of San Mateo County, especially children, are at a greater risk of being victims of sexual offenses because some law enforcement agencies (a) no longer vigorously monitor sexual offenders nor investigate sexual predators to the same degree and (b) no longer coordinate such activities on a county-wide basis.*

The law enforcement agencies of San Mateo County disagree with the conclusion that the children of San Mateo County are at greater risk of becoming victims due to insufficient predator monitoring and lack of coordination of countywide activities. Even though the SHOP program duties have been absorbed into the Sheriff's Detective Bureau, law enforcement agencies in San Mateo County are working together, nonetheless, to combat predatory activity. Both the San Mateo County Probation Department and the Parole Division of the California Department of Corrections and Rehabilitation work with local law enforcements to find and track registered sex offenders. These supervisory agencies conduct "sweeps" in target cities, appearing unannounced at the homes of sex registrants,

and target individuals who are not in compliance with their registration obligations. In the month of August 2010, there were two such "sweeps" in the City of East Palo Alto, alone.

Additionally, law enforcement officers who investigate child abuse offenses meet on a monthly basis to get training and share information through the San Mateo County Multi-Disciplinary Committee. As part of the San Mateo County Child Sexual Abuse Protocol, and in compliance with the National Children's Alliance, this county has a multi-disciplinary approach to the investigation of child abuse cases. This means that multiple agencies gather at the Keller Center to make sure that a complete investigation is conducted which will meet the needs of all participating agencies (law enforcement, Youth and Family Services, District Attorney's Office, Health Department), so that the perpetrator can be brought to justice while minimizing trauma to the child victim. Part of the same multi-disciplinary process involves monthly meetings where representatives from each of these disciplines gather, in addition to representatives from Rape Trauma Services and the Victim's Center, to share information, ideas and investigative techniques. These meetings include trainings from experts in specific fields. As a result, not only are individual officers trained in new techniques and law, but the training promotes uniformity in child abuse investigations throughout the county.

All law enforcement agencies contribute financially to employ a child forensic interviewer who is trained to elicit the most complete disclosure from a child victim. Again, this ensures that children from each jurisdiction in the county will be interviewed by a highly trained and professional interviewer.

Twice a year, San Mateo County puts on a two-day Sexual Assault Training Workshop aimed specifically at training law enforcement officers and child welfare workers, but which is open to any professional in the county who works within the multi-disciplinary process. The result of this ongoing training is that new officers and child welfare workers are trained on San Mateo County protocol guidelines and best practices, and victims throughout this county are provided the same professional service.

The above are but a few examples of how the numerous agencies in San Mateo County are working together to keep our children safe.

2. *Enforcement in San Mateo County has drastically declined during the past 3½ years with (a) the January 2007 elimination of county-wide law enforcement coordination through SAFE, (b) the April 2007 elimination of the dedicated four person sexual offender investigations unit in the Sheriff's Office, and (c) the forthcoming elimination of the dedicated sexual offender unit in the County Probation Department.*

Response: Respondent agrees that we no longer have the ability to pro-actively investigate sexual offenders the way we did prior to April 2007. The funding

since April 2007 has declined on every level; federal, state, county and the private sector. This has not only been the case in San Mateo County but has occurred nationwide. We are being forced to do more with less. In spite of this, all of the law enforcement agencies in San Mateo County are doing their utmost to provide law enforcement services to the people of San Mateo County.

3. *The registered sexual offender population and the total sexual abuse crime rate against children in San Mateo County did not decline from 2004-2009. The Grand Jury believes the most likely explanation for the decline in Keller Center examinations in light of the static arrest rate is due to lack of assigned personnel within the Sheriff's Office.*

As previously stated, it is the belief of the Sheriff's Office that the decline in sexual assault examinations at the Keller Center from 2007 to 2008 represents an aberration rather than a trend. First, it should be noted that the number of children brought to the Keller Center countywide reached a peak in 2005. Since that time, there has been a steady decrease countywide, not just in the Sheriff's Office. The number of exams countywide began to increase again in 2008, although the Sheriff's Office remained steady. However, according to recent statistics from the Keller Center, in the first six months of 2010, the Sheriff's Office brought more children to the Keller Center than any other law enforcement agency in San Mateo County.

