RESOLUTION NO. 2020-96 **EXHIBIT B**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA DIRECTING THAT THE RESPONSE TO THE 2019-2020 MONTEREY COUNTY CIVIL GRAND JURY'S FINAL REPORT – "SEXUAL HARASSMENT PREVENTION #TRAINING COMPLIANCE" BE SUBMITTED TO THE HONORABLE STEPHANIE E. HUSEY, JUDGE OF THE SUPERIOR COURT, MONTEREY COUNTY.

WHEREAS, On June 24, 2020 the City received a copy of the 2019-2020 Monterey County Civil Grand Jury Final Report – Sexual Harassment Prevention #Training Compliance; and,

WHEREAS, the Report requires the City of Marina to respond to Findings F19-F23 and Recommendations R10-R13; and,

WHEREAS, the City Council has reviewed the responses to the required comments set forth in the Final Report; and,

WHEREAS, pursuant to Penal Code Section 933.05, the City of Marina is required to submit comments on the Report to the Honorable, Stephanie E. Hulsey, Judge of the Superior Court within ninety (90) days following its transmittal;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marina hereby:

1. Accepts the responses to the 2019-2020 Monterey County Civil Grand Jury Final Report – "Sexual Harassment Prevention #Training Compliance", and;

2. Directs that the responses be submitted to the Honorable, Stephanie E. Hulsey, Judge of the Superior Court.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 21st day of July 2020 by the following vote:

AYES, COUNCIL MEMBERS: Berkley, Urrutia, O'Connell, Morton, Delgado
NOES, COUNCIL MEMBERS: None
ABSENT, COUNCIL MEMBERS: None
ABSTAIN, COUNCIL MEMBERS: None

_____
Bruce C. Delgado, Mayor

ATTEST:

_____
Anita Sharp, Deputy City Clerk

EXHIBIT A

MONTEREY COUNTY

OFFICE OF THE COUNTY COUNSEL
168 WEST ALISAL STREET, 3RD FLOOR, SALINAS, CALIFORNIA 93901-2439
(831) 755-5045 FAX: (831) 755-5283

IMMEDIATE ATTENTION REQUIRED

June 24, 2020

Via Electronic Mail Only
Bdelgado62@gmail.com
Marina City Council
c/o Mayor Bruce Delgado
211 Hillcrest Avenue
Marina, CA 93933

Re: 2019-2020 Monterey County Civil Grand Jury Final Report – "Sexual Harassment Prevention #TrainingCompliance"

Dear Members of the City Council:

On behalf of the 2019-2020 Monterey County Civil Grand Jury, and pursuant to Penal Code section 933.05(f), I am enclosing for your review the Grand Jury's Final Report entitled "Sexual Harassment Prevention #TrainingCompliance", which has been approved for publication.

This report constitutes a Final Report for purposes of Penal Code section 933. Pursuant to that section, you must submit comments on the report to the Honorable, Stephanie E. Hulsey, Judge of the Superior Court, 240 Church Street, Salinas, CA 93901, within ninety (90) days following its transmittal. The Council is responsible for Findings F19-F23 and Recommendations R10-R13. With respect to each finding, the Council shall indicate one of the following:

1) That the Council agrees with the finding; or
2) That the Council disagrees wholly or partially with the finding, in which case the Council must specify the portion of the finding that is disputed and shall include in the response an explanation of the reasons for the disagreement.

With respect to each recommendation, the Council must report one of the following actions:

1) That the recommendation has been implemented, with a summary regarding the implemented action;
2) That the recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation;
3) That 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 Council (this timeframe not to exceed six months from the date of publication); or

4) The recommendations will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

Pursuant to Penal Code Section 933.05(f) the contents of this report may not be disclosed prior to its public release, which will occur no earlier than 48 hours following delivery.

Thank you for your attention to these matters; the Civil Grand Jury looks forward to your response.

Sincerely,

By: _____
Sandra Ontiveros
Civil Grand Jury Liaison

so
Enclosure
cc: Grand Jury
Hon. Stephanie E. Hulsey, Judge of the Superior Court
Layne Long, City Manager, llong@cityofmarina.org

SEXUAL HARASSMENT PREVENTION
#TrainingCompliance

SUMMARY

It is an unfortunate reality of our times that sexual harassment remains a challenge in our workplaces. California has enacted many measures to prevent harassment, and to mandate that our communities combat this problem both in action and by education. The Civil Grand Jury has chosen to review one part of that education, the responsibility of local governments to train workplace supervisors in sexual harassment prevention in accordance with Assembly Bill 1825 (AB 1825).

Government enacts labor laws to protect workers and to create safe, productive workplace environments for all employees. Therefore, governmental entities should be held to the highest standards under the law and should serve as models of compliance.

This Civil Grand Jury investigation determined that compliance levels vary widely among the different jurisdictions in Monterey County. Three jurisdictions stood apart in their ability to achieve AB 1825 training compliance at 80% or above. These were: King City, Marina, and Soledad. This is more remarkable than it first appears. For example, two other cities had no AB 1825 training records prior to 2017 but are now getting on track. Several other cities had incomplete or inaccurate supervisory rosters, were missing training records to document timely training, had out-of-date policies, or had other substantial deficiencies. Four other local jurisdictions offer a choice of classroom or e-learning training, or even webinar training. This is a sound approach to ensuring wide access to AB 1825 training, but it also complicates their recordkeeping systems, and resulted in gaps in timely training for some supervisory employees. Finally, one city had 75% compliance based on their elected training tracking method but would have had a 100% compliance with the alternate tracking option.

Overall, the jurisdictions investigated by the Civil Grand Jury recognize the requirement and the practical value of doing AB 1825 supervisor training properly, but many did not devote the resources or the priorities to ensuring the training was done in accordance with state mandates.

GLOSSARY

2 CCR §11024 (Title 2, California Code of Regulations, Section 11024): the state administrative regulation, having the force of law, implementing the G.C. §12950.1 law mandating sexual harassment prevention training and education based on sex, gender identity, gender expression, and sexual orientation.

24-Month Tracking Method: requires that a supervisory employee be retrained within 24 months since his or her prior AB 1825 training.

AB 1825 (Assembly Bill 1825): legislation enacted in 2004 that imposed a supervisory employee sexual harassment training requirement on California employers effective January 2005.

AB 2053 (Assembly Bill 2053): a 2014 legislative amendment, effective January 1, 2015, which expanded the AB 1825 training requirement to include prevention of "abusive conduct."

Civil Grand Jury: Monterey County Civil Grand Jury.

CJPIA (California Joint Powers Insurance Authority): a joint powers authority focused on risk management and regulatory compliance.

Classroom Training: in-person, trainer-lead instruction, with instruction conducted in person by a qualified trainer in an organized manner, utilizing lesson plans in a setting removed from the supervisor's daily duties.

CY (Calendar Year) January 1 – December 31

DFEH (Department of Fair Employment and Housing): the state governmental agency responsible for enforcement of the Fair Employment and Housing Act (FEHA) and Title VII of the federal Civil Rights Act of 1964 statutory and case law principles concerning the prohibition against and the prevention of unlawful harassment, discrimination, and retaliation in employment.

EEOC: The federal Equal Employment Opportunity Commission

E-Learning Training: individualized, interactive, computer-based training created by a trainer and an instructional designer. Requires access to a live trainer who can answer questions.

Employer (as defined in AB 1825): private employers with 50 or more employees, the State of California, any political or civil subdivision of the state, and cities.

FEHC (Fair Employment and Housing Council): the implementing agency for California anti-discrimination laws and policies, also (DFEHC).

FY (Fiscal Year): July 1 – June 30: the one-year period used by the State of California for financial reporting and budgeting.

G.C. (California Government Code of Regulations) §12950.1: The AB 1825 law mandating California employers to train employees with the objective of changing workplace behaviors that create or contribute to harassment.

HR (Human Resources): a department of an organization that deals with the hiring, administration, and training of personnel.

JPA (Joint Powers Authority): Joint Powers Authorities are legally created entities that allow two or more public agencies (e.g. local governments, or utility or transport districts), to jointly exercise common powers for the purpose of providing public services more efficiently and in a cost-effective manner.

LEARN/LDS: Monterey County's Learning Development System

LMS (Learning Management Specialist): an employee who serves as a liaison and an AB 1825 training coordinator between the Monterey County Civil Rights office and various departments and divisions within the county.

Jurisdiction (local jurisdiction): a county, city, or incorporated town.

MBASIA (Monterey Bay Area Self Insurance Authority): a joint powers authority focused on risk management and regulatory compliance.

MCCRO (Monterey County Civil Rights Office): the responsible office for AB 1825 training for the county's government employees.

Municipality: a city or town that has corporate status and is a local government entity.

Regulation: a rule or requirement enacted by a governmental agency appointed by a governing federal or state body to implement and enforce compliance of a given law (a statute).

SB 396 (Senate Bill 396): California legislation signed into law in 2017 and effective January 1, 2018, that expanded AB 1825 training requirements to include harassment based on gender identity, gender expression, and sexual orientation.

SB 1343 (Senate Bill 1343): a further amendment to G.C. §12950.1 (effective January 1, 2019) expanding AB 1825 training requirements to private employers with five or

more employees (rather than 50) and requiring harassment abusive conduct training for *all* employees (not just supervisors), as of January 1, 2020. This compliance date was extended one year to January 1, 2021 by SB 778, effective August 30, 2019).

Statute: written law passed by a legislative body (federal or state).

Supervisor and Supervisory Employees: supervisors located in California, as defined under CCR Section 12926. Attending a training does not create an inference that an employee is a supervisor or that a contractor is an employee or a supervisor.

Training Year Tracking Method: requires a supervisory employee be retrained sometime within the year in which 24 months has passed since his or her prior AB 1825 training.

Webinar Training: an internet-based seminar whose content is created and taught by a trainer and transmitted over the internet or an intranet in real time. Acceptable webinars must allow supervisors to ask the trainer questions.

BACKGROUND

Title VII of the Civil Rights Act of 1964 prohibits discrimination in the workplace, and subsequent federal regulations prohibit workplace harassment in more detail. Mandatory harassment prevention training, however, is currently required by only six states—California, Connecticut, Delaware, Illinois, Maine, and New York.[1] (It is important to note that 13+ other states require training of only a specific group.) It is not surprising that workplace sexual harassment remains a problem across the nation.

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[1] Johnson, Michael. "Sexual harassment training essential in all states, not just those with mandatory state training laws." Clear Law Institute. 6 January 2020. https://clearlawinstitute.com/blog/harassment-training-essential-employees-states-not-just-california-supervisors/

California's actions to address the issue of workplace harassment have been many and far reaching. California's statute governing mandatory sexual harassment prevention training originated in 2004 with the enactment of AB 1825. This law first launched a supervisory employee sexual harassment training requirement for California employers starting in 2005. "Employer" was specifically defined in the statute to include private employers with 50 or more employees, the state and all county governments in California, political or civil subdivisions, and all California cities. This law required employers to provide sexual harassment training to all supervisors within six months of assumption of their positions, and every two years thereafter.

The statute was amended in 2014 by AB 2053, that became effective January 1, 2015. This law extended the training requirement to include "abusive conduct." It was further amended in 2017 by Senate Bill 396 (SB 396), effective January 1, 2018, to include harassment based on gender identity, gender expression, and sexual orientation. Both laws were directed to be part of the training and education specified in G.C. §12950.1(a).

SB 1343, effective January 1, 2019, extended the law's reach to employers with as few as five employees (beyond the previously mandated employers with 50 or more employees), and it mandated harassment/abusive conduct training for *all* employees (not just supervisors), starting January 1, 2020. The California legislature extended the compliance date one year, to January 1, 2021, via Senate Bill 778 (SB 778).

The SB 396 amendment (gender identity, etc.) is self-explanatory. The AB 2053 amendment (abusive conduct) requires further explanation. "Abusive conduct," commonly referred to as "bullying," is defined in G.C. §12950.1(h)(2) to be: "verbal or physical workplace conduct by either employer or employee, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests," or the "gratuitous sabotage or undermining of a person's work performance." A single act will suffice if "especially severe and egregious."

California Government Code §12950.1 is the codified statute for the AB 1825 training requirement. A statute involving government enforcement typically delegates that responsibility to an appropriate government agency. For G.C.12950.1, that agency is the California Department of Fair Employment and Housing (DFEH). (See G.C. §12935(a)(1).

Acting on behalf of DFEH, the state Fair Employment and Housing Council (FEHC) has adopted a regulation titled, *Required Training and Education Regarding Harassment Based on Sex, Gender Identity, Gender Expression, and Sexual Orientation.* This regulation is found in Title 2, section 11024 of the California Code of Regulations (2 CCR §11024). The most recent amendments, effective April 1, 2016, do not reflect the 2017 gender/orientation additions.

The regulation explains the essential elements of an anti-harassment policy and how to utilize it if a harassment complaint is filed. It requires employers to provide supervisors with a copy of the employer's policy regardless of whether the policy is used as part of its AB 1825 training. Each supervisor is required to read the employer's policy and to acknowledge receipt of that policy.

This is the complicated framework under which AB 1825 supervisor training must be provided for all supervisory employees within six months of when they assume their duties, and every two years thereafter.

METHODOLOGY

Measuring compliance with the training requirements in G.C.§12950.1 can be as complicated as the code itself. Enforcement metrics are provided in the code, and practical standards for meeting the compliance guidelines for training content and even recordkeeping have evolved concurrent with changes to the code. The Civil Grand Jury used the 2 CCR §11024 regulation as its roadmap to measure compliance in the 13 jurisdictions investigated. As noted above, the regulation provides direction that the Civil

Grand Jury used to assess the essential areas of content subject matter and process (trainer qualifications, method of delivery, recordkeeping, etc.)

