

Clerk of the Board
Florence H. Evans



Board of Supervisors
Phil Serna, District 1
Patrick Kennedy, District 2
Rich Desmond, District 3
Sue Frost, District 4
Don Nottoli, District 5

County of Sacramento

June 8, 2022

The Honorable Michael Bowman, Presiding Judge
Sacramento County Superior Court
720 Ninth Street
Sacramento, CA 95814

Re: Sacramento County Board of Supervisors Response to the April 4, 2022, Grand Jury Report Titled "Public Health Office Abandoned by County Board of Supervisors in COVID-19 Crisis"

Dear Judge Bowman:

The Board of Supervisors, meeting on June 7, 2022, by unanimous vote (5:0) approved the Sacramento County's response to the April 4, 2022, Grand Jury Report titled "Public Health Office Abandoned by County Board of Supervisors in COVID-19 Crisis". Enclosed is a copy of the approved response.

Please contact me if you have any questions at (916) 874-8150.

Respectfully,

A handwritten signature in blue ink that reads "Florence Evans".

Florence Evans, Clerk
Board of Supervisors

FE: js

cc: Ginger Durham, Jury Commissioner
Erendira Tapia-Bouthillier, Grand Jury Coordinator
Amanda Thomas, Chief Fiscal Officer, Office of Budget and Debt Management

Enclosure: Executed Board Material

APPROVED
BOARD OF SUPERVISORS

**COUNTY OF SACRAMENTO
CALIFORNIA**

41

JUN 07 2022
BY *Florence Evans*
Clerk of the Board

For the Agenda of:
June 7, 2022
Timed: 2:30 p.m.

To: Board of Supervisors

Through: Ann Edwards, County Executive

From: Amanda Thomas, Chief Fiscal Officer, Office of Budget and Debt Management

Subject: Response to the April 4, 2022, Grand Jury Report titled, Public Health Office Abandoned by County Board of Supervisors in COVID-19 Crisis

District(s): All

RECOMMENDED ACTION

1. Adopt this report as Sacramento County's response to the April 4, 2022, Grand Jury Report titled, Public Health Office Abandoned by County Board of Supervisors in COVID-19 Crisis.
2. Direct the Clerk of the Board to forward a certified copy of the Board letter to the Presiding Judge of the Sacramento County Superior Court no later than July 1, 2022.

BACKGROUND

The Grand Jury reviews and investigates the performance of county, city, and local governing entities. Investigations of governmental entities can be initiated by the grand jury itself or suggested by citizens. A public report usually follows an investigation with findings and recommendations that must be publicly addressed by the recipients as prescribed in Penal Code Sections 933 and 933.05. Responses are then directed to the Presiding Judge of the Superior Court.

Responses to findings and recommendations must follow a specific format, outlined in Penal Code section 933.05, as provided below.

...as to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.*
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.*

...as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.*
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.*
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.*
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.*

The Penal Code also outlines the extent to which either departments/agencies or governing bodies must respond to findings and recommendations:

...the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body (933(c)).

...if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department (933.05(c)).

The Grand Jury Report titled, Public Health Office Abandoned by County Board of Supervisors in COVID-19 Crisis (Attachment 1) was issued on April 4, 2022. The report asserts that there was an overall lack of support for the COVID-19 pandemic response activities of the Sacramento County Office of Public Health based on the perceived timeliness and level of engagement of the County Board of Supervisors and County Executive during the beginning of the COVID-19 pandemic and a perceived lack of commitment to the enforcement of countywide COVID-19 public health orders. The report includes six findings and six recommendations related to the information in the report along with a list of individuals and agencies required or invited to respond.

Supervisor Nottoli, as the Chair of the Board of Supervisors, and the Sheriff were included in the list of elected county officials required to respond within 60 days; however, County Counsel determined that Supervisor Nottoli does not have legal authority to respond to the Grand Jury report on behalf of the Board and the report would be presented to the Board of Supervisors for a response within the required 90-day timeframe for governing bodies. The Sheriff's response, which is required to be provided to the Grand Jury within a 60-day timeframe has not been included in this report because it was not available by the time this report was published. The Grand Jury report also invites responses from County Executive, Ann Edwards and County Public Health Officer, Doctor Olivia Kasirye. No timeframe was provided for these responses. Invitees are not required to respond.

Proposed responses to all Findings are included in Attachment 2 and proposed responses to all Recommendations are included in Attachment 3. The Board of Supervisors is requested to review the proposed responses in Attachments 2 and 3 and make any desired revisions. Any revisions to the responses will be brought back to the Board for review and approval at a subsequent meeting. Responses to the Findings and Recommendations must be sent to the Presiding Judge of the Superior Court by July 1, 2022.

FINANCIAL ANALYSIS

Departments that contributed to this report absorbed related staff costs within their respective budgets.

