

RESPONSES
TO THE
2010-2011 GRAND JURY
FINAL REPORT



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RESPONSES
TO THE
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2010-2011 GRAND JURY
FINAL REPORT

SECTION I:

SAN BERNARDINO COUNTY RESPONSES

SECTION II:

COUNTY, CITY, COMMUNITY, TOWN AND
AIRPORT RESPONSES

SECTION 1

**County of San Bernardino
Board of Supervisors Response
to the 2010-2011 San Bernardino County
Grand Jury Final Report**



**Adopted by the
San Bernardino County Board of Supervisors
September 27, 2011**

(NOTE: The text of the 2010-2011 Grand Jury Report is presented in *italic type*. The Board of Supervisors response is presented in **boldface type**.)

BOARD OF SUPERVISORS
Salaries and Benefits

FINDINGS

Through our investigation we learned that the board members have very generous benefit packages. This may be due to the comparison between salaries and benefits in the County as a whole. The Chief Executive Officer (CEO) explained that salaries in the County are comparatively low, while benefits are generous. For example, the CEO shared an example of a management position where the salary for our county was around \$148,000 and for the same position in Riverside County it was \$183,000. When you add the benefit package their compensation was almost the same at \$216,000. The County is trying to change this so the salary is higher and the benefits are lower. The Human Resources Director pointed out that the benefits normally should be about half the salary. The BOS benefits are by far much higher than anyone else in the county. One supervisor's benefits exceeded the base salary.

The Grand Jury contacted other counties and requested the salary and benefits for their Board of Supervisors. The following counties were used for comparison: Riverside, Ventura and San Diego. All of these counties base the supervisors pay on a Superior Court Judge's pay. It varied from 80% to 100%. San Bernardino County however based their salary on the average of four counties: Riverside, Orange, San Diego and Los Angeles.

- 1. The benefit package should not be more than the salary for the BOS.*
- 2. Health Insurance Coverage varies for the three supervisors who participate in the program. The three amounts are \$6,569.00, \$19,810.00 and \$30,720.00.*
- 3. The retirement plans paid for all of the BOS are excessive when compared to retirement plans of other counties. One supervisor's retirement benefits exceed \$85,000. Members of the Board of Supervisors are enrolled in more retirement plans than the compared counties.*
- 4. The BOS benefit packages range from the highest (First District) \$158,403.00 to the lowest (Third District) \$99,304.00.*
- 5. When compared to other counties, the car allowance is excessive. All three counties used to make comparisons, San Diego, Ventura and Riverside, showed that car allowances were the same for all supervisors.*

It should be pointed out that in June 2009 the San Bernardino County Board of Supervisors unanimously voted to reduce retirement and health care benefits for Board members and other elected County officials. Also, in 2010 each Board member declined a 1.18% salary increases afforded to them by a voter-approved amendment to the County Charter. Each Board member has also voluntarily waived a 7% retirement pickup to match the reduction imposed on exempt employees and agreed upon by some represented employee groups.

Board member benefits are tied to those of County executives, and the Chief Executive Officer has noted these benefits have become higher than the norm over the years because executive salaries have not remained competitive (Board salaries are set by a voter-approved amendment to the County Charter). The CEO has stated his intention to address this imbalance over time, which will also address the Grand Jury's concerns about Board member benefits.

RECOMMENDATIONS

11-01 The Board of Supervisors car allowance follows the Federal guidelines (presently \$.51 per mile).

The County will address the car allowance following its examination and probable adjustment of executive salaries and benefits. The County has not established a timetable for the implementation of this recommendation.

11-02 The Chief Executive Officer continue his efforts to adjust the salary and benefit ratio to be competitive.

The County is implementing this recommendation. The County has not established a timetable for the implementation of this recommendation. However, because it is an initiative of the CEO begun prior to and independent of the Grand Jury's inquiry, the public can be assured that this effort is a priority. The CEO's effort itself will result in no expenditure of County funds.

RISK MANAGEMENT

FINDINGS

Dashboard is a computer-based liability tracking program, available to all county departments. The program permits the monitoring, identifying and controlling of risk exposures of county departments, such as Worker's Compensation, civil lawsuits and preventable injuries. An example of this is the Arrowhead Achievement Program. In this program county departments are recognized and

incentivized for their efforts in identifying risks through an audit process. Methods, goals and definitions vary according to whether the risk management, for example, is in the context of security, actuarial assessments, public health and safety.

It should be noted that in an ideal risk management department, a prioritization process is followed. The risks with the greatest loss and the greatest probability of occurring are handled first and risks with lower loss are handled in descending order. Risk management also identifies areas of risk that have a high probability of occurrence, but these are often ignored due to these risks not being identified or acknowledged. This can occur when insufficient knowledge is applied to a situation, or when bad decisions are made, the result of which causes a new knowledge of risk to materialize.

The Board of Supervisors agrees with these findings.

COMMENDATION

The Grand Jury commends and recognizes the hard work of the Risk Management Department in the continued development, training and use of the "Dashboard" program.

The Board of Supervisors thanks the Grand Jury and joins it in commending the efforts of the Risk Management Department.

ASSESSOR'S OFFICE

FINDINGS

1. From an internet search, our committee discovered that the California Board of Equalization (BOE) had completed an extensive Assessment Practices Survey of the San Bernardino County Assessor's Office. This document is the current report of their BOE audit. The perspective of the BOE was very helpful in assisting the Grand Jury understand mechanics of the Assessor's function. Instructions on the cover page of the Survey state that the responses to the BOE from the Assessor's Office should be sent to the Grand Jury. The report was not provided to the Grand Jury and we found it during our own independent investigation.

2. The Grand Jury made an appointment with the Assessor to discuss the nine areas the BOE had pointed out for improvement. We also inquired of the Chief Executive Officer (CEO) as to which office in the county kept a log of the state audits. We were informed that no one is assigned that task because the state audits are random and timing cannot be anticipated.

The Board of Supervisors agrees with these findings.

RECOMMENDATIONS

11-05 As a courtesy, the BOS provide the Grand Jury copies of all financial audits completed by state agencies including copies of all replies.

The County will implement this recommendation immediately. The implementation of this recommendation will result in no expenditure of County funds.

COUNTY INTERNAL AUDITS

FINDINGS

3. The standards for conducting government internal audits are set by the US Government Accounting Office (GAO) and the Institute of Internal Auditors (IIA). GAO and IIA state that the combination of auditing and controllership responsibilities impair the independence of the audit function and as such disqualify any resulting audit report as not meeting the independence and objectivity standards in fact or appearance. In San Bernardino County, the chief financial officer is the Auditor-Controller. Thus the combination of these two functions does not meet this standard of independence and objectivity. IAS staff agrees that this is a de facto conflict.

Statements from more than one member of the auditing staff, reporting on Treasurer's Investments as of September 30, 2009 and December 31, 2009, stated that "On February 25, 2010 the Board of Supervisors consolidated the elected offices of the Treasurer-Tax Collector and the Auditor-Controller/Recorder. As a result, the auditor, auditee, and subject matter of this report are within the same department".

These reports with this wording were distributed to both the Board of Supervisors and the Grand Jury with apparently no alarm expressed of the conflict the BOS created by allowing the consolidation after the prior Treasurer-Tax Collector vacated his elected office and an elected position was eliminated by assigning the tasks of Treasurer/Tax Collector to the elected position of Auditor-Controller/Recorder. The Grand Jury however, finds this situation problematic.

The Board of Supervisors disagrees with this finding. California Government Code Section 26880 states, "The office of county controller shall be held ex officio by the county auditor". Additionally, the Auditor-Controller is not the County's Chief Financial Officer. The Chief Financial Officer is a position within the County Administrative Office. California Government Code Section 26881 states, "the auditor-controller shall be the chief accounting officer of the county." Finally, the County disagrees that a conflict was created when the Board of Supervisors created the office of Auditor-Controller/Treasurer/Tax Collector. The combination of these

offices is allowed under California Government Code Section 24300.5: "... the board of supervisors may by ordinance consolidate the offices of auditor, controller, treasurer, tax collector, and director of finance." The California Attorney General's Office and County Counsel have both issued opinions holding that this combination of offices does not constitute a conflict. And 10 other California counties successfully created identical offices prior to the County of San Bernardino's consolidation. It is the County's understanding that the statement quoted by the Grand Jury was not a statement of "alarm" but rather a statement made in the interest of full disclosure, and that the results of subsequent independent audits were consistent with the results of the County's audit.

5. Our research of the organization of internal audit departments in other California counties shows that in Ventura and Riverside Counties the internal auditor reports to the Auditor-Controller as we do in San Bernardino County. Twenty-four of the fifty-eight California Counties have combined Assessor-Recorder's, and at least 10 Counties including Sacramento, Fresno and Santa Clara have combined Auditor- Controller/Treasurer/Tax Collector, functions. It is notable that the Grand Jury found no county where as many important positions are held concurrently by one person as is the case with the San Bernardino County Auditor-Controller/Treasurer/Tax Collector/ and County Clerk. The combining of tasks occurred on the February 25, 2010 consolidation when the offices of Auditor-Controller/Recorder and Treasurer/Tax Collector were made into a single office.

While the combination of offices is allowable under Government Code §24300, the Grand Jury finds, in practice, in San Bernardino County the Controller's Office, not the Auditor's Office, does the risk assessment that determines which departments are to be audited. This chain of authority may not have been anticipated when the consolidation was deemed to be beneficial to the County. San Bernardino County is not out of the norm in combining the Controller/Auditor function. However, we are not the first Grand Jury to point out the inherent problems in this and to recommend a separation of the Auditor's function from the Controller's function. Orange County (OC) has organized an Internal Audit Department that reports directly to the Board of Supervisors and is connected to the Controller's function. Currently the OC Director of Internal Audit is a CPA and Certified Auditor with numerous professional awards.

The recommendation to have the OC top internal auditor removed from the controller's function came from the 2007-2008 Orange County Grand Jury. That Grand Jury stated that they wanted to ensure the independence of the internal audit function from the direct influence of management. They understood the difficulty of auditing the boss.

To accomplish this goal, the OC Grand Jury asked the Board of Supervisors to exercise their authority in California Government Code §25250 (governing

financial powers), and §26881, and §26883 (governing clerks and county controllers) for authority to determine who shall conduct biennials audits of County Officers and who shall perform internal audits. Their research concluded that they could reassign internal audit responsibilities to a separate Internal Audit Department that would conduct financial, compliance, and performance audits of all county departments.

The San Bernardino County Grand Jury finds that the OC method of separation of the Controller's function from the Auditor's function has merit. In OC, the BOS chose to have the head of the Internal Audit Department report directly to them.

The Board of Supervisors partially disagrees with this finding. The positions of Auditor-Controller/Treasurer/Tax Collector and County Clerk are not held concurrently by one person. As part of the plan adopted by the Board of Supervisors in January 2010, the position of County Clerk was transferred to the Assessor-Recorder on January 3, 2011, six months before the 2010-11 Grand Jury issued its Final Report. It should also be pointed out for the purpose of clarity that the County of Orange also has an elected combined Auditor-Controller.

6. Staff in the Internal Audits Section (IAS) was reduced. Three years ago, the IAS had twenty positions, with most of them filled. The current lack of funding impacts all aspects of county government in this era of post 2008 financial-meltdown; and hard decisions need to be made. When budget cuts are required, priorities must be set.

The Board of Supervisors agrees with this finding.

7. The IAS is currently operating with eleven full-time positions. The organizational chart specifically identifies a Chief Deputy Auditor with a secretary, a Management Services Manager, two Systems Accountant Level III, four Systems Accountant Level II, one Accountant Level III, and one Accountant Level II. The positions for another Accountant Level II and a Public Service Employee are vacant due to recent promotions.

The IIA's International Standards for the Professional Practice of Internal Auditing require that the chief audit executive (in San Bernardino this would be the Chief Deputy Auditor) report to a level within the organization that allows the internal audit activity to fulfill its responsibilities. To achieve necessary independence, best practices suggest the chief audit executive should report directly to the Audit Committee or its equivalent. For day to day administrative purposes, the chief audit executive should report to the senior executive of the organization.

The Board of Supervisors disagrees with the portion of this finding that pertains to the County. The County does not believe it would be appropriate for the chief audit executive to report to the senior executive of

the organization. The voter-approved County Charter, Article V, Section 6, assigns the duty for financial audits of accounts of County offices and departments to the elected Auditor-Controller/Treasurer/Tax Collector.

9. According to the Auditor-Controller/Recorder/Treasurer/Tax Collector, and County Clerk, in the letter to the Board of Supervisors accompanying the CAFR we learned it is "the responsibility for both the accuracy of the presented data and the completeness and fairness of the presentation, including all disclosure, rests with the County." Also in the CAFR, we know the role of the outside CPA firm does not include examining the effectiveness of internal control and it does not provide assurances on internal control. This demonstrates that the responsibility for the value of the data rests upon the client. In this case the County of San Bernardino.

This conclusion is confirmed in the second page of the letter to the Board of Supervisors in the section under Internal Controls. "The County's internal accounting control system exists to provide reasonable, but not absolute, assurance that assets are safeguarded against loss or unauthorized disposition and to provide reliable records for preparing financial statements and maintaining accountability for assets."

According to the Audit Committee charter: Members of the Audit Committee are:

- 1. Chair and Standing Member: Auditor/Controller- Tax Collector (ACT)*
- 2. One member of the Board of Supervisors, or other representative appointed by the Chair of the Board of Supervisors. This representative shall serve for a two year period coterminous with the term of the Chair of the Board and appointed by the new Chair on the taking of office.*
- 3. The Chief Financial Officer (CFO), or representative appointed by the CFO, will also be a Standing Member.*
- 4. Two public members; the terms of which shall be for a period of three years, staggered by one year. Both public members must be certified public accountants (CPAs) and have an understanding of generally accepted governmental accounting principles and financial statements and knowledge of the standards issued by the Institute of Internal Auditors (IIA).*
 - a. One of which is selected by the Chair of the Board of Supervisors*
 - b. The other is selected by the Auditor-Controller/Treasurer*

10. In San Bernardino County, the role of the Audit Committee is multifaceted. The Audit Committee receives and examines the Single Audit opinion by the outside independent auditing firm including the management letter. Members also review the audit activities of the Auditor-Controller's office and review the accounting process that develops the Comprehensive Annual Financial Report (CAFR). In that role the Audit Committee would be opining about internal controls and the function of internal audits. The Audit Committee also reviews the Fraud Waste and Abuse hotline. Using an Audit Committee that meets at least on a quarterly basis was the recommendation of the outside auditors. This will

accomplish good internal control structure and good communication between financial functions within the county.

The concept is favorably received by the Grand Jury. In fact, the implementation of an enhanced Audit Committee could well be considered the acceptable outcome from the 2008-2009 Grand Jury recommendation which called for better oversight of internal audits.