Investigatory Framework

The Civil Grand Jury adopted a straightforward investigative model. It chose DFEH regulation 2 CCR §11024 as the benchmark for measuring mandated training compliance, and subsequently collected documentary evidence and witness testimony. Thereafter, the Civil Grand Jury analyzed the material to assess the extent to which it matched the respondent jurisdiction's efforts to comply with the regulation. Next, the Civil Grand Jury conducted in-person interviews with personnel from each government entity investigated, in order to validate compliance, gather more detail, and develop an accurate picture of each jurisdiction's situation. Lastly, the Civil Grand Jury arranged exit interviews with appropriate representatives from the County of Monterey and the 12 cities investigated to confirm its findings.

The first step in the investigation focused on written materials–specifically, recordkeeping requirements mandated by the applicable state laws and imposed on the responsible parties. Subsection (b)(2) of 2 CCR §11024 details the training documentation that an employer must maintain. On October 15, 2019, the Civil Grand Jury issued letters to the above-referenced Monterey County government entities that were selected for this investigation. The Civil Grand Jury requested the following documentation which was quoted directly from 2 CCR §11024:

> Documentation of Training. To track compliance, an employer shall keep documentation of the training it has provided its employees under this section for a minimum of two years, including but not limited to the names of the supervisory employees trained, the date of training, the sign in sheet, a copy of all certificates of attendance or completion issued, the type of training, a copy of all written or recorded materials that comprise the training, and the name of the training provider.

The county and municipalities responded to the request and the Civil Grand Jury evaluated the materials provided.

Some jurisdictions also submitted additional training records through Year End 2019 (YE2019) to validate supervisor retraining within a two-year period. These jurisdictions used the Training Year Tracking method (see Glossary). Our training calculations excluded supervisory employees who separated employment, or who were on a leave of absence before the Training Year or before the 24-month training deadline ended.

DISCUSSION

It has been 29 years since Anita Hill shocked the nation with her testimony at Supreme Court Justice Clarence Thomas' confirmation hearing. Fifteen years later, in 2006, Tarana Burke coined the phrase "Me Too" to help women who had survived sexual violence, and to raise awareness of the pervasiveness of sexual abuse and assault in society. Today, our media still reports on far too many accounts of sexual abuse and assaults, with allegations and even convictions against famous celebrities and public figures alike.

High profile celebrity cases, however, are not the only setting where sexual harassment may occur. Those who work and live in all parts of our society, both in private enterprise and public government can encounter this crime. This is true even for our own local jurisdictions, where threats from sexual harassment and toxic work environments can exist as well. In 2018, for example, local media reported on the toll of sexual harassment within some Monterey Peninsula city governments. Sexual harassment not only harms our citizens, it has a significant monetary cost. Hundreds of thousands of dollars in fines and settlements divert funds from essential government-provided services. Sexual harassment harms victims and harms our communities' trust in society and each other, but it also harms us financially. This report cannot address those issues, but it can review the compliance with training that is essential to prevent those issues from occurring in our community governments.

Training

All employers know that *training* is a key preventive measure to safeguard the workplace, and the organization, against a hostile workplace environment and the liability, ligation, and damages that can result from such an environment.[2] California recently established the Government Operations Agency to oversee and ensure that all government agencies were "at or near full compliance" with supervisors' sexual harassment training. This is the California governor's personal response to multiple media reports that pointed out our state's inability to comply with requirements to *"provide sexual harassment training to all supervisors."* One of these reports[3] for example noted that in 2018, nearly 60% of state agencies surveyed did not provide sexual harassment training to their supervisors. California DFEH Director, Kevin Kish, admitted, "You have an enforcement model where basically people are not incentivized to comply up front."[4]

Based on this background, the Civil Grand Jury decided to investigate compliance with mandated sexual harassment prevention training for supervisors in Monterey County's 13 local jurisdictions. These jurisdictions included the County of Monterey and the 12 incorporated cities within the county's borders. The scope of the investigation focused on training materials and delivery, training management procedures, and administrative compliance.

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2 Feeney, E. "The importance of effective sexual harassment prevention training." ADP Spark blog. 2 April 2020. https://www.adp.com/spark/articles/2020/01/the-importance-of-effective-sexual-harassment-training.aspx#

3 Rodd, S. (2018, May 28)."It's Inexcusable': Dozens of California Government Agencies Failed to Provide Sexual Harassment Training to Nearly 1,800 Supervisors." *Capital Public Radio (KXJZ Sacramento)*. http://www.capradio.org/articles/2019/05/28/its-inexcusable-dozens-of-california-government-agencies-failed-to-ensure-sexual-harassment-training-to-nearly-1800-supervisors/

4 *Associated Press.* "California State Agencies Not Giving Required Harassment Training." *KPIX CBS SFBayArea*, 28 May 2019. https://sanfrancisco.cbslocal.com/2019/05/28/california-state-agencies-not-giving-required-harassment-training/

Although local media noted that Monterey Peninsula cities also had been reviewing and updating their AB 1825-related policies,[5] our investigation found that not all jurisdictions had completed this update, even two years later.

The objective of AB 1825 training requirements for supervisory employees is to eliminate, or at least reduce, incidents of harassment in the workplace. The goal is a safe and productive workspace for all employees. Despite long-standing training legislation, sexual harassment claims continue to be a source of liability. This has caused many cities and counties to band together in risk management consortiums to share resources for regulatory compliance, legal services, insurance, and training.

The risk management consortium with the largest local membership is the Monterey Bay Area Self Insurance Authority (MBASIA), whose members include the cities of Del Rey Oaks, Gonzales, Greenfield, King City, Marina, Sand City, and Soledad. MBASIA is a joint powers authority which is a division of the California Public Entity Agency Risk Management Association. It offers insurance coverage and risk management programs.

This was important for our investigation since many of the jurisdictions we reviewed rely on MBASIA's free online training modules that feature turn-key recordkeeping systems offered through TargetSolutions, and which meet AB 1825 training requirements.

In its examination of sexual harassment training policies, practices, and recordkeeping, the Civil Grand Jury found that the County of Monterey and its incorporated cities are conducting sexual harassment training, but not always in a consistent and timely fashion that complies with governing AB 1825 regulations. Systematic recordkeeping is a key factor in successful management of training compliance.

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5 Mayberry, C. "In wake of recent cases, Peninsula cities examine sexual harassment policies." Monterey Herald. 19 May 2018. https://www.montereyherald.com/2018/05/19/in-wake-of-recent-cases-peninsula-cities-examine-sexual-harassment-policies/

The small staffs of several local cities are challenged by handling multiple roles which include providing support to their city's officials, juggling daily priorities, and also scheduling, arranging, delivering, and tracking mandated trainings. This is in addition to reminding supervisory employees to attend that training. Staff of smaller cities who have adopted a simplified training management system appear to be more effective in this role. On another note, some city staff reported that they feel they are not supported by their superiors when they attempt to enforce training requirements. This is especially true in cities with veteran supervisory employees who do not find value in sexual harassment training.

A July 2019 article[6] noted that many HR professionals view harassment training as more of a protection for employers and find no evidence to confirm that delivering training and written policies alleviates workplace harassment. This research suggests that culture change, driven by the top organization leaders, is key. Mid-managers and HR workers simply do not have the authority to enforce training compliance without active support from upper management and without a credible zero tolerance policy.

Our investigation found that HR workers in some local jurisdictions did lack authorization from their superiors to enforce training requirements, and this created compliance roadblocks when that workforce did not think it needed sexual harassment training. This was illustrated by cases of lack of follow-up for missed training or even having no one person assigned to ensure AB 1825 training compliance. In some cases, just scheduling the training was perceived as compliance.

On the other hand, several cities provide supervisory training to non-supervisory employees as well. The Civil Grand Jury found that this was more common in instances where public safety personnel or part-time recreation staff have part-time supervisory duties outside of their normal classification.

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6 Flanagan, C. "The problem with HR." The Atlantic. July 2019. https://www.theatlantic.com/magazine/archive/2019/07/hr-workplace-harrassment-metoo/590644/

Several cities with turnovers in their HR staff during the three fiscal years surveyed were missing training records. Therefore, their records were not easily accessible and were often incomplete. In most cases these cities have restarted their compliance efforts. The investigation also found some jurisdictions had tracking systems that are hard to maintain and that do not ensure retraining is completed within the mandated timeframes. Finally, some archive their records offsite or in employee files, which makes them difficult to access or use for planning and monitoring training.

Some cities could not provide copies of their training materials because they were no longer accessible from their online training provider. These on-line programs are non-compliant with 2 CCR §11024. One conclusion from this investigation is that, regardless of the training approach or modality, a jurisdiction must capture all its course materials for recordkeeping purposes and for future reference by employees if needed. This is a requirement of 2 CCR §11024.

Some of the Civil Grand Jury's generalized suggestions for achieving full AB 1825 training compliance are:

- Choose the Training Year Tracking Method for planning and tracking training. This gives all employees the same "time-block" deadline to complete training (for example, assigning a January 31 deadline, with a 30-day notice avoids the challenges of managing individual supervisory employee dues dates under the 24-month Training Method, dates that may come due throughout the year).
- Use just one authorized online vendor to ensure the most efficient method of tracking training. It provides the following: electronic recordkeeping for all required training in one place, automatic training reminders, copies of certificates of training completion, a live adviser for questions, access to training course materials required by 2 CCR §11024, and flexibility to train at the employee's convenience.
- Set and actively enforce serious and meaningful consequences for failing to train. This could include reprimands, or work performance penalties.

- Create a training tracking spreadsheet and assign it to one accountable staff person. The Civil Grand Jury found this to be the most effective means for smaller cities to manually track multiple training modes. A single worksheet can include a detailed employee roster with name, job title, date of hire, date of promotion, date of separation, and columns to track type and dates of everyone's training over three to four calendar years.
- Perform annual reviews and update, if required, harassment, discrimination, and retaliation policies. A comprehensive written AB 1825 harassment, discrimination, retaliation prevention policy should be consistent with 2 CCR §11023; the policy should contain a provision covering the employer's obligation under G.C. §12950.1 and 2 CCR §11024.

The following 13 sections are the Civil Grand Jury's summary reports for each local jurisdiction's AB 1825 supervisory employee training program.

City of Carmel-by-the-Sea

Carmel-by-the-Sea initially submitted the following records for review: a supervisory employee roster for FY 2016/17, 2017/18, and 2018/19, and written program materials for the 2018 federal Equal Employment Opportunity Commission (EEOC) classroom training (PowerPoint slide set captioned "Leading for a Respectful Environment"). Absent were a sign-in sheet for that live event, and completion certificates for any of the 2018 trainings (classroom or online). Certificates for three 2018 online trainings were later provided. The city does not use "training year" tracking to monitor training compliance. The other method allowed by DFEH regulation is to use the 24-month training Tracking Method for each employee's training attendance as the outer boundary to re-train ("individual" tracking).[7]

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7 The biannual "training year" method must be premeditated: "An employer may designate a 'training year' in which it trains some or all of its supervisory employees and thereafter must again retrain these supervisors by the end of the next 'training year,' two years later. . ." See: 2 CCR 11024(b)(1)(B).

The city offers both classroom and E-learning training, directing most employees to complete classroom training in even years. The city has expressed an affinity for the classroom modality, where personal interaction is a key element, due to what they see as a stronger likelihood of information retention.

According to the city, online training is made available for supervisory promotions and new hires in order to satisfy AB 1825's requirement that training of these employees take place within six months of promotion or hire. It is also available to supervisory employees whose work schedules extend beyond normal work hours.

Most of the city's training materials were reviewed and appear to adhere to the content areas mandated by 2 CCR §11024, and the qualifications of the trainer appear to be compliant (see 2 CCR §11024(a)(10)). The city provided records of a classroom training session conducted by the EEOC Training Institute on November 15, 2018. However, it was evident that the EEOC program was not developed with specific reference to the sexual harassment/abusive conduct requirements of AB 1825 and the implementing DFEH regulations. Of note, the focal point California Government Code section cited in the material is 12940 (unlawful employment practices, in general). Section 12950.1 (sexual harassment/abusive conduct) is nowhere mentioned. The EEOC training, although four hours in length, did comply with the required time elements for proper AB 1825 training.

The city's online E-learning provider is TargetSolutions. The city supplied no written materials relating to services supplied by this provider, other than a completion certificate for one October 29, 2019 training. However, materials obtained from other jurisdictions using this provider appear to be fully compliant with the applicable administrative regulation, 2 CCR §11024. Additional employee training occurred and was documented but without AB 1825 specified materials.

The 2016 classroom training by a local law firm was provided on January 16-17 of that year. The EEOC classroom training was done on November 15, 2018. There were no AB 1825 trainings offered in-between these two.

If the city were to apply the 24-month Training Tracking Method, its compliance rate for this period would be **0%** for timely training. However, using the Training Year Tracking Method that requires training to be completed within target calendar years, the city's retraining compliance rate would have been 90%. This fact indicates that the city should adopt a written policy to use the training year tracking, even if it continues the actual practice of individual training tracking.

The supervisory employee roster supplied by the city reflects that there were people either hired or promoted to supervisory positions at some point during the 2017/18 fiscal year. The DFEH regulation (and the authorizing statute itself) provide that such supervisory employees must be given AB 1825 training within six months of their hire or promotion date. Because the city could not provide compliance data for these supervisory hires' AB 1825 training the Civil Grand Jury could only conclude that it did not meet the required standard for this training.

