

2002/03 RESPONSES



RECEIVED
JUN 02 2003

DICK MURPHY
MAYOR

May 30, 2003

Hon. Richard E. L. Strauss
Presiding Judge, San Diego County Superior Court
220 W. Broadway, Department SD-P
San Diego, CA 92101

Dear Judge Strauss:

Subject: Mayor's Response to San Diego County Grand Jury Report

On March 6, 2003, a report was issued by the San Diego County Grand Jury entitled "San Diego City Ethics Commission: Can it Attain its Purpose?". California Penal Code section 933.05 establishes the requirements and instructions for responding to the Report (Enclosure A). Enclosed are my responses to the Report's findings and recommendations (Enclosure B).

On advice of the City Attorney, I believe that the recommendations do not address the "operations," "functions," or "method or system of performing duties", as those duties are currently prescribed by law. Instead, the recommendation calls for a change in law, a subject of inquiry beyond the scope of the Grand Jury's authority. However, in the spirit of cooperation, we submit the following responses.

Best Regards,

A handwritten signature in black ink that reads "Dick Murphy".

Dick Murphy
Mayor
City of San Diego

cc. San Diego City Council Members
Charlie Walker, Executive Director, San Diego Ethics Commission

Enclosure A: Requirements and Instructions
Enclosure B: City of San Diego Response to Grand Jury Report

Enclosure A REQUIREMENTS AND INSTRUCTIONS

California Penal Code section 933(c) requires any public agency that the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. *Such comment shall be no later than 90 days after the grand jury submits its report to the public agency.* Also, every *elected* county officer or agency head for which the Grand Jury has responsibility shall comment on the findings and recommendations pertaining to matters under the control of that county officer or agency head, as well as any agency or agencies which that officer or agency head supervises or controls. *Such comments shall be made within 60 days to the Presiding Judge of the Superior Court with an information copy sent to the Board of Supervisors.*

California Penal Code section 933.05 details the specific manner in which such comments are to be made, as follows:

- (a) As to each Grand Jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding.
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that disputed and shall include an explanation of the reasons therefor.

- (b) As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of the publication of the Grand Jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

Enclosure B
RESPONSES TO
GRAND JURY REPORT:

SAN DIEGO CITY ETHICS COMMISSION: CAN IT ATTAIN ITS PURPOSE?

FINDINGS:

- A1. The same elected officials who may be subject to an Ethics Commission investigation (City Council members and the City Attorney) nominate the people who may ultimately be called upon to conduct investigations of the nominators or cite them for violations.**

I agree with this finding.

- A2. The seven Ethics Commissioners should be appointed by the Mayor from a pool of City of San Diego citizens nominated by a panel of retired judges or chosen through some random process.**

I agree that the Mayor should continue to be the appointing authority. I disagree that the nominating authorities should be a panel of retired judges or chosen through some random process. It is more consistent with our democratic ideals to have the nominating authorities be officials whom the public can vote out of office if they disagree with their nominations.

- B1. I refer you to the response provided by the Ethics Commission.**

- B2. I refer you to the response provided by the Ethics Commission.**

- FI. I refer you to the response provided by the Ethics Commission.**

- G1. I refer you to the response provided by the Ethics Commission**

- H1. The Mayor of San Diego stated to the Grand Jury that he made every attempt to select a Commission with ethnic diversity representative of the community. There is ethnic diversity on the Ethics Commission.**

I agree with this finding.

- H2. There were originally three attorneys serving on the Ethics Commission. The Grand Jury fails to see how requiring two or more attorneys reflects the diversity of the City. Other professions, such as Certified Public Accountants, educators, business people, or any other profession might be equally as representative.**

I disagree with the underlying assumption of the Grand Jury that the City Council intended to have diversity of professional backgrounds on the Ethics Commission. The City Council often looks to appoint members to Boards and Commissions or to establish minimum qualifications for appointment which will ensure expertise in the subject matter under the jurisdiction of the particular Board or Commission. The Ethics Commission is a quasi-judicial body that requires its members to analyze and render opinions based on complicated state and local law. Attorneys have specialized training in these tasks.

H3. Political party affiliation is not an appropriate criterion for a non-partisan commission. The Ethics Commissioners should be appointed for their integrity, not their party affiliation.

I disagree with this finding. The requirement for diversity of party affiliation promotes and ensures a non-partisan commission. This provision was modeled after state and federal law. The State Fair Political Practices Commission has five members and no more than three may be from any one party [Cal Govt Code § 83100.] The Federal Election Commission has six members and no more than three may be from any one party [2 U.S.C. § 437c(a)(1).]

H3a. Of the seven original Commissioners three are registered Democrat, three are registered Republican and one is registered Non-Partisan.

I agree with this finding.

H3b. It will be difficult for the Mayor to replace Commissioners while keeping in mind the “diverse” roles that must be filled without sacrificing the most qualified nominees. This is a problem that is presently facing the Mayor. Recently, one of the Ethics Commissioners was appointed to the Superior Court bench requiring her resignation from the Ethics Commission. Since she was a registered Democrat, no Republican can be considered as a replacement. That eliminates approximately 45 percent of San Diego residents from consideration for the position. This situation becomes more acute if the one Non Partisan commissioner would have to be replaced. No Republican or Democrat could be chosen as a replacement, so approximately 90 percent of San Diego residents would be disqualified to fill this position.

I disagree with this finding. Our goal of pursuing diversity has not significantly limited the pool of talented applicants.

H3c. A qualification for membership on the Ethics Commission is that each Commissioner shall be a qualified elector of the City of San Diego.

I agree with this finding.

- H4. “A person who has held elective governmental office” [San Diego Municipal Code section 26.0404] should not be one of the criteria for appointment to the Ethics Commission.**

I disagree with this finding. The Ethics Commission regulates compliance with campaign finance rules for candidates for public office. We expect that “a person who has held elected government office” will be a person who was involved in the day-to-day workings of his or her own campaign. This person will add valuable insight to the deliberations of the Ethics Commission. It is healthy for a regulatory body to include at least one person who has a working knowledge of the activity being regulated.

- I. The City Attorney is both a nominating authority and subject to investigation by the Ethics Commission. In addition he is also the legal counsel to the Mayor, and the City Council. Because of conflicts, the City Attorney should not serve as legal counsel for the Ethics Commission, as he currently does.**

I disagree with this finding. The City Attorney is an independently elected city official with Charter mandated obligations to provide legal services to the various boards and commissions of the City.

RECOMMENDATIONS

- 03-01: Amend the process for selecting the pool of potential Ethics Commissioners by removing the City Council and City Attorney as the nominating authorities. Instead use a procedure, such as a panel of retired judges or some random process as the instruments of choosing potential Commissioners from a pool of volunteering San Diegans. The Mayor should continue to be the appointing authority.**

I agree that the Mayor should continue to be the appointing authority. The remaining recommendations will not be implemented because they are not warranted. It is more consistent with our democratic ideals to have the nominating authorities be officials whom the public can vote out of office if they disagree with their nominations.

- 03-02: Amend the Ethics Ordinance to provide for a process of prescreening nominees to the Ethics Commission for potential conflicts of interest. People who act as lobbyists, consultants, or attorneys (including their firms) for those having business under consideration by the City Council should be scrutinized for such conflicts.**

The recommendation will not be implemented because it is not warranted. All lobbyists are barred from serving on the Ethics Commission [SDMC § 26/0406(d).] Upon taking office, all Commissioners are required to file a Statement of Economic Interest (Form 700). These forms are on file for the public to review.

- 03-03: Delete from the Ethics ordinance the requirement that no more than three members of the Commission shall be registered with the same political party and add “The Ethics Commission is a non-partisan body.” If, however, the City Council insists there be a restriction on the party affiliation of the Ethics Commissioners it should be provided that there be no more than four of any one party.**

The recommendation will not be implemented because it is not warranted. The requirement for diversity of party affiliation promotes and ensures a non-partisan commission. This provision was modeled after state and federal law. The State Fair Political Practices Commission has five members and no more than three may be from any one party [Cal Govt Code § 83100.] The Federal Election Commission has six members and no more than three may be from any one party [2 U.S.C. § 437c(a)(1).] See response to Finding H3.

- 03-04: Delete from the Ethics ordinance the requirement that there be two or more attorneys on the Ethics Commission.**

The recommendation will not be implemented because it is not warranted. I disagree with the underlying assumption of the Grand Jury that the City Council intended to have diversity of professional backgrounds on the Ethics Commission. The City Council often looks to appoint members to Boards and Commissions or to establish minimum qualifications for appointment which will ensure expertise in the subject matter under the jurisdiction of the particular Board or Commission. The Ethics Commission is a quasi-judicial body that requires its members to analyze and render opinions based on complicated state and local law. Attorneys have specialized training in these tasks.

- 03-05: Delete from the Ethics ordinance “A person who has held elective governmental office.” [San Diego Municipal Code section 26.0404]**

The recommendation will not be implemented because it is not warranted. The Ethics Commission regulates compliance with campaign finance rules for candidates for public office. We expect that “a person who has held elected government office” will be a person who was involved in the day-to-day workings of his or her own campaign. This person will add valuable insight to the deliberations of the Ethics Commission. It is healthy for a regulatory body to include at least one person who has a working knowledge of the activity being regulated.

- 03-06: Amend the Ethics ordinance to direct the Ethics Commission to hire independent legal counsel.**

The recommendation will not be implemented because it is not warranted. Consistent with Section 40 of the San Diego City Charter, San Diego Municipal Code section 26.0411 requires the City Attorney to provide legal services to the Ethics Commission,

except when a conflict exists in a matter before the Ethics Commission involving the Office of the City Attorney. This process is being followed.

- 03-07: Amend the San Diego Municipal Code section 26.0447(b)(1)(A) to provide that, if any Ethics Commissioner disqualifies him/herself because of a bias, prejudice or interest in the proceeding, such a disqualification cannot be waived by other Ethics Commissioners.**

The recommendation will not be implemented because it is not warranted. It is common in judicial and quasi-judicial proceedings for a decision-maker to disclose the existence of attenuated relationships (e.g., a shared former employer or a casual social acquaintance) with a person or entity somehow related to the proceeding. The process presently set forth in the Municipal Code provides an opportunity for a member of a Presiding Authority to bring such facts into the open and provide the parties to the proceeding with an opportunity to object to the continued participation of the decision maker or to waive any objection. If any party to the proceeding perceives that a significant conflict of interest exists, the conflict need not be waived. If the parties to the hearing and the Presiding Authority overseeing the hearing are comfortable with the decision-maker remaining in the proceeding, it is both appropriate and prudent for that person to remain.

- 03-08: Retain San Diego Municipal Code section 26.0404(b) “the Commission shall reflect the diversity of the City which it serves” and delete the rest of the section.**

The recommendation will not be implemented because it is not warranted. See Response to Findings H2, H3 and H4.

- 03-09: Examine all Commissioners for potential conflicts of interest, including memberships in other City of San Diego Commissions, or committees, or any business having transactions with the City of San Diego.**

This recommendation will not be implemented because it is not warranted or reasonable. The Ethics Commissioners who have been appointed and confirmed by City Council are regulated by a myriad of state and local laws that require the disclosure of economic interests and regulate their official conduct. The Statement of Economic Interest (Form 700) for each Commissioner is on file for the public to review.

###

LA BELLA &
MCNAMARA, LLP

RECEIVED

MAR 5 2003

SAN DIEGO
COUNTY GRAND JURY

March 5, 2003

Charles G. La Bella
clabella@labellamcnamara.com

Marcia Gravette Jespersen
Foreperson
Grand Jury
County of San Diego
330 West Broadway, Suite 477
San Diego, CA 92101-3830

Dear Ms Gravett Jespersen:

I am writing to you to alert you to certain factual inaccuracies contained in the San Diego County Grand Jury's draft of its report, entitled "San Diego City Ethics Commission: Can it Attain its Purpose?" This report, presently scheduled to be issued on Thursday, March 6, 2003, should be corrected prior to its release to the public. In particular, the discussion presented in Item B of the Facts and Findings section of the report is based upon a faulty factual premise, and this premise leads to an equally infirm recommendation.

In Item B of the Facts and Finding section, the Grand Jury asserts that one of the Ethics Commissioners, an attorney, has a potential conflict of interest because "either he or his law firm has represented a businessperson with extensive dealings involving City projects." Although not named in the report, I am assuming that I am the unnamed commissioner and the "local businessperson" is John Moores. Because of my supposed representation of Mr. Moores, the Grand Jury "finds" that the Mayor should not have appointed the commissioner and, further, that I should have "recognized the potential conflict and never accepted the appointment." Furthermore, and again based upon this supposed representation, the Grand Jury recommends that the Mayor request my resignation from the Ethics Commission.

The fundamental defect with the Grand Jury's findings and its recommendations is that neither I nor my law firm have represented John Moores. In the federal grand jury investigation involving Councilmember Stallings alluded to in the report, I represented the San Diego Padres. Mr. Moores was ably represented in that investigation by attorney R.J. Coughlin of the San Diego firm of Coughlin, Semmer and Lipman. Mr. Coughlan's representation of Mr. Moores was a matter of public record, and, indeed, this fact was reported in the San Diego Union Tribune.

Los Angeles

TEL 619-696-9200 FAX 619-696-9269

4705 LAUREL CANYON BLVD., SUITE 203 STUDIO CITY, CA 91607

www.labellamcnamara.com

San Diego

TEL 619-696-9200 FAX 619-696-9269

401 WEST A STREET, SUITE 2500 SAN DIEGO, CA 92101

March 5, 2003

Page 2

I advised the Mayor of my representation of the Padres prior to being selected to serve on the Ethics Commission. I further advised him that I would recuse myself from considering any issue involving the Padres, as I would with any client who came before the commission. That continues to be the case.

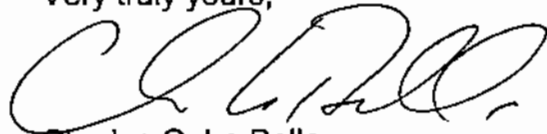
I presently represent Peregrine Systems, Inc. Mr. Moores was formerly on the Board of Directors of this public company. However, his personal interests in connection with Peregrine are ably represented by attorneys with whom I have no association. I represent the company, and only the company. Again, these facts are a matter of public record.

Had the Grand Jury made reasonable inquiry all the facts set forth above would have been apparent. If the Grand Jury had taken the time to address these concerns to me directly, I could have advised it of these facts. Unfortunately, I have never been contacted by the Grand Jury in connection with its inquiry concerning the San Diego Ethics Commission. Apparently, the Grand Jury is content to rely upon statements appearing in the political gossip columns of a weekly alternative paper. However, such reliance is no substitute for investigation and certainly no substitute for the truth.

The report also notes that a partnership involving Mr. Moores has brought a lawsuit against the City and other governmental entities alleging wrongdoing related to the ballpark. I do not represent any party, and have no involvement in or knowledge of the lawsuit referenced in the report. Nevertheless, without asserting any such involvement on my part and without providing further comment, the report then reaches the mystifying conclusion that this fact "further complicate[s] the issue of conflict of interest and raise[s] ethical questions about the service of this Ethics Commissioner." This conclusion is unsupportable, nonsensical and reckless.

I am advising you if you publish the factual inaccuracies contained in the report you will be doing so in reckless disregard of the truth. I request that the Grand Jury correct those portions of its report relating to me so that they are factually accurate.

Very truly yours,



Charles G. La Bella

March 5, 2003

Page 3

cc: Hon. Richard E.L. Strauss, Presiding Judge
San Diego Superior Court
Dorothy Leonard, Chairperson,
San Diego Ethics Commission
Charles Walker, Executive Director
San Diego Ethics Commission
Hon. Richard Murphy, Mayor



THE CITY OF SAN DIEGO

RECEIVED

MAY 20 2003

SAN DIEGO
COUNTY GRAND JURY

DOROTHY LEONARD

CHAIRPERSON

ALBERT GAYNOR

VICE CHAIRPERSON

CHARLES B. WALKER

EXECUTIVE DIRECTOR

LISA FOSTER

CHARLES LA BELLA

APRIL RIEL

DOROTHY SMITH

GREGORY VEGA

COMMISSIONERS

May 8, 2003

Hon. Richard E. L. Strauss
Presiding Judge, San Diego County Superior Court
220 W. Broadway, Department SD-P
San Diego, CA 92101

Dear Judge Strauss:

Subject: Ethics Commission Response to San Diego County Grand Jury Report

On March 6, 2003, a report was issued by the San Diego County Grand Jury entitled "San Diego City Ethics Commission: Can it Attain its Purpose?" [the Report]. California Penal Code section 933.05 establishes the requirements and instructions [Enclosure A] the Ethics Commission must follow when responding to the Report. Enclosed are the Ethics Commission responses [Enclosure B] to the Report's findings and recommendations.

Sincerely,

Dorothy Leonard
Chair San Diego Ethics Commission

cc: Honorable Mayor and City Council

Enclosure A: Requirements and Instructions
Enclosure B: City of San Diego Response to Grand Jury Report



8

Enclosure A

REQUIREMENTS AND INSTRUCTIONS

California Penal Code section 933(c) requires any public agency that the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. *Such comment shall be no later than 90 days after the grand jury submits its report to the public agency.* Also, every *elected* county officer or agency head for which the Grand Jury has responsibility shall comment on the findings and recommendations pertaining to matters under the control of that county officer or agency head, as well as any agency or agencies which that officer or agency head supervises or controls. *Such comments shall be made within 60 days to the Presiding Judge of the Superior Court with an information copy sent to the Board of Supervisors.*

California Penal Code section 933.05 details the specific manner in which such comments are to be made, as follows:

- (a) As to each Grand Jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding.
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that disputed and shall include an explanation of the reasons therefor.
- (b) As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of the publication of the Grand Jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

Enclosure B

CITY OF SAN DIEGO ETHICS COMMISSION RESPONSE TO GRAND JURY REPORT:

SAN DIEGO CITY ETHICS COMMISSION: CAN IT ATTAIN ITS PURPOSE?

Pursuant to California Penal Code section 933.05, the Ethics Commission provides the following responses to the above entitled Grand Jury Report.

FINDINGS:

- B1. The Ethics Commission was created to prevent a repeat of the type of problems that arose in the past from improper conduct such as that by a former City Council member who participated in a stock transaction with a local businessperson. The Ethics Commissioner (referred to in B. above) has or has had business relationships with a similar business entity.**

The Ethics Commission wholly disagrees with this finding. Although not named in the report, the Ethics Commission assumes that Mr. Charles La Bella is the unnamed commissioner and the "local businessman" is John Moores. The fundamental defect with this finding is that neither Mr. La Bella nor his law firm have ever represented John Moores. In the federal grand jury investigation involving Councilmember Stallings alluded to in the report, Mr. La Bella represented the San Diego Padres. Mr. Moores was represented in that investigation by attorney R.J. Coughlin of the firm Coughlin, Semmer and Lipman. Mr. Coughlin's representation of Mr. Moores was a matter of public record, and, indeed, this fact was reported in the San Diego Union Tribune.

Had the Grand Jury made a reasonable inquiry, all the facts set forth above would have been apparent. If the Grand Jury had taken the time to address these concerns to Mr. La Bella, he would have advised the Grand Jury of these facts. Unfortunately, notwithstanding Penal Code Section 933.05(e), which suggests the Grand Jury should be meeting with the subject of an investigation regarding the investigation, Mr. La Bella was never contacted by the Grand Jury in connection with this matter.

- B2. This creates a potential conflict of interest which could have been avoided had this commissioner not been appointed by the Mayor. The commissioner in question should have recognized the potential conflict of interest and never accepted the appointment.**

The Ethics Commission wholly disagrees with this finding. Every association and business interest creates the "potential" for a conflict of interest. If the litmus test for appointment to bodies such as the Ethics Commission requires that appointees have no "potential" conflicts of interests, every appointing party would be forced to choose from a virtually non-existent pool of people, i.e., people with no family, friends, acquaintances,

associates, possessions, property, or business interests. Acknowledging merit in this finding would amount to concluding that no Commissioner presently seated, and no Grand Jury member for that matter, is fit to serve on a public body.

It should also be noted that in addition to observing the applicable local and state conflict of interest laws, the Ethics Commission has adopted its own Operating Policies which require Commission members to recuse themselves from the decision-making process in the event of a financial interest or other conflict of interest.

- F1. A committee of the Ethics Commissioners should investigate or at least review all complaints. The Executive Director might make recommendations but should not have the final say as to the fate of a complaint. How these complaints are dealt with is the responsibility of the Ethics Commission, not the Executive Director.**

The Ethics Commission wholly disagrees with this finding. Chapter 2, Article VI, Division 4 of the San Diego Municipal Code prescribes the enforcement procedures for the Ethics Commission. The Executive Director and the Ethics Commission are legally obligated to follow these procedures. The authority granted to the Executive Director by the statute to unilaterally reject complaints is narrowly tailored to only those complaints which fall outside the jurisdiction of the Commission or those complaints which consist of "speculation, opinion, frivolous contentions or absurd accusations." These dismissed complaints are a matter of public record. The Commission is satisfied that the Executive Director has prudently and properly exercised the power delegated to him to dismiss only those complaints that should be dismissed during the preliminary review stage.

- G1. The waiving of the disqualification clause should be deleted from the ordinance because once a Commissioner believes s/he has a bias, or is prejudiced, s/he should remain permanently disqualified from that particular proceeding.**

The Ethics Commission wholly disagrees with this finding. It is common in judicial and quasi-judicial proceedings for a decisionmaker to disclose the existence of attenuated relationships (e.g., a shared former employer or a casual social acquaintance) with a person or entity somehow related to the proceeding. The process presently set forth in the Municipal Code provides an opportunity for a member of a Presiding Authority to bring such facts into the open and provide the parties to the proceeding with an opportunity to object to the continued participation of the decision maker or to waive any objection. If any party to the proceeding perceives that a significant conflict of interest exists, the conflict need not be waived. If the parties to the hearing and the Presiding Authority overseeing the hearing are comfortable with the decisionmaker remaining in the proceeding, it is both appropriate and prudent for that person to remain.

RECOMMENDATIONS

- 03-10: Amend its Ethics Commission conflict of interest code [San Diego Municipal Code section 26.0412] such that the Executive Director, after reviewing the statements of Economic Interests filed by the Ethics Commissioners, must call to the attention of the City Council and/or nominating authority any potential conflict of interest which might be ascertained from such examination.**

The recommendation will not be implemented because it is not warranted and is not reasonable. San Diego Municipal Code section 26.0412 specifies the process for Ethics Commissioners to comply with the state mandated requirements in the Political Reform Act. Every economic interest disclosed on a statement of economic interests creates the potential for a conflict of interest. Since these documents are public records there is no need for the Executive Director to call out these economic interests to the attention of the City Council and/or nominating authority. In addition, it may not be understood by the Grand Jury that the City Clerk for the City of San Diego is designated and recognized by the State of California to be the "Filing Official" for the City of San Diego for purposes of the Statements of Economic Interest. The City Clerk accepts and maintains these records for all City officials. The City Clerk also reviews these filings for completeness and refers matters to the Ethics Commission for possible investigation and enforcement if defects or irregularities are noted.

- 03-11: Amend procedures presently in place [San Diego Municipal Code section 26.0423], which allow the Executive Director to unilaterally reject complaints.**

The recommendation will not be implemented because it is not warranted and is not reasonable. Chapter 2, Article VI, Division 4 of the San Diego Municipal Code specifies the enforcement procedures for the Ethics Commission. These procedures are being followed. The recommendation does not address the "operations," "functions," or "method or system of performing duties," as those duties are currently prescribed by law. Instead, the recommendation calls for a change in the law, a subject of inquiry beyond the scope of the Grand Jury's authority and the authority of the Ethics Commission to effectuate. The authority granted to the Executive Director by the statute to unilaterally reject complaints is narrowly tailored to only those complaints which fall outside the jurisdiction of the Commission or those complaints which consist of "speculation, opinion, frivolous contentions or absurd accusations." These dismissed complaints are a matter of public record. The Commission is satisfied that the Executive Director has prudently and properly exercised the power delegated to him to dismiss only those complaints which should be dismissed during the preliminary review stage.



RECEIVED

JUL 29 2003

County of San Diego

WALTER F. EKARD
CHIEF ADMINISTRATIVE OFFICER
(619) 531-6226
FAX: (619) 557-4060

CHIEF ADMINISTRATIVE OFFICE

1600 PACIFIC HIGHWAY, STE. 209. SAN DIEGO, CA 92101-2472

July 29, 2003

The Honorable Richard E. L. Strauss
San Diego Superior Court, Presiding Dept.
220 West Broadway
San Diego, CA 92101

RESPONSE FROM COUNTY OF SAN DIEGO ON 2002-2003 GRAND JURY REPORTS

Dear Judge Strauss:

Attached, please find the County of San Diego Board of Supervisors' responses to six reports issued by the 2002-2003 San Diego County Grand Jury addressing County government issues and operations, for your transmittal to the Grand Jury. The attached material was approved by the Board of Supervisors on July 29, 2003 and addresses the following reports:

- 1.) Delay in Correcting an Ambiguous Ordinance: Public Administrator/Public Guardian 'Homeless' for Twenty Months,
- 2.) City of San Diego Development Services Department: A Case Study in Complaint-Resolution (Gone Awry),
- 3.) Foster Care Improving? County Leads the Way Toward Expanding Interagency Cooperation,
- 4.) The Tia Juana Valley County Water District: Why?
- 5.) San Diego County Department of General Services: Redirecting the Facilities Operations Division,
- 6.) Wrong Place? Wrong Time? Falsified Hall Checks by San Diego County Probation Officers at Juvenile Hall.

Page 2

The Honorable Richard E. L. Strauss
2002-2003 County Grand Jury Report Responses

The Board of Supervisors is scheduled to consider the Grand Jury's seventh and final report on County operations on August 12, 2003 and that report will be forwarded to you, as well, after that date. If you have any questions concerning the attachments or any related matter, please contact me at (619) 531-6226.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter Ekard". The signature is written in a cursive style with a large initial "W".

WALTER F. EKARD
Chief Administrative Officer

Attachment



COUNTY OF SAN DIEGO

BOARD OF SUPERVISORS

GREG COX
First District
DIANNE JACOB
Second District
PAM SLATER
Third District
RON ROBERTS
Fourth District
BILL HORN
Fifth District

AGENDA ITEM

DATE: July 29, 2003
TO: Board of Supervisors
SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS (District: All)
SUMMARY:

Overview

On June 27, 2003, the 2002-2003 Grand Jury issued its Final Report. Included in this Final Report are seven individual reports containing recommendations to the Board of Supervisors and County departments on various subjects, including ordinance changes, foster care, probation officer investigations, city development services, facility maintenance and the Tia Juana Valley County Water District.

This is a request for your Board to review the draft responses prepared by the Chief Administrative Officer that respond to the findings and recommendations contained in six of these reports and to authorize the Chief Administrative Officer to transmit your Board's responses to the Grand Jury, via the Superior Court Presiding Judge.

Recommendation(s)

CHIEF ADMINISTRATIVE OFFICER

1. Authorize the Chief Administrative Officer to transmit the attached responses to the Grand Jury via the Superior Court Presiding Judge.

Fiscal Impact

There is no fiscal impact with this action.

Business Impact Statement

N/A

Advisory Board Statement

N/A

BACKGROUND:

On June 27, 2003, the 2002-2003 Grand Jury issued its Final Report. This document is a compilation of individual reports on various topics, some of which were released individually throughout April, May and June.

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

Included in the Final Report document are seven reports that direct recommendations to the Board of Supervisors and various County departments on ordinance changes, foster care, probation officer investigations, city development services, general facility maintenance, detention facility maintenance and the Tia Juana Valley County Water District.

This is a request for your Board to approve the attached finding and recommendation responses for six of these reports and authorize the Chief Administrative Officer to transmit these responses to the Grand Jury via the Superior Court Presiding Judge. The attached document contains proposed responses to the findings and recommendations directed to the County of San Diego in the following reports, entitled:

- 1.) Delay in Correcting an Ambiguous Ordinance: Public Administrator/Public Guardian 'Homeless' for Twenty Months (Attachment A),
- 2.) City of San Diego Development Services Department: A Case Study in Complaint-Resolution (Gone Awry) (Attachment B),
- 3.) Foster Care Improving? County Leads the Way Toward Expanding Interagency Cooperation (Attachment C),
- 4.) The Tia Juana Valley County Water District: Why? (Attachment D),
- 5.) San Diego County Department of General Services: Redirecting the Facilities Operations Division (Attachment E),
- 6.) Wrong Place? Wrong Time? Falsified Hall Checks by San Diego County Probation Officers at Juvenile Hall (Attachment F).

Proposed responses to the remaining report, "Conditions and Management of Detention Facilities in San Diego County," will be docketed for your Board's consideration on September 16, 2003. Grand Jury findings and recommendations directed to the County Sheriff will be addressed separately by the Sheriff, with copies sent to the Board of Supervisors, pursuant to Penal Code Section 933.05.

Linkage to the County of San Diego Strategic Plan:

The six Grand Jury reports listed above address issues associated with all three of the County's Strategic Initiatives: Improving Opportunities for Kids, Preserving and Protecting the Environment, and Promoting Safe and Livable Communities. The County's written response to these reports and recommendations also supports the Required Discipline of Accountability/Transparency, fulfilling our commitment to conduct County business as openly as possible.

Respectfully submitted,

WALTER F. EKARD
Chief Administrative Officer

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

AGENDA ITEM INFORMATION SHEET

CONCURRENCE(S)--

COUNTY COUNSEL REVIEW	<input checked="" type="checkbox"/> Yes	<i>V. Teter</i>
Written Disclosure per County Charter	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Section 1000.1 Required		
GROUP/AGENCY FINANCE DIRECTOR	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
CHIEF FINANCIAL OFFICER	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
Requires Four Votes	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
GROUP/AGENCY INFORMATION		
TECHNOLOGY DIRECTOR	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
CHIEF TECHNOLOGY OFFICER	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
DEPARTMENT OF HUMAN RESOURCES	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
Other Concurrence(s):	Probation Department <i>100-3</i>	
	Department of General Services <i>A. M. ...</i>	
	Health and Human Services Agency <i>JRC</i>	
	Department of Environmental Health	

ORIGINATING DEPARTMENT: Chief Administrative Office

CONTACT PERSON(S):

<u>Janice Graham</u>	_____
Name	Name
<u>(619) 531-6271</u>	_____
Phone	Phone
<u>(619) 595-4060</u>	_____
Phone	Phone
<u>Fax</u>	_____
<u>A-6</u>	_____
Fax	Fax
<u>Mail Station</u>	_____
<u>Janice.graham@sdcountry.gov</u>	_____
Mail Station	Mail Station
<u>E-mail</u>	_____
E-mail	E-mail

AUTHORIZED REPRESENTATIVE: *Janice Graham*

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

AGENDA ITEM INFORMATION SHEET
(continued)

PREVIOUS RELEVANT BOARD ACTIONS:

N/A

BOARD POLICIES APPLICABLE:

Board Policy A-43, Response to Grand Jury Interim Reports

BOARD POLICY STATEMENTS:

N/A

CONTRACT NUMBER(S):

N/A

ATTACHMENT A

**COUNTY OF SAN DIEGO RESPONSE TO 2002-03 GRAND JURY REPORT
"DELAY IN CORRECTING AN AMBIGUOUS ORDINANCE:
PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN 'HOMELESS' FOR TWENTY MONTHS"
Issued April 29, 2003**

Finding A: March 1998, the San Diego County Board of Supervisors enacted an ordinance transferring the functions of the PAPG to the HHSA. In April 2001, the Office of the County Counsel wrote an opinion advising that changes needed to be made to correct the ambiguous language in the ordinance.

County Response: Agree.

Finding B: The former PAPG complained that as the result of the enactment of the 1998 ordinance, the PAPG's budget and personnel were controlled by the Director of HHSA with the result that the operation of the PAPG was adversely impacted. The present PAPG, when interviewed, assured the Grand Jury that during the nine months in the position these problems did not exist. The budget for the PAPG was completely under control, as was the hiring and firing of PAPG personnel.

County Response: Disagree in part. While it is common for any manager to advocate for more resources for his or her department, the PAPG, along with every other department County head, is subject to a budget process managed by the Chief Administrative Officer and a budget ultimately adopted by the Board of Supervisors.

Finding C: Although the PAPG, HHSA management, and the Office of County Counsel exchanged correspondence and held meetings between early 1999 and October 2002, no corrective action was taken apart from the issuance of the April 2001 County Counsel opinion.

County Response: Disagree in part. To the extent that the ambiguous Administrative Code provision created an inconsistency with the County Charter provision concerning CAO authority to appoint the PAPG, the County Charter provision controls. And, between 1999 and October 2002, the County was in full compliance with the Charter since the CAO appointed the new PAPG. The fact that the CAO appointed the PAPG is evidence that the County took corrective action, since the action complied with the Charter. The ordinance was revised after October 2002 to remove any ambiguity regarding the PAPG's appointing authority.

Finding D: The Chief Administrative Officer and the San Diego County Board of Supervisors were not copied with the April 9, 2001, opinion by County Counsel.

County Response: Agree.

County of San Diego Response to 2002-03 Grand Jury Reports

Finding E: The 2002-2003 San Diego County Grand Jury contacted the Office of the County Counsel in October 2002 with a request for background information about the alleged invalidity of the 1998 ordinance as it related to the transfer of the PAPG to the HHSA.

County Response: Agree.

Finding F: On December 10, 2002, the San Diego County Board of Supervisors enacted a new ordinance to correct the situation. Approximately twenty months had passed since the County Counsel opinion advising a change to correct the ambiguous language of the original ordinance (April 2001) and the enactment of the ordinance correction (December 2002). The Grand Jury learned that a correction of this type would have taken no more than 5 working days to prepare.

County Response: Disagree in part. While the period of time that elapsed between discovery of the ambiguous language and implementation of the solution was more than reasonable, it is important to note that the County fully complied with the applicable law (i.e., the Charter) since the CAO did appoint the new PAPG. Thus, there was no urgency to correct the Administrative Code ambiguity since it did not cause the County to be in non-compliance with applicable law.

In addition, between April 2001 and December 2002, County staff and managers identified, researched and analyzed various possible ordinance change options. While it may take five working days to accomplish the mechanical aspects of drafting an ordinance, that amount of time would not allow adequate time for staff to research all possible options; analyze potential impacts, ramifications, benefits and costs; and engage multiple affected parties in this process.

Finding G: Reasons for the delay never became clear to the San Diego County Grand Jury. Some of the reasons given to the Grand Jury were that 'it was something that just slipped through the cracks', 'it was at the bottom of the pile', and 'it wasn't a high priority item'.

County Response: Disagree in part. While it may be that these statements were made to the Grand Jury, they should be taken in context. Staff was correct to indicate that correcting an ambiguity in the Code was not a high priority since County staff fully understood that the Charter controlled operations and appointments and operations were in full compliance.

Finding H: During a 57-month period of time beginning in March 1998 through December 2002, no Director of HHSA assumed the responsibility of the PAPG position. The Director of HHSA was never directed to assume the responsibilities of the PAPG office by the CAO.

County Response: Disagree. During the 1996-1998 time frame, the County's new CAO implemented a broad reorganization of the County management structure. Departments were organized into five functional "Groups" that combined departments with similar functions. One of those Groups was the Health and Human Services Agency, formed by combining the Departments of Health, Social Services, Area Agency on Aging and Veterans Services. A short time later, it was determined that the PA/PG functions best fit within the HHSA.

County of San Diego Response to 2002-03 Grand Jury Reports

For management purposes, department heads were assigned to report to a Deputy Chief Administrative Officer or for HHSA, the Agency Director, who is also a Deputy Chief Administrative Officer. The DCAOs in turn report directly to the CAO. Therefore, the statement in paragraph 2 on page 1 of the Report that the ordinance directed the HHSA Director to assume the role and responsibility of the PA/PG is not accurate.

As with other HHSA functions, those performing the roles cited in the Administrative Code report to the HHSA Director for overall management purposes. Therefore, it was entirely appropriate for the three HHSA Directors to not personally assume the PA/PG role. Since it was later determined that the ordinance language created confusion with respect to the Charter requirement, the situation was reviewed by Counsel and the December 2002 ordinance corrected the language.

Finding I: The Grand Jury finds that, when there is an alleged violation of the County Charter or the California Government Code, the situation should be addressed by County management in an expeditious manner.

County Response: Agree. It must be noted that there was no violation of the County Charter or the California Government Code regarding the PAPG issue. Thus there was never a need for County management to address any alleged violation. In fact, as explained above, the County was fully in compliance with applicable law under the Charter with respect to the PAPG matter.

Finding J: It is the responsibility of the Board of Supervisors to bring all ordinances into compliance with the San Diego County Charter and California Government Code in a timely manner.

County Response: Disagree in part. While the Board of Supervisors is ultimately responsible for all County ordinances, the County Charter establishes a management structure that places day-to-day management of administrative matters under the Chief Administrative Officer, and day-to-day management of legal matters with County Counsel, both of whom are appointed by the Board of Supervisors.

It is an on-going responsibility of both the CAO and County Counsel to bring ordinances or Code sections to the Board's attention in a timely manner when compliance issues arise. Once this is done by the CAO and County Counsel, the Board is responsible to make the necessary corrections to such ordinances.

Recommendation 03-43: County Counsel is alerted to the fact that an ordinance may be out of compliance with controlling documents that County Counsel should, within 30 days, investigate the situation, take appropriate action, and provide written documentation.

County Response: The recommendation has been implemented. Except as stated in the last two sentences in this reply, Recommendation No. 03-43 describes actions that County Counsel has performed, presently performs, and will continue to perform with respect to County ordinances that may be out of compliance with other controlling laws. In this regard, we agree

with this recommendation. However, there will be circumstances in which such actions cannot be completed within 30 days due to the complexity of a particular issue. Therefore, while we agree with the intent of the recommendation, we would not impose a fixed time limit, 30-day or otherwise, on this activity as some situations will require more time to resolve than others.

Recommendation 03-44: County Counsel renders an opinion, stating that an ordinance enacted by the Board of Supervisors contains ambiguous language or possibly violates San Diego County Charter provisions or State law, that opinion is copied to the San Diego County Chief Administrative Officer and all of the Director(s) of the department or agency(ies) involved. All parties must then respond, in writing, to the situation within 30 days (sending copies to all involved along the way).

County Response: This recommendation has been implemented. It should be noted, however, that Counsel will take this course of action only when the circumstances of a situation warrant such action and are appropriate, based on the legal issues and needs of the particular County clients. While Recommendation No. 03-44 may be an appropriate response in certain circumstances, agreement with this recommendation is limited to only those circumstances where the recommended action is appropriate based upon the facts of the situation.

To the extent that the legal needs of the County require County Counsel to take a different approach to address a legal issue, Counsel opinions are copied as appropriate to the situation, and only to those on a "need to know" basis since County Counsel's legal advice constitutes confidential attorney-client communications. There may be legitimate legal reasons that Counsel will limit confidential legal advice given to the Board of Supervisors and the CAO, without copying other Directors of a department or agency involved. In addition, requiring formal written responses to every possible situation may not be the most efficient use of County resources in all circumstances.

Recommendation 03-45: An ordinance directs that a County officer assume responsibilities associated with a specific position, that officer should act immediately to comply with the ordinance or notify the Chief Administrative Officer, in writing, within 30 days, stating the reasons s/he could or should not comply.

County Response: This recommendation will not be implemented. While we agree that a County officer, under the circumstances described in this recommendation, should either comply with the ordinance or notify the CAO of his/her reasons for non-compliance, we do not agree that the notice always be in writing, always be within 30 days, or always be provided to the CAO. It may be that such a notice cannot and should not (1) be in writing, (2) be provided in 30 days, or (3) be provided to the CAO in every instance. Rather, it may be that, under certain circumstances, such notice should be verbal, cannot be provided within 30 days, or should be provided to another County body or officer, such as the Board of Supervisors, County Counsel, or the Chief Financial Officer, for example.

As noted in the response to Finding H, the ordinance at issue did not direct a County officer to assume responsibilities associated with a specific position. Therefore, there was not a need in

County of San Diego Response to 2002-03 Grand Jury Reports

this situation for a County officer to assume responsibilities or to notify the CAO of reasons why not to comply.

ATTACHMENT B

**“CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT:
A CASE STUDY IN COMPLAINT-RESOLUTION (GONE AWRY)”
Issued April 16, 2003, Received May 1, 2003**

Finding 2: The Seabreeze Farms Equestrian Center may be in violation of the San Diego Municipal Code 44.0308 (a); both literal and conservative counts of dwelling units within the one-fourth mile wide belt result in numbers in excess of 300.

The Development Services Department (DSD) applied a strict interpretation and application of the San Diego Municipal Code 44.0308 (d). A more reasonable interpretation could have caused measurement to originate at the jump area fence and at the outer edge of the horse wash racks. Certainly, a preferable option is that of measuring from the outer edge of any significant “equestrian use”. Even better, a 75-foot separation beginning at the homeowners’ property lines to the “equestrian use” should be specified. Public health and safety concerns should require an interpretation resulting in the widest possible buffer.

County Response: Disagree in Part. San Diego Municipal Code 44.0308 requires ...(d) no residence or dwelling exists except such as are owned, maintained or occupied by the owner of such horses within a 75’ wide belt surrounding the stable, corral or pasture within which such a horse is kept. The County DEH issued a permit on April 25, 2003, to David Goddell, 5720 Carmel Valley Road, San Diego, operator of the Equestrian Center, after determining the Center had complied with stated distance to dwellings. That permit was issued after a County DEH review to confirm compliance with the 75-foot buffer zone requirement in the Municipal Code, as interpreted by the City of San Diego. Establishment of the present 75-foot buffer based on that interpretation is adequate for public health and safety concerns when all sanitation procedures are observed.

On February 7, 2003, an inspection of the Seabreeze Farms by County DEH, as part of their permit application, showed all manure management practices and vector control procedures were in place and being followed. No subsequent substantiated complaints have been received by County DEH. Establishment of any wider buffer zone, or reinterpretation of the current Municipal Code to establish greater buffer zones in actual practice, would be a land use matter rather than a health and safety matter. Establishing a larger buffer zone based on the interpretation proposed in the report could be problematic in actual practice.

County DEH did not participate in a review for compliance with San Diego Municipal Code 44.0308 (a), regarding dwelling units within one-quarter mile of a proposed facility. The City and County both consider this requirement to be essentially a land use policy, not a public health and safety requirement. In the past, revisions to the Municipal Code have been suggested to City staff by County staff, to clarify that applying this requirement is properly an issue for the City, not for County DEH.

Finding 4: The Development Services Department staff failed to consider “quality of life” issues for the neighboring homeowners by: (1) allowing the construction of the horse wash racks between the large barn and property line (a visual nuisance not shown on any conceptual plan); (2) allowing placement of the dressage or training arena directly behind the properties at the southern end of the facility (a noise and dust nuisance that was shown elsewhere on the conceptual plan); and (3) allowing the site manager to consistently violate his own manure management plan (a public health nuisance).

County Response: Disagree in Part. Manure management, fly, rodent, vector, and dust control plans were provided by Seabreeze Farms and submitted to County DEH in their permit application. The County DEH does not perform scheduled inspections of these permitted facilities and only responds to complaints from the general public. There are no records of fly complaints received concerning Seabreeze Farms by County DEH Vector Surveillance and Control. Flies were not observed in and around the barn during an inspection of the facility on February 7, 2003, which was performed by County DEH as part of the permit application process. Noise generated during manure processing/removal is unavoidable; this is not a regulated public health or safety issue. The County’s responsibilities for these kinds of facilities within the City of San Diego do not extend to “quality of life” issues that are not health and safety issues; therefore, the County has no further response to this finding.

Finding 4: The Department of Environmental Health was, until mid-January 2003, unaware of the existence of the equestrian center. This agency needs to be included in the loop earlier, for development and construction projects involving large-scale animal facilities, if it is to fulfill its responsibilities for public health and sanitation.

County Response: Disagree. County DEH was involved in the review of aspects of this proposed facility very early in the City’s permitting process. County DEH staff participated in CEQA review for this project, in evaluation of compliance with the 75-foot buffer zone requirement, and in the review of the operator’s manure management, fly, rodent, vector, and dust control plans. County DEH was “in the loop” early enough to address public health and sanitation issues.

Recommendation 03-26: The San Diego Grand Jury Recommends that the Director, Department of Environmental Health: Recommend to the City Council an amendment to Municipal Code Chapter 4: Health and Sanitation Article 4: Disease Control-Nuisance Division 3: Animals 44.0308 Horses by:

1. Replacing the words stable, corral and pasture with the phrase “equestrian uses.” The intent of this change is to include nighttime and daytime activities as well as permanent and non-permanent equine and equine-related structures and facilities.
2. Clarifying the meaning, intent and use of the words, “dwelling,” “residence,” “corral,” and “pasture.”
3. Changing section (d) to read that the 75-foot wide belt extends from the outer edge of any equestrian use and terminates at the homeowner property line.

County Response: The recommendation will not be implemented because it is not within the County of San Diego's jurisdiction. Sections 1 and 2 are City of San Diego zoning issues, wholly under the jurisdiction of the City and, as such, should be considered by the City. Regarding Section 3, County DEH believes the 75-foot buffer, as interpreted by the City (and as applied in this case by the City and by County DEH) adequately protects public health and safety. At present, the interpretation of San Diego Municipal Code 44.0308 is at the discretion of the City of San Diego. The County's interest is the protection of public health and safety, which the 75-foot buffer provides.

Recommendation 03-27: Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the site's manure management program.

County Response: The action described in this recommendation has been taken. County Environmental Health staff advised Seabreeze Farms that they are available for consultation on all aspects of manure and vector control during a February 7, 2003 inspection. Staff from Seabreeze Farms did subsequently contact County DEH in May 2002 for recommendations on manure management and County staff provided Seabreeze Farms with manure disposal procedures, and instructions on transporting manure, fly control and water runoff.

Recommendation 03-28: Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the sites fly control, dust control, rodent control and vector control programs.

County Response: The action described in this recommendation has been taken. Like Recommendation 03-27, Recommendation 03-28 has also already been implemented. The County DEH, during its February 7, 2003 inspection, advised Seabreeze Farms that it would be available for consultation on all aspects of manure and vector control issues. This was also discussed at the request of Seabreeze staff in May 2002.

Recommendation 03-29: Work in consultation with Sandown Way and Rider Place residents whose properties abut the equestrian center's boundary, to:

1. Relocate the horse wash racks (a visual nuisance) to another location,
2. Relocate the dressage arena (a noise and dirt nuisance behind the Rider Place residents) in accord with the conceptual layout.

County Response: The recommendations will not be implemented as they are not public health and safety issues. Visual nuisances and compliance or non-compliance with conceptual plans are concerns that are not regulated by the County within the city limits of San Diego. Noise issues within the city limits are under the jurisdiction of the City of San Diego.

Recommendation 03-30: Perform the measurements specified in the San Diego Municipal Code 44.0308 (a) and (d) (i.e., one-fourth mile and 75-foot wide belt measures) at the Seabreeze Farms Equestrian Center owner's expense and take whatever action is necessary as a result.

County Response: The recommendation will not be implemented because it would establish a new set of measurements to be performed by County DEH, even though the City and County have already confirmed compliance with the section 44.0308(d) 75-foot buffer zone requirement as established by the City. The existing interpretation protects public health and safety. As stated above, the County considers the section 44.0308(a) requirement to be a local land use matter, not a public health and safety matter.

ATTACHMENT C

**“FOSTER CARE IMPROVING? COUNTY LEADS THE WAY
TOWARD EXPANDING INTERAGENCY COOPERATION”**

Issued May 6, 2003

Recommendation 03-46: Immediately form a task force to develop within six to eight months, a uniform mandate that clearly defines policy and procedures to ensure continuity across agencies and school districts in order to provide quality educational outcomes for San Diego County foster youth. The mandate would include uniform procedures for schools, Health and Human Services, Probation, the Courts and substitute care providers to assure the complete and timely transfer of school and medical records of children who are dependents of the Court. The policies would be developed in conjunction with the San Diego County Office of Education’s Foster Youth Services Program.

County Response: The recommendation will not be implemented because there is already a committee in place to ensure continuity of policies and procedures across agencies and school districts. The Education Committee, chaired by Judge Susan Huguenor, includes the County Office of Education, the courts, the Health and Human Services Agency, Voices For Children, and several other agencies that are committed to ensuring continuity with regard to policies and procedures. In addition to the Education Committee, the Foster Youth Services Advisory Committee is committed to facilitating the exchange of health and education information among agencies providing services to foster youth. This committee is also committed to overcoming obstacles related to sharing information while maintaining confidentiality.

There is also a Health and Human Services Agency policy (Children’s Services Special Notice #12 – 03), which ensures that children are properly dis-enrolled from school when appropriate. The policy provides that a transfer form be sent to the new Substitute Care Provider, the new school, and copied to the regional Health and Education Passport (HEP). This transfer form documents all relevant information about the child’s previous school and credits earned.

Recommendation 03-47: In partnership with the San Diego County Superintendent of Schools, establish a task force to ensure shared responsibility and accountability for all San Diego County foster care children.

County Response: This recommendation will not be implemented because there is an existing agreement between the Health and Human Services Agency and the County Superintendent of Schools in which all parties agree to continue developing a collaborative relationship using resources to best meet the educational and mental health needs of our children/youth and families. The Education Committee and the Foster

Youth Advisory Committee meet each month to work on collaborative problem solving methods.

Each school district in San Diego County has appointed a liaison to assist with problem solving in this area. In addition, San Diego Unified School District has also assigned a liaison to work with HHS for the benefit of foster children.

Recommendation 03-48: Seek legislation to modify the licensing requirements for the unique situations at San Pasqual Academy to reflect the realities of a boarding school as compared to a group home. These modifications would remove barriers that prevent youth from participating in enrichment activities due to licensing regulations.

County Response: This recommendation will not be implemented because staff is already working with State and federal agencies to assure the needs of the Academy students are addressed. To meet the needs of the adolescent foster youth at the San Pasqual Academy, the County is pursuing regulation changes that would take into consideration the Academy's focus on independent living skills.

Recommendation 03-49: Consider establishing a second San Pasqual Academy type of facility to accept middle-school aged youth as well as high school students, not only to service more students but to intervene earlier in this educational life.

County Response: This recommendation will not be implemented because research has shown that the emphasis for younger and middle school-aged youth should be placed on finding adoptive or foster homes. High school-aged children, however, are more difficult to place in permanent homes and that is why the Academy was developed for that specific age group.

Within the Academy's independent living skills environment, the youth focus on furthering their education and vocational skills. It will be important, over the next few years, to examine the level of success at the new campus to ensure that the students can build a firm foundation for an independent adulthood.

Recommendation 03-50: Provide each school-age foster child with multiple copies of his/her HEP before a placement change.

County Response: This recommendation will not be implemented because the action recommended is already being taken. The children's Substitute Care Providers (foster parent, relative or group home) are currently provided with this information when a placement change occurs. Division 31 regulations of the California Department of Social Services, Child Welfare Manual require that a health and education summary be provided to the Substitute Care Provider 30 days after the initial placement or 48 hours after a change of placement. The Health and Human Services Agency policy (Children's Services Special Notice #09-02) reiterates this for social workers. This special notice

also emphasizes the importance of providing the caregiver the health and education summary at the time of placement.

Recommendation 03-51: Require that social workers document the record transfer of both education and medical records whenever there is a change of placement, whether the change involves group or individual homes.

County Response: The County will not implement this recommendation because it has already implemented a procedure for this documentation. Social workers are already required to document the record transfer of both education and medical records whenever there is a change of placement. The social worker is responsible for ensuring documentation of the date the Substitute Care Provider was given the health and education information. The social worker must document all known health and education information or complete a Health and Education Passport. Division 31 regulations of the California Department of Social Services, Child Welfare Manual also require this documentation.

ATTACHMENT D

**“THE TIA JUANA VALLEY COUNTY WATER DISTRICT: WHY?”
Issued June 27, 2003**

The 2002-2003 San Diego County Grand Jury recommends that the San Diego County Board of Supervisors:

Recommendation 03-82: Review the activities of the Tia Juana Valley County Water District and initiate proceedings for the dissolution of the District, so that District tax payers are freed from an unnecessary, open-ended tax assessment.

County Response: The recommendation will not be implemented by the County because it would be more appropriate for a dissolution request to be initiated by the City of San Diego or the San Diego Local Agency Formation Commission.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 allows local agencies to apply for dissolution of a district when there is a successor agency to assume all assets and liabilities. In this case, virtually all properties in the Tia Juana Water District receive water and sanitation services from the City of San Diego which, as the most logical successor agency, would be the most significantly impacted by such an action.

ATTACHMENT E

**“SAN DIEGO COUNTY DEPARTMENT OF GENERAL SERVICES:
REDIRECTING THE FACILITIES OPERATIONS DIVISION”**

Issued June 27, 2003

Finding A: The Director of the Department of General Services and Department management personnel have addressed, corrected, and instituted new procedures to overcome the problems outlined in the complaints.

County Response: Agree.

Finding B: As a result of the Memorandum of Agreement with the Sheriff, the Facilities Operations Division management personnel have made significant changes to improve the conditions outlined in the complaints.

County Response: Agree.

Finding C: The Facilities Operations Division employees, interviewed by the Grand Jury, are willing and able to perform job assignments and are satisfied with their general working conditions.

County Response: Agree.

Finding D: The County departments, investigated by the Grand Jury, are satisfied with the new direction, which the General Services Department management has undertaken, and the Facilities Operations Division employees generally provide timely and supportive maintenance to the County departments served by the MOA with the Sheriff.

County Response: Agree.

Finding E: The recommendations in the 2001-2002 San Diego County Grand Jury report titled, “County General Services, Support of Detention Facilities” and the 1999-2000 San Diego County Grand Jury report titled, “Detention Facilities of San Diego County” have been addressed and improvements have been made.

County Response: Agree.

Recommendation 03-69: Continue to monitor the San Diego County Department of General Services to ensure that Facilities Operations Division staff perform their duties in

County of San Diego Response to 2002-03 Grand Jury Reports

an efficient, timely and professional manner, and that the County departments served by the Memorandum of Agreement continue to be satisfied with such efforts.

County Response: The recommendation has been implemented. The Department of General Services has provided the Sheriff's Department with access to the Facility Center Computer Maintenance Management System. Upgrades to the system are being implemented to provide enhanced access, data loading and status reporting via the WEB. This system is the single point of entry for execution of all work on County Facilities. It also provides the basis for budget development and identifies fiscal requirements based on a priority system. Allocations of funds via the Capital Improvement Plan are made annually or, for emergent issues, special funding can be identified via the newly established Facility Planning Board.

In addition to the condition Assessments discussed in the May 30, 2002 report, the Department of General Services has instituted an internal quarterly Facility Assessment Program to provide documentation for the Annual Inspection Summary (AIS). The AIS provides the basis for fund allocations under the Capital Improvement Plan process. This program will also identify those assets, whose functional life cycle is at an end, eligible for replacement under the Capital Renewal Plan. This plan focuses on planned, predictive replacement versus replace upon failure thereby limiting impacts of facility operations and performance of mission.

Routine meetings occur between the Sheriff's Department and Department of General Services to review ongoing issues and identify upcoming needs. Requirements to support the program are being addressed through a combination of these routine meetings, Sheriff Department direct access to the CMMS for project & work order loading and via the Annual Inspection Summary. These efforts combine to become part of the Capital Improvement Plan where funding requirements are identified for prioritization and allocation during the budget process.

ATTACHMENT F

“WRONG PLACE? WRONG TIME? FALSIFIED HALL CHECKS BY SAN DIEGO COUNTY PROBATION OFFICERS AT JUVENILE HALL”

Issued May 14, 2003

Finding A.: During the week in question, there were approximately 58 staff members on the late night shift duty. Thirty-seven officers and two student workers failed to make the mandatory hall checks and made false log entries. An investigation ensued.

Finding A1: The investigation by the San Diego County Probation Department of the October 11-16, 2001 hall check incident was not conducted in a fair and impartial manner.

County Response: Disagree. The San Diego County Probation Department investigation was conducted pursuant to Government Code 3300, Peace Officers Bill of Rights, and the Probation Department’s Policy & Procedures regarding Internal Affairs investigations.

Finding A2: Three supervisors who conducted the investigation had no previous investigative experience. These investigating officers were supervisors from either the day or early night shift during October 2001 assigned to Juvenile Hall, just one step in rank above those being investigated. They were investigating officers who were often social friends or acquaintances from different shifts. During an interview, one of the investigators stated how difficult it was to conduct the investigation. The investigator shared how much peer pressure was endured both during and after the investigation.

County Response: Disagree. The three supervisors selected to conduct the investigation were knowledgeable of Juvenile Hall’s working environment and Juvenile Hall’s Policy & Procedures. These supervisors had prior training and/or experience in conducting investigations.

Finding A3: The SDCPD did not seek the assistance of the San Diego County Internal Affairs Department, which employs expert investigators. The Grand Jury has verified that the San Diego County Internal Affairs Department did have sufficient personnel to conduct such an investigation at the time in question.

