



OFFICE OF
SHERIFF-CORONER

COUNTY OF SAN JOAQUIN

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July 24, 2019

Patrick Withrow
Sheriff-Coroner
Public Administrator

*The Honorable Linda L. Lofthus, Presiding Judge
San Joaquin County Superior Court
180 East Weber Avenue, Suite 1306J
Stockton, California 95202*

**RE: RESPONSE TO 2018-2019 GRAND JURY FINDINGS AND
RECOMMENDATIONS- "COLD CASES IN SAN JOAQUIN COUNTY:
ON THE BACK BURNER"**

Dear Judge Lofthus:

*The following are the Sheriff's Office responses to recommendations made by the
2018-2019 Grand Jury in regard to "Cold Cases in San Joaquin County: On the
Back Burner":*

GRAND JURY FINDINGS & SHERIFF'S OFFICE RESPONSES

FINDING F1.0: There is inconsistency and confusion regarding what defines a "cold case" amongst the law enforcement agencies in San Joaquin County.

Response to Finding F1.0: The respondent (San Joaquin County Sheriff's Office) agrees with the finding. There is no industry-wide definition of what defines a "Cold Case"; therefore, each individual agency uses its own criteria. With the formation of a countywide Cold Case Task Force, a countywide definition can be adopted to define what a "Cold Case" is.

FINDING F2.0: There are more than 500 cold case homicides in San Joaquin County, including 12 homicide victims whose remains have never been positively identified. The exact number of cold case homicides is unknown due to the lack of a consistent written definition for "Cold Case" and the lack of a digitized tracking system.

Response to Finding F2.0: The respondent (San Joaquin County Sheriff's Office) agrees with the finding. There is no industry-wide definition of what defines a "Cold Case"; therefore, each individual agency uses its own criteria which makes identifying the exact number of "Cold Cases" in the San Joaquin County hard to determine. There is no digitalized countywide tracking system;

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however, the San Joaquin County Sheriff's Office is working toward a new database to scan, log, and track cases.

FINDING F2.1: The lack of accurate numbers in counting and tracking cold cases in San Joaquin County is a contributing factor to the overall lack of priority for staffing, funding, and investigating "Cold Cases".

Response to Finding F2.1: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The San Joaquin County Sheriff's Office has recognized the need for increasing its "Cold Case" Unit and has repeatedly asked for an increase of personnel in the Unit from the 2013-2014 Fiscal Year Budget through the 2019-2020 Fiscal Year Budget. In this year's budget, 2019-2020, the Sheriff's Office obtained approval for two Cold Case Detectives.*

FINDING F3.0: The total number of cold case homicides in San Joaquin County is increasing each year due primarily to the decreased clearance rate for solving homicides.

Response to Finding F3.0: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The number of homicides has decreased for the last several years; however, every unsolved homicide adds to the overall number of cold cases. There were 72 homicides between 2010 and 2014, for an average of 14.4 homicides per year. Between 2015 and 2018 there were 29 homicides, for an average of 7.25 homicides per year.*

In 2015 there were five homicides with three being solved. In 2016 there were nine homicides with four being solved. In 2017 there were six homicides with four being solved. In 2018 there were nine homicides with six being solved. The average rate of cases solved for this four-year period is 59.4%.

FINDING F3.1: Cold case homicide investigations in San Joaquin County rarely result in case closure, arrest, or prosecution. This is a contributing factor to the increasing number of cold case homicides in San Joaquin County.

Response to Finding F3.1: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The San Joaquin County Sheriff's Office has recognized the need for increasing its "Cold Case" Unit and has repeatedly asked for an increase of personnel in the Unit from the 2013-2014 Fiscal Year Budget through the 2019-2020 Fiscal Year Budget. The understaffing in this unit has made it difficult to effectively investigate and close cold cases.*

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FINDING F3.2: Due to the current inconsistencies in both defining and counting cold cases involving missing persons with suspicious circumstances, and sexual assaults, there is insufficient information to clearly determine the extent to which the number of those unsolved cases may be increasing.

Response to Finding F3.2: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The San Joaquin County Sheriff's Office has not historically tracked unsolved sexual assault cases or suspicious-circumstance missing persons cases; however, the Sheriff's Office is developing a new program to effectively track these types of cases.*

FINDING F4.0: There is insufficient staffing for cold case investigations in San Joaquin County, primarily within the San Joaquin County Sheriff's Department, the Stockton Police Department, and the San Joaquin County District Attorney's Office.

Response to Finding F4.0: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The San Joaquin County Sheriff's Office has recognized the need for increasing its "Cold Case" Unit and has repeatedly asked for an increase of personnel in the unit from the 2013-2014 Fiscal Year Budget through the 2019-2020 Fiscal Year Budget.*

FINDING F4.1: There are a significant number of cold case homicides with the Stockton Police Department and the San Joaquin County Sheriff's Department that have not been reviewed in many years due to insufficient staffing and lack of prioritization.