Attachments:

- Attachment 1: April 4, 2022, Grand Jury Report titled, Public Health Office Abandoned by County Board of Supervisors in COVID-19 Crisis
- Attachment 2: Responses to Findings
Exhibit A – Proclamation of a State of Emergency
- Attachment 3: Responses to Recommendations

PUBLIC HEALTH OFFICE ABANDONED BY COUNTY BOARD OF SUPERVIORS IN COVID-19 CRISIS



Drivers Line Up at Cal Expo for COVID-19 Vaccination

SUMMARY

A Sacramento County Grand Jury investigation has found that in March 2020 the Sacramento County Office of Public Health (OPH) responded to the worst public health emergency in a century with speed and effectiveness, but did so without needed support or oversight from its direct line of authority, the County Board of Supervisors. Moreover, this level of executive disinterest continued for nearly five months until August 2020 when a plea for funding was made directly to the Board by the Public Health Officer.

As the health and economic impact of the COVID-19 pandemic took hold in Spring 2020, the County of Sacramento received \$181 million in federal Coronavirus Aid, Relief and Economic Security (CARES) Act funding intended to aid local governments in their COVID-19 related public health and safety activities. But at no time between the declaration of the COVID-19 county public health order on March 19, 2020, until August 13, 2020, did the Board request updates on OPH's COVID-19 funding needs, or OPH's pandemic response activities. In fact, from the onset of the COVID-19 pandemic, OPH administered its routine and newly expanded responsibilities despite being significantly understaffed and underfunded.

OPH immediately initiated its contagious disease response plan using every resource available. Without CARES Act or other needed funding, many thousands of hours of medical reserve corps volunteer time were utilized to fill the staffing and service gaps. All of this public health work to protect Sacramento's residents was further hampered by county and local law enforcement's refusal to enforce the Public Health Officer's COVID-19 related public health orders.

This investigation finds that upon declaration of the COVID-19 public health emergency, the Board of Supervisors and County Executive failed, for five months, to engage with the County Office of Public Health, the agency at the epicenter of the emergency response. This leadership and management deficit delayed needed OPH program funding which should have been immediately provided to OPH as one of the Board's first priorities.

It is recommended that the County Executive, Board of Supervisors and OPH develop a public health emergency response plan, which would recognize and meet the immediate requirements of OPH to implement future public health orders to best ensure the safety of Sacramento County residents.

BACKGROUND

This investigation was prompted by the 2021-2022 Grand Jury's interest in the County's preparedness for and reaction to a contagious disease outbreak, and the impact of the COVID-19 pandemic on our County's residents and government operations.

The investigation focused on the activities of OPH, beginning when COVID-19 first appeared in the community. The Grand Jury reviewed public reporting of the County of Sacramento's activities in response to federal and state government pandemic-related directives, and publicly available recorded sessions of County Board of Supervisor meetings prior to and throughout the 2020 stay-at-home orders. The Grand Jury interviewed county officials and reviewed documents requested from, and provided by those officials.

OPH was prepared at the outset of the pandemic to issue and enforce public health orders in response to the presence of COVID-19 within the Sacramento community. OPH worked in coordination with its county, state and federal counterparts to implement local and state issued orders. OPH efficiently ramped up its operation despite being understaffed and underfunded.

In the face of an overriding public health emergency, county executives and elected officials had scant interaction with OPH until nearly five months into the emergency. OPH, led by Public Health Officer Dr. Olivia Kasirye, carried out its emergency response functions utilizing its dedicated staff, along with a volunteer corps of professionals. Thousands of hours of staff overtime were logged during the pandemic due to the public health emergency workload and staff shortages. Emergency response functions included countywide COVID-19 outreach across all local government entities and private businesses, implementation of the COVID-19 Dashboard, contact tracing services, analysis of COVID-19 surveillance data, and community testing and vaccine sites, among others. Critical and essential outreach by Public Health Officer Kasirye was lauded by school district administrators throughout Sacramento County. Dr. Kasirye's exemplary level of job performance was confirmed by a wide range of individuals who were interviewed during the investigation.

Interviews and reviews of recordings of Board of Supervisor meetings from March through December 2020 also confirmed the County leadership's lack of commitment to the enforcement of countywide COVID-19 public health orders, and its impact on public safety. Research into both Sacramento County ordinances and state Health and Safety Code provisions clarified that there was an absence of explicit County public health enforcement authority. While still mired in

the on-going pandemic, and despite another direct plea from the Public Health Officer on December 8, 2020, the Board declined to enact such authority when it pulled a proposed public health order enforcement ordinance from its agenda, effectively killing it. This was clear evidence of the Board's overall lack of support for the COVID-19 pandemic response activities of OPH.

METHODOLOGY

During its investigation, numerous documents, websites and recordings were reviewed, including:

- Sacramento County COVID-19 financial reports
- Sacramento County CARES funding distribution
- Board of Supervisors correspondence
- Board of Supervisors meetings (February – December 2020)
- OPH correspondence with County Budget staff
- OPH Communicable Disease Outbreak Response Plan
- OPH website and the online COVID-19 Dashboard
- County Office Emergency Services reports and website postings
- California Department of Public Health website postings
- California Office of Emergency Services COVID-19 incident reporting summaries
- California Health and Safety Code provisions re: enforcement authority of OPH and Law Enforcement Agencies
- National resources including the Public Health Accreditation Board and Centers for Disease Control and Prevention (CDC)

Interviews

Interviews were held with knowledgeable staff of the following entities: OPH, County Office Emergency Services, Board of Supervisors, County of Sacramento, City of Sacramento, and Sacramento County Office of Education.