The spread of expertise on the Audit Committee includes two department heads or their appointees. One of the department heads (the ACT) is elected. There is another elected official, or his/her appointee, and two financial professionals well versed in accounting. No one sitting on the Audit Committee presently fills the role of a citizens' watchdog.

The Board of Supervisors agrees with the elements of findings 9 and 10 that pertain to the County.

RECOMMENDATIONS

11-06 The Board of Supervisors (BOS) increase the authority and scope of the Audit Committee by empowering it to see that the procedures for accounting for funds in federally funded grants is implemented according to the concurrence, agreements, and promises of the Controller's Office.

The Board of Supervisors does not believe it would be appropriate to implement this recommendation. The Audit Committee is an advisory committee to the Board of Supervisors and the Auditor-Controller/Treasurer/Tax Collector, and it is inappropriate for advisory committees to have the degree of authority recommended by the Grand Jury. The role of advisory committees is to gather information and observe, and then use their collective expertise to provide knowledgeable advice to policy makers. The responsibility the Grand Jury suggests should be assigned to the Audit Committee rests with the Chief Executive Officer.

11-07 The Board of Supervisors authorize the Audit Committee to look into the internal controls procedures of all County departments, and other entities for which the BOS sits as the governing body such as the Redevelopment Agency, to determine if upgraded internal controls would benefit these accounting centers. Consideration should be given to implementing uniform standards in all agencies and departments irrespective of whether they are subject to mandated or non-mandated audits.

The Board of Supervisors does not believe it would be appropriate to implement this recommendation. The Audit Committee is an advisory committee to the Board of Supervisors and the Auditor-Controller/Treasurer/Tax Collector, and it is inappropriate for advisory

committees to have the degree of authority recommended by the Grand Jury. The role of advisory committees is to gather information and observe, and then use their collective expertise to provide knowledgeable advice to policy makers. The responsibility the Grand Jury suggests should be assigned to the Audit Committee rests with the Chief Executive Officer.

11-08 That the BOS authorize the Audit Committee to monitor the property tax allocation schedules of the Property Tax Division in the Treasurer-Tax Collectors Office as this relates to property tax increment payments to or from cities, special districts or redevelopment agencies; and that this monitoring of payments to/from cities or agencies is done each year irrespective of when the State of California conducts its audits.

The Board of Supervisors does not believe it is necessary to implement this recommendation. The Grand Jury's findings do not appear to warrant such a large and potentially costly undertaking.

11-09 The Board of Supervisors consult with appropriate State Agencies to determine if the combination of the functions of Treasurer-Tax Collector and the Auditor-Controller is compatible with standards of good governance and fiduciary responsibility. A ruling from the State Attorney General be requested to determine if the County violated voter rights when it eliminated the elected office of Treasurer-Tax Collector when it became vacant and subsequently combined the duties of that office with another elected office which appears to create a conflict of interest.

The Board of Supervisors does not believe it is necessary to implement this recommendation. State law specifically allows the consolidation of these functions, and the California Attorney General's Office as well as County Counsel determined this consolidation is compatible with standards of good governance and fiduciary responsibility. Additionally, seeking a ruling from the State Attorney General to determine if the County violated voter rights when it consolidated these functions would be wasteful because the Attorney General would have to defer to the voter-approved County Charter, which states in Article II, Section 2: "The Board of Supervisors may, by ordinance, consolidate any two or more County offices." The voters still elect the official who carries out the duties of Treasurer/Tax Collector. Those duties are now carried out by an elected official who also has other duties.

11-11 The San Bernardino County Board of Supervisors enhance and improve the quality, efficiency, and performance of the internal audit function by using their authority to hire a Chief Audit Executive as a Civil Service employee.

The independence of the internal audit function will enhance the accountability of the Chief Audit Executive in performing his/her internal financial, compliance, and

performance audits. This Chief Audit Executive is to report directly to the San Bernardino County Chief Executive Officer (CEO) for administrative matters and to seek guidance on the scope and performance of the audit function from the Audit Committee. This chain of responsibility is different from the OC model but as we point out elsewhere in this report, in San Bernardino County there already is in place an Audit Committee that reports to the Board of Supervisors.

Portions of this recommendation have been implemented. On July 12, 2011, the Board of Supervisors moved the Chief Deputy Auditor from the unclassified "at-will" service to the classified service. And the Chief Audit Executive has been seeking guidance on the scope and performance of the audit function from the Audit Committee since its foundation in 2004. The County does not believe it would be appropriate to implement the recommendation to have the Chief Audit Executive report directly to the Chief Executive Officer because the County Charter, Article V, Section 6, assigns the duty for financial audits of accounts of County offices and departments to the elected Auditor-Controller/Treasurer/Tax Collector.

11-13 The Chief Deputy Auditor report to the County CEO for administrative issues.

The Board of Supervisors does not believe it would be appropriate to implement this recommendation because the County Charter, Article V, Section 6, assigns the duty for financial audits of accounts of County offices and departments to the elected Auditor-Controller/Treasurer/Tax Collector.

11-15 The County Board of Supervisors extend an invitation to each year's sitting Grand Jury to attend the quarterly meetings of the Audit Committee.

The County will implement this recommendation. There will be no expense to the County.

THE COMMUNITY OF BAKER
Community Service District

FINDINGS

1. There is a single list of regulations that cover urban and rural areas imposed by county departments.

The Board of Supervisors disagrees with this finding. The County Development Code has regulations that are specific to the valley, mountain, and desert regions.

2. The County was working on a "Customer First" approach in the past with potential customers in all areas of contact with counties residences. A sometimes rude and uncaring attitude by the county employees of regulations are interpreted with great unsureity.

The Board of Supervisors agrees with this finding. With a workforce of nearly 18,000, it is possible that public encounters with staff may sometimes be less than satisfactory. However, the County remains committed to its "Service First" delivery model and continually seeks opportunities to improve service to the public. Recent examples in the land development arena include a "one stop" counter that provides convenient access to Planning, Public Works, Environmental Health and Building & Safety staff at the San Bernardino County Government Center in San Bernardino; the opening of the High Desert Government Center in Hesperia where staff from Planning, Building & Safety, Code Enforcement, Public Works and County Fire are accessible under one roof; and planned implementation in 2011-12 of an electronic plan review and approval process which will reduce costs for project applicants and improve turn-around times for project review.

3. Most of the communication problems are with Land Use Services, Planning, and Local Agency Formation Commission (LAFCO). This is not only a county problem, but the Baker community has not responded to many of the County's departments that could supply needed information.

The Board of Supervisors agrees with this finding and believes that there is almost always room for improvement in communication between the County and other agencies.

4. The Baker Community Service District has implemented its own improvements without County approval, mainly in the road paving area.

The Board of Supervisors has no basis upon which to agree or disagree with this finding because it has not been made aware of road improvements implemented outside of Development Code requirements and/or County Maintained Road System.

5. The opinion shared by the majority of members of the Baker Community Service District Board is that they are happy with the way things are presently.

The Board of Supervisors has no basis upon which to agree or disagree with this finding because it has no direct knowledge regarding the level of satisfaction of the Baker Community Service District Board of Directors.

RECOMMENDATIONS

11-19 Implement a two tiered set of regulations for urban and rural areas. For example not imposing curbs and gutters in extreme rural areas that have no sewers, no containment, and water control programs.

The Board of Supervisors partially agrees with this recommendation. It agrees that there are communities within the County that are more rural and do not require the same level of improvements as more urban, developed areas. It also believes that in order to appropriately address the diversity of its unincorporated communities more than two categories (urban and rural) of development standards will be required. The current Development Code recognizes the unique characteristics of three distinct regions of the County (Valley, Mountain and Desert) and specifies standards within each region according to intensity of use. The Development Code standards are also intended to encourage and support orderly and progressive (as opposed to leap-frog) development within the unincorporated areas. These requirements have the potential to directly impact the growth patterns and economic development potential of an unincorporated community for several decades into the future. The County continues to evaluate the infrastructure development standards and is currently preparing to conduct a Development Impact Fee study. It will use that process to further evaluate the infrastructure development standards in Baker and other similar communities in order to better match the standards with the community needs.

11-20 Treat local residents who request services from our County with courtesy and respect to encourage dialogue.

Implementation of this recommendation is ongoing at no increased cost to the County. The County remains committed to providing the highest level of service possible. Customer Service training continues to occur and staffing assignments are continually monitored to best match the person to the job.

11-21 More "Face to Face" meetings between the First District County Supervisor, staff members, and Special District members.

This recommendation has been implemented at no increased cost to the County. The County, including the First District Supervisor and his staff,

the Chief Executive Officer and his staff, Land Use Services Department, Department of Public Works, Environmental Health Services and County Fire remain committed and available to meet and/or respond to concerns expressed by the CSD Board, staff and constituents.

11-22 Ensure prompt responses to communications.

This recommendation has been implemented at no increased cost to the County. It is noted that, in the past, it has taken weeks, and sometimes months, for the County to respond to correspondence from the Baker CSD. In order to ensure prompt and effective response to concerns of this community, the County's Chief Executive Officer, with the concurrence of the First District Supervisor, has assigned a member of the County Administrative Office executive staff to serve as a "key contact" for the Baker CSD.

CHILDREN'S ASSESSMENT CENTER

BACKGROUND

Prior to the opening of the Children's Assessment Center (CAC), abused children referred to Child Protective Services (CPS) often had to endure a number of interviews performed by the multiple agencies involved in the investigation of the case. Often victimized children suffered unnecessary trauma in this process. In 1992, the Children's Network Policy Council established a task force consisting of representatives from Children and Family Services (CFS), County Medical Center, Public Health, Behavioral Health, the District Attorney's Office, the Sheriff's Office, Juvenile Court, Family Law Court, County Counsel, Children's Network, Children's Fund, and Loma Linda University Medical Center (LLUMC) to explore the possibility of creating a quality, comprehensive program, to provide forensic interviews and evidentiary medical examinations in one, child friendly, location for sexually abused children in San Bernardino County.

A partnership between Loma Linda University Medical Center, San Bernardino County, and law enforcement agencies was formed. With the full support of the San Bernardino County Board of Supervisors, the Children's Assessment Center, a private/public partnership, was opened on January 24, 1994, in a suite of offices donated by LLUMC.

An Advisory Board was established as the Governing Board for the Assessment Center made up of representatives from all partnership agencies. As the benefits of the Children's Assessment Center services to sexually abused children were realized, it became apparent that these same services would also be beneficial to victims of physical abuse as well as sexual abuse. The Center began to see

physically abused children in 1998. The number of Children receiving services increased steadily over these first few years of operation.

In 1999, a larger, more permanent facility was needed for the Assessment Center.

Children's Fund, a non-profit organization whose purpose is to raise funds for children in need, entered into a new partnership with San Bernardino County to make that facility a reality. Children's Fund began a capitol campaign to raise the funding for the purchase and remodeling of the new facility, which is owned and maintained by San Bernardino County. A contract was formed between the administrators of Loma Linda University Children's Hospital, and Children and Family Services under San Bernardino County's Human Services Department. CFS provided forensic interviewers, the Center's management staff, and financial assistance. Currently 80-100 children are seen monthly.

Since opening in 1994 over 8,000 children have received services at the Assessment Center.

The Grand Jury's report on the Children's Assessment Center was prompted by fiscal and administrative issues that existed between two of the Center's partner agencies, and the County is pleased to report that these issues have been resolved. At no time were the services provided to children or the public compromised or otherwise affected.

FINDINGS

1. During the investigation into the CAC partnership, members of the Grand Jury heard many times the Children's Assessment Center is a gift to our county and our children. Nationally there are approximately 180 Board Certified Pediatric Forensic Physicians and San Bernardino County is fortunate to have two such physicians currently and one additional physician soon to be certified. They work tirelessly, and fiercely, for the rights and safety of abused children. Clients of the Center are child victims of alleged abuse from birth to age 18 referred to the Assessment Center by Children and Family Services, a law enforcement agency, and/or the Family Law Court.

The Board of Supervisors agrees with this finding. The report appropriately identifies the Children's Assessment Center as a great benefit to the people of the County and that CAC doctors work "tirelessly, and fiercely" for the rights and safety of abused children. However, CAC is a partnership between the County of San Bernardino and Loma Linda University Medical Center (LLUMC). It is this partnership that serves as a significant tool in identifying children who have been subjected to physical or sexual abuse as well as prosecuting the perpetrators of such abuse.

The 2010-11 budget for the CAC was approximately \$2 million (\$1,965,575). The funding (salaries, benefits, and operating costs) was broken down as follows: County Children & Family Services (\$873,970), LLUMC (\$574,476), the County Sheriff's Department (\$220,000, which prior to 2009-10 was provided by CFS), County Public Health (\$40,000), County District Attorney Victim Witness Grant (\$72,200), County Children's Fund (\$10,000), and unassigned expenses (\$174,929).

Due to funding constraints, in 2007 LLUMC sought to significantly increase its fees for forensic medical examinations. This is when tension developed between LLUMC and CFS. The CAC partners began meeting to identify other funding sources for these required services.

Having not been able to identify additional general fund dollars to fund LLUMC's planned increase, the County during the 2009-10 fiscal year issued a Request for Proposals to determine whether any other doctor group could provide the equivalent services for less cost. This added to the tension between CFS and LLUMC. However, the County concluded that no other group in the community could provide services on par with LLUMC. In addition, the Sheriff's Department, after becoming aware of CFS's budgetary issues, agreed to fund \$220,000 in the 2010-11 budget that was being provided by CFS, and LLUMC agreed to the status quo.

2. The Children's Assessment Center is an important tool for the protection of suspected child victims of abuse from duplicative interviews for legal, medical, child protection, and clinical purposes. This streamlining of the process is shown in Attachments #1 and #2, which dramatically shows through the eyes of a child how the Assessment Center approach is less intrusive. The role of LLUMC and the forensic physicians is to medically evaluate the abuse. The role of CFS is to safeguard the children in an immediate crisis (e.g. removal from home, take to the CAC or the emergency room) and to provide recommendations for future steps to correct problems (e.g. parenting classes, nutritional classes, anger, and addiction management). It is the role of law enforcement to identify and deal with the perpetrator of the abuse.

3. The CAC offers an opportunity for all parties to work together while gathering information, and provide a unified response to the family. Services at the Center include forensic interviews by CFS workers who have received specialized training in child forensic interviewing. Evidentiary medical exams are performed at a minimal cost by the three forensic pediatric specialists from the LLUMC. These forensic physicians also provide expert testimony in court. Written reports are provided regarding the outcomes of the interviews and medical appointments.

Crisis intervention and referrals for counseling are provided to family members by a Victim Witness Advocate from the District Attorney office assigned to the Center. The Multidisciplinary Team (MDT) meetings discuss cases and the Child Death Review Team meets to discuss the cause of a death.