County Response: Agree. However, the San Diego County Probation Department did not seek assistance from the CAO’s Office of Internal Affairs (OIA) because OIA staff has no authority to investigate peace officer violations. Therefore, availability of OIA staff is irrelevant.

Finding A4: The SDCPD chose not to utilize personnel from the Department's own Internal Affairs Division to conduct the investigation because it allegedly did not have sufficient staff to handle this assignment.

County Response: Disagree. Internal Affairs Unit personnel advised and reviewed all investigative reports and were available for consultation.

Finding A5: The investigators often discussed their investigation results with the Director of Juvenile Hall and the Internal Affairs Director of the SDCPD. Those contacts give the appearance of "command influence." This "command influence" problem would not have been an issue had the County Internal Affairs Department conducted the investigation.

County Response: Disagree. The final results of all investigative reports are reviewed by the Internal Affairs Supervisor, and Probation Human Resources Manager for correctness and consistency, and the Service Director and Deputy Chief Probation Officer for recommendations of disciplinary action, in compliance with the Peace Officers Bill of Rights.

Finding A6: The investigators discussed the interviews with each other, and then by agreement tried to assign friends or work associates to another investigator. Even in cases they chose not to hear, they often sat in as "back up." For the most part, a team of two investigators conducted each interview.

County Response: Agree. Investigators are expected to share information with each other for fairness and consistency in this investigation. It is also standard procedure for all investigations to have two interviewers for each interview.

Finding A7: This investigation has had, and will have, a great impact on both the morale and efficiency of the SDCPD and should have been conducted by the most competent personnel available.

County Response: Disagree. By saying that the investigation "should have been conducted by the most competent personnel available," Finding 7 implies that it was not. The County disagrees with this finding. The Probation Department chose the investigators based on their knowledge and experience of the working environment and the Juvenile Hall's Policy and Procedures manual. The Internal Affairs Unit coordinated the investigations of these cases and reviewed all the investigative reports for consistency and compliance with the aforementioned policies.

Finding A8: Of the 37 officers disciplined or terminated, only two had received substandard ratings prior to October 2001; the rest were rated as competent employees. Two of them had been chosen the Probation Department's "Employee of the Year." Some were mentors to their fellow employees. Many had worked for the SDCPD for over 20 years.

County of San Diego Response to 2002-03 Grand Jury Reports

County Response: Disagree in part. Of the Officers disciplined or terminated, only one employee (who resigned in lieu of termination) had over twenty years of service.

Finding A9: The background check procedure for SDCPD officers is very involved and includes psychological testing. This system disqualifies many applicants and makes it difficult to find eligible line and entry-level candidates for employment. These facts support the statement that many of the fired officers had impeccable backgrounds prior to being hired.

County Response: Agree. A thorough background investigation was conducted on all of the officers. They met the minimum standards required for Peace Officers.

Finding B: The Probation Department's investigation focused on personnel assigned only to the late night shift. One of the three investigators reviewing the videotapes with the Grand Jury admitted that violations of the 15-minute hall checks did occur on the early night shift.

Finding B1: Videotapes of the early night shift of the same October 11-16, 2001 period were reviewed by the Grand Jury.

County Response: Disagree in part. The Grand Jury only reviewed a segment of one videotape of Unit 800 and watched thirty to forty-five minutes of the tape.

Finding B2: The Grand Jury's review disclosed that the some hall checks were not made on the early night shift as well as on the late night shift.

County Response: Agree.

Finding B3: Other security violations, such as "popping doors" (opening cell doors from a switch at the guard station without a probation officer in the hallway) and walking in front of wards were viewed on the videotapes.

County Response: Agree.

Finding B4: Two officers, from the early night shift, received disciplinary action. They were found not performing mandatory hall checks during the early night shift. These same two officers were seen on a piece of overlapping videotape reviewed by the three investigators. These two officers received five-day suspensions for missing one hall check.

County Response: Agree.

Finding B5: The facts discovered were communicated to SDCPD management by the investigator reviewing the videotapes along with the Grand Jury.

County Response: Agree.

Finding B6: As of late April 2003, the Grand Jury had not been advised that other shifts have been investigated for violations of hall check regulations.

County Response: Agree.

Finding B7: Management stated that they did not investigate the other shifts because during the daytime and early night shifts there is so much other staff activity going on in the hallways that hall checks on a regular basis are not as likely to be missed.

County Response: Agree.

Finding C: The investigation conducted by the SDCPD did not adequately cover the conduct of supervisors to determine if they had any accountability or responsibility for the events of October 11-16, 2001.

Finding C1: Several of the officers interviewed stated that their supervisors were aware of the so-called practice of "catching up" and had condoned this practice.

County Response: Agree.

Finding C2: Several supervisors were questioned. The three investigators questioning the supervisors were of the same rank as the supervisors being questioned. All were assigned to one of the three shifts as supervisors.

County Response: Disagree in part. The Internal Affairs Supervisor conducted the majority of the Supervisor interviews. The three investigators conducted some preliminary interviews of Supervisors, Senior Probation Officers, and former employees.

Finding C3: These supervisors denied having any knowledge of the "catching up" practice and stated they would not condone it.

County Response: Agree.

Finding C4: The allegations, made by the officers, that supervisors knew of the practice of "catching up" has credibility because of the approximately 58 people who were on the late night shift of October 11-16, 2001, 39 received disciplinary action for misconduct related to "catching up" the logs. Clearly the supervisors could not have been totally unaware that the hall checks were not being made if the practice was that widespread.

County of San Diego Response to 2002-03 Grand Jury Reports

County Response: Disagree. As noted in the Civil Service Commission conclusions and supported by the Superior Court findings, the "Employees did not present any convincing evidence of supervisory complicity in their practice of falsifying" and "Employees did not perform a majority of the required hall checks; Employees falsely recorded these unperformed hall checks as completed; and the Department regularly reminded Employees of the need for hall checks through memos, supervisor's meeting minutes, and at meetings. Additionally, the Department presented circumstantial evidence that Employees were acutely aware that they were engaged in misconduct that they were trying to hide from their supervisors."

Finding C5: The supervisors should have been disciplined along with the officers, as they were negligent in performing their duties. It appears that the supervisors overlooked violations of the policies and procedures over an indeterminate period of time.

County Response: Disagree. The Department investigated allegations of Supervisor misconduct and found no evidence of misconduct.

Finding C6: The credibility of the supervisors in this instance of misconduct was neither aggressively nor competently pursued.

County Response: Disagree. As noted in the Civil Service Commission conclusions, "Employees attempted to show that the practice was approved by Department supervisors. While it appears obvious from the number of employees being disciplined that such a practice existed among them, they were unable to present any convincing evidence of direct statements or other communications from Department supervisors approving it. Employees' evidence of Departmental approval consisted primarily of implication and innuendo through the alleged presence of supervisors during incidents of falsification or their disputed use of terms like "catch it up." Employees did not present any convincing evidence of supervisory complicity in their practice of falsifying."

Follow-up investigation: "Approximately sixteen Supervisors, thirteen Senior Probation Officers, five Correctional Deputy Probation Officer II, two Directors, and one retired Assistant Chief Probation Officer, (thirty-seven total) were named by terminated Officers either during the Internal Affairs interrogations or the Skelly Conference. Most of the allegations were vague or non-specific and no follow-up investigations were conducted. In those cases where specific dates or incidents were recalled and/or witnesses identified (16 out 37), follow-up investigations were conducted in person, by telephone, written statements, or videotape review."

Finding C7: A retraining program is needed for supervisory and management personnel. Due to the systemic nature of the problem (over 60% of one shift being found guilty of similar offenses) the situation appears more widespread than the firings presents.

County of San Diego Response to 2002-03 Grand Jury Reports

County Response: Disagree in part. Supervisors and management personnel attend a minimum of forty hours training annually. Probationary Supervisors attend an eighty hour training, during their first year, that is mandated by Standards and Training for Corrections (STC). Additionally, the Probation Department provides a twenty-four hour Supervisor Development Academy for new Supervisors that emphasizes personnel matters. Juvenile Hall Supervisors receive on-going training regarding institutional policies and procedures, as well as department wide topics.

Finding D: The regulations, of the California Board of Corrections regarding the hall checks, are set forth in a large SDCPD Manual which is given to each officer when s/he begins.

Finding D1: This Manual must be returned to the Department after the probation officer completes his/her initial training period, which is usually 30 days.

County Response: Disagree in part. The Manual is returned in thirty days unless the employee needs additional time. The manual is also in each living unit.

Finding D2: The training techniques in effect prior to the October 2001 period did not prioritize the mandatory hall check policies and procedures over other regulations nor did they indicate the serious consequences of not performing or correctly documenting the mandatory hall checks.

County Response: Disagree. All employees receive formal training that includes the requirement to perform hall checks every fifteen minutes and the justification and necessity of checks in order to protect the health and welfare of the Detainees.

Finding D3: After the problem was discovered SDCPD senior management stressed to the Grand Jury the fact that making 15-minute hall checks and their proper logging is paramount.

County Response: Disagree. Senior management has always stressed to employees that fifteen-minute hall checks and their proper documentation are paramount.

Finding D4: The officers allege that several supervisors stressed to the officers, in their charge, that the requirement of having the log books up to date and filled in completely was much more important than having the log books reflect late hall checks. Missing or incorrect logbook entries reflected poorly on the supervisors in charge.

County Response: Disagree. The Supervisors stressed to the Officers that conducting fifteen-minute hall checks and documenting was paramount. Supervisors continually reviewed the logbooks to ensure compliance.

Finding D5: In the week following the announcement that there would be an investigation of the violations of October 2001, the log books of one of the three investigator's showed 99 late log book entries. The week before the announcement, there were nine late entries, which give the appearance that completeness was more important than accuracy to the supervisors.

County Response: Disagree. The number of late hall checks only illustrates timeliness of hall checks, not completeness and accuracy.

Finding D6: A Union Tribune article states that "...a February 2002 audit of the county facility by the State Board of Corrections found that the hall check policies were deficient and that the county had not put them into its Policies and Procedures Manual (two months before workers were fired)."

County Response: Agree. However, the Union Tribune article is inaccurate. The Board of Corrections audit, in February 2002, was also inaccurate and a subsequent letter from the Board of Corrections stated we were in full compliance with Title 15 Regulations of hall checks.

Finding D7: The Grand Jury did see a copy of a memo from a Juvenile Hall supervising officer which read "Re: Hall Check Policy, Dated: November 8, 2000. It has come to my attention that the hall checks have not been conducted in a timely manner. In fact, the entire log has not been completed properly. It is imperative that all staff adheres to the juvenile hall policies and procedures and completes this document as prescribed in the policy. I am aware that you are very busy; however, this is a legal document and must be completed per hall check policy 9.8.11.1. Please sign and date that you are aware of this section and understand the contents."

County Response: Agree.

Finding E: There is no evidence, pre-October 2001, that the regulations dealing with the hall checks are stressed above other procedures when reportedly the hall checks are of the utmost importance to the security of Juvenile Hall.

Finding E1: The Manual notes many equally important procedures, such as: Temporary Assistance to Needy Families (TANF) report completion; medical consent forms and their proper completion; intake forms and their proper completion; always walking behind wards; not "popping doors" (the practice of opening a cell door from the control center without a probation officer present in the hallway); etc.

County Response: Agree.

Finding E2: The regulations dealing with hall checks were not posted in the command center of each cellblock. This would have put the probation officers on notice that these regulations were very important.

County Response: Disagree in part. As noted in the Civil Service Commission Conclusions “The testimony of Department supervisors and the Training Officer in which they denied instructing or encouraging the falsification of hall check records. To the contrary, they stated that they emphasized the importance of actually performing hall checks per policy in order to ensure the health, safety, and security of custodial wards. The Department also repeatedly emphasized the importance of proper hall checks in various memos and meetings.”

Finding F: The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation. Upon initial employment, every probation officer signs a document agreeing to this policy.

Finding F1: The regulations associated with punishment did not set forth any specific provision that violating the hall checks and log entry rules would subject the violator to a specified punishment such as discharge.

County Response: Disagree. The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation.

Finding F2: The Grand Jury observed other safety related violations, such as “popping doors” and walking in front of wards.

County Response: Agree.

Finding F3: The Grand Jury found evidence that discipline for infractions of Probation Department regulations has been enforced inconsistently. Discipline has ranged from as minor as counseling to as major as discharge.

County Response: Disagree. The level of discipline is based on the type and severity of misconduct, the mitigating circumstances, and employees’ prior disciplinary history.

Finding G: Frequently Core Training was not given to newly hired SDCPD officers until they had been on the job for some time.

Finding G1: Allegedly one officer did not receive Core Training within the first year.

County Response: Disagree. All available Officers received CORE training within their first year of employment.

Finding G2: The Manual states that Core Training must be completed within the first year of employment. The Grand Jury believes that the specified time period for completion of Core Training should occur within the first three months of employment.

County Response: Disagree in part. The Probation Department does not hire a sufficient number of new employees to conduct CORE Training during the first three months. However, all Juvenile Institutions employees receive forty to eighty hours of training prior to being assigned to a unit.

Finding G3: SDCPD officers who have not received Core Training customarily are placed in a cellblock under the supervision of a fully trained officer. Events could unfold that would disable or distract the trained officer and leave wards security in the hands of an untrained officer.

County Response: Disagree. All new employees receive forty to eighty hours of training prior to being assigned to a unit. Per Title 15, California Code of Regulations mandates that all child supervision staff shall receive at least 40 hours of training before assuming responsibility for the supervision of minors.

Finding H: SDCPD officers are allowed to keep the Manual in their possession for only 30 days after initial employment.

County Response: Disagree. The manual is returned in thirty days unless the employee needs additional time. The manual is also in each living unit and is accessible on line.

Recommendation 03-60: Ensure that there are policies and procedures in place requiring the use of outside investigators (San Diego County Internal Affairs Department or some other objective, impartial group) in all San Diego County Department disputes involving large-scale investigations, which could ultimately result in the discharge of multiple employees.

County Response: The recommendation will not be implemented because it is not warranted. The San Diego County Office of Internal Affairs investigates allegations of improper county government activities, discrimination based on race, color, religion, sex, national origin, age, or disability, and protects the complainant from any act of reprisal for reporting such allegations. They do not investigate allegations of law enforcement misconduct.

Recommendation 03-61: Ensure that investigations are conducted in a fair and consistent manner. A thorough investigation would require that all shifts be reviewed – especially since shifts rotated every 3 months. It is possible that other people may have made the same mistakes as those for which people were discharged on the late night shift.

County Response: The recommendation will not be implemented because it is not warranted. The Probation Department conducts fair and consistent investigations. Each investigation is conducted based on the merit of the case.

Recommendation 03-62: Amend the Juvenile Hall Policy and Procedures Manual to include a more definitive statement emphasizing the importance of hall check and log-in procedures. For example: "A hall check must be recorded when completed."

County Response: The recommendation has been implemented and the action recommended has already been taken. The Policy and Procedures Manual was revised in October of 2002, to re-emphasize the importance of hall checks and proper documentation.

Recommendation 03-63: Provide Core Training to all new hires within at least 90 days after employment rather than within the first year. Policies and procedures must be fully understood prior to placing officers in charge of juvenile wards in all Juvenile facilities.

County Response: The recommendation will not be implemented because it is not reasonable. The Board of Corrections regulations require CORE training to be completed within the first year of employment. They recognize after 20 years of monitoring that it is unrealistic to make a requirement that departments complete CORE training within the first 90 days. Our Department does not hire enough employees to conduct Core Training within the first 90 days. However, all new employees receive forty to eighty hours of training prior to being assigned to a Unit.

Recommendation 03-64: Conduct a comprehensive retraining of all supervisory personnel and management at Juvenile Hall in order that they become more aware and responsible for the performance of the officers in their charge. Given the systemic nature of the problem (over 60 percent of one shift being found guilty of similar offenses) the situation may be more widespread than the firings represent.

County Response: The recommendation will not be implemented because it is not warranted. Supervisors and management personnel attend a minimum of forty hours training annually. Probationary Supervisors attend an eighty hour training course during their first year that is mandated by Standards and Training for Corrections (STC). Additionally, the Probation Department provides a twenty-four hour Supervisor Development Academy for new Supervisors that emphasizes personnel matters. Juvenile Hall Supervisors receive on-going training regarding institutional policies and procedures, as well as department wide topics.

Recommendation 03-65: Post all regulations dealing with hall checks and login procedures in the Command Center of each cellblock.

County Response: The recommendation will not be implemented because it is not warranted. The Policy and Procedures Manual has been revised; in-house training has been expanded; and staff is reminded about hall check policies on an on-going basis through training and at meetings.

County of San Diego Response to 2002-03 Grand Jury Reports

Recommendation 03-66: Amend the Juvenile Hall Policy and Procedures Manual to contain specific provisions that violation of hall checks and login rules will subject the wrongdoers to a specific punishment such as discharge.

County Response: The recommendation will not be implemented because it is not warranted. As stated in this Grand Jury Report, in Facts and Findings paragraph F: "The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation. Upon initial employment, every probation officer signs a document agreeing to this policy."

Recommendation 03-67: Amend the Juvenile Hall Policy and Procedures Manual to contain specific provisions that lying and/or falsifying records of any document will result in immediate termination. Specify that the supervisors will be held accountable for the actions of those in their charge.

County Response: The recommendation will not be implemented because it is not warranted. The San Diego Probation Department's Administrative Manual Section 1306 Code of Ethics and Standards of Conduct, is required reading for all employees. This policy states, "The Department expects its employees to adhere to the standards and procedures described below. In the case of misconduct, appropriate action including discipline will be determined on the basis of the facts and circumstances surrounding any particular incident."

Recommendation 03-68: Provide every Probation Officer and Supervisor with a personal Manual, which they can keep in their possession.

County Response: The recommendation will not be implemented because it is not warranted. Each employee receives a manual for thirty days, or longer if needed. The Staff is informed/reminded that the Manual is available to review at their convenience. The manual is available on-line for easy access by staff.

COURTNEY ANN COYLE
ATTORNEY AT LAW

HELD-PALMER HOUSE
1609 SOLEDAD AVENUE
LA JOLLA, CA USA 92037-3817

TELEPHONE: 858-454-8687 E-MAIL: COURTCOYLE@AOL.COM FACSIMILE: 858-454-8493

RECEIVED
JUL 21 2003
SAN DIEGO
COUNTY GRAND JURY

Marcia Gravette Jespersen, Foreperson, County of San Diego Grand Jury 2002-2003
Thomas E. McCarthy, Foreperson, County of San Diego Grand Jury 2003-2004
330 West Broadway, Suite 477
San Diego, CA 92101-3830

July 17, 2003

Re: Response to San Diego County Grand Jury – Seabreeze Farms
"City of San Diego Development Services Department, A Case Study in Complaint-Resolution (Gone Awry)"

Dear Forepersons:

This letter is being sent on behalf of my client, the La Jolla Farms Homeowners. We have read the above captioned San Diego County Grand Jury Report 2002-2003 (April 16, 2003) and the City of San Diego Response (July 16, 2003). We also have read the June 30, 2003 City Manager report on Substantial Conformance Review and attended and testified at the July 2, 2003 City Land Use & Housing Committee hearing on proposed revisions to the SCR process.

While we applaud the work of the City to respond to the concerns raised regarding the SCR as applied to Seabreeze Farms and to generally improve its SCR process city-wide, additional concerns remain. These concerns are illustrated in the enclosed materials and informed by the cumulative SCRs sought by the Salk Institute over the last decade. They include the application of the SCR process: in mixed or multiple use areas, to areas in which multiple planning group jurisdictions may lie, to ancient/old permits without respect to lack of a project phasing plan and where the adequacy of neighborhood noticing is a concern.

We are hopeful that the City will consider these issues and adopt solutions as part of their revised SCR General Staff Review Guidelines to be considered by City Council. This letter is sent to you to thank you for addressing the complex issue of SCR and to inform you that the issue is indeed one of city-wide concern, and not isolated to one project example. If appropriate, please forward this letter and its attachments to the Honorable Richard E.L. Strauss, Presiding Judge. Thank you for your courtesy and consideration.

Very truly yours,



Courtney Ann Coyle
Attorney at Law

CC: Client File
City Manager

✓ Encls. (Development Services Memo, May 9, 2001, Salk SCR history; Planning Commission transcript excerpts, May 17, 2001; LUH Committee hearing minutes, July 2, 2003; Coyle letter, July 3, 2003; Peters memo, July 10, 2003).

**CITY OF SAN DIEGO
M E M O R A N D U M**

DATE: May 9, 2001
TO: Planning Commission
FROM: Jeannette Temple, Development Project Manager
SUBJECT: Salk Institute North Parking Lot Expansion, SDP/CDP/CUP No. 40-0595

On April 19, 2001, the Salk Institute North Parking Lot Expansion project was continued to the meeting of May 17, 2001. During the granting of the request for continuance, staff was directed by the Planning Commission to give a history of recent permit approvals for the Salk Institute, and to address Ms. Pearson's additional concerns as presented since the original appeal was filed on March 14, 2001.

A brief discretionary permit history for the Salk Institute since the Amendment CDP/HRP/CUP No. 90-1140 is as follows:

May 30, 1991	CDP/HRP/CUP No. 90-1140 approved at Planning Commission to allow the construction of an East Building and off-street parking. Subsequent Building Permit Plan File No. A005843-91 was approved for this work.	
January 12, 1993	Substantial Conformance Review (SCR) approved for landscaping changes near the East Building.	①
October 26, 1995	SCR approved for a 3'-6" wall and a 7'-0" wall to be constructed on site near the East Building. Subsequent Building Permit Plan File No. A107644-95 was approved for this work.	②
May 8, 1998	SCR approved for the vivarium expansion on the south side of the Salk site. Subsequent Building Permit Plan File No. A103323-00 was approved for this work.	③
December 12, 1999	Applicant applied for a grading permit to expand the north parking lot in the same manner which is now under consideration. The permit was not approved and the applicant was informed that the work would require an amendment to CDP/HRP/CUP No. 90-1140.	④
December 20, 1999	Applicant given parameters that a greenhouse could be approved for the site in Substantial Conformance to CDP/HRP/CUP No. 90-1140. Subsequent Building Permit Plan File No. A112849-99 was approved for this work.	⑤

The following is a brief description of Ms. Pearson's additional concerns outlined in letters dated April 11, 2001, and April 24, 2001, and staff's response:

MAY 17,
2001

CITY PLANNING COMMISSION

AGENDA ITEM NUMBER 8 – SALK PARKING LOT EXPANSION PROPOSAL

SIDE B

STEELE: WE'LL TAKE A COUPLE OF MINUTES BREAK AND COME BACK FOR ITEM 8. OH I NEED TO READ BY THE WAY THIS DECISION BY THE PLANNING COMMISSION IS FINAL.

STEELE: WELCOME BACK EVERYONE. WE'LL GET OUR COMMISSIONERS IN HERE IN A MINUTE, I'M SURE OF IT. THE NEXT ITEM IS ITEM 8 AND THIS IS A NEW CODE 3, THIS IS A NEW CODE RIGHT?

FEMALE: YES.

STEELE: THIS IS A PROCESS 3 APPEAL FROM A HEARING OFFICER'S DECISION. ANY INDIVIDUAL WISHING TO SPEAK ON THE SIDE OF THIS FILL OUT AND SUBMIT A SPEAKER SLIP TO THE PLANNING COMMISSION SECRETARY, IT TAKES FOUR AFFIRMATIVE VOTES FOR THE COMMISSION TO AFFIRM, REVERSE OR MODIFY IN WHOLE OR IN PART THE DECISION OF THE HEARING OFFICER. I'D REMIND EVERYONE ALSO THAT IN NEW CODE ITEM 3 THE DECISION OF THE PLANNING COMMISSION WILL BE FINAL. JEANETTE TEMPLE.

TEMPLE: GOOD MORNING CHAIRMAN STEELE AND MEMBERS OF THE PLANNING COMMISSION, I AM JEANETTE TEMPLE WITH DEVELOPMENT SERVICES DEPARTMENT. THE SALK INSTITUTE NORTH PARKING LOT EXPANSION PROJECT BEFORE YOU TODAY IS AN APPEAL OF THE HEARING OFFICER'S FEBRUARY 28TH APPROVAL OF A COASTAL DEVELOPMENT, SITE DEVELOPMENT AND CONDITIONAL USE PERMIT TO EXPAND AN EXISTING PARKING LOT TO ACCOMMODATE 110 ADDITIONAL PARKING SPACES. THE PROJECT IS AN AMENDMENT TO COASTAL DEVELOPMENT HILLSIDE REVIEW CONDITIONAL USE PERMIT 90-1140 AND CONDITIONAL USE PERMIT 3841. THE PROJECT SITE IS LOCATED AT 10010 NORTH TORREY PINES ROAD ADJACENT TO TORREY PINES SCENIC DRIVE WHICH IS IN THE RS-1-7 ZONE, THE COASTAL COMMISSION APPEAL JURISDICTION OF THE COASTAL OVERLAY ZONE AND WITHIN THE UNIVERSITY COMMUNITY PLAN AREA. THE LAND USE

1 WETLANDS WERE TO BE PROTECTED. WE'VE SPOKEN WITH SUE ANN KAHN
2 AND NATHANIEL KAHN, DAUGHTERS OF LOUIS KAHN TO ASK ABOUT
3 CONSISTENCY OF THIS PROPOSAL WITH THEIR UNDERSTANDING OF A
4 MASTER PLAN AND IT WAS THEIR UNDERSTANDING THAT THE 91 DECISION
5 FATALLY KILLED THE KAHN MASTER PLAN. WE'VE SPOKEN WITH JEFFREY
6 SHORN WHO WAS INSTRUMENTAL IN GETTING THIS DEEMED HISTORIC WHO
7 REFERRED US TO DAVID REINHART WHO HAD INDICATED HE WOULD SET UP A
8 MEETING WITH US ONCE THE SALK PEOPLE GOT BACK IN TOWN AND
9 UNFORTUNATELY THAT APPARENTLY NEVER HAPPENED. THE MAJOR ISSUES
10 CORRECTLY ARE THIS WETLAND AND IT'S ASTONISHING IN THIS DOCUMENT
11 THAT YOU GOT ON MAY 9TH THAT THE CITY ITSELF AFTER THREE YEARS OF
12 THE FIVE YEAR REQUIRED MITIGATION UNILATERALLY SUSPENDED IT AND
13 SAID OH WELL WE NOW HAVE 1993 ARMY CORPS OF ENGINEERING
14 STANDARDS THAT WE DIDN'T HAVE IN 1991 WHEN THE PERMIT CONDITIONS
15 WERE PUT ON SO WE'RE JUST NOT GOING TO REQUIRE YOU TO DO IT
16 ANYMORE. YOU HAVE IN YOUR LETTERS FROM STATE PARK RESOURCE
17 PERSON MIKE WELLS, YOU HAVE EXPERT TESTIMONY FROM ISABEL KAY WHO
18 MANAGES THE UCSD RESERVES INDICATING THAT THERE ARE WETLANDS ON
19 THIS SITE AND HISTORICALLY HAVE BEEN. THE MAJOR ISSUES ARE WHETHER
20 PARKING SHOULD BE ALLOWED TO FURTHER IMPACT THESE HEAVILY
21 IMPORTANT SENSITIVE RESOURCES WITHOUT CONSIDERATION OF
22 ALTERNATIVES. THE CITY'S USE OF THE MITIGATED NEGATIVE DECLARATION
23 IS ABSOLUTELY UNCONSCIONABLE. AS FOR SUBSTANTIAL CONFORMANCE
24 HOW CAN I SAY IT? SUBSTANTIAL CONFORMANCE, THE LIST OF ITEMS ON
25 THE FRONT OF THE MAY 9TH CITY STAFF REPORT INDICATES THAT MANY
26 ACTIONS HAVE BEEN TAKEN ON THIS SITE THROUGH SUBSTANTIAL
27 CONFORMANCE REVIEW AND IN FACT THIS PROJECT BEFORE US NOW WAS
28 REQUESTED BY SALK TO BE DONE UNDER SUBSTANTIAL CONFORMANCE. WE
ARE DEEPLY CONCERNED WITH THE CITY'S USE OF SUBSTANTIAL
CONFORMANCE AND WHETHER PRIOR ACTIONS TAKEN THAT HAVE RESULTED
IN PIECE MEAL DEVELOPMENT ON THE SITE AND A PIECE MEAL APPROACH TO

1 PARKING ARE APPROPRIATE USE OF THE SUBSTANTIAL CONFORMANCE
2 REVIEW PROCESS, AND, THEREFORE, WE REQUEST THAT YOU DENY THIS
3 PROJECT. THERE ARE ALTERNATIVES, IT IS A SOCCER FIELD THAT PEOPLE
4 KIDS PLAY ON IMMEDIATELY TO THE NORTH IT'S A GRASSY AREA, THE
5 POSSIBILITY HAS TO BE REVIEWED FOR AN UNDERGROUND PARKING
6 STRUCTURE BECAUSE THIS IS JUST A TEMPORARY INTERIM FIX WE
7 UNDERSTAND. WE ASKED FOR A MASTER PLAN ORIGINALLY, WHAT WE NEED
8 IS NOT TO BE DOING THIS PIECE MEAL THROUGH SUBSTANTIAL
9 CONFORMANCE AND THROUGH ELIMINATION WITHOUT ANY NOTICE TO THE
10 PUBLIC OF PRIOR MITIGATION REQUIREMENTS FOR THE PROJECT. THANK
11 YOU FOR YOUR CONSIDERATION.

12 STEELE: THANK YOU AND YOUR TIMING WAS PERFECT. THERE ARE,
13 WE HAVE A COUPLE OF OTHER SPEAKER SLIPS. DANA MANVAZO FROM THE
14 SIERRA CLUB, HOPE I PRONOUNCED THAT RIGHT.

15 MANVAZO: HI GOOD MORNING.

16 STEELE: CAN YOU SAY WHAT YOU HAVE TO SAY IN TWO MINUTES?

17 MANVAZO: YEAH.

18 STEELE: OKAY.

19 MANVAZO: YEAH. DANA MANVAZO AT P.O. BOX 4426, CARLSBAD,
20 CALIFORNIA. TODAY I JUST KIND OF WANT TO POINT OUT AGAIN SOME OF
21 THE MAIN POINTS AND ASK YOU TO PLEASE REJECT THIS PROJECT. SOME OF
22 THE MAIN POINTS HAVE ALREADY BEEN STATED ARE THE VERNAL POOLS,
23 THAT THEY ARE IN FACT VERNAL POOLS. AS A BIOLOGIST I'VE LOOKED AT
24 THOSE AND I HAVE SEEN THE (FAUNA) THAT MAKES THEM BE VERNAL POOLS.
25 AS WELL AS GNAT CATCHER SIGHTINGS FREQUENTLY OUT THERE AND
26 THEY'RE ALL ENJOYING THE HEALTHY COASTAL SAGE SCRUB THAT'S
27 PRESENT ON SITE, AND AS WELL AS THE BLUFF EROSIONS. I CAN'T IMAGINE
28 THAT THIS PARKING, EXTENDING THIS PARKING LOT IS GONNA DO ANYTHING
EXCEPT CONTINUING EROSION OF THE BLUFFS THERE, THEY ARE SO
SENSITIVE, SO, AND THERE ARE SO MANY ALTERNATIVES THAT HAVE NOT
BEEN LOOKED AT. AGAIN, THAT FIELD THAT'S NOT ANY TYPE OF SOCCER

1 BUTLER: THANKS. ARE YOU GONNA BE JOINING US THIS
2 AFTERNOON WHEN WE DISCUSS REVISIONS TO THE GRADING AND DRAINAGE
3 ORDINANCE?

4 BOLLING: UNFORTUNATELY I'M NOT. I HAVE A SPEECH I'VE GOTTA
5 GET READY TO PREPARE TOMORROW. THE AMERICAN PLANNING
6 ASSOCIATION IS HAVING A STORM WATER QUALITY WORKSHOP AND I'M ONE
7 OF THE SPEAKERS AND IF I DON'T GET MY SPEECH TOGETHER I MIGHT GET IN
8 TROUBLE TOMORROW. I'D LIKE TO THOUGH.

9 BUTLER: THANKS.

10 STEELE: WE ARE A COUPLE OF MINUTES AWAY FROM NOON, WHICH
11 IS TWO THINGS, ONE IS LUNCH AND THE OTHER IS I HAVE TO LEAVE TO
12 CATCH A PLAIN. IS THERE A...

13 BUTLER: MR. CHAIRMAN I'LL MAKE A MOTION.

14 STEELE: A MOTION?

15 BUTLER: (INAUDIBLE) I'M GONNA MOVE FOR APPROVAL OF THE
16 APPEAL AND DENIAL OF THE PROJECT.

17 STRIKER: I'LL SECOND THAT.

18 BUTLER: AND I'D LIKE TO GIVE SOME OF MY REASONS. I AM NOT AT
19 ALL CONVINCED THAT ALTERNATIVES HAVE NOT BEEN LOOKED AT AS WAYS
20 TO NUMBER ONE, MAXIMIZE THE PARKING EFFICIENCY IN YOUR EXISTING
21 PARKING LOTS AND NUMBER TWO, OTHER ALTERNATIVES NON PARKING LOT
22 ALTERNATIVES TO MEET YOUR PARKING NEEDS AND AGAIN I CAN SEE A
23 NUMBER OF OPPORTUNITIES FOR IMPROVING AND OPTIMIZING THE
24 EFFICIENCY IN YOUR EXISTING LOTS. YOU PROBABLY COULD PICK UP AT
25 LEAST 15 PERCENT MORE SPACES THAN YOU HAVE NOW WHICH IS ALMOST
26 100 SPACES. SECONDLY, MY FEELING IS THAT THIS IS A VERY SPECIAL PLACE
27 AND THE PEOPLE OF SAN DIEGO GIFTED THIS PROPERTY TO THE SALK
28 INSTITUTE DECADES AGO AND NOT WITHSTANDING WHETHER THIS PONDING
WATER IS A JURISDICTIONAL WETLAND OR NOT IT PROVIDES A HABITAT AND
WE'VE GOTTEN TESTIMONY HERE TODAY FROM RESPECTED ORGANIZATIONS
THAT IT PROVIDES VALUABLE HABITAT IN A VERY SENSITIVE AREA AND I'M

1 NOT CONVINCED THAT THE APPLICANT HAS DEMONSTRATED AN OVERRIDING
2 NEED THAT WARRANTS TAKING IT OUT. GRANTED IT'S ONLY AN ACRE BUT
3 IT'S AN ACRE IN A VERY SPECIAL AND UNIQUE LOCATION AND I CAN'T
4 SUPPORT PAVING IT OVER (INAUDIBLE).

5 STRIKER: AND I AGREE WITH COMMISSIONER BUTLER ON THE
6 QUESTION OF ALTERNATIVES, HAVING WORKED FOR 25 YEARS IN THE
7 TRANSPORTATION FIELD, I GUESS I'D EXPECTED TO MAYBE EVEN SEE THE
8 SHEET OF PAPER YOU WERE WAIVING AROUND IN OUR PACKET, WHICH IS
9 PROOF THAT NO OTHER ALTERNATIVES WORK AND THIS WAS YOUR LAST
10 OPPORTUNITY, YOUR LAST RESOURCE TO PAVE THIS HABITAT. AND AGAIN
11 WHETHER IT'S VERNAL POOL OR NOT IT'S A HABITAT AND I APPRECIATE THE
12 WORK THAT SALK DOES, SALK INSTITUTE DOES, I THINK THEY'RE A VERY
13 GOOD INSTITUTE BUT I THINK THEY NEED TO DO A LITTLE MORE, PUT A LITTLE
14 MORE EFFORT IN DEVELOPING A MASTER PLAN TO FOCUS ON WHAT THEY
15 WANT TO DO WITH ALL OF THE PROPERTY, WHAT WOULD BEST SERVE BOTH
16 THEM, THE COMMUNITY AT LARGE AND THE VISITING PEOPLE THAT COME TO
17 YOUR INSTITUTE. AND THE PARKING REASSESS...I MEAN PAVING OVER A
18 PARKING LOT AND MAYBE DOING NEW DESIGN THAT'S MORE EFFICIENT, YOU
19 KNOW, I HAVEN'T SEEN IN OUR PACKAGE THAT THAT WAS EVEN LOOKED AT
20 AND SO THERE'S A LOT OF THINGS THAT I FEEL NEED TO BE LOOKED AT
21 BEFORE WE WOULD, BEFORE I COULD GIVE AN APPROVAL OF PAVING OVER A
22 HABITAT IN AN AREA LIKE THIS.

23 MALE: I'LL SUPPORT THE MOTION TOO BECAUSE I, WHETHER OR
24 NOT IT'S A HABITAT IT'S ALSO APPARENTLY IMPORTANT VISUAL OPEN SPACE
25 TO PEOPLE. I THINK ANY TIME AN INSTITUTION PROPOSES SOMETHING
26 ALONG THE SENSITIVE COASTAL AREA, YOU NEED TO LOOK AT
27 ALTERNATIVES. I'M KIND OF SURPRISED THAT IT'S JUST A NEG DEC FOR
28 SOMETHING IN SUCH A SENSITIVE LOCATION. AND I CONCUR THAT YOU NEED
A MASTER PLAN TO ADDRESS SOME OF THESE ISSUES, A LONG TERM
MASTER PLAN BEFORE WE CAN MAKE SOME OF THESE TOUGH DECISIONS
ABOUT TRADE OFFS AND WHERE TO LOCATE AND TO LOOK AT THINGS

1 COMPREHENSIVELY AND EFFICIENTLY, PARTICULARLY BECAUSE OF THE
2 SENSITIVE LOCATION OF THIS SITE.

3 STEELE: I'M GONNA SUPPORT THE MOTION AS WELL, I'VE BEEN
4 SORT OF BACK AND FORTH ON THIS ONE IN MY MIND, IT'S A VERY DIFFICULT
5 ONE FOR ME BECAUSE I SEE THE ISSUES OF BOTH SIDES. I THINK THAT
6 HOWEVER AS SORT OF MUNDANE AS THIS ISSUE IS IN TERMS OF JUST
7 PARKING AND PRACTICALITY OF IT, I THINK THAT MAYBE MORE INNOVATION
8 THAT'S EQUAL TO THE INNOVATION THAT YOU ALL SHOWED IN SCIENTIFIC
9 MATTERS AND THAT HAS BEEN SHOWN ARCHITECTURALLY IS PROBABLY
10 SOMETHING WE'RE ALL LOOKING FOR, SOMEBODY TO REALLY SOLVE ALL
11 THESE PROBLEMS TOGETHER AND I THINK THERE MIGHT BE A SOLUTION IN
12 THERE THAT JUST HADN'T BEEN EXPLORED (INAUDIBLE). IT IS A TOUGH ONE
13 BUT IT IS AN EXTRAORDINARY SENSITIVE PIECE OF LAND AND I THINK WE
14 HAVE TO LOOK AT ALL THOSE (INAUDIBLE). IF THERE ARE NO OTHER
DISCUSSIONS...

15 FEMALE: OUR ATTORNEY IS TRYING TO SAY SOMETHING.

16 ATTORNEY: YEAH, I DON'T NECESSARILY WANT TO PUT WORDS IN ANY
17 OF THE COMMISSIONERS' MOUTHS BU I WANT TO BE SURE THAT POINTS YOU
18 ARE MAKING ADDRESS THE REQUISITE FINDINGS AND YOU DON'T BELIEVE.
19 WHAT I'M HEARING IS YOU DON'T BELIEVE ALL OF THE NECESSARY FINDINGS
20 CAN BE MADE AND SO IF YOU COULD AT LEAST IDENTIFY WHICH FINDINGS
21 YOU DON'T BELIEVE CAN BE MADE, CERTAINLY SOME OF THE INFORMATION
22 YOU'VE STATED WOULD SUPPORT THAT BUT IF YOU COULD JUST SO THAT
THE RECORD IS CLEAR, DELINEATE THAT.

23 BUTLER: YEAH, TO REITERATE THE REASONS I GAVE PREVIOUSLY
24 FOR MY RECOMMENDATION FOR DENIAL, I DON'T BELIEVE THE FINDINGS FOR
25 THE COASTAL DEVELOPMENT PERMIT CAN BE MADE THAT THERE WOULD BE
26 NO ADVERSE EFFECT ON ENVIRONMENTALLY SENSITIVE LANDS IN THE
COASTAL ZONE AND.

27 STRIKER: AND THE LAND USE PLANNING.
28

1 BUTLER: THAT PERTAINS EQUALLY TO VISUAL RESOURCES AS WELL
2 AS NATURAL, OTHER NATURAL RESOURCES. I'M NOT CONVINCED THAT THE
3 SITE DEVELOPMENT PERMIT FINDINGS CAN BE MADE EITHER IN THAT. AND
4 LACK OF PROVIDING US A CONTEXT OF AN OVERALL LONG RANGE MASTER
5 PLAN, THE COMMISSION CAN'T BE CERTAIN AND TO UNDERSTAND HOW THIS
6 IMPROVEMENT RELATES TO INTENDED AND NEEDED FUTURE IMPROVEMENTS
7 ON THE CAMPUS AND HOW THAT WILL RELATE TO THE EXISTING LAND USE
8 PLAN FOR THE AREA.

9 ATTORNEY: THAT'S ADEQUATE IF THAT'S THE BASIS FOR YOUR
10 DECISION. I THINK JUST TO SUM UP THEN WHAT YOU WERE STATING
11 COMMISSIONER BUTLER WOULD BE FINDINGS D AND E THEN IN THE SITE
12 DEVELOPMENT PERMIT?

13 BUTLER: YES.

14 STEELE: IT IS IMPORTANT THAT THE PROPERTY ALREADY MEETS
15 THE CITY STANDARDS FOR PARKING AND THAT THERE'S NO ADDITIONAL
16 REQUIREMENTS (OVERTALKING).

17 BUTLER: SO YEAH AND I WAS GONNA ASK ABOUT THAT. I THINK
18 AGAIN BECAUSE OF THIS UNIQUE LOCATION YOU ARE BLESSED WITH, I MEAN
19 IT'S PART OF WHY SOME OF YOUR PEOPLE HAVE TESTIFIED WHY SOME OF
20 THE GROUNDBREAKING WONDERFUL WORK HAPPENS AT THE SALK
21 INSTITUTE, WHICH WE ALL APPLAUD YOU FOR. YOU BENEFIT FROM THE VERY
22 UNIQUE NATURAL RESOURCES OF THIS LOCATION AND YOU HAVEN'T
23 PROVIDED STRONG JUSTIFICATION WHY YOU NEED TO EXCEED THE CITY'S
24 PARKING STANDARDS AS MUCH AS YOU'RE REQUESTING TO WARRANT THIS
25 KIND OF...

26 STEELE: I SUPPOSE IN REGARD TO FINDINGS (OVERTALKING).

27 BUTLER: AND I THINK THAT RELATES TO AGAIN THE LAND USE
28 PLANNING ISSUES.

STEELE: YEAH, I THINK IT DOES, OKAY.

1 STRIKER: YEAH, I MEAN YOU COULD GO THROUGH HERE, THERE'S A
2 LOT OF THESE THAT THIS IS NOT, THAT I COULDN'T SEE MEET THE FINDINGS.
3 F, I, I MEAN THERE'S...

4 STEELE: OKAY. I THINK WE'VE GOT IT TOGETHER. PLEASE VOTE.
5 CALL THE ROLL. THE MOTION PASSES UNANIMOUSLY, THE DECISION OF THE
6 PLANNING COMMISSION IS FINAL AND WE ARE NOW BREAKING FOR LUNCH.
7 BE BACK AT 1:30.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THE COMMITTEE ON LAND USE AND HOUSING
OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO

ACTIONS FOR
WEDNESDAY, JULY 2, 2003, AT 2:00 P.M.

COUNCIL COMMITTEE ROOM (12TH FLOOR), CITY ADMINISTRATION
BUILDING
202 C STREET, SAN DIEGO, CALIFORNIA

For information, contact Gina Clark-Bellak, Council Committee Consultant
202 C Street, 3rd Floor, San Diego, CA 92101
Email: gclark@sandiego.gov
619-533-3920

COUNCIL COMMENT

ACTION: None received.

NON-AGENDA PUBLIC COMMENT


ACTION: None received.

ITEM-1: Report from the City Manager regarding SUBSTANTIAL CONFORMANCE
REVIEW.

(See CMR 03-141; Material submitted by Courtney Coyle)

ACTION: Motion by Councilmember Atkins, second by Councilmember
Zucchet to: a) Approve the City Manager's recommendation to support the
proposed revisions to the substantial conformity review process; b) Prepare a
Notice of Determination for Community Planning Groups when substantial
conformance review is utilized within their planning area; c) Clarify and give
specific examples in the Parking/Circulation section of the Substantial
Conformance General Staff Review Guidelines; and d) Provide training to
Community Planning Groups regarding substantial conformance review.

VOTE: 5-0; Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Frye-
yea


Scott Peters
Chair

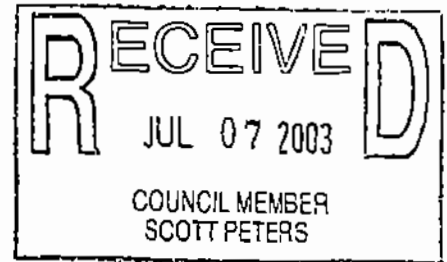
COURTNEY ANN COYLE
ATTORNEY AT LAW

HELD-PALMER HOUSE
1609 SOLEDAD AVENUE
LA JOLLA, CA USA 92037-3817

TELEPHONE: 858-454-8687

E-MAIL: COURTCOYLE@AOL.COM

FACSIMILE: 858-454-8493



Scott Peters, Councilmember
Donna Frye, Councilmember
City Administration Building
202 C Street
San Diego, CA 92101

July 3, 2003

Re: Substantial Conformance Review: Follow-up

Dear Councilmembers Frye and Peters:

This letter is a follow-up to testimony at the July 2, 2003 Land Use & Housing Committee meeting. The following are additional concerns that must be considered in fashioning an SCR process that is meaningful as well as fair. Many of these issues are informed by past development on the Salk Institute campus.

1. **Multiple Use Areas.** It seems that SCR conflicts often arise in dealing with multiple use areas, such as where residential and industrial or residential and research uses interface with one another, such as at Salk. Is there a way to amend the proposed SCR General Staff Review Guidelines (Guidelines) to engage the affected neighborhood (not just the community planning group) in proposed SCRs that have multiple use characteristics or are at this interface edge? Not infrequently it is the neighborhood that best understands the impacts and remembers the past public record.
2. **Multiple Jurisdiction Areas.** Another example where the current SCR process can fail is where two planning areas overlap or meet. Again, using the Salk situation, the residential area adjacent to the Salk campus is within the La Jolla Community Planning area; the Salk campus, on the other hand, while just steps away, is in the University Planning Area. Chances are that a notice to one (jurisdictional) planning group may not provide notice to interested parties adjacent to a project but assigned to another planning area. Is there a way to amend the SCR Guidelines to engage the jurisdictional planning group and affected neighborhood when a project will have impacts in the adjacent community planning area?

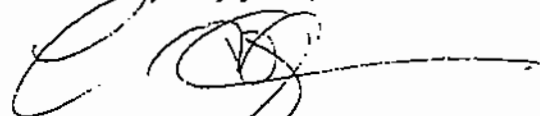
3. **Ancient Permits Issue.** As you heard from staff at the meeting, permits that are decades old frequently lack the detail and conditions of more modern permits. Even though staff commented that it too shares concern about "cumulative SCRs," the concern about them and how SCRs are considered relative to these old permits was not fully addressed at the meeting. For example, Salk's original CUP is about 40 years old; many SCRs were sought and approved in the 1990s. Is there a way to amend the SCR Guidelines to engage the affected planning group and neighborhood when a proposed action using an old permit may have impacts on that neighborhood? How will master planning and/or phasing be required of old permit holders particularly when they come in to the City requesting additional actions for their properties, to better avoid the cumulative SCR problem?
4. **Noticing.** Concerns relative to noticing are twofold: First, as you know, there can be issues with information not trickling down from the planning group chair to the planning group as a whole or to affected residents. How can it be better ensured that this occurs? Does it warrant an amendment to the proposed SCR Guidelines? Second, some of the notices that are sent to residents use language/acronyms that can be difficult for a regular member of the public to understand or to comprehend what is being proposed and how it might impact them. Is there a way to convey this notice information in plain English and with a sufficient level of detail?

As pointed out by you at the meeting, some of these issues could also benefit from raising awareness of them at city staff and community planners' training sessions and/or informational materials. Other issues may require revisions to the proposed Guidelines.

While these issues may seem esoteric or lack easy answers, I assure you they are not hypothetical problems, but rather, are exemplified by active projects or ones likely to be submitted. It would be good to see that mechanisms for timely and accurate communication are in place now to avoid unnecessary conflict later.

Thank you for your work on this important issue.

Very truly yours,



Courtney Ann Coyle
Attorney at Law

Rec'd
7-16-03

City of San Diego

**COUNCILMEMBER SCOTT PETERS
DISTRICT ONE**

MEMORANDUM

DATE: July 10, 2003
TO: Marcela Escobar-Eck
FROM: Councilmember Scott Peters
SUBJECT: Substantial Conformance Review



Attached is a copy of a letter I receive from Courtney Ann Coyle as a follow-up to the July 2, 2003 Land Use and Housing Committee meeting regarding substantial conformance review. In her letter, Ms. Coyle raises several questions that should be addressed prior to or during the Council meeting on this issue. If you have not already done so, please take the time to consider her comments and provide possible recommendations that could help further address her concerns.

Please don't hesitate to contact my office if you have any questions or concerns regarding this memo.

cc: Councilmember Donna Frye
Courtney Ann Coyle

SHP:gcb

COURTNEY ANN COYLE
ATTORNEY AT LAW

HELD-PALMER HOUSE
1609 SOLEDAD AVENUE
LA JOLLA, CA USA 92037-3817

TELEPHONE: 858-454-8687

E-MAIL: COURTCOYLE@AOL.COM

FACSIMILE: 858-454-8493

RECEIVED
JUL 21 2003
SAN DIEGO
COUNTY GRAND JURY

Marcia Gravette Jespersen, Foreperson, County of San Diego Grand Jury 2002-2003
Thomas E. McCarthy, Foreperson, County of San Diego Grand Jury 2003-2004
330 West Broadway, Suite 477
San Diego, CA 92101-3830

July 17, 2003

Re: Response to San Diego County Grand Jury – Seabreeze Farms
"City of San Diego Development Services Department, A Case Study in Complaint-Resolution (Gone Awry)"

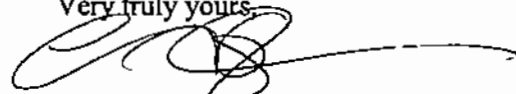
Dear Forepersons:

This letter is being sent on behalf of my client, the La Jolla Farms Homeowners. We have read the above captioned San Diego County Grand Jury Report 2002-2003 (April 16, 2003) and the City of San Diego Response (July 16, 2003). We also have read the June 30, 2003 City Manager report on Substantial Conformance Review and attended and testified at the July 2, 2003 City Land Use & Housing Committee hearing on proposed revisions to the SCR process.

While we applaud the work of the City to respond to the concerns raised regarding the SCR as applied to Seabreeze Farms and to generally improve its SCR process city-wide, additional concerns remain. These concerns are illustrated in the enclosed materials and informed by the cumulative SCRs sought by the Salk Institute over the last decade. They include the application of the SCR process: in mixed or multiple use areas, to areas in which multiple planning group jurisdictions may lie, to ancient/old permits without respect to lack of a project phasing plan and where the adequacy of neighborhood noticing is a concern.

We are hopeful that the City will consider these issues and adopt solutions as part of their revised SCR General Staff Review Guidelines to be considered by City Council. This letter is sent to you to thank you for addressing the complex issue of SCR and to inform you that the issue is indeed one of city-wide concern, and not isolated to one project example. If appropriate, please forward this letter and its attachments to the Honorable Richard E.L. Strauss, Presiding Judge. Thank you for your courtesy and consideration.

Very truly yours,



Courtney Ann Coyle
Attorney at Law

CC: Client File
City Manager

✓ Encls.

(Development Services Memo, May 9, 2001, Salk SCR history; Planning Commission transcript excerpts, May 17, 2001; LUH Committee hearing minutes, July 2, 2003; Coyle letter, July 3, 2003; Peters memo, July 10, 2003).

10-11-01

**CITY OF SAN DIEGO
M E M O R A N D U M**

DATE: May 9, 2001

TO: Planning Commission

FROM: Jeannette Temple, Development Project Manager

SUBJECT: Salk Institute North Parking Lot Expansion, SDP/CDP/CUP No. 40-0595

On April 19, 2001, the Salk Institute North Parking Lot Expansion project was continued to the meeting of May 17, 2001. During the granting of the request for continuance, staff was directed by the Planning Commission to give a history of recent permit approvals for the Salk Institute, and to address Ms. Pearson's additional concerns as presented since the original appeal was filed on March 14, 2001.

A brief discretionary permit history for the Salk Institute since the Amendment CDP/HRP/CUP No. 90-1140 is as follows:

May 30, 1991	CDP/HRP/CUP No. 90-1140 approved at Planning Commission to allow the construction of an East Building and off-street parking. Subsequent Building Permit Plan File No. A005843-91 was approved for this work.	
January 12, 1993	Substantial Conformance Review (SCR) approved for landscaping changes near the East Building.	①
October 26, 1995	SCR approved for a 3'-6" wall and a 7'-0" wall to be constructed on site near the East Building. Subsequent Building Permit Plan File No. A107644-95 was approved for this work.	②
May 8, 1998	SCR approved for the vivarium expansion on the south side of the Salk site. Subsequent Building Permit Plan File No. A103323-00 was approved for this work.	③
December 12, 1999	Applicant applied for a grading permit to expand the north parking lot in the same manner which is now under consideration. The permit was not approved and the applicant was informed that the work would require an amendment to CDP/HRP/CUP No. 90-1140.	④
December 20, 1999	Applicant given parameters that a greenhouse could be approved for the site in Substantial Conformance to CDP/HRP/CUP No. 90-1140. Subsequent Building Permit Plan File No. A112849-99 was approved for this work.	⑤

The following is a brief description of Ms. Pearson's additional concerns outlined in letters dated April 11, 2001, and April 24, 2001, and staff's response:

MAY 17,
2001

CITY PLANNING COMMISSION

AGENDA ITEM NUMBER 8 - SALK PARKING LOT EXPANSION PROPOSAL

SIDE B

STEELE: WE'LL TAKE A COUPLE OF MINUTES BREAK AND COME BACK FOR ITEM 8. OH I NEED TO READ BY THE WAY THIS DECISION BY THE PLANNING COMMISSION IS FINAL.

STEELE: WELCOME BACK EVERYONE. WE'LL GET OUR COMMISSIONERS IN HERE IN A MINUTE, I'M SURE OF IT. THE NEXT ITEM IS ITEM 8 AND THIS IS A NEW CODE 3, THIS IS A NEW CODE RIGHT?

FEMALE: YES.

STEELE: THIS IS A PROCESS 3 APPEAL FROM A HEARING OFFICER DECISION. ANY INDIVIDUAL WISHING TO SPEAK ON THE SIDE OF THIS FILL OUT AND SUBMIT A SPEAKER SLIP TO THE PLANNING COMMISSION SECRETARY, IT TAKES FOUR AFFIRMATIVE VOTES FOR THE COMMISSION TO AFFIRM, REVERSE OR MODIFY IN WHOLE OR IN PART THE DECISION OF THE HEARING OFFICER. I'D REMIND EVERYONE ALSO THAT IN NEW CODE ITEM 3 THE DECISION OF THE PLANNING COMMISSION WILL BE FINAL. JEANETTE TEMPLE.