DISCUSSION

Sacramento County's COVID-19 Starting Point

In March 2020 as COVID-19 cases spread to California, the Sacramento OPH responded to California Department of Public Health requests to monitor passengers returning from China. OPH then began conducting contact tracing of cases diagnosed in the area and on March 19, 2020, issued the first countywide stay-at-home order.

At the outset of the pandemic, the CDC was the only laboratory in the nation doing COVID-19 testing. OPH coordinated with CDC to fulfill local provider requests for testing. OPH testing protocol then shifted to testing local patients with severe pneumonia symptoms. At this point, OPH had one doctor and three nurses on staff to conduct testing countywide. In order to respond to the widening presence of COVID-19 in the county, OPH had to rebalance existing staff and

resources to do contact tracing, enforcement of the stay-at-home order, and maintenance of routine public health protection activities, such as sexually transmitted disease monitoring, tuberculosis testing and standardized immunizations.

Adding to these mounting service needs was the weight of the County Sheriff's decision to not enforce OPH's stay-at-home, nonessential business closures and masking orders. Numerous interviews with County officials across departments, as well as local governments within the County, revealed that despite the lack of enforcement support, the County Public Health Officer and her staff continued to be responsive, making concerted efforts to achieve broad compliance with the COVID-19 public health orders. OPH conducted on-going comprehensive outreach and regular communication to maintain effective compliance. Several interviews also verified that County departments and agencies were left to improvise their own COVID-19 protocol and workplace response to OPH stay-at-home and non-essential business closure public health orders. This ad hoc approach extended to the operation of the Board of Supervisors during the stay-at-home and non-essential business closure orders. The Board does not possess its own operational continuity plan for conducting its essential governance activities under emergency circumstances. Without such a plan, should Board chambers, offices and communications become inaccessible, the Board's administrative functions would be suspended indefinitely.

The burden and responsibility for safeguarding county residents through enforcement of COVID-19 public health orders were almost entirely borne by the County Public Health Officer and OPH. This situation continued as the social and economic impacts of COVID-19 on Sacramento County residents widened during Spring and Summer of 2020. The reality of these circumstances was made starker by the lack of interest exhibited by the Board of Supervisors. Despite its direct hiring authority over the County Public Health Officer, the Board of Supervisors did not publicly inquire about OPH COVID-19 response, nor schedule a briefing by the Public Health Officer at any time between March and mid-August 2020. These factors contributed to the County's failure to timely support OPH's COVID-19 emergency response staffing and program funding requirements.

Another significant hurdle for OPH was the requirement that several of its COVID-19 emergency budget requests were inexplicably forced to navigate the County's cumbersome annual budget allocation protocol which was incapable of expediting such requests.

OPH Public Health Emergency Preparedness

Prior to the COVID-19 outbreak, the Sacramento County OPH had a communicable disease response plan with protocols, a pandemic flu plan with an incident command system, a communication plan, and a continuity of operation plan at the ready.

OPH was further challenged by its inadequate staffing and program resources entering the pandemic. OPH experienced a significant loss of funding and staffing during the financial crisis of 2008-2009. The field nursing unit which served as surge capacity during large disease outbreaks, and a large number of management staff were lost at that time and never fully restored.

OPH COVID-19 Response



*Dr. Olivia Kasiye, Sacramento County Public Health Officer
Source – Sacramento County Website*

OPH conducted the following activities and services in response to the COVID-19 emergency:

- Contact tracing
- All case reporting
- Lab testing support for surrounding counties (Nevada, Placer, El Dorado)
- Set up of drive-through testing at Cal-Expo and 10 additional testing sites
- Receipt and allocation of Remdesivir
- Responding to a heavy influx of daily public inquiries (up to 200 emails per staff member)
- Funding for surge staffing created by Public Health order extension
- Vaccinations at Cal Expo/education and distribution of vaccine
- Establishing an online dashboard to track data, inform public, and provide information to California Department of Public Health

In order to conduct this level of response, and in light of staffing and resource challenges, most OPH staff each worked 20-30 hours of overtime every week. And staff from other OPH programs and other County departments were compelled to work with OPH to meet the response demands. The ripple effect was that staff shortages were felt across many other departments. Medical Reserve Corps volunteers contributed thousands of hours of service covering phones, providing testing and assisting at vaccination sites.

Lack of Enforcement Support by Board of Supervisors and Sheriff

OPH was hamstrung by a lack of enforcement support on the part of both the Sheriff and the County Board of Supervisors. Absent a local ordinance, county sheriffs could rely upon California Government Code section 101029 which contains a permissive rather than mandatory provision that the sheriff of each county may enforce all orders for the local health officer to

prevent the spread of a contagious disease. On June 19, 2020, Sacramento County Health Officer Dr. Olivia Kasirye issued a Health Order aligning the County's face covering order with Governor Newsom's Executive Order of June 18, 2020, which required people to wear face coverings whenever indoors, with certain limited exceptions. On the same day Dr. Kasirye's order was issued, the Sacramento County Sheriff Scott Jones issued a press release stating it would be inappropriate for deputies to criminally enforce the Governor's mandate, and "Accordingly, the Sheriff's Office will not be doing so."