The Board of Supervisors agrees with findings 2 and 3.

4. The relationship among the partners began to deteriorate in 2007. It became clear to the Grand Jury through statements we heard from enough sources there was dissension among CFS, the Center, and the partnership arrangement. With budgetary concerns in mind, CFS learned that it was not statutorily mandated to fund the CAC, and not mandated to request a forensic medical examination for a child believed to have been sexually or physically abused. Only law enforcement is required to seek a forensic medical examination of a sexual assault victim. The cost of such an examination is billed to the requesting law enforcement agency. After learning this information CFS discontinued the CAC Advisory Board, and no longer attended the MDT meetings. The partnership started to fall apart.

The Board of Supervisors only partially agrees with this finding. The relationship between LLUMC and CFS was strained due to LLUMC's understandable need to increase fees as well as the aforementioned RFP process. Loma Linda's request for additional monies prompted CFS to consider alternatives. One such alternative was to conduct the RFP. Another was to ask the Sheriff's Department to contribute more funds toward the CAC given that neither CFS nor law enforcement were required to seek forensic medical examinations but, if law enforcement sought a sexual abuse examination, law enforcement was statutorily obligated to pay for the examination. The Sheriff's Department agreed to contribute additional monies to the CAC after it became known that only LLUMC could offer the type of expertise needed by the County. CFS did not stop attending MDT meetings and the Advisory Board was not discontinued, it was simply placed on hiatus. The Advisory Board is once again meeting on a regular basis.

5. The Grand Jury interviewed many individuals affiliated with the CAC. The following allegations were repeated by numerous witnesses:

- There seems to be a progressive change for the worse in the attitude of Children and Family Services towards the Children's Assessment Center. There is a lack of communication and cooperation. CFS went from being a partner to being an overseer trying to control all the functions at the Center.*
- The Social Workers who bring cases to the CAC are re-active instead of pro-active. They have a fundamental misunderstanding of the cases. They have protocol but don't follow it. There is confusion as to how to work a case. Morale is low.*

- *CFS hides behind a screen of confidentiality, and does not want to give out any information. Pertinent information was needed by the Child Death Review Team (CDRT) to determine the cause of death of a child. The team was asked to get a subpoena for the information. CFS refused to let the Grand Jury review even redacted data. We requested statistics and were given a bunch of meaningless numbers. The information that corresponded with the numbers was confidential and not provided.*

Members of the Grand Jury were invited to attend a meeting of the Child Death Review Team. There they signed a confidentiality statement. Before the next meeting of the CDRT the Grand Jury was "uninvited" by some members because of confidentiality reasons.

- *The mission at CFS is blurred. They appear to have placed a higher priority on budget and lawsuits. Children and Family Services wrote a Request for Proposal (RFP) wanting to sever the partnership with Loma Linda stating it was too expensive. They asked for bids from other medical facilities; one of which was Arrowhead Regional Medical Center (ARMC). A physician from ARMC was brought to tour the Children's Assessment Center facility in order to possibly assume the medical services. However, Loma Linda University Medical Center is the only Children's Hospital with forensic pediatricians in the Inland Empire.*
- *ARMC could not find anyone who was qualified. No other facility had personnel with the expertise or could compete financially with the minimal cost of bringing a child to the Assessment center.*

The "allegations" contained in this finding are based on interviews conducted by the Grand Jury. Because the Board of Supervisors was not privy to the interviews, it can neither agree nor disagree with what the Grand Jury reports was said during those interviews. However, the Board of Supervisors does not believe the allegations are accurate.

The first allegation contends CFS's attitude toward the CAC is becoming progressively worse, and that there is "a lack of communication and cooperation" on the part of CFS. However, the Grand Jury also reports that 80 to 100 children are seen at the CAC each month. Since virtually all of the cases referred to CAC are referred by CFS, it would not be possible for the CAC to have 80 to 100 cases per month without a high level of communication and cooperation between CFS and the other partners, most especially the doctors.

Likewise, the allegation that CFS went from being a partner at the CAC to "an overseer trying to control all functions at the Center" is contradicted by the facts. Each of these agencies is a strong, resourceful advocate not only

for the children they are serving but also for themselves and their respective roles in the process. Also, the CAC performs only four main functions, and by definition and by law, CFS can control only one. CFS cannot control how medical examinations are conducted. That can only be done by doctors. Doctors also host and conduct MDT meetings. And finally, none of the parties can control the circumstances under which a child is seen at the CAC. This process is dictated by federal law, which requires parental consent or a court order.

Another allegation that focused on whether social workers are sufficiently proactive, knowledgeable, and compliant was not supported with any examples and contradicts the fact that no child has ever been denied a timely forensic examination.

The allegation that CFS "hides behind a screen of confidentiality" suggests that CFS voluntarily withholds information, which is untrue. The state Welfare and Institution Code, the California Rules of Court, and case law require an order by the Juvenile Court prior to the release of information, even to the Child Death Review Team. CFS provided the Grand Jury with statistical information and offered to go through the data and explain their significance in relation to the Grand Jury's investigation, but the Grand Jury declined CFS's offer of assistance. The Grand Jury also declined an offer by CFS to explain the dependency process, so CFS instead provided the Grand Jury with thousands of documents detailing the training received by social workers as well as the policies and procedures they must follow (the CFS handbook consists of 7 volumes and 115 individual chapters).

The only evidence presented to support the allegation that the "mission at CFS is blurred" was that the County conducted an RFP process in an effort to secure the best level of service for the lowest cost to the public. There was never a desire to "sever the partnership with Loma Linda". The intent was to seek the best service for the best price through a competitive process – something upon which grand juries traditionally insist.

6. There is little accountability for Children and Family Services to an outside authority. There is no transparency. Riverside County CFS had an outside audit conducted by the Child Welfare League of America (see Attachment #3). They now use a system called Technical Assistance, Review and Consultation (TRAC) which has been very successful. Training for this system was offered to San Bernardino County CFS by the Riverside County CFS. The offer was turned down. When the Director of Children and Family Services was asked about TRAC, she stated she had never heard of it. She also stated she is not high on any risk assessment tool. On occasion the state will take "a sampling" of cases to look for compliance.

The Board of Supervisors disagrees with this finding. CFS is accountable to the California Department of Social Services. As for transparency, the department's performance is measured against 13 state and federal yardsticks – including recurrence of maltreatment, rate of re-entry to foster care after reunification, timely investigative response, and timely social worker visits with child – with results going back 12 years available to the public online at http://cssr.berkeley.edu/ucb_childwelfare. Additionally, the California Department of Social Services posts for public viewing San Bernardino County's system improvement reports on the 13 measures. These reports include a review of the County's performance measures along with a plan for improvement.

Internally, CFS uses SafeMeasures to monitor performance and compliance with caseload management and activities. SafeMeasures is an online tool that gives managers, supervisors, and workers the most up-to-date performance indicators at agency, regional, unit, and caseload levels. Using any desktop computer with a web browser, the entire agency can track compliance with hundreds of quality measures in just seconds. SafeMeasures is also used by the state to monitor the County's performance.

The Human Services Legislative Review Unit randomly selects two referrals and two cases from each unit in each regional office every month to evaluate case management and the overall handling of each case, including the risk assessment aspect. The purpose of these evaluations is to improve the quality of social worker performance. Each social worker is evaluated through this process annually.

The Grand Jury reported that the Director of CFS stated that she was "not high" on risk assessment tools. Here, there was clearly a misunderstanding. San Bernardino County, along with five other counties, developed the Comprehensive Assessment Tool (CAT) in coordination with a non-profit policy, analysis and research firm. CAT is a risk management system consisting of five assessment tools that guide social workers to assess families in three core elements: safety, risk, and protective capacity. These tools are used at critical decision points in the life of a case. In addition, CFS has established Risk Assessment Meetings (RAM). A RAM is preliminary case assessment process used to assist social workers in assuring appropriate and thorough investigations, services, safety planning and closure of high risk referrals. Additionally, CFS utilizes Daily Assessment Review Evaluations (DARE). A DARE is a supervisor/peer case review designed to assist and support social workers with intake cases. It is intended to be a non-judgmental, constructive case staff process to provide an arena for the social worker to obtain necessary support and case consultation for difficult decision making. CFS also utilizes Team Decision-Making (TDM). A TDM is used to determine if a child

can return home safely or if a child requires out-of-home placement. It is a collaborative meeting designed to produce the best joint decisions concerning a child's safety and placement. The implementation of these programs demonstrates the importance the Director of CFS has placed on risk assessment.

7. In order to maintain the Center, and the partnership, a new protocol was written by Dr. Clare Sheridan, one of the Forensic Pediatricians from Loma Linda. She suggested two new committees; a Governing Board to meet regularly to decide policy and procedure for the Assessment Center, and an Executive Committee for the month to month management of the Center with Dr. Sheridan as the Chair. The Sheriff's Department has assumed the financial contract responsibility for the medical examinations related to law enforcement cases but it has not been formalized yet.

The Grand Jury commends CEO, Greg Devereaux for becoming personally involved with supporting the work of the Children's Assessment Center.

The Board of Supervisors agrees with this finding. It appears that LLUMC and Dr. Claire Sheridan would not have continued to participate in the CAC as we know it had the organizational structure suggested by Dr. Sheridan not been adopted and had the partners not renewed their commitment to the CAC and the underlying partnership. To the credit of all involved, that has been accomplished.

RECOMMENDATIONS

11-25 The Governing Board of the Children's Assessment Center take a proactive role in resolving conflicts among the partner agencies so that they work together toward the well-being of the children.

This recommendation is being carried out at no cost to the County. All partners in the CAC are working together to ensure the physical well-being of the children in San Bernardino County.

11-26 The Governing Board of the Children's Assessment Center determine appropriate standards and policies to address differences in the role of each agency.

This recommendation will be passed along to the Governing Board for consideration. However, the role of each agency has always been clear to each agency and there have been no differences as to roles. Each agency has a distinct role that cannot be carried out or assumed by any of the other agencies. CFS cannot perform the medical role, doctors cannot perform the law enforcement role, etc.

11-27 The Executive Committee provide a good medium for discussion so that each agency is in agreement of the best course of action for the children.

The Board of Supervisors does not believe it is appropriate to carry out this recommendation. There are bodies and agencies in the County focused on the best course of action for children. The CAC was never intended nor designed to be a collaboration for addressing the best course of action for a child. Doctors determine whether a child has been injured through abuse or neglect or whether a child has been sexually abused. Law enforcement then determines whether it can identify the perpetrator and build a case for an arrest. The District Attorney's Office then determines whether there are sufficient facts to prosecute the alleged perpetrator. In the mean time, CFS must decide on a safety plan for the child and then determine whether attempts should be made to reunify the family. Ultimately, the determination as to the best course of action for a child that has been abused will be decided by the dependency court.

This recommendation implies that the CAC has not been fulfilling its role. Nothing in the Grand Jury's report suggests that children have been affected by any administrative disagreement between the agencies, because they have not, nor was there ever any threat of that.

11-28 Retain a firm with the qualifications and expertise such as the Child Welfare League of America to perform an audit of Children and Family Services to ensure that mechanisms are in place for oversight of the division.

The Board of Supervisors believes it is not necessary to implement this recommendation. As it does now, the County will continue to review performance in all of its departments to determine the need for independent assessment. As was established in the response to Finding 6, the department's performance is independently monitored on a regular basis with a maximum degree of public transparency. Additionally, there was nothing in the Grand Jury report to suggest the department is failing to carry out its mission. It is appropriate to note here that CFS recently earned six national achievement awards for programs that were deemed innovative, and examples that should be followed by other counties.

PUBLIC DEFENDER
Indigent Defense

FINDINGS

1. The interaction and co-operation between the Court, Public Defender's Office and Central Collections has created an effective system of collecting indigent defense fees owed the county. After a client's case is resolved the sum of the fines, state fees and indigent defense fees are added together and this sum is

collected over a three- to five-year period depending on the client's ability to pay. As fees are collected they are paid out in a specific order:

- (1) Victim's restitution
- (2) State Surcharge
- (3) Fines
- (4) Other Reimbursable Costs

Public Defender fees are in the "other reimbursable costs" and are among the last collected. Central Collections has tracked and reported that their collection rate is 70%-75%. They have several tools in place to collect delinquent accounts including wage garnishment and attachment of the individual's state tax refund by the Franchise Tax Board.

The Board of Supervisors agrees with this finding.

2. The fees assessed in San Bernardino County for indigent defense

<i>Fee Type</i>	<i>Calendar Year 2008</i>	<i>Calendar Year 2011</i>
<i>Misdemeanor</i>	<i>\$300</i>	<i>\$100</i>
<i>Felony</i>	<i>\$500</i>	<i>\$150</i>
<i>Juvenile</i>	<i>\$500</i>	<i>\$500</i>

The Grand Jury could not find the reason for this change. After a comparison to other counties, it appears that San Bernardino County charges for indigent defense are too low.

Fees charged by some of the other California Counties for Indigent Defense

<i>Los Angeles</i>	<i>\$51 to \$8,265</i>
<i>Lake County</i>	<i>\$100 to \$4,000</i>
<i>Riverside</i>	<i>\$90/hour</i>
<i>Del Norte</i>	<i>\$75/hour</i>
<i>San Luis Obispo</i>	<i>\$65/hour</i>
<i>Madera</i>	<i>\$33.50/hour</i>

The Board of Supervisors partially disagrees with this finding. In January 14, 2008, fees were established at \$500 for misdemeanors and \$800 for felonies. The Public Defender objected to the fees, in part because the \$500 fee exceeded the Public Defender's actual cost for handling misdemeanors. According to *People v. Cruz* (1989) 209 Cal.App.3rd 560, fees cannot exceed actual Public Defender costs. Responding to the objection, the Court suspended the fee assessments to allow the Public Defender, the County Administrative Office, and the Court to review the matter.

In February 2008, the Court resumed the attorney fee assessments at \$100 for misdemeanors and \$150 for felonies and ordered defendants to pay their fees through Central Collections. The Court directed defendants' fee

challenges to Central Collections for a financial officer to conduct an ability-to-pay review. Based on this review, the financial officer would waive, reduce, or assess the full amount of the attorney fees. A defendant who disagreed with a financial officer's recommendation would be directed back to court for an ability-to-pay hearing.

In 2011, the Interim Public Defender, with the CEO's approval, approached the Court and requested an increase in attorney fees to \$150 for misdemeanors and \$500 for felonies. The Court agreed and began assessing the fees on July 5, 2011.

RECOMMENDATIONS

11-29 Raise indigent defense fees for adults back to \$300 for misdemeanors and \$500 for felonies.

The County has implemented a portion of this recommendation and is determining whether the other portion can be implemented. On July 5, 2011, the Court began ordering attorney fees in the amount of \$500 for felonies and \$500 for juvenile cases. However, a fee of \$300 for misdemeanors may exceed actual Public Defender costs for handling such cases. The County is seeking a fee study during the current fiscal year to determine the Public Defender's actual costs for indigent representation.