TEMPLE: GOOD MORNING CHAIRMAN STEELE AND MEMBERS OF THE PLANNING COMMISSION, I AM JEANETTE TEMPLE WITH DEVELOPMENT SERVICES DEPARTMENT. THE SALK INSTITUTE NORTH PARKING LOT EXPANSION PROJECT BEFORE YOU TODAY IS AN APPEAL OF THE HEARING OFFICER'S FEBRUARY 28TH APPROVAL OF A COASTAL DEVELOPMENT, SITE DEVELOPMENT AND CONDITIONAL USE PERMIT TO EXPAND AN EXISTING PARKING LOT TO ACCOMMODATE 110 ADDITIONAL PARKING SPACES. THE PROJECT IS AN AMENDMENT TO COASTAL DEVELOPMENT HILLSIDE REVIEW CONDITIONAL USE PERMIT 90-1140 AND CONDITIONAL USE PERMIT 3841. THE PROJECT SITE IS LOCATED AT 10010 NORTH TORREY PINES ROAD ADJACENT TO TORREY PINES SCENIC DRIVE WHICH IS IN THE RS-1-7 ZONE, THE COASTAL COMMISSION APPEAL JURISDICTION OF THE COASTAL OVERLAY ZONE AND WITHIN THE UNIVERSITY COMMUNITY PLAN AREA. THE LAND USE

1 WETLANDS WERE TO BE PROTECTED. WE'VE SPOKEN WITH SUE ANN KAHN
2 AND NATHANIEL KAHN, DAUGHTERS OF LOUIS KAHN TO ASK ABOUT
3 CONSISTENCY OF THIS PROPOSAL WITH THEIR UNDERSTANDING OF A
4 MASTER PLAN AND IT WAS THEIR UNDERSTANDING THAT THE 91 DECISION
5 FATALY KILLED THE KAHN MASTER PLAN. WE'VE SPOKEN WITH JEFFREY
6 SHORN WHO WAS INSTRUMENTAL IN GETTING THIS DEEMED HISTORIC WHO
7 REFERRED US TO DAVID REINHART WHO HAD INDICATED HE WOULD SET UP A
8 MEETING WITH US ONCE THE SALK PEOPLE GOT BACK IN TOWN AND
9 UNFORTUNATELY THAT APPARENTLY NEVER HAPPENED. THE MAJOR ISSUES
10 CORRECTLY ARE THIS WETLAND AND IT'S ASTONISHING IN THIS DOCUMENT
11 THAT YOU GOT ON MAY 9TH THAT THE CITY ITSELF AFTER THREE YEARS OF
12 THE FIVE YEAR REQUIRED MITIGATION UNILATERALLY SUSPENDED IT AND
13 SAID OH WELL WE NOW HAVE 1993 ARMY CORPS OF ENGINEERING
14 STANDARDS THAT WE DIDN'T HAVE IN 1991 WHEN THE PERMIT CONDITIONS
15 WERE PUT ON SO WE'RE JUST NOT GOING TO REQUIRE YOU TO DO IT
16 ANYMORE. YOU HAVE IN YOUR LETTERS FROM STATE PARK RESOURCE
17 PERSON MIKE WELLS, YOU HAVE EXPERT TESTIMONY FROM ISABEL KAY WHO
18 MANAGES THE UCSD RESERVES INDICATING THAT THERE ARE WETLANDS ON
19 THIS SITE AND HISTORICALLY HAVE BEEN. THE MAJOR ISSUES ARE WHETHER
20 PARKING SHOULD BE ALLOWED TO FURTHER IMPACT THESE HEAVILY
21 IMPORTANT SENSITIVE RESOURCES WITHOUT CONSIDERATION OF
22 ALTERNATIVES. THE CITY'S USE OF THE MITIGATED NEGATIVE DECLARATION
23 IS ABSOLUTELY UNCONSCIONABLE. AS FOR SUBSTANTIAL CONFORMANCE
24 HOW CAN I SAY IT? SUBSTANTIAL CONFORMANCE, THE LIST OF ITEMS ON
25 THE FRONT OF THE MAY 9TH CITY STAFF REPORT INDICATES THAT MANY
26 ACTIONS HAVE BEEN TAKEN ON THIS SITE THROUGH SUBSTANTIAL
27 CONFORMANCE REVIEW AND IN FACT THIS PROJECT BEFORE US NOW WAS
28 REQUESTED BY SALK TO BE DONE UNDER SUBSTANTIAL CONFORMANCE. WE
ARE DEEPLY CONCERNED WITH THE CITY'S USE OF SUBSTANTIAL
CONFORMANCE AND WHETHER PRIOR ACTIONS TAKEN THAT HAVE RESULTED
IN PIECE MEAL DEVELOPMENT ON THE SITE AND A PIECE MEAL APPROACH TO

1 PARKING ARE APPROPRIATE USE OF THE SUBSTANTIAL CONFORMANCE
2 REVIEW PROCESS, AND, THEREFORE, WE REQUEST THAT YOU DENY THIS
3 PROJECT. THERE ARE ALTERNATIVES, IT IS A SOCCER FIELD THAT PEOPLE,
4 KIDS PLAY ON IMMEDIATELY TO THE NORTH IT'S A GRASSY AREA, THE
5 POSSIBILITY HAS TO BE REVIEWED FOR AN UNDERGROUND PARKING
6 STRUCTURE BECAUSE THIS IS JUST A TEMPORARY INTERIM FIX WE
7 UNDERSTAND. WE ASKED FOR A MASTER PLAN ORIGINALLY, WHAT WE NEED
8 IS NOT TO BE DOING THIS PIECE MEAL THROUGH SUBSTANTIAL
9 CONFORMANCE AND THROUGH ELIMINATION WITHOUT ANY NOTICE TO THE
10 PUBLIC OF PRIOR MITIGATION REQUIREMENTS FOR THE PROJECT. THANK
11 YOU FOR YOUR CONSIDERATION.

12 STEELE: THANK YOU AND YOUR TIMING WAS PERFECT. THERE ARE,
13 WE HAVE A COUPLE OF OTHER SPEAKER SLIPS. DANA MANVAZO FROM THE
14 SIERRA CLUB, HOPE I PRONOUNCED THAT RIGHT.

15 MANVAZO: HI GOOD MORNING.

16 STEELE: CAN YOU SAY WHAT YOU HAVE TO SAY IN TWO MINUTES?

17 MANVAZO: YEAH.

18 STEELE: OKAY.

19 MANVAZO: YEAH. DANA MANVAZO AT P.O. BOX 4426, CARLSBAD,
20 CALIFORNIA. TODAY I JUST KIND OF WANT TO POINT OUT AGAIN SOME OF
21 THE MAIN POINTS AND ASK YOU TO PLEASE REJECT THIS PROJECT. SOME OF
22 THE MAIN POINTS HAVE ALREADY BEEN STATED ARE THE VERNAL POOLS,
23 THAT THEY ARE IN FACT VERNAL POOLS. AS A BIOLOGIST I'VE LOOKED AT
24 THOSE AND I HAVE SEEN THE (FAUNA) THAT MAKES THEM BE VERNAL POOLS.
25 AS WELL AS GNAT CATCHER SIGHTINGS FREQUENTLY OUT THERE AND
26 THEY'RE ALL ENJOYING THE HEALTHY COASTAL SAGE SCRUB THAT'S
27 PRESENT ON SITE, AND AS WELL AS THE BLUFF EROSIONS. I CAN'T IMAGINE
28 THAT THIS PARKING, EXTENDING THIS PARKING LOT IS GONNA DO ANYTHING
EXCEPT CONTINUING EROSION OF THE BLUFFS THERE, THEY ARE SO
SENSITIVE, SO, AND THERE ARE SO MANY ALTERNATIVES THAT HAVE NOT
BEEN LOOKED AT. AGAIN, THAT FIELD THAT'S NOT ANY TYPE OF SOCCER

1 BUTLER: THANKS. ARE YOU GONNA BE JOINING US THIS
2 AFTERNOON WHEN WE DISCUSS REVISIONS TO THE GRADING AND DRAINAGE
3 ORDINANCE?

4 BOLLING: UNFORTUNATELY I'M NOT. I HAVE A SPEECH I'VE GOTTA
5 GET READY TO PREPARE TOMORROW. THE AMERICAN PLANNING
6 ASSOCIATION IS HAVING A STORM WATER QUALITY WORKSHOP AND I'M ONE
7 OF THE SPEAKERS AND IF I DON'T GET MY SPEECH TOGETHER I MIGHT GET IN
8 TROUBLE TOMORROW. I'D LIKE TO THOUGH.

9 BUTLER: THANKS.

10 STEELE: WE ARE A COUPLE OF MINUTES AWAY FROM NOON, WHICH
11 IS TWO THINGS, ONE IS LUNCH AND THE OTHER IS I HAVE TO LEAVE TO
12 CATCH A PLAIN. IS THERE A...

13 BUTLER: MR. CHAIRMAN I'LL MAKE A MOTION.

14 STEELE: A MOTION?

15 BUTLER: (INAUDIBLE) I'M GONNA MOVE FOR APPROVAL OF THE
16 APPEAL AND DENIAL OF THE PROJECT.

17 STRIKER: I'LL SECOND THAT.

18 BUTLER: AND I'D LIKE TO GIVE SOME OF MY REASONS. I AM NOT AT
19 ALL CONVINCED THAT ALTERNATIVES HAVE NOT BEEN LOOKED AT AS WAYS
20 TO NUMBER ONE, MAXIMIZE THE PARKING EFFICIENCY IN YOUR EXISTING
21 PARKING LOTS AND NUMBER TWO, OTHER ALTERNATIVES NON PARKING LOT
22 ALTERNATIVES TO MEET YOUR PARKING NEEDS AND AGAIN I CAN SEE A
23 NUMBER OF OPPORTUNITIES FOR IMPROVING AND OPTIMIZING THE
24 EFFICIENCY IN YOUR EXISTING LOTS. YOU PROBABLY COULD PICK UP AT
25 LEAST 15 PERCENT MORE SPACES THAN YOU HAVE NOW WHICH IS ALMOST
26 100 SPACES. SECONDLY, MY FEELING IS THAT THIS IS A VERY SPECIAL PLACE
27 AND THE PEOPLE OF SAN DIEGO GIFTED THIS PROPERTY TO THE SALK
28 INSTITUTE DECADES AGO AND NOT WITHSTANDING WHETHER THIS PONDING
WATER IS A JURISDICTIONAL WETLAND OR NOT IT PROVIDES A HABITAT AND
WE'VE GOTTEN TESTIMONY HERE TODAY FROM RESPECTED ORGANIZATIONS
THAT IT PROVIDES VALUABLE HABITAT IN A VERY SENSITIVE AREA AND I'M

1 NOT CONVINCED THAT THE APPLICANT HAS DEMONSTRATED AN OVERRIDING
2 NEED THAT WARRANTS TAKING IT OUT. GRANTED IT'S ONLY AN ACRE BUT
3 IT'S AN ACRE IN A VERY SPECIAL AND UNIQUE LOCATION AND I CAN'T
4 SUPPORT PAVING IT OVER (INAUDIBLE).

5 STRIKER: AND I AGREE WITH COMMISSIONER BUTLER ON THE
6 QUESTION OF ALTERNATIVES, HAVING WORKED FOR 25 YEARS IN THE
7 TRANSPORTATION FIELD, I GUESS I'D EXPECTED TO MAYBE EVEN SEE THE
8 SHEET OF PAPER YOU WERE WAIVING AROUND IN OUR PACKET, WHICH IS
9 PROOF THAT NO OTHER ALTERNATIVES WORK AND THIS WAS YOUR LAST
10 OPPORTUNITY, YOUR LAST RESOURCE TO PAVE THIS HABITAT. AND AGAIN
11 WHETHER IT'S VERNAL POOL OR NOT IT'S A HABITAT AND I APPRECIATE THE
12 WORK THAT SALK DOES, SALK INSTITUTE DOES, I THINK THEY'RE A VERY
13 GOOD INSTITUTE BUT I THINK THEY NEED TO DO A LITTLE MORE, PUT A LITTLE
14 MORE EFFORT IN DEVELOPING A MASTER PLAN TO FOCUS ON WHAT THEY
15 WANT TO DO WITH ALL OF THE PROPERTY, WHAT WOULD BEST SERVE BOTH
16 THEM, THE COMMUNITY AT LARGE AND THE VISITING PEOPLE THAT COME TO
17 YOUR INSTITUTE. AND THE PARKING REASSESS...I MEAN PAVING OVER A
18 PARKING LOT AND MAYBE DOING NEW DESIGN THAT'S MORE EFFICIENT, YOU
19 KNOW, I HAVEN'T SEEN IN OUR PACKAGE THAT THAT WAS EVEN LOOKED AT.
20 AND SO THERE'S A LOT OF THINGS THAT I FEEL NEED TO BE LOOKED AT
BEFORE WE WOULD, BEFORE I COULD GIVE AN APPROVAL OF PAVING OVER A
HABITAT IN AN AREA LIKE THIS.

21 MALE: I'LL SUPPORT THE MOTION TOO BECAUSE I, WHETHER OR
22 NOT IT'S A HABITAT IT'S ALSO APPARENTLY IMPORTANT VISUAL OPEN SPACE
23 TO PEOPLE. I THINK ANY TIME AN INSTITUTION PROPOSES SOMETHING
24 ALONG THE SENSITIVE COASTAL AREA, YOU NEED TO LOOK AT
25 ALTERNATIVES. I'M KIND OF SURPRISED THAT IT'S JUST A NEG DEC FOR
26 SOMETHING IN SUCH A SENSITIVE LOCATION. AND I CONCUR THAT YOU NEED
27 A MASTER PLAN TO ADDRESS SOME OF THESE ISSUES, A LONG TERM
28 MASTER PLAN BEFORE WE CAN MAKE SOME OF THESE TOUGH DECISIONS
ABOUT TRADE OFFS AND WHERE TO LOCATE AND TO LOOK AT THINGS

1 COMPREHENSIVELY AND EFFICIENTLY, PARTICULARLY BECAUSE OF THE
2 SENSITIVE LOCATION OF THIS SITE.

3 STEELE: I'M GONNA SUPPORT THE MOTION AS WELL, I'VE BEEN
4 SORT OF BACK AND FORTH ON THIS ONE IN MY MIND, IT'S A VERY DIFFICULT
5 ONE FOR ME BECAUSE I SEE THE ISSUES OF BOTH SIDES. I THINK THAT
6 HOWEVER AS SORT OF MUNDANE AS THIS ISSUE IS IN TERMS OF JUST
7 PARKING AND PRACTICALITY OF IT, I THINK THAT MAYBE MORE INNOVATION
8 THAT'S EQUAL TO THE INNOVATION THAT YOU ALL SHOWED IN SCIENTIFIC
9 MATTERS AND THAT HAS BEEN SHOWN ARCHITECTURALLY IS PROBABLY
10 SOMETHING WE'RE ALL LOOKING FOR, SOMEBODY TO REALLY SOLVE ALL
11 THESE PROBLEMS TOGETHER AND I THINK THERE MIGHT BE A SOLUTION IN
12 THERE THAT JUST HADN'T BEEN EXPLORED (INAUDIBLE). IT IS A TOUGH ONE
13 BUT IT IS AN EXTRAORDINARY SENSITIVE PIECE OF LAND AND I THINK WE
14 HAVE TO LOOK AT ALL THOSE (INAUDIBLE). IF THERE ARE NO OTHER
15 DISCUSSIONS...

15 FEMALE: OUR ATTORNEY IS TRYING TO SAY SOMETHING.

16 ATTORNEY: YEAH, I DON'T NECESSARILY WANT TO PUT WORDS IN ANY
17 OF THE COMMISSIONERS' MOUTHS BU I WANT TO BE SURE THAT POINTS YOU
18 ARE MAKING ADDRESS THE REQUISITE FINDINGS AND YOU DON'T BELIEVE,
19 WHAT I'M HEARING IS YOU DON'T BELIEVE ALL OF THE NECESSARY FINDINGS
20 CAN BE MADE AND SO IF YOU COULD AT LEAST IDENTIFY WHICH FINDINGS
21 YOU DON'T BELIEVE CAN BE MADE, CERTAINLY SOME OF THE INFORMATION
22 YOU'VE STATED WOULD SUPPORT THAT BUT IF YOU COULD JUST SO THAT
23 THE RECORD IS CLEAR, DELINEATE THAT.

24 BUTLER: YEAH, TO REITERATE THE REASONS I GAVE PREVIOUSLY
25 FOR MY RECOMMENDATION FOR DENIAL, I DON'T BELIEVE THE FINDINGS FOR
26 THE COASTAL DEVELOPMENT PERMIT CAN BE MADE THAT THERE WOULD BE
27 NO ADVERSE EFFECT ON ENVIRONMENTALLY SENSITIVE LANDS IN THE
28 COASTAL ZONE AND.

29 STRIKER: AND THE LAND USE PLANNING.

1 BUTLER: THAT PERTAINS EQUALLY TO VISUAL RESOURCES AS WELL
2 AS NATURAL, OTHER NATURAL RESOURCES. I'M NOT CONVINCED THAT THE
3 SITE DEVELOPMENT PERMIT FINDINGS CAN BE MADE EITHER IN THAT. AND
4 LACK OF PROVIDING US A CONTEXT OF AN OVERALL LONG RANGE MASTER
5 PLAN, THE COMMISSION CAN'T BE CERTAIN AND TO UNDERSTAND HOW THIS
6 IMPROVEMENT RELATES TO INTENDED AND NEEDED FUTURE IMPROVEMENTS
7 ON THE CAMPUS AND HOW THAT WILL RELATE TO THE EXISTING LAND USE
8 PLAN FOR THE AREA.

9 ATTORNEY: THAT'S ADEQUATE IF THAT'S THE BASIS FOR YOUR
10 DECISION. I THINK JUST TO SUM UP THEN WHAT YOU WERE STATING
11 COMMISSIONER BUTLER WOULD BE FINDINGS D AND E THEN IN THE SITE
12 DEVELOPMENT PERMIT?

13 BUTLER: YES.

14 STEELE: IT IS IMPORTANT THAT THE PROPERTY ALREADY MEETS
15 THE CITY STANDARDS FOR PARKING AND THAT THERE'S NO ADDITIONAL
16 REQUIREMENTS (OVERTALKING).

17 BUTLER: SO YEAH AND I WAS GONNA ASK ABOUT THAT. I THINK
18 AGAIN BECAUSE OF THIS UNIQUE LOCATION YOU ARE BLESSED WITH, I MEAN
19 IT'S PART OF WHY SOME OF YOUR PEOPLE HAVE TESTIFIED WHY SOME OF
20 THE GROUNDBREAKING WONDERFUL WORK HAPPENS AT THE SALK
21 INSTITUTE, WHICH WE ALL APPLAUD YOU FOR. YOU BENEFIT FROM THE VERY
22 UNIQUE NATURAL RESOURCES OF THIS LOCATION AND YOU HAVEN'T
23 PROVIDED STRONG JUSTIFICATION WHY YOU NEED TO EXCEED THE CITY'S
24 PARKING STANDARDS AS MUCH AS YOU'RE REQUESTING TO WARRANT THIS
25 KIND OF...

26 STEELE: I SUPPOSE IN REGARD TO FINDINGS (OVERTALKING).

27 BUTLER: AND I THINK THAT RELATES TO AGAIN THE LAND USE
28 PLANNING ISSUES.

STEELE: YEAH, I THINK IT DOES, OKAY.

1 STRIKER: YEAH, I MEAN YOU COULD GO THROUGH HERE, THERE'S A
2 LOT OF THESE THAT THIS IS NOT, THAT I COULDN'T SEE MEET THE FINDINGS;
3 F, I, I MEAN THERE'S...

4 STEELE: OKAY. I THINK WE'VE GOT IT TOGETHER. PLEASE VOTE.
5 CALL THE ROLL. THE MOTION PASSES UNANIMOUSLY, THE DECISION OF THE
6 PLANNING COMMISSION IS FINAL AND WE ARE NOW BREAKING FOR LUNCH.
7 BE BACK AT 1:30.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THE COMMITTEE ON LAND USE AND HOUSING
OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO

ACTIONS FOR
WEDNESDAY, JULY 2, 2003, AT 2:00 P.M.

COUNCIL COMMITTEE ROOM (12TH FLOOR), CITY ADMINISTRATION
BUILDING
202 C STREET, SAN DIEGO, CALIFORNIA

For information, contact Gina Clark-Bellak, Council Committee Consultant
202 C Street, 3rd Floor, San Diego, CA 92101
Email: gclark@sandiego.gov
619-533-3920

COUNCIL COMMENT

ACTION: None received.

NON-AGENDA PUBLIC COMMENT


ACTION: None received.

ITEM-1: Report from the City Manager regarding SUBSTANTIAL CONFORMANCE
REVIEW.

(See CMR 03-141; Material submitted by Courtney Coyle)

ACTION: Motion by Councilmember Atkins, second by Councilmember
Zucchet to: a) Approve the City Manager's recommendation to support the
proposed revisions to the substantial conformity review process; b) Prepare a
Notice of Determination for Community Planning Groups when substantial
conformance review is utilized within their planning area; c) Clarify and give
specific examples in the Parking/Circulation section of the Substantial
Conformance General Staff Review Guidelines; and d) Provide training to
Community Planning Groups regarding substantial conformance review.

VOTE: 5-0; Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Frye-
yea


Scott Peters
Chair

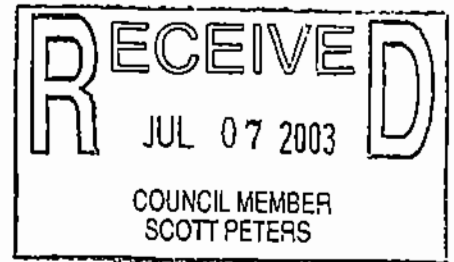
COURTNEY ANN COYLE
ATTORNEY AT LAW

HELD-PALMER HOUSE
1609 SOLEDAD AVENUE
LA JOLLA, CA USA 92037-3817

TELEPHONE: 858-454-8687

E-MAIL: COURTCOYLE@AOL.COM

FACSIMILE: 858-454-8493



Scott Peters, Councilmember
Douna Frye, Councilmember
City Administration Building
202 C Street
San Diego, CA 92101

July 3, 2003

Re: Substantial Conformance Review: Follow-up

Dear Councilmembers Frye and Peters:

This letter is a follow-up to testimony at the July 2, 2003 Land Use & Housing Committee meeting. The following are additional concerns that must be considered in fashioning an SCR process that is meaningful as well as fair. Many of these issues are informed by past development on the Salk Institute campus.

1. **Multiple Use Areas.** It seems that SCR conflicts often arise in dealing with multiple use areas, such as where residential and industrial or residential and research uses interface with one another, such as at Salk. Is there a way to amend the proposed SCR General Staff Review Guidelines (Guidelines) to engage the affected **neighborhood** (not just the community planning group) in proposed SCRs that have multiple use characteristics or are at this interface edge? Not infrequently it is the neighborhood that best understands the impacts and remembers the past public record.
2. **Multiple Jurisdiction Areas.** Another example where the current SCR process can fail is where two planning areas overlap or meet. Again, using the Salk situation, the residential area adjacent to the Salk campus is within the La Jolla Community Planning area; the Salk campus, on the other hand, while just steps away, is in the University Planning Area. Chances are that a notice to one (jurisdictional) planning group may not provide notice to interested parties adjacent to a project but assigned to another planning area. Is there a way to amend the SCR Guidelines to engage the jurisdictional planning group and affected **neighborhood** when a project will have impacts in the adjacent community planning area?

3. **Ancient Permits Issue.** As you heard from staff at the meeting, permits that are decades old frequently lack the detail and conditions of more modern permits. Even though staff commented that it too shares concern about "cumulative SCRs," the concern about them and how SCRs are considered relative to these old permits was not fully addressed at the meeting. For example, Salk's original CUP is about 40 years old; many SCRs were sought and approved in the 1990s. Is there a way to amend the SCR Guidelines to engage the affected planning group and **neighborhood** when a proposed action using an old permit may have impacts on that neighborhood? How will master planning and/or phasing be required of old permit holders particularly when they come in to the City requesting additional actions for their properties, to better avoid the cumulative SCR problem?
4. **Noticing.** Concerns relative to noticing are twofold: First, as you know, there can be issues with information not trickling down from the planning group chair to the planning group as a whole or to affected residents. How can it be better ensured that this occurs? Does it warrant an amendment to the proposed SCR Guidelines? Second, some of the notices that are sent to residents use language/acronyms that can be difficult for a regular member of the public to understand or to comprehend what is being proposed and how it might impact them. Is there a way to convey this notice information in plain English and with a sufficient level of detail?

As pointed out by you at the meeting, some of these issues could also benefit from raising awareness of them at city staff and community planners' training sessions and/or informational materials. Other issues may require revisions to the proposed Guidelines.

While these issues may seem esoteric or lack easy answers, I assure you they are not hypothetical problems, but rather, are exemplified by active projects or ones likely to be submitted. It would be good to see that mechanisms for timely and accurate communication are in place now to avoid unnecessary conflict later.

Thank you for your work on this important issue.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Courtney Ann Coyle', with a long horizontal line extending to the right.

Courtney Ann Coyle
Attorney at Law

vucid
7-16-03

City of San Diego

COUNCILMEMBER SCOTT PETERS
DISTRICT ONE

MEMORANDUM

DATE: July 10, 2003
TO: Marcela Escobar-Eck
FROM: Councilmember Scott Peters
SUBJECT: Substantial Conformance Review



Attached is a copy of a letter I receive from Courtney Ann Coyle as a follow-up to the July 2, 2003 Land Use and Housing Committee meeting regarding substantial conformance review. In her letter, Ms. Coyle raises several questions that should be addressed prior to or during the Council meeting on this issue. If you have not already done so, please take the time to consider her comments and provide possible recommendations that could help further address her concerns.

Please don't hesitate to contact my office if you have any questions or concerns regarding this memo.

cc: Councilmember Donna Frye
Courtney Ann Coyle

SHP:gcb



Office of the Clerk of the Board
1130 Fifth Avenue • Chula Vista, CA 91911
619-585-4405 • Fax 619-585-7380
email: sandra.smith@suhsd.k12.ca.us

RECEIVED
SEP 24 2003

Hon. Richard E. L. Strauss
Presiding Judge, San Diego Superior Court
220 West Broadway, Dept. SD-P
San Diego, CA 92101

RECEIVED
SEP 25 2003
SAN DIEGO
COUNTY GRAND JURY

Sept. 22, 2003

Subject: Sweetwater Union High School District response to San Diego County Grand Jury Report

Dear Judge Strauss:

On June 30, 2003, a report was issued by the San Diego County Grand Jury entitled "Sweetwater Union High School District Proposition BB" (The report). California Penal Code Section 933.05 establishes the requirements and the instructions (Enclosure A) the Sweetwater Union High School District (the District) must follow when responding to the report. Enclosed are the District's responses (Enclosure B) to the report's findings and recommendations.

Sincerely,

Sandra L. Smith
Clerk of the Board
Board of Trustees

CC: Board of Trustees

Enclosure A

REQUIREMENTS AND INSTRUCTIONS

California Penal Code Section 933(c) requires any public agency that the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. *Such comment shall be no later than 90 days after the grand jury submits its report to the public agency.* Also, every *elected* county officer or agency head for which the Grand Jury has responsibility shall comment on the findings and recommendations pertaining to matters under the control of that county officer or agency head, as well as any agency or agencies which that officer or agency head supervises or controls. *Such comments shall be made within 60 days to the Presiding Judge of the Superior Court with an information copy sent to the Board of Supervisors.*

California Penal Code Section 933.05 details the specific manner in which such comments are to be made, as follows:

- (a) As to each Grand Jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding.
 - (2) The respondent disagrees wholly or partially with the findings, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be presented for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of the publication of the Grand Jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

Enclosure B

Sweetwater Union School District Response to Grand Jury Report:

SWEETWATER UNION HIGH SCHOOL DISTRICT PROPOSITION BB

Pursuant to California Penal Code 933.05, the District provides the following response and background information to put the Grand Jury's findings in proper perspective.

The Sweetwater Union High School District is comprised of 29 secondary and adult school campuses with a long list of academic acclaim:

- 19 of our schools have earned California Distinguished School awards—an honor only received by five percent of schools statewide.
- Mar Vista High and Sweetwater High are both AVID Demonstration Schools.
- Mar Vista High is a Title I Achieving School.
- Sweetwater High was named by *Newsweek* Magazine as one of the 300 best schools in the country in 2003.
- For seven consecutive years, the Sweetwater District has won Golden Bell awards for innovative educational programs. With 16 awards, Sweetwater has more Golden Bells than any district in the state.
- For the fourth consecutive year, the Sweetwater District has won the Academic Decathlon. And this year, the top three winners in the county were Sweetwater schools.
- This District was awarded a Total Excellence in Management Award from the *San Diego Business Journal*.
- The District has built and opened two new high schools and a middle school in two years—unprecedented in the county.
- And in endorsing the District's bond measure three years ago, the San Diego County Taxpayers Association gave Sweetwater an "A" rating.

After an eight-month investigation, the Grand Jury's report confirms the District has complied with all laws. The report concluded that all \$38 million of the first installment of Proposition BB funds were properly expended.

The Grand Jury report contained three findings—1) that there was inadequate planning for the Proposition BB modernization projects; 2) that there was incomplete replacement of structures destroyed by fire at Chula Vista Middle School; and 3) that composition of the Bond Oversight Committee could hinder its effectiveness.

The District respectfully disagrees with findings one and two.

Regarding Finding No. 1, the District conducted extensive planning for Proposition BB modernization projects long before the measure was placed on the ballot. This pre-planning avoided large lapses of time before the bond measure was implemented *and* allowed the District to break ground on modernization projects in an effective manner and in record time.

With regards to Finding No. 2, the District immediately replaced the food preparation facility at

Chula Vista Middle School after the fire. Contrary to the Grand Jury's assertion, a state-of-the-art kitchen was completed within three months of the fire. The District has also installed a temporary covered shelter where students can eat their lunch. The District also has plans, and funds, to build a permanent cafeteria/multipurpose facility by 2005.

The District agrees with the Grand Jury finding concerning composition of the Bond Oversight Committee. However, prior to the issuance of the Grand Jury report the District implemented corrective procedures for application to the committee.

The District welcomes the Grand Jury's recommendations for improving Sweetwater Union High School District schools. The fact remains, however, that the District had aggressively addressed issues of school facilities and academic achievement long before the issuance of the Grand Jury report.

Set forth below is the response of the District to the Grand Jury's findings and recommendations.

FINDINGS AND RESPONSES:

FINDING 1: Inadequate planning for Proposition BB modernization projects

Long before Proposition BB was placed on the ballot in November, 2000, the Sweetwater District began planning for the modernization of district facilities— contrary to the Grand Jury's finding that the initial planning for the modernization projects began in February, 2000. This district invested its own planning and funding resources although there was no guarantee of voter approval of the ballot measure.¹

As a result, the District was able to commence work on modernization projects within *nine months* of the bond's passage. *Completion* of first-phase modernization projects occurred less than two years after Proposition BB's passage, an accomplishment unrivaled by any other large district in the county. Yet, the Grand Jury in this finding has substituted its judgment for the informed and professional judgment of the entire Sweetwater educational community.

Consistent with the District's plan in obtaining funds from state and other sources as set forth in the Facilities Improvement Plan: *"The proposed bond initiative will provide the means to implement major renovations and repairs that are far beyond the district's current resources. Once targeted facilities are brought up to par, Sweetwater's ongoing commitment—reserving three percent of the annual budget for facilities upkeep, participating in California's Deferred Maintenance Program and aggressively pursuing SB50 or other available state matching funds—will be sufficient to keep district facilities in good condition far into the future."* To date, the District has received \$16.2 million in state matching construction funds to supplement the \$187 million Proposition BB. That state match is expected to continue. Furthermore, the District

¹ The district began planning for the renovation and repair of various schools in the district in 1996 in preparation for a special bond election. On March 4, 1997, a \$500 million bond measure received a majority of district voters' approval, but it was not sufficient for passage of the proposition. It has been clear to the district since that time that renovation and repair of district schools were needed, and remained a priority of the district. It is against that background, and with that experience, that the district placed Proposition BB on the ballot in November, 2000.

is confident that—with continued matching funds from the state—all the renovations and repairs set forth in the Facilities Improvement Plan will be accomplished in 13 years as set forth in the plan.

FINDING 2: Incomplete replacement of structures destroyed by fire at Chula Vista Middle School

Here again, the District disagrees with the Grand Jury's finding. To address the health needs of the students, the District immediately constructed a state-of-the-art food preparation facility. This state-of-the-art kitchen was completed within three months of the fire—not just before a Grand Jury visit in November as stated in the report. The District has also installed temporary covered shelter where students can eat their lunch. (Attached hereto are photos of the temporary covered facility).

Architectural drawings for a permanent multipurpose facility that can serve as a student cafeteria are currently in the preliminary planning stages. It is anticipated that construction will be completed in 2005. Of the \$2,781,542.36 insurance settlement the District received as a result of the fire, nearly \$600,000 was spent to demolish the burned facility and to replace district and personal equipment lost in the fire. More than \$2 million remains to be applied to the construction of the new multipurpose facility.

Again, the Grand Jury is substituting its judgment for the informed and professional judgment of the entire Sweetwater educational and facilities community. The District built 16 new classrooms (a net increase of six more than were destroyed in the fire). It is not in the best interest of the District to create a quick-fix of replacing the cafeteria when it can leverage its funds for a multipurpose facility that will meet the needs for a cafeteria *and* a performing arts facility for this performing arts magnet school.

FINDING 3: Composition of the Bond Oversight Committee Could Hinder the Committee's Effectiveness

The District agrees with the finding, and revised the procedures for composition of the Bond Oversight Committee as more fully set forth in our response to the recommendation concerning composition of the Bond Oversight Committee.

RECOMMENDATIONS AND RESPONSES:

RECOMMENDATION 03-85 Strengthen and improve efforts to inform the community on the status of the projects funded with the proceeds from the sale of Proposition BB bonds by expanding its periodic updates to the public.

The District understands that it can always improve communication. In establishing the priorities for the use of Proposition BB funds, the District held numerous meetings with the community, school staff and administrators, architects and parents both before and after the bond's passage. (Please see Appendix.) In addition to the community outreach set forth in the Appendix, the District has provided bond-related information through:

- August, 2003, Education Summit discussion
- August, 2003, District Annual Report article
- June, 2003, Construction Rebate news article
- *Currents* (district employee newsletter), articles in March and August, 2003
- April, 2003, Grand opening celebration at Sweetwater High
- October, 2002, Grand opening celebration at Chula Vista Middle
- October, 2002, Grand opening celebration at Mar Vista High

RECOMMENDATION 03-86 Issue reports of bond expenditures; modernization project status; and estimated project timelines to the Bond Oversight Committee so that body can make them available to the press and to interested community members.

The District fully understands the need to provide information to the public, and therefore will continue to post reports of bond expenditures, modernization project status and project estimated timelines on the District's website, in addition to giving a copy to the Bond Oversight Committee.

RECOMMENDATION 03-87 Provide Proposition BB bond updates to school administrative and teaching staff who have direct contact with parents and the community.

The District agrees with this recommendation and will continue to provide school administrative and teaching staff with communications in the same manner as those set forth in the Appendix attached to this response.

RECOMMENDATION 03-88 Revise its guidelines for the Bond Oversight Committee members selection process to ensure that situations which can be perceived as inappropriate by the community are avoided.

In May, 2002, the District amended the procedures for the selection of members to the Bond Oversight Committee. At that time the procedure was revised to include a formal application to provide an opportunity for full and complete community participation. By amending the procedure in May, 2002, the District is hopeful that all interested community members will apply for membership on the Bond Oversight Committee. Since that time, two new members—Dan Malcolm and Benjamin Martinez—have been selected pursuant to the new selection procedures. Only with full community participation can the community have full faith and confidence in the integrity of the process.

RECOMMENDATION 03-89 Open a regular, formal dialog with the Bond Oversight Committee that gives more consideration to that body's advice and recommendations and the rationale for them.

The District agrees with this recommendation, and it is anticipated that the chairman of the Bond Oversight Committee will make formal presentations to the Board of Trustees twice annually.

RECOMMENDATION 03-90 Work closely with the developers of the new Long-range Master Facility Plan (sic) to assure that individual schools' (sic) needs are met.

The District agrees with this recommendation and will continue to meet with principals and teachers at all Proposition BB sites, as has occurred since May, 2002, with the hiring of LPA, Inc., architects.

RECOMMENDATION 03-91 Comply with California Education Code 17573 for Chula Vista Middle School.

A safe and healthy environment for the students to eat their lunch is a district priority. Prior to the Grand Jury issuing its report, the District has been proactive by entering the design stage of building a permanent cafeteria/multipurpose facility with the proceeds of the fire insurance settlement and Proposition BB funds. Completion of construction of this permanent cafeteria/multipurpose facility is scheduled for 2005.

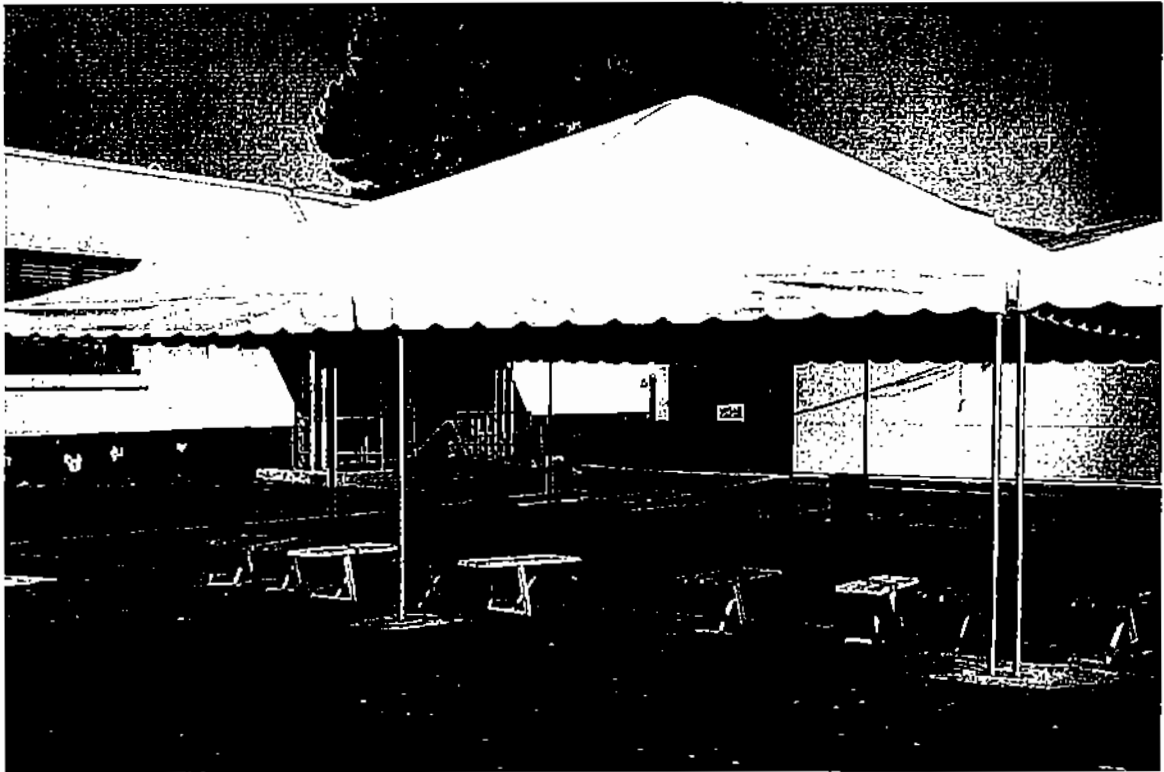
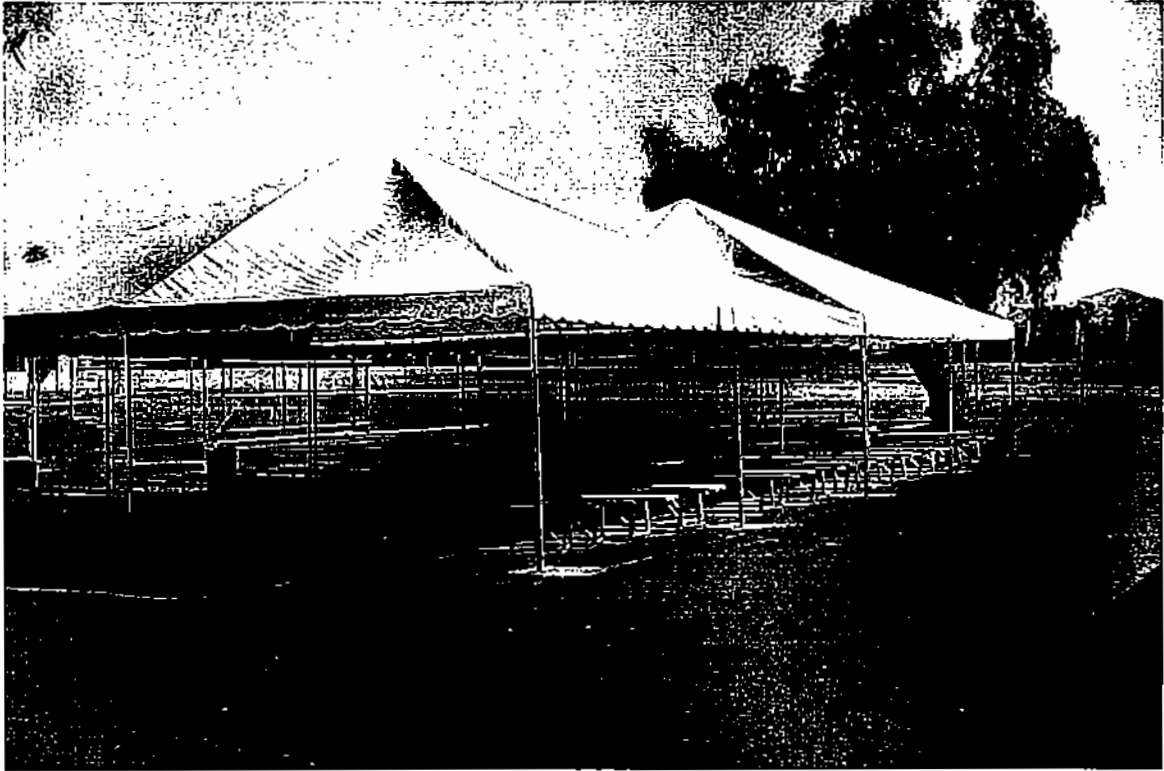
CONCLUSION

The Sweetwater District thanks the Grand Jury for finding that the District was in compliance with all laws and spent the initial \$38 million of Proposition BB money in accordance with the bond measure. The District will endeavor to continue improving its communication with the community in its implementation of future modernization projects.

With respect to Finding No. 1, Sweetwater's extensive pre-planning—which occurred long before Proposition BB was placed on the ballot—allowed the District to complete first-phase modernization projects less than two years after bond passage. At all times the District has acted expeditiously, effectively and reasonably, accomplishing modernization projects in a time frame that no other large district in the county has. The District remains confident that—with continued matching funds from the state—all the renovations and repairs set forth in the Facilities Improvement Plan will be accomplished in 13 years as set forth in the plan.

With regards to Finding No. 2, documentation proves the District completed a state-of-the-art kitchen facility at Chula Vista Middle School within three months of a fire that destroyed the school's cafeteria. We are at a loss as to how Grand Jury members did not see this construction during preliminary visits. Again, the District is acting effectively and reasonably in leveraging fire insurance funds with other construction monies to build a cafeteria/multipurpose facility fitting of a performing arts magnet school.







Appendix

Parent to Parent Newsletters-

- January 2000
- Spring 2000
- Summer 2000
- Spring 2001
- Fall 2001
- Winter 2001
- Summer 2002

Inside Your Schools Newsletters-

- Fall 2000
- Winter 2001
- Summer 2001
- Fall 2002

News Releases by Office of Superintendent-

- October 16, 1999
- October 22, 1999
- November 20, 1999
- October 6, 2000
- November 17, 2000

Monthly Superintendent Column-

- September 2000
- October 2000
- November 2000
- January 2003

Mar Vista High School Planning Committee Minutes-

- May 22, 2002
- June 21, 2002
- June 27, 2002

Sweetwater High School Modernization Minutes-

- May 8, 2002
- June 27, 2002

Chula Vista Middle Site Committee Meeting Minutes-

- March 30, 2002
- April 11, 2002
- May 13, 2002
- May 22, 2002

Maximizing achievement for 80,000 7th – 12th grade students and adult learners throughout South San Diego County

*"The Sweetwater Union High School District does not discriminate with regard to sex, race, religion, color, national origin, ancestry/ethnicity, marital or parental status, age, physical or mental disability, sexual orientation or any other unlawful consideration.
SUHSD Board Policy # 2224"*

- June 10, 2002
- December 10, 2002
- February 6, 2003

Bond Oversight Committee Meeting Minutes-

- February 26, 2001
- March 12, 2001
- April 16, 2001
- June 7, 2001
- June 25, 2001
- January 28, 2002
- April 22, 2002
- July 15, 2002
- September 16, 2002

Board of Trustee Minutes-

- January 16, 2001
- January 29, 2001
- February 26, 2001
- April 17, 2001
- April 29, 2002

Proposition BB Updates-

- Winter 2001
- Spring 2001
- Winter 2003

Finance & Facilities Sub-Committee Meeting Minutes-

- October 3, 2000
- January 16, 2001
- January 29, 2001
- February 26, 2001
- April 17, 2001
- July 10, 2001
- September 6, 2001
- November 6, 2001
- November 19, 2001
- December 10, 2001
- January 25, 2002
- February 11, 2002
- March 7, 2002
- April 23, 2002
- May 14, 2002
- June 19, 2002

Maximizing achievement for 80,000 7th – 12th grade students and adult learners throughout South San Diego County

*"The Sweenvaer Union High School District does not discriminate with regard to sex, race, religion, color, national origin, ancestry/ethnicity, marital or parental status, age, physical or mental disability, sexual orientation or any other unlawful consideration.
SUHSD Board Policy # 2224"*

- September 16, 2002
- November 12, 2002
- November 19, 2002

Meetings between Martinez & Cutri and Sweetwater-

- February 14, 2000
- March 1, 2000
- May 5, 2000 [Department Interviews]

Meetings between Martinez & Cutri and Mar Vista-

- February 3, 2000
- May 13, 2000
- August 10, 2000
- September 21, 2000

Meetings between Martinez & Cutri and Chula Vista-

- April 12, 2000

Maximizing achievement for 80,000 7th – 12th grade students and adult learners throughout South San Diego County

*"The Sweetwater Union High School District does not discriminate with regard to sex, race, religion, color, national origin, ancestry/ethnicity, marital or parental status, age, physical or mental disability, sexual orientation or any other unlawful consideration.
SUIISD Board Policy # 2224"*



RECEIVED

JUL 29 2003

County of San Diego

WALTER F. EKARD
CHIEF ADMINISTRATIVE OFFICER
(619) 531-6226
FAX: (619) 557-4060

CHIEF ADMINISTRATIVE OFFICE

1600 PACIFIC HIGHWAY, STE. 209, SAN DIEGO, CA 92101-2472

July 29, 2003

The Honorable Richard E. L. Strauss
San Diego Superior Court, Presiding Dept.
220 West Broadway
San Diego, CA 92101

RESPONSE FROM COUNTY OF SAN DIEGO ON 2002-2003 GRAND JURY REPORTS

Dear Judge Strauss:

Attached, please find the County of San Diego Board of Supervisors' responses to six reports issued by the 2002-2003 San Diego County Grand Jury addressing County government issues and operations, for your transmittal to the Grand Jury. The attached material was approved by the Board of Supervisors on July 29, 2003 and addresses the following reports:

- 1.) Delay in Correcting an Ambiguous Ordinance: Public Administrator/Public Guardian 'Homeless' for Twenty Months,
- 2.) City of San Diego Development Services Department: A Case Study in Complaint-Resolution (Gone Awry),
- 3.) Foster Care Improving? County Leads the Way Toward Expanding Interagency Cooperation,
- 4.) The Tia Juana Valley County Water District: Why?
- 5.) San Diego County Department of General Services: Redirecting the Facilities Operations Division,
- 6.) Wrong Place? Wrong Time? Falsified Hall Checks by San Diego County Probation Officers at Juvenile Hall.

Page 2

The Honorable Richard E. L. Strauss
2002-2003 County Grand Jury Report Responses

The Board of Supervisors is scheduled to consider the Grand Jury's seventh and final report on County operations on August 12, 2003 and that report will be forwarded to you, as well, after that date. If you have any questions concerning the attachments or any related matter, please contact me at (619) 531-6226.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter Ekard". The signature is written in a cursive style with a large initial "W".

WALTER F. EKARD
Chief Administrative Officer

Attachment



COUNTY OF SAN DIEGO

BOARD OF SUPERVISORS

GREG COX
First District
DIANNE JACOB
Second District
PAM SLATER
Third District
RON ROBERTS
Fourth District
BILL HORN
Fifth District

AGENDA ITEM

DATE: July 29, 2003
TO: Board of Supervisors
SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS (District: All)
SUMMARY:

Overview

On June 27, 2003, the 2002-2003 Grand Jury issued its Final Report. Included in this Final Report are seven individual reports containing recommendations to the Board of Supervisors and County departments on various subjects, including ordinance changes, foster care, probation officer investigations, city development services, facility maintenance and the Tia Juana Valley County Water District.

This is a request for your Board to review the draft responses prepared by the Chief Administrative Officer that respond to the findings and recommendations contained in six of these reports and to authorize the Chief Administrative Officer to transmit your Board's responses to the Grand Jury, via the Superior Court Presiding Judge.

Recommendation(s)

CHIEF ADMINISTRATIVE OFFICER

1. Authorize the Chief Administrative Officer to transmit the attached responses to the Grand Jury via the Superior Court Presiding Judge.

Fiscal Impact

There is no fiscal impact with this action.

Business Impact Statement

N/A

Advisory Board Statement

N/A

BACKGROUND:

On June 27, 2003, the 2002-2003 Grand Jury issued its Final Report. This document is a compilation of individual reports on various topics, some of which were released individually throughout April, May and June.

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

Included in the Final Report document are seven reports that direct recommendations to the Board of Supervisors and various County departments on ordinance changes, foster care, probation officer investigations, city development services, general facility maintenance, detention facility maintenance and the Tia Juana Valley County Water District.

This is a request for your Board to approve the attached finding and recommendation responses for six of these reports and authorize the Chief Administrative Officer to transmit these responses to the Grand Jury via the Superior Court Presiding Judge. The attached document contains proposed responses to the findings and recommendations directed to the County of San Diego in the following reports, entitled:

- 1.) Delay in Correcting an Ambiguous Ordinance: Public Administrator/Public Guardian 'Homeless' for Twenty Months (Attachment A),
- 2.) City of San Diego Development Services Department: A Case Study in Complaint-Resolution (Gone Awry) (Attachment B),
- 3.) Foster Care Improving? County Leads the Way Toward Expanding Interagency Cooperation (Attachment C),
- 4.) The Tia Juana Valley County Water District: Why? (Attachment D),
- 5.) San Diego County Department of General Services: Redirecting the Facilities Operations Division (Attachment E),
- 6.) Wrong Place? Wrong Time? Falsified Hall Checks by San Diego County Probation Officers at Juvenile Hall (Attachment F).

Proposed responses to the remaining report, "Conditions and Management of Detention Facilities in San Diego County," will be docketed for your Board's consideration on September 16, 2003. Grand Jury findings and recommendations directed to the County Sheriff will be addressed separately by the Sheriff, with copies sent to the Board of Supervisors, pursuant to Penal Code Section 933.05.

Linkage to the County of San Diego Strategic Plan:

The six Grand Jury reports listed above address issues associated with all three of the County's Strategic Initiatives: Improving Opportunities for Kids, Preserving and Protecting the Environment, and Promoting Safe and Livable Communities. The County's written response to these reports and recommendations also supports the Required Discipline of Accountability/Transparency, fulfilling our commitment to conduct County business as openly as possible.

Respectfully submitted,

WALTER F. EKARD
Chief Administrative Officer

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

AGENDA ITEM INFORMATION SHEET

CONCURRENCE(S)

COUNTY COUNSEL REVIEW Yes *V. Titus*
Written Disclosure per County Charter Yes No
Section 1000.1 Required

GROUP/AGENCY FINANCE DIRECTOR Yes N/A

CHIEF FINANCIAL OFFICER Yes N/A
Requires Four Votes Yes No

GROUP/AGENCY INFORMATION TECHNOLOGY DIRECTOR Yes N/A

CHIEF TECHNOLOGY OFFICER Yes N/A

DEPARTMENT OF HUMAN RESOURCES Yes N/A

Other Concurrence(s): Probation Department *100%*
Department of General Services *A. M. J.*
Health and Human Services Agency *J. B.*
Department of Environmental Health *JRC*

ORIGINATING DEPARTMENT: Chief Administrative Office

CONTACT PERSON(S):

Janice Graham

Name

(619) 531-6271

Phone

(619) 595-4060

Fax

A-6

Mail Station

Janice.graham@sdcountry.gov

E-mail

Name

Phone

Fax

Mail Station

E-mail

AUTHORIZED REPRESENTATIVE: *Janice Graham*

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

AGENDA ITEM INFORMATION SHEET
(continued)

PREVIOUS RELEVANT BOARD ACTIONS:

N/A

BOARD POLICIES APPLICABLE:

Board Policy A-43, Response to Grand Jury Interim Reports

BOARD POLICY STATEMENTS:

N/A

CONTRACT NUMBER(S):

N/A

ATTACHMENT A

**COUNTY OF SAN DIEGO RESPONSE TO 2002-03 GRAND JURY REPORT
"DELAY IN CORRECTING AN AMBIGUOUS ORDINANCE:
PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN 'HOMELESS' FOR TWENTY MONTHS"
Issued April 29, 2003**

Finding A: March 1998, the San Diego County Board of Supervisors enacted an ordinance transferring the functions of the PAPG to the HHSA. In April 2001, the Office of the County Counsel wrote an opinion advising that changes needed to be made to correct the ambiguous language in the ordinance.

County Response: Agree.

Finding B: The former PAPG complained that as the result of the enactment of the 1998 ordinance, the PAPG's budget and personnel were controlled by the Director of HHSA with the result that the operation of the PAPG was adversely impacted. The present PAPG, when interviewed, assured the Grand Jury that during the nine months in the position these problems did not exist. The budget for the PAPG was completely under control, as was the hiring and firing of PAPG personnel.

County Response: Disagree in part. While it is common for any manager to advocate for more resources for his or her department, the PAPG, along with every other department County head, is subject to a budget process managed by the Chief Administrative Officer and a budget ultimately adopted by the Board of Supervisors.

Finding C: Although the PAPG, HHSA management, and the Office of County Counsel exchanged correspondence and held meetings between early 1999 and October 2002, no corrective action was taken apart from the issuance of the April 2001 County Counsel opinion.

County Response: Disagree in part. To the extent that the ambiguous Administrative Code provision created an inconsistency with the County Charter provision concerning CAO authority to appoint the PAPG, the County Charter provision controls. And, between 1999 and October 2002, the County was in full compliance with the Charter since the CAO appointed the new PAPG. The fact that the CAO appointed the PAPG is evidence that the County took corrective action, since the action complied with the Charter. The ordinance was revised after October 2002 to remove any ambiguity regarding the PAPG's appointing authority.

Finding D: The Chief Administrative Officer and the San Diego County Board of Supervisors were not copied with the April 9, 2001, opinion by County Counsel.

County Response: Agree.

County of San Diego Response to 2002-03 Grand Jury Reports

Finding E: The 2002-2003 San Diego County Grand Jury contacted the Office of the County Counsel in October 2002 with a request for background information about the alleged invalidity of the 1998 ordinance as it related to the transfer of the PAPG to the HHSA.

County Response: Agree.

Finding F: On December 10, 2002, the San Diego County Board of Supervisors enacted a new ordinance to correct the situation. Approximately twenty months had passed since the County Counsel opinion advising a change to correct the ambiguous language of the original ordinance (April 2001) and the enactment of the ordinance correction (December 2002). The Grand Jury learned that a correction of this type would have taken no more than 5 working days to prepare.

County Response: Disagree in part. While the period of time that elapsed between discovery of the ambiguous language and implementation of the solution was more than reasonable, it is important to note that the County fully complied with the applicable law (i.e., the Charter) since the CAO did appoint the new PAPG. Thus, there was no urgency to correct the Administrative Code ambiguity since it did not cause the County to be in non-compliance with applicable law.

In addition, between April 2001 and December 2002, County staff and managers identified, researched and analyzed various possible ordinance change options. While it may take five working days to accomplish the mechanical aspects of drafting an ordinance, that amount of time would not allow adequate time for staff to research all possible options; analyze potential impacts, ramifications, benefits and costs; and engage multiple affected parties in this process.

Finding G: Reasons for the delay never became clear to the San Diego County Grand Jury. Some of the reasons given to the Grand Jury were that 'it was something that just slipped through the cracks', 'it was at the bottom of the pile', and 'it wasn't a high priority item'.

County Response: Disagree in part. While it may be that these statements were made to the Grand Jury, they should be taken in context. Staff was correct to indicate that correcting an ambiguity in the Code was not a high priority since County staff fully understood that the Charter controlled operations and appointments and operations were in full compliance.

Finding H: During a 57-month period of time beginning in March 1998 through December 2002, no Director of HHSA assumed the responsibility of the PAPG position. The Director of HHSA was never directed to assume the responsibilities of the PAPG office by the CAO.

County Response: Disagree. During the 1996-1998 time frame, the County's new CAO implemented a broad reorganization of the County management structure. Departments were organized into five functional "Groups" that combined departments with similar functions. One of those Groups was the Health and Human Services Agency, formed by combining the Departments of Health, Social Services, Area Agency on Aging and Veterans Services. A short time later, it was determined that the PA/PG functions best fit within the HHSA.

