



Kelly A. Martinez
Undersheriff

San Diego County Sheriff's Department

Post Office Box 939062 • San Diego, California 92193-9062



Anthony C. Ray, Sheriff

July 28, 2022

Honorable Michael T. Smyth
Presiding Judge of the Superior Court
San Diego Central Courthouse
1100 Union Street, Tenth Floor
San Diego, CA 92101

Dear Presiding Judge Smyth:

Response to San Diego County Grand Jury Report: "Sexual Assault Kit Testing & Senate Bill 22."

Pursuant to California Penal Code section 933(c), the following is my response to the Grand Jury's Findings and Recommendations 22-42 through 22-43.

SAN DIEGO COUNTY SHERIFF'S DEPARTMENT

I reviewed the Grand Jury's recent report outlining their findings and recommendations related to sexual assault kit (SAK) testing, timely DNA analysis of SART kits and Senate Bill 22 (SB 22). I appreciate the thoughtful review and assessment made by Foreperson Jim Mendelson and members of the Grand Jury. This report indicated the members of the Grand Jury attended an in-person presentation with the San Diego County District Attorney's (DA) Office, studied DA press releases and webpages, studied a California Attorney General's report on untested sexual assault kits from 2020, toured both the San Diego County Sheriff's Regional Crime Lab and the San Diego Police Department's Crime Lab, and interviewed current and former personnel from both crime labs to obtain information and data.

The Grand Jury identified two findings as a result of their reviews, tours, and interviews. Please refer below for the Sheriff's Department's comments to these findings.

Grand Jury Finding 01:

As a result of funding shortfalls, crime labs are understaffed and under-equipped to meet SB 22 requirements.

Response:

The San Diego County Sheriff's Department agrees with this finding.

However, as it relates specifically to the San Diego County Sheriff's Department, the Department has met all SB22 requirements. Unfortunately, due to this mandate, turnaround times of other case types are impacted as resources are prioritized to ensure all SAKs are tested within 120 days from receipt by the Crime Lab.

SB22, while instituting a 120-day requirement, did not come with additional funding to help accomplish this mandate. Additionally, the Crime Lab lost 3 full-time Criminalist positions originally allocated in DNA due to revenue decreases from Proposition 69 funding. This resulted in a staffing loss in other laboratory sections to maintain DNA operations to meet the SB22 requirement. The Crime Lab has also seen a 44% increase in SAK submissions from 2018, when official state tracking started.

Grand Jury Finding 02:

Availability of resources is often a limiting factor in the processing of Sexual Assault Kits (SAKs). Any concerted effort to process SAKs in a timely manner must include adequate staffing and financial resources.

Response:

The San Diego County Sheriff's Department agrees with this finding.

The Crime Lab took several steps to implement the mandates under SB 22 in January of 2020 to ensure legislative compliance and the least impact on criminal justice stakeholders.

Recently, the Crime Lab has purchased automated analysis platforms to improve case workflows, increase analytical capacity, and reduce staff in-laboratory time. The Crime Lab expects to have these improvements in place by mid-to-late 2023, all were funded on federal grant funds. It is important to note that this systematic upgrade is ongoing, and all process improvements implemented by the Crime Lab have yet to be fully realized.

RECOMMENDATION 22-19:

The 2021/2022 San Diego County Grand Jury recommends the San Diego Sheriff's Department:

The Chief Administrative Officer for the County of San Diego lobby the California State Assembly for reintroduction of AB 18, or similar legislation, mandating reimbursement for the increased costs incurred by county police crime labs for the forensic testing requirement of SB 22.

Response:

This recommendation will not be implemented because it is not warranted. The San Diego County Sheriff is an elected official position in the County of San Diego. As a result, the Sheriff can address the California State Assembly either directly or through the California State Sheriff's Association should the need arise to lobby the legislature.

If the grand jury is recommending that the County of San Diego make the request of the legislature directly, this recommendation should be directed to the San Diego County Board of Supervisors.

The Crime Lab has made every effort to ensure all backlogged kits at its stakeholder agencies have been collected and tested, ensuring compliance despite the failure of AB18 in the legislature. Additionally, SB 22 contained similar unfunded mandate language to AB 18 which obligates state funding of an unfunded mandate. As a result, the Crime Lab worked directly with the City of San Diego's Police Department to submit an unfunded mandate claim for cost recovery. The City of San Diego took the lead, and the test claim is on step 11 of 11, pending an expected resolution in September 2022.

RECOMMENDATION 22-20:

The 2021 '2022 San Diego County Grand Jury recommends that the San Diego Sheriff's Department:

The San Diego County Board of Supervisors increase budgetary appropriations to address the future needs in staff, training, and equipment for the San Diego County Sheriff's Crime Lab to comply with the mandates of SB 22.

Response:

This recommendation will not be implemented because it is not warranted.

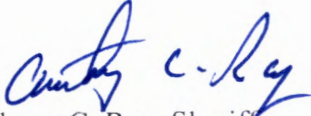
While additional funding for the Crime Lab may be necessary to accommodate the impacts of SB22, the Sheriff's Department has a process to evaluate the impact on the Department using our budget analysis process.

The Crime Lab's budget is funded to maintain personnel positions and as-is operations. The Crime Lab is one of many budget priorities that are constantly being reviewed through the lens of the Department's yearly budgetary process. The Crime Lab also receives additional funding from court revenue and grants.

The Department intends to examine funding allocations for the Crime Lab as it begins to set its budget priorities for fiscal year 2023-2024.

In closing, I would like to thank the Grand Jury for their efforts in working with the Sheriff's Department through this investigation.

Sincerely,

A handwritten signature in blue ink that reads "Anthony C. Ray". The signature is fluid and cursive, with the first name being the most prominent.

Anthony C. Ray, Sheriff

ACR:jh

cc: Members, Board of Supervisors
Helen Robbins-Meyer, CAO
David Hall, Director, Clerk of the Board
Jim Mendelson, Foreman, San Diego County Grand Jury