11-30 Have Central Collections continue to track the effectiveness of the recommended fee increase to support future fee adjustments.

The County is implementing this recommendation. For fiscal year 2011-12, the Interim Public Defender has asked Central Collections to conduct a fee study to determine the Public Defender's cost for indigent representation. The Interim Public Defender will work with Central Collections to establish a procedure for reviewing indigent representation fees every two years. Any fee adjustment should be discussed with the Public Defender and must be approved by the Court before implementation.

Should Central Collections conduct a fee survey, counties such as Riverside, Santa Clara, Orange, Sacramento, and San Diego will be considered as they have comparable populations to San Bernardino County.

CODE ENFORCEMENT

FINDINGS

Joshua Trees

1. *The county receives approximately 400 code enforcement complaints per month. That number covers a variety of complaints, including Joshua Trees.*

2. *There are three code enforcement inspectors who respond to Joshua Tree code violations.*

3. *When a Joshua Tree code violator is caught, three courses of action may be taken:*

- *criminal citation*
- *administrative citation*
- *civil remediation*

The first two citations can result in fines up to \$500. Civil remediation requires a court appearance where more serious penalties may be imposed. There have been no civil court actions filed by the County in seven years.

4. *When a Joshua Tree code violation involves only a few trees it is referred to the Environmental Planning Division of the Land Use Department. When clearing land for a major development, the Building and Safety Division responds. An inspector can issue a "stop-work" order on the project until the situation is resolved.*

5. *The County Code Enforcement Division does not keep a database of Joshua Tree code violations.*

The Board of Supervisors agrees with findings 1 through 5.

Illegal Dumping

1. *The county has established a surveillance program of illegal dumping areas through the use of infrared video cameras. The cameras are set up to record activity in a given area. The county has 90 cameras available.*

2. *Violators of the county code against illegal dumping are identified through the license plate numbers at the scene, or faces of individuals present. The license plate numbers are traced through DMV records. When plate numbers are not visible, an image of the individual is used and put on a county poster circulated in the affected area. Local law enforcement agencies receive the poster and citizens can call a County 800 number.*

3. *Penalties for illegal dumping are much the same as other violations; criminal citations, administrative citations, or civil remediation. The most used penalty is the clean-up of the entire dumping site at the violator's expense.*

4. *In cooperation with County and local fire departments, County Code Enforcement helps with removal of hazardous materials.*

5. *Illegal dumping in county areas is handled by one county code enforcement officer.*

The Board of Supervisors agrees with findings 1 through 5.

Graffiti

1. *The County receives approximately 43 calls a month regarding graffiti.*

The Board of Supervisors agrees with this finding.

2. *Enforcement of county codes against graffiti is handled through administration of two contracts (\$300,000 total) with private companies that specialize in graffiti issues. The contractors usually respond within 48 hours of a call and take photos of the graffiti before removal. The pictures are provided to the county and local law enforcement agencies to help to identify the perpetrators.*

The Board of Supervisors agrees with this finding. However, it should be made clear that contractors provide abatement services and County staff enforce codes.

3. *There is no single county code enforcement officer assigned only to the graffiti problem.*

The Board of Supervisors agrees with this finding. District Officers respond to complaints in their respective areas as needed.

4. *The county Code Enforcement Division does not keep a database on county graffiti code violations.*

The Board of Supervisors agrees with this finding. However, abatement contractors track the sites abated in their databases, and this information can be accessed by County staff.

RECOMMENDATIONS

11-33 *The County Code Enforcement Division staffing of code enforcement officers should be increased to adequately respond to the number of complaints. (Finding 2, 3 – Joshua Trees; Finding 1 – Illegal Dumping; Findings 1, 3 - Graffiti)*

The County has implemented this recommendation. Two positions in the Code Enforcement Division have recently been upgraded, resulting in two additional Code Enforcement Officer II's responding to complaints.

11-34 *The County Land Use Department develop and maintain, for its Code Enforcement Division, a computerized system to properly document, categorize and retrieve information about county code violations by type. (Finding 5 – Joshua Trees; Finding 4 - Graffiti)*

The County is implementing this recommendation. The Land Use Services Department is currently evaluating a computer software system that will have the ability to track specific types of complaints.

11-35 *A uniform data exchange system be established between the county and the cities of Victorville, Hesperia, and the Town of Apple Valley in order to provide a more comprehensive picture of how laws are applied in County and local jurisdictions. (Findings 6, 7, 8 - Joshua Trees; Finding 2-Graffiti)*

Unfortunately, a data exchange system between the county and the cities is not possible because each jurisdiction must maintain a system that is compatible with its unique finance system. However, code enforcement programs from the referenced jurisdictions do exchange information on an as-needed basis. Furthermore, the High Desert code enforcement programs are working on developing a collaborative process that will allow different jurisdiction to provide staff assistance across jurisdictional boundaries to resolve code enforcement issues.

RESPONSE ACCOUNTABILITY

FINDINGS

1. *Not all entities responded to the Grand Jury letters.*

The Board of Supervisors does not have enough information to either agree or disagree with this finding as it was not privy to the letters or responses.

2. *There is no statutory requirement or any policy or procedure that mandates that Grand Jury recommendations be implemented.*

The Board of Supervisors agrees with this finding. However, the Board takes each recommendation seriously, appreciates the Grand Jury's hard work, and implements recommendations when feasible and appropriate.

3. *A response from a department was submitted by someone not from that department.*

The Board of Supervisors can neither agree nor disagree with this finding because the Grand Jury did not disclose to which department it was referring. The process by which the Board of Supervisors responds to

Grand Jury reports begins with the County Administrative Office soliciting suggested responses and other information from County departments. The Administrative Office uses the information supplied by departments as the basis for the recommended Board response, but when appropriate will recommend something other than what a department has recommended. The information provided by the departments to the Administrative Office is not the Board's response to the Grand Jury's findings and recommendations. Departments under the purview of the Board do not respond directly to Grand Jury findings and recommendations, but are expected to implement policy direction provided by the Board in form of the Board's response.

RECOMMENDATIONS

11-36 Establish a policy requiring implementation of any recommendation that was agreed to by a department.

The Board of Supervisors believes it would be inappropriate to implement this recommendation. County departments provide valuable information that serves as the basis for policies set and fiscal decisions made by the Board of Supervisors. However, the Board is elected by the public to serve as the County's policy-making body and by law makes final decisions on fiscal matters. A policy of the type suggested by the Grand Jury would essentially give appointed department heads veto power over the elected Board's decisions.

11-37 All responses be approved by the appropriate department head.

The Board of Supervisors believes it would be inappropriate to implement this recommendation because, as would be the case with Recommendation 11-36, it would relinquish the Board's policy-making and fiscal responsibilities to departments. The Board of Supervisors will, however, continue to take into serious consideration the comments and recommendations of department heads in responding to Grand Jury findings and recommendations. The County will also take additional steps to ensure departments are aware of Board decisions on Grand Jury recommendations. Starting with this year's response, departments will be forwarded copies of the draft proposed responses for which they will have responsibility before the items are brought before the Board.

SECTION II

AUDITOR/CONTROLLER-
TREASURER/TAX COLLECTOR

IN RESPONSE TO RECOMMENDATIONS

11-03

11-04

11-10

11-12

11-14

NOT MENTIONED IN THE COUNTY OF SAN BERNARDINO
RESPONSES

INTEROFFICE MEMO



COUNTY OF SAN BERNARDINO

DATE: August 24, 2011

PHONE: 386-9000

FROM: **LARRY WALKER** *LW*
Auditor-Controller/Treasurer/Tax Collector

TO: **DOUGLAS M. ELWELL**
Presiding Judge
Superior Court

SUBJECT: RESPONSE TO 2010-2011 SAN BERNARDINO COUNTY GRAND JURY REPORT

Introduction

The Auditor-Controller/Treasurer/Tax Collector (ATC) respectfully responds to the 2010-11 San Bernardino County Grand Jury Final Report (hereinafter "The Report"). A number of findings and recommendations in The Report address ATC, and responses to each are provided below, as listed here:

<u>Findings</u>	<u>Recommendations</u>
[No Finding]	11-03
[No Finding]	11-04
Finding 1 (County Internal Audits)	11-06
Finding 2	11-07
Finding 2	11-08
Finding 3	11-09
Finding 4	11-10
Finding 5	11-11
Finding 6	11-12
Finding 7	11-13
Finding 8	11-14
Finding 9	[No Recommendation]
Finding 10	11-15
Finding 1 (Public Defender)	11-30

Background

The Report incorrectly states that the Auditor-Controller/Treasurer/Tax Collector is also County Clerk. On February 25, 2010, the offices of the Auditor-Controller, Recorder, Treasurer, and Tax Collector were consolidated. In that same action, the Board of Supervisors provided that on January 3, 2011, the office of the Recorder and the functions of the County Clerk would be moved to the office of the Assessor. As a result, the Auditor-Controller/Treasurer/Tax Collector has not been County Clerk since January 3, 2011.

We disagree with the Grand Jury's characterization that "concludes that the internal audit function in the County fiduciary sectors is the most important safeguard of public funds; and is the foundation to the entire financial reporting system." Internal audits are used to ensure that the internal controls put in place by management are efficient and effective to meet management's goals. The quote from the Institute of Internal Auditors in The Report also states that internal auditing only "helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes." Internal audit activity under both public and private sectors is part of the monitoring component of any entity's internal control structure. The system of internal controls, including separation of duties and other safeguards, is the primary operational safeguard of the organization's assets. Effective internal audit processes are an important adjunct in reviewing the organization's activities. The most important aspect is management's responsibility for establishing and maintaining internal controls to achieve the objectives of effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulation.

Recommendation 11-03

ATC concurs with Grand Jury recommendation 11-03 and is working diligently with the County Administrative Office (CAO) to upgrade the County's accounting information system. The County committee tasked with this project consists of key County stakeholders who are working to ensure that the resulting upgraded accounting system will be both capable and cost effective. ATC will work with the CAO to develop a process to evaluate information technology infrastructure such as the County accounting information system to provide the most cost beneficial solutions.

Recommendation 11-04

ATC agrees with this recommendation. ATC recognizes the importance of providing training for all staff for new software as part of any new system installation or upgrade. ATC will continue to provide ongoing training for current software users and ensure staff training as part of any software implementation, seeking new methodologies to provide training that will be the most cost effective for the County as a whole.

Finding 1

The recommendations in the Management Letters described in Finding 1 are directed to particular operating departments' management and not to ATC as suggested in the finding. As such, they are recommendations on ways county departments (not ATC, which is incorrectly referred to as the Controller's Office) could improve compliance. Executive and department managers are responsible for managing and accounting for the federal funds that departments receive. ATC is confident that the County Administrative Office will continue to see that these recommendations are carried out by County departments.

Recommendation 11-06

We do not concur with this recommendation.

The role of the audit committee is to provide oversight and advice to the Board of Supervisors and ATC regarding the financial reporting process and related audit activities. Internal control procedures are the responsibility of the Chief Executive Officer and those departments within his chain of command. While the meaning of the term "concurrence, agreements, and promises of

the Controller's Office" is not clear, our view is that the Audit Committee is an advisory committee, and needs no increase in authority or scope. The recommendation is therefore not warranted. ATC does not recommend its implementation.

Finding 2

While the information within this finding is accurate, we would like to emphasize that this issue was an isolated incident in fiscal year 2008-2009. Appropriate actions have been taken. The error has not recurred since then.

Recommendation 11-07

ATC does not concur with this recommendation.

The role of the audit committee is to provide oversight and advice to the Board of Supervisors and ATC regarding the financial reporting process and the related audit activities. Internal control procedures are the responsibility of the Chief Executive Officer and those departments within his chain of command. A review of the magnitude suggested would be very expensive, and is not justified by the observations in any audit report to date. As such, ATC does not recommend implementation.

Recommendation 11-08

We do not concur with this recommendation, which we note is not supported by the finding.

The finding does not find fault with the Property Tax Section (referred to in the finding as Property Tax Division), but notes that General Accounting Section should have booked the loan. The finding also acknowledges that the failure has been addressed, and that no new "situations like this" appear to have occurred.

The Property Tax Section, located within the Auditor-Controller function, has received a clean bill of health from the California State Controller's triennial audits of appropriation and payments of tax proceeds. No further action appears warranted by the finding.

Finding 3

We concur in part and disagree in part with this finding.

The State of California Government Code section 1236(a) (GC 1236) establishes the auditing standards used by counties to conduct their audit activities, not the United States Government Accountability Office (GAO). GC 1236 requires that the audit activities, not just "internal audits", be conducted "under the general and specified standards prescribed by the Institute of Internal Auditors [IIA] or the Government Auditing Standards issued by the Comptroller General of the United States (GAGAS)."

The Auditor-Controller is not the "chief financial officer" of the County. Per the Recommended County Budget for FY 11/12, the County's Chief Financial Officer position is located within "Finance and Administration" and reports directly to the Assistant Executive Officer. Furthermore, California Government Code Section 26881 both requires and identifies the county auditor-controller as the chief accounting officer of the county.

ATC disagrees that it stated that a "de facto" or actual conflict exists under GAGAS and IIA standards. ATC executive management acknowledges the management challenges inherent in the organizational structure to maintain audit independence and objectivity, but uses the flexibility of GC 1236 to carry out its audit activity within the applicable professional standards. Combining the auditor and controllership responsibilities does not inherently impair the auditing function when appropriate safeguards are taken. GC 1236 and the appropriate professional standards combined with safeguards allow these two functions to be combined. ATC is managed so that no inappropriate combination of duties will occur.

The engagements for the quarters ending September 30, 2009 and December 31, 2009 were conducted in accordance with the International Standards for Professional Practice of Internal Auditing (IIA) as required by California Government Code section 1236. The factual statement regarding the consolidation of the elected offices was added to the Introductory Remarks section of the engagement reports to inform the user of the organizational changes, because the reports were prepared after the consolidation but the field work took place and covered periods that were prior to the consolidation. No impairment of independence or objectivity existed. For audits covering the period after the consolidation, the audits were outsourced to an external audit firm. Furthermore, the audits both before and after the consolidation of offices are consistent, providing an additional evidence that the engagements performed were consistent, appropriate, and in accordance with IIA.

Recommendation 11-09

We do not concur with either of the two recommendations contained here.

The first recommendation is not supported by the finding, and is inconsistent with the observation elsewhere in the report that at least ten other California counties had these combined functions (Auditor-Controller with Treasurer/Tax Collector) prior to San Bernardino County's consolidation.

The suggestion that the Attorney General be consulted is unwarranted, as the legal matter was specifically addressed by County Counsel, both in the Auditor-Controller/Treasurer/Tax Collector consolidation and in the combination of Sheriff and Coroner some years earlier. There is no justification or basis for the suggestion of a violation of voter rights.