Further, the Board of Supervisors failed to enact an ordinance to authorize enforcement of orders issued by OPH Health throughout the COVID-19 pandemic. On December 8, 2020, even when directly requested by the Public Health Officer, the Sacramento County Board of Supervisors failed to take action on a proposed ordinance that specified civil penalties for the failure to comply with public health orders. This failure was in sharp contrast to enforcement ordinances enacted by County Boards of Supervisors in several other northern California counties. The counties of San Mateo, Yolo, Contra Costa, Marin, and Napa adopted ordinances which imposed civil penalties on individuals and businesses for violating their county's health orders. Most of these other counties used Code Enforcement Officers and Public Health Officers to enforce their ordinances, thereby bypassing their county sheriffs, an enforcement option available to the Sacramento Board of Supervisors should they have enacted such an ordinance.

Due to both the Sacramento County Sheriff's adamant refusal to enforce the Office of Public Health's Orders, and the Sacramento County Board of Supervisor's adjunct failure to pass a local ordinance mandating civil penalties for failure to comply with public health orders, Sacramento County had no enforcement mechanism to assist OPH.

FINDINGS

- F1.** On March 19, 2020 the Sacramento County Public Health Officer issued a Public Health Order. Lack of coordinated emergency response and direction from the County Executive and the Board of Supervisors shifted all oversight of the planning and implementation to the Public Health Officer and the Office of Emergency Services.
- F2.** In 2009, OPH experienced dramatic staffing and funding cutbacks, which have never been fully restored. As a result, OPH entered the 2020 pandemic with distinct deficits in areas, such as the field nursing unit, services for at-risk communities, and other programs that significantly impacted its ability to respond to the dynamic nature of the COVID-19 pandemic as it reached Sacramento in early 2020. These under-investments in Public Health presented significant challenges for OPH in meeting the immediate public health emergency response required in a pandemic.
- F3.** Sacramento County administrators adhered to a traditional budget process and calendar in response to emergency funding requests from OPH, despite the availability of \$181 million in CARES Act funding. That rigid process absolutely stymied appropriate and timely disbursement of emergency funds requested by OPH for needed equipment, staffing and services.

- F4.** Despite the gravity of the COVID-19 pandemic and its impact on Sacramento County residents, the Board of Supervisors did not request pandemic response reports directly from its Public Health Officer for nearly five months after the issuance of the first COVID-19 Public Health Order.
- F5.** The Board of Supervisors does not have its own “Continuity of Operation” plan in place for the Board of Supervisors to use in the case of any type of public emergency which would prevent or adversely impact critical Board of Supervisors governance activities and responsibilities.
- F6.** Implementation of COVID-19 related Public Health Orders was hamstrung by a lack of enforcement support from the Sacramento County Board of Supervisors, the County Chief Executive, the County Sheriff and local law enforcement agencies.

RECOMMENDATIONS

- R1.** The County Executive, Board of Supervisors, and OPH should develop and adopt a public health emergency response plan which recognizes, and plans for the immediate requirements of OPH to implement public health orders to best ensure public safety. The Board of Supervisors should finalize and approve the response plan by December 2022.
- R2.** The Board of Supervisors should immediately develop, formally approve and implement a direct and regular reporting process for the Public Health Officer. This process should require at least monthly reporting to the Board during public sessions. Whenever a community wide public health order has been declared, the Board of Supervisors should augment regular reporting by OPH with detailed reporting on the response to the public health emergency, including recommendations for needed services, programs and funding. These policies and processes should be adopted by the Board of Supervisors no later than June 2022.
- R3.** Funding for OPH should be immediately reviewed and adequately increased to build and maintain a strong organizational infrastructure with sufficient staffing. Such funding is essential to ensure that OPH maintains the critical capacity to immediately implement all essential and emergency public health services. This funding assessment and increased funding levels should be included in the budget process for the 2022-2023 budget.
- R4.** The County should develop and adopt a separate emergency budget allocation and approval process. This process would operate outside the regular fiscal year county budget process in order to expedite emergency funding requests from County departments. Such a process should include program staff training, as well as transparent allocation and expenditure reporting to the Board of Supervisors and County Executive staff. The Board of Supervisors should finalize and approve the emergency budget allocation process by December 2022.
- R5.** The Board of Supervisors should develop and adopt its own “Continuity of Operation” plan, with periodic updating as appropriate. The Board of Supervisors should finalize its “Continuity of Operation” plan by December 2022.

- R6.** The Board of Supervisors and OPH should immediately begin discussions with the County Sheriff and other County law enforcement entities. These discussions should result in a County ordinance directing local law enforcement to enforce public health emergency orders. The Board of Supervisors should enact this ordinance by December 2022

REQUIRED RESPONSES

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

From the following elected county officials within 60 days:

- Don Nottoli, Chair
Sacramento County Board of Supervisors
700 H Street, Suite 2450
Sacramento, CA 95814
- Scott Jones, County Sheriff
Sacramento County Sheriff's Department
4500 Orange Grove Avenue
Sacramento, CA 95841

Mail or deliver a hard copy response to:

- Hon. Michael Bowman Presiding Judge
Sacramento County Superior Court
720 9th St.
Sacramento. CA 95814

Please email a copy of this response to:

- Ginger Durham
Jury Commissioner
DurhamG@saccourt.ca.gov
- Erendira Tapia-Bouthillier
Grand Jury
TapiaE@saccourt.ca.gov

INVITED RESPONSES

- Ann Edwards, County Executive
Sacramento County
700 H Street, Room 7650
Sacramento, CA 95814

- Dr. Olivia Kasirye, County Public Health Officer
7001-A East Parkway, Suite 600
Sacramento, California 95823

Mail or deliver a hard copy response to:

- Hon. Michael Bowman Presiding Judge
Sacramento County Superior Court
720 9th St.
Sacramento, CA 95814

Please email a copy of this response to:

- Ginger Durham
Jury Commissioner
DurhamG@saccourt.ca.gov
- Erendira Tapia-Bouthillier
Grand Jury
TapiaE@saccourt.ca.gov

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

FINDINGS

- F1. On March 19, 2020 the Sacramento County Public Health Officer issued a Public Health Order. Lack of coordinated emergency response and direction from the County Executive and the Board of Supervisors shifted all oversight of the planning and implementation to the Public Health Officer and the Office of Emergency Services.**

Board of Supervisors Response:

The Board of Supervisors disagrees wholly with the finding. In accordance with County Code 2.46.010 – 2.46.170 which delegates and identifies the responsibilities during an emergency response, the County proclaimed a local emergency, and a local public health emergency on March 5, 2020 which was ratified on March 10, 2020. The Emergency Operations Center (EOC) was activated and opened March 16, 2020. Following the Emergency Operations Plan and Annexes, communication and coordination took place regularly between the EOC and the activated Department Operations Centers, inclusive of the Public Health Department Operations Center. All County departments were provided regular direction on the process for identifying the need for related funding and FEMA Public Assistance projects to address their particular situation, and for requesting funding to cover those needs.

- F2. In 2009, OPH experienced dramatic staffing and funding cutbacks, which have never been fully restored. As a result, OPH entered the 2020 pandemic with distinct deficits in areas, such as the field nursing unit, services for at-risk communities, and other programs that significantly impacted its ability to respond to the dynamic nature of the COVID-19 pandemic as it reached Sacramento in early 2020. These under-investments in Public Health presented significant challenges for OPH in meeting the immediate public health emergency response required in a pandemic.**

Board of Supervisors Response:

The Board of Supervisors disagrees partially with the finding. The Board agrees that Public Health experienced staffing reductions that were not fully restored by 2020.

As a result of the Great Recession, between 2008 and 2011, budget cuts were made County-wide, impacting all County departments including

the Department of Health Services. As a result, the number of positions in Public Health was reduced from 278.6 in 2008 to 167.5 by 2011. By 2020, the number of Public Health positions had been restored to 221.2. In response to the pandemic, staffing increases resulted in 280.6 total positions in Public Health by 2021.

The Board of Supervisors disagrees that the Public Health funding and staffing levels entering the pandemic represented distinct deficits or under-investments. As indicated by the numbers above, staffing restorations were made in Public Health as more funding became available, with needs in Public Health balanced against needs across the County, including in other critical safety net programs.

It should also be noted that, while staffing levels may have contributed to challenges faced at the onset of the pandemic, the circumstances created by the pandemic were unforeseen, unpredictable, and unique and presented challenges to health care systems and governments worldwide.

F3. Sacramento County administrators adhered to a traditional budget process and calendar in response to emergency funding requests from OPH, despite the availability of \$181 million in CARES Act funding. That rigid process absolutely stymied appropriate and timely disbursement of emergency funds requested by OPH for needed equipment, staffing and services.

Board of Supervisors:

The Board of Supervisors wholly disagrees with this finding. In response to the rapidly evolving nature of the COVID-19 Public Health Emergency, on April 21, 2020 the Board adopted resolution 2020-0257, authorizing the County Executive to apply for, accept and draw down Federal or State funding related to the COVID-19 emergency.

As result of the Board's delegated authority to the County Executive and in light of the urgent and evolving nature of the public health emergency and the limited time frame state and local governments originally had to spend Coronavirus Relief Funds (CRF), the County implemented an expedited and real-time process to assess needs and make funding decisions:

All County departments were directed to identify needs and submit funding requests for the use of CRF revenue in the different categories

(e.g., Medical Expenses, Public Health Expenses, Economic Support, etc.).

As they were submitted, all funding requests were promptly reviewed by staff from the Office of Budget and Debt Management for compliance with Treasury Guidance and then forwarded to a Review Committee comprised of senior County officials, which, after review, made funding recommendations to the County Executive.

The County Executive reviewed the departmental requests, the recommendations of the Review Committee and the Treasury Guidance and then made decisions on which requests to fund.

The approved funding request then went to the County Finance Department, where staff further reviewed the requests on an expedited basis for compliance with federal rules and approved or denied funding for specific expenditures as appropriate.

All told, County departments submitted hundreds of funding requests totaling over \$350 million in CRF eligible expenditures across a broad range of needs.

F4. Despite the gravity of the COVID-19 pandemic and its impact on Sacramento County residents, the Board of Supervisors did not request pandemic response reports directly from its Public Health Officer for nearly five months after the issuance of the first COVID-19 Public Health Order.

