

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



Drivers Line Up at Cal Expo for COVID-19 Vaccination

SUMMARY

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

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

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

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

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

BACKGROUND

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

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

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

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

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

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

METHODOLOGY

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

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

Interviews

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

DISCUSSION

Sacramento County's COVID-19 Starting Point

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

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

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

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

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

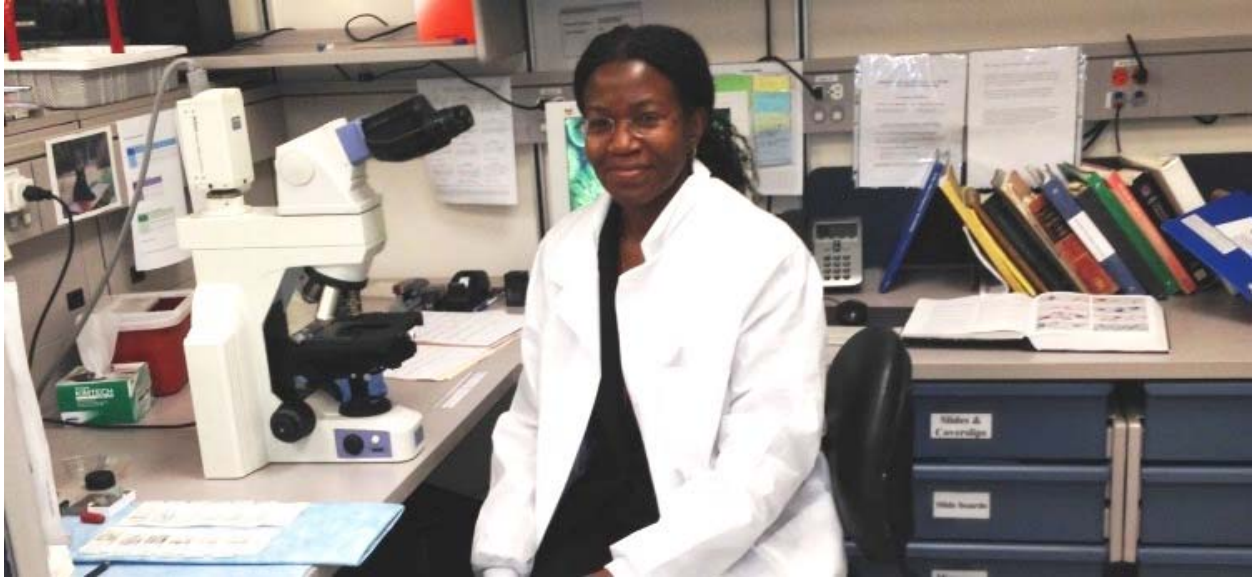
Another significant hurdle for OPH was the requirement that several of its COVID-19 emergency budget requests were inexplicably forced to navigate the County's cumbersome annual budget allocation protocol which was incapable of expediting such requests.

OPH Public Health Emergency Preparedness

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

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

OPH COVID-19 Response



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

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

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

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

Lack of Enforcement Support by Board of Supervisors and Sheriff

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

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

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

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

FINDINGS

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

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

RECOMMENDATIONS

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

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

REQUIRED RESPONSES

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

From the following elected county officials within 60 days:

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

Mail or deliver a hard copy response to:

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

Please email a copy of this response to:

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

INVITED RESPONSES

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

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

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