County of San Diego Response to 2002-03 Grand Jury Reports

For management purposes, department heads were assigned to report to a Deputy Chief Administrative Officer or for HHSA, the Agency Director, who is also a Deputy Chief Administrative Officer. The DCAOs in turn report directly to the CAO. Therefore, the statement in paragraph 2 on page 1 of the Report that the ordinance directed the HHSA Director to assume the role and responsibility of the PA/PG is not accurate.

As with other HHSA functions, those performing the roles cited in the Administrative Code report to the HHSA Director for overall management purposes. Therefore, it was entirely appropriate for the three HHSA Directors to not personally assume the PA/PG role. Since it was later determined that the ordinance language created confusion with respect to the Charter requirement, the situation was reviewed by Counsel and the December 2002 ordinance corrected the language.

Finding I: The Grand Jury finds that, when there is an alleged violation of the County Charter or the California Government Code, the situation should be addressed by County management in an expeditious manner.

County Response: Agree. It must be noted that there was no violation of the County Charter or the California Government Code regarding the PAPG issue. Thus there was never a need for County management to address any alleged violation. In fact, as explained above, the County was fully in compliance with applicable law under the Charter with respect to the PAPG matter.

Finding J: It is the responsibility of the Board of Supervisors to bring all ordinances into compliance with the San Diego County Charter and California Government Code in a timely manner.

County Response: Disagree in part. While the Board of Supervisors is ultimately responsible for all County ordinances, the County Charter establishes a management structure that places day-to-day management of administrative matters under the Chief Administrative Officer, and day-to-day management of legal matters with County Counsel, both of whom are appointed by the Board of Supervisors.

It is an on-going responsibility of both the CAO and County Counsel to bring ordinances or Code sections to the Board's attention in a timely manner when compliance issues arise. Once this is done by the CAO and County Counsel, the Board is responsible to make the necessary corrections to such ordinances.

Recommendation 03-43: County Counsel is alerted to the fact that an ordinance may be out of compliance with controlling documents that County Counsel should, within 30 days, investigate the situation, take appropriate action, and provide written documentation.

County Response: The recommendation has been implemented. Except as stated in the last two sentences in this reply, Recommendation No. 03-43 describes actions that County Counsel has performed, presently performs, and will continue to perform with respect to County ordinances that may be out of compliance with other controlling laws. In this regard, we agree

with this recommendation. However, there will be circumstances in which such actions cannot be completed within 30 days due to the complexity of a particular issue. Therefore, while we agree with the intent of the recommendation, we would not impose a fixed time limit, 30-day or otherwise, on this activity as some situations will require more time to resolve than others.

Recommendation 03-44: County Counsel renders an opinion, stating that an ordinance enacted by the Board of Supervisors contains ambiguous language or possibly violates San Diego County Charter provisions or State law, that opinion is copied to the San Diego County Chief Administrative Officer and all of the Director(s) of the department or agency(ies) involved. All parties must then respond, in writing, to the situation within 30 days (sending copies to all involved along the way).

County Response: This recommendation has been implemented. It should be noted, however, that Counsel will take this course of action only when the circumstances of a situation warrant such action and are appropriate, based on the legal issues and needs of the particular County clients. While Recommendation No. 03-44 may be an appropriate response in certain circumstances, agreement with this recommendation is limited to only those circumstances where the recommended action is appropriate based upon the facts of the situation.

To the extent that the legal needs of the County require County Counsel to take a different approach to address a legal issue, Counsel opinions are copied as appropriate to the situation, and only to those on a "need to know" basis since County Counsel's legal advice constitutes confidential attorney-client communications. There may be legitimate legal reasons that Counsel will limit confidential legal advice given to the Board of Supervisors and the CAO, without copying other Directors of a department or agency involved. In addition, requiring formal written responses to every possible situation may not be the most efficient use of County resources in all circumstances.

Recommendation 03-45: An ordinance directs that a County officer assume responsibilities associated with a specific position, that officer should act immediately to comply with the ordinance or notify the Chief Administrative Officer, in writing, within 30 days, stating the reasons s/he could or should not comply.

County Response: This recommendation will not be implemented. While we agree that a County officer, under the circumstances described in this recommendation, should either comply with the ordinance or notify the CAO of his/her reasons for non-compliance, we do not agree that the notice always be in writing, always be within 30 days, or always be provided to the CAO. It may be that such a notice cannot and should not (1) be in writing, (2) be provided in 30 days, or (3) be provided to the CAO in every instance. Rather, it may be that, under certain circumstances, such notice should be verbal, cannot be provided within 30 days, or should be provided to another County body or officer, such as the Board of Supervisors, County Counsel, or the Chief Financial Officer, for example.

As noted in the response to Finding H, the ordinance at issue did not direct a County officer to assume responsibilities associated with a specific position. Therefore, there was not a need in

County of San Diego Response to 2002-03 Grand Jury Reports

this situation for a County officer to assume responsibilities or to notify the CAO of reasons why not to comply.

ATTACHMENT B

**“CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT:
A CASE STUDY IN COMPLAINT-RESOLUTION (GONE AWRY)”
Issued April 16, 2003, Received May 1, 2003**

Finding 2: The Seabreeze Farms Equestrian Center may be in violation of the San Diego Municipal Code 44.0308 (a); both literal and conservative counts of dwelling units within the one-fourth mile wide belt result in numbers in excess of 300.

The Development Services Department (DSD) applied a strict interpretation and application of the San Diego Municipal Code 44.0308 (d). A more reasonable interpretation could have caused measurement to originate at the jump area fence and at the outer edge of the horse wash racks. Certainly, a preferable option is that of measuring from the outer edge of any significant “equestrian use”. Even better, a 75-foot separation beginning at the homeowners’ property lines to the “equestrian use” should be specified. Public health and safety concerns should require an interpretation resulting in the widest possible buffer.

County Response: Disagree in Part. San Diego Municipal Code 44.0308 requires ...(d) no residence or dwelling exists except such as are owned, maintained or occupied by the owner of such horses within a 75’ wide belt surrounding the stable, corral or pasture within which such a horse is kept. The County DEH issued a permit on April 25, 2003, to David Goddell, 5720 Carmel Valley Road, San Diego, operator of the Equestrian Center, after determining the Center had complied with stated distance to dwellings. That permit was issued after a County DEH review to confirm compliance with the 75-foot buffer zone requirement in the Municipal Code, as interpreted by the City of San Diego. Establishment of the present 75-foot buffer based on that interpretation is adequate for public health and safety concerns when all sanitation procedures are observed.

On February 7, 2003, an inspection of the Seabreeze Farms by County DEH, as part of their permit application, showed all manure management practices and vector control procedures were in place and being followed. No subsequent substantiated complaints have been received by County DEH. Establishment of any wider buffer zone, or reinterpretation of the current Municipal Code to establish greater buffer zones in actual practice, would be a land use matter rather than a health and safety matter. Establishing a larger buffer zone based on the interpretation proposed in the report could be problematic in actual practice.

County DEH did not participate in a review for compliance with San Diego Municipal Code 44.0308 (a), regarding dwelling units within one-quarter mile of a proposed facility. The City and County both consider this requirement to be essentially a land use policy, not a public health and safety requirement. In the past, revisions to the Municipal Code have been suggested to City staff by County staff, to clarify that applying this requirement is properly an issue for the City, not for County DEH.

Finding 4: The Development Services Department staff failed to consider “quality of life” issues for the neighboring homeowners by: (1) allowing the construction of the horse wash racks between the large barn and property line (a visual nuisance not shown on any conceptual plan); (2) allowing placement of the dressage or training arena directly behind the properties at the southern end of the facility (a noise and dust nuisance that was shown elsewhere on the conceptual plan); and (3) allowing the site manager to consistently violate his own manure management plan (a public health nuisance).

County Response: Disagree in Part. Manure management, fly, rodent, vector, and dust control plans were provided by Seabreeze Farms and submitted to County DEH in their permit application. The County DEH does not perform scheduled inspections of these permitted facilities and only responds to complaints from the general public. There are no records of fly complaints received concerning Seabreeze Farms by County DEH Vector Surveillance and Control. Flies were not observed in and around the barn during an inspection of the facility on February 7, 2003, which was performed by County DEH as part of the permit application process. Noise generated during manure processing/removal is unavoidable; this is not a regulated public health or safety issue. The County’s responsibilities for these kinds of facilities within the City of San Diego do not extend to “quality of life” issues that are not health and safety issues; therefore, the County has no further response to this finding.

Finding 4: The Department of Environmental Health was, until mid-January 2003, unaware of the existence of the equestrian center. This agency needs to be included in the loop earlier, for development and construction projects involving large-scale animal facilities, if it is to fulfill its responsibilities for public health and sanitation.

County Response: Disagree. County DEH was involved in the review of aspects of this proposed facility very early in the City’s permitting process. County DEH staff participated in CEQA review for this project, in evaluation of compliance with the 75-foot buffer zone requirement, and in the review of the operator’s manure management, fly, rodent, vector, and dust control plans. County DEH was “in the loop” early enough to address public health and sanitation issues.

Recommendation 03-26: The San Diego Grand Jury Recommends that the Director, Department of Environmental Health: Recommend to the City Council an amendment to Municipal Code Chapter 4: Health and Sanitation Article 4: Disease Control-Nuisance Division 3: Animals 44.0308 Horses by:

1. Replacing the words stable, corral and pasture with the phrase “equestrian uses.” The intent of this change is to include nighttime and daytime activities as well as permanent and non-permanent equine and equine-related structures and facilities.
2. Clarifying the meaning, intent and use of the words, “dwelling,” “residence,” “corral,” and “pasture.”
3. Changing section (d) to read that the 75-foot wide belt extends from the outer edge of any equestrian use and terminates at the homeowner property line.

County Response: The recommendation will not be implemented because it is not within the County of San Diego's jurisdiction. Sections 1 and 2 are City of San Diego zoning issues, wholly under the jurisdiction of the City and, as such, should be considered by the City. Regarding Section 3, County DEH believes the 75-foot buffer, as interpreted by the City (and as applied in this case by the City and by County DEH) adequately protects public health and safety. At present, the interpretation of San Diego Municipal Code 44.0308 is at the discretion of the City of San Diego. The County's interest is the protection of public health and safety, which the 75-foot buffer provides.

Recommendation 03-27: Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the site's manure management program.

County Response: The action described in this recommendation has been taken. County Environmental Health staff advised Seabreeze Farms that they are available for consultation on all aspects of manure and vector control during a February 7, 2003 inspection. Staff from Seabreeze Farms did subsequently contact County DEH in May 2002 for recommendations on manure management and County staff provided Seabreeze Farms with manure disposal procedures, and instructions on transporting manure, fly control and water runoff.

Recommendation 03-28: Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the sites fly control, dust control, rodent control and vector control programs.

County Response: The action described in this recommendation has been taken. Like Recommendation 03-27, Recommendation 03-28 has also already been implemented. The County DEH, during its February 7, 2003 inspection, advised Seabreeze Farms that it would be available for consultation on all aspects of manure and vector control issues. This was also discussed at the request of Seabreeze staff in May 2002.

Recommendation 03-29: Work in consultation with Sandown Way and Rider Place residents whose properties abut the equestrian center's boundary, to:

1. Relocate the horse wash racks (a visual nuisance) to another location,
2. Relocate the dressage arena (a noise and dirt nuisance behind the Rider Place residents) in accord with the conceptual layout.

County Response: The recommendations will not be implemented as they are not public health and safety issues. Visual nuisances and compliance or non-compliance with conceptual plans are concerns that are not regulated by the County within the city limits of San Diego. Noise issues within the city limits are under the jurisdiction of the City of San Diego.

County of San Diego Response to 2002-03 Grand Jury Reports

Recommendation 03-30: Perform the measurements specified in the San Diego Municipal Code 44.0308 (a) and (d) (i.e., one-fourth mile and 75-foot wide belt measures) at the Seabreeze Farms Equestrian Center owner's expense and take whatever action is necessary as a result.

County Response: The recommendation will not be implemented because it would establish a new set of measurements to be performed by County DEH, even though the City and County have already confirmed compliance with the section 44.0308(d) 75-foot buffer zone requirement as established by the City. The existing interpretation protects public health and safety. As stated above, the County considers the section 44.0308(a) requirement to be a local land use matter, not a public health and safety matter.

**“FOSTER CARE IMPROVING? COUNTY LEADS THE WAY
TOWARD EXPANDING INTERAGENCY COOPERATION”**

Issued May 6, 2003

Recommendation 03-46: Immediately form a task force to develop within six to eight months, a uniform mandate that clearly defines policy and procedures to ensure continuity across agencies and school districts in order to provide quality educational outcomes for San Diego County foster youth. The mandate would include uniform procedures for schools, Health and Human Services, Probation, the Courts and substitute care providers to assure the complete and timely transfer of school and medical records of children who are dependents of the Court. The policies would be developed in conjunction with the San Diego County Office of Education’s Foster Youth Services Program.

County Response: The recommendation will not be implemented because there is already a committee in place to ensure continuity of policies and procedures across agencies and school districts. The Education Committee, chaired by Judge Susan Huguenor, includes the County Office of Education, the courts, the Health and Human Services Agency, Voices For Children, and several other agencies that are committed to ensuring continuity with regard to policies and procedures. In addition to the Education Committee, the Foster Youth Services Advisory Committee is committed to facilitating the exchange of health and education information among agencies providing services to foster youth. This committee is also committed to overcoming obstacles related to sharing information while maintaining confidentiality.

There is also a Health and Human Services Agency policy (Children’s Services Special Notice #12 – 03), which ensures that children are properly dis-enrolled from school when appropriate. The policy provides that a transfer form be sent to the new Substitute Care Provider, the new school, and copied to the regional Health and Education Passport (HEP). This transfer form documents all relevant information about the child’s previous school and credits earned.

Recommendation 03-47: In partnership with the San Diego County Superintendent of Schools, establish a task force to ensure shared responsibility and accountability for all San Diego County foster care children.

County Response: This recommendation will not be implemented because there is an existing agreement between the Health and Human Services Agency and the County Superintendent of Schools in which all parties agree to continue developing a collaborative relationship using resources to best meet the educational and mental health needs of our children/youth and families. The Education Committee and the Foster

Youth Advisory Committee meet each month to work on collaborative problem solving methods.

Each school district in San Diego County has appointed a liaison to assist with problem solving in this area. In addition, San Diego Unified School District has also assigned a liaison to work with HHSA for the benefit of foster children.

Recommendation 03-48: Seek legislation to modify the licensing requirements for the unique situations at San Pasqual Academy to reflect the realities of a boarding school as compared to a group home. These modifications would remove barriers that prevent youth from participating in enrichment activities due to licensing regulations.

County Response: This recommendation will not be implemented because staff is already working with State and federal agencies to assure the needs of the Academy students are addressed. To meet the needs of the adolescent foster youth at the San Pasqual Academy, the County is pursuing regulation changes that would take into consideration the Academy's focus on independent living skills. .

Recommendation 03-49: Consider establishing a second San Pasqual Academy type of facility to accept middle-school aged youth as well as high school students, not only to service more students but to intervene earlier in this educational life.

County Response: This recommendation will not be implemented because research has shown that the emphasis for younger and middle school-aged youth should be placed on finding adoptive or foster homes. High school-aged children, however, are more difficult to place in permanent homes and that is why the Academy was developed for that specific age group.

Within the Academy's independent living skills environment, the youth focus on furthering their education and vocational skills. It will be important, over the next few years, to examine the level of success at the new campus to ensure that the students can build a firm foundation for an independent adulthood.

Recommendation 03-50: Provide each school-age foster child with multiple copies of his/her HEP before a placement change.

County Response: This recommendation will not be implemented because the action recommended is already being taken. The children's Substitute Care Providers (foster parent, relative or group home) are currently provided with this information when a placement change occurs. Division 31 regulations of the California Department of Social Services, Child Welfare Manual require that a health and education summary be provided to the Substitute Care Provider 30 days after the initial placement or 48 hours after a change of placement. The Health and Human Services Agency policy (Children's Services Special Notice #09-02) reiterates this for social workers. This special notice

also emphasizes the importance of providing the caregiver the health and education summary at the time of placement.

Recommendation 03-51: Require that social workers document the record transfer of both education and medical records whenever there is a change of placement, whether the change involves group or individual homes.

County Response: The County will not implement this recommendation because it has already implemented a procedure for this documentation. Social workers are already required to document the record transfer of both education and medical records whenever there is a change of placement. The social worker is responsible for ensuring documentation of the date the Substitute Care Provider was given the health and education information. The social worker must document all known health and education information or complete a Health and Education Passport. Division 31 regulations of the California Department of Social Services, Child Welfare Manual also require this documentation.

ATTACHMENT D

“THE TIA JUANA VALLEY COUNTY WATER DISTRICT: WHY?”

Issued June 27, 2003

The 2002-2003 San Diego County Grand Jury recommends that the San Diego County Board of Supervisors:

Recommendation 03-82: Review the activities of the Tia Juana Valley County Water District and initiate proceedings for the dissolution of the District, so that District tax payers are freed from an unnecessary, open-ended tax assessment.

County Response: The recommendation will not be implemented by the County because it would be more appropriate for a dissolution request to be initiated by the City of San Diego or the San Diego Local Agency Formation Commission.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 allows local agencies to apply for dissolution of a district when there is a successor agency to assume all assets and liabilities. In this case, virtually all properties in the Tia Juana Water District receive water and sanitation services from the City of San Diego which, as the most logical successor agency, would be the most significantly impacted by such an action.

ATTACHMENT E

**“SAN DIEGO COUNTY DEPARTMENT OF GENERAL SERVICES:
REDIRECTING THE FACILITIES OPERATIONS DIVISION”
Issued June 27, 2003**

Finding A: The Director of the Department of General Services and Department management personnel have addressed, corrected, and instituted new procedures to overcome the problems outlined in the complaints.

County Response: Agree.

Finding B: As a result of the Memorandum of Agreement with the Sheriff, the Facilities Operations Division management personnel have made significant changes to improve the conditions outlined in the complaints.

County Response: Agree.

Finding C: The Facilities Operations Division employees, interviewed by the Grand Jury, are willing and able to perform job assignments and are satisfied with their general working conditions.

County Response: Agree.

Finding D: The County departments, investigated by the Grand Jury, are satisfied with the new direction, which the General Services Department management has undertaken, and the Facilities Operations Division employees generally provide timely and supportive maintenance to the County departments served by the MOA with the Sheriff.

County Response: Agree.

Finding E: The recommendations in the 2001-2002 San Diego County Grand Jury report titled, “County General Services, Support of Detention Facilities” and the 1999-2000 San Diego County Grand Jury report titled, “Detention Facilities of San Diego County” have been addressed and improvements have been made.

County Response: Agree.

Recommendation 03-69: Continue to monitor the San Diego County Department of General Services to ensure that Facilities Operations Division staff perform their duties in

County of San Diego Response to 2002-03 Grand Jury Reports

an efficient, timely and professional manner, and that the County departments served by the Memorandum of Agreement continue to be satisfied with such efforts.

County Response: The recommendation has been implemented. The Department of General Services has provided the Sheriff's Department with access to the Facility Center Computer Maintenance Management System. Upgrades to the system are being implemented to provide enhanced access, data loading and status reporting via the WEB. This system is the single point of entry for execution of all work on County Facilities. It also provides the basis for budget development and identifies fiscal requirements based on a priority system. Allocations of funds via the Capital Improvement Plan are made annually or, for emergent issues, special funding can be identified via the newly established Facility Planning Board.

In addition to the condition Assessments discussed in the May 30, 2002 report, the Department of General Services has instituted an internal quarterly Facility Assessment Program to provide documentation for the Annual Inspection Summary (AIS). The AIS provides the basis for fund allocations under the Capital Improvement Plan process. This program will also identify those assets, whose functional life cycle is at an end, eligible for replacement under the Capital Renewal Plan. This plan focuses on planned, predictive replacement versus replace upon failure thereby limiting impacts of facility operations and performance of mission.

Routine meetings occur between the Sheriff's Department and Department of General Services to review ongoing issues and identify upcoming needs. Requirements to support the program are being addressed through a combination of these routine meetings, Sheriff Department direct access to the CMMS for project & work order loading and via the Annual Inspection Summary. These efforts combine to become part of the Capital Improvement Plan where funding requirements are identified for prioritization and allocation during the budget process.

ATTACHMENT F

“WRONG PLACE? WRONG TIME? FALSIFIED HALL CHECKS BY SAN DIEGO COUNTY PROBATION OFFICERS AT JUVENILE HALL”

Issued May 14, 2003

Finding A.: During the week in question, there were approximately 58 staff members on the late night shift duty. Thirty-seven officers and two student workers failed to make the mandatory hall checks and made false log entries. An investigation ensued.

Finding A1: The investigation by the San Diego County Probation Department of the October 11-16, 2001 hall check incident was not conducted in a fair and impartial manner.

County Response: Disagree. The San Diego County Probation Department investigation was conducted pursuant to Government Code 3300, Peace Officers Bill of Rights, and the Probation Department’s Policy & Procedures regarding Internal Affairs investigations.

Finding A2: Three supervisors who conducted the investigation had no previous investigative experience. These investigating officers were supervisors from either the day or early night shift during October 2001 assigned to Juvenile Hall, just one step in rank above those being investigated. They were investigating officers who were often social friends or acquaintances from different shifts. During an interview, one of the investigators stated how difficult it was to conduct the investigation. The investigator shared how much peer pressure was endured both during and after the investigation.

County Response: Disagree. The three supervisors selected to conduct the investigation were knowledgeable of Juvenile Hall’s working environment and Juvenile Hall’s Policy & Procedures. These supervisors had prior training and/or experience in conducting investigations.

Finding A3: The SDCPD did not seek the assistance of the San Diego County Internal Affairs Department, which employs expert investigators. The Grand Jury has verified that the San Diego County Internal Affairs Department did have sufficient personnel to conduct such an investigation at the time in question.

County Response: Agree. However, the San Diego County Probation Department did not seek assistance from the CAO’s Office of Internal Affairs (OIA) because OIA staff has no authority to investigate peace officer violations. Therefore, availability of OIA staff is irrelevant.

Finding A4: The SDCPD chose not to utilize personnel from the Department's own Internal Affairs Division to conduct the investigation because it allegedly did not have sufficient staff to handle this assignment.

County Response: Disagree. Internal Affairs Unit personnel advised and reviewed all investigative reports and were available for consultation.

Finding A5: The investigators often discussed their investigation results with the Director of Juvenile Hall and the Internal Affairs Director of the SDCPD. Those contacts give the appearance of "command influence." This "command influence" problem would not have been an issue had the County Internal Affairs Department conducted the investigation.

County Response: Disagree. The final results of all investigative reports are reviewed by the Internal Affairs Supervisor, and Probation Human Resources Manager for correctness and consistency, and the Service Director and Deputy Chief Probation Officer for recommendations of disciplinary action, in compliance with the Peace Officers Bill of Rights.

Finding A6: The investigators discussed the interviews with each other, and then by agreement tried to assign friends or work associates to another investigator. Even in cases they chose not to hear, they often sat in as "back up." For the most part, a team of two investigators conducted each interview.

County Response: Agree. Investigators are expected to share information with each other for fairness and consistency in this investigation. It is also standard procedure for all investigations to have two interviewers for each interview.

Finding A7: This investigation has had, and will have, a great impact on both the morale and efficiency of the SDCPD and should have been conducted by the most competent personnel available.

County Response: Disagree. By saying that the investigation "should have been conducted by the most competent personnel available," Finding 7 implies that it was not. The County disagrees with this finding. The Probation Department chose the investigators based on their knowledge and experience of the working environment and the Juvenile Hall's Policy and Procedures manual. The Internal Affairs Unit coordinated the investigations of these cases and reviewed all the investigative reports for consistency and compliance with the aforementioned policies.

Finding A8: Of the 37 officers disciplined or terminated, only two had received substandard ratings prior to October 2001; the rest were rated as competent employees. Two of them had been chosen the Probation Department's "Employee of the Year." Some were mentors to their fellow employees. Many had worked for the SDCPD for over 20 years.

County Response: Disagree in part. Of the Officers disciplined or terminated, only one employee (who resigned in lieu of termination) had over twenty years of service.

Finding A9: The background check procedure for SDCPD officers is very involved and includes psychological testing. This system disqualifies many applicants and makes it difficult to find eligible line and entry-level candidates for employment. These facts support the statement that many of the fired officers had impeccable backgrounds prior to being hired.

County Response: Agree. A thorough background investigation was conducted on all of the officers. They met the minimum standards required for Peace Officers.

Finding B: The Probation Department's investigation focused on personnel assigned only to the late night shift. One of the three investigators reviewing the videotapes with the Grand Jury admitted that violations of the 15-minute hall checks did occur on the early night shift.

Finding B1: Videotapes of the early night shift of the same October 11-16, 2001 period were reviewed by the Grand Jury.

County Response: Disagree in part. The Grand Jury only reviewed a segment of one videotape of Unit 800 and watched thirty to forty-five minutes of the tape.

Finding B2: The Grand Jury's review disclosed that the some hall checks were not made on the early night shift as well as on the late night shift.

County Response: Agree.

Finding B3: Other security violations, such as "popping doors" (opening cell doors from a switch at the guard station without a probation officer in the hallway) and walking in front of wards were viewed on the videotapes.

County Response: Agree.

Finding B4: Two officers, from the early night shift, received disciplinary action. They were found not performing mandatory hall checks during the early night shift. These same two officers were seen on a piece of overlapping videotape reviewed by the three investigators. These two officers received five-day suspensions for missing one hall check.

County Response: Agree.

Finding B5: The facts discovered were communicated to SDCPD management by the investigator reviewing the videotapes along with the Grand Jury.

County Response: Agree.

Finding B6: As of late April 2003, the Grand Jury had not been advised that other shifts have been investigated for violations of hall check regulations.

County Response: Agree.

Finding B7: Management stated that they did not investigate the other shifts because during the daytime and early night shifts there is so much other staff activity going on in the hallways that hall checks on a regular basis are not as likely to be missed.

County Response: Agree.

Finding C: The investigation conducted by the SDCPD did not adequately cover the conduct of supervisors to determine if they had any accountability or responsibility for the events of October 11-16, 2001.

Finding C1: Several of the officers interviewed stated that their supervisors were aware of the so-called practice of "catching up" and had condoned this practice.

County Response: Agree.

Finding C2: Several supervisors were questioned. The three investigators questioning the supervisors were of the same rank as the supervisors being questioned. All were assigned to one of the three shifts as supervisors.

County Response: Disagree in part. The Internal Affairs Supervisor conducted the majority of the Supervisor interviews. The three investigators conducted some preliminary interviews of Supervisors, Senior Probation Officers, and former employees.

Finding C3: These supervisors denied having any knowledge of the "catching up" practice and stated they would not condone it.

County Response: Agree.

Finding C4: The allegations, made by the officers, that supervisors knew of the practice of "catching up" has credibility because of the approximately 58 people who were on the late night shift of October 11-16, 2001, 39 received disciplinary action for misconduct related to "catching up" the logs. Clearly the supervisors could not have been totally unaware that the hall checks were not being made if the practice was that widespread.

County Response: Disagree. As noted in the Civil Service Commission conclusions and supported by the Superior Court findings, the “Employees did not present any convincing evidence of supervisory complicity in their practice-of falsifying” and “Employees did not perform a majority of the required hall checks; Employees falsely recorded these unperformed hall checks as completed; and the Department regularly reminded Employees of the need for hall checks through memos, supervisor’s meeting minutes, and at meetings. Additionally, the Department presented circumstantial evidence that Employees were acutely aware that they were engaged in misconduct that they were trying to hide from their supervisors.”

Finding C5: The supervisors should have been disciplined along with the officers, as they were negligent in performing their duties. It appears that the supervisors overlooked violations of the policies and procedures over an indeterminate period of time.

County Response: Disagree. The Department investigated allegations of Supervisor misconduct and found no evidence of misconduct.

Finding C6: The credibility of the supervisors in this instance of misconduct was neither aggressively nor competently pursued.

County Response: Disagree. As noted in the Civil Service Commission conclusions, “Employees attempted to show that the practice was approved by Department supervisors. While it appears obvious from the number of employees being disciplined that such a practice existed among them, they were unable to present any convincing evidence of direct statements or other communications from Department supervisors approving it. Employees’ evidence of Departmental approval consisted primarily of implication and innuendo through the alleged presence of supervisors during incidents of falsification or their disputed use of terms like “catch it up.” Employees did not present any convincing evidence of supervisory complicity in their practice of falsifying.”

Follow-up investigation: “Approximately sixteen Supervisors, thirteen Senior Probation Officers, five Correctional Deputy Probation Officer II, two Directors, and one retired Assistant Chief Probation Officer, (thirty-seven total) were named by terminated Officers either during the Internal Affairs interrogations or the Skelly Conference. Most of the allegations were vague or non-specific and no follow-up investigations were conducted. In those cases where specific dates or incidents were recalled and/or witnesses identified (16 out 37), follow-up investigations were conducted in person, by telephone, written statements, or videotape review.”

Finding C7: A retraining program is needed for supervisory and management personnel. Due to the systemic nature of the problem (over 60% of one shift being found guilty of similar offenses) the situation appears more widespread than the firings presents.

County of San Diego Response to 2002-03 Grand Jury Reports

County Response: Disagree in part. Supervisors and management personnel attend a minimum of forty hours training annually. Probationary Supervisors attend an eighty hour training, during their first year, that is mandated by Standards and Training for Corrections (STC). Additionally, the Probation Department provides a twenty-four hour Supervisor Development Academy for new Supervisors that emphasizes personnel matters. Juvenile Hall Supervisors receive on-going training regarding institutional policies and procedures, as well as department wide topics.

Finding D: The regulations, of the California Board of Corrections regarding the hall checks, are set forth in a large SDCPD Manual which is given to each officer when s/he begins.

Finding D1: This Manual must be returned to the Department after the probation officer completes his/her initial training period, which is usually 30 days.

County Response: Disagree in part. The Manual is returned in thirty days unless the employee needs additional time. The manual is also in each living unit.

Finding D2: The training techniques in effect prior to the October 2001 period did not prioritize the mandatory hall check policies and procedures over other regulations nor did they indicate the serious consequences of not performing or correctly documenting the mandatory hall checks.

County Response: Disagree. All employees receive formal training that includes the requirement to perform hall checks every fifteen minutes and the justification and necessity of checks in order to protect the health and welfare of the Detainees.

Finding D3: After the problem was discovered SDCPD senior management stressed to the Grand Jury the fact that making 15-minute hall checks and their proper logging is paramount.

County Response: Disagree. Senior management has always stressed to employees that fifteen-minute hall checks and their proper documentation are paramount.

Finding D4: The officers allege that several supervisors stressed to the officers, in their charge, that the requirement of having the log books up to date and filled in completely was much more important than having the log books reflect late hall checks. Missing or incorrect logbook entries reflected poorly on the supervisors in charge.

County Response: Disagree. The Supervisors stressed to the Officers that conducting fifteen-minute hall checks and documenting was paramount. Supervisors continually reviewed the logbooks to ensure compliance.

Finding D5: In the week following the announcement that there would be an investigation of the violations of October 2001, the log books of one of the three investigator's showed 99 late log book entries. The week before the announcement, there were nine late entries, which give the appearance that completeness was more important than accuracy to the supervisors.

County Response: Disagree. The number of late hall checks only illustrates timeliness of hall checks, not completeness and accuracy.

Finding D6: A Union Tribune article states that "...a February 2002 audit of the county facility by the State Board of Corrections found that the hall check policies were deficient and that the county had not put them into its Policies and Procedures Manual (two months before workers were fired)."

County Response: Agree. However, the Union Tribune article is inaccurate. The Board of Corrections audit, in February 2002, was also inaccurate and a subsequent letter from the Board of Corrections stated we were in full compliance with Title 15 Regulations of hall checks.

Finding D7: The Grand Jury did see a copy of a memo from a Juvenile Hall supervising officer which read "Re: Hall Check Policy, Dated: November 8, 2000. It has come to my attention that the hall checks have not been conducted in a timely manner. In fact, the entire log has not been completed properly. It is imperative that all staff adheres to the juvenile hall policies and procedures and completes this document as prescribed in the policy. I am aware that you are very busy; however, this is a legal document and must be completed per hall check policy 9.8.11.1. Please sign and date that you are aware of this section and understand the contents."

County Response: Agree.

Finding E: There is no evidence, pre-October 2001, that the regulations dealing with the hall checks are stressed above other procedures when reportedly the hall checks are of the utmost importance to the security of Juvenile Hall.

Finding E1: The Manual notes many equally important procedures, such as: Temporary Assistance to Needy Families (TANF) report completion; medical consent forms and their proper completion; intake forms and their proper completion; always walking behind wards; not "popping doors" (the practice of opening a cell door from the control center without a probation officer present in the hallway); etc.

County Response: Agree.

Finding E2: The regulations dealing with hall checks were not posted in the command center of each cellblock. This would have put the probation officers on notice that these regulations were very important.

County Response: Disagree in part. As noted in the Civil Service Commission Conclusions “The testimony of Department supervisors and the Training Officer in which they denied instructing or encouraging the falsification of hall check records. To the contrary, they stated that they emphasized the importance of actually performing hall checks per policy in order to ensure the health, safety, and security of custodial wards. The Department also repeatedly emphasized the importance of proper hall checks in various memos and meetings.”

Finding F: The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation. Upon initial employment, every probation officer signs a document agreeing to this policy.

Finding F1: The regulations associated with punishment did not set forth any specific provision that violating the hall checks and log entry rules would subject the violator to a specified punishment such as discharge.

County Response: Disagree. The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation.

Finding F2: The Grand Jury observed other safety related violations, such as “popping doors” and walking in front of wards.

County Response: Agree.

Finding F3: The Grand Jury found evidence that discipline for infractions of Probation Department regulations has been enforced inconsistently. Discipline has ranged from as minor as counseling to as major as discharge.

County Response: Disagree. The level of discipline is based on the type and severity of misconduct, the mitigating circumstances, and employees’ prior disciplinary history.

Finding G: Frequently Core Training was not given to newly hired SDCPD officers until they had been on the job for some time.

Finding G1: Allegedly one officer did not receive Core Training within the first year.

County Response: Disagree. All available Officers received CORE training within their first year of employment.

Finding G2: The Manual states that Core Training must be completed within the first year of employment. The Grand Jury believes that the specified time period for completion of Core Training should occur within the first three months of employment.

County Response: Disagree in part. The Probation Department does not hire a sufficient number of new employees to conduct CORE Training during the first three months. However, all Juvenile Institutions employees receive forty to eighty hours of training prior to being assigned to a unit.

Finding G3: SDCPD officers who have not received Core Training customarily are placed in a cellblock under the supervision of a fully trained officer. Events could unfold that would disable or distract the trained officer and leave wards security in the hands of an untrained officer.

County Response: Disagree. All new employees receive forty to eighty hours of training prior to being assigned to a unit. Per Title 15, California Code of Regulations mandates that all child supervision staff shall receive at least 40 hours of training before assuming responsibility for the supervision of minors.

Finding H: SDCPD officers are allowed to keep the Manual in their possession for only 30 days after initial employment.

County Response: Disagree. The manual is returned in thirty days unless the employee needs additional time. The manual is also in each living unit and is accessible on line.

Recommendation 03-60: Ensure that there are policies and procedures in place requiring the use of outside investigators (San Diego County Internal Affairs Department or some other objective, impartial group) in all San Diego County Department disputes involving large-scale investigations, which could ultimately result in the discharge of multiple employees.

County Response: The recommendation will not be implemented because it is not warranted. The San Diego County Office of Internal Affairs investigates allegations of improper county government activities, discrimination based on race, color, religion, sex, national origin, age, or disability, and protects the complainant from any act of reprisal for reporting such allegations. They do not investigate allegations of law enforcement misconduct.

Recommendation 03-61: Ensure that investigations are conducted in a fair and consistent manner. A thorough investigation would require that all shifts be reviewed – especially since shifts rotated every 3 months. It is possible that other people may have made the same mistakes as those for which people were discharged on the late night shift.

County Response: The recommendation will not be implemented because it is not warranted. The Probation Department conducts fair and consistent investigations. Each investigation is conducted based on the merit of the case.

Recommendation 03-62: Amend the Juvenile Hall Policy and Procedures Manual to include a more definitive statement emphasizing the importance of hall check and log-in procedures. For example: "A hall check must be recorded when completed."

County Response: The recommendation has been implemented and the action recommended has already been taken. The Policy and Procedures Manual was revised in October of 2002, to re-emphasize the importance of hall checks and proper documentation.

Recommendation 03-63: Provide Core Training to all new hires within at least 90 days after employment rather than within the first year. Policies and procedures must be fully understood prior to placing officers in charge of juvenile wards in all Juvenile facilities.

County Response: The recommendation will not be implemented because it is not reasonable. The Board of Corrections regulations require CORE training to be completed within the first year of employment. They recognize after 20 years of monitoring that it is unrealistic to make a requirement that departments complete CORE training within the first 90 days. Our Department does not hire enough employees to conduct Core Training within the first 90 days. However, all new employees receive forty to eighty hours of training prior to being assigned to a Unit.

Recommendation 03-64: Conduct a comprehensive retraining of all supervisory personnel and management at Juvenile Hall in order that they become more aware and responsible for the performance of the officers in their charge. Given the systemic nature of the problem (over 60 percent of one shift being found guilty of similar offenses) the situation may be more widespread than the firings represent.

County Response: The recommendation will not be implemented because it is not warranted. Supervisors and management personnel attend a minimum of forty hours training annually. Probationary Supervisors attend an eighty hour training course during their first year that is mandated by Standards and Training for Corrections (STC). Additionally, the Probation Department provides a twenty-four hour Supervisor Development Academy for new Supervisors that emphasizes personnel matters. Juvenile Hall Supervisors receive on-going training regarding institutional policies and procedures, as well as department wide topics.

Recommendation 03-65: Post all regulations dealing with hall checks and login procedures in the Command Center of each cellblock.

County Response: The recommendation will not be implemented because it is not warranted. The Policy and Procedures Manual has been revised; in-house training has been expanded; and staff is reminded about hall check policies on an on-going basis through training and at meetings.

Recommendation 03-66: Amend the Juvenile Hall Policy and Procedures Manual to contain specific provisions that violation of hall checks and login rules will subject the wrongdoers to a specific punishment such as discharge.

County Response: The recommendation will not be implemented because it is not warranted. As stated in this Grand Jury Report, in Facts and Findings paragraph F: "The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation. Upon initial employment, every probation officer signs a document agreeing to this policy."

Recommendation 03-67: Amend the Juvenile Hall Policy and Procedures Manual to contain specific provisions that lying and/or falsifying records of any document will result in immediate termination. Specify that the supervisors will be held accountable for the actions of those in their charge.

County Response: The recommendation will not be implemented because it is not warranted. The San Diego Probation Department's Administrative Manual Section 1306 Code of Ethics and Standards of Conduct, is required reading for all employees. This policy states, "The Department expects its employees to adhere to the standards and procedures described below. In the case of misconduct, appropriate action including discipline will be determined on the basis of the facts and circumstances surrounding any particular incident."

Recommendation 03-68: Provide every Probation Officer and Supervisor with a personal Manual, which they can keep in their possession.

County Response: The recommendation will not be implemented because it is not warranted. Each employee receives a manual for thirty days, or longer if needed. The Staff is informed/reminded that the Manual is available to review at their convenience. The manual is available on-line for easy access by staff.



San Diego Local Agency Formation Commission

Website:www.sdlafco.org

Chairwoman

September 11, 2003

Dianne Jacob
County Board of
Supervisors

Vice Chairwoman

Patty Davis
Councilmember
City of Chula Vista

Members

Bill Horn
County Board of
Supervisors

Jill D. Greer
Councilmember
City of Lemon Grove

Donna Frye
Councilmember
City of San Diego

Andrew L. Vanderfaan
Public Member

Bud Pocklington
South Bay Irrigation District

Ronald W. Woolton
Vista Fire Protection District

Alternate Members

Greg Cox
County Board of
Supervisors

(Vacant)
Councilmember
City of San Diego

Betty Rexford
Councilmember
City of Poway

Andrew J. Menshek
Padre Dam
Municipal Water District

Harry Mathis
Public Member

Executive Officer

Michael D. Ott

Counsel

William D. Smith

TO: Thomas E. McCarthy, Foreperson
San Diego County Grand Jury

FROM: Executive Officer
Local Agency Formation Commission

SUBJECT: Response to 2002-2003 Grand Jury Report Regarding the Tia
Juana Valley County Water District

RECEIVED

SEP 17 2003

**SAN DIEGO
COUNTY GRAND JURY**

Last June, the Grand Jury published the results of a second investigation in five years of the Tia Juana Valley County Water District (CWD). The recent Grand Jury report contained two recommendations specifically directed to LAFCO, and requested responses to those recommendations by September 25, 2003. Please note that State Law requires the San Diego LAFCO to conduct comprehensive studies – Municipal Service Reviews (MSR) – to evaluate the provision of services within designated geographic areas. In response to the Grand Jury investigations, the Commission placed the Tia Juana Valley CWD among the first group of agencies to be involved in the MSR program. In compliance with the June 2003 Grand Jury investigation, the San Diego LAFCO has authorized me to submit the following responses.

LAFCO Response to Grand Jury Recommendations

Grand Jury Recommendation 03-83: Educate other public agencies and the public about the non-effective and costly efforts of the Tia Juana Valley County Water District to provide water to District home and property owners.

LAFCO Response: The Grand Jury report states that the District was formed to "...provide water services for home and property owners in the river valley." However, according to the original formation petition from 1946, the District was established to protect the aquifer from intrusion of saltwater from the ocean, represent farmers and residents, and defend water rights of the entire Tia Juana River Valley. One function that the District never has provided is water service. In responding to a LAFCO survey, a district representative indicated that the District provides "...groundwater supply research and development, and flood management services." This matter has been a source of ongoing confusion for the Grand Jury, because the Grand Jury has assumed that the sole purpose

of the Tia Juana Valley CWD is to provide water service. State Law (Water Code Sections 30000-33900) permits county water districts to provide services other than the delivery of water (e.g., electric power, wastewater and storm water management, fire protection, etc.). Accordingly, the services purportedly provided by the Tia Juana Valley CWD do represent legitimate services authorized under the California Water Code, even though the District does not actually provide water service.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires that comprehensive studies, known as Municipal Service Reviews (MSR), be conducted for all cities and special districts that provide municipal services to county residents. The term "municipal services" generally refers to the full range of services that a public agency provides or is authorized to provide. MSRs are studies that evaluate certain functional and operational aspects of service delivery. While LAFCO's statutory responsibilities now include reviewing how public agencies function, the focus is to be on service provision. The goal of this review process is to assess the adequacy of public services within a specific geographic region or area. The MSR has educational value and will be made available to the public and governmental agencies for informational purposes. At this time, LAFCO is finalizing the MSR that includes the services provided by the Tia Juana Valley CWD. The MSR will be considered by the San Diego LAFCO in the fall of 2003. When the MSR report is completed, the results will be published and made available by request to all public agencies as well as interested citizens. Therefore, the MSR process will effectively address Grand Jury Recommendation 03-83 regarding public outreach/education.

Grand Jury Recommendation 03-84: Review the activities of the Tia Juana Valley County Water District and initiate proceedings for the dissolution of the District, so that District taxpayers are freed from an unnecessary, open-ended tax assessment.

LAFCO Response: With commencement of the MSR that includes the Tia Juana Valley CWD, an evaluation of agency operations and functions will be conducted. When completed, the MSR will contain a review and analysis of the agency's service delivery, fiscal, and governance activities. In addition, based upon the information gathered and analyzed in conjunction with the MSR, the Commission is required to approve nine specific determinations, covering: infrastructure needs or deficiencies; growth and population projections for the affected area; financing constraints and opportunities; cost avoidance opportunities; opportunities for rate restructuring; opportunities for shared facilities; government structure options; evaluation of management efficiencies; and local accountability and governance. One of the specific determinations that the Commission must make addresses government structure options. This determination involves an evaluation of the advantages and disadvantages of consolidation or reorganization (including dissolution) of service providers. Initiating dissolution proceedings could be a recommended option once the MSR has been completed. However, initiating District dissolution would be at the Commission's discretion and based upon compelling justification. It also will be necessary to determine if a successor agency exists for the Tia Juana Valley CWD's assets and liabilities. As of this writing, no successor agency has

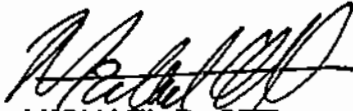
Thomas E. McCarthy
Page 3
September 11, 2003

been identified. The Cities of San Diego and Imperial Beach both overlay the Tia Juana Valley CWD. Per Government Code Section 57451(c), the successor would be the city having the greater assessed value of all taxable property within the territory of the dissolved district. Although the highest value of taxable property within the Tia Juana CWD is located in the City of San Diego, the City has indicated that it does not wish to be the successor agency. A copy of a letter from the Metropolitan Wastewater Department of San Diego is attached for review by the Grand Jury.

Furthermore, if citizens wish to be relieved of the tax assessment, alternatives to dissolution should be explored. Imposition of the assessment results from the annual adoption of a District resolution authorizing the County Assessor to collect this fee. Dissatisfied residents can utilize the election process to remove seated members of the Board and install Directors who would not support the continuation of the tax assessment.

The MSR has not yet been finalized because further analysis is required. While the Grand Jury's concerns may be valid, dissolving a district needs to be based on compelling reasons that are supported by evidence. The option of dissolving the District, per Grand Jury Recommendation 03-84, will be clarified and addressed once the MSR is completed and the final required LAFCO determinations are approved in the fall of 2003.

Respectfully submitted,



MICHAEL D. OTT
Executive Officer

MDO:IEH:jb

Attachment: August 8, 2003 City of San Diego Correspondence

cc: LAFCO Chairwoman Dianne Jacob
Supervisor Greg Cox



THE CITY OF SAN DIEGO

August 8, 2003 -



MWWDPORG



2003008821

Mr. Michael D. Ott, Executive Officer
San Diego Local Agency Formation Commission
1600 Pacific Highway, Room 452
San Diego, CA 92101

RECEIVED
SEP 04 2003
SAN DIEGO LAFCO

Reference: LAFCO letter dated August 1, 2002

Mr. Ott:

Subject: Municipal Service Review: Agencies Providing Floodwater and Sewage Control, Waterworks Construction, and Groundwater Management and Protection in the Tijuana Watershed

In response to your letter of August 1, 2002; the following are the City of San Diego responses to your questions.

1. Does the City already provide flood control services and have existing facilities in the area depicted on the attached Map? (See Attachment No. 1). Please list facilities and services provided. Has your agency received any funding or assistance from any other local agency in planning, constructing and/or operating those services and facilities?

Response: The City's Transportation Department/Streets Division provides flood control maintenance for the following three channel sections within the Watershed:

1. Pilot Channel – Grading – Hollister St. to 5000' w/o same.
2. Northern Channel – Hand cleaning of vegetation – Pilot Channel to Saturn Blvd.
3. Smugglers Gulch – Grading – Monument Rd. to 1000' n/o same.

No funding or assistance has been provided from any other agency.

2. Does the City provide sewer services or own/operate any facilities relating to sewer service in the geographic area defined for study?

Response: The City's Metropolitan Wastewater Department (MWWD) does provide sewer services in portions of the Tijuana River Watershed as indicated in Attachment No. 2. MWWD owns/operates sewer mains, trunk sewers, pump stations, a wastewater treatment facility and land/ocean outfall in the area.



Metropolitan Wastewater Department

9192 Topoz Way • San Diego, CA 92123
Tel (858) 292-6300 Fax (858) 292-6310

3. Does the City or your water provider operate any wells in this area? If yes, how many? What facilities relating to water service provision does the City own or operate there?

Response: The City's Water Department does not own or operate any wells within the area. Water service provided within the Tijuana Watershed consists of water mains, pressure regulating valves, pump stations, and raw water reservoirs and their appurtenances, as indicated on Attachment No. 3.

4. What past and current efforts has the City undertaken to protect groundwater within the city boundary that is located in the Tijuana Watershed?

Response: No current or past efforts have been undertaken by the City for groundwater protection within the City boundary that is located within the Tijuana Watershed.

5. Does the City own water rights in the area? Does the City own property in the area? If yes, please indicate its location on the attached map, and return the map to LAFCO.

Response: The City's Water Department owns water rights within the Tijuana Watershed. The City owns property within the Tijuana Watershed, as indicated in Attachments No. 2 through No. 5.

6. What parks and/or recreation services and facilities does the City currently provide in the Tijuana Watershed area?

Response: The City has a number of parks and recreational facilities as shown on Attachment No. 4.

7. How does the City fund new infrastructure?

Response: The City funds new infrastructure in a number of different ways. Some is funded on a cash basis and some on a debt basis. Funding sources include the City's General Fund and a number of Enterprise Funds.

8. What is the maximum monthly compensation each City Council member receives?

Response: Each City council member receives an annual salary of \$75,386.00, which provides an average monthly salary of \$6,282.17.

9. Does the City use lobbyists to advocate for border issues, protection of groundwater, sewage contamination prevention, or other issues?

Response: The City has retained the services of representatives in both Sacramento and Washington, D.C.

10. While conducting a MSR, LAFCO is obligated to examine and make a determination regarding potential government structure options, including advantages and disadvantages of the consolidation or reorganization of service providers. If the Tia Juana Valley CWD were dissolved in the future, would the City be willing and able to assume existing infrastructure as well as other assets and liabilities for the portion of the district within San Diego? What terms and conditions need to be developed to address the transfer of service responsibility from the Tia Juana Valley CWD to the City? Please explain how the City would view the transfer of service responsibility.

Response: The City has no interest in assuming existing infrastructure or other assets and liabilities for the portion of the Tia Juana Valley County Waster District within the City.

If you have any questions concerning the City's responses, please contact Bill Hanley, at (858) 292-6384

Sincerely,



George I. Loveland
Senior Deputy City Manager

WJH/aw

- Attachments:
1. Municipal Service Review: Tijuana Watershed Agencies
 2. Tijuana Watershed Sewer Facilities
 3. Tijuana Watershed Water Facilities (2 sheets)
 4. City of San Diego Park & Recreation Facilities in the Tijuana River Watershed
 5. City of San Diego Property and Facilities in the Tijuana River Watershed

cc: Michael T. Uberuaga, City Manager, MS 9B
Bill Hanley, Deputy Director, Services & Contracts Division, MWWD, MS 901

FILE COPY



GRAND JURY

County of San Diego
Hall of Justice
330 W. Broadway, Suite 477
San Diego, CA 92101-3830
(619) 515-8707 Fax (619) 515-8696

Thomas E. McCarthy, Foreman

September 16, 2003

Chief Duane White
Escondido Police Department
700 W. Grand Avenue
Escondido, CA 92025

Re: 2002-03 Grand Jury Report entitled: "Unserved Felony Warrants Issued By The San Diego Superior Court".

Dear Chief White:

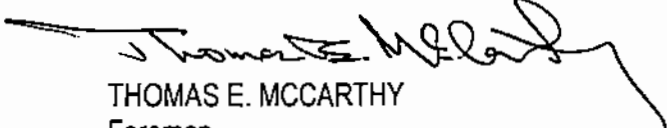
A review by the 2003-2004 San Diego County Grand Jury Continuity Committee of responses to the 2002-2003 Grand Jury recommendations contained in the above-referenced report (copy attached) indicates that no response has been received from your agency.

California Penal Code §933(c) requires comment on findings and recommendations in this report no later than 90 days from the date of filing. Comment to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 is required from your agency. The court address is P.O. Box 122724, San Diego, CA 92112-2724. Please send a copy of your response to the Grand Jury office at the above-noted address no later than September 30, 2003.

Your prompt attention to this matter is appreciated.

Sincerely,

2003-2004 SAN DIEGO COUNTY GRAND JURY


THOMAS E. MCCARTHY
Foreman

TEM//ln
enc.



San Diego County Sheriff's Department

Post Office Box 429000 • San Diego, California 92142-9000



William B. Kolender, Sheriff

John M. Drown, Undersheriff

July 25, 2003

Honorable Richard E. L. Strauss
Presiding Judge, San Diego Superior Court
County Courthouse
220 W. Broadway
San Diego, CA 92101

Dear Judge Strauss,

Response to the San Diego County Grand Jury's June 27, 2003 report "Conditions and Management of Detention Facilities in San Diego County"

Pursuant to California Penal Code Section 933, the following is my response to the Grand Jury's findings and recommendations 03-70 through 03-76.

San Diego Central Jail:

Grand Jury Finding

1. Parking for staff is a continuing problem. There are only 49 parking spaces for vehicles and a limited number of motorcycle and bicycle spaces. The parking spaces are available only to senior staff, county vehicles, maintenance vehicles, "Employee of the Month" and contract physicians. Peak on-duty staffing is approximately 167 personnel. The majority of peak on-duty line staff and personnel pay an ever-increasing amount for parking that is generally not close to the facility. Current reimbursement does not adequately cover the cost. If street parking is available, it is usually a significant distance from the facility and public transportation may not be available. This lack of parking negatively impacts staff morale and may discourage professional staff (doctors and nurses in particular), from considering work at this facility.

We agree with this finding. The San Diego Central Jail was constructed in 1998 and prior to construction the issue of employee parking was discussed. It was determined to be too costly to add additional employee parking to the facility and no contiguous space was available.

RECEIVED

AUG 08 2003

SAN DIEGO
COUNTY GRAND JURY

RECEIVED

AUG - 6 2003

This is not a new condition for either this jail or the old Central Detention Facility. We have examined this issue many times in the past and in fact there is currently a new team of staff who are again examining this issue. Prior efforts to address this issue have not developed into viable outcomes due to insufficient county funding.

Grand Jury Recommendations

03-70: Make assigned parking available nearby for San Diego Central Jail professional staff members that currently do not have assigned space at the facility.

03-71: Provide free shuttle or carpool service from a designated parking lot or facility to and from the San Diego Central Jail facility for its sworn staff members and all other employees of the San Diego Central Jail Facility.

Our response

03-70: The Sheriff has no jurisdiction over any near-by parking facilities. As such, we cannot commandeer parking areas controlled by other county agencies or by private parties. While we like the recommendation, we lack the authority and the fiscal ability to implement this recommendation. [933.05(c) P.C.]

03-71: While the Sheriff likes this recommendation, he lacks the fiscal ability to implement such a program. There are over eight shift changes a day at San Diego Central Jail. This would require at least sixteen shuttle trips with sufficiently large vehicles to accommodate the staff. As indicated in our response to 03-70, there are no near-by parking facilities under the Sheriff's control. [933.05(c) P.C.]

Las Colinas Detention Facility:

Grand Jury Findings

1. This facility experiences very crowded conditions.
2. This facility requires constant maintenance because of its age and heavy use.
3. A parcel of land has been acquired for future expansion.
4. Exercise facilities include: stationary bikes, areas for playing catch, and some equipment for passive games such as pool/billiards.
5. The exercise facilities do not encourage physical exertion that may help relieve stress and the potential for increased conflict.

We agree with findings 1, 2, 3 and 4. The Las Colinas Detention Facility is the most crowded of our detention facilities. We agree that it is old and suffers from heavy usage, which results in constant maintenance problems. Additionally, a parcel of land has been acquired for the future site of a new women's detention facility. Plans are being developed for this site.

We disagree with the fifth finding. We believe that the current exercise facilities encourage physical exertion sufficient to help relieve stress and the potential for increased conflict.

Grand Jury Recommendations

03-72: Proceed with construction of a new women's detention facility as soon as possible.

03-73: Expand all existing programs that have to do with any form of rehabilitation that could provide skills that will enhance the ability of inmates who complete their sentences to obtain and hold jobs.

03-74: Establish classes, taught by professionals, on non-violent conflict resolution both in societal and family relations.

Our response

03-72: The property for the new site has been acquired and we are finalizing plans for the new facility. The County is identifying funding sources for the building of the new facility.

03-73: We believe this recommendation has been implemented with the addition of the Prisoner Re-entry Education Program (PREP). This program provides pre and post release assessment and provision of job skills training, employment assistance, transitional housing, substance abuse and mental health services.

Services to the inmates will be further expanded in September 2003, with the addition of the City Heights Community Reentry Project. This project will provide pre-release planning in the form of: employment assistance, supportive community resources, housing, substance abuse treatment, vocational and continuing education, financial assistance for special needs, support groups, mental health services.

03-74: We believe this recommendation has been implemented through the Domestic Violence/Relationship class conducted by the Correctional Counselors.

Vista Detention Facility:

Grand Jury Finding

1. There is a lack of guidance during recreation times. Exercise facilities do not encourage great physical exertion, which would help relieve stress and/or the potential for increased conflict.

We agree with this finding from the perspective that there is no physical education instructor present during the inmate recreation times. However, the inmate activities are monitored and to a large degree are controlled by sworn staff. We disagree that the exercise facilities do not encourage great physical exertion.