Board of Supervisors Response:

The Board of Supervisors disagrees partially with the finding. The Board agrees that there was not a formal request for reports from the Public Health Officer during a public meeting until August 19, 2020. The Board disagrees with any suggestion that information was not regularly received. Staff provided regular reports and communication to the Board despite waiver of regular reporting requirements normally required by state law. Further, the Board engaged staff in requests for additional information at Board meetings and through other means of regular communication, and staff fulfilled those requests.

During many Board meetings, Board members frequently requested additional information that augmented information provided regularly by staff. For example, on March 24, 2020, Board members commented on moratoriums related to COVID and requested staff provide avenues

to provide relief. On April 21, 2020 the Board heard discussion and authorized the County Executive to apply for, accept, and draw down federal or state funding related to the pandemic. On May 19, 2020 the Board heard from the Director of Health Services and the Public Health Officer regarding health orders and increasing the number of businesses who were allowed to open with restrictions. At this meeting, the Chair of the Board of Supervisors signed a letter of support for the submission of the Attestation to the state. The Attestation was a document confirming certain levels of COVID-19 case rates and rates of community disease spread during the Governor's Blueprint for a Safer Economy which identified requirements for reopening. On August 19, 2020, the Board requested regular report backs from the County Executive and this was followed on September 1, 2020 with the first regular report from Health Services.

Outside of these formal, public reports, 83 communications and early news releases were made to the Board with updates and information regarding COVID and COVID-related issues including changes in state orders and response activities within Sacramento County. These communications contained information regarding COVID cases and deaths in Sacramento County; County messaging to the public about COVID facts, proclamations about a public health and local emergency, COVID news releases from the County, Public Health recommendations and new and updated public health orders for workplaces, businesses, and the community; the status of County services in varying stages of the pandemic; testing and vaccination clinic availability; guidance and announcements on re-opening; and CalOSHA guidelines for the workplace inclusive of messaging to all employees about COVID and COVID-related issues.

Under "normal" emergency situations, when a County declares a local emergency, it must seek approval of the Board of Supervisors within seven days of the proclamation and it must review the need for continuing the emergency at least once every sixty (60) days. (Gov't. Code §8630.) Similarly, Health & Safety code section 101080 requires the Board to review and affirm a public health emergency every thirty (30) days. However, the Governor waived these provisions as part of the State Proclamation of Emergency (Exhibit A) to enable critical work by Public Health and to ensure these emergency proclamations did not lapse. The Board adhered to the intent and provisions under the Governor's suspension of the requirement to renew both proclamations at regular intervals which allowed the emergency response functions of the county to work in an expedited manner, focusing attention on

learning about the disease and formulating ways to prevent its spread. Despite the waiver by the Governor, the Board did receive regular communications from staff as noted above.

- F5. The Board of Supervisors does not have its own “Continuity of Operation” plan in place for the Board of Supervisors to use in the case of any type of public emergency which would prevent or adversely impact critical Board of Supervisors governance activities and responsibilities.**

Board of Supervisors Response:

The Board of Supervisors disagrees wholly with the finding. The Board of Supervisors has a Continuity of Operations Plan (COOP) and specific annex in place dated 2017 which had been in effect for 2 years at the start of the pandemic. Plans are updated within 3 to 5-year timeframes. The base COOP was updated in January 2021 with a portion of departments completing updates to their department annex the same year. The Board of Supervisors annex will be updated by December 2022 consistent with the plan update schedule.

- F6. Implementation of COVID-19 related Public Health Orders was hamstrung by a lack of enforcement support from the Sacramento County Board of Supervisors, the County Chief Executive, the County Sheriff and local law enforcement agencies.**

Sheriff's Response:

The Sheriff is required to send his response to the presiding judge in a separate correspondence per Penal Code section 933.05(c) and 933(c).

Board of Supervisors Response:

The Board of Supervisors disagrees wholly with this finding. There was general agreement at the beginning of and throughout the pandemic – from law enforcement, Public Health, and the County – that an approach emphasizing education on the Public Health Order and the risks of the Novel Coronavirus Disease was preferable to strict enforcement. Follow up actions were taken by Code Enforcement and others on many entities that consistently failed to comply with the Order after initial contacts and warnings.

During the pandemic at the direction of the County Executive's Office, General Services, Security Services posted and enforced all County Public Health order requirements at 700 H Street and other County facilities. The Clerk's office enforced requirements for public meetings and established accommodations for those who could not or would not comply with health orders. County 3-1-1 collected reports of violations to Public Health Orders and the Environmental Management Department (EMD) investigated 205 complaints received between March 2020 and 2022. EMD conducted field assessments for compliance from April 2020 through February 16, 2022. Results were reported quarterly and education and guidance material provided when entities were not in compliance. EMD participated in the Business Navigator Steering Committee, reviewed restaurant applications to ensure active health permits and facilities compliance, distributed 400 test kits to restaurants, participated in webinars with Business Environmental Resource Center (BERC), Economic Development, and Public Health to relay information and guidance, and assisted organizers for Mega Events to ensure compliance with orders for social distancing, masking, signage, testing, and crowd control.

On September 4, 2020 the County posted a news story regarding the services available to businesses from Economic Development. The County utilized available funding to hire Business Navigators whose job was to provide education and guidance to the community regarding changes in COVID-19 orders and regulations from both the County Public Health Officer and California Department of Public Health (CDPH).