This investigation noted that prior to the EEOC event, the last AB 1825 training of any kind had been nearly three years earlier, in early 2016. When interviewed about this issue, the respondents only stated that there had been nobody in charge of employee training.

Apart from the January 2016 training by an outside law firm, the November 2018 EEOC classroom event, and three subsequent individual online trainings, the history of the city's compliance with AB 1825 supervisory training is undocumented. In response to a Civil Grand Jury query about how long the city had provided sexual harassment training for its workforce, the city's response was that this was unknown.

Currently, the city has arranged to do individual tracking of employee training both manually and by electronic means. An HR employee maintains an online calendar that is annotated with supervisory employees who are periodically due for re-training.[8] In addition, for instances when new hires and promotions occur, the TargetSolutions online provider maintains training data for each participant that is accessible online to the city, and allows HR staff to check-in periodically to see who is due for re-training.

When questioned as to why there was no attendance or completion paperwork (rosters or completion certificates) for the November 2018 EEOC training event, the city responded that it was assumed the provider (EEOC) would take care of those details.

The city informed the Civil Grand Jury that a written policy that addresses, wholly, or in part, AB 1825 employee training is stored on the city's shared computer drive, and thereby available to employees. While the Policy reveals a detailed, thorough, and comprehensive treatment of the subject of workplace harassment, it contains nothing whatsoever about employee training.

City of Del Rey Oaks

The Civil Grand Jury determined that, based on interviews and material made available to its investigation, the City of Del Rey Oaks' AB 1825 training was not offered or required until sometime during fiscal year 2017/18. This was surprising since the law required such training take place as early as 2005. The first AB 1825 training date recorded on the personnel roster the city provided to the Civil Grand Jury was March 2, 2018. City records show the city trained 80% of its eligible supervisory employees in 2018 with 60% of the supervisors training in March 2018, 20% training in October 2018, and the remaining 20% not training at all.

Because Del Rey Oaks did not offer AB 1825 training for supervisors until 2018, the Civil Grand Jury is unable to determine two-year training timeliness. In addition,

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8 Ibid.

submitted records for newly hired and promoted supervisors showed no training for new supervisors within six months. One supervisor did receive the training, but it was three months prior to his promotion. The city's compliance with the AB 1825 standard for six-month training is **0%.**

Del Rey Oaks uses E-Learning through Apex Solutions exclusively. This is a certified AB 1825 training provider. The city uses E-learning as opposed to classroom-style training due to its small number of supervisory staff. This was particularly suitable to the city's situation where most supervisors are law enforcement employees who work irregular shifts. Del Rey Oaks will occasionally be offered space in classroom-style trainings provided by other local cities, and one supervisor did take advantage of that offer.

The city's Assistant City Clerk maintains records of training taken and training due by using a computer-based calendar system, and by accessing Apex Solutions online training records for the city's employees. The Civil Grand Jury concluded that this simple system could work well for Del Rey Oaks based on its small staff numbers. With only 15 employees, including six supervisors, AB 1825 training records are easily maintained.

A harassment policy is included as Section 3.05 in the city's out-of-date Personnel Manual, which was last revised over ten years ago. This manual does include a sexual harassment policy but lacks any of the more current forms of harassment stipulated in AB 1825 amendments. The policy also lacks AB 1825 mandates for sexual harassment prevention training of supervisory employees.

Del Rey Oaks went through a significant turn-over of management and elected officials in 2017 and 2018. Since then, the city has contracted with a consulting firm specializing in the administrative needs of local governments. This firm's scope of work focuses on Del Rey Oaks human resource systems. This is a welcome effort by the city to improve its HR system.

City of Gonzales

Gonzales has been providing AB 1825 training since 2005. All employees, not only supervisory employees, participate in this training. The city has expressed an affinity for the classroom training modality believing there is better information retention where personal interaction is a key element of the training. Online methods are employed in the event a supervisory position is filled by new hires or promotions. Gonzales uses the Training Year Tracking Method to schedule and monitor training compliance.

Gonzales is a member of the MBASIA and utilizes MBASIA's sexual harassment training resources. Therefore, cost is not an issue with respect to participation in AB 1825 training activities.

Based on the supervisory employee roster that the city initially provided, 14 listed supervisory employees were eligible for training in 2016. Eleven of those employees participated in the December 6, 2016 classroom training conducted by Concern-EAP, a provider of short-term counseling services for employees and their family members.

Submitted training materials included a PowerPoint presentation and a participant guide both captioned "Preventing Sexual Harassment." Both items make specific reference to both federal and California state law–in the case of the state, AB 1825, the original 2004 training mandate, and AB 2053, the 2015 amendment expanding coverage to include abusive conduct. Significantly, a promotional flyer prepared by Concern-EAP, and bearing its logo, states:

> This course meets the requirements of California AB 1825, Training for Supervisors, AB 2053 Abusive Conduct, SB 396 Gender Issues, & SB 1343 Training for Non-Supervisors.

Notwithstanding the foregoing, the Civil Grand Jury's review of these materials reveals significant deficiencies when matched up against the training content requirements set forth in the applicable DFEH implementing regulation, 2 CCR §11024. Specifically,

neither the PowerPoint nor participant guide materials contain any mention of the following:

- Remedies for victims of harassment
- Strategies to prevent workplace harassment
- Supervisor reporting responsibility
- The limited confidentiality of the complaint process
- Necessary corrective steps (e.g. investigation of complaint)
- How to handle situation where a supervisor is accused
- Essential elements of an anti-harassment policy and how to use it

The Civil Grand Jury finds that although the 2016 Concern-EAP training materials were non-compliant with the relevant state administrative regulation, they were represented to the city as being fully-compliant with the requirements of California law, and the city had no reason to believe otherwise. Therefore, the Civil Grand Jury concludes that the city acted in accordance with the training mandate of G.C. §12950.1.

Three newly promoted supervisory employees completed online training in 2017. The provider was EVERFI, which is a provider of online training for businesses and higher education, including AB 1825. The city could not provide EVERFI training materials, because it did not have access to them. Because of this the Civil Grand Jury could not determine whether EVERFI's online supervisory employee training complied with 2 CCR §11024, and it could not validate that the city met the AB 1825 requirements for newly promoted supervisors for that year.

The City of Gonzales provided no AB 1825 training records for 2018 and provided none for the first half of 2019 (when the final fiscal year of this review ended). The Civil Grand Jury therefore concluded that the 14 supervisory employees who had been trained in 2016 were not retrained as required in 2018. This was affirmed by information later obtained by the Civil Grand Jury, which revealed that training was not done in a timely manner due to staff changes and workload issues. This was a surprising breakdown in managing mandated training. When coupled with the inability to confirm AB 1825

training for the three supervisory employees hired in 2017, the compliance picture for the city was problematic.

After this initial review, Gonzales subsequently provided AB 1825 records for classroom and online training completed during December 2019. The December 11 classroom event was conducted by Concern-EAP. This training was attended by 15 supervisors and 41 non-supervisors. It was structured as a 2-hour event, with the first hour for all employees, and the second hour reserved for managers and supervisors only. The training content for this session was examined. It was found to be meaningfully different from the substandard material by Concern-EAP used in 2016 and appeared to be compliant with 2 CCR §11024 content requirements. Additionally, the three supervisory employees first trained in 2017 were retrained in 2019. However, this training was outside the scope of this Civil Grand Jury's inquiry.

Finally, the Civil Grand Jury noted that Gonzales has no written policy for AB 1825 sexual harassment/abusive conduct training. However, the city attorney is currently updating city policies for consideration in June 2020.

City of Greenfield

Greenfield conducts AB 1825 supervisor training under the direct supervision of the City Manager's Office. The executive assistant to the City Manager tracks compliance and facilitates AB 1825 supervisor new or biannual training for the city's approximately 19 supervisors, and for all new supervisors required to complete the training within six months. The city's sexual harassment prevention policy is provided to all employees upon hire, and the city has posted its sexual harassment prevention policy on the city's public internet.

Greenfield's compliance in AB 1825 supervisor training recordkeeping is currently marginal. During this inspection, the Civil Grand Jury determined that the recent year's records of AB 1825 training were irregular or incomplete. Although many training sessions, both on-line and classroom, had been held in recent years, the historical

records for these training events are incomplete. However, the manual entry process for tracking now has been augmented by the TargetSolutions training management system.

The Greenfield City Manager's Office facilitates AB 1825 supervisor training and tracks compliance. The executive assistant to the City Manager is the focal point for these actions. The number of supervisors who require AB 1825 training in Greenfield varies each year, both because AB 1825 supervisor training is biannual and because the number of city supervisory employees varies. Also, all new supervisors are required to complete AB 1825 training within six months of hire.

The increasingly detailed AB 1825 requirements suggest that even with the improved TargetSolutions records management system, compliant AB 1825 recordkeeping will remain problematic for the city if this task remains as an additional duty for the City Manager's Office.

The city's sexual harassment prevention policy is posted on the city's website. That policy, "Harassment Policy and Complaint Procedure," is incorporated by reference as Attachment B to Rule 17, of Section 7 to the city's Personnel Rules and Regulations (adopted December 1993). This policy is provided to all employees upon hire. The policy has no notations to indicate if, or when, this policy was ever updated. It does not specify or reference AB 1825 or any supervisor-specific training responsibilities.

The city training records provided to the Civil Grand Jury for this investigation did not identify which attendees were supervisors (for AB 1825 purposes). However, interviewees estimated that there was an average of 12 supervisors on the city payroll at any one time. Based on city rosters, position titles, and training records that could be cross referenced by the Civil Grand Jury, the number of supervisors appears to average about 19.

The Civil Grand Jury found that much of the city's sexual harassment prevention training is conducted with supervisors and employees attending together. This was

documented for sexual harassment prevention (AB 1825) and anti-abusive conduct (AB 2053) training sessions in both 2017 and 2019.

As noted above, since at least July of 2019, the city has used TargetSolutions for online delivery of individual AB 1825 training, and to track the training status of supervisory and other employees. The city also conducts in-person classroom AB 1825 training and has used both the City Attorney and outside firms as providers. The training course materials reviewed by the Civil Grand Jury were current or compliant with state requirements at the time of presentation. In accordance with state requirements, the city also maintains some training rosters, and some training certificates. However, the city did not provide any requested training records or material for FY 2017/18, one of the three years (FY 2016/17, FY2017/18, FY2018/19) of AB 1825 sexual harassment prevention training that was investigated. Based on interviews conducted by the Civil Grand Jury, some sexual harassment prevention training was conducted in FY2017/18, but the Civil Grand Jury was not able to verify any training during that period.

Greenfield's compliance in tracking AB 1825 supervisor training is currently marginal. As noted above, since at least July 2019, the city was able to produce some required tracking data for several, but not all, requested fiscal years, and it could not present complete AB 1825 training records for any fiscal year. Based on records made available to the Civil Grand Jury, and even accepting the unverifiable assumption provided by the city that session rosters submitted to the Civil Grand Jury likely represented AB 1825 supervisor training, the city's recorded AB 1825 supervisor training rates appear low.

AB 1825 Training Fiscal Year *	Total Supervisors Trained (AB 1825) %	Total Supervisors for FY
FY 2016/17	10 (53%)	19
FY 2017/18	No records	20
FY 2018/19	7 (37%)	19
* based on materials provided by City of Greenfield		

At least one person interviewed by the Civil Grand Jury noted that many supervisory personnel had completed the FY 2018/19 AB 1825 training, but records had not been

updated at the time of this investigation. One training-due roster was provided with four supervisors' names to show that they were in the process of completing AB 1825 training. The Civil Grand Jury could not verify completion of that training but noted that even with an additional four supervisors added to the "completed" numbers, the overall compliance rate for the City of Greenfield for FY 2018/19 would be **58%**. This percentage could be higher if AB 1825 supervisor training had been conducted in FY 2017/18. Those supervisors trained in the prior year would still be qualified for the next year's training period. However, the city had no records to document any training attesting to this situation.

The Civil Grand Jury also determined that, according to all records provided by the city, a total of nine current supervisory personnel had not taken, nor are there records of them taking, any AB 1825 training during the three fiscal years reviewed in this investigation. That represents 47% of the current supervisory staff.

On a positive note, the Civil Grand Jury recognized that the city is changing its recordkeeping and training tracking system. Since July 2019, the manual entry process of names, dates and periodic spreadsheet updates have been augmented by the TargetSolutions training management records system. This is a positive measure, and together with continued focus by the city's leadership, Greenfield's training compliance levels may reach closer to the state-required 100%.

Yet, due to the increasingly detailed AB 1825 training and recordkeeping requirements, and the high volume of administrative functions that is managed by the City Manager's Office, the Civil Grand Jury fears that even with the limited population of supervisors in the city and with improved TargetSolutions learning management system records processes, compliant AB 1825 recordkeeping will remain problematic if it remains an additional duty located in the City Manager's Office.

King City

King City's sexual harassment prevention training for supervisors and managers is provided exclusively through a *ThinkHR* online AB 1825 training course. This E-learning training—from method, trainer qualifications, training content, access to training records, certificates of completion, and access to live advisers—appears to be fully compliant with the applicable administrative regulation 2 CCR §11024.

During the three fiscal years from July 1, 2016 through June 30, 2019, all but two of King City's supervisory employees completed timely AB 1825 training. Both of those employees had taken a leave of absence. One did not return to work, and the other completed timely training upon return from the leave. After a follow-up records review, the Civil Grand Jury concluded that King City has maintained 100% compliance to AB 1825 for the past three fiscal years.

For the fiscal periods reviewed, King City hired or promoted two supervisory employees and one contract supervisor. All three received AB 1825 training within six months of their date of hire or promotion. These training records demonstrate a **100%** compliance level for training of new and promoted supervisory employees.