Grand Jury Recommendations

- 03-75:** Establish classes, taught by professionals, on non-violent conflict resolution both in societal and family relations.
- 03-76:** Expand the use of athletic areas as well as increase other exercise areas for use in non-contact, non-confrontational athletic programs.

Our response

- 03-75:** The recommendation will be implemented in September 2003, with the expansion of the Correctional Counseling program to include: Domestic Violence/Anger Management, and Parenting classes.
- 03-76:** We disagree with this recommendation. The current exercise areas meet or exceed state standards. In those areas the inmates are allowed and encouraged to play handball, basketball and other aerobic exercises. We do not have the ability to increase the exercise areas in the current facility.

If the members of the Grand Jury need further clarification or additional discussion, please feel free to contact the Assistant Sheriff in charge of the Detention Services Bureau, Barry Zuniga at (858) 974-2278.

Sincerely,



William B. Kolender, Sheriff

WKB/bhr



County of San Diego

WALTER F. EKARD
CHIEF ADMINISTRATIVE OFFICER
(619) 531-6226
FAX: (619) 557-4060

CHIEF ADMINISTRATIVE OFFICE

1600 PACIFIC HIGHWAY, STE. 209, SAN DIEGO, CA 92101-2472

RECEIVED
SEP 19 2003

RECEIVED
SEP 22 2003
SAN DIEGO
COUNTY GRAND JURY

September 16, 2003

The Honorable Richard E. L. Strauss
San Diego Superior Court, Presiding Dept.
220 West Broadway
San Diego, CA 92101

RESPONSE FROM COUNTY OF SAN DIEGO ON 2002-2003 GRAND JURY REPORT

Dear Judge Strauss:

Attached, please find the County of San Diego Board of Supervisors' response to the report issued by the 2002-2003 San Diego County Grand Jury titled "Conditions and Management of Detention Facilities in San Diego County," for your transmittal to the Grand Jury. The attached material was approved by the Board of Supervisors on September 16, 2003.

If you have any questions concerning the attachment or any related matter, please contact me at (619) 531-6226.

Sincerely,

WALTER F. EKARD
Chief Administrative Officer

Attachment



COUNTY OF SAN DIEGO

AGENDA ITEM

BOARD OF SUPERVISORS

GREG COX
First District
DIANNE JACOB
Second District
PAM SLATER
Third District
RON ROBERTS
Fourth District
BILL HORN
Fifth District

15

DATE: September 16, 2003
TO: Board of Supervisors
SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS (District: All)

SUMMARY:

Overview

On June 27, 2003, the 2002-2003 Grand Jury issued its Final Report. Included in this report are seven individual reports containing recommendations to the Board of Supervisors and County departments on several subjects. The responses to six of those reports were approved by your Board on July 29, 2003 (6).

This is a request for your Board to review the draft responses to the remaining report, "Conditions and Management of Detention Facilities in San Diego County," and to authorize the Chief Administrative Officer to transmit these responses to the Grand Jury, via the Superior Court Presiding Judge.

Recommendation(s)

CHIEF ADMINISTRATIVE OFFICER

Authorize the Chief Administrative Officer to transmit the attached responses to the Grand Jury via the Superior Court Presiding Judge.

Fiscal Impact

The recommended action has no fiscal impact.

Business Impact Statement

N/A

Advisory Board Statement

N/A

BACKGROUND:

On June 27, 2003, the 2002-2003 Grand Jury issued its Final Report. This document is a compilation of seven individual reports on various topics. Your Board approved the responses to six of these reports on July 29, 2003 (6).

SUBJECT: RESPONSE TO 2002-03 GRAND JURY REPORTS (District: All)

15

This is a request for your Board to approve the attached finding and recommendation responses for the remaining report, "Conditions and Management of Detention Facilities in San Diego County," and authorize the Chief Administrative Officer to transmit these responses to the Grand Jury via the Superior Court Presiding Judge.

Linkage to the County of San Diego Strategic Plan

The response to the 2002-2003 Grand Jury report on Conditions and Management of Detention Facilities in San Diego County supports the strategic initiative of Promoting Safe and Livable Communities. The written response to this report also supports the required discipline of Accountability/Transparency, fulfilling our commitment to conduct County business as openly as possible.

Respectfully submitted,



W. HAROLD TUCK, JR.

WALTER F. EKARD
Chief Administrative Officer

SUBJECT: RESPONSE TO 2002-03 GRAND JURY REPORTS (District: All)

AGENDA ITEM INFORMATION SHEET

CONCURRENCE(S)

COUNTY COUNSEL REVIEW

Written Disclosure per County Charter
Section 1000.1 Required

AS
 Yes

Yes

No

GROUP/AGENCY FINANCE DIRECTOR

AS
 Yes

N/A

CHIEF FINANCIAL OFFICER

Requires Four Votes

AS
 Yes

Yes

N/A

No

GROUP/AGENCY INFORMATION
TECHNOLOGY DIRECTOR

Yes

N/A

COUNTY TECHNOLOGY OFFICE

Yes

N/A

DEPARTMENT OF HUMAN RESOURCES

Yes

N/A

Other Concurrence(s): N/A

ORIGINATING DEPARTMENT: Public Safety Group

CONTACT PERSON(S):

Rick Poggemeyer

Name

(619) 531-4538

Phone

(619) 232-2436

Fax

A-65

Mail Station

Rick.poggemeyer@sdcounty.ca.gov

E-mail

Name

Phone

Fax

Mail Station

E-mail

AUTHORIZED REPRESENTATIVE:

W. Harold Tuck, Jr.

W. Harold Tuck, Jr.
Deputy Chief Administrative Officer

SUBJECT: RESPONSE TO 2002-03 GRAND JURY REPORTS (District: All)

AGENDA ITEM INFORMATION SHEET
(continued)

PREVIOUS RELEVANT BOARD ACTIONS:

July 29, 2003 (6): Response to 2002-2003 Grand Jury Reports

BOARD POLICIES APPLICABLE:

N/A

BOARD POLICY STATEMENTS:

N/A

CONTRACT NUMBER(S):

N/A

ATTACHMENT A

COUNTY OF SAN DIEGO RESPONSE TO 2002-03 GRAND JURY REPORT
"CONDITIONS AND MANAGEMENT OF DETENTION FACILITIES
IN SAN DIEGO COUNTY"
Issued June 27, 2003

SHERIFF'S DEPARTMENT FACILITIES

SAN DIEGO CENTRAL JAIL

Finding 1: Parking for staff is a continuing problem. There are only 49 parking spaces for vehicles and a limited number of motorcycle and bicycle spaces. The parking spaces are available only to senior staff, county vehicles, maintenance vehicles, "Employee of the Month" and contract physicians. Peak on-duty staffing is approximately 167 personnel. The majority of peak on-duty line staff and personnel pay an ever-increasing amount for parking that is generally not close to the facility. Current reimbursement does not adequately cover the cost. If street parking is available, it is usually a significant distance from the facility and public transportation may not be available. This lack of parking negatively impacts staff morale and may discourage professional staff (doctors and nurses in particular) from considering work at this facility.

County Response: Agree.

Recommendation 03-70: Make assigned parking available nearby for San Diego Central Jail professional staff members that currently do not have assigned space at the facility.

County Response: The recommendation will not be implemented due to insufficient available funding. However, a Sheriff's Department Process Improvement Team is currently analyzing this issue.

Recommendation 03-71: Provide free shuttle or carpool service from a designated parking lot or facility to and from the San Diego Central Jail facility for its sworn staff members and all other employees of the San Diego Central Jail Facility.

County Response: The recommendation will not be implemented due to insufficient available funding. However, a Sheriff's Department Process Improvement Team is currently analyzing this issue.

LAS COLINAS DETENTION FACILITY

Finding 1: This facility experiences very crowded conditions.

County Response: Agree.

Finding 2: This facility requires constant maintenance because of its age and heavy use.

County Response: Agree.

Finding 3: A parcel of land has been acquired for future expansion.

County Response: Agree.

Finding 4: Exercise facilities include: stationary bikes, areas for playing catch, and some equipment for passive games such as pool/billiards.

County Response: Agree.

Finding 5: The exercise facilities do not encourage physical exertion that may help relieve stress and the potential for increased conflict.

County Response: Disagree. The current exercise facilities encourage physical exertion sufficient to help relieve stress and the potential for increased conflict.

Recommendation 03-72: Proceed with construction of a new women's detention facility as soon as possible.

County Response: The recommendation is in the process of being implemented. The property for the new facility has been acquired, plans are being assembled, and County staff members are engaged in the pursuit of funding. Construction costs are estimated to be \$158 million.

Recommendation 03-73: Expand all existing programs that have to do with any form of rehabilitation that could provide skills that will enhance the ability of inmates who complete their sentences to obtain and hold jobs.

County Response: The recommendation has been implemented with the addition of the Prisoner Re-entry Education Program (PREP). This program provides pre and post release assessment and provision of job skills training, employment assistance, transitional housing, and substance abuse and mental health services. Such services will be expanded in September 2003 with the addition of the City Heights Community Re-entry Project. This project will provide pre-release planning in the form of employment assistance, supportive community resources, housing, substance abuse treatment, vocational and continuing education, financial assistance for special needs, support groups, and mental health services.

Recommendation 03-74: Establish classes, taught by professionals, on non-violent conflict resolution both in societal and family relations.

County Response: The recommendation has been implemented with the establishment of the Domestic Violence/Relationship class conducted by the Correctional Counselors.

VISTA DETENTION FACILITY

Finding 1: There is a lack of guidance during recreation times. Exercise facilities do not encourage great physical exertion which would help relieve stress and/or the potential for increased conflict.

County Response: Disagree in part. It is true that there is no physical education instructor present during inmate recreation periods. However, inmate recreation activities are monitored and controlled by sworn staff. Also, the current exercise facilities encourage physical exertion sufficient to help relieve stress and the potential for increased conflict.

Recommendation 03-75: Establish classes, taught by professionals, on non-violent conflict resolution both in societal and family relations.

County Response: The recommendation is in the process of being implemented with the planned expansion, in September 2003, of the Correctional Counseling program to include Domestic Violence/Anger Management and Parenting classes.

Recommendation 03-76: Expand the use of athletic areas as well as increase other exercise areas for use in non-contact, non-confrontational athletic programs.

County Response: The recommendation will not be implemented. The current exercise areas meet or exceed state standards.

PROBATION DEPARTMENT FACILITIES

JUVENILE HALL

Finding 1: Exercise facilities do not encourage physical exertion that may help relieve stress and/or the potential for increased conflict.

County Response: Disagree. All detainees who are physically capable of exercising participate in organized long muscle exercise twice a day per Title 15 California Code of Regulations standards.

Recommendation 03-77: Expand and increase the use of existing athletic areas as well as other potential exercise areas in a non-contact, non-confrontational sports programs.

County Response: The recommendation will not be implemented. All detainees who are physically capable of exercising participate in organized long muscle exercise twice a day per Title 15 California Code of Regulations standards.

JUVENILE RANCH FACILITY

Finding 1: The exercise facilities do not encourage physical exertion that may help relieve stress and/or the potential for increased internal conflict.

County Response: Disagree. All detainees who are physically capable of exercising participate in organized long muscle exercise twice a day per Title 15 California Code of Regulations standards.

Finding 2: The wards perform some building maintenance but these tasks do not necessarily improve their vocational skills.

County Response: Agree.

Finding 3: The SANDAG reports indicate that the pilot reading program is improving reading skills.

County Response: Agree.

Recommendation 03-78: Where practical and applicable, increase the use of voluntary inmate labor in the maintenance and construction of any appropriate buildings or athletic areas.

County Response: The recommendation will not be implemented. The wards do perform very minor building maintenance. San Diego County Department of General Services is responsible for the building, upgrade and maintenance of the buildings and facilities. The General Services personnel are not instructors and it is not reasonable to expect them to teach a vocation to the wards, as that is not their job function. Without proper instruction and supervision, it would not be safe for wards to participate in major maintenance or construction.

Recommendation 03-79: Continue and expand the pilot literacy programs.

County Response: The recommendation will not be implemented. The Lindamood-Bell (LMB) process used in this effort is a research-based program with years of documented success in raising the literacy levels of low-achieving students. Private donations that cannot be used for the general education program were solicited to fund the implementation of the LMB process at Probation facilities. The current level of funding does not allow for expansion.

CAMP BARRETT

Finding 1: The SANDAG reports indicate that the pilot reading program is improving reading skills.

County Response: Agree.

Finding 2: The wards do perform building maintenance but these tasks do not necessarily improve their vocational skills.

County Response: Agree.

Recommendation 03-80: Continue and expand the pilot literacy programs.

County Response: The recommendation will not be implemented. The Lindamood-Bell (LMB) process used in this effort is a research-based program with years of documented success in raising the literacy levels of low-achieving students. Private donations that cannot be used for the general education program were solicited to fund the implementation of the LMB process at Probation facilities. The current level of funding does not allow for expansion.

Recommendation 03-81: Where practical and applicable, increase the use of voluntary inmate labor in the maintenance and construction of any appropriate buildings or athletic areas.

County Response: The recommendation will not be implemented. The wards do perform very minor building maintenance. San Diego County Department of General Services is responsible for the building, upgrade and maintenance of the buildings and facilities. The General Services personnel are not instructors and it is not reasonable to expect them to teach a vocation to the wards, as that is not their job function. Without proper instruction and supervision, it would not be safe for wards to participate in major maintenance or construction.



RECEIVED

JUL 29 2003

County of San Diego

WALTER F. EKARD
CHIEF ADMINISTRATIVE OFFICER
(619) 531-6226
FAX: (619) 557-4060

CHIEF ADMINISTRATIVE OFFICE

1600 PACIFIC HIGHWAY, STE. 209, SAN DIEGO, CA 92101-2472

July 29, 2003

The Honorable Richard E. L. Strauss
San Diego Superior Court, Presiding Dept.
220 West Broadway
San Diego, CA 92101

RESPONSE FROM COUNTY OF SAN DIEGO ON 2002-2003 GRAND JURY REPORTS

Dear Judge Strauss:

Attached, please find the County of San Diego Board of Supervisors' responses to six reports issued by the 2002-2003 San Diego County Grand Jury addressing County government issues and operations, for your transmittal to the Grand Jury. The attached material was approved by the Board of Supervisors on July 29, 2003 and addresses the following reports:

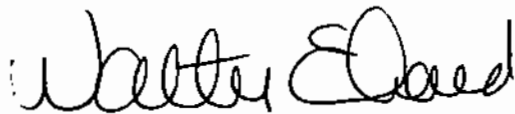
- 1.) Delay in Correcting an Ambiguous Ordinance: Public Administrator/Public Guardian 'Homeless' for Twenty Months,
- 2.) City of San Diego Development Services Department: A Case Study in Complaint-Resolution (Gone Awry),
- 3.) Foster Care Improving? County Leads the Way Toward Expanding Interagency Cooperation,
- 4.) The Tia Juana Valley County Water District: Why?
- 5.) San Diego County Department of General Services: Redirecting the Facilities Operations Division,
- 6.) Wrong Place? Wrong Time? Falsified Hall Checks by San Diego County Probation Officers at Juvenile Hall.

Page 2

The Honorable Richard E. L. Strauss
2002-2003 County Grand Jury Report Responses

The Board of Supervisors is scheduled to consider the Grand Jury's seventh and final report on County operations on August 12, 2003 and that report will be forwarded to you, as well, after that date. If you have any questions concerning the attachments or any related matter, please contact me at (619) 531-6226.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter Ekard". The signature is written in a cursive style with a large initial "W" and "E".

WALTER F. EKARD
Chief Administrative Officer

Attachment



COUNTY OF SAN DIEGO

BOARD OF SUPERVISORS

GREG COX
First District

DIANNE JACOB
Second District

PAM SLATER
Third District

RON ROBERTS
Fourth District

BILL HORN
Fifth District

AGENDA ITEM

DATE: July 29, 2003

TO: Board of Supervisors

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS (District: All)

SUMMARY:

Overview

On June 27, 2003, the 2002-2003 Grand Jury issued its Final Report. Included in this Final Report are seven individual reports containing recommendations to the Board of Supervisors and County departments on various subjects, including ordinance changes, foster care, probation officer investigations, city development services, facility maintenance and the Tia Juana Valley County Water District.

This is a request for your Board to review the draft responses prepared by the Chief Administrative Officer that respond to the findings and recommendations contained in six of these reports and to authorize the Chief Administrative Officer to transmit your Board's responses to the Grand Jury, via the Superior Court Presiding Judge.

Recommendation(s)

CHIEF ADMINISTRATIVE OFFICER

1. Authorize the Chief Administrative Officer to transmit the attached responses to the Grand Jury via the Superior Court Presiding Judge.

Fiscal Impact

There is no fiscal impact with this action.

Business Impact Statement

N/A

Advisory Board Statement

N/A

BACKGROUND:

On June 27, 2003, the 2002-2003 Grand Jury issued its Final Report. This document is a compilation of individual reports on various topics, some of which were released individually throughout April, May and June.

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

Included in the Final Report document are seven reports that direct recommendations to the Board of Supervisors and various County departments on ordinance changes, foster care, probation officer investigations, city development services, general facility maintenance, detention facility maintenance and the Tia Juana Valley County Water District.

This is a request for your Board to approve the attached finding and recommendation responses for six of these reports and authorize the Chief Administrative Officer to transmit these responses to the Grand Jury via the Superior Court Presiding Judge. The attached document contains proposed responses to the findings and recommendations directed to the County of San Diego in the following reports, entitled:

- 1.) Delay in Correcting an Ambiguous Ordinance: Public Administrator/Public Guardian 'Homeless' for Twenty Months (Attachment A),
- 2.) City of San Diego Development Services Department: A Case Study in Complaint-Resolution (Gone Awry) (Attachment B),
- 3.) Foster Care Improving? County Leads the Way Toward Expanding Interagency Cooperation (Attachment C),
- 4.) The Tia Juana Valley County Water District: Why? (Attachment D),
- 5.) San Diego County Department of General Services: Redirecting the Facilities Operations Division (Attachment E),
- 6.) Wrong Place? Wrong Time? Falsified Hall Checks by San Diego County Probation Officers at Juvenile Hall (Attachment F).

Proposed responses to the remaining report, "Conditions and Management of Detention Facilities in San Diego County," will be docketed for your Board's consideration on September 16, 2003. Grand Jury findings and recommendations directed to the County Sheriff will be addressed separately by the Sheriff, with copies sent to the Board of Supervisors, pursuant to Penal Code Section 933.05.

Linkage to the County of San Diego Strategic Plan:

The six Grand Jury reports listed above address issues associated with all three of the County's Strategic Initiatives: Improving Opportunities for Kids, Preserving and Protecting the Environment, and Promoting Safe and Livable Communities. The County's written response to these reports and recommendations also supports the Required Discipline of Accountability/Transparency, fulfilling our commitment to conduct County business as openly as possible.

Respectfully submitted,

WALTER F. EKARD
Chief Administrative Officer

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

AGENDA ITEM INFORMATION SHEET

CONCURRENCE(S)

COUNTY COUNSEL REVIEW Yes *V. Tufan*
Written Disclosure per County Charter Yes No
Section 1000.1 Required

GROUP/AGENCY FINANCE DIRECTOR Yes N/A

CHIEF FINANCIAL OFFICER Yes N/A
Requires Four Votes Yes No

GROUP/AGENCY INFORMATION TECHNOLOGY DIRECTOR Yes N/A

CHIEF TECHNOLOGY OFFICER Yes N/A

DEPARTMENT OF HUMAN RESOURCES Yes N/A

Other Concurrence(s): Probation Department *1000*
Department of General Services *A. M. G.*
Health and Human Services Agency *J. P.*
Department of Environmental Health *J. P.*

ORIGINATING DEPARTMENT: Chief Administrative Office

CONTACT PERSON(S):

Janice Graham

Name

(619) 531-6271

Phone

(619) 595-4060

Fax

A-6

Mail Station

Janice.graham@sdcounty.gov

E-mail

Name

Phone

Fax

Mail Station

E-mail

AUTHORIZED REPRESENTATIVE: *Janice Graham*

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

AGENDA ITEM INFORMATION SHEET
(continued)

PREVIOUS RELEVANT BOARD ACTIONS:

N/A

BOARD POLICIES APPLICABLE:

Board Policy A-43, Response to Grand Jury Interim Reports

BOARD POLICY STATEMENTS:

N/A

CONTRACT NUMBER(S):

N/A

ATTACHMENT A

**COUNTY OF SAN DIEGO RESPONSE TO 2002-03 GRAND JURY REPORT
"DELAY IN CORRECTING AN AMBIGUOUS ORDINANCE:
PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN 'HOMELESS' FOR TWENTY MONTHS"
Issued April 29, 2003**

Finding A: March 1998, the San Diego County Board of Supervisors enacted an ordinance transferring the functions of the PAPG to the HHSA. In April 2001, the Office of the County Counsel wrote an opinion advising that changes needed to be made to correct the ambiguous language in the ordinance.

County Response: Agree.

Finding B: The former PAPG complained that as the result of the enactment of the 1998 ordinance, the PAPG's budget and personnel were controlled by the Director of HHSA with the result that the operation of the PAPG was adversely impacted. The present PAPG, when interviewed, assured the Grand Jury that during the nine months in the position these problems did not exist. The budget for the PAPG was completely under control, as was the hiring and firing of PAPG personnel.

County Response: Disagree in part. While it is common for any manager to advocate for more resources for his or her department, the PAPG, along with every other department County head, is subject to a budget process managed by the Chief Administrative Officer and a budget ultimately adopted by the Board of Supervisors.

Finding C: Although the PAPG, HHSA management, and the Office of County Counsel exchanged correspondence and held meetings between early 1999 and October 2002, no corrective action was taken apart from the issuance of the April 2001 County Counsel opinion.

County Response: Disagree in part. To the extent that the ambiguous Administrative Code provision created an inconsistency with the County Charter provision concerning CAO authority to appoint the PAPG, the County Charter provision controls. And, between 1999 and October 2002, the County was in full compliance with the Charter since the CAO appointed the new PAPG. The fact that the CAO appointed the PAPG is evidence that the County took corrective action, since the action complied with the Charter. The ordinance was revised after October 2002 to remove any ambiguity regarding the PAPG's appointing authority.

Finding D: The Chief Administrative Officer and the San Diego County Board of Supervisors were not copied with the April 9, 2001, opinion by County Counsel.

County Response: Agree.

Finding E: The 2002-2003 San Diego County Grand Jury contacted the Office of the County Counsel in October 2002 with a request for background information about the alleged invalidity of the 1998 ordinance as it related to the transfer of the PAPG to the HHSA.

County Response: Agree.

Finding F: On December 10, 2002, the San Diego County Board of Supervisors enacted a new ordinance to correct the situation. Approximately twenty months had passed since the County Counsel opinion advising a change to correct the ambiguous language of the original ordinance (April 2001) and the enactment of the ordinance correction (December 2002). The Grand Jury learned that a correction of this type would have taken no more than 5 working days to prepare.

County Response: Disagree in part. While the period of time that elapsed between discovery of the ambiguous language and implementation of the solution was more than reasonable, it is important to note that the County fully complied with the applicable law (i.e., the Charter) since the CAO did appoint the new PAPG. Thus, there was no urgency to correct the Administrative Code ambiguity since it did not cause the County to be in non-compliance with applicable law.

In addition, between April 2001 and December 2002, County staff and managers identified, researched and analyzed various possible ordinance change options. While it may take five working days to accomplish the mechanical aspects of drafting an ordinance, that amount of time would not allow adequate time for staff to research all possible options; analyze potential impacts, ramifications, benefits and costs; and engage multiple affected parties in this process.

Finding G: Reasons for the delay never became clear to the San Diego County Grand Jury. Some of the reasons given to the Grand Jury were that 'it was something that just slipped through the cracks', 'it was at the bottom of the pile', and 'it wasn't a high priority item'.

County Response: Disagree in part. While it may be that these statements were made to the Grand Jury, they should be taken in context. Staff was correct to indicate that correcting an ambiguity in the Code was not a high priority since County staff fully understood that the Charter controlled operations and appointments and operations were in full compliance.

Finding H: During a 57-month period of time beginning in March 1998 through December 2002, no Director of HHSA assumed the responsibility of the PAPG position. The Director of HHSA was never directed to assume the responsibilities of the PAPG office by the CAO.

County Response: Disagree. During the 1996-1998 time frame, the County's new CAO implemented a broad reorganization of the County management structure. Departments were organized into five functional "Groups" that combined departments with similar functions. One of those Groups was the Health and Human Services Agency, formed by combining the Departments of Health, Social Services, Area Agency on Aging and Veterans Services. A short time later, it was determined that the PA/PG functions best fit within the HHSA.

For management purposes, department heads were assigned to report to a Deputy Chief Administrative Officer or for HHSA, the Agency Director, who is also a Deputy Chief Administrative Officer. The DCAOs in turn report directly to the CAO. Therefore, the statement in paragraph 2 on page 1 of the Report that the ordinance directed the HHSA Director to assume the role and responsibility of the PA/PG is not accurate.

As with other HHSA functions, those performing the roles cited in the Administrative Code report to the HHSA Director for overall management purposes. Therefore, it was entirely appropriate for the three HHSA Directors to not personally assume the PA/PG role. Since it was later determined that the ordinance language created confusion with respect to the Charter requirement, the situation was reviewed by Counsel and the December 2002 ordinance corrected the language.

Finding I: The Grand Jury finds that, when there is an alleged violation of the County Charter or the California Government Code, the situation should be addressed by County management in an expeditious manner.

County Response: Agree. It must be noted that there was no violation of the County Charter or the California Government Code regarding the PAPG issue. Thus there was never a need for County management to address any alleged violation. In fact, as explained above, the County was fully in compliance with applicable law under the Charter with respect to the PAPG matter.

Finding J: It is the responsibility of the Board of Supervisors to bring all ordinances into compliance with the San Diego County Charter and California Government Code in a timely manner.

County Response: Disagree in part. While the Board of Supervisors is ultimately responsible for all County ordinances, the County Charter establishes a management structure that places day-to-day management of administrative matters under the Chief Administrative Officer, and day-to-day management of legal matters with County Counsel, both of whom are appointed by the Board of Supervisors.

It is an on-going responsibility of both the CAO and County Counsel to bring ordinances or Code sections to the Board's attention in a timely manner when compliance issues arise. Once this is done by the CAO and County Counsel, the Board is responsible to make the necessary corrections to such ordinances.

Recommendation 03-43: County Counsel is alerted to the fact that an ordinance may be out of compliance with controlling documents that County Counsel should, within 30 days, investigate the situation, take appropriate action, and provide written documentation.

County Response: The recommendation has been implemented. Except as stated in the last two sentences in this reply, Recommendation No. 03-43 describes actions that County Counsel has performed, presently performs, and will continue to perform with respect to County ordinances that may be out of compliance with other controlling laws. In this regard, we agree

with this recommendation. However, there will be circumstances in which such actions cannot be completed within 30 days due to the complexity of a particular issue. Therefore, while we agree with the intent of the recommendation, we would not impose a fixed time limit, 30-day or otherwise, on this activity as some situations will require more time to resolve than others.

Recommendation 03-44: County Counsel renders an opinion, stating that an ordinance enacted by the Board of Supervisors contains ambiguous language or possibly violates San Diego County Charter provisions or State law, that opinion is copied to the San Diego County Chief Administrative Officer and all of the Director(s) of the department or agency(ies) involved. All parties must then respond, in writing, to the situation within 30 days (sending copies to all involved along the way).

County Response: This recommendation has been implemented. It should be noted, however, that Counsel will take this course of action only when the circumstances of a situation warrant such action and are appropriate, based on the legal issues and needs of the particular County clients. While Recommendation No. 03-44 may be an appropriate response in certain circumstances, agreement with this recommendation is limited to only those circumstances where the recommended action is appropriate based upon the facts of the situation.

To the extent that the legal needs of the County require County Counsel to take a different approach to address a legal issue, Counsel opinions are copied as appropriate to the situation, and only to those on a "need to know" basis since County Counsel's legal advice constitutes confidential attorney-client communications. There may be legitimate legal reasons that Counsel will limit confidential legal advice given to the Board of Supervisors and the CAO, without copying other Directors of a department or agency involved. In addition, requiring formal written responses to every possible situation may not be the most efficient use of County resources in all circumstances.

Recommendation 03-45: An ordinance directs that a County officer assume responsibilities associated with a specific position, that officer should act immediately to comply with the ordinance or notify the Chief Administrative Officer, in writing, within 30 days, stating the reasons s/he could or should not comply.

County Response: This recommendation will not be implemented. While we agree that a County officer, under the circumstances described in this recommendation, should either comply with the ordinance or notify the CAO of his/her reasons for non-compliance, we do not agree that the notice always be in writing, always be within 30 days, or always be provided to the CAO. It may be that such a notice cannot and should not (1) be in writing, (2) be provided in 30 days, or (3) be provided to the CAO in every instance. Rather, it may be that, under certain circumstances, such notice should be verbal, cannot be provided within 30 days, or should be provided to another County body or officer, such as the Board of Supervisors, County Counsel, or the Chief Financial Officer, for example.

As noted in the response to Finding H, the ordinance at issue did not direct a County officer to assume responsibilities associated with a specific position. Therefore, there was not a need in

this situation for a County officer to assume responsibilities or to notify the CAO of reasons why not to comply.

ATTACHMENT B

**“CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT:
A CASE STUDY IN COMPLAINT-RESOLUTION (GONE AWRY)”
Issued April 16, 2003, Received May 1, 2003**

Finding 2: The Seabreeze Farms Equestrian Center may be in violation of the San Diego Municipal Code 44.0308 (a); both literal and conservative counts of dwelling units within the one-fourth mile wide belt result in numbers in excess of 300.

The Development Services Department (DSD) applied a strict interpretation and application of the San Diego Municipal Code 44.0308 (d). A more reasonable interpretation could have caused measurement to originate at the jump area fence and at the outer edge of the horse wash racks. Certainly, a preferable option is that of measuring from the outer edge of any significant “equestrian use”. Even better, a 75-foot separation beginning at the homeowners’ property lines to the “equestrian use” should be specified. Public health and safety concerns should require an interpretation resulting in the widest possible buffer.

County Response: Disagree in Part. San Diego Municipal Code 44.0308 requires...(d) no residence or dwelling exists except such as are owned, maintained or occupied by the owner of such horses within a 75’ wide belt surrounding the stable, corral or pasture within which such a horse is kept. The County DEH issued a permit on April 25, 2003, to David Goddell, 5720 Carmel Valley Road, San Diego, operator of the Equestrian Center, after determining the Center had complied with stated distance to dwellings. That permit was issued after a County DEH review to confirm compliance with the 75-foot buffer zone requirement in the Municipal Code, as interpreted by the City of San Diego. Establishment of the present 75-foot buffer based on that interpretation is adequate for public health and safety concerns when all sanitation procedures are observed.

On February 7, 2003, an inspection of the Seabreeze Farms by County DEH, as part of their permit application, showed all manure management practices and vector control procedures were in place and being followed. No subsequent substantiated complaints have been received by County DEH. Establishment of any wider buffer zone, or reinterpretation of the current Municipal Code to establish greater buffer zones in actual practice, would be a land use matter rather than a health and safety matter. Establishing a larger buffer zone based on the interpretation proposed in the report could be problematic in actual practice.

County DEH did not participate in a review for compliance with San Diego Municipal Code 44.0308 (a), regarding dwelling units within one-quarter mile of a proposed facility. The City and County both consider this requirement to be essentially a land use policy, not a public health and safety requirement. In the past, revisions to the Municipal Code have been suggested to City staff by County staff, to clarify that applying this requirement is properly an issue for the City, not for County DEH.

Finding 4: The Development Services Department staff failed to consider “quality of life” issues for the neighboring homeowners by: (1) allowing the construction of the horse wash racks between the large barn and property line (a visual nuisance not shown on any conceptual plan); (2) allowing placement of the dressage or training arena directly behind the properties at the southern end of the facility (a noise and dust nuisance that was shown elsewhere on the conceptual plan); and (3) allowing the site manager to consistently violate his own manure management plan (a public health nuisance).

County Response: Disagree in Part. Manure management, fly, rodent, vector, and dust control plans were provided by Seabreeze Farms and submitted to County DEH in their permit application. The County DEH does not perform scheduled inspections of these permitted facilities and only responds to complaints from the general public. There are no records of fly complaints received concerning Seabreeze Farms by County DEH Vector Surveillance and Control. Flies were not observed in and around the barn during an inspection of the facility on February 7, 2003, which was performed by County DEH as part of the permit application process. Noise generated during manure processing/removal is unavoidable; this is not a regulated public health or safety issue. The County’s responsibilities for these kinds of facilities within the City of San Diego do not extend to “quality of life” issues that are not health and safety issues; therefore, the County has no further response to this finding.

Finding 4: The Department of Environmental Health was, until mid-January 2003, unaware of the existence of the equestrian center. This agency needs to be included in the loop earlier, for development and construction projects involving large-scale animal facilities, if it is to fulfill its responsibilities for public health and sanitation.

County Response: Disagree. County DEH was involved in the review of aspects of this proposed facility very early in the City’s permitting process. County DEH staff participated in CEQA review for this project, in evaluation of compliance with the 75-foot buffer zone requirement, and in the review of the operator’s manure management, fly, rodent, vector, and dust control plans. County DEH was “in the loop” early enough to address public health and sanitation issues.

Recommendation 03-26: The San Diego Grand Jury Recommends that the Director, Department of Environmental Health: Recommend to the City Council an amendment to Municipal Code Chapter 4: Health and Sanitation Article 4: Disease Control-Nuisance Division 3: Animals 44.0308 Horses by:

1. Replacing the words stable, corral and pasture with the phrase “equestrian uses.” The intent of this change is to include nighttime and daytime activities as well as permanent and non-permanent equine and equine-related structures and facilities.
2. Clarifying the meaning, intent and use of the words, “dwelling,” “residence,” “corral,” and “pasture.”
3. Changing section (d) to read that the 75-foot wide belt extends from the outer edge of any equestrian use and terminates at the homeowner property line.

County Response: The recommendation will not be implemented because it is not within the County of San Diego's jurisdiction. Sections 1 and 2 are City of San Diego zoning issues, wholly under the jurisdiction of the City and, as such, should be considered by the City. Regarding Section 3, County DEH believes the 75-foot buffer, as interpreted by the City (and as applied in this case by the City and by County DEH) adequately protects public health and safety. At present, the interpretation of San Diego Municipal Code 44.0308 is at the discretion of the City of San Diego. The County's interest is the protection of public health and safety, which the 75-foot buffer provides.

Recommendation 03-27: Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the site's manure management program.

County Response: The action described in this recommendation has been taken. County Environmental Health staff advised Seabreeze Farms that they are available for consultation on all aspects of manure and vector control during a February 7, 2003 inspection. Staff from Seabreeze Farms did subsequently contact County DEH in May 2002 for recommendations on manure management and County staff provided Seabreeze Farms with manure disposal procedures, and instructions on transporting manure, fly control and water runoff.

Recommendation 03-28: Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the sites fly control, dust control, rodent control and vector control programs.

County Response: The action described in this recommendation has been taken. Like Recommendation 03-27, Recommendation 03-28 has also already been implemented. The County DEH, during its February 7, 2003 inspection, advised Seabreeze Farms that it would be available for consultation on all aspects of manure and vector control issues. This was also discussed at the request of Seabreeze staff in May 2002.

Recommendation 03-29: Work in consultation with Sandown Way and Rider Place residents whose properties abut the equestrian center's boundary, to:

1. Relocate the horse wash racks (a visual nuisance) to another location,
2. Relocate the dressage arena (a noise and dirt nuisance behind the Rider Place residents) in accord with the conceptual layout.

County Response: The recommendations will not be implemented as they are not public health and safety issues. Visual nuisances and compliance or non-compliance with conceptual plans are concerns that are not regulated by the County within the city limits of San Diego. Noise issues within the city limits are under the jurisdiction of the City of San Diego.

County of San Diego Response to 2002-03 Grand Jury Reports

Recommendation 03-30: Perform the measurements specified in the San Diego Municipal Code 44.0308 (a) and (d) (i.e., one-fourth mile and 75-foot wide belt measures) at the Seabreeze Farms Equestrian Center owner's expense and take whatever action is necessary as a result.

County Response: The recommendation will not be implemented because it would establish a new set of measurements to be performed by County DEH, even though the City and County have already confirmed compliance with the section 44.0308(d) 75-foot buffer zone requirement as established by the City. The existing interpretation protects public health and safety. As stated above, the County considers the section 44.0308(a) requirement to be a local land use matter, not a public health and safety matter.

ATTACHMENT C

**“FOSTER CARE IMPROVING? COUNTY LEADS THE WAY
TOWARD EXPANDING INTERAGENCY COOPERATION”**

Issued May 6, 2003

Recommendation 03-46: Immediately form a task force to develop within six to eight months, a uniform mandate that clearly defines policy and procedures to ensure continuity across agencies and school districts in order to provide quality educational outcomes for San Diego County foster youth. The mandate would include uniform procedures for schools, Health and Human Services, Probation, the Courts and substitute care providers to assure the complete and timely transfer of school and medical records of children who are dependents of the Court. The policies would be developed in conjunction with the San Diego County Office of Education’s Foster Youth Services Program.

County Response: The recommendation will not be implemented because there is already a committee in place to ensure continuity of policies and procedures across agencies and school districts. The Education Committee, chaired by Judge Susan Huguenor, includes the County Office of Education, the courts, the Health and Human Services Agency, Voices For Children, and several other agencies that are committed to ensuring continuity with regard to policies and procedures. In addition to the Education Committee, the Foster Youth Services Advisory Committee is committed to facilitating the exchange of health and education information among agencies providing services to foster youth. This committee is also committed to overcoming obstacles related to sharing information while maintaining confidentiality.

There is also a Health and Human Services Agency policy (Children’s Services Special Notice #12 – 03), which ensures that children are properly dis-enrolled from school when appropriate. The policy provides that a transfer form be sent to the new Substitute Care Provider, the new school, and copied to the regional Health and Education Passport (HEP). This transfer form documents all relevant information about the child’s previous school and credits earned.

Recommendation 03-47: In partnership with the San Diego County Superintendent of Schools, establish a task force to ensure shared responsibility and accountability for all San Diego County foster care children.

County Response: This recommendation will not be implemented because there is an existing agreement between the Health and Human Services Agency and the County Superintendent of Schools in which all parties agree to continue developing a collaborative relationship using resources to best meet the educational and mental health needs of our children/youth and families. The Education Committee and the Foster

Youth Advisory Committee meet each month to work on collaborative problem solving methods.

Each school district in San Diego County has appointed a liaison to assist with problem solving in this area. In addition, San Diego Unified School District has also assigned a liaison to work with HHS for the benefit of foster children.

Recommendation 03-48: Seek legislation to modify the licensing requirements for the unique situations at San Pasqual Academy to reflect the realities of a boarding school as compared to a group home. These modifications would remove barriers that prevent youth from participating in enrichment activities due to licensing regulations.

County Response: This recommendation will not be implemented because staff is already working with State and federal agencies to assure the needs of the Academy students are addressed. To meet the needs of the adolescent foster youth at the San Pasqual Academy, the County is pursuing regulation changes that would take into consideration the Academy's focus on independent living skills. .

Recommendation 03-49: Consider establishing a second San Pasqual Academy type of facility to accept middle-school aged youth as well as high school students, not only to service more students but to intervene earlier in this educational life.

County Response: This recommendation will not be implemented because research has shown that the emphasis for younger and middle school-aged youth should be placed on finding adoptive or foster homes. High school-aged children, however, are more difficult to place in permanent homes and that is why the Academy was developed for that specific age group.

Within the Academy's independent living skills environment, the youth focus on furthering their education and vocational skills. It will be important, over the next few years, to examine the level of success at the new campus to ensure that the students can build a firm foundation for an independent adulthood.

Recommendation 03-50: Provide each school-age foster child with multiple copies of his/her HEP before a placement change.

County Response: This recommendation will not be implemented because the action recommended is already being taken. The children's Substitute Care Providers (foster parent, relative or group home) are currently provided with this information when a placement change occurs. Division 31 regulations of the California Department of Social Services, Child Welfare Manual require that a health and education summary be provided to the Substitute Care Provider 30 days after the initial placement or 48 hours after a change of placement. The Health and Human Services Agency policy (Children's Services Special Notice #09-02) reiterates this for social workers. This special notice

also emphasizes the importance of providing the caregiver the health and education summary at the time of placement.

Recommendation 03-51: Require that social workers document the record transfer of both education and medical records whenever there is a change of placement, whether the change involves group or individual homes.

County Response: The County will not implement this recommendation because it has already implemented a procedure for this documentation. Social workers are already required to document the record transfer of both education and medical records whenever there is a change of placement. The social worker is responsible for ensuring documentation of the date the Substitute Care Provider was given the health and education information. The social worker must document all known health and education information or complete a Health and Education Passport. Division 31 regulations of the California Department of Social Services, Child Welfare Manual also require this documentation.

ATTACHMENT D

“THE TIA JUANA VALLEY COUNTY WATER DISTRICT: WHY?”

Issued June 27, 2003

The 2002-2003 San Diego County Grand Jury recommends that the San Diego County Board of Supervisors:

Recommendation 03-82: Review the activities of the Tia Juana Valley County Water District and initiate proceedings for the dissolution of the District, so that District tax payers are freed from an unnecessary, open-ended tax assessment.

County Response: The recommendation will not be implemented by the County because it would be more appropriate for a dissolution request to be initiated by the City of San Diego or the San Diego Local Agency Formation Commission.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 allows local agencies to apply for dissolution of a district when there is a successor agency to assume all assets and liabilities. In this case, virtually all properties in the Tia Juana Water District receive water and sanitation services from the City of San Diego which, as the most logical successor agency, would be the most significantly impacted by such an action.

ATTACHMENT E

**“SAN DIEGO COUNTY DEPARTMENT OF GENERAL SERVICES:
REDIRECTING THE FACILITIES OPERATIONS DIVISION”
Issued June 27, 2003**

Finding A: The Director of the Department of General Services and Department management personnel have addressed, corrected, and instituted new procedures to overcome the problems outlined in the complaints.

County Response: Agree.

Finding B: As a result of the Memorandum of Agreement with the Sheriff, the Facilities Operations Division management personnel have made significant changes to improve the conditions outlined in the complaints.

County Response: Agree.

Finding C: The Facilities Operations Division employees, interviewed by the Grand Jury, are willing and able to perform job assignments and are satisfied with their general working conditions.

County Response: Agree.

Finding D: The County departments, investigated by the Grand Jury, are satisfied with the new direction, which the General Services Department management has undertaken, and the Facilities Operations Division employees generally provide timely and supportive maintenance to the County departments served by the MOA with the Sheriff.

County Response: Agree.

Finding E: The recommendations in the 2001-2002 San Diego County Grand Jury report titled, “County General Services, Support of Detention Facilities” and the 1999-2000 San Diego County Grand Jury report titled, “Detention Facilities of San Diego County” have been addressed and improvements have been made.

County Response: Agree.

Recommendation 03-69: Continue to monitor the San Diego County Department of General Services to ensure that Facilities Operations Division staff perform their duties in

an efficient, timely and professional manner, and that the County departments served by the Memorandum of Agreement continue to be satisfied with such efforts.

County Response: The recommendation has been implemented. The Department of General Services has provided the Sheriff's Department with access to the Facility Center Computer Maintenance Management System. Upgrades to the system are being implemented to provide enhanced access, data loading and status reporting via the WEB. This system is the single point of entry for execution of all work on County Facilities. It also provides the basis for budget development and identifies fiscal requirements based on a priority system. Allocations of funds via the Capital Improvement Plan are made annually or, for emergent issues, special funding can be identified via the newly established Facility Planning Board.

In addition to the condition Assessments discussed in the May 30, 2002 report, the Department of General Services has instituted an internal quarterly Facility Assessment Program to provide documentation for the Annual Inspection Summary (AIS). The AIS provides the basis for fund allocations under the Capital Improvement Plan process. This program will also identify those assets, whose functional life cycle is at an end, eligible for replacement under the Capital Renewal Plan. This plan focuses on planned, predictive replacement versus replace upon failure thereby limiting impacts of facility operations and performance of mission.

Routine meetings occur between the Sheriff's Department and Department of General Services to review ongoing issues and identify upcoming needs. Requirements to support the program are being addressed through a combination of these routine meetings, Sheriff Department direct access to the CMMS for project & work order loading and via the Annual Inspection Summary. These efforts combine to become part of the Capital Improvement Plan where funding requirements are identified for prioritization and allocation during the budget process.

ATTACHMENT F

“WRONG PLACE? WRONG TIME? FALSIFIED HALL CHECKS BY SAN DIEGO COUNTY PROBATION OFFICERS AT JUVENILE HALL”

Issued May 14, 2003

Finding A: During the week in question, there were approximately 58 staff members on the late night shift duty. Thirty-seven officers and two student workers failed to make the mandatory hall checks and made false log entries. An investigation ensued.

Finding A1: The investigation by the San Diego County Probation Department of the October 11-16, 2001 hall check incident was not conducted in a fair and impartial manner.

County Response: Disagree. The San Diego County Probation Department investigation was conducted pursuant to Government Code 3300, Peace Officers Bill of Rights, and the Probation Department's Policy & Procedures regarding Internal Affairs investigations.

Finding A2: Three supervisors who conducted the investigation had no previous investigative experience. These investigating officers were supervisors from either the day or early night shift during October 2001 assigned to Juvenile Hall, just one step in rank above those being investigated. They were investigating officers who were often social friends or acquaintances from different shifts. During an interview, one of the investigators stated how difficult it was to conduct the investigation. The investigator shared how much peer pressure was endured both during and after the investigation.

County Response: Disagree. The three supervisors selected to conduct the investigation were knowledgeable of Juvenile Hall's working environment and Juvenile Hall's Policy & Procedures. These supervisors had prior training and/or experience in conducting investigations.

Finding A3: The SDCPD did not seek the assistance of the San Diego County Internal Affairs Department, which employs expert investigators. The Grand Jury has verified that the San Diego County Internal Affairs Department did have sufficient personnel to conduct such an investigation at the time in question.

County Response: Agree. However, the San Diego County Probation Department did not seek assistance from the CAO's Office of Internal Affairs (OIA) because OIA staff has no authority to investigate peace officer violations. Therefore, availability of OIA staff is irrelevant.

County of San Diego Response to 2002-03 Grand Jury Reports

Finding A4: The SDCPD chose not to utilize personnel from the Department's own Internal Affairs Division to conduct the investigation because it allegedly did not have sufficient staff to handle this assignment.

County Response: Disagree. Internal Affairs Unit personnel advised and reviewed all investigative reports and were available for consultation.

Finding A5: The investigators often discussed their investigation results with the Director of Juvenile Hall and the Internal Affairs Director of the SDCPD. Those contacts give the appearance of "command influence." This "command influence" problem would not have been an issue had the County Internal Affairs Department conducted the investigation.

County Response: Disagree. The final results of all investigative reports are reviewed by the Internal Affairs Supervisor, and Probation Human Resources Manager for correctness and consistency, and the Service Director and Deputy Chief Probation Officer for recommendations of disciplinary action, in compliance with the Peace Officers Bill of Rights.

Finding A6: The investigators discussed the interviews with each other, and then by agreement tried to assign friends or work associates to another investigator. Even in cases they chose not to hear, they often sat in as "back up." For the most part, a team of two investigators conducted each interview.

County Response: Agree. Investigators are expected to share information with each other for fairness and consistency in this investigation. It is also standard procedure for all investigations to have two interviewers for each interview.

Finding A7: This investigation has had, and will have, a great impact on both the morale and efficiency of the SDCPD and should have been conducted by the most competent personnel available.

County Response: Disagree. By saying that the investigation "should have been conducted by the most competent personnel available," Finding 7 implies that it was not. The County disagrees with this finding. The Probation Department chose the investigators based on their knowledge and experience of the working environment and the Juvenile Hall's Policy and Procedures manual. The Internal Affairs Unit coordinated the investigations of these cases and reviewed all the investigative reports for consistency and compliance with the aforementioned policies.

Finding A8: Of the 37 officers disciplined or terminated, only two had received substandard ratings prior to October 2001; the rest were rated as competent employees. Two of them had been chosen the Probation Department's "Employee of the Year." Some were mentors to their fellow employees. Many had worked for the SDCPD for over 20 years.

County of San Diego Response to 2002-03 Grand Jury Reports

County Response: Disagree in part. Of the Officers disciplined or terminated, only one employee (who resigned in lieu of termination) had over twenty years of service.

Finding A9: The background check procedure for SDCPD officers is very involved and includes psychological testing. This system disqualifies many applicants and makes it difficult to find eligible line and entry-level candidates for employment. These facts support the statement that many of the fired officers had impeccable backgrounds prior to being hired.

County Response: Agree. A thorough background investigation was conducted on all of the officers. They met the minimum standards required for Peace Officers.

Finding B: The Probation Department's investigation focused on personnel assigned only to the late night shift. One of the three investigators reviewing the videotapes with the Grand Jury admitted that violations of the 15-minute hall checks did occur on the early night shift.

Finding B1: Videotapes of the early night shift of the same October 11-16, 2001 period were reviewed by the Grand Jury.

County Response: Disagree in part. The Grand Jury only reviewed a segment of one videotape of Unit 800 and watched thirty to forty-five minutes of the tape.

Finding B2: The Grand Jury's review disclosed that the some hall checks were not made on the early night shift as well as on the late night shift.

County Response: Agree.

Finding B3: Other security violations, such as "popping doors" (opening cell doors from a switch at the guard station without a probation officer in the hallway) and walking in front of wards were viewed on the videotapes.

County Response: Agree.

Finding B4: Two officers, from the early night shift, received disciplinary action. They were found not performing mandatory hall checks during the early night shift. These same two officers were seen on a piece of overlapping videotape reviewed by the three investigators. These two officers received five-day suspensions for missing one hall check.

County Response: Agree.

Finding B5: The facts discovered were communicated to SDCPD management by the investigator reviewing the videotapes along with the Grand Jury.

County Response: Agree.

Finding B6: As of late April 2003, the Grand Jury had not been advised that other shifts have been investigated for violations of hall check regulations.

County Response: Agree.

Finding B7: Management stated that they did not investigate the other shifts because during the daytime and early night shifts there is so much other staff activity going on in the hallways that hall checks on a regular basis are not as likely to be missed.

County Response: Agree.

Finding C: The investigation conducted by the SDCPD did not adequately cover the conduct of supervisors to determine if they had any accountability or responsibility for the events of October 11-16, 2001.

Finding C1: Several of the officers interviewed stated that their supervisors were aware of the so-called practice of "catching up" and had condoned this practice.

County Response: Agree.

Finding C2: Several supervisors were questioned. The three investigators questioning the supervisors were of the same rank as the supervisors being questioned. All were assigned to one of the three shifts as supervisors.

County Response: Disagree in part. The Internal Affairs Supervisor conducted the majority of the Supervisor interviews. The three investigators conducted some preliminary interviews of Supervisors, Senior Probation Officers, and former employees.

Finding C3: These supervisors denied having any knowledge of the "catching up" practice and stated they would not condone it.

County Response: Agree.

Finding C4: The allegations, made by the officers, that supervisors knew of the practice of "catching up" has credibility because of the approximately 58 people who were on the late night shift of October 11-16, 2001, 39 received disciplinary action for misconduct related to "catching up" the logs. Clearly the supervisors could not have been totally unaware that the hall checks were not being made if the practice was that widespread.

County Response: Disagree. As noted in the Civil Service Commission conclusions and supported by the Superior Court findings, the “Employees did not present any convincing evidence of supervisory complicity in their practice of falsifying” and “Employees did not perform a majority of the required hall checks; Employees falsely recorded these unperformed hall checks as completed; and the Department regularly reminded Employees of the need for hall checks through memos, supervisor’s meeting minutes, and at meetings. Additionally, the Department presented circumstantial evidence that Employees were acutely aware that they were engaged in misconduct that they were trying to hide from their supervisors.”

Finding C5: The supervisors should have been disciplined along with the officers, as they were negligent in performing their duties. It appears that the supervisors overlooked violations of the policies and procedures over an indeterminate period of time.

County Response: Disagree. The Department investigated allegations of Supervisor misconduct and found no evidence of misconduct.

Finding C6: The credibility of the supervisors in this instance of misconduct was neither aggressively nor competently pursued.

County Response: Disagree. As noted in the Civil Service Commission conclusions, “Employees attempted to show that the practice was approved by Department supervisors. While it appears obvious from the number of employees being disciplined that such a practice existed among them, they were unable to present any convincing evidence of direct statements or other communications from Department supervisors approving it. Employees’ evidence of Departmental approval consisted primarily of implication and innuendo through the alleged presence of supervisors during incidents of falsification or their disputed use of terms like “catch it up.” Employees did not present any convincing evidence of supervisory complicity in their practice of falsifying.”

Follow-up investigation: “Approximately sixteen Supervisors, thirteen Senior Probation Officers, five Correctional Deputy Probation Officer II, two Directors, and one retired Assistant Chief Probation Officer, (thirty-seven total) were named by terminated Officers either during the Internal Affairs interrogations or the Skelly Conference. Most of the allegations were vague or non-specific and no follow-up investigations were conducted. In those cases where specific dates or incidents were recalled and/or witnesses identified (16 out 37), follow-up investigations were conducted in person, by telephone, written statements, or videotape review.”

Finding C7: A retraining program is needed for supervisory and management personnel. Due to the systemic nature of the problem (over 60% of one shift being found guilty of similar offenses) the situation appears more widespread than the firings presents.

County Response: Disagree in part. Supervisors and management personnel attend a minimum of forty hours training annually. Probationary Supervisors attend an eighty hour training, during their first year, that is mandated by Standards and Training for Corrections (STC). Additionally, the Probation Department provides a twenty-four hour Supervisor Development Academy for new Supervisors that emphasizes personnel matters. Juvenile Hall Supervisors receive on-going training regarding institutional policies and procedures, as well as department wide topics.

Finding D: The regulations, of the California Board of Corrections regarding the hall checks, are set forth in a large SDCPD Manual which is given to each officer when s/he begins.

Finding D1: This Manual must be returned to the Department after the probation officer completes his/her initial training period, which is usually 30 days.

County Response: Disagree in part. The Manual is returned in thirty days unless the employee needs additional time. The manual is also in each living unit.

Finding D2: The training techniques in effect prior to the October 2001 period did not prioritize the mandatory hall check policies and procedures over other regulations nor did they indicate the serious consequences of not performing or correctly documenting the mandatory hall checks.

County Response: Disagree. All employees receive formal training that includes the requirement to perform hall checks every fifteen minutes and the justification and necessity of checks in order to protect the health and welfare of the Detainees.

Finding D3: After the problem was discovered SDCPD senior management stressed to the Grand Jury the fact that making 15-minute hall checks and their proper logging is paramount.

County Response: Disagree. Senior management has always stressed to employees that fifteen-minute hall checks and their proper documentation are paramount.

Finding D4: The officers allege that several supervisors stressed to the officers, in their charge, that the requirement of having the log books up to date and filled in completely was much more important than having the log books reflect late hall checks. Missing or incorrect logbook entries reflected poorly on the supervisors in charge.

County Response: Disagree. The Supervisors stressed to the Officers that conducting fifteen-minute hall checks and documenting was paramount. Supervisors continually reviewed the logbooks to ensure compliance.

Finding D5: In the week following the announcement that there would be an investigation of the violations of October 2001, the log books of one of the three investigator's showed 99 late log book entries. The week before the announcement, there were nine late entries, which give the appearance that completeness was more important than accuracy to the supervisors.

County Response: Disagree. The number of late hall checks only illustrates timeliness of hall checks, not completeness and accuracy.

Finding D6: A Union Tribune article states that "...a February 2002 audit of the county facility by the State Board of Corrections found that the hall check policies were deficient and that the county had not put them into its Policies and Procedures Manual (two months before workers were fired)."

County Response: Agree. However, the Union Tribune article is inaccurate. The Board of Corrections audit, in February 2002, was also inaccurate and a subsequent letter from the Board of Corrections stated we were in full compliance with Title 15 Regulations of hall checks.

Finding D7: The Grand Jury did see a copy of a memo from a Juvenile Hall supervising officer which read "Re: Hall Check Policy, Dated: November 8, 2000. It has come to my attention that the hall checks have not been conducted in a timely manner. In fact, the entire log has not been completed properly. It is imperative that all staff adheres to the juvenile hall policies and procedures and completes this document as prescribed in the policy. I am aware that you are very busy; however, this is a legal document and must be completed per hall check policy 9.8.11.1. Please sign and date that you are aware of this section and understand the contents."

County Response: Agree.

Finding E: There is no evidence, pre-October 2001, that the regulations dealing with the hall checks are stressed above other procedures when reportedly the hall checks are of the utmost importance to the security of Juvenile Hall.

Finding E1: The Manual notes many equally important procedures, such as: Temporary Assistance to Needy Families (TANF) report completion; medical consent forms and their proper completion; intake forms and their proper completion; always walking behind wards; not "popping doors" (the practice of opening a cell door from the control center without a probation officer present in the hallway); etc.