Finding 4

We disagree with the suggestion that only an outside auditor can be independent. Professional standards applicable to these reports require auditors to use a specific format that includes the title "Independent Auditor's Report." Independence is defined within the American Institute of Certified Public Accountants' (AICPA) Code of Professional Conduct as independence of mind and independence in appearance. The standards list seven threats to independence: self-review, advocacy, adverse interest, familiarity, undue influence, financial self-interest, and management participation. None of the auditors signing on reports marked Independent Auditor's Report have independence issues in relation to the client. ATC is careful to not provide unqualified audit opinions on areas where these threats impair independence. ATC currently outsources many of its financial statement audits and will continue to outsource any audits if independence issues exist.

In San Bernardino County, ATC's audit organization, regardless of its title, meets the Government Auditing Standards issued by the Comptroller General of the United States (GAGAS) requirements for

an external audit organization for audits outside ATC. Specifically, GAGAS provides that an audit organization is external if it placed within a different branch of government from that of the audited entity, as well as the additional safeguard that the head of an audit organization is directly elected by voters of the jurisdiction being audited. For engagements over subject matter within ATC or those engagements outside ATC for which other impairments exist, ATC IAS uses IIA standards or outsources the audit.

Recommendation 11-10

We do not concur with this recommendation. It is not warranted, and it is based on a finding that is inconsistent with the authorities pursuant to which these audits are executed.

Under Government Auditing Standards, General Standards, Organizational Independence, ATC is considered an external, independent audit organization due to the nature of the elective office of the Auditor-Controller/Treasurer/Tax Collector and because of the organizational hierarchy of the County.

None of the auditors signing on reports marked Independent Auditor's Report have independence issues in relation to the client. ATC is careful to provide unqualified audit opinions on areas where these threats do not impair independence. ATC currently outsources many of its financial statement audits and would continue to outsource any audits if independence issues over a particular client occur in the future.

Finding 5

ATC agrees in part with this finding, and disagrees in part. The first paragraph is correct. The second paragraph is based on two false premises – that the San Bernardino County Auditor-Controller/Treasurer/Tax Collector is also the County Clerk, and that “the Controller's Office, not the Auditor's Office, does the risk assessment that determines which departments are to be audited”. In fact, Larry Walker has not been County Clerk since January 3, 2011, and the Internal Audits Section of the Auditor Division does in fact carry out the risk assessment process. That process has included outside CPA assistance and input from county departments as well.

The finding correctly states that California Government Code 24300 allows the combination of Auditor-Controller with Treasurer/Tax Collector. ATC disagrees that there is “no county where as many important positions are held concurrently by one person as is the case with the San Bernardino County Auditor-Controller/Treasurer/Tax Collector and County Clerk”. Many counties have combined offices with the exact same title as the County of San Bernardino's Auditor-Controller/Treasurer/Tax Collector.

The balance of Finding 5 refers to the Orange County structure, in which the Internal Auditor reports to the Board of Supervisors. It incorrectly states that that structure “came from the 2007-2008 Orange County Grand Jury”. In fact, the Orange County Grand Jury of 1994-95 recommended the new structure. It is further noted that the current Auditor-Controller of Orange County served as the first appointed Internal Auditor beginning in 1996 and continuing until his election in 1998 and swearing in as Auditor-Controller in January 1999.

Orange County adopted its fairly unique Internal Auditor organizational model in reaction to the 1994 bankruptcy, in which both the Treasurer and Auditor-Controller were accused of malfeasance. San Bernardino County's recent history is different. The issue of independence has many facets –

independence from management and the Board itself being one of them. Arguably, the independently-elected status of San Bernardino County's Auditor-Controller has enhanced independence of the audit function.

Recommendation 11-11

ATC concurs in part and disagrees in part with this recommendation. We agree with the second and fourth parts and note that they are implemented today. We disagree with the first and third parts, as noted below.

The recommendation is made up of four parts. First, the Board of Supervisors hire the Chief Audit Executive. Second, make the Chief Audit Executive a Civil Service Employee rather than an at will employee. Third, restructure the County's audit activity, including having the Chief Audit Executive report administrative matters to the Chief Executive Officer. Fourth, have the Chief Audit Executive go to the Audit Committee for audit function guidance.

We disagree with the first part. Selection of the Chief Audit Executive by ATC is consistent with the County Charter. The County Charter, Article V, Section 6, assigns the duty for financial audits of accounts of County offices and departments to the elected Auditor-Controller/Treasurer/Tax Collector.

We concur with the second part and it was implemented on July 12, 2011. On that date, the Board of Supervisors modified Ordinance 1904 and moved the Chief Deputy Auditor from the unclassified "at will" service to the classified service.

We disagree with the third part. This part of the recommendation attempts to fix a perceived chain of authority issue by having the Chief Audit Executive report to the Chief Executive Officer (CEO) for administrative matters. However, all of the County's departments except Clerk of the Board, County Counsel and elected offices report directly to the CEO. Administratively reporting to the CEO could make the issue of the "direct influence of management" worse rather than better.

Currently, ATC IAS mitigates this self-auditing issue by not performing independent audits of any functions within its department's span of control. For example, once the Auditor-Controller and the Treasurer/Tax Collector were merged, ATC outsourced its audits of the Treasurer to avoid auditing itself. This is a requirement of the auditing standards and just makes good sense. The IIA standard 1100-Independence and Objectivity states that the internal audit activity must be independent and to achieve that independence, the Chief Audit Executive's position must have access to senior management and to those charged with governance. It does not require a direct reporting relationship to either. All audit and other types of reports created by the Internal Audits Section are distributed to the Board of Supervisors, Grand Jury, office of the Chief Executive Officer, and the management of the auditee. The Chief Audit Executive's position is also independent under Government Auditing Standards issued by the Comptroller General of the United States (GAGAS) because it reports directly to Auditor-Controller/Treasurer/Tax Collector, which is elective.

We concur with the fourth suggestion as the Chief Audit Executive has been seeking guidance on the scope and performance of the audit function from the Audit Committee since its

foundation in 2004. Per the County of San Bernardino's Audit Committee Charter dated May 18, 2011, the audit committee's purpose is "to facilitate communication among County administration, external auditors of the county, office of the Auditor-Controller/Treasurer/Tax Collector (ATC), and the Board of Supervisors." The Committee's functions include review and approval of the Annual Audit Plan, the annual Risk Assessment, existing reports, and any comments from departments on the finding and recommendations proposed by ATC IAS.

Finding 6

We agree that staff has been reduced in ATC IAS.

Recommendation 11-12

As noted below, ATC is already in compliance with recommendation 11-12.

We agree that Article V, Section 6, of the Charter of the County of San Bernardino states "it shall be the duty of the Auditor to make thorough audits from time to time, and not less than annually, of all books, accounts, money, and securities of all departments, offices, boards, institutions, and special districts under the control of the Board of Supervisors [...]". This duty is fulfilled every year through the audit of the County of San Bernardino's Comprehensive Annual Financial Report (CAFR). The CAFR includes all Board of Supervisor controlled departments, offices, boards, institutions, and special districts. Additional financial audits are made or contracted by ATC IAS to facilitate the preparation of the CAFR, at the request of management or those charged with governance, and based on ATC IAS risk based audit plan.

While financial audits (books, money, and securities) recur annually if not more frequently, current staffing levels preclude the operational audit of each County department every year as required by County Policy 02-02, Internal Operational Auditing. Instead, ATC IAS creates an annual risk assessment that is used to develop an annual audit plan with a goal to audit all high risk departments annually, moderate risk departments every three years and low risk departments every five years. This risk assessment assigns a risk level to each auditable organization unit (Division) based on a Division's budget, budgeted staffing changes, federal funding, year-end accruals, and responses to a risk assessment questionnaire. The assessment is a collaborative process between ATC IAS and the departments to identify potential audit areas that pose the greatest risk and liability to the County. The annual risk assessment scores are combined with each division's inherent risk, as determined by an external audit firm, to produce a prioritized listing of potential audit candidates. This risk assessment process is mandated by the Institute of Internal Auditor's Performance Standard 2010-Planning, which states, "The chief audit executive must establish risk-based plans to determine the priorities of the internal audit activity, consistent with the organization's goals."

As a commentary, ATC believes a recommendation recognizing the resource restrictions and recommending the County revise its Internal Operational Auditing policy (County Policy 02-02) to reflect a risk based audit plan that must be adjusted to available resources would better reflect the economic environment in which local governments function. Alternatively, the Committee could have found that dissonance exists among the requirements in 1968's County Policy 02-02 for annual operational audits of every department, California Government Code section 26884's Board of Supervisors' duty to provide adequate resources to accomplish that additional imposed responsibility, and the current ATC IAS resource levels.

Finding 7

ATC disagrees with the portion of this finding relating to the organization chart. That portion lists the staffing of the Management Services Section rather than the Internal Audits Section. Along with the Chief Deputy Auditor and his Secretary, the Internal Audits Section currently has an Internal Auditing Manager, two Supervising Internal Auditor IIIs, three Internal Auditor IIIs, two Accountant IIIs, and an Accounting Technician. The Management Services Section has one Management Services Manager, two Systems Accountant IIIs, four Systems Accountant IIs, and one Accountant III.

Recommendation 11-13

We do not concur with this recommendation.

This recommendation does not address the issues raised in Finding 7 and it repeats the same suggestion listed within Recommendation 11-11 (Third Part). ATC's response to that part of Recommendation 11-11 is incorporated here by reference.

Finding 8

We agree in part and disagree in part.

The finding states that the risk assessment used to prepare the annual audit plan is done by the Controller's office, rather than ATC IAS. The risk assessments for developing a risk based audit plan have always been the responsibility of the Internal Audits Section.

The County Charter requires a financial statement audit of each Board of Supervisors controlled entity or organizational unit at least annually. ATC accomplishes this duty, required of the Auditor, through the audit of the County's Comprehensive Annual Financial Report. The County has received unqualified opinions, the highest obtainable, from its external auditors, as well as the Government Finance Officers Association's Certificate of Achievement for Excellence in Financial Reporting for twenty-three consecutive years. If the finding is referring to County Policy 02-02, Internal Operational Auditing, which requires annual operational audits of every County Department, ATC cannot accomplish this policy directive with current ATC IAS resources. Instead, ATC IAS uses a risk-based audit planning approach that meets the appropriate professional standards. It begins with a master risk assessment plan, based on the risk of not obtaining government business objectives when no management controls are present. This master risk assessment plan recognizes financial constraints, such as limited audit resources, and classifies the auditable organization units as High, Moderate, and Low risk and, respectively, places them into annual, three-year, and five-year audit cycles.

We disagree with finding 8's assertion that ATC IAS "[...] falls back on the every-five year-rule mandated for Special Districts." As stated earlier in our response to the Report, financial statement audits are made every year of Board of Supervisors governed entities including special districts. ATC does not have a policy or practice of "falling back" on the five-year upper limit option provided by section 26909(b) (3) of California Government Code. California Government Code section 26909 requires unanimous approval of both the governing board of the special district and of the County Board of Supervisors before ATC can exercise its duty to allow either a two or five-year audit period. Clearly, the "fall back" position described in the finding is under jurisdiction of the governing boards. It is rarely employed, and most Special District audits are done annually.

The meaning of the last sentence in the finding is not clear, given its lack of relationship to the balance of the finding. As such, ATC is unable to agree or disagree with it.

Recommendation 11-14

We agree with this recommendation, and note that it reflects current ATC practice. The Chief Deputy Auditor regularly submits reports to the Audit Committee and seeks input and guidance and has done so since the Committee's inception in 2004.

Finding 9

This finding is incorrect on three points. First, as mentioned previously, ATC has not been the County Clerk since January 3, 2011. Second, the CAFR's external audit firm must obtain an understanding of the County's internal control structure to issue an opinion on the fairness, in all material respects, of the financial statements and will issue a management letter regarding any issues involving internal controls and operational concerns noted. Third, the Audit Committee member in sub-paragraph 3 should be the Chief Executive Officer or his representative.

In other respects, the finding's assertions appear accurate. There is no recommendation associated with this finding.

Finding 10

This finding is partially correct. The Audit Committee's role is to advise, and facilitate communication among County administration, auditors, ATC, and the Board of Supervisors. The Audit Committee does not review the accounting and financial reporting process or opine on internal controls. Professional standards assign the internal audit activity the responsibility to evaluate the adequacy and effectiveness of controls. In San Bernardino County, the Auditor-Controller is the authority for reviewing departmental and countywide internal controls of all offices, departments, and institutions under the control of the Board of Supervisors.

Recommendation 11-15

ATC will issue an invitation to the Grand Jury to attend the Audit Committee meetings.

Finding 1 (Public Defender)

ATC agrees with this finding.

Recommendation 11-30

ATC Central Collections will cooperate with the Public Defender to implement this recommendation.

CITY OF RIALTO

IN RESPONSE TO RECOMMENDATIONS

11-16

11-17

11-17

**2010-2011 GRAND JURY REPORT
RESPONSE FORM**

GROUP City of Rialto
DEPARTMENT Development Services Department
– Building Division
SUBMITTED BY Mike Story

DATE September 7, 2011

PAGE 1

FINDING – AGREE/DISAGREE

- 1. FINDING** – The City of Rialto follows the State of California Guidelines involved in approving building plans.
The City of Rialto agrees with this Grand Jury finding.

- 2. FINDING** – The City of Rialto has an inadequate record keeping system that requires numerous man-hours to search for new home construction and building complaint information.
The City of Rialto agrees with this Grand Jury finding.

- 3. FINDING** – The process of monitoring Correction Notices is not monitored.
The City of Rialto agrees with this Grand Jury finding.

RECOMMENDATIONS

- 1. RECOMMENDATION** - Establish a well-defined building inspection process that ensures State Building Codes are being followed. (Finding 1)

City Response – Please refer to the City of Rialto Municipal Code Section 15.08060 (Exhibit 1 Attachment) whereby the City has adopted the latest State of California state building codes that the City implements in building construction. These State codes include the 2010 California Building, Residential, Plumbing, Mechanical, Electrical, Energy and Green Building Codes as well as the 2009 International Property Maintenance Code.

Inspections are scheduled during the construction to ensure that requirements of the California Building Codes are met and inspections are logged in the City computer permit system (Exhibits 2 and 3 Attachments).

ATTACHMENT I

2010-2011 GRAND JURY REPORT RESPONSE FORM

2. **RECOMMENDATION** - Establish a computer based program to track and monitor new home construction and building complaints to replace the current paper-based program. (Findings 1, 3)

City Response – In March, 2011, the City implemented a new electronic reporting process to track and monitor building permits and complaints (Exhibit 2 Attachment). The program will allow the City to monitor existing and new building permits. We will also input the paper building complaints over the last ten years into the system for future use and reference. This upgrade in the electronic complaint tracking system will alleviate the time and manual efforts required with the previous paper system.