King City uses the Training Year Tracking Method to track when training is due. HR calendars individual training due dates and notifies those supervisors whose training is due prior to their two-year anniversary. By choosing to focus on AB 1825 training every other year (odd years), King City has been able to simplify recordkeeping and achieve 100% compliance with training. Supervisory employees who are hired or promoted and receive their initial six-month training in even years, train again the following calendar year (in odd years) to maintain a streamlined biannual tracking system.

Because King City tracks training for 18 supervisory employees and contractors, their training compliance system is handled with a simple Excel spreadsheet and Outlook calendar reminders. Using a single training mode, training records are easily tracked and are well-maintained. HR also implements a routine of personal follow-up to ensure

untrained supervisors train before the year end. Training expectations are supported by the City Manager, who promotes timely training.

King City's Policy No. 10, titled, *Harassment, Discrimination, and Retaliation,* is posted on the city's public website. Subsection 7 of the policy, titled, *Training*, covers the necessary requirements of AB 1825. All employees receive a copy of this policy as a part of their initial orientation with the city and sign an acknowledgement of receipt. The policy is deemed fully compliant with current 2 CCR §11024 regulations.

All elements of King City's AB 1825 supervisory training program comply with the 2 CCR §11024 regulations. King City is to be commended for this excellent record.

City of Marina

Marina takes advantage of its MBASIA membership to access its AB 1825-compliant training programs. The membership provides free online training through TargetSolutions, and a fee-for-service classroom training option with a local law firm.

E-learning with TargetSolutions is the primary method for AB 1825 training in Marina. The city offered live classroom training twice: once in 2013 and again during 2019. HR staff reported employees prefer this training mode, because it is interactive, allowing employees to ask specific questions. However, classroom training is dependent on available budget allocations.

The Civil Grand Jury conducted a review of the PowerPoint presentation and handout for training titled "Preventing Harassment, Discriminations and Retaliation." The course appears to be fully compliant with applicable administrative regulation 2 CCR §11024. It includes qualified trainers, certificates of completion, training sign-in sheets, and training data report capability.

Thirty-five supervisory employees were eligible for supervisory training during FY 2016/17, FY 2017/18, and FY 2018/19. Thirty employees had timely training. One

employee missed 2017 training. One employee, a senior city official, missed both 2017 and 2019 trainings. Two employees had late new hire/promoted training that coincided with training due in 2019. One employee completed non-supervisory training in 2019 but previously had supervisory training in 2017. Marina demonstrated **85.7%** timely supervisory training.

Seven new supervisors were hired or promoted between FY 2016/17, 2017/18, and 2018/19. Five out of seven received timely supervisory training within the prescribed six-month period. The city had a **71.4%** timely training compliance record for the period. One staff member has responsibility for the city's HR function, which includes AB 1825 compliance and program management. The HR staff uses the 24-MonthTracking Method in odd year cycles. Marina staff is effective at assigning training to employees and giving them deadlines of up to one month to encourage timely training. However, a break in online training occurred in 2018 when TargetSolutions went offline to update their materials to include new California regulations. This training inaccessibility may have impacted timely training for two employees who had training due in 2018.

The city's HR maintains AB 1825 training records for its management groups using the online TargetSolutions roster which can be manually updated for classroom training based on completed sign-in sheets. Public safety groups, such as police and fire, primarily use TargetSolutions online training and manage training of their own personnel in a timely fashion. Marina appears to have well-functioning recordkeeping systems on these two fronts.

For new hires, the city provides these employees with a written sexual harassment policy and a brochure from the Department of Fair Employment and Housing, and has the employees sign an acknowledgement of receipt for the policy. It is a stand-alone harassment policy document, titled *Policy Against Sexual Harassment*, which is missing a reference to certain protected classes of employees with respect to gender, gender identity, gender expression, marital status, genetic characteristics, and military/veteran

status. It also lacks a section on training mandated by 2 CCR §11024 regulations. The policy is therefore marginally compliant with AB 1825 and AB 2053.

All employees are given a copy of this stand-alone policy, as part of their initial orientation, as well as a brochure from the California Department of Fair Employment and Housing concerning sexual harassment prevention training. The city is in the process of updating its *Personnel Policy Manual*, which was adopted in 1995 and last updated in 1999.

City of Monterey

Monterey prefers using classroom training to meet AB 1825 requirements. Classroom training in 2019 was provided by a Human Resources employee who was formerly an attorney and certified trainer with a large local law firm that specializes in AB 1825 training. Copies of the training materials, entitled "Workplace Harassment and Bullying Prevention Training," were reviewed. The State Laws section is missing any specific reference to AB 1825 regulation governing 2-year and 6-month training requirements for supervisory employees.

For its 2018 classroom training, Monterey selected a two-hour course facilitated by the federal Equal Employment Opportunity Commission's (EEOC) Training Instituted, entitled "Working in a Respectful Environment." The Monterey workshop materials that were submitted for the EEOC course only covered the two-hour training attended by all employees. Those training materials did cover California Laws and Regulations, including §12950.1 California Training Requirements for AB 1825. However, the duties of a supervisor were not covered. The supervisory employees had extended training of one additional hour. No program materials were submitted for that portion of the training, so the Civil Grand Jury is unable to ascertain the compliance level of the supervisory portion of the EEOC training program.

Furthermore, the focus of the EEOC training workshop was creating and maintaining a "respectful workplace," not sexual harassment and abusive conduct prevention. The

§12950.1 content is only dealt with in the second of six modules for the two-hour session. The Civil Grand Jury concluded a majority of the training concerned other topics, which did not satisfy the two-hour sexual harassment/abusive conduct training requirements for supervisors. Therefore, this training program was deemed deficient for AB 1825 compliance purposes.

E-Learning through TargetSolutions is used for employees unable to attend classroom training due to scheduling issues (usually public safety personnel), for newly promoted supervisors, and for supervisors who were found to need additional training based on decisions made by their departments. The TargetSolutions' AB 1825 E-Learning training program is fully compliant with AB 1825 mandates. It provides certificates of completion and training data for each employee that is accessible online by the employer.

In order to determine if the City's supervisory employees received AB 1825 training within six months of hire or promotion and every two years thereafter, the Civil Grand Jury requested Monterey provide a list of employees in supervisory positions during the period of fiscal years 2016/17, 2017/18, and 2018/19. A handwritten comment on the top of the list provided by the city stated, "List of supervisors 2018/2019." This list was inadequate for the Civil Grand Jury's purposes as it may not have included supervisors who had been hired, promoted, or separated during the two prior fiscal years.

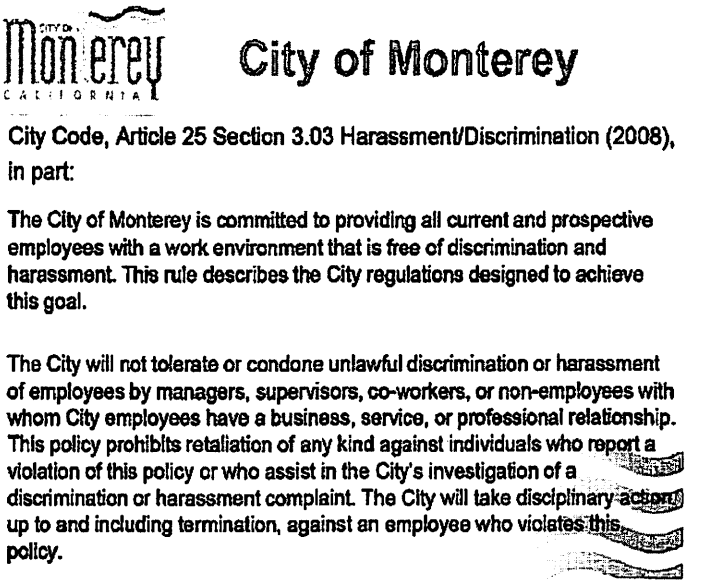
Monterey was subsequently asked to provide a list of supervisors employed during the three fiscal years of 2016 through 2019 that included their hire, promotion, and if applicable, separation dates. The city responded that their database could not provide the requested information because the database's reporting capabilities were limited to currently active supervisors. This led the Civil Grand Jury to conclude that the "Active Supervisors List" that was submitted and dated October 30, 2019 only included supervisory personnel on payroll at that time and not in prior years and it did not include former positions that the employee may have held with the city.

Therefore, the Civil Grand Jury concluded that if a supervisor was initially hired as a non-supervisory employee and later promoted to a supervisory position, Monterey's Human Resources Department could not track the employee's date of promotion or what former position classifications that employee may have held. In addition, Monterey was unable to provide names of employees who received AB 1825 training during FY 2016/17. The city reported to the Civil Grand Jury that they did not have a list of supervisors on payroll for that period.

This failing of Monterey's personnel tracking system results in an inability to determine if current supervisory employees had received their required AB 1825 training within six months of hire or promotion and then every two years thereafter. Because of these deficiencies in Monterey's tracking system, the Civil Grand Jury was unable to determine if the City of Monterey is compliant with AB 1825's training mandates. Because training timeliness cannot be verified, the Civil Grand Jury determined that Monterey's compliance with AB 1825 supervisory employee training requirements was **0%** for supervisory employee retraining and **0%** for new and promoted supervisor training.

Monterey reports it is creating a new system in 2020 that will capture all employee classifications (supervisory or non-supervisory) and whether each employee has completed mandated AB 1825 training.

Monterey's sexual harassment policy, titled *Harassment/Discrimination/ Retaliation/Abusive Conduct/Bullying Policy* is contained in city code 25-3.03. The ordinance was originally adopted in 2008 and amended on March 20, 2018. While the policy accurately reflects the conduct prohibitions in 2 CCR §11023, it does not include the mandated employee training requirements in 2 CCR §11024. Below is a PowerPoint slide illustrating the city's policy and used in Monterey's 2019 classroom trainings.



City of Pacific Grove

The city of Pacific Grove exclusively trained its supervisory employees with classroom sessions during FY 2016/17, FY 2017/18, and FY 2018/19. The city prefers classroom-style training as the best method for fulfilling the interactive requirement of 2 CCR §11024 regulations, and it is more focused to organizational culture rather than to the liability aspects of the regulation.

The city contracts for the training with DeLay & Laredo, Attorneys at Law, whose partner also serves under a separate contract as Pacific Grove's city attorney. The firm is located in Pacific Grove and is a qualified AB 1825 training provider.

The city's AB 1825 classroom training course titled, *Sexual Harassment Prevention – A Guide for Elected Officials & Senior Staff – AB 1825*, is offered throughout each calendar year. AB 1825 supervisory training content appears to be fully compliant with the applicable administrative regulation 2 CCR §11024. It provides training sign-in sheets for each employee. Certificates of completion are not issued.

The classroom schedule included two training dates in 2017, six training dates in 2018, and two training dates in 2019 (one of which was held after FY ending June 30, 2019).

Staff in the city's HR Department changed in 2016. The newer employees were unable to access AB 1825 training records for 2016 and prior years. Therefore, the city's current training records start in 2017. Forty-five supervisory employees were eligible for training during the three fiscal years reviewed. Thirty-four trained timely which equated to **75.5%** timely training. Five employees who were trained in 2018 did not have training that was verifiable as timely because of missing 2016 training records. If 2016 training could be confirmed for these five employees, the timely training rate would increase to 80%.

Fifteen new or promoted supervisory employees, plus one other new hire who had training due by July 20, 2016, were subject to the mandated six-month training for new supervisors. Four had confirmed timely training, and two employees' records confirmed late training. For the other ten employees, timely training could not be determined—because nine of those employees were missing a date of hire or promotion, and one was missing 2016 training records. So, out of 16 eligible new or promoted supervisory employees, timely training was confirmed for four based on the available training records, resulting in a **25%** training compliance level.

Pacific Grove's two most significant training challenges deal with employees who work outside normal business hours, such as public safety officers, and new and promoted supervisory employees who are required to train within six months. HR occasionally

offers online options as needed in special cases. No record of online training was received for the period of the Civil Grand Jury 's review.

Two supervisory employees were trained more often than the two-year statutory requirement. The city also trained 63 non-supervisory employees in the same sessions as supervisors and managers in order to include staff who may have lead duties.

Given its small HR staff, Pacific Grove should consider streamlining the AB 1825 training system to concentrate training in even or odd years to simplify recordkeeping and improve timely training for its supervisory employees. Training records were maintained on an Excel spreadsheet that has tabs for each training calendar year. It included the following: employee name, assignment title, training completion date, training provider, and comments such as new hire, promoted, separated.

The city did revise its training tracking system into a single spreadsheet for the Civil Grand Jury, which allows an easier means of viewing training compliance over several calendar years.

The city's harassment policy is posted on its public website within the *Administrative Policies and Procedures Manual*, which was last updated on February 7, 2017. Found in Sections 100.080–100.110, titled *Harassment, Discrimination, and Retaliation Prevention Policy and Complaint Procedure*, the policy discusses harassment and abusive conduct, protected classes, retaliation, reporting, and complaint procedure consistent with 2 CCR §11023; it does not contain a provision covering the employer's training obligation under G.C. §12950.1 and 2 CCR §11024.

Pacific Grove's *Employee Handbook*, which is also posted on the city's website, is dated August 1, 2016. Review of the handbook showed it is missing all reference to a policy pertaining to sexual harassment or abusive behavior required by 2 CCR §11023. Therefore, it is assumed employees sign a required acknowledgement of receipt of the

handbook in their new-hire orientation, but it is deficient in the acknowledgement of a legally required receipt of the harassment, discrimination, and retaliation policy.