County Response: Agree.

Finding E2: The regulations dealing with hall checks were not posted in the command center of each cellblock. This would have put the probation officers on notice that these regulations were very important.

County Response: Disagree in part. As noted in the Civil Service Commission Conclusions “The testimony of Department supervisors and the Training Officer in which they denied instructing or encouraging the falsification of hall check records. To the contrary, they stated that they emphasized the importance of actually performing hall checks per policy in order to ensure the health, safety, and security of custodial wards. The Department also repeatedly emphasized the importance of proper hall checks in various memos and meetings.”

Finding F: The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation. Upon initial employment, every probation officer signs a document agreeing to this policy.

Finding F1: The regulations associated with punishment did not set forth any specific provision that violating the hall checks and log entry rules would subject the violator to a specified punishment such as discharge.

County Response: Disagree. The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation.

Finding F2: The Grand Jury observed other safety related violations, such as “popping doors” and walking in front of wards.

County Response: Agree.

Finding F3: The Grand Jury found evidence that discipline for infractions of Probation Department regulations has been enforced inconsistently. Discipline has ranged from as minor as counseling to as major as discharge.

County Response: Disagree. The level of discipline is based on the type and severity of misconduct, the mitigating circumstances, and employees’ prior disciplinary history.

Finding G: Frequently Core Training was not given to newly hired SDCPD officers until they had been on the job for some time.

Finding G1: Allegedly one officer did not receive Core Training within the first year.

County Response: Disagree. All available Officers received CORE training within their first year of employment.

Finding G2: The Manual states that Core Training must be completed within the first year of employment. The Grand Jury believes that the specified time period for completion of Core Training should occur within the first three months of employment.

County Response: Disagree in part. The Probation Department does not hire a sufficient number of new employees to conduct CORE Training during the first three months. However, all Juvenile Institutions employees receive forty to eighty hours of training prior to being assigned to a unit.

Finding G3: SDCPD officers who have not received Core Training customarily are placed in a cellblock under the supervision of a fully trained officer. Events could unfold that would disable or distract the trained officer and leave wards security in the hands of an untrained officer.

County Response: Disagree. All new employees receive forty to eighty hours of training prior to being assigned to a unit. Per Title 15, California Code of Regulations mandates that all child supervision staff shall receive at least 40 hours of training before assuming responsibility for the supervision of minors.

Finding H: SDCPD officers are allowed to keep the Manual in their possession for only 30 days after initial employment.

County Response: Disagree. The manual is returned in thirty days unless the employee needs additional time. The manual is also in each living unit and is accessible on line.

Recommendation 03-60: Ensure that there are policies and procedures in place requiring the use of outside investigators (San Diego County Internal Affairs Department or some other objective, impartial group) in all San Diego County Department disputes involving large-scale investigations, which could ultimately result in the discharge of multiple employees.

County Response: The recommendation will not be implemented because it is not warranted. The San Diego County Office of Internal Affairs investigates allegations of improper county government activities, discrimination based on race, color, religion, sex, national origin, age, or disability, and protects the complainant from any act of reprisal for reporting such allegations. They do not investigate allegations of law enforcement misconduct.

Recommendation 03-61: Ensure that investigations are conducted in a fair and consistent manner. A thorough investigation would require that all shifts be reviewed – especially since shifts rotated every 3 months. It is possible that other people may have made the same mistakes as those for which people were discharged on the late night shift.

County Response: The recommendation will not be implemented because it is not warranted. The Probation Department conducts fair and consistent investigations. Each investigation is conducted based on the merit of the case.

Recommendation 03-62: Amend the Juvenile Hall Policy and Procedures Manual to include a more definitive statement emphasizing the importance of hall check and log-in procedures. For example: "A hall check must be recorded when completed."

County Response: The recommendation has been implemented and the action recommended has already been taken. The Policy and Procedures Manual was revised in October of 2002, to re-emphasize the importance of hall checks and proper documentation.

Recommendation 03-63: Provide Core Training to all new hires within at least 90 days after employment rather than within the first year. Policies and procedures must be fully understood prior to placing officers in charge of juvenile wards in all Juvenile facilities.

County Response: The recommendation will not be implemented because it is not reasonable. The Board of Corrections regulations require CORE training to be completed within the first year of employment. They recognize after 20 years of monitoring that it is unrealistic to make a requirement that departments complete CORE training within the first 90 days. Our Department does not hire enough employees to conduct Core Training within the first 90 days. However, all new employees receive forty to eighty hours of training prior to being assigned to a Unit.

Recommendation 03-64: Conduct a comprehensive retraining of all supervisory personnel and management at Juvenile Hall in order that they become more aware and responsible for the performance of the officers in their charge. Given the systemic nature of the problem (over 60 percent of one shift being found guilty of similar offenses) the situation may be more widespread than the firings represent.

County Response: The recommendation will not be implemented because it is not warranted. Supervisors and management personnel attend a minimum of forty hours training annually. Probationary Supervisors attend an eighty hour training course during their first year that is mandated by Standards and Training for Corrections (STC). Additionally, the Probation Department provides a twenty-four hour Supervisor Development Academy for new Supervisors that emphasizes personnel matters. Juvenile Hall Supervisors receive on-going training regarding institutional policies and procedures, as well as department wide topics.

Recommendation 03-65: Post all regulations dealing with hall checks and login procedures in the Command Center of each cellblock.

County Response: The recommendation will not be implemented because it is not warranted. The Policy and Procedures Manual has been revised; in-house training has been expanded; and staff is reminded about hall check policies on an on-going basis through training and at meetings.

County of San Diego Response to 2002-03 Grand Jury Reports

Recommendation 03-66: Amend the Juvenile Hall Policy and Procedures Manual to contain specific provisions that violation of hall checks and login rules will subject the wrongdoers to a specific punishment such as discharge.

County Response: The recommendation will not be implemented because it is not warranted. As stated in this Grand Jury Report, in Facts and Findings paragraph F: "The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation. Upon initial employment, every probation officer signs a document agreeing to this policy."

Recommendation 03-67: Amend the Juvenile Hall Policy and Procedures Manual to contain specific provisions that lying and/or falsifying records of any document will result in immediate termination. Specify that the supervisors will be held accountable for the actions of those in their charge.

County Response: The recommendation will not be implemented because it is not warranted. The San Diego Probation Department's Administrative Manual Section 1306 Code of Ethics and Standards of Conduct, is required reading for all employees. This policy states, "The Department expects its employees to adhere to the standards and procedures described below. In the case of misconduct, appropriate action including discipline will be determined on the basis of the facts and circumstances surrounding any particular incident."

Recommendation 03-68: Provide every Probation Officer and Supervisor with a personal Manual, which they can keep in their possession.

County Response: The recommendation will not be implemented because it is not warranted. Each employee receives a manual for thirty days, or longer if needed. The Staff is informed/reminded that the Manual is available to review at their convenience. The manual is available on-line for easy access by staff.



SAN DIEGO COUNTY OFFICE OF EDUCATION

6401 LINDA VISTA ROAD, SAN DIEGO, CALIFORNIA 92111-7399 (858) 292-3500

Superintendent of Schools
Rudy M. Castruita, Ed.D.

RECEIVED

JUN 13 2003

**SAN DIEGO
COUNTY GRAND JURY**

June 9, 2003

Marcia Gravette Jespersen, Foreperson
Grand Jury, County of San Diego
Hall of Justice
330 West Broadway, Suite 477
San Diego CA 92101-3830

Dear Marcia Gravette Jespersen:

Re: Responses to the 2002-2003 Grand Jury Report – "INNOVATIONS IN EDUCATION," filed March 13, 2003.

Enclosed are the responses to the Grand Jury Report of March 13, 2003, concerning educational innovations in San Diego County, specifically the Lindamood-Bell Literacy Project. Our office has reviewed the report and prepared responses to the two recommendations set forth therein. These responses are being submitted in accordance with the Grand Jury's request.

Sincerely,

Rudy M. Castruita
County Superintendent of Schools

RMC:CF:GP
Enclosure

Board of Education

Nick Aguilar Ernest J. Dronenburg, Jr. Susan Hartley Robert J. Watkins John Witt

SERVICE AND LEADERSHIP

**SAN DIEGO COUNTY OFFICE OF EDUCATION
RESPONSES TO GRAND JURY RECOMMENDATIONS
FOR LINDAMOOD-BELL LITERACY PROJECT**

Recommendation 03-14:

That the San Diego County Probation Department and the San Diego County Office of Education (SDCOE) create another Experimental Group (II) to compare the results when using certificated teachers versus Lindamood-Bell (LMB) clinicians when the student-teacher ratio is a constant. The LMB process would continue to be taught to the original Experimental Group; while Experimental Group II would be taught by San Diego County certificated teachers. In this experiment, the factor to be compared would be the results when the student-teacher ratios are equivalent.

SDCOE Response:

The Grand Jury's recommendation to create a second Experimental Group II at a teacher-student 1:3 ratio using certificated teachers is not financially feasible for the San Diego County Office of Education (SDCOE), Juvenile Court and Community Schools (JCCS) and therefore will not be implemented.

- The SDCOE/JCCS receives state revenue to provide educational services for students referred to the program by the Juvenile Court or local school districts. These services must consist of a core academic curriculum leading to a high school diploma. The use of these funds for research purposes as described in the recommendation is not consistent with state requirements.
- The LMB process is a research-based program with years of documented success in raising the literacy levels of low-achieving students. Private donations that cannot be used for the general education program purposes were solicited to fund the implementation of the LMB process at Rancho del Campo and Camp Barrett.

**SDCOE Response
to Recommendation 03-14**

- Representatives met with Presiding Juvenile Court Judge James R. Milliken on March 12, 2003, to review LMB Literacy Project student assessment data collected during the first six months of implementation. Data indicate statistically significant reading gains in every area after only eight weeks of instruction. At the conclusion of this meeting, all representatives indicated a commitment to continue the project at Rancho del Campo and Camp Barrett for year two. In addition, it was agreed that the LMB Literacy Project at Rancho del Campo and Camp Barrett will serve as the "training ground" for two additional SDCOE teachers who, once certified in LMB methodologies, will move to two other sites as part of a collaborative, systematic effort to increase the opportunities for our most disabled readers to improve their literacy levels. In order to accomplish these goals, funds to implement year two must first be secured from community donors.

Recommendation 03-15:

That the San Diego County Probation Department and the San Diego County Office of Education (SDCOE) compare cost effectiveness of the Lindamood-Bell (LMB) clinicians versus San Diego County certificated teachers at the end of six months (as described above in **03-14:**) when the student-teacher ratio remains constant.

SDCOE Response:

The Grand Jury recommendation to compare the effectiveness of the LMB clinicians versus San Diego County teachers will not be implemented as proposed.

- Representatives from the SDCOE, San Diego County Probation Department, and LMB met with Presiding Juvenile Court Judge James R. Milliken on March 12, 2003, and agreed that any funds raised will be used to maintain the LMB Literacy Project at Rancho del Campo and Camp Barrett for year two and to expand the program to other SDCOE school sites rather than add an additional experimental group to the research project.



High School District

COMMITTED TO EXCELLENCE
S I N C E 1 9 2 0

• GOVERNING BOARD MEMBERS

GARY CASS
JIM KELLY
THOMAS A. PAGE
PRISCILLA SCHREIBER
EVELYN WILLS

• SUPERINTENDENT

TERRY RYAN

RECEIVED
JUL 29 2003

July 24, 2003

The Honorable Richard Strauss
Presiding Judge of Superior Court
220 W. Broadway
San Diego, CA 92101

Re: The Grand Jury Report on Innovations in Education, March 13, 2003

Dear Judge Strauss:

I have examined the thoughtful report of the 2002-2003 Grand Jury and agree with its findings. We are proud of the work done by our staff on the Middle College High School in partnership with Grossmont Community College. In addition, we would like to thank the Grand Jury for the commendations made to our administrators and teachers who created this school.

There were two recommendations in the report. The first, 03-12, was to expand the program to Cuyamaca Community College. This recommendation has not yet been implemented. The Grossmont Union High District is in discussion with the Cuyamaca Community College District to implement a Middle College High School on their campus. The discussions have included, available space, finding qualified teachers, tailoring the college classes taken by our students to a course of study at the college (ex. Native horticulture, computer repair, etc.). We hope to have a program in place by the 2004-2005 school year.

The second recommendation, 03-13, was to provide additional funding to ensure that longitudinal research studies are conducted as to the effectiveness of the program. The high school and college district are working on a student information system that will track data on all of our students. As soon as we have enough students matriculate from the program to have significant data, we will provide it to all parties who would find it useful.

Once again, we would like to thank the Grand Jury for its investigation and findings. We have found them to be a useful tool in making our educational offerings as solid as possible.

Sincerely,

Terry Ryan
District Superintendent

c: Grand Jury, County of San Diego
Ref: JP008



High School District

COMMITTED TO EXCELLENCE
S I N C E 1 9 3 0

RECEIVED
JUL 29 2003
SAN DIEGO
COUNTY GRAND JURY

• GOVERNING BOARD MEMBERS

GARY CASS
JIM KELLY
THOMAS A. PAGE
PRISCILLA SCHREIBER
EVELYN WILLS

• SUPERINTENDENT

TERRY RYAN

July 24, 2003

The Honorable Richard Strauss
Presiding Judge of Superior Court
220 W. Broadway
San Diego, CA 92101

Re: The Grand Jury Report on Innovations in Education, March 13, 2003

Dear Judge Strauss:

I have examined the thoughtful report of the 2002-2003 Grand Jury and agree with its findings. We are proud of the work done by our staff on the Middle College High School in partnership with Grossmont Community College. In addition, we would like to thank the Grand Jury for the commendations made to our administrators and teachers who created this school.

There were two recommendations in the report. The first, 03-12, was to expand the program to Cuyamaca Community College. This recommendation has not yet been implemented. The Grossmont Union High District is in discussion with the Cuyamaca Community College District to implement a Middle College High School on their campus. The discussions have included, available space, finding qualified teachers, tailoring the college classes taken by our students to a course of study at the college (ex. Native horticulture, computer repair, etc.). We hope to have a program in place by the 2004-2005 school year.

The second recommendation, 03-13, was to provide additional funding to ensure that longitudinal research studies are conducted as to the effectiveness of the program. The high school and college district are working on a student information system that will track data on all of our students. As soon as we have enough students matriculate from the program to have significant data, we will provide it to all parties who would find it useful.

Once again, we would like to thank the Grand Jury for its investigation and findings. We have found them to be a useful tool in making our educational offerings as solid as possible.

Sincerely,

Terry Ryan
District Superintendent

c: Grand Jury, County of San Diego
Ref: JP008



High School District

COMMITTED TO EXCELLENCE
SINCE 1912

RECEIVED
JUL 29 2003
SAN DIEGO
COUNTY GRAND JURY

GOVERNING BOARD MEMBERS

GARY CASS
JIM KELLY
THOMAS A. PAGE
PRISCILLA SCHREIBER
EVELYN WILLS

SUPERINTENDENT

TERRY RYAN

COPY

July 24, 2003

The Honorable Richard Strauss
Presiding Judge of Superior Court
220 W. Broadway
San Diego, CA 92101

Re: **The Grand Jury Report on Innovations in Education, March 13, 2003**

Dear Judge Strauss:

I have examined the thoughtful report of the 2002-2003 Grand Jury and agree with its findings. We are proud of the work done by our staff on the Middle College High School in partnership with Grossmont Community College. In addition, we would like to thank the Grand Jury for the commendations made to our administrators and teachers who created this school.

There were two recommendations in the report. The first, 03-12, was to expand the program to Cuyamaca Community College. This recommendation has not yet been implemented. The Grossmont Union High District is in discussion with the Cuyamaca Community College District to implement a Middle College High School on their campus. The discussions have included, available space, finding qualified teachers, tailoring the college classes taken by our students to a course of study at the college (ex. Native horticulture, computer repair, etc.). We hope to have a program in place by the 2004-2005 school year.

The second recommendation, 03-13, was to provide additional funding to ensure that longitudinal research studies are conducted as to the effectiveness of the program. The high school and college district are working on a student information system that will track data on all of our students. As soon as we have enough students matriculate from the program to have significant data, we will provide it to all parties who would find it useful.

Once again, we would like to thank the Grand Jury for its investigation and findings. We have found them to be a useful tool in making our educational offerings as solid as possible.

Sincerely,

Terry Ryan
District Superintendent

c: Grand Jury, County of San Diego
Ref: JP008



COPY

County of San Diego

DAVID E. CRANFORD
CHIEF PROBATION OFFICER
(ACTING)

NANCY RUSK
ASSISTANT CHIEF PROBATION OFFICER
(ACTING)

DEPARTMENT OF PROBATION
POST OFFICE BOX 23597, SAN DIEGO, CALIFORNIA, 92183-3597

RECEIVED

JUL 24 2003

SAN DIEGO
COUNTY GRAND JURY

May 14, 2003

Marcia Gravette Jespersen
Foreperson
Grand Jury, County of San Diego
HOJ, 330 West Broadway, Ste. 477
San Diego, CA 92101-3830

Dear Ms. Gravette Jespersen:

We have reviewed your report of the literacy project at Juvenile Ranch Facility and Camp Barrett.

Attached is the San Diego County Probation Department's response to the San Diego County Grand Jury report on Innovations in Education dated March 13, 2003.

If you have additional questions or concerns please contact Deputy Chief Probation Officer Polly Merickel at (858) 514-3108.

Sincerely,

ALAN M. CROGAN
CHIEF PROBATION OFFICER

Grand Jury Report Innovation In Education

A literacy Program for Incarcerated Juveniles

The Grand Jury recommends that the San Diego County Probation Department

03-14: create another Experimental Group (II) to compare the results when using certificated teachers versus LMB clinicians when the student-teacher ratio is a constant. The LMB process would continue to be taught to the original Experimental Group; while Experimental Group II would be taught by San Diego County certificated teachers. In this experiment, the factor to be compared would be the results when the student-teacher ratios are equivalent.

The San Diego County Office of Education (SDCOE) response to 03-14:

- The Grand Jury's recommendation to create a second Experimental Group II at a teacher-student ratio of 1:3, using certificated teachers, is not financially feasible for SDCOE.
- The JCCS program must provide access to the traditional high school core academic classes for all students.
- The LMB process is a research-based program with years of documented success in raising the literacy levels of low-achieving students. Private donation's that cannot be used for the general education program were solicited to fund the implementation of the LMB process at Rancho del Campo and Camp Barrett.
- Representatives from the SDCOE, San Diego County Probation Department, and LMB have met monthly to monitor the progress of the LMB Literacy Project implementation at Rancho del Campo and Camp Barrett.
- Representatives met with Presiding Juvenile Court Judge James R. Milliken on March 12, 2003, to review LMB Literacy Project student assessment data collected during the first six months of implementation. Data indicate statistically significant reading gains in every area after only eight weeks of instruction. At the conclusion of this meeting, all representatives indicated a commitment to continue the project at Rancho del Campo and Camp Barrett for year two. In

The San Diego County Office of Education (SDCOE) response to 03-14 (continued):

- addition, it was agreed that the LMB Literacy Project at Rancho del campo and Camp Barrett will serve as the "training ground" for two additional SDCOE teachers who, once certified in LMB methodologies will move to two other sites as part of a collaborative, systematic effort to increase the opportunities for our most disable readers to improve their literacy levels. In order to accomplish these goals, funds to implement year two must first be secured from community donors.

03-15: compare cost effectiveness of the LMB clinicians versus San Diego County certified teachers at the end of six-months (as described above in 03-14:) when the student-teacher ratio remains constant.

The San Diego County Office of Education (SDCOE) response to 03-15:

- When representatives from the SDCOE, San Diego County Probation Department, and LMB met with Presiding Juvenile Court Judge James R. Milliken on March 12, 2003, it was agreed that any funds raised will be used to maintain the LMB Literacy Project at Rancho del campo and Camp Barrett for year two and to expand the program to other SDCOE school sites.

03-16: provide additional funding for further research, either by reallocating current educational dollars or by applying for research grants, or some other fund raising effort.

- The Probation Department does not have the resources available for additional funding for further research. Due to the current budget reduction of services and programs for children for fiscal year 2003-04, reallocation of resources is not an option.

The Probation Department's Community Partnership and Planning Division constantly reviews grant opportunities. Currently there are no grant opportunities available to fund this need.

Currently Juvenile Court Presiding Judge James Milliken is trying to secure funding to continue the Lindamood-Bell program for an additional year. Funding is also being sought for SANDAG to continue being the evaluating agency for this program.

RECEIVED

JUL 24 2003

SAN DIEGO
COUNTY GRAND JURY



County of San Diego

DAVID E. GRANFORD
CHIEF PROBATION OFFICER
(ACTING)

DEPARTMENT OF PROBATION
POST OFFICE BOX 23596, SAN DIEGO, CALIFORNIA 92193-3597

NANCY RUSK
ASSISTANT CHIEF PROBATION OFFICER
(ACTING)



PROBATION ADMINISTRATION

FAX NUMBER (858) 514-3121

Fax Document Cover Letter

Date: 7-24-03

TO: SDSC Fax Number: 619.515.8696

ATTENTION: Laura

From: Cornie Cook

Telephone #: 858 514 3104

Number of pages, including cover letter: 3

Special Instructions/notes: Original letter was signed by chief Crogan

PLEASE DELIVER AS SOON AS POSSIBLE

WARNING: This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately at 858-514-3200.



GROSSMONT-CUYAMACA
COMMUNITY COLLEGE DISTRICT

June 11, 2003

RECEIVED
AUG 08 2003
SAN DIEGO
COUNTY GRAND JURY

San Diego County Grand Jury
Hall of Justice
330 W. Broadway Suite 477
San Diego, CA 92101-3830 USA

Dear Grand Jury:

This response to the San Diego County Grand Jury Report dated March 13, 2003 is a joint response from the Grossmont Union High School District and the Grossmont-Cuyamaca Community College District. Although California Penal Code 933 (c) requires a response from both institutions, we have been given permission from the Office of the San Diego Grand Jury to respond in a joint manner.

Recommendation 03-12: Expand Grossmont Middle College High School to Cuyamaca Community College.

In response to the findings and recommendations from the San Diego County Grand Jury report, and the positive academic results from our current program, the Grossmont Union High School District and the Grossmont-Cuyamaca Community College District are committed to reviewing the feasibility of expanding the middle college program to Cuyamaca College. We are currently in our first full-year of existence as a middle college high school serving students at the junior and senior levels at Grossmont College. We are awaiting accreditation from the Western Association of Schools and Colleges (WASC) following their May accreditation visit. It is our intent to respond to the recommendations from the WASC visiting committee, and to our own self-study, during our next school year. These critical assessments will provide guidance as we evaluate the possibility of expanding to Cuyamaca College. This quality control measure will also allow our districts to offer a better model of the middle college high school design to other districts throughout the State and Nation.

Recommendation 03-13: Provide additional funding from high school and community college districts to ensure that longitudinal research studies are continued to measure the overall effectiveness of Grossmont Middle College High School.

In response to this recommendation, the Grossmont-Cuyamaca College District has already offered the expertise and services of Dr. Brad Phillips Senior Director of Institutional Research, Planning & Academic Services. With the help of Dr. Phillips, Grossmont Middle College High School has operationally defined the data to be used in the longitudinal research studies, and has begun construction of the database for storing the data. Grossmont Middle College High

Office of the Chancellor

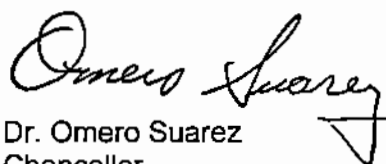
8800 Grossmont College Drive, El Cajon, CA 92020-1799
Phone 619-644-7569 Fax 619-644-7936

San Diego County Grand Jury
Page 2
July 24, 2003

School presents its performance data annually to the Governing Board of the Grossmont Union High School District, and to the academic senate of Grossmont College.

The Grossmont-Cuyamaca Community College and the Grossmont Union High School Districts want to thank the San Diego County Grand Jury for recognizing our efforts to provide a valuable service to the students of East San Diego County. We pledge our willingness to critically evaluate opportunities to expand, whenever possible, this proven effective model of education.

Sincerely,



Dr. Omer Suarez
Chancellor
Grossmont-Cuyamaca Community
College District



Dr. Terry Ryan
Superintendent
Grossmont Union High School District

Handling of Citizens Comp. VPS
SD County Sheriff's Department 7/7





COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

RECEIVED

June 25, 2003

JUL 01 2003

SAN DIEGO
COUNTY GRAND JURY

TO: Honorable Richard E.L. Strauss, Presiding Judge (C-44)
San Diego Superior Court

FROM: William B. Kolender, Sheriff (O-41)
San Diego County Sheriff's Department

Response to Grand Jury Report "Handling of Citizen Complaints by the San Diego County Sheriff's Department, Vista Patrol Station"

In accordance with California Penal Code §933(c), the following is the San Diego County Sheriff's Department's response to the Grand Jury's findings and recommendations 03-52 through 03-59.

PRELIMINARY ISSUES

The 2002-2003 San Diego County Grand Jury conducted an inquiry into the handling of citizen complaints by the San Diego County Sheriff's Department, Vista Sheriff's Station. On May 8, 2003, the Grand Jury issued their report with a finding that the methods and procedures used for handling citizen complaints by the Vista Sheriff's Station need revision.

The premise of the Grand Jury's report appears to be multiple citizen complaints over a five-year period alleging illegal activities in a neighborhood, such as drug dealing, prostitution, and receiving stolen property. The complainants alleged, "Nothing had been done to change the neighborhood conditions."

The basic problem with the Grand Jury's report is that it appears to make the issue of community complaints more widespread than it actually is. The Grand Jury's report is devoid of facts that allow one to ascertain the magnitude and extent of the alleged problems. Specifically, the Grand Jury's report fails to identify the number of complaints actually received. Additionally, given that a vocal citizen can complain multiple times, the Grand Jury's report fails to identify the number of complaining citizens. Finally, the report fails to define the scope of the neighborhood at issue in its investigation and report.

As it reads, the Grand Jury's report gives the impression that many citizens complained about alleged multiple criminal acts were taking place throughout the City of Vista.

However, the reality is that the Grand Jury's investigation involved no more than three complainants on one street complaining about one residence. The Grand Jury has essentially polled three people and produced the results of its poll as representative of the 92,000 residents of Vista.

BACKGROUND INFORMATION

The Grand Jury's report alleges that there was insufficient follow-up to the complaints made by the citizens. However, for the sole residence investigated by the Grand Jury, the Vista Sheriff's Station set up a surveillance team to establish a presence in the neighborhood in an attempt to determine if there was any illegal activity occurring. Additionally, while the Sheriff's Department cannot provide specific details to the public as to the investigations that it conducts, the Department did provide the Grand Jury with the specific steps taken as part of a seven-month investigation into the lone residence identified by the Grand Jury. The investigation was conducted based upon the complaints of two neighboring residents that were received by the narcotics unit in March 2002. The investigation by the Street Narcotics Unit was unable to reveal ongoing criminal violations.

The Grand Jury's report indicates that the situation was not rectified to the satisfaction of the complaining citizens. However, absent evidence of criminal activity, the investigators are unable to obtain search warrants and make arrests that would otherwise satisfy the complaining parties. Oftentimes citizens complaining about alleged drug activity are not satisfied until an arrest is made.

The Grand Jury continued by indicating that the methods and procedures for complaints to the Vista Sheriff's Station involving anything other than officer misconduct and narcotics appeared to be non-existent. While not formalized, the Vista Sheriff's Station routinely receives complaints from citizens through several mechanisms, including by phone, email, fax and personal contact, either in the field or at the station directly. Citizen complaints received at the Vista Sheriff's Station that can be handled by patrol or traffic units are documented on a patrol briefing form and discussed at each patrol briefing.

The Grand Jury's report found that upon initial contact, the Captain in Charge did not provide requested information to the Grand Jury. However it should be noted that it was not the Captain of the Vista Sheriff's Station, but rather the Grand Jury itself, that made the exchange of information in their investigation difficult. The Captain worked diligently in attempting to accommodate a grand jury that initially refused to put their requests in writing to identify who the requestor was and exactly what it was they wanted. Further, the use of a subpoena was requested by the Sheriff's Department as a

way to have the Grand Jury formalize and focus their request for information. At no time did the Vista Sheriff's Station Captain obstruct the Grand Jury's investigation.

FACTS AND FINDINGS

The San Diego County Sheriff's Department agrees with the following facts and findings made by the Grand Jury:

A, B, C(3), F, G(1), G(2)

The San Diego County Sheriff's Department disagrees wholeheartedly with the following findings of the Grand Jury:

C(1): When a citizen makes a complaint, he or she is not required to specifically name or identify the crime that occurred. Depending on how the citizen communicates a set of facts and circumstances to the Sheriff's Department, those facts will be evaluated and followed up appropriately.

C(2): The Grand Jury only interviewed three complainants, so the term "often" is simply a generalization. As to whether or not an acknowledgement or the progress of an investigation is provided to a complainant depends upon the specifics of the complaint and its method of delivery to the patrol station.

E(1) Patrol logs and CAD reports are maintained for a period of two years. Arrest reports are maintained for seven years unless a death is involved, in which case they are maintained indefinitely.

E(2) Crime reports are maintained for seven years unless a death is involved, in which case they are maintained indefinitely.

E(3): Citizen complaints are maintained for various time periods depending on the basis of the complaint.

H: The San Diego County Sheriff's Department has a Public Affairs Division whose function is to disseminate information to the public through coordination with the media. The Public Affairs Division is not tasked with receiving or addressing citizen complaints.

The San Diego County Sheriff's Department disagrees in part with the following findings of the Grand Jury:

D: The first recorded citizen complaint on file with the Vista Sheriff's Station was a specific complaint concerning suspected narcotics activity. This complaint was received

in March 2002, and was referred to a detective with the Vista Station's Street Narcotics Unit.

G: In the particular incident investigated by the Grand Jury, the Vista Sheriff's Station's Street Narcotics unit received complaints from only two complainants about the neighborhood residence. There is no record of narcotics dog checks of that particular residence.

I. C.O.P.P.S. Deputies are not a public affairs resource. They are deputies assigned to neighborhood policing teams to help solve problems in local neighborhoods. As such, if the Grand Jury asked the Captain about public affairs, information on C.O.P.P.S would not normally have been provided.

The San Diego County Sheriff's Department is unable to agree or disagree with the following facts and findings of the Grand Jury:

J: The San Diego County Sheriff's Department has no knowledge of how other agencies handle citizen complaints, and as such is unable to agree or disagree with the Grand Jury on this finding.

RECOMMENDATIONS

The following recommendations have not yet been implemented but will be implemented in the future:

03-53 To be implemented by August 1, 2003.

The following recommendations require further analysis:

03-55 The Department will review its citizen complaint follow up procedure based upon information received from recommendation 03-53. An evaluation of outside agencies is expected to be completed by August 1, 2003. The Vista Sheriff's Station will then conduct an examination of its own internal process with an eye toward incorporating information obtained as a result of recommendation 03-53, to be completed by October 1, 2003. The matter will be prepared for discussion by the Sheriff by November 1, 2003.

The following recommendations will not be implemented because they are not warranted or not reasonable:

03-52 This recommendation is not warranted. The Grand Jury report fails to indicate anywhere in the text of the report that there is a lack of cooperation or coordination between the Vista Sheriff's Station and the City of Vista Code Compliance Department or any other involved City departments. The Vista Sheriff's Station has an excellent working relationship with all departments within the City of Vista.

Honorable Richard E.L. Strauss, Presiding Judge

Page 5 of 5

June 25, 2003

03-54 This recommendation is not warranted. The Grand Jury report fails to indicate anywhere in the text of the report that there were any problems with a complaining citizen not being able to file a complaint as a result of language difficulties.

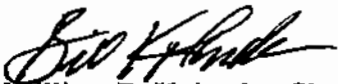
03-56 This recommendation is not warranted. The Grand Jury fails to recognize that the C.O.P.P.S Unit was not involved in this incident because it was a Street Narcotics investigation.

03-57 This recommendation is not warranted. The Grand Jury report fails to identify how much "face-to-face" communication with complainants C.O.P.P.S. deputies currently provide. Additionally, the recommendation fails to indicate what is an amount that would be acceptable to the Grand Jury. C.O.P.P.S. deputies currently identify problematic issues in various areas of the community and work together with members of those communities and other agencies to resolve community problems.

03-58 This recommendation is not warranted. The Grand Jury report fails to indicate that the public is unaware of the existence of Neighborhood Watch programs, or community oriented programs.

03-59 This recommendation is not warranted. Nothing in the Grand Jury report indicates that a complainant was precluded from receiving assistance based upon an inability to communicate with Vista Sheriff's Station staff. Many of the deputies and professional support staff are bilingual and available to assist if a communication problem arises.

Thank you for the opportunity to review the Grand Jury's findings and recommendations. If you have further questions, please contact Assistant Sheriff Tom Zoll of the Law Enforcement Services Bureau at (858) 974-2295.



William B. Kolender, Sheriff

WBK:pd

cc: San Diego County Board of Supervisors
Marcia Gravette Jespersen, Foreperson – 2002/2003 Grand Jury
Walter F. Ekard, Chief Administrative Officer
Thomas A. Pastuszka, Clerk of the Board
Thomas A. Zoll, Assistant Sheriff, Law Enforcement Services Bureau
Paula J. Robinson, Commander, Law Enforcement Services-Northern Operations
Earl Wentworth, Captain, Vista Sheriff's Station



THE CITY OF SAN DIEGO

copy

RECEIVED
4:30 PM
JUL 09 2003
FEM
SAN DIEGO
COUNTY GRAND JURY

July 9, 2003

Honorable Richard E. L. Strauss
Presiding Judge, San Diego County Superior Court
220 West Broadway, Department SD-P
San Diego, CA 92101

Dear Judge Strauss:

Subject: Response to San Diego County Grand Jury Report

In compliance with California Penal Code §933.05, the City of San Diego has extensively reviewed the April 9, 2003 report from the San Diego County Grand Jury entitled "Polluting Just for the Fun of it: Two-Stroke Engines on Mission Bay." Responses are enclosed for all findings and recommendations contained in the report and are consistent with the requirements and instructions of referenced California Penal Code §933.05.

The City appreciates the efforts put forth by the Grand Jury in researching the City of San Diego's management of Mission Bay with respect to the effects of two-stroke engine personal watercraft. The City agrees with a number of the findings in the report and believes that the Grand Jury's recommendations have been implemented. We do have a difference of opinion with some of the entries in the "Facts and Findings" section of the report. Those differences are noted in the City's responses.

Overall, we believe Mission Bay Park is a well-managed, recreational resource operated by the City of San Diego and enjoyed by over 15 million visitors each year. Acknowledging that Mission Bay is a precious civic resource, the City of San Diego has taken action to protect Mission Bay water quality. These efforts span decades and continue today. Some examples include: renewed infrastructure including sewer main replacements, trunk sewers, and pump station upgrades within the Mission Bay area; construction of a \$10 million state-of-the-art low flow storm drain diversion system around Mission Bay; creation of the Mission Bay Water Quality Management Plan to better manage and coordinate the various water quality projects; and identifying clean beaches and bays by reducing beach postings and closures as one of ten civic priorities. Since 2001, a 45 percent reduction in beach postings has been realized city-wide due to increased monitoring, investigation, and abatement efforts.



Page 2

Honorable Richard E. L. Strauss


July 9, 2003

Additionally, the City entities responsible for Mission Bay Park, including the Park and Recreation Department, Lifeguard and Rescue Services, Police Department, and the Storm Water Pollution Prevention Program, are committed to providing safe and quality recreational opportunities for residents and tourists of all ages and abilities. The professionals in these departments recognize that they have been entrusted to properly oversee the precious natural resources that are part of Mission Bay, and they take seriously the responsibility they have been empowered with to protect San Diego's most treasured resource.

Again, the City values the effort put forth by the Grand Jury in researching the effects of two-stroke engine personal watercraft on water quality.

Please call me at (619) 236-5941, if you have any questions or require additional information.

Sincerely,



Michael T. Uberuaga
City Manager

MTU/BM/js

Enclosure

cc: Honorable Mayor and City Council
Marcia Gravette Jespersen, Foreperson, County of San Diego Grand Jury 2002 - 2003
Thomas E. McCarthy, Foreperson, County of San Diego Grand Jury 2003 - 2004
Ellen Oppenheim, Park and Recreation Director
Beth Murray, Assistant to the City Manager

In accordance with Government Code §933, The City of San Diego provides the following responses to the Findings and Recommendations of the Grand Jury.

Findings of the San Diego County Grand Jury 2002-2003

A. Mission Bay is being polluted from a variety of sources: sewage spills, runoffs and polluted creek waters.

The respondent agrees with this finding. Like most coastal bodies of water, pollutants enter Mission Bay from a variety of sources, from on-the-bay activities as well as on-land activities. Water quality standards established to protect the beneficial uses of Mission Bay are generally being met except when high bacteria counts result in beach postings. In addition, the State of California has not listed Mission Bay or any of its tributary creeks as impaired due to concentrations of methyl tert-butyl ether (MTBE) or polynuclear aromatic-hydrocarbons (PAHs).

Acknowledging that Mission Bay is a precious civic resource, the City of San Diego has taken action to protect Mission Bay water quality. These efforts span decades and continue today. The Metropolitan Wastewater Department has renewed its infrastructure including sewer main replacements, trunk sewers, and pump station upgrades within the Mission Bay area at a cost of over \$120 million from 1985 through 1996.

The City also constructed a \$10 million state-of-the-art low flow storm drain diversion system around Mission Bay. The system diverts low dry weather flows, typically with high bacteria counts, from existing storm drains and directs these flows to the sanitary sewer system for treatment. The system consists of 43-diversion systems surrounding the Bay. The system was constructed in phases over a decade. The initial facilities were constructed in the East Bay area in the mid-1980s addressing 90% of the tributary watershed. The system was later expanded to address the remaining 10% of the tributary watershed creating a ring of protection around Mission Bay. These facilities remain in operation today and have served as a model for other communities that are concerned about protecting their beach water quality.

More recently, the City's Storm Water Pollution Prevention Program created the Mission Bay Water Quality Management Plan to better manage and coordinate the various water quality projects. There are seven on-going projects addressing Mission Bay water quality:

- Mission Bay Bacteria Source Identification

- Mission Bay Contaminant Dispersion Study
- Mission Bay Human Pathogenic Viruses and Epidemiology Study
- Mission Bay Sediment and Water Quality Testing
- Mission Bay Water Quality Study
- Rose and Tecolote Creeks Water Quality Improvements
- Tecolote Creek Treatment Wetlands

In 2001, the City of San Diego identified cleaning our beaches and bays by reducing beach postings and closures 50 percent in 2004, as one of ten civic priorities. Since then a 45 percent reduction in beach postings has been realized city-wide due to increased monitoring, investigation, and abatement efforts.

The City entities responsible for Mission Bay Park, including the Park and Recreation Department, Lifeguard and Rescue Services, Police Department, and the Storm Water Pollution Prevention Program, are committed to providing safe and quality recreational opportunities for residents and tourists of all ages and abilities. The professionals in these departments recognize that they have been entrusted to properly oversee the precious natural resources that are part of Mission Bay, and they take seriously the responsibility they have been empowered with to protect San Diego's most treasured resource for this generation of San Diegans and for future generations.

- B. Despite the limited availability of data, the growth of the PWCs using the Bay has been substantial. Between the years 2000 and 2002, the number of PWCs using Mission Bay on the Fourth of July increased from 282 to 436, an increase of 55%. This increase does not represent only two-stroke engine PWCs. This is because the industry has developed cleaner and better alternatives. However, the great majority of PWCs in Mission Bay (lifeguards claim up to 90%) are of two-stroke engine PWCs which are significant polluters.**

The respondent disagrees partially with this finding. It is true that the watercraft vessel counts taken by the lifeguards between 2000 and 2002 indicate an increase in PWC use. However, the counts represent samplings taken at the peak use time of year and do not represent average daily use of PWCs on Mission Bay. The lifeguards do not have documentation on the number or percentage of two-stroke PWC's using Mission Bay at any given time. Also, it is not known how many of the two-stroke models using Mission Bay are the newer manufactured models that meet the U.S. Environmental Protection Agency (EPA) emission reduction requirements. These newer two-stroke direct injection engines have improved fuel economy with lower oil consumption. The EPA has required that all marine engines, including PWCs and outboard motors, continue to achieve emission reductions of 8.5% per year until 2006. This represents a 75% reduction in

emissions from the pre-regulated baseline year of 1997. In California, the California Air Resources Board (CARB) accelerated the EPA's emission reduction schedule by requiring the 75% reduction by the 2001 model year. It is also important to note that there is no documentation on how many of the PWCs using Mission Bay are the low-emission 4-stroke powered vessels that were introduced into the market in September of 2000. These cleaner-burning 4-stroke engines meet the EPA's 2006 emissions standards and CARB's 2001 standards by having a 75% reduction in emissions. The only information available regarding the use of two-stroke versus four-stroke PWCs is information obtained from the PWC industry on the sales trends of the vessels which indicate that the sale of two-stroke versus four-stroke PWCs is about 50/50. Retailers have also indicated that most customers trading in used PWCs are trading the two-stroke models for four-stroke models and with an average trading frequency of two to three years, the sale and use of two-stroke models are declining significantly.

- C. Two-stroke engine PWCs contribute substantially to the pollution of Mission Bay in two ways. First, they pollute the air by producing hydrocarbons and nitrogen oxides and, second, they pollute the water by discharging uncombusted gasoline and oil.**

The respondent disagrees with this finding. Based upon existing studies, petroleum hydrocarbons, as well as the levels of MTBE, are only detected in Mission Bay at very low levels. Concentrations of gasoline compounds within Mission Bay are too low to cause harmful toxicological effects on the marine organisms or affect human health. A Mission Bay study conducted by Brown *et al.* (2001) found that the highest concentrations of MTBE in Mission Bay were less than 0.1% of the threshold effect level for the most sensitive species tested. Studies done at other locations provided similar results.

Two-stroke engines that power some PWCs are also used to power other types of vessels such as fishing boats, sailboats, and other large powerboats with outboard engines. Given the number and diversity of motorized vessels used in Mission Bay, it is difficult to isolate or substantiate the impacts of two-stroke PWCs.

The City Water Department currently allows recreational boating on all nine of their reservoirs. Two-stroke outboard engines are, by far, the most common type of boat engine on the reservoirs. The Water Department tests for MTBE and other petroleum hydrocarbons in all City reservoirs on a quarterly basis. The studies have shown the level of MTBE to be very low, low enough to meet the most stringent water quality standards - the federal drinking water standards.

- D. Scientific studies have shown that 25 to 40% of gasoline and oil used by the two-**

stroke engines leave the compression chamber unburned. The same studies show that approximately 50% of the uncombusted material is discharged in the water.

The respondent disagrees with this finding. The footnote referenced on page 3 of the Grand Jury Report is incorrect. Carbureted 2-Stroke Engines by Mindy Correll (Pollution Prevention Team, Department of Environmental Quality, State of Oregon, 1999) states that "*Conventional marine engines exhaust 25% to 30% of their fuel, unburned, directly to the water,*" not 40% or 50% stated in the finding.

- E. The uncombusted material contains MTBE and PAHs. The former substance is more soluble than the gasoline itself, lingers longer in the water, and is on the EPA's list as a possible human carcinogen. The latter substances are highly toxic and persistent compounds known to be: (a) bioaccumulative and poisonous to the marine environment; (b) carcinogenic to mammals; (c) ubiquitous contaminants that bioconcentrate, and (d) acutely phototoxic to aquatic microorganisms within minutes or hours. The New York State Department of Environmental Conservation considers PAHs so dangerous that they are regulated at the same toxicity level as PCBs.**

The respondent disagrees partially with this finding. Pollutants impact surface water and groundwater differently. The 1997 EPA Office of Water, Drinking Water Advisory sheet regarding MTBE drinking water studies (footnote reference 6 on page 3 of the Report) states "*Due to its small molecular size and solubility in water, MTBE moves rapidly into groundwater, faster than do other constituents of gasoline.*" Studies of MTBE in surface water have shown that volatilization of MTBE rapidly decreases concentration levels because of the exposure to the sun and wind. The EPA's Office of Water considers MTBE a potential human carcinogen at high doses (> 20-40 ttg/L) if directly ingested from drinking water. The EPA Federal Register, Vol. 63, no. 40, 1998 (footnote reference 7 on page 3 of the Report) is exclusively about the potential health effect of drinking water containing MTBE. Using drinking water standards to determine the relative threat of MTBE for the beneficial uses in Mission Bay is inappropriate. There is no research to indicate that MTBE is a potential human carcinogen in recreational waters.

There are several chemical compounds that form the group known as PAHs. To date, no studies have investigated the toxicological effects of PAHs from two-stroke engine exhaust on marine organisms within a natural setting, such as Mission Bay. The New York State Department of Environmental Conservation has established standards for polychlorinated biphenyls (PCBs) and one specific PAH chemical compound, benzo[a]pyrene, in the regulation for human consumption of saltwater fish. The benzo[a]pyrene standard set by the New York State Department of Environmental

Conservation is 600 times greater than the standard for PCBs. Thus, New York State does not regulate PAHs at the same toxicity level as PCBs.

- F. The extent of pollution in Mission Bay, because of the operation of the two-stroke engine PWCs, is considerable. This is particularly true in the case of Sectors 3,4,6 and 7. The number of two-stroke engine PWCs operating in these Sectors on the Fourth of July, for instance, given their dimensions, yield an amount of uncombusted gasoline and oil which results in more than a thin film left on the water according to an EPA Study.**

The respondent disagrees partially with this finding. The measurement unit used (1.25 gallons of oil) on page 10 of the Grand Jury report is incorrect. The appropriate unit is 1.25 quarts of oil. Although this amount of oil may leave a visible sheen on the water surface for a short while, petroleum hydrocarbons and MTBE are detected at very low levels in Mission Bay.

- G. Not all the parts of Mission Bay flush equally well. In fact, some areas (e.g. Sector 6) behave almost like a lake.**

The respondent disagrees partially with this finding. Mission Bay is not a lake. Mission Bay is a coastal bay that is tidally influenced with hydrodynamics unlike any lake or reservoir. However, we agree that not all parts of Mission Bay flush equally.

- H. Numerous regulatory agencies have imposed restrictions on the use of the two-stroke PWCs. These regulations vary from outright bans of their use to allowing their usage in specific sites.**

The respondent agrees with this finding. Various jurisdictions have passed regulations restricting the use of PWCs. The California Harbors and Navigation Code section 268 permits local jurisdictions to adopt restrictions concerning the navigation and operation of vessels subject to the provisions of Section 660(a). This section provides that jurisdictions can only regulate the use of vessels if the regulations involve time-of-day restrictions, speed zones, special-use areas, and sanitation and pollution control. Additionally, the California Attorney General has opined that a local agency may completely ban the use of PWC on all navigable waters within its jurisdiction under "narrowly drawn circumstances." Specifically, the Attorney General concluded that in order for such a prohibition to be authorized, the local agency must be able to show that the use of PWC on all navigable waters under the agency's jurisdiction is incompatible with one or more other public uses, and that the ban is neither arbitrary nor discriminatory to PWCs, (e.g. the ban applies to other incompatible motorized vessels as well.) In the

Attorney General's opinion, a showing of incompatible use is subject to the general legal principals that (1) under the guise of the police power, a local agency may not completely prohibit what is otherwise lawful; (2) it may not unreasonably discriminate between objects which are similarly situated under the laws; and (3) restrictions placed upon the recreational use of navigable water are not favored.

- I. There is a problem of jurisdiction concerning the management and protection of Mission Bay. The Parks and Recreation Department of the City of San Diego has the jurisdiction but not the means to police Mission Bay; the lifeguards have the means but do not have the jurisdiction.**

The respondent disagrees with this finding. The San Diego Police Department, park rangers and lifeguards all have authority to enforce and protect Mission Bay pursuant to the following list of Penal Code, Harbors and Navigation, and San Diego Municipal Code sections.

PC 836.5 - Pertaining to both Lifeguards and Park Rangers
PC 853.6 - Pertaining to both Lifeguards and Park Rangers
PC 830.3 - Pertaining to both Lifeguards and Park Rangers
H&N 663 - Pertaining to Lifeguards
H&N 663.5 - Pertaining to Lifeguards
H&N 663.6 - Pertaining to Lifeguards
SDMC 63.20.8 (a) and (b) - Pertaining to Lifeguards
SDMC 63.0108 - Pertaining to Park Rangers
SDMC 63.20.6, (a), (b), and (c) - Pertaining to Lifeguards

Although the police, park rangers and lifeguards have jurisdiction over Mission Bay, so do numerous other agencies such as the United States Coast Guard, California Department of Fish and Game, County Department of Environmental Health, and the City's Storm Water Pollution Prevention Program. The City of San Diego works together cooperatively with these other agencies to best utilize resources and to prevent duplication of services.

If the City determines that more City resources are needed than are normally available, the City has the means to provide it on a case-by-case basis. This holds true for the police, lifeguards, and park rangers.

- J. Statutes exist at the Federal, State and local levels that prohibit the discharging of oil and gasoline upon navigable waters, in general, and Mission Bay, in particular. If these statutes and ordinances at the Federal, State, and local levels are found**

insufficient for the purpose of citing two-stroke engine PWC operators, the City can adopt its own ordinance(s) to achieve the same effect.

The respondent agrees with this finding. It is true that there are Federal, State and local regulations that prohibit the unlawful discharge of oil and gasoline into navigable waters. It is also true that if these statutes and ordinances were found to be insufficient, the City of San Diego could adopt ordinances to address the issues. However, it has not been found that these statutes and ordinances are insufficient in prohibiting unlawful discharges of oil and gasoline into navigable waters including Mission Bay.

K. The designated stewards demonstrate inadequate awareness of these statutes concerning oil and gasoline discharge into Mission Bay.

The respondent disagrees with this finding. City staff is fully aware of all applicable statutes regarding the unlawful discharging of oil and gasoline into Mission Bay.

L. The designated stewards of Mission Bay, either as an act of omission or an act of commission, have not performed all of their designated duties.

The respondent disagrees with this finding. City staff has performed all of their designated duties, and there is no documented evidence that the use of two-stroke PWCs is the equivalent to unlawfully discharging oil and gasoline into Mission Bay.

M. Of 1442 tickets issued by the lifeguards during the period 1999 through 2002, not one was issued to two-stroke engine PWC operators for discharging oil and gasoline into the water and polluting Mission Bay.

The respondent agrees with this finding. There were no instances encountered by the lifeguards where two-stroke engine PWC operators were unlawfully discharging oil and gasoline into the bay. In the event that lifeguards encounter the unlawful discharge of oil or gasoline, the U.S. Coast Guard is contacted to investigate. According to Coast Guard records, there were 10 cases in 2002 involving petroleum discharges in Mission Bay. To date this year there have been 4 cases in Mission Bay. The majority of those were unfounded and none of the cases involved PWCs. In the cases that are not unfounded, the responsible party is cited and penalties are assessed.

Recommendations of the San Diego County Grand Jury 2002-2003

That the San Diego City Manager, Mayor of the City of San Diego, and the San Diego City Council:

- 03-17: Direct the designated stewards of Mission Bay to apply the local ordinances concerning the polluting effects of the two-stroke engine PWCs on the environment of Mission Bay and cite the violators, or, if it is necessary, enact new ordinance(s) to achieve the same results.**

The recommendation has been implemented. The City Manager has and does direct the responsible City departments to enforce local ordinances as a matter of his typical duties and responsibilities. The police, lifeguards, and park rangers are currently and continuously working in cooperation with other law enforcement agencies to enforce those laws.

As stated earlier, the City entities responsible for Mission Bay Park, including the Park and Recreation Department, Lifeguard and Rescue Services, Police Department, and the Storm Water Pollution Prevention Program, are committed to providing safe and quality recreational opportunities for residents and tourists of all ages and abilities. The professionals in these departments recognize that they have been entrusted to properly oversee the precious natural resources that are part of Mission Bay, and they take seriously the responsibility they have been empowered with to protect San Diego's most treasured resource for this generation of San Diegans and for future generations.

If it was determined that new ordinances were necessary to address concerns of pollution and two-stroke engines, the City Council could direct the City Manager to introduce new legislation. This would occur through the established legislative process.

That the San Diego City Manager:

- 03-18: Authorize also the lifeguards to be responsible for the enforcement of statutes concerning pollution of Mission Bay.**

The recommendation has been implemented. As stated earlier, lifeguards are already authorized to enforce statutes and local ordinances pertaining to unlawful oil and gasoline discharges. Lifeguards currently work in cooperation with the

U.S. Coast Guard, the California Department of Fish and Game, San Diego County Department of Environmental Health, and other City departments to ensure prudent investigation and prosecution of unlawful discharges into Mission Bay.



RECEIVED

JUL 29 2003

County of San Diego

WALTER F. EKARD
CHIEF ADMINISTRATIVE OFFICER
(619) 531-6226
FAX: (619) 557-4060

CHIEF ADMINISTRATIVE OFFICE

1600 PACIFIC HIGHWAY, STE. 209, SAN DIEGO, CA 92101-2472

July 29, 2003

The Honorable Richard E. L. Strauss
San Diego Superior Court, Presiding Dept.
220 West Broadway
San Diego, CA 92101

RESPONSE FROM COUNTY OF SAN DIEGO ON 2002-2003 GRAND JURY REPORTS

Dear Judge Strauss:

Attached, please find the County of San Diego Board of Supervisors' responses to six reports issued by the 2002-2003 San Diego County Grand Jury addressing County government issues and operations, for your transmittal to the Grand Jury. The attached material was approved by the Board of Supervisors on July 29, 2003 and addresses the following reports:

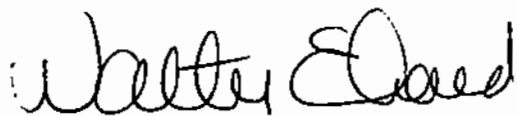
- 1.) Delay in Correcting an Ambiguous Ordinance: Public Administrator/Public Guardian 'Homeless' for Twenty Months,
- 2.) City of San Diego Development Services Department: A Case Study in Complaint-Resolution (Gone Awry),
- 3.) Foster Care Improving? County Leads the Way Toward Expanding Interagency Cooperation,
- 4.) The Tia Juana Valley County Water District: Why?
- 5.) San Diego County Department of General Services: Redirecting the Facilities Operations Division,
- 6.) Wrong Place? Wrong Time? Falsified Hall Checks by San Diego County Probation Officers at Juvenile Hall.

Page 2

The Honorable Richard E. L. Strauss
2002-2003 County Grand Jury Report Responses

The Board of Supervisors is scheduled to consider the Grand Jury's seventh and final report on County operations on August 12, 2003 and that report will be forwarded to you, as well, after that date. If you have any questions concerning the attachments or any related matter, please contact me at (619) 531-6226.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter Ekard". The signature is written in a cursive style with a large initial "W" and "E".

WALTER F. EKARD
Chief Administrative Officer

Attachment



COUNTY OF SAN DIEGO

BOARD OF SUPERVISORS

GREG COX
First District

DIANNE JACOB
Second District

FAM SLATER
Third District

RON ROBERTS
Fourth District

BILL HORN
Fifth District

AGENDA ITEM

DATE: July 29, 2003

TO: Board of Supervisors

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS (District: All)

SUMMARY:

Overview

On June 27, 2003, the 2002-2003 Grand Jury issued its Final Report. Included in this Final Report are seven individual reports containing recommendations to the Board of Supervisors and County departments on various subjects, including ordinance changes, foster care, probation officer investigations, city development services, facility maintenance and the Tia Juana Valley County Water District.

This is a request for your Board to review the draft responses prepared by the Chief Administrative Officer that respond to the findings and recommendations contained in six of these reports and to authorize the Chief Administrative Officer to transmit your Board's responses to the Grand Jury, via the Superior Court Presiding Judge.

Recommendation(s)

CHIEF ADMINISTRATIVE OFFICER

1. Authorize the Chief Administrative Officer to transmit the attached responses to the Grand Jury via the Superior Court Presiding Judge.

Fiscal Impact

There is no fiscal impact with this action.

Business Impact Statement

N/A

Advisory Board Statement

N/A

BACKGROUND:

On June 27, 2003, the 2002-2003 Grand Jury issued its Final Report. This document is a compilation of individual reports on various topics, some of which were released individually throughout April, May and June.

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

Included in the Final Report document are seven reports that direct recommendations to the Board of Supervisors and various County departments on ordinance changes, foster care, probation officer investigations, city development services, general facility maintenance, detention facility maintenance and the Tia Juana Valley County Water District.