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS the State of California has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS the California Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS as of March 4, 2020, across the globe, there are more than 94,000 confirmed cases of COVID-19, tragically resulting in more than 3,000 deaths worldwide; and

WHEREAS as of March 4, 2020, there are 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties are in home monitoring based on possible travel-based exposure to the virus, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS for more than a decade California has had a robust pandemic influenza plan, supported local governments in the development of local plans, and required that state and local plans be regularly updated and exercised; and

WHEREAS California has a strong federal, state and local public health and health care delivery system that has effectively responded to prior events including the H1N1 influenza virus in 2009, and most recently Ebola; and

WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in California, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of California, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS personal protective equipment (PPE) is not necessary for use by the general population but appropriate PPE is one of the most effective ways to preserve and protect California's healthcare workforce at this critical time and to prevent the spread of COVID-19 broadly; and

WHEREAS state and local health departments must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS I find that conditions of Government Code section 8558(b), relating to the declaration of a State of Emergency, have been met; and

WHEREAS I find that the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the threat posed by COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.

IT IS HEREBY ORDERED THAT:

1. In preparing for and responding to COVID-19, all agencies of the state government use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority. Also, all residents are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.
2. As necessary to assist local governments and for the protection of public health, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, containing, responding to, mitigating the effects of, and recovering from the spread of COVID-19. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of COVID-19.
3. Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency.
4. The time limitation set forth in Penal Code section 396, subdivision (b), prohibiting price gouging in time of emergency is hereby waived as it relates to emergency supplies and medical supplies. These price gouging protections shall be in effect through September 4, 2020.
5. Any state-owned properties that the Office of Emergency Services determines are suitable for use to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services for this purpose, notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.
6. Any fairgrounds that the Office of Emergency Services determines are suitable to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8589. The Office of Emergency Services shall notify the fairgrounds of the intended use and can immediately use the fairgrounds without the fairground board of directors' approval, and

notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

7. The 30-day time period in Health and Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local health emergency.
8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.
9. The Office of Emergency Services shall provide assistance to local governments that have demonstrated extraordinary or disproportionate impacts from COVID-19, if appropriate and necessary, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.
10. To ensure hospitals and other health facilities are able to adequately treat patients legally isolated as a result of COVID-19, the Director of the California Department of Public Health may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code and accompanying regulations with respect to any hospital or health facility identified in Health and Safety Code section 1250. Any waiver shall include alternative measures that, under the circumstances, will allow the facilities to treat legally isolated patients while protecting public health and safety. Any facilities being granted a waiver shall be established and operated in accordance with the facility's required disaster and mass casualty plan. Any waivers granted pursuant to this paragraph shall be posted on the Department's website.
11. To support consistent practices across California, state departments, in coordination with the Office of Emergency Services, shall provide updated and specific guidance relating to preventing and mitigating COVID-19 to schools, employers, employees, first responders and community care facilities by no later than March 10, 2020.
12. To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health conditions, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care. The


notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

13. Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority. In order to carry out this order, to the extent that the provisions of Health and Safety Code sections 1797.52 and 1797.218 may prohibit EMT-P licensees from transporting patients to facilities other than acute care hospitals, those statutes are hereby suspended until the termination of this State of Emergency.

14. The Department of Social Services may, to the extent the Department deems necessary to respond to the threat of COVID-19, waive any provisions of the Health and Safety Code or Welfare and Institutions Code, and accompanying regulations, interim licensing standards, or other written policies or procedures with respect to the use, licensing, or approval of facilities or homes within the Department's jurisdiction set forth in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.), the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), and the California Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569 et seq.). Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

RECOMMENDATIONS

- R1. The County Executive, Board of Supervisors, and OPH should develop and adopt a public health emergency response plan which recognizes, and plans for the immediate requirements of OPH to implement public health orders to best ensure public safety. The Board of Supervisors should finalize and approve the response plan by December 2022.**

Board of Supervisors Response:

The recommendation will not be implemented because it is not warranted. There are countywide as well as Department-specific plans in place that meet local, state, and federal requirements. The County of Sacramento has a 2021 All-Hazards Emergency Operations Plan and a 2019 Operational Area Emergency Plan. Both plans adhere to the federal standard Comprehensive Preparedness Guide (CPG) 101 and the Emergency Operations Plan Crosswalk – Local Government published by the Governor’s Office of Emergency Services (Cal OES). The plans adhere to the California Emergency Services Act and Standardized Emergency Management System guidelines and have formally adopted the National Incident Management System as required by the Federal Emergency Management Agency (FEMA). The Emergency Operations Plan was approved by Cal OES, was adopted by the Board of Supervisors on May 24, 2022, and published on the Sacramento County Office of Emergency Services website.

The Department of Health Services (DHS), Public Health Division has plans in place to address the response to a pandemic. The Sacramento County Public Health Pandemic Influenza Response Plan was updated in March 2021. Further, the DHS has a 2017 Continuity of Operations Plan (COOP) that addresses the continuance of essential services and a 2019 Department Emergency Operations Plan (DEOP) that outlines the emergency operational procedures and named leadership successors. Finally, Public Health has a 2016 Communicable Disease Outbreak Response Plan and identifies how that plan is integrated with other existing emergency plans.