City of Salinas

The city of Salinas AB 1825 supervisor training is coordinated by the Human Resources (HR) Department. New employees are provided with the *Employee Guidelines on Preventing Sexual Harassment* including the (2017) Salinas Administrative Memorandum *Addressing Discrimination and Harassment Prevention*. These documents are also available on the city's intranet and can be accessed at the HR office.

Salinas' approach toward AB 1825 supervisor training compliance monitoring has been evolving in recent years. In 2017 the City's municipal financial and personnel functions support software package, New World ERP, was extended to HR training tracking to automate tracking of training deadlines and create an archive of historical training records.

Based on the materials provided to the Civil Grand Jury during this investigation, the city maintains complete AB 1825 course materials as well as some sign in rosters, some certificates of training, and additional AB 1825 reference materials used to organize or conduct the courses. While selected records of training data were missing, the overall organization of AB 1825 supervisor training program records were clear and well-managed.

Supervisors must take AB 1825 training biannually or within six months of assuming a supervisory position. Supervisor participation for the years reviewed by the Civil Grand Jury fell short of state requirements. In FY 2018/19 for example, only **45%** of the City's supervisory employees were trained or qualified by prior training in AB 1825 sexual harassment prevention. Also, an issue is the city's approach for tracking six-month new supervisor AB 1825 training. Currently, the city manually tracks this requirement. There is no automated method to link a new supervisor's hire or promotion to the AB 1825

supervisor training requirement. The use of the New World ERP system to track AB 1825 training occurrences and due dates is a good improvement to the city's process for that training. TargetSolutions online training, however, still must be manually cross loaded into the New World ERP system.

Overall, the Civil Grand Jury noted that the management and direct execution of the AB 1825 program was professionally managed and focused on delivering city-centric training that was relevant to its supervisors and employees. Our assessment was that improving supervisor compliance and continuing to develop more automated records keeping systems will make Salinas' current good system even better. The city's AB 1825 supervisor training is coordinated by the Human Resources (HR) Department. The HR Director has three employees that can assist with all AB 1825 training-related processes.

According to personnel interviewed by the Civil Grand Jury, prior to 2017 the city generally conducted a biannual sexual harassment prevention classroom training class for supervisors on pace with the AB 1825 (and prior) requirements. In 2017, the city started presenting the AB 1825 course annually and, starting in 2020, has begun presenting quarterly sessions for AB 1825.

Salinas has a strong preference for classroom/in-person AB 1825 supervisor training. The Civil Grand Jury was told that city leadership believes that the hands-on sessions provide more direct contact, greater interaction, and allow the course to be tailored to city-specific conditions and situations. The City Attorney and HR section AB 1825-instruction qualified personnel are the main trainers for this course. The city also has availed itself of law firms and even the National League of City's AB 1825 courses, on an opportunistic basis. Online training is made available by exception. TargetSolutions was mentioned as the current main provider of the city's online AB 1825 training. Online instruction is used primarily for catch-up or if a new supervisor cannot meet the six-month requirement for AB 1825 training after being hired or promoted into position.

The city provided complete course materials to the Civil Grand Jury and stated that these materials are available (per state requirement) if sought by employees. In addition to course materials, the city-maintained sign in rosters, some certificates of training, and additional AB 1825 reference materials that were used to organize or conduct the courses. While selected records of training or completion were missing, the overall organization of AB 1825 supervisor training records and materials was clear, logical, and well-documented.

The well-organized, comprehensive approach that the HR department applies to AB 1825 supervisor training is not reflected in supervisor participation rates. A summary of supervisor participation for the years reviewed by the Civil Grand Jury provided the following results:

AB 1825 Training Fiscal Year *	Nr. of Supervisors Trained or Qualified (%)	FY Supervisor Count
FY 2016/17	66 (47%)	139
FY 2017/18	91 (64%)	137
FY 2018/19	52 (45%)	116
* Data from City of Salinas		

Supervisors must take AB 1825 training every two years, based on the Training Year Tracking Method or within six months of assuming a supervisory position. For FY 2017/18 and FY 2018/19 the above numbers reflect the combined total of actual AB 1825 training, plus supervisors who already taken AB 1825 training within the past 24 months (or within two training years). For example, in FY 2018/19, the number of supervisors who took AB 1825 training, according to records provided to the Civil Grand Jury, was 21 personnel. In addition, 31 supervisors were still qualified by prior AB 1825 training (for two years). This meant that 52, or 44.8%, of the city's supervisors were compliant with the state requirements for timely training during the fiscal year period. It also meant that 64 supervisors were out of phase and not compliant. The Civil Grand Jury determined that of those non-compliant supervisors, 41 or 35% of *all* supervisors for FY2018/19 had not done any AB 1825 training for the past three years. Interviewees did caveat the data provided above by noting that in some cases, rosters of supervisors

provided to the Civil Grand Jury reflected a managers group, or a supervisors group. This meant that in some cases, some individuals on the list may not be supervisors. However, the Civil Grand Jury was not able to parse all lists to exclude non-supervisory personnel included in the requested supervisors' rosters.

Investigation into the reasons for suboptimal compliance revealed several conditions. First, the new tracking system (New World ERP) has been implemented backward from the newest employees/supervisors. This meant that as a new hire is processed or "on-boarded," that employee (if a supervisor) is given a target date for AB 1825 training in the New World system. Other supervisors have been added into the system working back among all employees. Periodic checks of the New World ERP will allow HR personnel to know who is due for the next AB 1825 sessions–if they have been entered into the system. The second reason that the Civil Grand Jury determined that compliance was an issue is supervisor personal responsibility.

This investigation noted several examples of city HR notices for AB 1825 training that had been sent to all listed supervisors. The Civil Grand Jury was even told that "global" notices of upcoming training have been posted on occasion. This suggested that a certain percentage of supervisors simply don't attend.

When questioned on this point, city personnel provided a different perspective. In the past, shift work, special assignments, or duty away from the city's training classrooms were reasons for supervisors to miss the once-each-two years (pre-2017), or the once-a-year (2017-2020) AB 1825 training. Those supervisors who missed should have sought out the online programs that the city makes available. However, waiting for the next class appeared to be a default approach for many supervisors. Starting in 2020, the city started quarterly AB 1825 supervisor training. Interviewees stated that this approach is a method that the city will use to raise its compliance rates to better levels.

The use of the New World ERP system to track AB 1825 training occurrences and due dates is a good improvement to the city's program. However, this system still requires

manual operation by HR staff to determine the population of supervisors due for training prior to any given class. This is a point of potential failure in working to achieve compliance. So, too, this investigation did not show how the TargetSolutions online training is integrated into the New World system. This appears be a manual action required between the two systems. That is another point where accountability and tracking can breakdown.

Finally, in spite of the challenges the city faces in raising supervisor compliance rates, the Civil Grand Jury noted that the management and direct execution of the AB 1825 program was professionally executed and tightly focused on delivering city-centric training that was relevant to its supervisors and employees. Continuing the current course, and taking a macro look at the overall status and results for the city's AB 1825 supervisor training, are the next steps. The Civil Grand Jury determined that this approach has not been routinely incorporated in the otherwise crisp and efficient AB 1825 supervisor training program.

Sand City

Sand City has been providing sexual harassment prevention training for its workforce at least as far back as the inception of the AB 1825 requirements (2005). The city has expressed an affinity for the online modality because it is thought more convenient for employees. The city has used the online provider AJ Novick Group, Inc. for many years. Cost is not an issue with respect to participation in AB 1825 training activities, because Sand City is an MBASIA member with access to a variety of educational functions, including sexual harassment prevention trainings.

The city did not submit requested training materials relevant to AJ Novick Group's training. The AJ Novick website advertises compliance with California anti-harassment law; in particular, AB 1825, AB 2053, SB 396, and SB 1343. The online course is timed at "at least two hours to complete."

As for content, the course curriculum includes information on relevant state and federal law, gender/sexual orientation harassment, remedies available to harassment victims, and practical examples. It is asserted that the training materials are "designed by experts in sexual harassment and corporate training."

The website claims to have an interactive modality because of the presence of "periodic quizzes." The provider states that it retains copies of written and recorded training materials. Thus, the material requested from Sand City likely could have been supplied to the Civil Grand Jury had the city sought it.

Therefore, it appears that the online supervisory employee training provided by Sand City likely substantially conformed to the requirements of 2 CCR §11024.

The city does not use the Training Year Tracking Method to monitor training compliance. The other method allowed by DFEH regulation is the 24-Month Tracking Method which tracks the dates of individual employees training, requiring them to be retrained within 24 months of their most recent training.[9]

The city-prepared compilations contain the names of nine supervisory employees. Two of them appeared as employees for only one of the subject years: One of the supervisors—whose date of hire was November 5, 2005—separated on March 31, 2017. It is unknown when he might have done any prior training, so he is dropped from the assessment because it is outside the scope of this review. The other supervisor—whose date of hire was November 21, 2018, separated on June 30, 2019. He did the training the day after he was hired, November 22, 2018.

Of the remaining seven under the 24-Month Tracking Method, one who trained on August 22, 2017 was due for retraining no later than August 22, 2019. This supervisor re-trained on August 27, 2019, and therefore was not in compliance. Another supervisor

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9 Ibid.

who trained on October 3, 2017 was due for retraining no later than October 3, 2019, but re-trained on September 3, 2019, and therefore is compliant.

Two supervisors who trained on October 28, 2017, and were due for retraining no later than October 28, 2019, were re-trained on September 15, 2019 and November 2, 2019, respectively; therefore, there was one within compliance and one was not. Three other supervisors received timely re-training prior to the end of FY 2018/19.

Accordingly, six of the eight eligible supervisors retrained in a timely manner. The other two were less than a week past due when they retrained. The compliance rate under this method is **75%.** In contrast, the compliance rate under the Training Year Tracking Method would assume eight out of eight eligible employees took retraining in a timely manner, which would result in 100% compliance.

One new supervisor was hired during the three-year period of review and was required to train within six months. As indicated above, the employee's date of hire was November 21, 2018, and the training was completed on November 22, 2018, the day after he was put on the payroll. Therefore, Sand City's training compliance rate for new supervisors is **100%.**

A harassment policy is included in the city's *Personnel Manual* and Sand City noted that its written policy regarding AB 1825 training is in this document. A review of section 2.03 of the *Personnel Manual* reveals a standard workplace anti-harassment policy. The only part of section 2.03 that in any way touches on the topic of employee training is the last sentence of subsection A, *Statement of Intent*, which reads as follows:

> In keeping with our commitment to a harassment-free environment, The City will comply with all applicable rules and regulations regarding the training of employees in supervisory positions.

Sand City has assigned an administrative staff member to maintain training records, which are kept in a binder at City Hall. This staff member also coordinates training reminders. The city is effectively managing AB 1825 training for their supervisory employees.

City of Seaside

The city of Seaside has offered AB 1825 supervisory training to its employees for many years. The city recognizes employees have different learning styles, so their workforce is offered flexible training options from online, classroom, and webinar courses. Flexibility, however, has created a complex recordkeeping challenge for staff.

Seaside facilitates a wide range of training opportunities throughout the year. Their training providers are well-qualified, and materials are comprehensive and compliant. Written policies are fully compliant and distributed in person, on the city's website, at trainings, and available in the resource library. Classroom training with California Joint Powers Insurance Authority (CJPIA) is preferred by most employees, but online training is necessary for employees such as police and fire personnel who have unique schedules and cannot attend a daytime training session.

E-learning is handled with the TargetSolutions AB 1825 supervisory training program, *Smart Workplaces: Sexual Harassment Prevention for Office Managers & Supervisors, California, AB 1825* and appears to be fully compliant with the applicable administrative regulation 2 CCR §11024. TargetSolutions provides certificates of completion and reports of training data for each employee that is accessible online to the employer.

Seaside has access to classroom training through its membership in the CJPIA. The Civil Grand Jury conducted a review of training handouts prepared by CJPIA titled, *Workplace Harassment Training*, and dated April 10, 2018, January 23, 2019, and January 24, 2019. The courses appear to be fully compliant with applicable administrative regulation 2 CCR §11024.

Webinar training was provided by Burke, Williams & Sorenson LLP, a Los Angeles-based law firm serving public agencies and private business entities across California. Their webinar program was titled, *Not Your Average Harassment Training*. Training materials were not provided for review, so AB 1825 compliance cannot be confirmed. The website does establish the two trainers as qualified employment law attorneys. A submitted sign-in sheet and certificates indicate a single training date of October 25, 2017.

Employees are responsible for registering for their AB 1825 training, and they are not limited to how often they train. They can view their training records on the TargetSolutions dashboard. The Fire and Police Departments handle their own staff's training reminders apart from the HR Department. HR staff sets up credentialing reminders within the TargetSolutions system, which is not fail safe. Some employees train more than needed, while others ignore training reminders or delay training past the deadline. Credentialing reminders drop off after a certain time period, which leads to late and uncompleted training.

The submitted supervisory roster combined records for FY 2016/17, FY 2017/18, FY 2018/19 and was well-organized. Training records, such as sign-in sheets and certificates of completion, were a piecemeal submission of separate documents that were matched to the submitted employee roster. Several listed supervisors with gaps in training were short-term, interim supervisors who were excluded from the compliance analysis.

Gathering the training records for nearly 100 employees and alternately training between the three training methods presented a challenge because some training records are archived off-site. Although they are training their employees, Seaside does not have a systematic way to track AB 1825 training from year-to-year. Eighty-seven supervisory employees were eligible for supervisory training during FY 2016/17, FY 2017/18, and FY 2018/19. Fifty-five employees had timely training. Fourteen employees had late training, beyond two calendar years. Six employees completed non-supervisory

training only. Twelve employees had no training records. Seaside demonstrated **63%** timely supervisory training.