3. **RECOMMENDATION** – Develop a better sign off process that requires both printed name, signature and license or employee identification number on the building inspection reports (Finding 2).

City Response – In March, 2011 the City implemented an improved electronic approval log that provides for the inspectors name, date and comments / instructions (Exhibit 3 Attachment). Each inspector completes their own sign-off in the electronic system and their signatures are electronically generated. This system provides the City with the ability to retrieve information on the building approval process instantly.

Rialto Municipal Code:

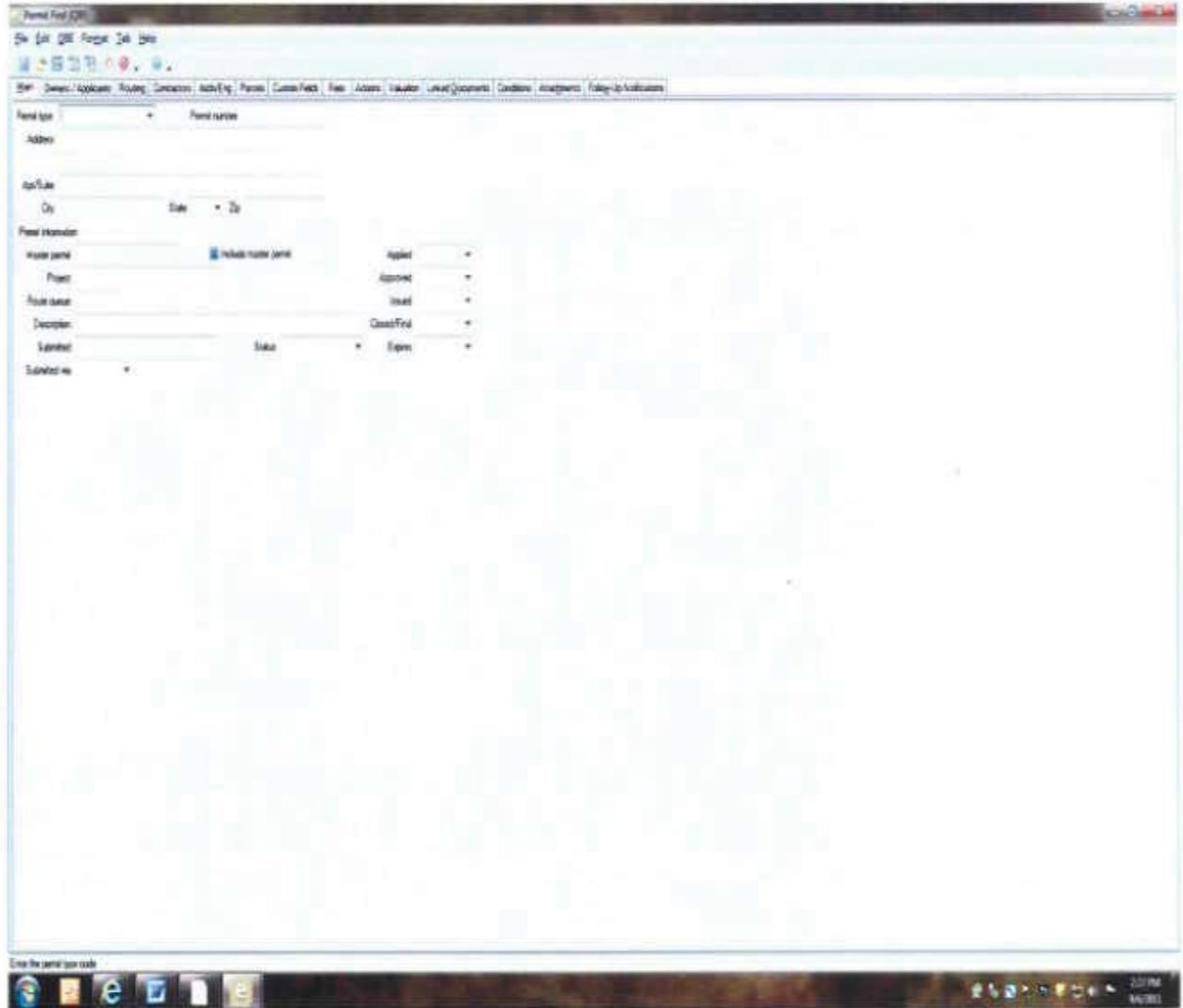
Section 15.08.060

Adoption by Reference

Those certain rules and regulations which regulate the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings or structures and the installation and maintenance of electrical, plumbing, heating, ventilating, refrigeration and related systems in the city, and which provide for California building code standards for such buildings or structures and minimum housing requirements for the protection of life, limb, health and property and for the safety and welfare of the general public and the owners and occupants of these buildings in this city, all as set forth in those certain codes and specified appendices, entitled "2010 California Building Code" as adopted by the California Building Standards Commission in California Code of Regulations Title 24, Part 2, Volumes 1 and 2, and as amended and/or modified by the provisions of this chapter including Appendix C (Agricultural Buildings), F (Rodent Proofing), G (Flood Resistant Construction), H (Signs), I (Patio Covers) and J (Grading), (hereinafter the "building code"), is adopted by reference; the "2010 California Electrical Code" as adopted by the California Building Standards Commission in California Code of Regulations Title 24, Part 3 (hereinafter the "electrical code"), the "2010 California Mechanical Code" as adopted by the California Building Standards Commission in California Code of Regulations Title 24, Part 4 (hereinafter the "mechanical code"), the "2010 California Plumbing Code" as adopted by the California Building Standards Commission in California Code of Regulations Title 24, Part 5, including Appendix Chapters A, B, C, D, E, F, G, I, K, and L as amended and/or modified by the provisions of this chapter (hereinafter the "plumbing code"); the mandatory sections only of the "2010 California Green Building Code" as adopted by the California Building Standards Commission in California Code of Regulations Title 24, Part 4 (hereinafter the "Green Building code") the "2009 International Property Maintenance Code" including the administration chapter as published by the International Code Council as amended and/or modified by the provisions of this chapter; the supplements to the California Building Codes, published by the International Code Council; all of which are on file in the Building Division of the Department of Development Services, are referred to, adopted by reference, and made a part hereof as if fully set out in this title.

Exhibit # 2

Ability to search by date range in the EDEN Permit system for type of permits and/or complaints.



COMMUNITY OF BAKER

IN RESPONSE TO RECOMMENDATIONS

11-20

11-21

11-22

11-23

**2010-2011 GRAND JURY REPORT
RESPONSE FORM**

GROUP Baker Community Services District

Date: July 18, 2011

SUBMITTED BY Le Hayes, General Manager

First a couple of corrections of the narrative found in the "Background" section of the Grand Jury report.

Narrative statement: "Eighteen thousand vehicles pass by or through this desert relief station each month."

Correction to the above statement:

The average traffic count for Interstate 15 at the West Baker interchange (pass by) is 43,500 vehicles per day.

<http://www.dot.ca.gov/hq/traffops/saferesr/trafdata/2009all/Route12-15i.htm>

The average daily traffic count on Baker Boulevard at the intersection of Highway 127 is 7,942 vehicles per day.

<http://www.sbcounty.gov/transADT/AvgDailyTraffic.aspx>

Narrative statement: "In March 2011, members of the 2010-2011 Grand Jury attended the publicly scheduled County Service District meeting for Baker."

Correction to the above statement: We are a Community Service District, a political sub-division of the State of California under California Government Code 61000, not a County Service District

In response to Recommendations 11-20 through 11-23 as requested:

Finding 11-20: The various county departments and the employees that staff those departments reflect a cross section of the population as a whole. Some are knowledgeable and helpful, others demonstrate their lack of job skills by exhibiting arrogance, ignorance, rudeness or indifference.

Finding 11-21: We realize we are distant from the County Government Center, which makes "in person" meetings time consuming and costly. We will use email and the phone to communicate more effectively.

Finding 11-22: Same response as above.

Finding 11-23: We don't expect to have the population/registered voters necessary to form a city in the near future.

Additional response to the "Findings" of the Grand Jury:

It is the responsibility of Baker C.S.D. to act in the best interest of our community. Part of that "best interest" is paving roads as money is available. We take no particular interest in what LAFCO or the County of San Bernardino may think of those activities.

LUCERNE VALLEY UNIFIED
SCHOOL DISTRICT

IN RESPONSE TO RECOMMENDATION

11-24

ATTACHMENT I

**2010-2011 GRAND JURY REPORT
RESPONSE FORM**

GROUP Lucerne Valley Unified School District **DATE** September 28, 2011
DEPARTMENT Board of Trustees
SUBMITTED BY Suzette Davis, Superintendent **PAGE** 1

FINDING – AGREE/DISAGREE

The Lucerne Valley Unified School District Board of Trustees agrees with the Findings and Recommendation (#11-24) of the 2010-2011 Grand Jury.

ATTACHMENT II

2010-2011 GRAND JURY REPORT RESPONSE FORM

GROUP Lucerne Valley Unified School District
DEPARTMENT Board of Trustees
SUBMITTED BY Suzette Davis, Superintendent

DATE September 28, 2011
RECOMMENDATION NO. 11-24
PAGE 2

RESPONSE

Per Grand Jury Recommendation No. 11-24:

The Lucerne Valley Unified School District Board of Trustees has approved the revision of Board Policy 7210, which includes the statement "The District shall not create outstanding indebtedness for purposes of qualifying for School Facility Program (SFP) hardship status." The revised policy (attached) was approved by the Lucerne Valley Unified School District Board of Trustees on September 21, 2011.

Local Cost Impact

No local cost impact.

Facilities Financing

Facilities

When it is determined that school facilities must be built or expanded to accommodate a increased or projected increased enrollment, the Governing Board shall consider appropriate methods of financing for the purchase of school sites and the construction of buildings. In addition, financing may be needed when safety considerations and educational program improvements require the replacement, reconstruction or modernization of existing facilities.

The Superintendent or designee shall research funding alternatives and recommend to the Board the method that would best serve district needs as identified in the district's master plan for school facilities.

(cf. 7110 - Facilities Master Plan)

The district shall not create outstanding indebtedness for purposes of qualifying for School Facility Program (SFP) hardship status.

These funding alternatives may include, but not be limited to:

1. Levying developer fees pursuant to Education Code 17620 and Government Code 65995-65998

(cf. 7211- Developer Fees)
2. Forming a community facilities district pursuant to Government Code 53311-53368.3, the Mello-Roos Community Facilities Act

(cf. 7212 - Mello-Roos Districts)
3. Forming a school facilities improvement district pursuant to Education Code 15300-15425

(cf. 7213 - School Facilities Improvement Districts)
4. Issuing voter-approved general obligation bonds
5. Imposing a qualified parcel tax pursuant to Government Code 50079
6. Using lease revenues for capital outlay purposes from surplus school property

Facilities Financing

Facilities

Legal Reference:

EDUCATION CODE

15100-17059.2 School bonds, especially:

15122.5 Ballot statement

15300-15327 School facilities improvement districts

17000-17059.2 State School Building Lease-Purchase Law of 1976

17060-17066 Joint venture school facilities construction projects

17070.10-17076.10 Leroy F. Greene School Facilities Act of 1998

17085-17095 State Relocatable Classroom Law of 1979

17582 District deferred maintenance fund

17620-17626 Levies against development projects by school districts

17621 Procedures for levying fees

GOVERNMENT CODE

6061 One time notice

6066 Two weeks' notice

50075-50077 Voter-approved special taxes

50079 School districts; qualified special taxes

53175-53187 Integrated Financing District Act

53311-53368.3 Mello-Roos Community Facilities Act of 1982

53753 Assessment notice and hearing requirements

53753.5 Exemptions

54954.1 Mailed notice to property owners

54954.6 New or increased tax or assessment; public meetings and hearings; notice

65864-65867 Development agreements

65970-65980.1 School facilities development project

65995-65998 Payment of fees against a development project

66000-66008 Fees for development projects

66016-66018.5 Development project fees

66020-66025 Protests and audits

HEALTH AND SAFETY CODE

33445.5 Overcrowding of schools resulting from redevelopment

33446 School construction by redevelopment agency

CALIFORNIA CONSTITUTION

Article 13D, Sections 1-6 Assessment and property related fee reform

UNCODIFIED STATUTES

17696-17696.98 Greene-Hughes School Building Lease-Purchase Bond Law of 1986

CODE OF REGULATIONS, TITLE 2

1859-1859.106 School facility program

LUCERNE VALLEY UNIFIED SCHOOL DISTRICT

BP7210(c)

Facilities Financing

Facilities

COURT DECISIONS

Loyola Marymount University v. Los Angeles Unified School District (1996) 45 Cal.App.4th 1256

Ehrlich v. City of Culver City (1996) 12 Cal.4th 854

Dolan v. City of Tigard (1994) 114 S.Ct. 2309

Canyon North Co. v. Conejo Valley Unified School District (1993) 19 Cal.App.4th 243, 23 Cal.Rptr.2d 495

Garlic Development Co. v. Hayward Unified School District (1992) 3 Cal.App.4th 320, 4 Cal.Rptr.2d 897

Nollan v. California Coastal Commission (1987) 107 S.Ct. 3141

ATTORNEY GENERAL OPINIONS

79 Ops.Cal.Atty.Gen. 149 (1996)

Management Resources:

WEB SITES

Department of General Services, Office of Public School Construction:

<http://www.opsc.dgs.ca.gov>

(2/97 10/97) 2/99

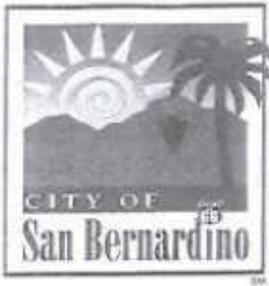
LVUSD Board Approved 09/21/2011

CITY OF SAN BERNARDINO

IN RESPONSE TO RECOMMENDATIONS

11-31

11-32



OFFICE OF THE CITY MANAGER
CHARLES E. MCNEELY

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August 30, 2011

Honorable Douglas M. Elwell, Presiding Judge
Superior Court of California
County of San Bernardino
303 West 3rd Street, 4th Floor
San Bernardino, CA 92415-0302

Dear Judge Elwell:

This correspondence will serve as the City's written response to the Findings of the 2010-2011 Grand Jury related to the City of San Bernardino's Parks and Recreation Department.

In November 2011, the Grand Jury toured the City's parks and recreation facilities to investigate the general condition. Thereafter, City staff assigned to the Parks and Recreation Department provided the members of the Grand Jury with information on the Department's mission, organizational structure, programs and services, accomplishments, FY 2010-2011 Projected General Fund Revenues, and FY 2010-2011 Projected General Fund Expenditures. Information related to citizen surveys on park usage, frequency, and perceptions about maintenance, as well as the number and types of law enforcement calls for service at Seccombe Lake was also provided. The Grand Jury identified two Findings related to the City's Parks and Recreation program, which are addressed herein.