This is a request for your Board to approve the attached finding and recommendation responses for six of these reports and authorize the Chief Administrative Officer to transmit these responses to the Grand Jury via the Superior Court Presiding Judge. The attached document contains proposed responses to the findings and recommendations directed to the County of San Diego in the following reports, entitled:

- 1.) Delay in Correcting an Ambiguous Ordinance: Public Administrator/Public Guardian 'Homeless' for Twenty Months (Attachment A),
- 2.) City of San Diego Development Services Department: A Case Study in Complaint-Resolution (Gone Awry) (Attachment B),
- 3.) Foster Care Improving? County Leads the Way Toward Expanding Interagency Cooperation (Attachment C),
- 4.) The Tia Juana Valley County Water District: Why? (Attachment D),
- 5.) San Diego County Department of General Services: Redirecting the Facilities Operations Division (Attachment E),
- 6.) Wrong Place? Wrong Time? Falsified Hall Checks by San Diego County Probation Officers at Juvenile Hall (Attachment F).

Proposed responses to the remaining report, "Conditions and Management of Detention Facilities in San Diego County," will be docketed for your Board's consideration on September 16, 2003. Grand Jury findings and recommendations directed to the County Sheriff will be addressed separately by the Sheriff, with copies sent to the Board of Supervisors, pursuant to Penal Code Section 933.05.

Linkage to the County of San Diego Strategic Plan:

The six Grand Jury reports listed above address issues associated with all three of the County's Strategic Initiatives: Improving Opportunities for Kids, Preserving and Protecting the Environment, and Promoting Safe and Livable Communities. The County's written response to these reports and recommendations also supports the Required Discipline of Accountability/Transparency, fulfilling our commitment to conduct County business as openly as possible.

Respectfully submitted,

WALTER F. EKARD
Chief Administrative Officer

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

AGENDA ITEM INFORMATION SHEET

CONCURRENCE(S)

COUNTY COUNSEL REVIEW	<input checked="" type="checkbox"/> Yes	<i>V. Titus</i>
Written Disclosure per County Charter	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Section 1000.1 Required		
GROUP/AGENCY FINANCE DIRECTOR	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
CHIEF FINANCIAL OFFICER	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
Requires Four Votes	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
GROUP/AGENCY INFORMATION TECHNOLOGY DIRECTOR	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
CHIEF TECHNOLOGY OFFICER	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
DEPARTMENT OF HUMAN RESOURCES	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
Other Concurrence(s):	Probation Department <i>1000.1</i> Department of General Services <i>A. Myer</i> Health and Human Services Agency <i>[Signature]</i> Department of Environmental Health <i>[Signature]</i>	

ORIGINATING DEPARTMENT: Chief Administrative Office

CONTACT PERSON(S):

Janice Graham

Name

(619) 531-6271

Phone

(619) 595-4060

Fax

A-6

Mail Station

Janice.graham@sdcounty.gov

E-mail

Name

Phone

Fax

Mail Station

E-mail

AUTHORIZED REPRESENTATIVE:

Janice Graham

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

AGENDA ITEM INFORMATION SHEET
(continued)

PREVIOUS RELEVANT BOARD ACTIONS:

N/A

BOARD POLICIES APPLICABLE:

Board Policy A-43, Response to Grand Jury Interim Reports

BOARD POLICY STATEMENTS:

N/A

CONTRACT NUMBER(S):

N/A

ATTACHMENT A

**COUNTY OF SAN DIEGO RESPONSE TO 2002-03 GRAND JURY REPORT
"DELAY IN CORRECTING AN AMBIGUOUS ORDINANCE:
PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN 'HOMELESS' FOR TWENTY MONTHS"
Issued April 29, 2003**

Finding A: March 1998, the San Diego County Board of Supervisors enacted an ordinance transferring the functions of the PAPG to the HHSA. In April 2001, the Office of the County Counsel wrote an opinion advising that changes needed to be made to correct the ambiguous language in the ordinance.

County Response: Agree.

Finding B: The former PAPG complained that as the result of the enactment of the 1998 ordinance, the PAPG's budget and personnel were controlled by the Director of HHSA with the result that the operation of the PAPG was adversely impacted. The present PAPG, when interviewed, assured the Grand Jury that during the nine months in the position these problems did not exist. The budget for the PAPG was completely under control, as was the hiring and firing of PAPG personnel.

County Response: Disagree in part. While it is common for any manager to advocate for more resources for his or her department, the PAPG, along with every other department County head, is subject to a budget process managed by the Chief Administrative Officer and a budget ultimately adopted by the Board of Supervisors.

Finding C: Although the PAPG, HHSA management, and the Office of County Counsel exchanged correspondence and held meetings between early 1999 and October 2002, no corrective action was taken apart from the issuance of the April 2001 County Counsel opinion.

County Response: Disagree in part. To the extent that the ambiguous Administrative Code provision created an inconsistency with the County Charter provision concerning CAO authority to appoint the PAPG, the County Charter provision controls. And, between 1999 and October 2002, the County was in full compliance with the Charter since the CAO appointed the new PAPG. The fact that the CAO appointed the PAPG is evidence that the County took corrective action, since the action complied with the Charter. The ordinance was revised after October 2002 to remove any ambiguity regarding the PAPG's appointing authority.

Finding D: The Chief Administrative Officer and the San Diego County Board of Supervisors were not copied with the April 9, 2001, opinion by County Counsel.

County Response: Agree.

County of San Diego Response to 2002-03 Grand Jury Reports

Finding E: The 2002-2003 San Diego County Grand Jury contacted the Office of the County Counsel in October 2002 with a request for background information about the alleged invalidity of the 1998 ordinance as it related to the transfer of the PAPG to the HHSA.

County Response: Agree.

Finding F: On December 10, 2002, the San Diego County Board of Supervisors enacted a new ordinance to correct the situation. Approximately twenty months had passed since the County Counsel opinion advising a change to correct the ambiguous language of the original ordinance (April 2001) and the enactment of the ordinance correction (December 2002). The Grand Jury learned that a correction of this type would have taken no more than 5 working days to prepare.

County Response: Disagree in part. While the period of time that elapsed between discovery of the ambiguous language and implementation of the solution was more than reasonable, it is important to note that the County fully complied with the applicable law (i.e., the Charter) since the CAO did appoint the new PAPG. Thus, there was no urgency to correct the Administrative Code ambiguity since it did not cause the County to be in non-compliance with applicable law.

In addition, between April 2001 and December 2002, County staff and managers identified, researched and analyzed various possible ordinance change options. While it may take five working days to accomplish the mechanical aspects of drafting an ordinance, that amount of time would not allow adequate time for staff to research all possible options; analyze potential impacts, ramifications, benefits and costs; and engage multiple affected parties in this process.

Finding G: Reasons for the delay never became clear to the San Diego County Grand Jury. Some of the reasons given to the Grand Jury were that 'it was something that just slipped through the cracks', 'it was at the bottom of the pile', and 'it wasn't a high priority item'.

County Response: Disagree in part. While it may be that these statements were made to the Grand Jury, they should be taken in context. Staff was correct to indicate that correcting an ambiguity in the Code was not a high priority since County staff fully understood that the Charter controlled operations and appointments and operations were in full compliance.

Finding H: During a 57-month period of time beginning in March 1998 through December 2002, no Director of HHSA assumed the responsibility of the PAPG position. The Director of HHSA was never directed to assume the responsibilities of the PAPG office by the CAO.

County Response: Disagree. During the 1996-1998 time frame, the County's new CAO implemented a broad reorganization of the County management structure. Departments were organized into five functional "Groups" that combined departments with similar functions. One of those Groups was the Health and Human Services Agency, formed by combining the Departments of Health, Social Services, Area Agency on Aging and Veterans Services. A short time later, it was determined that the PA/PG functions best fit within the HHSA.

County of San Diego Response to 2002-03 Grand Jury Reports

For management purposes, department heads were assigned to report to a Deputy Chief Administrative Officer or for HHSA, the Agency Director, who is also a Deputy Chief Administrative Officer. The DCAOs in turn report directly to the CAO. Therefore, the statement in paragraph 2 on page 1 of the Report that the ordinance directed the HHSA Director to assume the role and responsibility of the PA/PG is not accurate.

As with other HHSA functions, those performing the roles cited in the Administrative Code report to the HHSA Director for overall management purposes. Therefore, it was entirely appropriate for the three HHSA Directors to not personally assume the PA/PG role. Since it was later determined that the ordinance language created confusion with respect to the Charter requirement, the situation was reviewed by Counsel and the December 2002 ordinance corrected the language.

Finding I: The Grand Jury finds that, when there is an alleged violation of the County Charter or the California Government Code, the situation should be addressed by County management in an expeditious manner.

County Response: Agree. It must be noted that there was no violation of the County Charter or the California Government Code regarding the PAPG issue. Thus there was never a need for County management to address any alleged violation. In fact, as explained above, the County was fully in compliance with applicable law under the Charter with respect to the PAPG matter.

Finding J: It is the responsibility of the Board of Supervisors to bring all ordinances into compliance with the San Diego County Charter and California Government Code in a timely manner.

County Response: Disagree in part. While the Board of Supervisors is ultimately responsible for all County ordinances, the County Charter establishes a management structure that places day-to-day management of administrative matters under the Chief Administrative Officer, and day-to-day management of legal matters with County Counsel, both of whom are appointed by the Board of Supervisors.

It is an on-going responsibility of both the CAO and County Counsel to bring ordinances or Code sections to the Board's attention in a timely manner when compliance issues arise. Once this is done by the CAO and County Counsel, the Board is responsible to make the necessary corrections to such ordinances.

Recommendation 03-43: County Counsel is alerted to the fact that an ordinance may be out of compliance with controlling documents that County Counsel should, within 30 days, investigate the situation, take appropriate action, and provide written documentation.

County Response: The recommendation has been implemented. Except as stated in the last two sentences in this reply, Recommendation No. 03-43 describes actions that County Counsel has performed, presently performs, and will continue to perform with respect to County ordinances that may be out of compliance with other controlling laws. In this regard, we agree

with this recommendation. However, there will be circumstances in which such actions cannot be completed within 30 days due to the complexity of a particular issue. Therefore, while we agree with the intent of the recommendation, we would not impose a fixed time limit, 30-day or otherwise, on this activity as some situations will require more time to resolve than others.

Recommendation 03-44: County Counsel renders an opinion, stating that an ordinance enacted by the Board of Supervisors contains ambiguous language or possibly violates San Diego County Charter provisions or State law, that opinion is copied to the San Diego County Chief Administrative Officer and all of the Director(s) of the department or agency(ies) involved. All parties must then respond, in writing, to the situation within 30 days (sending copies to all involved along the way).

County Response: This recommendation has been implemented. It should be noted, however, that Counsel will take this course of action only when the circumstances of a situation warrant such action and are appropriate, based on the legal issues and needs of the particular County clients. While Recommendation No. 03-44 may be an appropriate response in certain circumstances, agreement with this recommendation is limited to only those circumstances where the recommended action is appropriate based upon the facts of the situation.

To the extent that the legal needs of the County require County Counsel to take a different approach to address a legal issue, Counsel opinions are copied as appropriate to the situation, and only to those on a "need to know" basis since County Counsel's legal advice constitutes confidential attorney-client communications. There may be legitimate legal reasons that Counsel will limit confidential legal advice given to the Board of Supervisors and the CAO, without copying other Directors of a department or agency involved. In addition, requiring formal written responses to every possible situation may not be the most efficient use of County resources in all circumstances.

Recommendation 03-45: An ordinance directs that a County officer assume responsibilities associated with a specific position, that officer should act immediately to comply with the ordinance or notify the Chief Administrative Officer, in writing, within 30 days, stating the reasons s/he could or should not comply.

County Response: This recommendation will not be implemented. While we agree that a County officer, under the circumstances described in this recommendation, should either comply with the ordinance or notify the CAO of his/her reasons for non-compliance, we do not agree that the notice always be in writing, always be within 30 days, or always be provided to the CAO. It may be that such a notice cannot and should not (1) be in writing, (2) be provided in 30 days, or (3) be provided to the CAO in every instance. Rather, it may be that, under certain circumstances, such notice should be verbal, cannot be provided within 30 days, or should be provided to another County body or officer, such as the Board of Supervisors, County Counsel, or the Chief Financial Officer, for example.

As noted in the response to Finding H, the ordinance at issue did not direct a County officer to assume responsibilities associated with a specific position. Therefore, there was not a need in

County of San Diego Response to 2002-03 Grand Jury Reports

this situation for a County officer to assume responsibilities or to notify the CAO of reasons why not to comply.

ATTACHMENT B

**“CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT:
A CASE STUDY IN COMPLAINT-RESOLUTION (GONE AWRY)”
Issued April 16, 2003, Received May 1, 2003**

Finding 2: The Seabreeze Farms Equestrian Center may be in violation of the San Diego Municipal Code 44.0308 (a); both literal and conservative counts of dwelling units within the one-fourth mile wide belt result in numbers in excess of 300.

The Development Services Department (DSD) applied a strict interpretation and application of the San Diego Municipal Code 44.0308 (d). A more reasonable interpretation could have caused measurement to originate at the jump area fence and at the outer edge of the horse wash racks. Certainly, a preferable option is that of measuring from the outer edge of any significant “equestrian use”. Even better, a 75-foot separation beginning at the homeowners’ property lines to the “equestrian use” should be specified. Public health and safety concerns should require an interpretation resulting in the widest possible buffer.

County Response: Disagree in Part. San Diego Municipal Code 44.0308 requires...(d) no residence or dwelling exists except such as are owned, maintained or occupied by the owner of such horses within a 75’ wide belt surrounding the stable, corral or pasture within which such a horse is kept. The County DEH issued a permit on April 25, 2003, to David Goddell, 5720 Carmel Valley Road, San Diego, operator of the Equestrian Center, after determining the Center had complied with stated distance to dwellings. That permit was issued after a County DEH review to confirm compliance with the 75-foot buffer zone requirement in the Municipal Code, as interpreted by the City of San Diego. Establishment of the present 75-foot buffer based on that interpretation is adequate for public health and safety concerns when all sanitation procedures are observed.

On February 7, 2003, an inspection of the Seabreeze Farms by County DEH, as part of their permit application, showed all manure management practices and vector control procedures were in place and being followed. No subsequent substantiated complaints have been received by County DEH. Establishment of any wider buffer zone, or reinterpretation of the current Municipal Code to establish greater buffer zones in actual practice, would be a land use matter rather than a health and safety matter. Establishing a larger buffer zone based on the interpretation proposed in the report could be problematic in actual practice.

County DEH did not participate in a review for compliance with San Diego Municipal Code 44.0308 (a), regarding dwelling units within one-quarter mile of a proposed facility. The City and County both consider this requirement to be essentially a land use policy, not a public health and safety requirement. In the past, revisions to the Municipal Code have been suggested to City staff by County staff, to clarify that applying this requirement is properly an issue for the City, not for County DEH.

Finding 4: The Development Services Department staff failed to consider “quality of life” issues for the neighboring homeowners by: (1) allowing the construction of the horse wash racks between the large barn and property line (a visual nuisance not shown on any conceptual plan); (2) allowing placement of the dressage or training arena directly behind the properties at the southern end of the facility (a noise and dust nuisance that was shown elsewhere on the conceptual plan); and (3) allowing the site manager to consistently violate his own manure management plan (a public health nuisance).

County Response: Disagree in Part. Manure management, fly, rodent, vector, and dust control plans were provided by Seabreeze Farms and submitted to County DEH in their permit application. The County DEH does not perform scheduled inspections of these permitted facilities and only responds to complaints from the general public. There are no records of fly complaints received concerning Seabreeze Farms by County DEH Vector Surveillance and Control. Flies were not observed in and around the barn during an inspection of the facility on February 7, 2003, which was performed by County DEH as part of the permit application process. Noise generated during manure processing/removal is unavoidable; this is not a regulated public health or safety issue. The County’s responsibilities for these kinds of facilities within the City of San Diego do not extend to “quality of life” issues that are not health and safety issues; therefore, the County has no further response to this finding.

Finding 4: The Department of Environmental Health was, until mid-January 2003, unaware of the existence of the equestrian center. This agency needs to be included in the loop earlier, for development and construction projects involving large-scale animal facilities, if it is to fulfill its responsibilities for public health and sanitation.

County Response: Disagree. County DEH was involved in the review of aspects of this proposed facility very early in the City’s permitting process. County DEH staff participated in CEQA review for this project, in evaluation of compliance with the 75-foot buffer zone requirement, and in the review of the operator’s manure management, fly, rodent, vector, and dust control plans. County DEH was “in the loop” early enough to address public health and sanitation issues.

Recommendation 03-26: The San Diego Grand Jury Recommends that the Director, Department of Environmental Health: Recommend to the City Council an amendment to Municipal Code Chapter 4: Health and Sanitation Article 4: Disease Control-Nuisance Division 3: Animals 44.0308 Horses by:

1. Replacing the words stable, corral and pasture with the phrase “equestrian uses.” The intent of this change is to include nighttime and daytime activities as well as permanent and non-permanent equine and equine-related structures and facilities.
2. Clarifying the meaning, intent and use of the words, “dwelling,” “residence,” “corral,” and “pasture.”
3. Changing section (d) to read that the 75-foot wide belt extends from the outer edge of any equestrian use and terminates at the homeowner property line.

County Response: The recommendation will not be implemented because it is not within the County of San Diego's jurisdiction. Sections 1 and 2 are City of San Diego zoning issues, wholly under the jurisdiction of the City and, as such, should be considered by the City. Regarding Section 3, County DEH believes the 75-foot buffer, as interpreted by the City (and as applied in this case by the City and by County DEH) adequately protects public health and safety. At present, the interpretation of San Diego Municipal Code 44.0308 is at the discretion of the City of San Diego. The County's interest is the protection of public health and safety, which the 75-foot buffer provides.

Recommendation 03-27: Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the site's manure management program.

County Response: The action described in this recommendation has been taken. County Environmental Health staff advised Seabreeze Farms that they are available for consultation on all aspects of manure and vector control during a February 7, 2003 inspection. Staff from Seabreeze Farms did subsequently contact County DEH in May 2002 for recommendations on manure management and County staff provided Seabreeze Farms with manure disposal procedures, and instructions on transporting manure, fly control and water runoff.

Recommendation 03-28: Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the sites fly control, dust control, rodent control and vector control programs.

County Response: The action described in this recommendation has been taken. Like Recommendation 03-27, Recommendation 03-28 has also already been implemented. The County DEH, during its February 7, 2003 inspection, advised Seabreeze Farms that it would be available for consultation on all aspects of manure and vector control issues. This was also discussed at the request of Seabreeze staff in May 2002.

Recommendation 03-29: Work in consultation with Sandown Way and Rider Place residents whose properties abut the equestrian center's boundary, to:

1. Relocate the horse wash racks (a visual nuisance) to another location,
2. Relocate the dressage arena (a noise and dirt nuisance behind the Rider Place residents) in accord with the conceptual layout.

County Response: The recommendations will not be implemented as they are not public health and safety issues. Visual nuisances and compliance or non-compliance with conceptual plans are concerns that are not regulated by the County within the city limits of San Diego. Noise issues within the city limits are under the jurisdiction of the City of San Diego.

County of San Diego Response to 2002-03 Grand Jury Reports

Recommendation 03-30: Perform the measurements specified in the San Diego Municipal Code 44.0308 (a) and (d) (i.e., one-fourth mile and 75-foot wide belt measures) at the Seabreeze Farms Equestrian Center owner's expense and take whatever action is necessary as a result.

County Response: The recommendation will not be implemented because it would establish a new set of measurements to be performed by County DEH, even though the City and County have already confirmed compliance with the section 44.0308(d) 75-foot buffer zone requirement as established by the City. The existing interpretation protects public health and safety. As stated above, the County considers the section 44.0308(a) requirement to be a local land use matter, not a public health and safety matter.

ATTACHMENT C

**“FOSTER CARE IMPROVING? COUNTY LEADS THE WAY
TOWARD EXPANDING INTERAGENCY COOPERATION”**

Issued May 6, 2003

Recommendation 03-46: Immediately form a task force to develop within six to eight months, a uniform mandate that clearly defines policy and procedures to ensure continuity across agencies and school districts in order to provide quality educational outcomes for San Diego County foster youth. The mandate would include uniform procedures for schools, Health and Human Services, Probation, the Courts and substitute care providers to assure the complete and timely transfer of school and medical records of children who are dependents of the Court. The policies would be developed in conjunction with the San Diego County Office of Education’s Foster Youth Services Program.

County Response: The recommendation will not be implemented because there is already a committee in place to ensure continuity of policies and procedures across agencies and school districts. The Education Committee, chaired by Judge Susan Huguenor, includes the County Office of Education, the courts, the Health and Human Services Agency, Voices For Children, and several other agencies that are committed to ensuring continuity with regard to policies and procedures. In addition to the Education Committee, the Foster Youth Services Advisory Committee is committed to facilitating the exchange of health and education information among agencies providing services to foster youth. This committee is also committed to overcoming obstacles related to sharing information while maintaining confidentiality.

There is also a Health and Human Services Agency policy (Children’s Services Special Notice #12 – 03), which ensures that children are properly dis-enrolled from school when appropriate. The policy provides that a transfer form be sent to the new Substitute Care Provider, the new school, and copied to the regional Health and Education Passport (HEP). This transfer form documents all relevant information about the child’s previous school and credits earned.

Recommendation 03-47: In partnership with the San Diego County Superintendent of Schools, establish a task force to ensure shared responsibility and accountability for all San Diego County foster care children.

County Response: This recommendation will not be implemented because there is an existing agreement between the Health and Human Services Agency and the County Superintendent of Schools in which all parties agree to continue developing a collaborative relationship using resources to best meet the educational and mental health needs of our children/youth and families. The Education Committee and the Foster

Youth Advisory Committee meet each month to work on collaborative problem solving methods.

Each school district in San Diego County has appointed a liaison to assist with problem solving in this area. In addition, San Diego Unified School District has also assigned a liaison to work with HHSA for the benefit of foster children.

Recommendation 03-48: Seek legislation to modify the licensing requirements for the unique situations at San Pasqual Academy to reflect the realities of a boarding school as compared to a group home. These modifications would remove barriers that prevent youth from participating in enrichment activities due to licensing regulations.

County Response: This recommendation will not be implemented because staff is already working with State and federal agencies to assure the needs of the Academy students are addressed. To meet the needs of the adolescent foster youth at the San Pasqual Academy, the County is pursuing regulation changes that would take into consideration the Academy's focus on independent living skills.

Recommendation 03-49: Consider establishing a second San Pasqual Academy type of facility to accept middle-school aged youth as well as high school students, not only to service more students but to intervene earlier in this educational life.

County Response: This recommendation will not be implemented because research has shown that the emphasis for younger and middle school-aged youth should be placed on finding adoptive or foster homes. High school-aged children, however, are more difficult to place in permanent homes and that is why the Academy was developed for that specific age group.

Within the Academy's independent living skills environment, the youth focus on furthering their education and vocational skills. It will be important, over the next few years, to examine the level of success at the new campus to ensure that the students can build a firm foundation for an independent adulthood.

Recommendation 03-50: Provide each school-age foster child with multiple copies of his/her HEP before a placement change.

County Response: This recommendation will not be implemented because the action recommended is already being taken. The children's Substitute Care Providers (foster parent, relative or group home) are currently provided with this information when a placement change occurs. Division 31 regulations of the California Department of Social Services, Child Welfare Manual require that a health and education summary be provided to the Substitute Care Provider 30 days after the initial placement or 48 hours after a change of placement. The Health and Human Services Agency policy (Children's Services Special Notice #09-02) reiterates this for social workers. This special notice

also emphasizes the importance of providing the caregiver the health and education summary at the time of placement.

Recommendation 03-51: Require that social workers document the record transfer of both education and medical records whenever there is a change of placement, whether the change involves group or individual homes.

County Response: The County will not implement this recommendation because it has already implemented a procedure for this documentation. Social workers are already required to document the record transfer of both education and medical records whenever there is a change of placement. The social worker is responsible for ensuring documentation of the date the Substitute Care Provider was given the health and education information. The social worker must document all known health and education information or complete a Health and Education Passport. Division 31 regulations of the California Department of Social Services, Child Welfare Manual also require this documentation.

ATTACHMENT D

“THE TIA JUANA VALLEY COUNTY WATER DISTRICT: WHY?”

Issued June 27, 2003

The 2002-2003 San Diego County Grand Jury recommends that the San Diego County Board of Supervisors:

Recommendation 03-82: Review the activities of the Tia Juana Valley County Water District and initiate proceedings for the dissolution of the District, so that District tax payers are freed from an unnecessary, open-ended tax assessment.

County Response: The recommendation will not be implemented by the County because it would be more appropriate for a dissolution request to be initiated by the City of San Diego or the San Diego Local Agency Formation Commission.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 allows local agencies to apply for dissolution of a district when there is a successor agency to assume all assets and liabilities. In this case, virtually all properties in the Tia Juana Water District receive water and sanitation services from the City of San Diego which, as the most logical successor agency, would be the most significantly impacted by such an action.

ATTACHMENT E

**“SAN DIEGO COUNTY DEPARTMENT OF GENERAL SERVICES:
REDIRECTING THE FACILITIES OPERATIONS DIVISION”**

Issued June 27, 2003

Finding A: The Director of the Department of General Services and Department management personnel have addressed, corrected, and instituted new procedures to overcome the problems outlined in the complaints.

County Response: Agree.

Finding B: As a result of the Memorandum of Agreement with the Sheriff, the Facilities Operations Division management personnel have made significant changes to improve the conditions outlined in the complaints.

County Response: Agree.

Finding C: The Facilities Operations Division employees, interviewed by the Grand Jury, are willing and able to perform job assignments and are satisfied with their general working conditions.

County Response: Agree.

Finding D: The County departments, investigated by the Grand Jury, are satisfied with the new direction, which the General Services Department management has undertaken, and the Facilities Operations Division employees generally provide timely and supportive maintenance to the County departments served by the MOA with the Sheriff.

County Response: Agree.

Finding E: The recommendations in the 2001-2002 San Diego County Grand Jury report titled, “County General Services, Support of Detention Facilities” and the 1999-2000 San Diego County Grand Jury report titled, “Detention Facilities of San Diego County” have been addressed and improvements have been made.

County Response: Agree.

Recommendation 03-69: Continue to monitor the San Diego County Department of General Services to ensure that Facilities Operations Division staff perform their duties in

County of San Diego Response to 2002-03 Grand Jury Reports

an efficient, timely and professional manner, and that the County departments served by the Memorandum of Agreement continue to be satisfied with such efforts.

County Response: The recommendation has been implemented. The Department of General Services has provided the Sheriff's Department with access to the Facility Center Computer Maintenance Management System. Upgrades to the system are being implemented to provide enhanced access, data loading and status reporting via the WEB. This system is the single point of entry for execution of all work on County Facilities. It also provides the basis for budget development and identifies fiscal requirements based on a priority system. Allocations of funds via the Capital Improvement Plan are made annually or, for emergent issues, special funding can be identified via the newly established Facility Planning Board.

In addition to the condition Assessments discussed in the May 30, 2002 report, the Department of General Services has instituted an internal quarterly Facility Assessment Program to provide documentation for the Annual Inspection Summary (AIS). The AIS provides the basis for fund allocations under the Capital Improvement Plan process. This program will also identify those assets, whose functional life cycle is at an end, eligible for replacement under the Capital Renewal Plan. This plan focuses on planned, predictive replacement versus replace upon failure thereby limiting impacts of facility operations and performance of mission.

Routine meetings occur between the Sheriff's Department and Department of General Services to review ongoing issues and identify upcoming needs. Requirements to support the program are being addressed through a combination of these routine meetings, Sheriff Department direct access to the CMMS for project & work order loading and via the Annual Inspection Summary. These efforts combine to become part of the Capital Improvement Plan where funding requirements are identified for prioritization and allocation during the budget process.

ATTACHMENT F

“WRONG PLACE? WRONG TIME? FALSIFIED HALL CHECKS BY SAN DIEGO COUNTY PROBATION OFFICERS AT JUVENILE HALL”

Issued May 14, 2003

Finding A.: During the week in question, there were approximately 58 staff members on the late night shift duty. Thirty-seven officers and two student workers failed to make the mandatory hall checks and made false log entries. An investigation ensued.

Finding A1: The investigation by the San Diego County Probation Department of the October 11-16, 2001 hall check incident was not conducted in a fair and impartial manner.

County Response: Disagree. The San Diego County Probation Department investigation was conducted pursuant to Government Code 3300, Peace Officers Bill of Rights, and the Probation Department’s Policy & Procedures regarding Internal Affairs investigations.

Finding A2: Three supervisors who conducted the investigation had no previous investigative experience. These investigating officers were supervisors from either the day or early night shift during October 2001 assigned to Juvenile Hall, just one step in rank above those being investigated. They were investigating officers who were often social friends or acquaintances from different shifts. During an interview, one of the investigators stated how difficult it was to conduct the investigation. The investigator shared how much peer pressure was endured both during and after the investigation.

County Response: Disagree. The three supervisors selected to conduct the investigation were knowledgeable of Juvenile Hall’s working environment and Juvenile Hall’s Policy & Procedures. These supervisors had prior training and/or experience in conducting investigations.

Finding A3: The SDCPD did not seek the assistance of the San Diego County Internal Affairs Department, which employs expert investigators. The Grand Jury has verified that the San Diego County Internal Affairs Department did have sufficient personnel to conduct such an investigation at the time in question.

County Response: Agree. However, the San Diego County Probation Department did not seek assistance from the CAO’s Office of Internal Affairs (OIA) because OIA staff has no authority to investigate peace officer violations. Therefore, availability of OIA staff is irrelevant.

Finding A4: The SDCPD chose not to utilize personnel from the Department's own Internal Affairs Division to conduct the investigation because it allegedly did not have sufficient staff to handle this assignment.

County Response: Disagree. Internal Affairs Unit personnel advised and reviewed all investigative reports and were available for consultation.

Finding A5: The investigators often discussed their investigation results with the Director of Juvenile Hall and the Internal Affairs Director of the SDCPD. Those contacts give the appearance of "command influence." This "command influence" problem would not have been an issue had the County Internal Affairs Department conducted the investigation.

County Response: Disagree. The final results of all investigative reports are reviewed by the Internal Affairs Supervisor, and Probation Human Resources Manager for correctness and consistency, and the Service Director and Deputy Chief Probation Officer for recommendations of disciplinary action, in compliance with the Peace Officers Bill of Rights.

Finding A6: The investigators discussed the interviews with each other, and then by agreement tried to assign friends or work associates to another investigator. Even in cases they chose not to hear, they often sat in as "back up." For the most part, a team of two investigators conducted each interview.

County Response: Agree. Investigators are expected to share information with each other for fairness and consistency in this investigation. It is also standard procedure for all investigations to have two interviewers for each interview.

Finding A7: This investigation has had, and will have, a great impact on both the morale and efficiency of the SDCPD and should have been conducted by the most competent personnel available.

County Response: Disagree. By saying that the investigation "should have been conducted by the most competent personnel available," Finding 7 implies that it was not. The County disagrees with this finding. The Probation Department chose the investigators based on their knowledge and experience of the working environment and the Juvenile Hall's Policy and Procedures manual. The Internal Affairs Unit coordinated the investigations of these cases and reviewed all the investigative reports for consistency and compliance with the aforementioned policies.

Finding A8: Of the 37 officers disciplined or terminated, only two had received substandard ratings prior to October 2001; the rest were rated as competent employees. Two of them had been chosen the Probation Department's "Employee of the Year." Some were mentors to their fellow employees. Many had worked for the SDCPD for over 20 years.

County of San Diego Response to 2002-03 Grand Jury Reports

County Response: Disagree in part. Of the Officers disciplined or terminated, only one employee (who resigned in lieu of termination) had over twenty years of service.

Finding A9: The background check procedure for SDCPD officers is very involved and includes psychological testing. This system disqualifies many applicants and makes it difficult to find eligible line and entry-level candidates for employment. These facts support the statement that many of the fired officers had impeccable backgrounds prior to being hired.

County Response: Agree. A thorough background investigation was conducted on all of the officers. They met the minimum standards required for Peace Officers.

Finding B: The Probation Department's investigation focused on personnel assigned only to the late night shift. One of the three investigators reviewing the videotapes with the Grand Jury admitted that violations of the 15-minute hall checks did occur on the early night shift.

Finding B1: Videotapes of the early night shift of the same October 11-16, 2001 period were reviewed by the Grand Jury.

County Response: Disagree in part. The Grand Jury only reviewed a segment of one videotape of Unit 800 and watched thirty to forty-five minutes of the tape.

Finding B2: The Grand Jury's review disclosed that the some hall checks were not made on the early night shift as well as on the late night shift.

County Response: Agree.

Finding B3: Other security violations, such as "popping doors" (opening cell doors from a switch at the guard station without a probation officer in the hallway) and walking in front of wards were viewed on the videotapes.

County Response: Agree.

Finding B4: Two officers, from the early night shift, received disciplinary action. They were found not performing mandatory hall checks during the early night shift. These same two officers were seen on a piece of overlapping videotape reviewed by the three investigators. These two officers received five-day suspensions for missing one hall check.

County Response: Agree.

Finding B5: The facts discovered were communicated to SDCPD management by the investigator reviewing the videotapes along with the Grand Jury.

County Response: Agree.

Finding B6: As of late April 2003, the Grand Jury had not been advised that other shifts have been investigated for violations of hall check regulations.

County Response: Agree.

Finding B7: Management stated that they did not investigate the other shifts because during the daytime and early night shifts there is so much other staff activity going on in the hallways that hall checks on a regular basis are not as likely to be missed.

County Response: Agree.

Finding C: The investigation conducted by the SDCPD did not adequately cover the conduct of supervisors to determine if they had any accountability or responsibility for the events of October 11-16, 2001.

Finding C1: Several of the officers interviewed stated that their supervisors were aware of the so-called practice of "catching up" and had condoned this practice.

County Response: Agree.

Finding C2: Several supervisors were questioned. The three investigators questioning the supervisors were of the same rank as the supervisors being questioned. All were assigned to one of the three shifts as supervisors.

County Response: Disagree in part. The Internal Affairs Supervisor conducted the majority of the Supervisor interviews. The three investigators conducted some preliminary interviews of Supervisors, Senior Probation Officers, and former employees.

Finding C3: These supervisors denied having any knowledge of the "catching up" practice and stated they would not condone it.

County Response: Agree.

Finding C4: The allegations, made by the officers, that supervisors knew of the practice of "catching up" has credibility because of the approximately 58 people who were on the late night shift of October 11-16, 2001, 39 received disciplinary action for misconduct related to "catching up" the logs. Clearly the supervisors could not have been totally unaware that the hall checks were not being made if the practice was that widespread.

County Response: Disagree. As noted in the Civil Service Commission conclusions and supported by the Superior Court findings, the “Employees did not present any convincing evidence of supervisory complicity in their practice of falsifying” and “Employees did not perform a majority of the required hall checks; Employees falsely recorded these unperformed hall checks as completed; and the Department regularly reminded Employees of the need for hall checks through memos, supervisor’s meeting minutes, and at meetings. Additionally, the Department presented circumstantial evidence that Employees were acutely aware that they were engaged in misconduct that they were trying to hide from their supervisors.”

Finding C5: The supervisors should have been disciplined along with the officers, as they were negligent in performing their duties. It appears that the supervisors overlooked violations of the policies and procedures over an indeterminate period of time.

County Response: Disagree. The Department investigated allegations of Supervisor misconduct and found no evidence of misconduct.

Finding C6: The credibility of the supervisors in this instance of misconduct was neither aggressively nor competently pursued.

County Response: Disagree. As noted in the Civil Service Commission conclusions, “Employees attempted to show that the practice was approved by Department supervisors. While it appears obvious from the number of employees being disciplined that such a practice existed among them, they were unable to present any convincing evidence of direct statements or other communications from Department supervisors approving it. Employees’ evidence of Departmental approval consisted primarily of implication and innuendo through the alleged presence of supervisors during incidents of falsification or their disputed use of terms like “catch it up.” Employees did not present any convincing evidence of supervisory complicity in their practice of falsifying.”

Follow-up investigation: “Approximately sixteen Supervisors, thirteen Senior Probation Officers, five Correctional Deputy Probation Officer II, two Directors, and one retired Assistant Chief Probation Officer, (thirty-seven total) were named by terminated Officers either during the Internal Affairs interrogations or the Skelly Conference. Most of the allegations were vague or non-specific and no follow-up investigations were conducted. In those cases where specific dates or incidents were recalled and/or witnesses identified (16 out 37), follow-up investigations were conducted in person, by telephone, written statements, or videotape review.”

Finding C7: A retraining program is needed for supervisory and management personnel. Due to the systemic nature of the problem (over 60% of one shift being found guilty of similar offenses) the situation appears more widespread than the firings presents.

County of San Diego Response to 2002-03 Grand Jury Reports

County Response: Disagree in part. Supervisors and management personnel attend a minimum of forty hours training annually. Probationary Supervisors attend an eighty hour training, during their first year, that is mandated by Standards and Training for Corrections (STC). Additionally, the Probation Department provides a twenty-four hour Supervisor Development Academy for new Supervisors that emphasizes personnel matters. Juvenile Hall Supervisors receive on-going training regarding institutional policies and procedures, as well as department wide topics.

Finding D: The regulations, of the California Board of Corrections regarding the hall checks, are set forth in a large SDCPD Manual which is given to each officer when s/he begins.

Finding D1: This Manual must be returned to the Department after the probation officer completes his/her initial training period, which is usually 30 days.

County Response: Disagree in part. The Manual is returned in thirty days unless the employee needs additional time. The manual is also in each living unit.

Finding D2: The training techniques in effect prior to the October 2001 period did not prioritize the mandatory hall check policies and procedures over other regulations nor did they indicate the serious consequences of not performing or correctly documenting the mandatory hall checks.

County Response: Disagree. All employees receive formal training that includes the requirement to perform hall checks every fifteen minutes and the justification and necessity of checks in order to protect the health and welfare of the Detainees.

Finding D3: After the problem was discovered SDCPD senior management stressed to the Grand Jury the fact that making 15-minute hall checks and their proper logging is paramount.

County Response: Disagree. Senior management has always stressed to employees that fifteen-minute hall checks and their proper documentation are paramount.

Finding D4: The officers allege that several supervisors stressed to the officers, in their charge, that the requirement of having the log books up to date and filled in completely was much more important than having the log books reflect late hall checks. Missing or incorrect logbook entries reflected poorly on the supervisors in charge.

County Response: Disagree. The Supervisors stressed to the Officers that conducting fifteen-minute hall checks and documenting was paramount. Supervisors continually reviewed the logbooks to ensure compliance.

Finding D5: In the week following the announcement that there would be an investigation of the violations of October 2001, the log books of one of the three investigator's showed 99 late log book entries. The week before the announcement, there were nine late entries, which give the appearance that completeness was more important than accuracy to the supervisors.

County Response: Disagree. The number of late hall checks only illustrates timeliness of hall checks, not completeness and accuracy.

Finding D6: A Union Tribune article states that "...a February 2002 audit of the county facility by the State Board of Corrections found that the hall check policies were deficient and that the county had not put them into its Policies and Procedures Manual (two months before workers were fired)."

County Response: Agree. However, the Union Tribune article is inaccurate. The Board of Corrections audit, in February 2002, was also inaccurate and a subsequent letter from the Board of Corrections stated we were in full compliance with Title 15 Regulations of hall checks.

Finding D7: The Grand Jury did see a copy of a memo from a Juvenile Hall supervising officer which read "Re: Hall Check Policy, Dated: November 8, 2000. It has come to my attention that the hall checks have not been conducted in a timely manner. In fact, the entire log has not been completed properly. It is imperative that all staff adheres to the juvenile hall policies and procedures and completes this document as prescribed in the policy. I am aware that you are very busy; however, this is a legal document and must be completed per hall check policy 9.8.11.1. Please sign and date that you are aware of this section and understand the contents."

County Response: Agree.

Finding E: There is no evidence, pre-October 2001, that the regulations dealing with the hall checks are stressed above other procedures when reportedly the hall checks are of the utmost importance to the security of Juvenile Hall.

Finding E1: The Manual notes many equally important procedures, such as: Temporary Assistance to Needy Families (TANF) report completion; medical consent forms and their proper completion; intake forms and their proper completion; always walking behind wards; not "popping doors" (the practice of opening a cell door from the control center without a probation officer present in the hallway); etc.

County Response: Agree.

Finding E2: The regulations dealing with hall checks were not posted in the command center of each cellblock. This would have put the probation officers on notice that these regulations were very important.

County of San Diego Response to 2002-03 Grand Jury Reports

County Response: Disagree in part. As noted in the Civil Service Commission Conclusions "The testimony of Department supervisors and the Training Officer in which they denied instructing or encouraging the falsification of hall check records. To the contrary, they stated that they emphasized the importance of actually performing hall checks per policy in order to ensure the health, safety, and security of custodial wards. The Department also repeatedly emphasized the importance of proper hall checks in various memos and meetings."

Finding F: The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation. Upon initial employment, every probation officer signs a document agreeing to this policy.

Finding F1: The regulations associated with punishment did not set forth any specific provision that violating the hall checks and log entry rules would subject the violator to a specified punishment such as discharge.

County Response: Disagree. The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation.

Finding F2: The Grand Jury observed other safety related violations, such as "popping doors" and walking in front of wards.

County Response: Agree.

Finding F3: The Grand Jury found evidence that discipline for infractions of Probation Department regulations has been enforced inconsistently. Discipline has ranged from as minor as counseling to as major as discharge.

County Response: Disagree. The level of discipline is based on the type and severity of misconduct, the mitigating circumstances, and employees' prior disciplinary history.

Finding G: Frequently Core Training was not given to newly hired SDCPD officers until they had been on the job for some time.

Finding G1: Allegedly one officer did not receive Core Training within the first year.

County Response: Disagree. All available Officers received CORE training within their first year of employment.

Finding G2: The Manual states that Core Training must be completed within the first year of employment. The Grand Jury believes that the specified time period for completion of Core Training should occur within the first three months of employment.

County of San Diego Response to 2002-03 Grand Jury Reports

County Response: Disagree in part. The Probation Department does not hire a sufficient number of new employees to conduct CORE Training during the first three months. However, all Juvenile Institutions employees receive forty to eighty hours of training prior to being assigned to a unit.

Finding G3: SDCPD officers who have not received Core Training customarily are placed in a cellblock under the supervision of a fully trained officer. Events could unfold that would disable or distract the trained officer and leave wards security in the hands of an untrained officer.

County Response: Disagree. All new employees receive forty to eighty hours of training prior to being assigned to a unit. Per Title 15, California Code of Regulations mandates that all child supervision staff shall receive at least 40 hours of training before assuming responsibility for the supervision of minors.

Finding H: SDCPD officers are allowed to keep the Manual in their possession for only 30 days after initial employment.

County Response: Disagree. The manual is returned in thirty days unless the employee needs additional time. The manual is also in each living unit and is accessible on line.

Recommendation 03-60: Ensure that there are policies and procedures in place requiring the use of outside investigators (San Diego County Internal Affairs Department or some other objective, impartial group) in all San Diego County Department disputes involving large-scale investigations, which could ultimately result in the discharge of multiple employees.

County Response: The recommendation will not be implemented because it is not warranted. The San Diego County Office of Internal Affairs investigates allegations of improper county government activities, discrimination based on race, color, religion, sex, national origin, age, or disability, and protects the complainant from any act of reprisal for reporting such allegations. They do not investigate allegations of law enforcement misconduct.

Recommendation 03-61: Ensure that investigations are conducted in a fair and consistent manner. A thorough investigation would require that all shifts be reviewed – especially since shifts rotated every 3 months. It is possible that other people may have made the same mistakes as those for which people were discharged on the late night shift.

County Response: The recommendation will not be implemented because it is not warranted. The Probation Department conducts fair and consistent investigations. Each investigation is conducted based on the merit of the case.

Recommendation 03-62: Amend the Juvenile Hall Policy and Procedures Manual to include a more definitive statement emphasizing the importance of hall check and log-in procedures. For example: "A hall check must be recorded when completed."

County Response: The recommendation has been implemented and the action recommended has already been taken. The Policy and Procedures Manual was revised in October of 2002, to re-emphasize the importance of hall checks and proper documentation.

Recommendation 03-63: Provide Core Training to all new hires within at least 90 days after employment rather than within the first year. Policies and procedures must be fully understood prior to placing officers in charge of juvenile wards in all Juvenile facilities.

County Response: The recommendation will not be implemented because it is not reasonable. The Board of Corrections regulations require CORE training to be completed within the first year of employment. They recognize after 20 years of monitoring that it is unrealistic to make a requirement that departments complete CORE training within the first 90 days. Our Department does not hire enough employees to conduct Core Training within the first 90 days. However, all new employees receive forty to eighty hours of training prior to being assigned to a Unit.

Recommendation 03-64: Conduct a comprehensive retraining of all supervisory personnel and management at Juvenile Hall in order that they become more aware and responsible for the performance of the officers in their charge. Given the systemic nature of the problem (over 60 percent of one shift being found guilty of similar offenses) the situation may be more widespread than the firings represent.

County Response: The recommendation will not be implemented because it is not warranted. Supervisors and management personnel attend a minimum of forty hours training annually. Probationary Supervisors attend an eighty hour training course during their first year that is mandated by Standards and Training for Corrections (STC). Additionally, the Probation Department provides a twenty-four hour Supervisor Development Academy for new Supervisors that emphasizes personnel matters. Juvenile Hall Supervisors receive on-going training regarding institutional policies and procedures, as well as department wide topics.

Recommendation 03-65: Post all regulations dealing with hall checks and login procedures in the Command Center of each cellblock.

County Response: The recommendation will not be implemented because it is not warranted. The Policy and Procedures Manual has been revised; in-house training has been expanded; and staff is reminded about hall check policies on an on-going basis through training and at meetings.

Recommendation 03-66: Amend the Juvenile Hall Policy and Procedures Manual to contain specific provisions that violation of hall checks and login rules will subject the wrongdoers to a specific punishment such as discharge.

County Response: The recommendation will not be implemented because it is not warranted. As stated in this Grand Jury Report, in Facts and Findings paragraph F: "The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation. Upon initial employment, every probation officer signs a document agreeing to this policy."

Recommendation 03-67: Amend the Juvenile Hall Policy and Procedures Manual to contain specific provisions that lying and/or falsifying records of any document will result in immediate termination. Specify that the supervisors will be held accountable for the actions of those in their charge.

County Response: The recommendation will not be implemented because it is not warranted. The San Diego Probation Department's Administrative Manual Section 1306 Code of Ethics and Standards of Conduct, is required reading for all employees. This policy states, "The Department expects its employees to adhere to the standards and procedures described below. In the case of misconduct, appropriate action including discipline will be determined on the basis of the facts and circumstances surrounding any particular incident."

Recommendation 03-68: Provide every Probation Officer and Supervisor with a personal Manual, which they can keep in their possession.

County Response: The recommendation will not be implemented because it is not warranted. Each employee receives a manual for thirty days, or longer if needed. The Staff is informed/reminded that the Manual is available to review at their convenience. The manual is available on-line for easy access by staff.



RECEIVED

JUL 29 2003

County of San Diego

WALTER F. EKARD
CHIEF ADMINISTRATIVE OFFICER
(619) 531-6226
FAX: (619) 557-4060

CHIEF ADMINISTRATIVE OFFICE

1600 PACIFIC HIGHWAY, STE. 209, SAN DIEGO, CA 92101-2472

July 29, 2003

The Honorable Richard E. L. Strauss
San Diego Superior Court, Presiding Dept.
220 West Broadway
San Diego, CA 92101

RESPONSE FROM COUNTY OF SAN DIEGO ON 2002-2003 GRAND JURY REPORTS

Dear Judge Strauss:

Attached, please find the County of San Diego Board of Supervisors' responses to six reports issued by the 2002-2003 San Diego County Grand Jury addressing County government issues and operations, for your transmittal to the Grand Jury. The attached material was approved by the Board of Supervisors on July 29, 2003 and addresses the following reports:

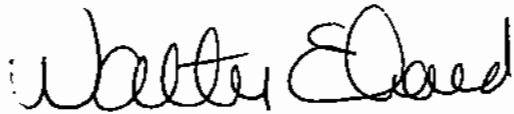
- 1.) Delay in Correcting an Ambiguous Ordinance: Public Administrator/Public Guardian 'Homeless' for Twenty Months,
- 2.) City of San Diego Development Services Department: A Case Study in Complaint-Resolution (Gone Awry),
- 3.) Foster Care Improving? County Leads the Way Toward Expanding Interagency Cooperation,
- 4.) The Tia Juana Valley County Water District: Why?
- 5.) San Diego County Department of General Services: Redirecting the Facilities Operations Division,
- 6.) Wrong Place? Wrong Time? Falsified Hall Checks by San Diego County Probation Officers at Juvenile Hall.

Page 2

The Honorable Richard E. L. Strauss
2002-2003 County Grand Jury Report Responses

The Board of Supervisors is scheduled to consider the Grand Jury's seventh and final report on County operations on August 12, 2003 and that report will be forwarded to you, as well, after that date. If you have any questions concerning the attachments or any related matter, please contact me at (619) 531-6226.

Sincerely,

A handwritten signature in black ink that reads "Walter Ekard". The signature is written in a cursive style with a large initial "W" and "E".

WALTER F. EKARD
Chief Administrative Officer

Attachment



COUNTY OF SAN DIEGO

BOARD OF SUPERVISORS

GREG COX
First District
DIANNE JACOB
Second District
PAM SLATER
Third District
RON ROBERTS
Fourth District
BILL HORN
Fifth District

AGENDA ITEM

DATE: July 29, 2003
TO: Board of Supervisors
SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS (District: All)
SUMMARY:

Overview

On June 27, 2003, the 2002-2003 Grand Jury issued its Final Report. Included in this Final Report are seven individual reports containing recommendations to the Board of Supervisors and County departments on various subjects, including ordinance changes, foster care, probation officer investigations, city development services, facility maintenance and the Tia Juana Valley County Water District.

This is a request for your Board to review the draft responses prepared by the Chief Administrative Officer that respond to the findings and recommendations contained in six of these reports and to authorize the Chief Administrative Officer to transmit your Board's responses to the Grand Jury, via the Superior Court Presiding Judge.

Recommendation(s)

CHIEF ADMINISTRATIVE OFFICER

1. Authorize the Chief Administrative Officer to transmit the attached responses to the Grand Jury via the Superior Court Presiding Judge.

Fiscal Impact

There is no fiscal impact with this action.

Business Impact Statement

N/A

Advisory Board Statement

N/A

BACKGROUND:

On June 27, 2003, the 2002-2003 Grand Jury issued its Final Report. This document is a compilation of individual reports on various topics, some of which were released individually throughout April, May and June.

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

Included in the Final Report document are seven reports that direct recommendations to the Board of Supervisors and various County departments on ordinance changes, foster care, probation officer investigations, city development services, general facility maintenance, detention facility maintenance and the Tia Juana Valley County Water District.

This is a request for your Board to approve the attached finding and recommendation responses for six of these reports and authorize the Chief Administrative Officer to transmit these responses to the Grand Jury via the Superior Court Presiding Judge. The attached document contains proposed responses to the findings and recommendations directed to the County of San Diego in the following reports, entitled:

- 1.) Delay in Correcting an Ambiguous Ordinance: Public Administrator/Public Guardian 'Homeless' for Twenty Months (Attachment A),
- 2.) City of San Diego Development Services Department: A Case Study in Complaint-Resolution (Gone Awry) (Attachment B),
- 3.) Foster Care Improving? County Leads the Way Toward Expanding Interagency Cooperation (Attachment C),
- 4.) The Tia Juana Valley County Water District: Why? (Attachment D),
- 5.) San Diego County Department of General Services: Redirecting the Facilities Operations Division (Attachment E),
- 6.) Wrong Place? Wrong Time? Falsified Hall Checks by San Diego County Probation Officers at Juvenile Hall (Attachment F).

Proposed responses to the remaining report, "Conditions and Management of Detention Facilities in San Diego County," will be docketed for your Board's consideration on September 16, 2003. Grand Jury findings and recommendations directed to the County Sheriff will be addressed separately by the Sheriff, with copies sent to the Board of Supervisors, pursuant to Penal Code Section 933.05.

Linkage to the County of San Diego Strategic Plan:

The six Grand Jury reports listed above address issues associated with all three of the County's Strategic Initiatives: Improving Opportunities for Kids, Preserving and Protecting the Environment, and Promoting Safe and Livable Communities. The County's written response to these reports and recommendations also supports the Required Discipline of Accountability/Transparency, fulfilling our commitment to conduct County business as openly as possible.

Respectfully submitted,

WALTER F. EKARD
Chief Administrative Officer

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

AGENDA ITEM INFORMATION SHEET

CONCURRENCE(S)

COUNTY COUNSEL REVIEW Yes *V. Tufan*
Written Disclosure per County Charter Yes No
Section 1000.1 Required

GROUP/AGENCY FINANCE DIRECTOR Yes N/A

CHIEF FINANCIAL OFFICER Yes N/A
Requires Four Votes Yes No

GROUP/AGENCY INFORMATION TECHNOLOGY DIRECTOR Yes N/A

CHIEF TECHNOLOGY OFFICER Yes N/A

DEPARTMENT OF HUMAN RESOURCES Yes N/A

Other Concurrence(s): Probation Department *100-2*
Department of General Services *A. M. O.*
Health and Human Services Agency *[Signature]*
Department of Environmental Health *[Signature]*

ORIGINATING DEPARTMENT: Chief Administrative Office

CONTACT PERSON(S):

Janice Graham

Name

(619) 531-6271

Phone

(619) 595-4060

Fax

A-6

Mail Station

Janice.graham@sdcountry.gov

E-mail

Name

Phone

Fax

Mail Station

E-mail

AUTHORIZED REPRESENTATIVE: *Janice Graham*

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

AGENDA ITEM INFORMATION SHEET
(continued)

PREVIOUS RELEVANT BOARD ACTIONS:

N/A

BOARD POLICIES APPLICABLE:

Board Policy A-43, Response to Grand Jury Interim Reports

BOARD POLICY STATEMENTS:

N/A

CONTRACT NUMBER(S):

N/A

ATTACHMENT A

**COUNTY OF SAN DIEGO RESPONSE TO 2002-03 GRAND JURY REPORT
"DELAY IN CORRECTING AN AMBIGUOUS ORDINANCE:
PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN 'HOMELESS' FOR TWENTY MONTHS"
Issued April 29, 2003**

Finding A: March 1998, the San Diego County Board of Supervisors enacted an ordinance transferring the functions of the PAPG to the HHSA. In April 2001, the Office of the County Counsel wrote an opinion advising that changes needed to be made to correct the ambiguous language in the ordinance.

County Response: Agree.

Finding B: The former PAPG complained that as the result of the enactment of the 1998 ordinance, the PAPG's budget and personnel were controlled by the Director of HHSA with the result that the operation of the PAPG was adversely impacted. The present PAPG, when interviewed, assured the Grand Jury that during the nine months in the position these problems did not exist. The budget for the PAPG was completely under control, as was the hiring and firing of PAPG personnel.

County Response: Disagree in part. While it is common for any manager to advocate for more resources for his or her department, the PAPG, along with every other department County head, is subject to a budget process managed by the Chief Administrative Officer and a budget ultimately adopted by the Board of Supervisors.

Finding C: Although the PAPG, HHSA management, and the Office of County Counsel exchanged correspondence and held meetings between early 1999 and October 2002, no corrective action was taken apart from the issuance of the April 2001 County Counsel opinion.

County Response: Disagree in part. To the extent that the ambiguous Administrative Code provision created an inconsistency with the County Charter provision concerning CAO authority to appoint the PAPG, the County Charter provision controls. And, between 1999 and October 2002, the County was in full compliance with the Charter since the CAO appointed the new PAPG. The fact that the CAO appointed the PAPG is evidence that the County took corrective action, since the action complied with the Charter. The ordinance was revised after October 2002 to remove any ambiguity regarding the PAPG's appointing authority.

Finding D: The Chief Administrative Officer and the San Diego County Board of Supervisors were not copied with the April 9, 2001, opinion by County Counsel.

County Response: Agree.

Finding E: The 2002-2003 San Diego County Grand Jury contacted the Office of the County Counsel in October 2002 with a request for background information about the alleged invalidity of the 1998 ordinance as it related to the transfer of the PAPG to the HHSA.

County Response: Agree.

Finding F: On December 10, 2002, the San Diego County Board of Supervisors enacted a new ordinance to correct the situation. Approximately twenty months had passed since the County Counsel opinion advising a change to correct the ambiguous language of the original ordinance (April 2001) and the enactment of the ordinance correction (December 2002). The Grand Jury learned that a correction of this type would have taken no more than 5 working days to prepare.

County Response: Disagree in part. While the period of time that elapsed between discovery of the ambiguous language and implementation of the solution was more than reasonable, it is important to note that the County fully complied with the applicable law (i.e., the Charter) since the CAO did appoint the new PAPG. Thus, there was no urgency to correct the Administrative Code ambiguity since it did not cause the County to be in non-compliance with applicable law.