Twenty-four new supervisors were hired or promoted between FY 2016/17, 2017/18, and 2018/19. One new supervisory employee who was hired in Quarter two of 2016 had new hire training due in FY 2016/17 and is included in the timely training calculation. Nine of 25 new supervisors received timely supervisory training within the prescribed six-month period. The city had a **36%** timely training compliance record for the period.

Twenty-one supervisory employees trained more often than required. The city does not monitor or limit the number of employee trainings.

Thirty-nine non-supervisory employees completed 48 supervisory training sessions. Seaside has firefighters and recreation employees who may work out of class and have lead employee duties, where they are called to supervise others in a flexible capacity. Erring on the side of caution, Seaside should continue to encourage or require all employees with occasional lead responsibilities to complete supervisory training for AB 1825 purposes as a risk prevention measure.

Seaside has three Human Resources staff who share HR duties. No one person is responsible for maintaining AB 1825 training records. AB 1825 records are not accessible in one place. Recordkeeping and timely training are the major problems Seaside contends with in an otherwise well-functioning AB 1825 training program.

A harassment policy document, entitled *Policy Against Harassment, Discrimination, and Retaliation*, is included on the city website under *Human Resources Policies and Procedures*, which was last updated in 2018. The policy is compliant with AB 1825, AB 2053, AB 1661 (pertaining to elected officials). It requires supervisory employees be trained on preventing sexual harassment and abusive conduct in the workplace every two years. In addition, it requires that all persons appointed or promoted to supervisory

positions be trained within six months of appointment or promotion from a non-supervisory position.

All employees are given a copy of the policy as part of their initial orientation and are to receive a copy in conjunction with any training they attend. Supervisory employees are required to sign an acknowledgement of receipt of the *Policy Against Harassment, Discrimination, and Retaliation* at their time of hire.

City of Soledad

During the three fiscal years from July 1, 2016 through June 30, 2019, the city of Soledad had an average of 19 supervisory employees on payroll. Except for one supervisor who was on leave in 2019, every supervisor in the city received timely AB 1825 training. The Civil Grand Jury concluded that Soledad demonstrated **100%** compliance with AB 1825 training regulations.

The city hired four new or promoted supervisors during the period of review. All four supervisory employees received AB 1825 training within six months of hire, achieving a **100%** rate of compliance.

E-learning is the only method the city uses for AB 1825 training. It is provided online through TargetSolutions. TargetSolutions' supervisory training program appears to be fully compliant with 2 CCR §11024. It provides certificates of completion and training data for each employee that is accessible online to the employer.

The city uses the Training Year Tracking Method to track when training is due. In early January of each year, the city's Human Resources Department notifies those supervisors whose training is due in that year and informs them that they must complete the training by January 30. All newly hired or promoted supervisors receive AB 1825 training within 30 days of hire, a full five months earlier than the law requires.

Because Soledad averages just 19 supervisory employees on their payroll at any one time, their training compliance system is a simple Excel spreadsheet. By choosing only one month out of each year (January) to focus on AB 1825 training, Soledad has been able to achieve **100%** compliance with training new supervisors within the required six months and other supervisors every two calendar years.

A policy titled, *Policy Against Harassment, Discrimination, and Retaliation* is included as Section 4 in the city's *Personnel Rules and Regulations Manual* adopted in September 2016 and available on the city's public website. Subsection 4.04 of the policy, titled *Training and Policy Dissemination,* spells out all requirements of AB 1825.

Soledad is to be commended for this excellent compliance record.

County of Monterey

Monterey County conducts a high volume of AB 1825 supervisor training. This training is managed by the Monterey County Civil Rights Office (MCCRO). MCCRO has a robust AB 1825 training program that is centered on online training delivered by EVERFI corporation and augmented by classroom/in-person training led or monitored by qualified professionals from MCCRO.

An active but labor-intensive outreach program has been developed by MCCRO to support department managers and to coordinate with each department's learning management specialists (LMSs). This network is necessary for MCCRO to help ensure that Monterey County government delivers a model work environment and meets all AB 1825 and other Civil Rights training requirements. However, some AB 1825 training is not documented accurately in records, and the training tracking system, at least for AB 1825, is problematic in that it still reflects the transition among three different online learning systems used during the past four years. This is an area that requires more attention and improvement.

Because of MCCRO's limited access to certain HR data, it is not able to routinely audit compliance with all AB 1825 supervisor training rules. However, MCCRO works actively with department heads and department LMSs to promote compliance with AB 1825 regulations.

While MCCRO is responsible for AB 1825, this is just one portion of the large portfolio managed by this small office. MCCRO promotes a spirit for personnel to "respect civil rights, provide equal opportunity for all, and pursue equity in all operations by developing a culture of diversity and inclusion" in the Monterey County government and for the Monterey County community.

MCCRO prefers delivering AB 1825 training primarily via EVERFI's online training because County government is large and spread out among many facilities. Online training is augmented by MCCRO's classroom/in-person trainings. The Civil Grand Jury investigation determined that MCCRO leadership is well-informed of all changes and requirements for AB 1825 training, and they review and validate all training delivered by its online vendor and by MCCRO staff. MCCRO manages and audits all training requirements in their area of responsibility—including AB 1825, via close and ongoing contacts with the LMSs who are placed in each County department. LMSs are two-way conduits for information and situational awareness for MCCRO issues, including AB 1825.

Starting this year, MCCRO began publishing a monthly e-note or update that is tailored for each department. This periodical provides both relevant information and overviews of that department's compliance with requirements like AB 1825. Concurrent with the MCCRO e-note is a more detailed list for each LMS. The Civil Grand Jury was told that this is a two-way process where the LMSs work closely with MCCRO to ensure each department's compliance. Because of MCCRO's limited access to certain HR personnel data, MCCRO must coordinate with LMSs for data on supervisor training and changes in supervisor status—changes that would require additional AB 1825 training. While AB 1825 requires newly hired or promoted supervisors to receive AB 1825 training within

six months, Monterey County requires new supervisors to complete AB 1825 training within 60 days of hire/promotion.

In recent years, MCCRO has migrated, in part or full, among three different online training networks. Currently, MCCRO uses the County's Learning Development System (LEARN/LDS) but retains EVERFI for its preferred quality of AB 1825 modules. MCCRO interviewees noted that EVERFI provides a bilingual capability for training that allows county supervisory employees to take their AB 1825 training in either English or Spanish. A drawback with the current state of training infrastructure for MCCRO is that all training records are dispersed among several legacy training systems. Although all county training data is still accessible, there is yet no unified application interface (API) to seamlessly retrieve all MCCRO training records. The Civil Grand Jury was told that this is an ongoing project that had not yet been completed at the time of this investigation.

As mentioned in other portions of this report, there are many different requirements for monitoring scheduled training, managing training records and even overseeing the storage of AB 1825 materials. The Civil Grand Jury reviewed how MCCRO completes these functions.

MCCRO provided real-course training materials, past rosters, and data to show how the office managed AB 1825 compliance. The training materials and rosters provided complied with state guidelines, however training certificates were not provided for supervisory employees.

Based on data provided to the Civil Grand Jury by MCCRO, the number of supervisors on payroll each year varied. For the years examined by the Civil Grand Jury, the rosters reflected the following supervisor counts: FY 2016/17 = 940 supervisors, FY 2017/18 = 1,108 supervisors, and FY 2018/19 = 1,018.

The Civil Grand Jury requested information on the *total number of supervisors trained* in AB 1825 during each fiscal year for the three years (FY 2016/17, FY 2017/18, FY 2018/19). The data that MCCRO provided are summarized below:

AB 1825	Total Trained	Main Roster of AB 1825 training	Other AB 1825 Rosters Provided
FY 2016/17	441	425	16
FY 2017/18	429	347	82
FY 2018/19	976	933	43

These records show that a significant amount of AB 1825 supervisor training was presented during this period. These numbers are compared with the corresponding years' supervisor rosters. The data for FY 2018/19 suggests a positive picture.

AB 1825	Total Trained	Roster of Supervisors (FY)	% Supervisors trained
FY 2016/17	441	940	46.9% (441 / 940)
FY 2017/18	429	1108	38.7% (419 / 1108)
FY 2018/19	976	1018	95.8% (976 / 1018)

However, this conclusion is not completely accurate, and it is not completely verifiable. Instead of having 95.8% of supervisory personnel trained in AB 1825 in FY 2018/19, the Civil Grand Jury uncovered an opposite picture: 38.6% (393) of all listed supervisors for FY 2018/19 had not only not received *any* AB 1825 training that year—they had not received any AB 1825 training for the entire three-year period.

The Civil Grand Jury sought to determine how this significant difference could occur. The primary reason suggested by this investigation is a deficiency in training tracking, in this case, supervisor AB 1825 training tracking.

The Civil Grand Jury noted that the names on all AB 1825 training rosters provided by the MCCRO were frequently different from the names on the rosters of supervisors as

provided for the corresponding fiscal years. For example, one AB 1825 training roster for FY 2018/19 listed 933 supervisors trained. The Civil Grand Jury discovered that 41.4% of the names on that list (386 supervisors) were *not* listed on the official supervisor roster provided for that same year. This same gap, with varying proportions, existed for every year's training lists and every year's supervisor rosters.

So, instead of having 976 of 1,018 (95.8%) supervisors trained in AB 1825 in 2018/19, the actual number of supervisors (on the roster) either trained that year, or qualified that year under the AB 1825 biannual training requirement was only 593 or **58%.** This included 510 roster-supervisors who did attend AB 1825 training during that fiscal year, and also included another 83 (roster) supervisors who were qualified because they had already taken training within 24 months, or within the two years allowed (using the Training Year Tracking Method).

When asked during interviews why there were name and training discrepancies in the rosters provided, MCCRO personnel replied that there were several issues. First, MCCRO requests supervisor rosters from the departments. Sometimes rosters may include non-supervisors when departments provide "management group" rosters that include more than actual supervisors. Sometimes departments have personnel who are acting in supervisory positions, and even attend required AB 1825 training, but they are not reflected on actual supervisory rosters. Finally, they added that MCCRO does not have HR control over individual records—so data like "date hired," or "date promoted," which are important for ensuring AB 1825 compliance, require extra steps and additional coordination to obtain.

MCCRO personnel interviewed by the Civil Grand Jury also suggested that this problem is mitigated to an extent because department LMSs "self-track" training. MCCRO actively works with the LMSs, who are part of each department. These LMSs work to ensure that their departments comply with required training regardless of what rosters or lists are on file. This suggests that many, if not all the "non-roster" personnel who

took AB 1825 training—the 446 personnel (976-510) difference in FY 2018/19 example above, may have been supervisors or acting supervisors.

The Civil Grand Jury could not confirm this at the department level, but it did note that the training rosters provided were also inaccurate. The computer-generated training rosters included more than a half-dozen names that were listed backward—an individual whose first name was listed as the last name and last name as a first name. This turns the tracking process for individuals into a manual stop-and-search action. While it is a repeated yet small lack of attention to detail on a training list, this same lack of attention to detail is mirrored at the macro level for AB 1825 training.

For all three years of requested data, there is an unacceptable lack of accuracy for the list of each FY's supervisors. This lack of precision undermines MCCRO's tracking of AB 1825 training compliance. The Civil Grand Jury determined that in part this is an issue of LMS training and supervision, and in part it this is an issue of MCCRO standards for data required for managing state AB 1825 supervisor training. The Civil Grand Jury recommends that MCCRO specialists who manage training compliance be provided more access to the HR Department. The Civil Grand Jury determined that the workload for compliance management is greater than the current staffing for that function can perform professionally.

FINDINGS

Findings – City of Carmel-by-the-Sea

F1. A November 2018 classroom training by the United States Equal Employment Opportunity Commission was not in compliance with AB 1825 and 2 CCR §11024: a) it was not undertaken within 24 months of the last training event for any of the attendees, b) insufficient time was allocated to the required subject matter, and c) written proof of attendance and/or course completion was not generated.

F2. A contributing factor to the city's failure to meet the two-year timeframe for sexual harassment/abusive conduct re-training was the absence of city staff with the responsibility to oversee employee training.

F3. The lack of attendance and completion of paperwork for the November 2018 EEOC classroom training was due in part to the city's assumption that the trainer would be responsible for all such documentation, and in part to the EEOC's practice of not generating certificates.

F4. There were six people who the city either hired or promoted to supervisory positions at some point during the 2017/18 fiscal year, and who should have received AB 1825 training within six months of hire/promotion. The November 15, 2018 EEOC training could have afforded a timely compliance scenario only for those FY 17/18 employees that were hired/promoted during the six-week period between May 16 and June 30, 2018. There were no other AB 1825 trainings of city employees during the period May 16, 2017 to November 15, 2018.

Findings – City of Del Rel Oaks

F5. The city of Del Rey Oaks has not ensured that every employee who is required to take AB 1825 training, completes that training in a manner and at a time as required by law.

F6. The city has not provided their employees with an updated and accurate Personnel Manual that includes all AB 1825 and related training requirements.

Findings – City of Gonzales

F7. Gonzales currently has a viable dual approach toward of AB 1825 training through use of group-oriented classroom presentations and e-learning (i.e. computer-based training). Classroom presentations are preferred but E-learning is used for supervisorial promotions/new hires (e.g. where a classroom training is unavailable).

F8. A December 6, 2016 classroom training by Concern-EAP, although deficient with reference to 2 CCR §11024, was sufficient to render the city of Gonzales compliant with the training mandate imposed by AB 1825.

F9. Online AB 1825 training by EVERFI that was done in 2017 was not in compliance with AB 1825 and 2 CCR §11024: the Civil Grand Jury was provided with insufficient information upon which to make a determination whether or not the online supervisory employee training complied with 2 CCR §11024.