Response to Finding F4.1: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The San Joaquin County Sheriff's Office has recognized the need for increasing its "Cold Case" unit and has repeatedly asked for an increase of personnel in the unit from the 2013-2014 Fiscal Year Budget through the 2019-2020 Fiscal Year Budget.*

FINDING F4.2: Law enforcement agencies in San Joaquin County continue to be challenged in hiring and retaining enough qualified officers to fill budgeted positions. This has been a contributing factor to insufficient staffing of cold case investigations.

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Response to Finding F4.2: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The San Joaquin County Sheriff's Office continues to strive to fill allocations within the office in order for us to be able to fill special assignment positions.*

FINDING F4.3: Providing experienced staffing for cold case investigations may require transferring staff from other assignments, hiring additional qualified retirees, or seeking qualified volunteers.

Response to Finding F4.3: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. Working cold cases requires experienced investigators, which will require the San Joaquin County Sheriff's Office to transfer experienced investigators into the Unit. It may also require the Sheriff's Office to seek out experienced retirees to work in the Unit on a per-diem basis.*

FINDING F5.0: There is insufficient funding for cold case investigations in San Joaquin County, primarily for the San Joaquin County Sheriff's Department, the Stockton Police Department, and the San Joaquin County District Attorney's Office. The lack of insufficient funding is due primarily to financial limitations and lack of priority.

Response to Finding F5.0: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The San Joaquin County Sheriff's Office has secured two "Cold Case" detective position allocations in the 2019-2020 budget, to include training for the new positions.*

FINDING F6.0: There is a need for additional training specific to cold case investigations for the law enforcement agencies in San Joaquin County.

Response to Finding F6.0: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The San Joaquin County Sheriff's Office has recognized the need for training and budgeted for the training in the 2019-2020 budget while requesting and receiving two new cold case deputy position allocations.*

FINDING F6.1: The lack of organized computer databases for cold cases is impeding the effective evaluation and investigation of cold cases in San Joaquin County.

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Response to Finding F6.1: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The Sheriff's Office will use a database to upload unsolved homicides, sexual assault (forcible rape and attempted rape) and missing persons cases. The San Joaquin County Sheriff's Office has already made arrangements to begin scanning old cold cases into a program called Lasetfiche, so that these cases will be available for review without having to go to warehoused archives and retrieve cases.*

FINDING F6.2: The methods for prioritization of cold case investigations in San Joaquin County are often ineffective, with insufficient emphasis placed on available physical evidence.

Response to Finding F6.2: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. Cases will be given a solvability rating after reviewing them, which will help determine prioritization. This solvability rating scale will have to be evaluated and adjusted as cases are reviewed, based on the evidence that exists.*

FINDING F6.3: The exact number of cold case homicides in San Joaquin County that have testable DNA evidence is unknown due to the lack of effective tracking and evaluation methods.

Response to Finding F6.3: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. Cases will be given a solvability rating after reviewing them, which will help determine prioritization. This solvability rating scale will have to be evaluated and adjusted as cases are reviewed, based on the evidence that exists, including DNA evidence.*

FINDING F6.4: There are limitations on the amount of physical evidence that the State of California Department of Justice crime laboratories will process for cold case investigations due to staffing and prioritization.

Response to Finding F6.4: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The San Joaquin County Sheriff's Department has a good working relationship with the Department of Justice but recognizes that staffing levels can result in a delay in evidence being processed. The Sheriff's Office has been researching the potential purchase of its own Rapid DNA equipment.*

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FINDING F6.5: Cold case homicides involving street gangs often present greater challenges due to the lack of testable DNA evidence and the lack of available or willing witnesses.

Response to Finding F6.5: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The San Joaquin County Sheriff's Office recognizes that homicides involving street gangs can create hesitant witnesses; however, investigators strive to achieve trust and an environment that is conducive to getting witnesses to come forward, provide a statement, and testify in court.*

FINDING F7.0: The elevation of cold case investigations as a priority is vital to the future success in investigating and solving cold cases in San Joaquin County.

Response to Finding F7.0: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The San Joaquin County Sheriff's Office currently has a dedicated sergeant and has secured two deputy allocations in the 2019-2020 budget to form a "Cold Case Unit" that will evaluate, prioritize, and investigate cold cases.*

FINDING F7.1: The utilization of innovative technology and emerging techniques is an essential element to the future success of investigating and solving cold cases in San Joaquin County.

Response to Finding F7.1: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The San Joaquin County Sheriff's Office is exploring innovative technology such as Rapid DNA and emerging techniques such as genotyping.*

FINDING F7.2: The level of collaboration between law enforcement agencies and the District Attorney's Office is a critical component to success in solving and prosecuting cold cases.

Response to Finding F7.2: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The Sheriff's Office is dedicated to forming community partnerships and working with our fellow law-enforcement agencies within San Joaquin County. The Sheriff's Office is willing to participate as a member agency of the Cold Case Task Force and is willing to sign a mutually agreed-upon Memorandum of Understanding by March 21, 2020.*

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FINDING F7.3: There is minimal contact between the District Attorney's Office and cold case investigative staff in San Joaquin County due to lack of staffing and priority.