- R2. The Board of Supervisors should immediately develop, formally approve and implement a direct and regular reporting process for the Public Health Officer. This process should require at least monthly reporting to the Board during public sessions. Whenever a community wide public health order has been declared, the Board of Supervisors should augment regular**

reporting by OPH with detailed reporting on the response to the public health emergency, including recommendations for needed services, programs and funding. These policies and processes should be adopted by the Board of Supervisors no later than June 2022.

Board of Supervisors Response:

The Recommendation will not be implemented because it is not warranted. The Board of Supervisors has already established regularly scheduled meetings each month where the Public Health Officer provides reports on the status of the pandemic. Any additional reporting, beyond the normal Board approval process or what is already established under federal, state, or local laws will be established by the Board depending on the need at that time. It should be noted that the Board regularly receives reports from the Department of Health Services on issues being addressed by its various divisions.

- R3. Funding for OPH should be immediately reviewed and adequately increased to build and maintain a strong organizational infrastructure with sufficient staffing. Such funding is essential to ensure that OPH maintains the critical capacity to immediately implement all essential and emergency public health services. This funding assessment and increased funding levels should be included in the budget process for the 2022-2023 budget.**

Board of Supervisors Response:

This recommendation will not be implemented because it is not warranted. The Department of Health Services already works with all of its divisions – including Public Health – to ensure that its operational needs are identified as part of the County’s budget process. These needs – including proposals for additional growth items - are prioritized, submitted in a full budget proposal to the County Executive’s Office, and fully discussed with County leadership as part of the budget development effort. A key aspect of this process is determining the amount of federal and State funding that is being made available to counties to address Public Health needs. The budget is then submitted to the Board of Supervisors and fully discussed in open session prior to adoption.

R4. The County should develop and adopt a separate emergency budget allocation and approval process. This process would operate outside the regular fiscal year county budget process in order to expedite emergency funding requests from County departments. Such a process should include program staff training, as well as transparent allocation and expenditure reporting to the Board of Supervisors and County Executive staff. The Board of Supervisors should finalize and approve the emergency budget allocation process by December 2022.

Board of Supervisors Response:

The recommendation will not be implemented because it is not warranted. The County already has standard processes in place for making budget adjustments outside of the annual budget process and routinely recommends budget adjustments to the Board as a result of additional funding or unanticipated needs that occur during the fiscal year. County budget approvals are governed by the County Budget Act, which includes Government Code Section 29125 that addresses revisions to adopted appropriations during the fiscal year and Sections 29127 and 29128 that address budget approvals for emergencies.

It should also be noted that, while Board approval is required to increase total budgeted appropriations within a budget unit, large departments generally have sufficient appropriation authority to address emergency unforeseen expenditures. As an example, the Health Services Adopted Budget appropriations for Fiscal Year 2019-20 were \$474,494,216 compared to actual expenditures of \$434,980,406, with nearly \$40 million of unused appropriation authority.

As noted in the response to Finding 3, the County employed an emergency funding request and approval process in response to the COVID-19 pandemic and did not rely on the regular fiscal year county budget process to address emergency funding needs.

The Office of Emergency Services (Sac OES) regularly holds training for the Emergency Operations Center Finance Section and invites the fiscal and program staff of each department and office to participate. Finance training for emergency response and recovery was held in January 2021, March 2020, August 2020, September 2020, and March 2017.

R5. The Board of Supervisors should develop and adopt its own "Continuity of Operation" plan, with periodic updating as

appropriate. The Board of Supervisors should finalize its "Continuity of Operation" plan by December 2022.

Board of Supervisors Response:

The Recommendation has been implemented. The Board of Supervisors has a Continuity of Operations Plan (COOP) and specific annex (2017) in place which had been in effect for two years at the start of the pandemic. Plans are updated within three to five-year timeframes. The base COOP was updated in January 2021 with a portion of departments completing updates to their department annex the same year. The Board of Supervisors annex will be updated by December 2022 consistent with the plan update schedule.

- R6. The Board of Supervisors and OPH should immediately begin discussions with the County Sheriff and other County law enforcement entities. These discussions should result in a County ordinance directing local law enforcement to enforce public health emergency orders. The Board of Supervisors should enact this ordinance by December 2022.**

Sheriff's Response:

The Sheriff is required to send his response to the presiding judge in a separate correspondence per Penal Code section 933.05(c) and 933(c).

Board of Supervisors Response:

The recommendation will not be implemented because it is not warranted or is not reasonable. The Board does not have legal authority to direct law enforcement official to enforce public health emergency orders. It is beyond the Board's authority to direct independently elected officials to exercise their discretionary powers in any particular manner. As specifically stated in Government Code section 25303, while the Board of Supervisors has some ability to monitor the conduct of county officers "[t]his section shall not be construed to affect the independent and constitutionally and statutorily designed investigative and prosecutorial functions of the sheriff"

Rather, County health staff will continue to work in close partnership with law enforcement, code enforcement, the Environmental Management Department, and other staff to determine the most

appropriate approach(es) to seek compliance with Public Health orders, which includes a strong educational effort.