F10. The city failed to meet the timeframe for sexual harassment/abusive conduct re-training of supervisory employees, as directed by California Government Code §12950.1 and more particularly specified in 2 CCR §11024.

F11. The city's failure to meet the timeframe for sexual harassment/abusive conduct re-training established by 2 CCR §11024 was due to staff changes and workload issues.

F12. The city has no written policy about AB 1825 sexual harassment/ abusive conduct training.

Findings – City of Greenfield

F13. Greenfield's Office of the City Manager should be recognized for its clear understanding of state requirements for AB 1825 supervisor training, and its dedicated approach to actively conducting both online and in-person classroom AB 1825 supervisor training in spite of lack of support from some city supervisory employees.

F14. The city's sexual harassment prevention policy (Attachment B to Rule 17, Section 7) is incomplete and out of date. It does not provide adequate information to assist employees or guide supervisors in dealing with sexual harassment situations.

F15. The city's Office of the City Manager's AB 1825 compliance records management is inadequate. The combination of a lack of a viable tracking system and a single staff point of contact has made effective tracking and compliance problematic.

F16. The city's Office of the City Manager's decision to use an automated learning management system, like TargetSolutions, was a positive measure that may facilitate more timely training delivery and better records keeping in the future.

F17. Even with an automated learning management system for AB 1825 training and records compliance, the city's Office of the City Manager will have continued difficulty meeting state standards for AB 1825 training compliance because of

competing work requirements in the City Manager's office and the limited time and resources devoted to this training. The current approach does not recognize the expanded range of compliance measures required by AB 1825.

Findings – King City

F18. King City is to be commended for their excellent record in maintaining **100%** compliance with AB 1825 requirements for the fiscal years 2016/17, 2017/18 and 2018/19.

Findings – City of Marina

F19. Marina has implemented a streamlined, effective training year tracking system for AB 1825 training for supervisory employees in its general management group.

F20. The city did not address an alternate online training source for new and promoted supervisors during 2018, which may have resulted in two late trainings.

F21. A high-ranking official is the only supervisory employee with no record of training for 2017 or 2019 and is assumed to have failed to complete required AB 1825 training.

F22. The city's written, stand-alone harassment policy needs updating, because it is missing certain language governing protected classes required by the California Department of Fair Employment and Housing's 2 CCR §11023 regulations, and it does not contain a reference to AB 1825 supervisor training mandated under 2 CCR §11024 regulations.

F23. Revision of the city's Personnel Policy Manual is extremely overdue.

Findings – City of Monterey

F24. The city of Monterey's personnel tracking system does not include enough data to ascertain whether employees promoted to a supervisory position received AB 1825 training within six months of hire or promotion as a supervisory and then every two years thereafter.

F25. Monterey was unable to provide a complete and accurate roster of all of its supervisory employees along with their AB 1825 training dates resulting in the Civil Grand Jury having insufficient information to determine if the city was indeed training all of its supervisors timely and according to AB 1825 mandates.

F26. Monterey's sexual harassment policy titled, *Harassment/Discrimination/ Retaliation/Abusive Conduct/Bullying Policy,* in city code 25-3.03 accurately reflects the 2 CCR §11023 conduct prohibitions, but it does not include the mandated employee training requirements in 2 CCR §11024.

Findings – City of Pacific Grove

F27. Pacific Grove has a first-rate classroom training program. However, its structured in-person training dates sometimes make it hard to achieve timely training for all employees who have training due.

F28. The city's existing AB 1825 recordkeeping system does not facilitate tracking two-calendar year retraining and six-month supervisory employee training.

F29. The city's electronic onboarding or induction does not ensure timely six-month training for new and promoted supervisors, which has resulted in a low percentage of timely training.

F30. The city's policies no. 100.80 –100.110, *Harassment, Discrimination, and Retaliation Prevention Policy and Complaint Procedure*, found in the

Administrative Policies and Procedures Manual posted on the website, are missing a reference to mandated AB 1825 training requirements contained in 2 CCR §11024 regulations.

F31. The city's Employee Handbook, for which employees sign an acknowledgement of receipt, is missing references to AB 1825 policy and mandated training requirements.

Findings – City of Salinas

F32. The city of Salinas HR Department should be recognized for its clear understanding of state requirements for AB 1825 supervisor training and its active and professional approach to that training for the city.

F33. The city's AB 1825 compliance program is generally compliant with state requirements but is somewhat deficient in identifying and ensuring new supervisor six-month AB 1825 training compliance.

F34. The city currently manages AB 1825 using the New World ERP system and using online vendors like TargetSolutions. This dual systems approach is a point of potential failure in tracking.

F35. The city currently manages AB 1825 using the New World ERP system and HR records to generate notices for supervisors of required training. However, the Civil Grand Jury found there is insufficient senior management accountability or focus on the individual city supervisory employee to complete required training in a timely manner. Absent senior management emphasis, complete compliance or even high rates of compliance with AB 1825 training requirements may be difficult to achieve.

Findings – Sand City

F36. For two employees, Sand City failed to meet the two-year timeframe for sexual harassment/abusive conduct re-training of supervisory employees, as directed by California Government Code §12950.1 and more particularly specified in 2 CCR §11024.

F37. The city has no written policy regarding AB 1825 sexual harassment/abusive conduct training.

Findings – City of Seaside

F38. Seaside is commended for its fully compliant AB 1825 written policy.

F39. The city has a comprehensive AB 1825 training program that allows employees to select their preferred training method.

F40. The city does not fully coordinate course completion between its three AB 1825 training modalities (classroom, online, and webinar) and does not limit employee training, which has resulted in some supervisory employees training more than required and other training late or not at all.

F41. Seaside's onboarding procedures are ineffective at ensuring new and promoted supervisory employees complete AB 1825 training within six months.

F42. The city lacks an efficient recordkeeping system for AB 1825 training compliance, and some training records for supervisory employees are archived off-site and are not readily accessible.

Findings – City of Soledad

F43. Soledad is to be commended for their excellent record in maintaining **100%** compliance with AB 1825 requirements for the fiscal years 2016/17, 2017/18, and 2018/19.

Findings – County of Monterey

F44. Monterey County Civil Rights Office (MCCRO) has a strong, professional understanding of all requirements to comply with AB 1825 training in the Monterey County government, and delivers high quality, compliant AB 1825 training to County supervisory employees in both online and classroom/in-person settings.

F45. MCCRO's AB 1825 compliance records management is inadequate. The office (1) lacks a unified interface for accessing or directly managing all past training, and (2) lacks sufficient access to individual personnel records to actively track ongoing AB 1825 training deadlines for current or new supervisors.

F46. MCCRO's AB 1825 compliance records management process is a complex series of push-pull actions—requiring careful, ongoing interaction between the MCCRO and other County departments. Each department has Learning Management Specialists to help make this process work, but the MCCRO itself does not have sufficient staff to keep up with the coordination and planning work of ensuring AB 1825 training requirements are met for supervisors in all departments.

F47. Monterey County Civil Rights Office leadership and staff displayed a high degree of professionalism and personal commitment to the spirit as well as the letter of the AB 1825 law. All office personnel were forthcoming, honest, and helpful for this investigation.

RECOMMENDATIONS

When the 2019/20 Civil Grand Jury began our investigations, COVID-19 had not yet become a public health crisis. However, as we conclude our reports, we are tasked to specify a time frame within which to address our recommendations. We have done so, attempting to allow some extra time given the current situation. We ask the County Supervisors, Departments, Cities, and Special Districts responsible for enacting our recommendations to do their best to accomplish these goals as expeditiously as possible, given the effect of the current pandemic crisis on staffing availability.

Recommendations – City of Carmel-by-the-Sea

R1. By September 30, 2020, AB 1825 sexual harassment/abusive conduct training undertaken by and/or at the direction of the city of Carmel-by-the-Sea should follow the directives and protocols laid out in 2 CCR §11024, including but not limited to the following areas: frequency, duration, and documentation of training; content of training; method of delivery of training; qualification of the trainer.

R2. By September 30, 2020, Carmel-by-the-Sea should always have a staff member whose responsibility includes oversight of AB 1825 sexual harassment/abusive conduct workforce training.

Recommendations – City of Del Rey Oaks

R3. By December 31, 2020, those Del Rey Oaks supervisory employees who received AB 1825 training in 2018, should have completed the training again, as the law mandates the training must be completed every two calendar years or every 24 months, whichever method is chosen by the employer.

R4. By September 30, 2020, Del Rey Oaks should have published an updated Personnel Manual that references current law on harassment of all types and on

mandated harassment training. Del Rey Oaks should make the revised manual available to all employees.

Recommendations – City of Gonzales

R5. By September 30, 2020, AB 1825 sexual harassment/abusive conduct training undertaken by and/or at the direction of the city of Gonzales should follow the directives and protocols laid out in 2 CCR §11024, including but not limited to the following areas: frequency, duration, and documentation of training; content of training; method of delivery of training; qualification of the trainer.

R6. By September 30, 2020, the city should retain a full and complete written record with respect to all AB 1825 trainings that it provides, sponsors, or otherwise uses, regardless of whether delivered via classroom, e-learning, or webinar format.

R7. By December 31, 2020, the city should prepare a written AB 1825 harassment, discrimination, retaliation prevention policy that is consistent with 2 CCR §11023; the policy should contain a provision covering the employer's training obligation under G.C. §12950.1 and 2 CCR §11024.

Recommendations – City of Greenfield

R8. Greenfield should revise its sexual harassment prevention policy to reflect current state law, city practices, and to make it a useful guide for employee and supervisors alike. This revision should be completed by December 20, 2020.

R9. The city's Office of the City Manager should review and revise current management practices for AB 1825 supervisory training and tracking. This revision should include: (1) development of a city supervisory responsibility system that will create a "demand pull" for AB 1825 supervisor training to complement the current "requirement push" approach that the city has used; (2) integration of all in-person classroom AB 1825 training rosters and training data with the TargetSolutions learning management system to ensure one unified

management, tracking, and reporting system for all AB 1825 training; and (3) off-loading the AB 1825 training and tracking responsibilities from the Office of the City Manager to a new or existing HR section, or augmenting the Office of the City Manager's personnel with part-time or dedicated personnel responsible for tracking and coordinating AB 1825 training and compliance data. This revision should be completed by June 30, 2022.

Recommendations – City of Marina

R10. Marina should employ a back-up online training provider in the event of a future hiatus in the TargetSolutions training program. This recommendation should be implemented no later than 6 months after this report is published.

R11. Department heads should be models to other supervisory employees on the importance of respect in the workplace. Therefore, by September 30, 2020, the one city official who did not train in 2017 and 2019 should complete online AB 1825 training in 2020, 2021, and subsequent odd years.

R12. The city should update its written, stand-alone, "Policy Against Sexual Harassment," and its associated Acknowledgement of Receipt form, within 90 days of the publication of this report.

R13. The city should revise its *Personnel Policy Manual* so that it reflects the mandated training requirements outlined in 2 CCR §11024. This recommendation should be completed no later than 12 months after this report is published.

Recommendations – City of Monterey

R14. Monterey should revise their personnel tracking system to include all city employees regardless of department, each employee's date of hire as a supervisor or date of promotion to a supervisory position, and date of classification change to a non-supervisory position, in order to accurately determine if AB 1825 training mandates are being met. This recommendation should be completed no later than 12 months after this report is published.

R15. The city should review its *Harassment/Discrimination/Retaliation/Abusive Conduct/Bullying Policy* to include the employee training requirements mandated by 2 CCR §11024. This recommendation should be completed no later than 12 months after this report is published.

R16. The city should diligently assess whether the AB 1825 training programs it uses, such as those offered by the federal EEOC, meet the training curriculum mandates outlined in AB 1825 and its amendments. This recommendation should be completed no later than 12 months after this report is published.

Recommendations – City of Pacific Grove

R17. By September 30, 2020, Pacific Grove should continue to improve its recordkeeping efforts and fully update its supervisory employee roster worksheet to better track and address potentially late AB 1825 training before it becomes late.

R18. The city should develop a practice to individually counsel and refer new and promoted supervisors to online training when classroom training is not available within six months of their hire. Those employees also should be encouraged to take the next session of in-person classroom training to reinforce the city's culture of respect. This recommendation should be completed no later than six months after this report is published.

R19. By December 31, 2020, the city should amend their Administrative Policies and Procedures Manual, policies no. 100.80 –100.110, *Harassment, Discrimination, and Retaliation Prevention Policy and Complaint Procedure*, to reference AB 1825 training requirements per 2 CCR §11024 regulations.

R20. The city should publish an updated Employee Handbook that references current law on harassment of all types, on abusive conduct, and on mandated harassment training. Pacific Grove should distribute the revised handbook to all employees and require them to sign a new acknowledgement of receipt. This recommendation should be completed within 18 months of the publication of this report.

Recommendations – City of Salinas

R21. By June 30, 2021, the city of Salinas should automate the six-month new supervisor training signal for AB 1825 training. The city's HR Department should develop an automated HR noticing process that informs all newly hired or appointed supervisors of the six-month AB 1825 supervisor training requirement, and signals HR to (automated or manually) enter that training suspense in the New World ERP system.

R22. By June 30, 2022, the city should continue to advance HR integration and automation of training processes and functions. This should include (1) automated notices or "ticklers" to supervisors on AB 1825 training deadlines, (2) integrating online training records with the New World ERP system, and (3) routinely creating global city reports of compliance that can provide HR and senior city leadership with a comprehensive snapshot of AB 1825 training compliance by city supervisory personnel.