Finding No. 1/Recommendation 11-31

Continue to seek funding and provide additional staffing for park maintenance personnel.

Response to Finding No. 1/Recommendation 11-31

The City of San Bernardino agrees conceptually with Finding No. 1, which indicates that the City should seek funding and provide additional staffing for park maintenance personnel. Finding No. 1 has been implemented.

CITY OF SAN BERNARDINO

ADOPTED SHARED VALUES: Integrity • Accountability • Respect for Human Dignity • Honesty

The City's Parks and Recreation Department provides diverse programming including aquatics programs, youth and adult sports, recreation programs, senior services and nutrition, family learning and enrichment, and community events in more than 40 park and recreation facilities, including six aquatics centers and a 47-acre soccer complex, and 550 acres of open park land.

Despite the challenges faced by the City and the Parks and Recreation Department, FY 2010-2011, was a successful year. Last year, approximately \$3 million in capital improvements were made at City parks. The Department was honored with the California Parks and Recreation Society's "Best of the Best" award for recreation and community programming and the Governor's Award for physical fitness programs with the Westside Steppers. Four Kaboom playgrounds were completed, and the City was designated a Playful City USA.

The City is experiencing an economic downturn of unprecedented proportion, which began with the housing industry and banking crisis and has expanded to virtually all facets of the economy, not just in San Bernardino, but throughout California and the nation. The San Bernardino economy suffers from decreasing property values, a reduced credit capacity, and ongoing instability in the financial institutions and reduced customer confidence. The unemployment rate of San Bernardino residents impacts business production and sales. These factors have adversely affected the City's ability to maintain a healthy revenue base to support essential services for our community. The City's short and long-term priority continues to be fiscal stability with the challenge of continuing to provide quality service and operation levels while living within our means, restoring and maintaining a healthy reserve, and sustaining programs that will support economic vitality by which we can support strong, safe neighborhoods in our community.

Given the economic uncertainty and a reduction in available revenues, the City implemented numerous actions to reduce General Fund spending. Realignment of operations and organizational restructuring were implemented to promote greater efficiency and more effective use of limited resources. Additionally, departmental operations are being reviewed in an effort to identify cost savings, which will enable the City to invest in public facilities including parks.

The City is actively seeking grant funding from other government agencies and non-profit organizations. Since 2009, the City has applied for nearly \$24 million in grant and sponsorship opportunities for park and recreation facility development, maintenance, and operations, and received nearly \$3.6 million in funding. In 2011, the City's \$20 million grant application to the California Department of Parks and Recreation, Office of Grants and Local Services, under the Proposition 84 Park Development and Community Revitalization Program was denied. The City and Park and Recreation Department will continue to aggressively seek funding opportunities.

The development of strong partnerships with other public agencies, non-profit groups, religious institutions, businesses, and neighborhood groups has enabled the City to continue to offer quality programming and improve the appearance and aesthetic attractiveness of the parks and recreation facilities despite the economy and reduction in funding. A recent program approved by the Mayor and Common Council in August 2011, the Beautification Partnership, is another example of an innovative effort to improve the appearance of the City. Through this program,

thousands of volunteers are working together to beautify San Bernardino. A City-Wide Clean Up, a Beautification Partnership kick-off event which is scheduled for Saturday, September 10, 2011, will address maintenance and landscaping issues at several parks. City-Wide Clean Up days will be held two times each year, and additional park and recreation facilities will be identified and targeted for improvement. Through the Beautification Partnership, long-term maintenance issues at City parks will be addressed including improved lighting, irrigation systems, and landscaping.

Finding No. 2/Recommendation 11-32

San Bernardino Police Department to dissuade the homeless and transient populations from gathering in the parks.

Response to Finding No. 2/Recommendation 11-32

The City of San Bernardino agrees conceptually with Finding No. 2, which indicates the San Bernardino Police Department should dissuade the homeless and transient populations from gathering in the parks. Finding No. 2 has been implemented.

The City of San Bernardino is the County Seat, and as such, many social services, particularly in the downtown area, are provided to citizens, some of which have become homeless due to various circumstances. Public parks can become an attraction to persons within the homeless community. Some well-meaning charitable organizations and churches have staged at park locations in the City to provide essential items of clothing and food to homeless persons, which promotes congregation.

Homelessness is not a crime and the best practice approach to the issue involves a combination of law enforcement and coordination with social service providers and members of the homeless community. The San Bernardino Police Department utilizes these approaches.

In 2006, the Department created the Homeless Advocacy Program (Standard Operating Procedure, Chapter #7, Procedure #3, 1-26-06). Since then, the Department has been at the forefront on this issue throughout the region, providing training and assistance to other agencies that have since developed a similar approach.

Due to the seriousness of the issue, and the fact that members of the homeless community can suffer from drug/alcohol abuse or mental conditions, the Homeless Advocacy Program was expanded to two officers, one assigned to each of the patrol divisions, in 2011. The training and experience of the two officers has developed into a close working relationship with the County Department of Behavioral Health. The officers are able to proactively monitor homeless related issues and are available to respond to service calls related to homeless individuals.

The Homeless Advocate Officers also work closely with other City staff, social service agencies, and homeless individuals/families to coordinate appropriate responses and services according to the unique situation. Law enforcement tools such as citation or arrest are utilized when appropriate and State laws or municipal ordinances have been violated. Illegal homeless

encampments are addressed and removed with the assistance of code enforcement, health and other agencies appropriate to the situation.

These approaches have been effectively utilized in the City's parks where daily coordination takes place to address issues that arise. Well-meaning groups who seek to provide clothing and other essential items have been discouraged from doing so in the parks and have been redirected to other appropriate agencies and locations.

The City appreciates the Grand Jury's efforts to erase the negative image that San Bernardino carries and the passionate concern with the County's "culture or corruption" image. On behalf of Mayor Patrick Morris and the Members of the Common Council, the City of San Bernardino, and our community, we appreciate the Grand Jury's review of the Parks and Recreation Department and the opportunity to provide a written response to the findings.

Sincerely,

CITY OF SAN BERNARDINO



Charles McNeely
City Manager

Cc: Mayor and Members of the Common Council
Jim Penman, City Attorney
Rachel Clark, City Clerk
Andrea M. Miller, Assistant City Manager
Chief Keith Kilmer, San Bernardino Police Department
Kevin Hawkins, Director of Parks and Recreation

CITY OF VICTORVILLE

IN RESPONSE TO RECOMMENDATIONS

11-33

11-35

**2010-2011 GRAND JURY REPORT
RESPONSE FORM**

GROUP _____

DATE _____

DEPARTMENT _____

SUBMITTED BY City of Victorville Development

PAGE _____

FINDING – AGREE/DISAGREE Recommendation 11-33 (Finding 2, 3 – Joshua Trees; Finding 1 – Illegal Dumping; Findings 1, 3 - Graffiti)

Joshua Trees

2. There are three code enforcement inspectors who respond to Joshua Tree code violations.

3. When a Joshua Tree code violator is caught, three courses of action may be taken:
 - criminal citation
 - administrative citation
 - civil remediation

The first two citations can result in fines up to \$500. Civil remediation requires a court appearance where more serious penalties may be imposed. There have been no civil court actions filed by the County in seven years.

We have no idea how many officers the County has responding to Joshua Tree violations, nor what 3 courses of action may be taken.

Illegal Dumping

1. The county has established a surveillance program of illegal dumping areas through the use of infrared video cameras. The cameras are set up to record activity in a given area. The county has 90 cameras available.

We are aware of the County program, however, we do not know the details. The City of Victorville has two cameras available.

**2010-2011 GRAND JURY REPORT
RESPONSE FORM**

Graffiti

1. The County receives approximately 43 calls a month regarding graffiti.
3. There is no single county code enforcement officer assigned only to the graffiti problem.

We have no idea how the County handles its graffiti enforcement.

FINDING – AGREE/DISAGREE Recommendation 11-35 (Findings 6, 7, 8 - Joshua Trees; Finding 2 - Graffiti)

6. The City of Victorville has a Joshua Tree inspection application process in its code enforcement operation for the protection and preservation of the plant. There were no reported violations during the years 2007 through 2010.
7. The Town of Apple Valley enforces Joshua Tree protection under its Development Code (Section 9.76.040) which provides the criteria for a permit process to remove or relocate trees. A certified arborist must provide a written report on the condition, and any recommendation for removal of Joshua Trees. This report accompanies the permit application. Apple Valley furnished copies of code violations which resulted in citations and fines, but no totals for the years 2006 through 2010.
8. The City of Hesperia has a Protective Plant Ordinance (Municipal Code Chapter 16.24) which addresses the removal and relocation of Joshua Trees. Developers are required to prepare a Protection Plan for Plants which covers Joshua Trees and other species, after which a permit is issued for grading purposes. The Community Development Department (Building & Safety and Planning Division) inspects for compliance. Only one case of non-compliance was reported for the period of 2006 through 2010. A citation was issued and a fine paid for the violation.

The City of Victorville Code Enforcement Division is not involved in the inspection of Joshua trees, and would only be involved if someone were suspected of violating the ordinance, which, as cited in Finding 6, has not been an issue. We are not involved with the enforcement of Apple Valley or Hesperia's ordinances.

ATTACHMENT I

2010-2011 GRAND JURY REPORT RESPONSE FORM

Graffiti

2. Enforcement of county codes against graffiti is handled through administration of two contracts (\$300,000 total) with private companies that specialize in graffiti issues. The contractors usually respond within 48 hours of a call and take photos of the graffiti before removal. The pictures are provided to the county and local law enforcement agencies to help to identify the perpetrators.

The City of Victorville has its own graffiti abatement program and is not involved with the County.

**2010-2011 GRAND JURY REPORT
RESPONSE FORM**

GROUP _____

DATE _____

DEPARTMENT City of Victorville Development

RECOMMENDATION NO. 11-33

SUBMITTED BY _____

PAGE _____

RESPONSE

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

It is hard for the City of Victorville to comment on whether the County needs more Code Enforcement officers. Based on the submitted findings, which represent a small portion of what code enforcement covers, our comments are:

The City of Victorville rarely receives complaints with regard to Joshua trees;

Illegal dumping is such a difficult violation to deal with that increasing the number of officers would not have much of an impact unless they covered the entire county 24 hours a day; and

Our graffiti is handled by our Public Works Department and a graffiti hotline is set up for residents of any city to leave information. This is one of the city's most successful programs.

ATTACHMENT II

**2010-2011 GRAND JURY REPORT
RESPONSE FORM**

GROUP _____
DEPARTMENT City of Victorville Development
SUBMITTED BY _____

DATE _____
RECOMMENDATION NO. 11-35
PAGE _____

RESPONSE

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

Victorville is completely self-sufficient and has all the data resources necessary to cover the topics discussed. We have no indications that additional data, or sharing data is necessary or helpful at this time. Not sure what the goal of this recommendation is and what benefit it would be to have all of the jurisdictions exchanging data.

CITY OF HESPERIA

IN RESPONSE TO RECOMMENDATIONS

11-33

11-35

ATTACHMENT I

**2010-2011 GRAND JURY REPORT
RESPONSE FORM**

GROUP Public and Support Services Committee

DATE 7/21/11

DEPARTMENT _____

SUBMITTED BY City of Hesperia

PAGE 56

FINDING ~~AGREE~~/DISAGREE

Finding 8 is factually correct.

**2010-2011 GRAND JURY REPORT
RESPONSE FORM**

GROUP Public and Support Services Committee

DATE 7/21/11

DEPARTMENT _____

RECOMMENDATION NO. 11-35

SUBMITTED BY City of Hesperia

PAGE 58

RESPONSE

The respective cities, town, and County do coordinate, as needed, at this time. A recent example of this involves a task force comprised of all high desert cities and the County, with assistance by the Sheriff to address certain code enforcement issues. Data exchange also occurs on a regular basis, especially related to graffiti. However, how each agency applies and/or enforces its laws is not consistent, but reflects the priorities of the respective agency.

Local Cost Impact

TOWN OF APPLE VALLEY

IN RESPONSE TO RECOMMENDATIONS

11-33

11-35

**2010-2011 GRAND JURY REPORT
RESPONSE FORM**

GROUP Town of Apple Valley DATE 8/30/11
DEPARTMENT Code Enforcement
SUBMITTED BY Jim Andersen PAGE 1

Joshua Trees, Illegal Dumping, and Graffiti

FINDING – AGREE/DISAGREE

Disagree

RECOMMENDATION

11-33 The County Code Enforcement Division staffing of code enforcement officers should be increased to adequately respond to the number of complaints. (Finding 2, 3 – Joshua Trees; Finding 1 – Illegal Dumping; Findings 1, 3 - Graffiti)

RESPONSE

Joshua Trees: From 2006 to current the Town Apple Valley Code Enforcement Division has handled ten complaints regarding the unlawful removal of Joshua Trees. Complaints are handled by one of seven Code Enforcement Officers who each respond according to their assigned geographic area. Of the ten complaints, three were found to have permits to remove the Joshua Trees. In four cases the circumstances were such that they were informed to obtain a permit because the tree had fallen or was damaging property. One case was unfounded as no Joshua Trees were being removed, Juniper bushes were being removed. And in two cases misdemeanor notice to appear citations were issued with both subjects being found guilty in court and ordered to pay fines of \$700 in one case and \$1,376.38 in the other. There are adequate Code Enforcement Officers to handle Joshua Tree complaints. Two of the 10 investigations were opened proactively by Code Enforcement Officers.

In the Town of Apple Valley there are currently seven full time Code Enforcement Officers, two full time and two part time technicians, one part time Community Enhancement Officer and one full time Code Enforcement Manager.

ATTACHMENT I

2010-2011 GRAND JURY REPORT RESPONSE FORM

Illegal Dumping: During fiscal year 2010/2011 the Town of Apple Valley Code Enforcement Division handled six hundred fourteen (614) cases of illegal dumping. 85% of the illegal dumping cases were opened proactively by Code Enforcement Officers. When an illegal dump is found, Officers diligently go through the site looking for any identifying information as to who is responsible for the dump. Officers follow up on each and every lead in an attempt to track down the dumper. When found, they are issued a misdemeanor notice to appear citation to court and told to clean up the dump site and show proof in court that the illegally dumped items were taken to the land fill. If a suspect is caught in the act of illegal dumping, in addition to the court citation, the vehicle used to dump the items is impounded and held for thirty days. Since the adoption of the vehicle impound ordinance in 2004, approximately 20 vehicles have been impounded.

The Town of Apple Valley Code Enforcement Division has a community enhancement crew consisting of one part time Community Enhancement Officer and work release inmates who work every Saturday and Sunday removing illegal dumps from the desert. In fiscal year 2010-2011 the crew removed 139,340 lbs of trash from the desert.