Response to Finding F7.3: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The Sheriff's Office is dedicated to forming community partnerships and working with our fellow law-enforcement agencies within San Joaquin County. The Sheriff's Office is willing to participate as a member agency of the Cold Case Task Force and is willing to sign a mutually agreed-upon Memorandum of Understanding by March 21, 2020.*

FINDING F7.4: There is universal support amongst law enforcement agencies in San Joaquin County for the District Attorney's Office to form a Cold Case Task Force to support cold case investigation and prosecution.

Response to Finding F7.4: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The Sheriff's Office is dedicated to forming community partnerships and working with our fellow law-enforcement agencies within San Joaquin County. The Sheriff's Office is willing to participate as a member agency of the Cold Case Task Force and is willing to sign a mutually agreed-upon Memorandum of Understanding by March 21, 2020.*

FINDING F8.0: There is no consistent procedure or practice for law enforcement agencies in San Joaquin County to maintain periodic contact with the family members of cold case victims.

Response to Finding FB.0: *The respondent (San Joaquin County Sheriff's Office) agrees with the finding. The San Joaquin County Sheriff's Office will research and create a next-of-kin database that will be used to contact family members and provide them with case updates on an annual basis. This will be done by anniversary month of when the case occurred. Contact will be documented in the case notes file within the database.*

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GRAND JURY RECOMMENDATIONS & SHERIFF'S OFFICE RESPONSES

The San Joaquin County Sheriff's was directed by the Grand Jury to respond to Recommendations R1, R2, R3, R8, and R10. Responses to those recommendations are as follows:

RECOMMENDATION R1: Each law enforcement agency in San Joaquin County develop a plan to define, prioritize, and digitally track cold Case investigations no later than December 31, 2019. Prioritization will emphasize available physical evidence and utilize emerging DNA testing techniques.

Response to Recommendation R1: *The San Joaquin County Sheriff's Office currently tracks homicide cases through case lists. These lists are in sequential order based on the date of occurrence. Each case is identified as either solved or unsolved. Furthermore, the Persons Unit of the Investigations Division has binders that list the cases and give a short background synopsis and whether the case is solved or unsolved*

The San Joaquin County Sheriff's Office tracks cases of missing persons through the assistance of DOJ, using our OR/ number. The Sheriff's Office does not currently track sexual assault (forcible rape and attempted rape) cold cases.

The Sheriff's Office will use a database to upload unsolved homicides, sexual assault (forcible rape and attempted rape) and missing persons cases. The San Joaquin County Sheriff's Office has already made arrangements to begin scanning old cold cases into a program called Laserfiche, so that these cases will be available for review without having to go to warehoused archives and retrieve cases.

Cases will also be given a solvability rating after reviewing them, which will help determine prioritization. This solvability rating scale will have to be evaluated and adjusted as cases are reviewed, based on the evidence that exists.

The Sheriff's Office continues to research and utilize emerging DNA techniques.

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RECOMMENDATION R2: Each law enforcement agency in San Joaquin County expand their definition of "cold case" to include missing persons with suspicious circumstances and sexual assault (forcible rape and attempted rape) in addition to homicide no later than December 31, 2019.

Response to Recommendation R2: Any cases that are 5 years or older, to include homicides, missing persons with suspicious circumstances and sexual assault (forcible rape and attempted rape), where investigative leads have been exhausted will be deemed a cold case.

RECOMMENDATION R3: The San Joaquin County Sheriff utilize budget options and staffing reassignments as necessary to provide the equivalent of at least three full-time Sheriff's Detectives dedicated solely to cold case investigations no later than December 31, 2019.

Response to Recommendation R3: The San Joaquin County Sheriff's Office secured two full-time "Cold Case" detective allocations in the 2019-2020 Fiscal Year Budget, in addition to the sergeant position that already exists. These two full-time detectives serve a dual purpose by working cold cases and special-circumstance cases. The Sheriff's Office will utilize per-diem deputies to provide the equivalent of three full-time detectives. The Sheriff's Office will also utilize civilian personnel to assist in data entry and case research.

RECOMMENDATION R8: Each law enforcement agency in San Joaquin County sign a Partnership and Cooperation Agreement with the newly formed Cold Case Task Force no later than March 31, 2020.

Response to Recommendation RB: The Sheriff's Office is dedicated to forming community partnerships and working with our fellow law enforcement agencies within San Joaquin County. The Sheriff's Office is willing to participate as a member agency of the Cold Case Task Force and is willing to sign a mutually agreed-upon Memorandum of Understanding by March 21, 2020.

RECOMMENDATION R10: Each law enforcement agency in San Joaquin County develop a procedure and practice for maintaining periodic contact with family members of cold case victims no later than March 31, 2020.

Response to Recommendation R10: The San Joaquin County Sheriff's Office will research and create a next-of-kin database that will be used to contact family members and provide them with case updates on an annual basis. This will be

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done by anniversary month of when the case occurred. Contact will be documented in the case notes file within the database.

Sincerely,



*PATRICK WITHROW
Sheriff-Coroner*

PWIML:vmm

*c: Chuck Winn, Chairman, Board of Supervisors
Rachel DeBord, Clerk of the Board
Monica Nino, County Administrator*