R23. By September 30, 2020 the city's senior management should adopt a stronger emphasis on promoting individual city supervisory employee responsibility to

complete required training, including AB 1825 supervisor training, in a timely manner.

Recommendations – Sand City

R24. By December 31, 2020, Sand City should ensure that AB 1825 sexual harassment/abusive conduct prevention training undertaken by and/or at the direction of the city follows the directives and protocols laid out in 2 CCR §11024, including but not limited to the following areas: frequency, duration, and documentation of training; content of training; method of delivery of training; qualification of the trainer.

R25. Sand City should develop a system to ensure that a full and complete written record of all AB 1825 trainings that it sponsors, regardless of whether delivered via classroom, e-learning, or webinar format, is in place and includes the date of the trainings and the names of attendees. This recommendation should be completed within 18 months of the publication of this report.

R26. By December 31, 2020, Sand City should engage with the City Attorney, other staff, or an outside contractor to prepare a written policy regarding AB 1825 sexual harassment/abusive conduct prevention training for its workforce.

Recommendations – City of Seaside

R27. By September 30, 2020, the city of Seaside's HR Director should assign one HR staff member to oversee AB 1825 training requirements and recordkeeping, so that all employees with training due in 2020 are trained by December 31, 2020.

R28. Seaside should implement an onboarding system that effectively captures new or promoted employees and requires them to complete AB 1825 training within six

months of their hire or promotion. This recommendation should be completed within 90 days of the publication of this report.

R29. Seaside should adopt an effective training tracking system to assemble all AB 1825 recordkeeping in one location, preferably saved to electronic files with cloud access. This recommendation should be completed within 18 months of the publication of this report.

Recommendations – County of Monterey

R30. The Monterey County Civil Rights Office should review and revise the processes used to manage AB 1825 supervisory employee records to include the following: (1) develop a unified interface for accessing and directly managing all past training; (2) develop a method either with Learning Management Specialists, or centralized with an automated and trackable notice or tickler for AB 1825 training due dates; and (3) increase staffing and authority for personnel responsible for tracking and coordinating AB 1825 training and compliance data. This recommendation should be completed within 18 months of the publication of this report.

REQUIRED RESPONSES

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

City of Carmel-by-the-Sea

- The City Council of City of Carmel-by-the-Sea
  - Respond to Findings: F1 – F4
  - Respond to Recommendations: R1 – R2

City of Del Rel Oaks

- The City Council of Del Rel Oaks
  - Respond to Findings: F5, F6
  - Respond to Recommendations: R3 – R4

City of Gonzales

- The City Council of Gonzales
  - Respond to Findings: F7 – F12
  - Respond to Recommendations: R5 – R7

City of Greenfield

- The City Council of City of Greenfield
  - Respond to Findings: F13 – F17
  - Respond to Recommendations: R8 – R9

City of Marina

- The City Council of City of Marina
  - Respond to Findings: F19 – F23
  - Respond to Recommendations: R10 – R13

City of Monterey

- The City Council of City of Monterey
  - Respond to Findings: F24 – F26
  - Respond to Recommendations: R14 – R16

City of Pacific Grove

- The City Council of City of Pacific Grove
  - Respond to Findings: F27 – F31
  - Respond to Recommendations: R17 – R20

City of Salinas

- The City Council of City of Salinas
  - Respond to Findings: F32 – F35
  - Respond to Recommendations: R21 – R23

City of Sand City

- The City Council of Sand City
  - Respond to Findings: F36 – F37
  - Respond to Recommendations: R24 – R26

City of Seaside

- The City Council of City of Seaside
  - Respond to Findings: F38 – F42
  - Respond to Recommendations: R27 – R29

County of Monterey

- The Monterey County Board of Supervisors
  - Respond to Findings: F44 – F47
  - Respond to Recommendations: R30

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

WORKS CITED

2 CCR (California Code of Regulations) §11024. Required Training and Education Regarding Harassment Based on Sex, Gender Identity, Gender Expression, and Sexual Orientation. https://govt.westlaw.com/calregs/Document/I4597AA3786DE4A7B820F9D02C8795550?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)

Associated Press: Sacramento, CA. "California agencies not giving required harassment training." *AP News* (May 28, 2019). https://apnews.com/d6d78ce3af9f445a8cb0daf05e7501d4

Flanagan, Caitlin. "The problem with HR." *The Atlantic* (July 2019). https://www.theatlantic.com/magazine/archive/2019/07/hr-workplace-harrassment-metoo/590644/

Johnson, Michael. "Sexual harassment training essential in all states, not just those with mandatory state training laws." Clear Law Institute (January 6, 2020). https://clearlawinstitute.com/blog/harassment-training-essential-employees-states-**not**-just-california-supervisors/

Mayberry, Carly. "In wake of recent cases, Peninsula cities examine sexual harassment policies." *Monterey Herald* (May 19, 2018; updated September 11, 2018). https://www.montereyherald.com/2018/05/19/in-wake-of-recent-cases-peninsula-cities-examine-sexual-harassment-policies/

Rodd, S. "It's Inexcusable': Dozens of California Government Agencies Failed to Provide Sexual Harassment Training to Nearly 1,800 Supervisors." Capital Public Radio (KXJZ Sacramento). 28 May 2018. http://www.capradio.org/articles/2019/05/28/its-inexcusable-dozens-of-california-government-agencies-failed-to-ensure-sexual-harassment-training-to-nearly-1800-supervisors/

EXHIBIT B

CITY OF MARINA
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Marina, CA 93933
831-884-1278; FAX 831-384-9148
www.cityofmarina.org

July 22, 2020

Honorable Stephanie E. Hulsey
Judge of the Superior Court
County of Monterey
240 Church Street
Salinas, California 93901

Re: 2019-2020 Monterey County Civil Grand Jury Final Report – "Sexual Harassment Prevention #Training Compliance"

Dear Judge Hulsey:

This letter is written in response to the 2019-2020 Monterey County Civil Grand Jury Final Report – "Sexual Harassment Prevention #TrainingCompliance". As per the report dated June 24, 2020, this letter shall serve as the response to that Report pursuant to Penal Code section 933.05. The responses contained in this correspondence were approved by the City of Marina City Council at their regular meeting of July 21, 2020.

The City of Marina recognizes the importance of addressing the issue of workplace harassment and the importance of sexual harassment prevention training as one mechanism to help supervisors recognize and prevent harassment in the workplace. As noted in the Report summary, while the City of Marina stood out as one of three jurisdictions to achieve AB 1825 training compliance at 80% or above, we have areas that we can improve in our compliance and have already instituted some of these changes.

As requested by the Monterey County Civil Grand Jury, the City of Marina respectfully submits the following responses to Findings F19 – F23 and Recommendations R10 – 13.

Findings

Finding 19: Marina has implemented a streamlined, effective training year tracking system for AB 1825 training for supervisory employees in its general management group.

The City Council agrees with the finding. The City has implemented the required training program.

Finding 20: The city did not address an alternate online training source for new and promoted supervisors during 2018, which may have resulted in two late trainings.

The City Council agrees with the finding. In 2018, TargetSolutions went offline to update their materials and this break in online training may have impacted two employees who had scheduled training due in 2018. The city did not have a backup training system in place.

Finding 21: A high-ranking official is the only supervisory employee with no record of training for 2017 or 2019 and is assumed to have failed to complete required AB 1825 training.

The City Council agrees with the finding. When it was discovered that this high-ranking official did not have a record of training for 2017 and 2019, it was immediately addressed, and the training was completed in March 2020.

Finding 22: The city's written, stand-alone harassment policy needs updating, because it is missing certain language governing protected classes required by the California Department of Fair Employment and Housing's 2 CCR §11023 regulations, and it does not contain a reference to AB 1825 supervisor training mandated under 2 CCR §11024 regulations.

The City Council agrees with the finding. The City will update its harassment policy as required by the California Department of Fair Employment and Housing and AB 1825.

Finding 23: Revision of the city's Personnel Policy Manual is extremely overdue.

The City Council agrees with the finding. While the City Personnel Policy Manual has had updates over the years, a major comprehensive update is overdue. The City is in the process of this major update and is also considering moving towards an Administrative Policy Handbook that provides for easier and more timely updating of policies.

Recommendations

Recommendation 10: Marina should employ a back-up online training provider in the event of a future hiatus in the TargetSolutions training program. This recommendation should be implemented no later than 6 months after this report is published.

This recommendation has not yet been implemented but will be implemented before December 1, 2020. The City is currently researching options and proposals for a back-up online training provider and will have this back-up provider selected and in place prior to December 1, 2020.

Recommendation 11: Department heads should be models to other supervisory employees on the importance of respect in the workplace. Therefore, by September 30, 2020, the one city official who did not train in 2017 and 2019 should complete online AB 1825 training in 2020, 2021, and subsequent odd years.

This recommendation has been implemented by the City of Marina. When it was discovered that this high-ranking official did not have a record of the required training, the individual was immediately notified, and the training was completed in March 2020. The training will be scheduled to be completed again in 2021 and in subsequent odd years as required by AB 1825. The Human Resource Division will provide updates to the City Manager of all Department Heads, the Assistant City Manager and the City Manager AB 1825 compliance requirements, and will notify the City Manager prior to when the training needs to be completed, so that measures can be taken to ensure the training is completed timely.

Recommendation 12: The city should update its written, stand-alone, "Policy Against Sexual Harassment," and its associated Acknowledgement of Receipt form, with 90 days of the publication of this report.

This recommendation has not yet been implemented, but the City will have this policy updated by September 1, 2020. The City contracts with Liebert Cassidy Whitmore for employment related services and training. The City will have Liebert Cassidy Whitmore update its stand-alone "Policy Against Sexual Harassment" and its associated Acknowledgement of Receipt form prior to September 1, 2020.

Recommendation 13: The city should revise its Personnel Policy Manual so that it reflects the mandated training requirements outlined in 2 CCR §11024. This recommendation should be completed no later than 12 months after this report is published.

This recommendation has not yet been implemented but will be implemented prior to April 1, 2021. The City contracts with Liebert Cassidy Whitmore for employment related services and training. An initial draft update of the Personnel Policy Manual has already been completed. The City needs to continue working with Liebert Cassidy Whitmore to complete revisions to the Personnel Policy Manual and meet and confer with its bargaining groups and have the revisions approved prior to April 1, 2021. The City is also considering implementing an Administrative Policy Manual that provides for easier and more timely updating of policies.

We hope that this information addresses the Monterey County Civil Grand Jury findings and recommendations. Please contact City Manager Layne Long at (831) 884-1224 or llong@cityofmarina.org if you have any questions or require additional information.

Sincerely,

Bruce Delgado, Mayor
City of Marina

July 21, 2020 Item No. **8f(4)**

Honorable Mayor and Members of the Marina City Council

City Council Meeting
July 21, 2020

CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2020-, APPROVING CITY'S RESPONSE TO THE 2019-2020 MONTEREY COUNTY CIVIL GRAND JURY FINAL REPORT – "SEXUAL HARASSMENT PREVENTION #TRAININGCOMPLIANCE

REQUEST:
It is requested that the City Council consider:

1. Adopting Resolution No. 2020-, approving response to the Monterey County Civil Grand Jury Final Report – "Sexual Harassment Prevention #Training Compliance".

BACKGROUND:
The Grand Jury is an investigatory body created for the protection of society and the enforcement of the law. The U.S. Constitution's Fifth Amendment and the California Constitution call for Grand Juries. Grand juries were established throughout California during the early years of statehood. As constituted today, the Grand Jury is a part of the Judicial Branch of government, an arm of the Court.

One of the functions of the Civil Grand Jury is to investigate and report on the operation of county and local government entities.

The Monterey County Civil Grand Jury has chosen to review the responsibility of local governments to train workplace supervisors in sexual harassment prevention in accordance with Assembly Bill 1825 (AB 1825).

AB 1825 was adopted and was to be enforced by January 1, 2006. An employer having 50 or more employees must provide at least two hours of training and education regarding sexual harassment to all supervisory employees who are employed as of July 1, 2005, and to all new supervisory employees within six months of their assumption of a supervisory position. The training and education required is to include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.

ANALYSIS:
On June 24, 2020, the City received a copy of the 2019-2020 Monterey County Civil Grand Jury Final Report – "Sexual Harassment Prevention #Training Compliance". Pursuant to Penal Code Section 933.05, the City of Marina is required to submit comments on the report to the Honorable, Stephanie E. Hulsey, Judge of the Superior Court within ninety (90) days following its transmittal. The report requires the City of Marina to respond to Findings F19-F23 and Recommendations R10-R13. **("EXHIBIT A")**

The Civil Grand Jury investigation determined, "that compliance levels vary widely among the different jurisdictions in Monterey County. Three jurisdictions stood apart in their ability to achieve AB 1825 training compliance at 80% or above. These were: King City, Marina, and Soledad." Overall, the report concluded the jurisdictions investigated by the Civil Grand Jury recognize the requirement and the practical value of doing AB 1825 supervisor training properly, but many did not devote the resources or the priorities to ensuring the training was done in accordance with state mandates.

While the City of Marina is one of the better compliance cities in Monterey County, there are still areas we can improve. City staff and the City Manager have prepared the draft response from the City of Marina. The City's draft response reaffirms the importance of compliance with AB 1825 training and improvements the City will make in its training and record compliance. **("EXHIBIT B")**

FISCAL IMPACT:
No fiscal impact implementing recommendations.

CONCLUSION:
This request is submitted for City Council consideration and action.

Respectfully submitted,

_____
Catrina Scharf
Human Resource Analyst
City of Marina

REVIEWED/CONCUR:

_____
Layne Long
City Manager
City of Marina