Graffiti: The Town of Apple Valley has an excellent graffiti removal program. In Fiscal year 2010-2011 the Code Enforcement Division handled two thousand two hundred and seventy one (2271) graffiti cases. 91% of all the graffiti cases were opened proactively by Code Enforcement Officers. Code Officers carry spray paint matching utility boxes and dumpsters and remove graffiti on the spot as it is seen. Additionally, Code Officers carry graffiti remover and remove graffiti from street and directional signs as they see it. All other graffiti is assigned to the Town's graffiti contractor who expertly color matches paint and will paint over graffiti on private property provided the owner has signed a waiver allowing the Town to remove graffiti from their property. Graffiti is also removed by pressure washing or a combination of pressure washing and graffiti remover as appropriate. This is a free program available to all property owners in the Town of Apple Valley.

All graffiti in Town is photographed and the moniker or description of the graffiti is input into a database where it can easily be tracked and looked up in the event a tagger is identified and caught. This is useful for prosecution as well as cost recovery.

Uniform Data Exchange System Between San Bernardino County, Victorville, Hesperia and Apple Valley

FINDING – AGREE/DISAGREE

Disagree

ATTACHMENT I

2010-2011 GRAND JURY REPORT RESPONSE FORM

RECOMMENDATION

- 11-35 A uniform data exchange system be established between the county and the cities of Victorville, Hesperia, and the Town of Apple Valley in order to provide a more comprehensive picture of how laws are applied in County and local jurisdictions. (Findings 6, 7, 8 - Joshua Trees; Finding 2 - Graffiti)

RESPONSE

Having a uniform exchange system between the jurisdictions is difficult for several reasons. First and foremost, the laws/municipal codes are different in each of the jurisdictions. Additionally, each agencies enforcement process and how violations are handled is different. Depending on staffing levels, each agency's ability to handle certain types of violations varies widely. Currently in Apple Valley approximately 81% of all Code Enforcement cases are opened proactively. Other agencies in the County don't have the staffing to do any proactive code enforcement. Also, each jurisdiction's governing body may have a different philosophy as to how aggressive or non aggressive they want code enforcement to be.

With respect to actually exchanging information, the difficulty comes from each agency having a different computer software program to track and handle code enforcement cases. Without a common system, exchanging information would be nearly impossible without dedicating precious staff time to work on the exchange. Apple Valley Code Enforcement handles 7000-8000 code enforcement cases per year, not including other types of inspections of foreclosed properties and rental properties.

If the recommendation is for the agencies to talk about enforcement methods, programs, and what is working within the respective jurisdictions, that occurs now and should continue as the managers and or supervisors from the different agencies get together occasionally to discuss code enforcement.

SAN BERNARDINO INTERNATIONAL
AIRPORT AUTHORITY

IN RESPONSE TO RECOMMENDATIONS

SECTION 1: 1.1 through 1.5

SECTION 2: 2.1

SECTION 3: 3.1 through 3.5

SECTION 4: 4.1

SECTION 5: 5.1

SAN BERNARDINO INTERNATIONAL AIRPORT AUTHORITY (SBIAA) COMMISSION RESPONSES TO THE 2011 SAN BERNARDINO COUNTY GRAND JURY PERFORMANCE AUDIT OF THE SAN BERNARDINO INTERNATIONAL AIRPORT OPERATIONS, DEVELOPMENT AND CONSTRUCTION ACTIVITIES PERFORMED BY HARVEY M. ROSE ASSOCIATES, LLC (HMR) AND RELATED RECOMMENDATIONS:

SECTION 1. INTERNAL CONTROLS

- 1.1 Direct management to develop comprehensive policies and procedures within 12-months of the receipt of this report.

RESPONSE: Agree. The SBIAA Commission approved Accounting and Construction Projects Policies and Procedures on June 8, 2011 (attached hereto as **Attachment A**). The SBIAA Commission will analyze and recommend additional policies and procedures through the SBIAA Finance and Budget Committee and establishment of other SBIAA Commission formed committees as appropriate.

TIMELINE FOR COMPLETION: Within 8 months

- 1.2 Direct management to refine processes for ensuring the comprehensive documentation of business processes and transactions.

RESPONSE: Agree. SBIAA efforts in the document production process for the San Bernardino County Grand Jury enabled SBIAA staff to determine areas where business process and transactions could potentially be improved. This will be an ongoing effort to be presented to the SBIAA Commission to continually refine processes by and through the SBIAA Finance and Budget Committee and establishment of other SBIAA Commission formed committees as appropriate for formal submission to the SBIAA Commission.

TIMELINE FOR COMPLETION: Within 12 months

- 1.3 Convene a workshop to evaluate approaches to improving the quality and understandability of management reports to the governing board.

RESPONSE: Agree. The SBIAA Commission will conduct such a workshop and pursue other measures as appropriate.

TIMELINE FOR COMPLETION: Within 4 months

- 1.4 Adopt a policy to rotate financial auditing firms every five years.

RESPONSE: Agree. The SBIAA Commission will develop such a policy within the current fiscal year.

TIMELINE FOR COMPLETION: Within 12 months

- 1.5 Solicit proposals from qualified auditing firms to provide financial audit services for the next five year audit cycle.

RESPONSE: Agree. The SBIAA Commission will issue a Request for Qualifications (RFQ) including parameters for specific experience and references of respective firms for such services for then applicable fiscal year on or before March 31, 2012.

TIMELINE FOR COMPLETION: Within 8 months

SECTION 2. CONSTRUCTION MANAGEMENT

- 2.1. Immediately require SBIAA management to strengthen controls and reporting to the Commission including:

- a. Implementing procedures for the use of contingency funds for existing and future capital projects.

RESPONSE: Agree. The SBIAA Commission has current policies, (including the June 8, 2011 updates), of routinely approving a ten percent (10%) contingency on all public works contracts to address unanticipated change orders which are subsequently ratified by the SBIAA Commission upon completion of the public works construction project. The current policies and procedures will be reviewed and considered by the SBIAA Commission accordingly. Attached hereto as **Attachment B** is a representative sample of the typical contract approval with a contingency fund appropriation of ten percent (10%).

TIMELINE FOR COMPLETION: Within 10 months

- b. Requiring Chief Financial Officer review and approval of all expenses prior to disbursement of capital project funds.

RESPONSE: Agree. Current SBIAA policies and procedures include such requirements. In the event that a third-party fund control process is considered in the future, the Chief Financial Officer will be a required signatory on payment vouchers in addition to other prior responsibilities under such processes. Additional resources may be obtained to adequately

protect the interests of the SBIAA Commission in the expenditure of public funds.

TIMELINE FOR COMPLETION: Within 6 months

- c. Enforcing all provisions in the Terminal and FBO leases requiring the developer to provide detailed monthly progress reports. The Commission should also require the developer to provide and present such reports at Commission meetings.

RESPONSE: Agree. The SBIAA Commission will require the Chief Financial Officer to submit copies of the detailed First American Fund Control reports and other documentation on the Terminal and FBO projects to the SBIAA Commission on a monthly basis at its regularly scheduled public meetings as an adjunct to its Register of Demands information. At the discretion of the SBIAA Commission, the developer may be required to provide additional documentation upon demand.

TIMELINE FOR COMPLETION: Within 1 month

- d. Engage the services of a reputable, independent auditing firm to examine all expenses incurred as a result of the Terminal Development and FBO Projects. The scope of such an audit should include a review of construction meeting minutes to determine if the developer purposely inflated costs.

RESPONSE: Agree. On February 10, 2010, a Special Compliance Audit Report of the San Bernardino Airport Terminal Renovation Project, covering the period July 1, 2008 through June 30, 2009, was filed with the SBIAA Commission, and an additional compliance audit covering the period July 1, 2009 through December 31, 2010, for the other aspects of (i) the Terminal Development and (ii) the FBO and Customs Building are currently in progress. Upon completion, additional independent reviews will be conducted as requested by the SBIAA Commission pursuant to the conditions precedent under the existing development agreements and prior to consideration of acceptance of any ownership interests in any improvements by the SBIAA Commission.

TIMELINE FOR COMPLETION: Within 12 months

SECTION 3. EQUIPMENT ACQUISITION

- 3.1 Make a formal policy decision to only authorize contracts after they have been signed, on condition of Commission approval, so that it can properly review such contracts and to ensure that all major agreements are accompanied by signed and executed contracts.

RESPONSE: Agree. As a public agency, SBIAA currently requires that the SBIAA Commission must approve contracts prior to execution by authorized signatories. The SBIAA Commission will adopt a policy to ensure that all major contracts be adopted by formal resolution and with specific provisions that such major contracts be executed within 60 days of such adoption, or if unexecuted within said timeframe, shall be resubmitted to the SBIAA Commission for further review and/or approval. Such policy should also include consideration relative to the order of execution of SBIAA approved agreements when appropriate.

TIMELINE FOR COMPLETION: Within 10 months

- 3.2 Formally approve a purchasing policy that includes revisions to address the deficiencies identified in our review. In particular, eliminate the *Negotiated Purchases* section of the purchasing policy and require that all purchases above \$25,000 (or a different threshold deemed more appropriate by the Commission), regardless of purpose, require a formal contract to be approved by the Commission.

RESPONSE: Agree. The SBIAA Policies and Procedures as adopted by the SBIAA Commission on June 8, 2011 (see **Attachment A** as previously referenced) contain established thresholds. The SBIAA Commission will implement an update to these policies as appropriate.

TIMELINE FOR COMPLETION: Within 12 months

- 3.3 Set a regular schedule for reviewing, revising, and formally approving updates to the purchasing policy.

RESPONSE: Agree. All current SBIAA policies and procedures, including the Strategic Plan, include a provision requiring annual evaluation and/or update. Many of these coincide with the annual SBIAA budget approval process. All proposed and future updated SBIAA policies and procedures will include such annual evaluations and/or update provisions.

TIMELINE FOR COMPLETION: Within 12 months

- 3.4 Engage the services of a reputable, independent auditing firm to examine the representations and warranties made by Norton Development management and

SBIAA management in connection to the purchase of used aviation equipment as well as the amount actually spent on such equipment, and the estimated useful life and/or resale potential of the equipment.

RESPONSE: Agree. On July 27, 2011, the SBIAA Commission received reports from independent industry experts Faithful & Gould and TranSystems, specializing in the area of aviation equipment and other matters (attached hereto as **Attachment C**). The SBIAA Commission will seek expert advice prior to acceptance of any ownership interest in improvements under the existing conditions precedent in the applicable development agreements.

TIMELINE FOR COMPLETION: Within 12 months

- 3.5 Formally direct the Interim Executive Director and Assistant Director to cease from approving any further fund payments to Norton Development or any third parties with agreements to provide services in connection to the used aviation equipment, which was originally authorized on July 3, 2007.

RESPONSE: N/A. The referenced agreement has been implemented, and there are no similar agreements pending at this time. The SBIAA Commission will enforce all conditions precedent in the applicable development agreements to ensure full compliance by the developer prior to consideration by the SBIAA Commission of acquisition of any ownership interest in the improvements. Additional reviews will be requested by the SBIAA Commission as appropriate.

TIMELINE FOR COMPLETION: Within 12 months

SECTION 4. LAWSUIT SETTLEMENT

- 4.1 Engage the services of a reputable, independent auditing firm to examine the representations and warranties made by NAMS and SBD management in connection with the *Settlement and Mutual Release Agreement* and, if found to be false or untrue, demand immediate repayment of the Insurance Loan, Rent Credit and Temporary Aircraft Rehabilitation Loan balance.

RESPONSE: Agree. The SBIAA Commission will seek proposals from independent legal experts to review the referenced documents and to provide recommendations to the SBIAA Commission accordingly.

TIMELINE FOR COMPLETION: Within 12 months

SECTION 5. CONTRACTOR RELATIONS

- 5.1 Direct staff to review current contracts for construction services and Airport operations with the companies he (Spencer) manages to identify modifications that may be necessary to protect the IVDA and SBIAA from potential future risk.

RESPONSE: Agree. On July 27, 2011, the SBIAA Commission received the memorandum of a noted aviation attorney specializing in U.S. Department of Transportation (DOT) and Federal Aviation Administration (FAA) regulatory matters (attached hereto as **Attachment D**). The SBIAA Commission will seek proposals from other independent legal experts to review the referenced agreements.

TIMELINE FOR COMPLETION: Within 12 months

ATTACHMENTS:

Attachment A – June 8, 2011 SBIAA Adopted Policies and Procedures

Attachment B – Sample Staff Report and Resolution Approving Construction Contract with 10% Contingency

Attachment C – Consultant Reports from Faithful & Gould & TranSystems

Attachment D – Resume and Memorandum from E. Tazewell Ellett

Attachment E – California State University Study

Attachment F – Agenda and SBIAA Staff Presentation Materials from SBIAA Commission meeting held on July 13, 2011

Attachment G – Agenda and SBIAA Staff Presentation Materials from SBIAA Commission meeting held on July 27, 2011

Attachment H – Agenda and SBIAA Staff Presentation Materials from SBIAA Commission meeting held on August 10, 2011

SAN BERNARDINO COUNTY
SHERIFF'S DEPARTMENT

IN RESPONSE TO RECOMMENDATIONS

11-38

11-39

11-40

11-41

11-42

**2010-11 GRAND JURY REPORT
RESPONSE FORM**

GROUP Communications – Rialto & Victorville DATE July 15, 2011
DEPARTMENT Sheriff – Coroner RECOMMENDATION NO. 11-38/39/40/41/42
SUBMITTED BY Rod Hoops PAGE 65/66/67/68

FINDING – AGREE/DISAGREE (If disagree, explain why)

The respondent **agrees** with the findings and recommendations (11-38 and 11-39) to move the Communications Rialto facility to a permanent building, and to install security cameras.

The respondent **agrees** with the findings and recommendations (11-40, 11-41 and 11-42) to install security cameras, provide employee escorts to their vehicles, and to replace broken workstations and chairs.

**2010-11 GRAND JURY REPORT
RESPONSE FORM**

GROUP Communications – Rialto & Victorville DATE July 15, 2011
DEPARTMENT Sheriff – Coroner RECOMMENDATION NO. 11-38/39/40/41/42
SUBMITTED BY Rod Hoops PAGE 65/66/67/68

RESPONSE

In response to recommendation 11-38 and 11-39, the Sheriff's Department is currently working with the CAO's office to move the Victorville facility. Once the plans are in place and the project is moving forward, we will meet with the CAO's office to start the discussion of moving the Rialto facility to a permanent location with enhanced security features.

In response to recommendations 11-40 and 11-41, the Sheriff's Department is currently working with the CAO's office to move the Victorville facility to the County High Desert Government Center. The new center will provide secured parking and security cameras. Reference recommendation 11-42, several work stations have been replaced or repaired.