Second, medical examinations at the Keller Center are not the only method of investigating child sexual abuse cases. Many, and in fact most cases of child abuse are reported months or even years after the abuse has occurred. Unless the abuse is substantial and or extremely recent, medical exams may not be appropriate, since the likelihood of forensic findings is nonexistent. A better measure of the responsiveness of law enforcement agencies to complaints of sexual abuse is the number of children interviewed, rather than the number of exams performed

4. *While sophisticated tools are available to identify violators of child pornography laws and to catch internet sexual predators, San Mateo County law enforcement resources are insufficient to use these tools to pursue investigation of these criminals in a timely manner. Local police departments do not have the specialized resources or the personnel to pursue the predators who are increasingly using the internet.*

Previously answered in number 3 under "Use of Internet by Sexual Predators."

5. *The relatively low sexual offender recidivism rate achieved by the County Probation Department is at risk due to reprioritized funding that will eliminate its permanent, dedicated sexual offender unit.*

Response: The conclusion is directed at the San Mateo County Probation Department.

6. *City Police Department practices vary dramatically across the County. Sharing and coordination of information regarding sexual offenders among the law enforcement agencies in the County is insufficient to effectively control sexual offender activity.*

Response: The conclusion is directed to the city police departments.

7. *In 2009-2010, if either (a) 1% of the County's \$80 million contribution to the Sheriff's Office \$160 million budget or (b) 2% of the State's Proposition 172 funding for enhanced law enforcement would have been reprioritized, the Sheriff's Office could have operated a full-time 3-person team dedicated to sexual offender enforcement.*

The FY09-10 budget was \$161,839,774 with \$80,566,650 being Net County Cost. Net County Cost is the amount of funds contributed by the County for our budget. All other funds are generated by department grants, contracts, and other revenue sources included Prop 172. The amount of Net County Cost that was discretionary during FY09-10 was approximately \$9,414,520. The amount of Net County Cost for Mandated programs was approximately \$71,152,130. The programs considered to be discretionary are as follows:

- Terrorism Response \$212,513
 - GIU \$1,209,343
 - Street Crimes Task Force \$474,770
 - SWAT & Hostage Negotiations \$191,146
 - Technical Services Unit \$1,772,911
 - Cargo Theft Task Force \$67,331
 - Sheriff Work Program \$654,692
 - EMP \$505,711
 - Court Holding Cells \$1,125,442
 - Countywide Security \$153,573
 - Juvenile Diversion \$61,980
 - Marine Patrol & Rescue \$48,433
 - Health Security \$33,623
 - ROR \$1,366,035
 - Community & School Policing \$1,278,645
 - Crisis Management Unit \$215,045 (cut in FY10-11)
- TOTAL: \$9,371,193**

All other programs/divisions/units not listed above are considered to be mandatory.

Recommendations

The 2009-2010 San Mateo County Civil Grand Jury recommends to the San Mateo County Board of Supervisors and to the San Mateo County Sheriff's Office that they:

1. *Reinstate the SAFE Task Force. Based upon other task force formulas, the Sheriff's Office and the combined cities would each contribute 50%.*

Response: Respondent disagrees. The SAFE Task Force was a State of California Department of Justice entity that was neither funded nor staffed by Sheriff's Office personnel.

2. *Regardless of the funding, the Sheriff's Office should reinstate its permanent, dedicated three to four person sexual offender investigation unit, including all SHOP activities.*

Response: Respondent disagrees. While the Sheriff's Office is always open to reinstating the SHOP unit, it is clearly dependent upon funding. We cannot recommend a program be reinstated "regardless of funding."

3. *Prioritize funding within the County Probation Department to keep sexual offender recidivism at a relatively low level by re-establishing a permanent, dedicated sexual offender unit.*

Response: The recommendation is directed to the San Mateo County Probation Department.