In addition, between April 2001 and December 2002, County staff and managers identified, researched and analyzed various possible ordinance change options. While it may take five working days to accomplish the mechanical aspects of drafting an ordinance, that amount of time would not allow adequate time for staff to research all possible options; analyze potential impacts, ramifications, benefits and costs; and engage multiple affected parties in this process.

Finding G: Reasons for the delay never became clear to the San Diego County Grand Jury. Some of the reasons given to the Grand Jury were that 'it was something that just slipped through the cracks', 'it was at the bottom of the pile', and 'it wasn't a high priority item'.

County Response: Disagree in part. While it may be that these statements were made to the Grand Jury, they should be taken in context. Staff was correct to indicate that correcting an ambiguity in the Code was not a high priority since County staff fully understood that the Charter controlled operations and appointments and operations were in full compliance.

Finding H: During a 57-month period of time beginning in March 1998 through December 2002, no Director of HHSA assumed the responsibility of the PAPG position. The Director of HHSA was never directed to assume the responsibilities of the PAPG office by the CAO.

County Response: Disagree. During the 1996-1998 time frame, the County's new CAO implemented a broad reorganization of the County management structure. Departments were organized into five functional "Groups" that combined departments with similar functions. One of those Groups was the Health and Human Services Agency, formed by combining the Departments of Health, Social Services, Area Agency on Aging and Veterans Services. A short time later, it was determined that the PA/PG functions best fit within the HHSA.

For management purposes, department heads were assigned to report to a Deputy Chief Administrative Officer or for HHSA, the Agency Director, who is also a Deputy Chief Administrative Officer. The DCAOs in turn report directly to the CAO. Therefore, the statement in paragraph 2 on page 1 of the Report that the ordinance directed the HHSA Director to assume the role and responsibility of the PA/PG is not accurate.

As with other HHSA functions, those performing the roles cited in the Administrative Code report to the HHSA Director for overall management purposes. Therefore, it was entirely appropriate for the three HHSA Directors to not personally assume the PA/PG role. Since it was later determined that the ordinance language created confusion with respect to the Charter requirement, the situation was reviewed by Counsel and the December 2002 ordinance corrected the language.

Finding I: The Grand Jury finds that, when there is an alleged violation of the County Charter or the California Government Code, the situation should be addressed by County management in an expeditious manner.

County Response: Agree. It must be noted that there was no violation of the County Charter or the California Government Code regarding the PAPG issue. Thus there was never a need for County management to address any alleged violation. In fact, as explained above, the County was fully in compliance with applicable law under the Charter with respect to the PAPG matter.

Finding J: It is the responsibility of the Board of Supervisors to bring all ordinances into compliance with the San Diego County Charter and California Government Code in a timely manner.

County Response: Disagree in part. While the Board of Supervisors is ultimately responsible for all County ordinances, the County Charter establishes a management structure that places day-to-day management of administrative matters under the Chief Administrative Officer, and day-to-day management of legal matters with County Counsel, both of whom are appointed by the Board of Supervisors.

It is an on-going responsibility of both the CAO and County Counsel to bring ordinances or Code sections to the Board's attention in a timely manner when compliance issues arise. Once this is done by the CAO and County Counsel, the Board is responsible to make the necessary corrections to such ordinances.

Recommendation 03-43: County Counsel is alerted to the fact that an ordinance may be out of compliance with controlling documents that County Counsel should, within 30 days, investigate the situation, take appropriate action, and provide written documentation.

County Response: The recommendation has been implemented. Except as stated in the last two sentences in this reply, Recommendation No. 03-43 describes actions that County Counsel has performed, presently performs, and will continue to perform with respect to County ordinances that may be out of compliance with other controlling laws. In this regard, we agree

with this recommendation. However, there will be circumstances in which such actions cannot be completed within 30 days due to the complexity of a particular issue. Therefore, while we agree with the intent of the recommendation, we would not impose a fixed time limit, 30-day or otherwise, on this activity as some situations will require more time to resolve than others.

Recommendation 03-44: County Counsel renders an opinion, stating that an ordinance enacted by the Board of Supervisors contains ambiguous language or possibly violates San Diego County Charter provisions or State law, that opinion is copied to the San Diego County Chief Administrative Officer and all of the Director(s) of the department or agency(ies) involved. All parties must then respond, in writing, to the situation within 30 days (sending copies to all involved along the way).

County Response: This recommendation has been implemented. It should be noted, however, that Counsel will take this course of action only when the circumstances of a situation warrant such action and are appropriate, based on the legal issues and needs of the particular County clients. While Recommendation No. 03-44 may be an appropriate response in certain circumstances, agreement with this recommendation is limited to only those circumstances where the recommended action is appropriate based upon the facts of the situation.

To the extent that the legal needs of the County require County Counsel to take a different approach to address a legal issue, Counsel opinions are copied as appropriate to the situation, and only to those on a "need to know" basis since County Counsel's legal advice constitutes confidential attorney-client communications. There may be legitimate legal reasons that Counsel will limit confidential legal advice given to the Board of Supervisors and the CAO, without copying other Directors of a department or agency involved. In addition, requiring formal written responses to every possible situation may not be the most efficient use of County resources in all circumstances.

Recommendation 03-45: An ordinance directs that a County officer assume responsibilities associated with a specific position, that officer should act immediately to comply with the ordinance or notify the Chief Administrative Officer, in writing, within 30 days, stating the reasons s/he could or should not comply.

County Response: This recommendation will not be implemented. While we agree that a County officer, under the circumstances described in this recommendation, should either comply with the ordinance or notify the CAO of his/her reasons for non-compliance, we do not agree that the notice always be in writing, always be within 30 days, or always be provided to the CAO. It may be that such a notice cannot and should not (1) be in writing, (2) be provided in 30 days, or (3) be provided to the CAO in every instance. Rather, it may be that, under certain circumstances, such notice should be verbal, cannot be provided within 30 days, or should be provided to another County body or officer, such as the Board of Supervisors, County Counsel, or the Chief Financial Officer, for example.

As noted in the response to Finding H, the ordinance at issue did not direct a County officer to assume responsibilities associated with a specific position. Therefore, there was not a need in

County of San Diego Response to 2002-03 Grand Jury Reports

this situation for a County officer to assume responsibilities or to notify the CAO of reasons why not to comply.

ATTACHMENT B

**“CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT:
A CASE STUDY IN COMPLAINT-RESOLUTION (GONE AWRY)”
Issued April 16, 2003, Received May 1, 2003**

Finding 2: The Seabreeze Farms Equestrian Center may be in violation of the San Diego Municipal Code 44.0308 (a); both literal and conservative counts of dwelling units within the one-fourth mile wide belt result in numbers in excess of 300.

The Development Services Department (DSD) applied a strict interpretation and application of the San Diego Municipal Code 44.0308 (d). A more reasonable interpretation could have caused measurement to originate at the jump area fence and at the outer edge of the horse wash racks. Certainly, a preferable option is that of measuring from the outer edge of any significant “equestrian use”. Even better, a 75-foot separation beginning at the homeowners’ property lines to the “equestrian use” should be specified. Public health and safety concerns should require an interpretation resulting in the widest possible buffer.

County Response: Disagree in Part. San Diego Municipal Code 44.0308 requires...(d) no residence or dwelling exists except such as are owned, maintained or occupied by the owner of such horses within a 75’ wide belt surrounding the stable, corral or pasture within which such a horse is kept. The County DEH issued a permit on April 25, 2003, to David Goddell, 5720 Carmel Valley Road, San Diego, operator of the Equestrian Center, after determining the Center had complied with stated distance to dwellings. That permit was issued after a County DEH review to confirm compliance with the 75-foot buffer zone requirement in the Municipal Code, as interpreted by the City of San Diego. Establishment of the present 75-foot buffer based on that interpretation is adequate for public health and safety concerns when all sanitation procedures are observed.

On February 7, 2003, an inspection of the Seabreeze Farms by County DEH, as part of their permit application, showed all manure management practices and vector control procedures were in place and being followed. No subsequent substantiated complaints have been received by County DEH. Establishment of any wider buffer zone, or reinterpretation of the current Municipal Code to establish greater buffer zones in actual practice, would be a land use matter rather than a health and safety matter. Establishing a larger buffer zone based on the interpretation proposed in the report could be problematic in actual practice.

County DEH did not participate in a review for compliance with San Diego Municipal Code 44.0308 (a), regarding dwelling units within one-quarter mile of a proposed facility. The City and County both consider this requirement to be essentially a land use policy, not a public health and safety requirement. In the past, revisions to the Municipal Code have been suggested to City staff by County staff, to clarify that applying this requirement is properly an issue for the City, not for County DEH.

Finding 4: The Development Services Department staff failed to consider “quality of life” issues for the neighboring homeowners by: (1) allowing the construction of the horse wash racks between the large barn and property line (a visual nuisance not shown on any conceptual plan); (2) allowing placement of the dressage or training arena directly behind the properties at the southern end of the facility (a noise and dust nuisance that was shown elsewhere on the conceptual plan); and (3) allowing the site manager to consistently violate his own manure management plan (a public health nuisance).

County Response: Disagree in Part. Manure management, fly, rodent, vector, and dust control plans were provided by Seabreeze Farms and submitted to County DEH in their permit application. The County DEH does not perform scheduled inspections of these permitted facilities and only responds to complaints from the general public. There are no records of fly complaints received concerning Seabreeze Farms by County DEH Vector Surveillance and Control. Flies were not observed in and around the barn during an inspection of the facility on February 7, 2003, which was performed by County DEH as part of the permit application process. Noise generated during manure processing/removal is unavoidable; this is not a regulated public health or safety issue. The County’s responsibilities for these kinds of facilities within the City of San Diego do not extend to “quality of life” issues that are not health and safety issues; therefore, the County has no further response to this finding.

Finding 4: The Department of Environmental Health was, until mid-January 2003, unaware of the existence of the equestrian center. This agency needs to be included in the loop earlier, for development and construction projects involving large-scale animal facilities, if it is to fulfill its responsibilities for public health and sanitation.

County Response: Disagree. County DEH was involved in the review of aspects of this proposed facility very early in the City’s permitting process. County DEH staff participated in CEQA review for this project, in evaluation of compliance with the 75-foot buffer zone requirement, and in the review of the operator’s manure management, fly, rodent, vector, and dust control plans. County DEH was “in the loop” early enough to address public health and sanitation issues.

Recommendation 03-26: The San Diego Grand Jury Recommends that the Director, Department of Environmental Health: Recommend to the City Council an amendment to Municipal Code Chapter 4: Health and Sanitation Article 4: Disease Control-Nuisance Division 3: Animals 44.0308 Horses by:

1. Replacing the words stable, corral and pasture with the phrase “equestrian uses.” The intent of this change is to include nighttime and daytime activities as well as permanent and non-permanent equine and equine-related structures and facilities.
2. Clarifying the meaning, intent and use of the words, “dwelling,” “residence,” “corral,” and “pasture.”
3. Changing section (d) to read that the 75-foot wide belt extends from the outer edge of any equestrian use and terminates at the homeowner property line.

County Response: The recommendation will not be implemented because it is not within the County of San Diego's jurisdiction. Sections 1 and 2 are City of San Diego zoning issues, wholly under the jurisdiction of the City and, as such, should be considered by the City. Regarding Section 3, County DEH believes the 75-foot buffer, as interpreted by the City (and as applied in this case by the City and by County DEH) adequately protects public health and safety. At present, the interpretation of San Diego Municipal Code 44.0308 is at the discretion of the City of San Diego. The County's interest is the protection of public health and safety, which the 75-foot buffer provides.

Recommendation 03-27: Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the site's manure management program.

County Response: The action described in this recommendation has been taken. County Environmental Health staff advised Seabreeze Farms that they are available for consultation on all aspects of manure and vector control during a February 7, 2003 inspection. Staff from Seabreeze Farms did subsequently contact County DEH in May 2002 for recommendations on manure management and County staff provided Seabreeze Farms with manure disposal procedures, and instructions on transporting manure, fly control and water runoff.

Recommendation 03-28: Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the sites fly control, dust control, rodent control and vector control programs.

County Response: The action described in this recommendation has been taken. Like Recommendation 03-27, Recommendation 03-28 has also already been implemented. The County DEH, during its February 7, 2003 inspection, advised Seabreeze Farms that it would be available for consultation on all aspects of manure and vector control issues. This was also discussed at the request of Seabreeze staff in May 2002.

Recommendation 03-29: Work in consultation with Sandown Way and Rider Place residents whose properties abut the equestrian center's boundary, to:

1. Relocate the horse wash racks (a visual nuisance) to another location,
2. Relocate the dressage arena (a noise and dirt nuisance behind the Rider Place residents) in accord with the conceptual layout.

County Response: The recommendations will not be implemented as they are not public health and safety issues. Visual nuisances and compliance or non-compliance with conceptual plans are concerns that are not regulated by the County within the city limits of San Diego. Noise issues within the city limits are under the jurisdiction of the City of San Diego.

County of San Diego Response to 2002-03 Grand Jury Reports

Recommendation 03-30: Perform the measurements specified in the San Diego Municipal Code 44.0308 (a) and (d) (i.e., one-fourth mile and 75-foot wide belt measures) at the Seabreeze Farms Equestrian Center owner's expense and take whatever action is necessary as a result.

County Response: The recommendation will not be implemented because it would establish a new set of measurements to be performed by County DEH, even though the City and County have already confirmed compliance with the section 44.0308(d) 75-foot buffer zone requirement as established by the City. The existing interpretation protects public health and safety. As stated above, the County considers the section 44.0308(a) requirement to be a local land use matter, not a public health and safety matter.

ATTACHMENT C

**“FOSTER CARE IMPROVING? COUNTY LEADS THE WAY
TOWARD EXPANDING INTERAGENCY COOPERATION”**

Issued May 6, 2003

Recommendation 03-46: Immediately form a task force to develop within six to eight months, a uniform mandate that clearly defines policy and procedures to ensure continuity across agencies and school districts in order to provide quality educational outcomes for San Diego County foster youth. The mandate would include uniform procedures for schools, Health and Human Services, Probation, the Courts and substitute care providers to assure the complete and timely transfer of school and medical records of children who are dependents of the Court. The policies would be developed in conjunction with the San Diego County Office of Education’s Foster Youth Services Program.

County Response: The recommendation will not be implemented because there is already a committee in place to ensure continuity of policies and procedures across agencies and school districts. The Education Committee, chaired by Judge Susan Huguenor, includes the County Office of Education, the courts, the Health and Human Services Agency, Voices For Children, and several other agencies that are committed to ensuring continuity with regard to policies and procedures. In addition to the Education Committee, the Foster Youth Services Advisory Committee is committed to facilitating the exchange of health and education information among agencies providing services to foster youth. This committee is also committed to overcoming obstacles related to sharing information while maintaining confidentiality.

There is also a Health and Human Services Agency policy (Children’s Services Special Notice #12 – 03), which ensures that children are properly dis-enrolled from school when appropriate. The policy provides that a transfer form be sent to the new Substitute Care Provider, the new school, and copied to the regional Health and Education Passport (HEP). This transfer form documents all relevant information about the child’s previous school and credits earned.

Recommendation 03-47: In partnership with the San Diego County Superintendent of Schools, establish a task force to ensure shared responsibility and accountability for all San Diego County foster care children.

County Response: This recommendation will not be implemented because there is an existing agreement between the Health and Human Services Agency and the County Superintendent of Schools in which all parties agree to continue developing a collaborative relationship using resources to best meet the educational and mental health needs of our children/youth and families. The Education Committee and the Foster

Youth Advisory Committee meet each month to work on collaborative problem solving methods.

Each school district in San Diego County has appointed a liaison to assist with problem solving in this area. In addition, San Diego Unified School District has also assigned a liaison to work with HHS for the benefit of foster children.

Recommendation 03-48: Seek legislation to modify the licensing requirements for the unique situations at San Pasqual Academy to reflect the realities of a boarding school as compared to a group home. These modifications would remove barriers that prevent youth from participating in enrichment activities due to licensing regulations.

County Response: This recommendation will not be implemented because staff is already working with State and federal agencies to assure the needs of the Academy students are addressed. To meet the needs of the adolescent foster youth at the San Pasqual Academy, the County is pursuing regulation changes that would take into consideration the Academy's focus on independent living skills. .

Recommendation 03-49: Consider establishing a second San Pasqual Academy type of facility to accept middle-school aged youth as well as high school students, not only to service more students but to intervene earlier in this educational life.

County Response: This recommendation will not be implemented because research has shown that the emphasis for younger and middle school-aged youth should be placed on finding adoptive or foster homes. High school-aged children, however, are more difficult to place in permanent homes and that is why the Academy was developed for that specific age group.

Within the Academy's independent living skills environment, the youth focus on furthering their education and vocational skills. It will be important, over the next few years, to examine the level of success at the new campus to ensure that the students can build a firm foundation for an independent adulthood.

Recommendation 03-50: Provide each school-age foster child with multiple copies of his/her HEP before a placement change.

County Response: This recommendation will not be implemented because the action recommended is already being taken. The children's Substitute Care Providers (foster parent, relative or group home) are currently provided with this information when a placement change occurs. Division 31 regulations of the California Department of Social Services, Child Welfare Manual require that a health and education summary be provided to the Substitute Care Provider 30 days after the initial placement or 48 hours after a change of placement. The Health and Human Services Agency policy (Children's Services Special Notice #09-02) reiterates this for social workers. This special notice

also emphasizes the importance of providing the caregiver the health and education summary at the time of placement.

Recommendation 03-51: Require that social workers document the record transfer of both education and medical records whenever there is a change of placement, whether the change involves group or individual homes.

County Response: The County will not implement this recommendation because it has already implemented a procedure for this documentation. Social workers are already required to document the record transfer of both education and medical records whenever there is a change of placement. The social worker is responsible for ensuring documentation of the date the Substitute Care Provider was given the health and education information. The social worker must document all known health and education information or complete a Health and Education Passport. Division 31 regulations of the California Department of Social Services, Child Welfare Manual also require this documentation.

ATTACHMENT D

“THE TIA JUANA VALLEY COUNTY WATER DISTRICT: WHY?”

Issued June 27, 2003

The 2002-2003 San Diego County Grand Jury recommends that the San Diego County Board of Supervisors:

Recommendation 03-82: Review the activities of the Tia Juana Valley County Water District and initiate proceedings for the dissolution of the District, so that District tax payers are freed from an unnecessary, open-ended tax assessment.

County Response: The recommendation will not be implemented by the County because it would be more appropriate for a dissolution request to be initiated by the City of San Diego or the San Diego Local Agency Formation Commission.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 allows local agencies to apply for dissolution of a district when there is a successor agency to assume all assets and liabilities. In this case, virtually all properties in the Tia Juana Water District receive water and sanitation services from the City of San Diego which, as the most logical successor agency, would be the most significantly impacted by such an action.

ATTACHMENT E

**“SAN DIEGO COUNTY DEPARTMENT OF GENERAL SERVICES:
REDIRECTING THE FACILITIES OPERATIONS DIVISION”
Issued June 27, 2003**

Finding A: The Director of the Department of General Services and Department management personnel have addressed, corrected, and instituted new procedures to overcome the problems outlined in the complaints.

County Response: Agree.

Finding B: As a result of the Memorandum of Agreement with the Sheriff, the Facilities Operations Division management personnel have made significant changes to improve the conditions outlined in the complaints.

County Response: Agree.

Finding C: The Facilities Operations Division employees, interviewed by the Grand Jury, are willing and able to perform job assignments and are satisfied with their general working conditions.

County Response: Agree.

Finding D: The County departments, investigated by the Grand Jury, are satisfied with the new direction, which the General Services Department management has undertaken, and the Facilities Operations Division employees generally provide timely and supportive maintenance to the County departments served by the MOA with the Sheriff.

County Response: Agree.

Finding E: The recommendations in the 2001-2002 San Diego County Grand Jury report titled, “County General Services, Support of Detention Facilities” and the 1999-2000 San Diego County Grand Jury report titled, “Detention Facilities of San Diego County” have been addressed and improvements have been made.

County Response: Agree.

Recommendation 03-69: Continue to monitor the San Diego County Department of General Services to ensure that Facilities Operations Division staff perform their duties in

County of San Diego Response to 2002-03 Grand Jury Reports

an efficient, timely and professional manner, and that the County departments served by the Memorandum of Agreement continue to be satisfied with such efforts.

County Response: The recommendation has been implemented. The Department of General Services has provided the Sheriff's Department with access to the Facility Center Computer Maintenance Management System. Upgrades to the system are being implemented to provide enhanced access, data loading and status reporting via the WEB. This system is the single point of entry for execution of all work on County Facilities. It also provides the basis for budget development and identifies fiscal requirements based on a priority system. Allocations of funds via the Capital Improvement Plan are made annually or, for emergent issues, special funding can be identified via the newly established Facility Planning Board.

In addition to the condition Assessments discussed in the May 30, 2002 report, the Department of General Services has instituted an internal quarterly Facility Assessment Program to provide documentation for the Annual Inspection Summary (AIS). The AIS provides the basis for fund allocations under the Capital Improvement Plan process. This program will also identify those assets, whose functional life cycle is at an end, eligible for replacement under the Capital Renewal Plan. This plan focuses on planned, predictive replacement versus replace upon failure thereby limiting impacts of facility operations and performance of mission.

Routine meetings occur between the Sheriff's Department and Department of General Services to review ongoing issues and identify upcoming needs. Requirements to support the program are being addressed through a combination of these routine meetings, Sheriff Department direct access to the CMMS for project & work order loading and via the Annual Inspection Summary. These efforts combine to become part of the Capital Improvement Plan where funding requirements are identified for prioritization and allocation during the budget process.

ATTACHMENT F

“WRONG PLACE? WRONG TIME? FALSIFIED HALL CHECKS BY SAN DIEGO COUNTY PROBATION OFFICERS AT JUVENILE HALL”

Issued May 14, 2003

Finding A.: During the week in question, there were approximately 58 staff members on the late night shift duty. Thirty-seven officers and two student workers failed to make the mandatory hall checks and made false log entries. An investigation ensued.

Finding A1: The investigation by the San Diego County Probation Department of the October 11-16, 2001 hall check incident was not conducted in a fair and impartial manner.

County Response: Disagree. The San Diego County Probation Department investigation was conducted pursuant to Government Code 3300, Peace Officers Bill of Rights, and the Probation Department's Policy & Procedures regarding Internal Affairs investigations.

Finding A2: Three supervisors who conducted the investigation had no previous investigative experience. These investigating officers were supervisors from either the day or early night shift during October 2001 assigned to Juvenile Hall, just one step in rank above those being investigated. They were investigating officers who were often social friends or acquaintances from different shifts. During an interview, one of the investigators stated how difficult it was to conduct the investigation. The investigator shared how much peer pressure was endured both during and after the investigation.

County Response: Disagree. The three supervisors selected to conduct the investigation were knowledgeable of Juvenile Hall's working environment and Juvenile Hall's Policy & Procedures. These supervisors had prior training and/or experience in conducting investigations.

Finding A3: The SDCPD did not seek the assistance of the San Diego County Internal Affairs Department, which employs expert investigators. The Grand Jury has verified that the San Diego County Internal Affairs Department did have sufficient personnel to conduct such an investigation at the time in question.

County Response: Agree. However, the San Diego County Probation Department did not seek assistance from the CAO's Office of Internal Affairs (OIA) because OIA staff has no authority to investigate peace officer violations. Therefore, availability of OIA staff is irrelevant.

Finding A4: The SDCPD chose not to utilize personnel from the Department's own Internal Affairs Division to conduct the investigation because it allegedly did not have sufficient staff to handle this assignment.

County Response: Disagree. Internal Affairs Unit personnel advised and reviewed all investigative reports and were available for consultation.

Finding A5: The investigators often discussed their investigation results with the Director of Juvenile Hall and the Internal Affairs Director of the SDCPD. Those contacts give the appearance of "command influence." This "command influence" problem would not have been an issue had the County Internal Affairs Department conducted the investigation.

County Response: Disagree. The final results of all investigative reports are reviewed by the Internal Affairs Supervisor, and Probation Human Resources Manager for correctness and consistency, and the Service Director and Deputy Chief Probation Officer for recommendations of disciplinary action, in compliance with the Peace Officers Bill of Rights.

Finding A6: The investigators discussed the interviews with each other, and then by agreement tried to assign friends or work associates to another investigator. Even in cases they chose not to hear, they often sat in as "back up." For the most part, a team of two investigators conducted each interview.

County Response: Agree. Investigators are expected to share information with each other for fairness and consistency in this investigation. It is also standard procedure for all investigations to have two interviewers for each interview.

Finding A7: This investigation has had, and will have, a great impact on both the morale and efficiency of the SDCPD and should have been conducted by the most competent personnel available.

County Response: Disagree. By saying that the investigation "should have been conducted by the most competent personnel available," Finding 7 implies that it was not. The County disagrees with this finding. The Probation Department chose the investigators based on their knowledge and experience of the working environment and the Juvenile Hall's Policy and Procedures manual. The Internal Affairs Unit coordinated the investigations of these cases and reviewed all the investigative reports for consistency and compliance with the aforementioned policies.

Finding A8: Of the 37 officers disciplined or terminated, only two had received substandard ratings prior to October 2001; the rest were rated as competent employees. Two of them had been chosen the Probation Department's "Employee of the Year." Some were mentors to their fellow employees. Many had worked for the SDCPD for over 20 years.

County Response: Disagree in part. Of the Officers disciplined or terminated, only one employee (who resigned in lieu of termination) had over twenty years of service.

Finding A9: The background check procedure for SDCPD officers is very involved and includes psychological testing. This system disqualifies many applicants and makes it difficult to find eligible line and entry-level candidates for employment. These facts support the statement that many of the fired officers had impeccable backgrounds prior to being hired.

County Response: Agree. A thorough background investigation was conducted on all of the officers. They met the minimum standards required for Peace Officers.

Finding B: The Probation Department's investigation focused on personnel assigned only to the late night shift. One of the three investigators reviewing the videotapes with the Grand Jury admitted that violations of the 15-minute hall checks did occur on the early night shift.

Finding B1: Videotapes of the early night shift of the same October 11-16, 2001 period were reviewed by the Grand Jury.

County Response: Disagree in part. The Grand Jury only reviewed a segment of one videotape of Unit 800 and watched thirty to forty-five minutes of the tape.

Finding B2: The Grand Jury's review disclosed that the some hall checks were not made on the early night shift as well as on the late night shift.

County Response: Agree.

Finding B3: Other security violations, such as "popping doors" (opening cell doors from a switch at the guard station without a probation officer in the hallway) and walking in front of wards were viewed on the videotapes.

County Response: Agree.

Finding B4: Two officers, from the early night shift, received disciplinary action. They were found not performing mandatory hall checks during the early night shift. These same two officers were seen on a piece of overlapping videotape reviewed by the three investigators. These two officers received five-day suspensions for missing one hall check.

County Response: Agree.

Finding B5: The facts discovered were communicated to SDCPD management by the investigator reviewing the videotapes along with the Grand Jury.

County Response: Agree.

Finding B6: As of late April 2003, the Grand Jury had not been advised that other shifts have been investigated for violations of hall check regulations.

County Response: Agree.

Finding B7: Management stated that they did not investigate the other shifts because during the daytime and early night shifts there is so much other staff activity going on in the hallways that hall checks on a regular basis are not as likely to be missed.

County Response: Agree.

Finding C: The investigation conducted by the SDCPD did not adequately cover the conduct of supervisors to determine if they had any accountability or responsibility for the events of October 11-16, 2001.

Finding C1: Several of the officers interviewed stated that their supervisors were aware of the so-called practice of "catching up" and had condoned this practice.

County Response: Agree.

Finding C2: Several supervisors were questioned. The three investigators questioning the supervisors were of the same rank as the supervisors being questioned. All were assigned to one of the three shifts as supervisors.

County Response: Disagree in part. The Internal Affairs Supervisor conducted the majority of the Supervisor interviews. The three investigators conducted some preliminary interviews of Supervisors, Senior Probation Officers, and former employees.

Finding C3: These supervisors denied having any knowledge of the "catching up" practice and stated they would not condone it.

County Response: Agree.

Finding C4: The allegations, made by the officers, that supervisors knew of the practice of "catching up" has credibility because of the approximately 58 people who were on the late night shift of October 11-16, 2001, 39 received disciplinary action for misconduct related to "catching up" the logs. Clearly the supervisors could not have been totally unaware that the hall checks were not being made if the practice was that widespread.

County Response: Disagree. As noted in the Civil Service Commission conclusions and supported by the Superior Court findings, the "Employees did not present any convincing evidence of supervisory complicity in their practice of falsifying" and "Employees did not perform a majority of the required hall checks; Employees falsely recorded these unperformed hall checks as completed; and the Department regularly reminded Employees of the need for hall checks through memos, supervisor's meeting minutes, and at meetings. Additionally, the Department presented circumstantial evidence that Employees were acutely aware that they were engaged in misconduct that they were trying to hide from their supervisors."

Finding C5: The supervisors should have been disciplined along with the officers, as they were negligent in performing their duties. It appears that the supervisors overlooked violations of the policies and procedures over an indeterminate period of time.

County Response: Disagree. The Department investigated allegations of Supervisor misconduct and found no evidence of misconduct.

Finding C6: The credibility of the supervisors in this instance of misconduct was neither aggressively nor competently pursued.

County Response: Disagree. As noted in the Civil Service Commission conclusions, "Employees attempted to show that the practice was approved by Department supervisors. While it appears obvious from the number of employees being disciplined that such a practice existed among them, they were unable to present any convincing evidence of direct statements or other communications from Department supervisors approving it. Employees' evidence of Departmental approval consisted primarily of implication and innuendo through the alleged presence of supervisors during incidents of falsification or their disputed use of terms like "catch it up." Employees did not present any convincing evidence of supervisory complicity in their practice of falsifying."

Follow-up investigation: "Approximately sixteen Supervisors, thirteen Senior Probation Officers, five Correctional Deputy Probation Officer II, two Directors, and one retired Assistant Chief Probation Officer, (thirty-seven total) were named by terminated Officers either during the Internal Affairs interrogations or the Skelly Conference. Most of the allegations were vague or non-specific and no follow-up investigations were conducted. In those cases where specific dates or incidents were recalled and/or witnesses identified (16 out 37), follow-up investigations were conducted in person, by telephone, written statements, or videotape review."

Finding C7: A retraining program is needed for supervisory and management personnel. Due to the systemic nature of the problem (over 60% of one shift being found guilty of similar offenses) the situation appears more widespread than the firings presents.

County of San Diego Response to 2002-03 Grand Jury Reports

County Response: Disagree in part. Supervisors and management personnel attend a minimum of forty hours training annually. Probationary Supervisors attend an eighty hour training, during their first year, that is mandated by Standards and Training for Corrections (STC). Additionally, the Probation Department provides a twenty-four hour Supervisor Development Academy for new Supervisors that emphasizes personnel matters. Juvenile Hall Supervisors receive on-going training regarding institutional policies and procedures, as well as department wide topics.

Finding D: The regulations, of the California Board of Corrections regarding the hall checks, are set forth in a large SDCPD Manual which is given to each officer when s/he begins.

Finding D1: This Manual must be returned to the Department after the probation officer completes his/her initial training period, which is usually 30 days.

County Response: Disagree in part. The Manual is returned in thirty days unless the employee needs additional time. The manual is also in each living unit.

Finding D2: The training techniques in effect prior to the October 2001 period did not prioritize the mandatory hall check policies and procedures over other regulations nor did they indicate the serious consequences of not performing or correctly documenting the mandatory hall checks.

County Response: Disagree. All employees receive formal training that includes the requirement to perform hall checks every fifteen minutes and the justification and necessity of checks in order to protect the health and welfare of the Detainees.

Finding D3: After the problem was discovered SDCPD senior management stressed to the Grand Jury the fact that making 15-minute hall checks and their proper logging is paramount.

County Response: Disagree. Senior management has always stressed to employees that fifteen-minute hall checks and their proper documentation are paramount.

Finding D4: The officers allege that several supervisors stressed to the officers, in their charge, that the requirement of having the log books up to date and filled in completely was much more important than having the log books reflect late hall checks. Missing or incorrect logbook entries reflected poorly on the supervisors in charge.

County Response: Disagree. The Supervisors stressed to the Officers that conducting fifteen-minute hall checks and documenting was paramount. Supervisors continually reviewed the logbooks to ensure compliance.

Finding D5: In the week following the announcement that there would be an investigation of the violations of October 2001, the log books of one of the three investigator's showed 99 late log book entries. The week before the announcement, there were nine late entries, which give the appearance that completeness was more important than accuracy to the supervisors.

County Response: Disagree. The number of late hall checks only illustrates timeliness of hall checks, not completeness and accuracy.

Finding D6: A Union Tribune article states that "...a February 2002 audit of the county facility by the State Board of Corrections found that the hall check policies were deficient and that the county had not put them into its Policies and Procedures Manual (two months before workers were fired)."

County Response: Agree. However, the Union Tribune article is inaccurate. The Board of Corrections audit, in February 2002, was also inaccurate and a subsequent letter from the Board of Corrections stated we were in full compliance with Title 15 Regulations of hall checks.

Finding D7: The Grand Jury did see a copy of a memo from a Juvenile Hall supervising officer which read "Re: Hall Check Policy, Dated: November 8, 2000. It has come to my attention that the hall checks have not been conducted in a timely manner. In fact, the entire log has not been completed properly. It is imperative that all staff adheres to the juvenile hall policies and procedures and completes this document as prescribed in the policy. I am aware that you are very busy; however, this is a legal document and must be completed per hall check policy 9.8.11.1. Please sign and date that you are aware of this section and understand the contents."

County Response: Agree.

Finding E: There is no evidence, pre-October 2001, that the regulations dealing with the hall checks are stressed above other procedures when reportedly the hall checks are of the utmost importance to the security of Juvenile Hall.

Finding E1: The Manual notes many equally important procedures, such as: Temporary Assistance to Needy Families (TANF) report completion; medical consent forms and their proper completion; intake forms and their proper completion; always walking behind wards; not "popping doors" (the practice of opening a cell door from the control center without a probation officer present in the hallway); etc.

County Response: Agree.

Finding E2: The regulations dealing with hall checks were not posted in the command center of each cellblock. This would have put the probation officers on notice that these regulations were very important.

County Response: Disagree in part. As noted in the Civil Service Commission Conclusions "The testimony of Department supervisors and the Training Officer in which they denied instructing or encouraging the falsification of hall check records. To the contrary, they stated that they emphasized the importance of actually performing hall checks per policy in order to ensure the health, safety, and security of custodial wards. The Department also repeatedly emphasized the importance of proper hall checks in various memos and meetings."

Finding F: The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation. Upon initial employment, every probation officer signs a document agreeing to this policy.

Finding F1: The regulations associated with punishment did not set forth any specific provision that violating the hall checks and log entry rules would subject the violator to a specified punishment such as discharge.

County Response: Disagree. The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation.

Finding F2: The Grand Jury observed other safety related violations, such as "popping doors" and walking in front of wards.

County Response: Agree.

Finding F3: The Grand Jury found evidence that discipline for infractions of Probation Department regulations has been enforced inconsistently. Discipline has ranged from as minor as counseling to as major as discharge.

County Response: Disagree. The level of discipline is based on the type and severity of misconduct, the mitigating circumstances, and employees' prior disciplinary history.

Finding G: Frequently Core Training was not given to newly hired SDCPD officers until they had been on the job for some time.

Finding G1: Allegedly one officer did not receive Core Training within the first year.

County Response: Disagree. All available Officers received CORE training within their first year of employment.

Finding G2: The Manual states that Core Training must be completed within the first year of employment. The Grand Jury believes that the specified time period for completion of Core Training should occur within the first three months of employment.

County Response: Disagree in part. The Probation Department does not hire a sufficient number of new employees to conduct CORE Training during the first three months. However, all Juvenile Institutions employees receive forty to eighty hours of training prior to being assigned to a unit.

Finding G3: SDCPD officers who have not received Core Training customarily are placed in a cellblock under the supervision of a fully trained officer. Events could unfold that would disable or distract the trained officer and leave wards security in the hands of an untrained officer.

County Response: Disagree. All new employees receive forty to eighty hours of training prior to being assigned to a unit. Per Title 15, California Code of Regulations mandates that all child supervision staff shall receive at least 40 hours of training before assuming responsibility for the supervision of minors.

Finding H: SDCPD officers are allowed to keep the Manual in their possession for only 30 days after initial employment.

County Response: Disagree. The manual is returned in thirty days unless the employee needs additional time. The manual is also in each living unit and is accessible on line.

Recommendation 03-60: Ensure that there are policies and procedures in place requiring the use of outside investigators (San Diego County Internal Affairs Department or some other objective, impartial group) in all San Diego County Department disputes involving large-scale investigations, which could ultimately result in the discharge of multiple employees.

County Response: The recommendation will not be implemented because it is not warranted. The San Diego County Office of Internal Affairs investigates allegations of improper county government activities, discrimination based on race, color, religion, sex, national origin, age, or disability, and protects the complainant from any act of reprisal for reporting such allegations. They do not investigate allegations of law enforcement misconduct.

Recommendation 03-61: Ensure that investigations are conducted in a fair and consistent manner. A thorough investigation would require that all shifts be reviewed -- especially since shifts rotated every 3 months. It is possible that other people may have made the same mistakes as those for which people were discharged on the late night shift.

County Response: The recommendation will not be implemented because it is not warranted. The Probation Department conducts fair and consistent investigations. Each investigation is conducted based on the merit of the case.

Recommendation 03-62: Amend the Juvenile Hall Policy and Procedures Manual to include a more definitive statement emphasizing the importance of hall check and log-in procedures. For example: "A hall check must be recorded when completed."

County Response: The recommendation has been implemented and the action recommended has already been taken. The Policy and Procedures Manual was revised in October of 2002, to re-emphasize the importance of hall checks and proper documentation.

Recommendation 03-63: Provide Core Training to all new hires within at least 90 days after employment rather than within the first year. Policies and procedures must be fully understood prior to placing officers in charge of juvenile wards in all Juvenile facilities.

County Response: The recommendation will not be implemented because it is not reasonable. The Board of Corrections regulations require CORE training to be completed within the first year of employment. They recognize after 20 years of monitoring that it is unrealistic to make a requirement that departments complete CORE training within the first 90 days. Our Department does not hire enough employees to conduct Core Training within the first 90 days. However, all new employees receive forty to eighty hours of training prior to being assigned to a Unit.

Recommendation 03-64: Conduct a comprehensive retraining of all supervisory personnel and management at Juvenile Hall in order that they become more aware and responsible for the performance of the officers in their charge. Given the systemic nature of the problem (over 60 percent of one shift being found guilty of similar offenses) the situation may be more widespread than the firings represent.

County Response: The recommendation will not be implemented because it is not warranted. Supervisors and management personnel attend a minimum of forty hours training annually. Probationary Supervisors attend an eighty hour training course during their first year that is mandated by Standards and Training for Corrections (STC). Additionally, the Probation Department provides a twenty-four hour Supervisor Development Academy for new Supervisors that emphasizes personnel matters. Juvenile Hall Supervisors receive on-going training regarding institutional policies and procedures, as well as department wide topics.

Recommendation 03-65: Post all regulations dealing with hall checks and login procedures in the Command Center of each cellblock.

County Response: The recommendation will not be implemented because it is not warranted. The Policy and Procedures Manual has been revised; in-house training has been expanded; and staff is reminded about hall check policies on an on-going basis through training and at meetings.

County of San Diego Response to 2002-03 Grand Jury Reports

Recommendation 03-66: Amend the Juvenile Hall Policy and Procedures Manual to contain specific provisions that violation of hall checks and login rules will subject the wrongdoers to a specific punishment such as discharge.

County Response: The recommendation will not be implemented because it is not warranted. As stated in this Grand Jury Report, in Facts and Findings paragraph F: "The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation. Upon initial employment, every probation officer signs a document agreeing to this policy."

Recommendation 03-67: Amend the Juvenile Hall Policy and Procedures Manual to contain specific provisions that lying and/or falsifying records of any document will result in immediate termination. Specify that the supervisors will be held accountable for the actions of those in their charge.

County Response: The recommendation will not be implemented because it is not warranted. The San Diego Probation Department's Administrative Manual Section 1306 Code of Ethics and Standards of Conduct, is required reading for all employees. This policy states, "The Department expects its employees to adhere to the standards and procedures described below. In the case of misconduct, appropriate action including discipline will be determined on the basis of the facts and circumstances surrounding any particular incident."

Recommendation 03-68: Provide every Probation Officer and Supervisor with a personal Manual, which they can keep in their possession.

County Response: The recommendation will not be implemented because it is not warranted. Each employee receives a manual for thirty days, or longer if needed. The Staff is informed/reminded that the Manual is available to review at their convenience. The manual is available on-line for easy access by staff.



RECEIVED

JUL 29 2003

County of San Diego

WALTER F. EKARD
CHIEF ADMINISTRATIVE OFFICER
(619) 531-6226
FAX: (619) 557-4060

CHIEF ADMINISTRATIVE OFFICE

1600 PACIFIC HIGHWAY, STE. 209, SAN DIEGO, CA 92101-2472

July 29, 2003

The Honorable Richard E. L. Strauss
San Diego Superior Court, Presiding Dept.
220 West Broadway
San Diego, CA 92101

RESPONSE FROM COUNTY OF SAN DIEGO ON 2002-2003 GRAND JURY REPORTS

Dear Judge Strauss:

Attached, please find the County of San Diego Board of Supervisors' responses to six reports issued by the 2002-2003 San Diego County Grand Jury addressing County government issues and operations, for your transmittal to the Grand Jury. The attached material was approved by the Board of Supervisors on July 29, 2003 and addresses the following reports:

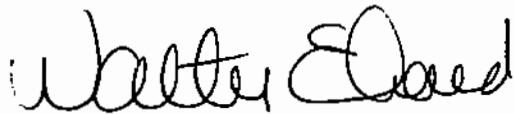
- 1.) Delay in Correcting an Ambiguous Ordinance: Public Administrator/Public Guardian 'Homeless' for Twenty Months,
- 2.) City of San Diego Development Services Department: A Case Study in Complaint-Resolution (Gone Awry),
- 3.) Foster Care Improving? County Leads the Way Toward Expanding Interagency Cooperation,
- 4.) The Tia Juana Valley County Water District: Why?
- 5.) San Diego County Department of General Services: Redirecting the Facilities Operations Division,
- 6.) Wrong Place? Wrong Time? Falsified Hall Checks by San Diego County Probation Officers at Juvenile Hall.

Page 2

The Honorable Richard E. L. Strauss
2002-2003 County Grand Jury Report Responses

The Board of Supervisors is scheduled to consider the Grand Jury's seventh and final report on County operations on August 12, 2003 and that report will be forwarded to you, as well, after that date. If you have any questions concerning the attachments or any related matter, please contact me at (619) 531-6226.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter Ekard". The signature is written in a cursive style with a large initial "W" and "E".

WALTER F. EKARD
Chief Administrative Officer

Attachment



COUNTY OF SAN DIEGO

BOARD OF SUPERVISORS

GREG COX
First District
DIANNE JACOB
Second District
PAM SLATER
Third District
RON ROBERTS
Fourth District
BILL HORN
Fifth District

AGENDA ITEM

DATE: July 29, 2003
TO: Board of Supervisors
SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS (District: All)
SUMMARY:

Overview

On June 27, 2003, the 2002-2003 Grand Jury issued its Final Report. Included in this Final Report are seven individual reports containing recommendations to the Board of Supervisors and County departments on various subjects, including ordinance changes, foster care, probation officer investigations, city development services, facility maintenance and the Tia Juana Valley County Water District.

This is a request for your Board to review the draft responses prepared by the Chief Administrative Officer that respond to the findings and recommendations contained in six of these reports and to authorize the Chief Administrative Officer to transmit your Board's responses to the Grand Jury, via the Superior Court Presiding Judge.

Recommendation(s)

CHIEF ADMINISTRATIVE OFFICER

1. Authorize the Chief Administrative Officer to transmit the attached responses to the Grand Jury via the Superior Court Presiding Judge.

Fiscal Impact

There is no fiscal impact with this action.

Business Impact Statement

N/A

Advisory Board Statement

N/A

BACKGROUND:

On June 27, 2003, the 2002-2003 Grand Jury issued its Final Report. This document is a compilation of individual reports on various topics, some of which were released individually throughout April, May and June.

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

Included in the Final Report document are seven reports that direct recommendations to the Board of Supervisors and various County departments on ordinance changes, foster care, probation officer investigations, city development services, general facility maintenance, detention facility maintenance and the Tia Juana Valley County Water District.

This is a request for your Board to approve the attached finding and recommendation responses for six of these reports and authorize the Chief Administrative Officer to transmit these responses to the Grand Jury via the Superior Court Presiding Judge. The attached document contains proposed responses to the findings and recommendations directed to the County of San Diego in the following reports, entitled:

- 1.) Delay in Correcting an Ambiguous Ordinance: Public Administrator/Public Guardian 'Homeless' for Twenty Months (Attachment A),
- 2.) City of San Diego Development Services Department: A Case Study in Complaint-Resolution (Gone Awry) (Attachment B),
- 3.) Foster Care Improving? County Leads the Way Toward Expanding Interagency Cooperation (Attachment C),
- 4.) The Tia Juana Valley County Water District: Why? (Attachment D),
- 5.) San Diego County Department of General Services: Redirecting the Facilities Operations Division (Attachment E),
- 6.) Wrong Place? Wrong Time? Falsified Hall Checks by San Diego County Probation Officers at Juvenile Hall (Attachment F).

Proposed responses to the remaining report, "Conditions and Management of Detention Facilities in San Diego County," will be docketed for your Board's consideration on September 16, 2003. Grand Jury findings and recommendations directed to the County Sheriff will be addressed separately by the Sheriff, with copies sent to the Board of Supervisors, pursuant to Penal Code Section 933.05.

Linkage to the County of San Diego Strategic Plan:

The six Grand Jury reports listed above address issues associated with all three of the County's Strategic Initiatives: Improving Opportunities for Kids, Preserving and Protecting the Environment, and Promoting Safe and Livable Communities. The County's written response to these reports and recommendations also supports the Required Discipline of Accountability/Transparency, fulfilling our commitment to conduct County business as openly as possible.

Respectfully submitted,

WALTER F. EKARD
Chief Administrative Officer

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

AGENDA ITEM INFORMATION SHEET

CONCURRENCE(S)

COUNTY COUNSEL REVIEW Yes *V. Teter*
Written Disclosure per County Charter Yes No
Section 1000.1 Required

GROUP/AGENCY FINANCE DIRECTOR Yes N/A

CHIEF FINANCIAL OFFICER Yes N/A
Requires Four Votes Yes No

GROUP/AGENCY INFORMATION TECHNOLOGY DIRECTOR Yes N/A

CHIEF TECHNOLOGY OFFICER Yes N/A

DEPARTMENT OF HUMAN RESOURCES Yes N/A

Other Concurrence(s): Probation Department *1000.1*
Department of General Services *A. M. ...*
Health and Human Services Agency *...*
Department of Environmental Health *...*

ORIGINATING DEPARTMENT: Chief Administrative Office

CONTACT PERSON(S):

Janice Graham	_____
Name	Name
(619) 531-6271	_____
Phone	Phone
(619) 595-4060	_____
Fax	Fax
A-6	_____
Mail Station	Mail Station
Janice.graham@sdcountry.gov	_____
E-mail	E-mail

AUTHORIZED REPRESENTATIVE: *Janice Graham*

SUBJECT: RESPONSE TO 2002-2003 GRAND JURY REPORTS: (District: All)

AGENDA ITEM INFORMATION SHEET
(continued)

PREVIOUS RELEVANT BOARD ACTIONS:

N/A

BOARD POLICIES APPLICABLE:

Board Policy A-43, Response to Grand Jury Interim Reports

BOARD POLICY STATEMENTS:

N/A

CONTRACT NUMBER(S):

N/A

ATTACHMENT A

**COUNTY OF SAN DIEGO RESPONSE TO 2002-03 GRAND JURY REPORT
"DELAY IN CORRECTING AN AMBIGUOUS ORDINANCE:
PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN 'HOMELESS' FOR TWENTY MONTHS"
Issued April 29, 2003**

Finding A: March 1998, the San Diego County Board of Supervisors enacted an ordinance transferring the functions of the PAPG to the HHSA. In April 2001, the Office of the County Counsel wrote an opinion advising that changes needed to be made to correct the ambiguous language in the ordinance.

County Response: Agree.

Finding B: The former PAPG complained that as the result of the enactment of the 1998 ordinance, the PAPG's budget and personnel were controlled by the Director of HHSA with the result that the operation of the PAPG was adversely impacted. The present PAPG, when interviewed, assured the Grand Jury that during the nine months in the position these problems did not exist. The budget for the PAPG was completely under control, as was the hiring and firing of PAPG personnel.

County Response: Disagree in part. While it is common for any manager to advocate for more resources for his or her department, the PAPG, along with every other department County head, is subject to a budget process managed by the Chief Administrative Officer and a budget ultimately adopted by the Board of Supervisors.

Finding C: Although the PAPG, HHSA management, and the Office of County Counsel exchanged correspondence and held meetings between early 1999 and October 2002, no corrective action was taken apart from the issuance of the April 2001 County Counsel opinion.

County Response: Disagree in part. To the extent that the ambiguous Administrative Code provision created an inconsistency with the County Charter provision concerning CAO authority to appoint the PAPG, the County Charter provision controls. And, between 1999 and October 2002, the County was in full compliance with the Charter since the CAO appointed the new PAPG. The fact that the CAO appointed the PAPG is evidence that the County took corrective action, since the action complied with the Charter. The ordinance was revised after October 2002 to remove any ambiguity regarding the PAPG's appointing authority.

Finding D: The Chief Administrative Officer and the San Diego County Board of Supervisors were not copied with the April 9, 2001, opinion by County Counsel.

County Response: Agree.

Finding E: The 2002-2003 San Diego County Grand Jury contacted the Office of the County Counsel in October 2002 with a request for background information about the alleged invalidity of the 1998 ordinance as it related to the transfer of the PAPG to the HHSA.

County Response: Agree.

Finding F: On December 10, 2002, the San Diego County Board of Supervisors enacted a new ordinance to correct the situation. Approximately twenty months had passed since the County Counsel opinion advising a change to correct the ambiguous language of the original ordinance (April 2001) and the enactment of the ordinance correction (December 2002). The Grand Jury learned that a correction of this type would have taken no more than 5 working days to prepare.

County Response: Disagree in part. While the period of time that elapsed between discovery of the ambiguous language and implementation of the solution was more than reasonable, it is important to note that the County fully complied with the applicable law (i.e., the Charter) since the CAO did appoint the new PAPG. Thus, there was no urgency to correct the Administrative Code ambiguity since it did not cause the County to be in non-compliance with applicable law.

In addition, between April 2001 and December 2002, County staff and managers identified, researched and analyzed various possible ordinance change options. While it may take five working days to accomplish the mechanical aspects of drafting an ordinance, that amount of time would not allow adequate time for staff to research all possible options; analyze potential impacts, ramifications, benefits and costs; and engage multiple affected parties in this process.

Finding G: Reasons for the delay never became clear to the San Diego County Grand Jury. Some of the reasons given to the Grand Jury were that 'it was something that just slipped through the cracks', 'it was at the bottom of the pile', and 'it wasn't a high priority item'.

County Response: Disagree in part. While it may be that these statements were made to the Grand Jury, they should be taken in context. Staff was correct to indicate that correcting an ambiguity in the Code was not a high priority since County staff fully understood that the Charter controlled operations and appointments and operations were in full compliance.

Finding H: During a 57-month period of time beginning in March 1998 through December 2002, no Director of HHSA assumed the responsibility of the PAPG position. The Director of HHSA was never directed to assume the responsibilities of the PAPG office by the CAO.

County Response: Disagree. During the 1996-1998 time frame, the County's new CAO implemented a broad reorganization of the County management structure. Departments were organized into five functional "Groups" that combined departments with similar functions. One of those Groups was the Health and Human Services Agency, formed by combining the Departments of Health, Social Services, Area Agency on Aging and Veterans Services. A short time later, it was determined that the PA/PG functions best fit within the HHSA.

County of San Diego Response to 2002-03 Grand Jury Reports

For management purposes, department heads were assigned to report to a Deputy Chief Administrative Officer or for HHSA, the Agency Director, who is also a Deputy Chief Administrative Officer. The DCAOs in turn report directly to the CAO. Therefore, the statement in paragraph 2 on page 1 of the Report that the ordinance directed the HHSA Director to assume the role and responsibility of the PA/PG is not accurate.

As with other HHSA functions, those performing the roles cited in the Administrative Code report to the HHSA Director for overall management purposes. Therefore, it was entirely appropriate for the three HHSA Directors to not personally assume the PA/PG role. Since it was later determined that the ordinance language created confusion with respect to the Charter requirement, the situation was reviewed by Counsel and the December 2002 ordinance corrected the language.

Finding I: The Grand Jury finds that, when there is an alleged violation of the County Charter or the California Government Code, the situation should be addressed by County management in an expeditious manner.

County Response: Agree. It must be noted that there was no violation of the County Charter or the California Government Code regarding the PAPG issue. Thus there was never a need for County management to address any alleged violation. In fact, as explained above, the County was fully in compliance with applicable law under the Charter with respect to the PAPG matter.

Finding J: It is the responsibility of the Board of Supervisors to bring all ordinances into compliance with the San Diego County Charter and California Government Code in a timely manner.

County Response: Disagree in part. While the Board of Supervisors is ultimately responsible for all County ordinances, the County Charter establishes a management structure that places day-to-day management of administrative matters under the Chief Administrative Officer, and day-to-day management of legal matters with County Counsel, both of whom are appointed by the Board of Supervisors.

It is an on-going responsibility of both the CAO and County Counsel to bring ordinances or Code sections to the Board's attention in a timely manner when compliance issues arise. Once this is done by the CAO and County Counsel, the Board is responsible to make the necessary corrections to such ordinances.

Recommendation 03-43: County Counsel is alerted to the fact that an ordinance may be out of compliance with controlling documents that County Counsel should, within 30 days, investigate the situation, take appropriate action, and provide written documentation.

County Response: The recommendation has been implemented. Except as stated in the last two sentences in this reply, Recommendation No. 03-43 describes actions that County Counsel has performed, presently performs, and will continue to perform with respect to County ordinances that may be out of compliance with other controlling laws. In this regard, we agree

with this recommendation. However, there will be circumstances in which such actions cannot be completed within 30 days due to the complexity of a particular issue. Therefore, while we agree with the intent of the recommendation, we would not impose a fixed time limit, 30-day or otherwise, on this activity as some situations will require more time to resolve than others.

Recommendation 03-44: County Counsel renders an opinion, stating that an ordinance enacted by the Board of Supervisors contains ambiguous language or possibly violates San Diego County Charter provisions or State law, that opinion is copied to the San Diego County Chief Administrative Officer and all of the Director(s) of the department or agency(ies) involved. All parties must then respond, in writing, to the situation within 30 days (sending copies to all involved along the way).

County Response: This recommendation has been implemented. It should be noted, however, that Counsel will take this course of action only when the circumstances of a situation warrant such action and are appropriate, based on the legal issues and needs of the particular County clients. While Recommendation No. 03-44 may be an appropriate response in certain circumstances, agreement with this recommendation is limited to only those circumstances where the recommended action is appropriate based upon the facts of the situation.

To the extent that the legal needs of the County require County Counsel to take a different approach to address a legal issue, Counsel opinions are copied as appropriate to the situation, and only to those on a "need to know" basis since County Counsel's legal advice constitutes confidential attorney-client communications. There may be legitimate legal reasons that Counsel will limit confidential legal advice given to the Board of Supervisors and the CAO, without copying other Directors of a department or agency involved. In addition, requiring formal written responses to every possible situation may not be the most efficient use of County resources in all circumstances.

Recommendation 03-45: An ordinance directs that a County officer assume responsibilities associated with a specific position, that officer should act immediately to comply with the ordinance or notify the Chief Administrative Officer, in writing, within 30 days, stating the reasons s/he could or should not comply.

County Response: This recommendation will not be implemented. While we agree that a County officer, under the circumstances described in this recommendation, should either comply with the ordinance or notify the CAO of his/her reasons for non-compliance, we do not agree that the notice always be in writing, always be within 30 days, or always be provided to the CAO. It may be that such a notice cannot and should not (1) be in writing, (2) be provided in 30 days, or (3) be provided to the CAO in every instance. Rather, it may be that, under certain circumstances, such notice should be verbal, cannot be provided within 30 days, or should be provided to another County body or officer, such as the Board of Supervisors, County Counsel, or the Chief Financial Officer, for example.

As noted in the response to Finding H, the ordinance at issue did not direct a County officer to assume responsibilities associated with a specific position. Therefore, there was not a need in

County of San Diego Response to 2002-03 Grand Jury Reports

this situation for a County officer to assume responsibilities or to notify the CAO of reasons why not to comply.

ATTACHMENT B

**“CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT:
A CASE STUDY IN COMPLAINT-RESOLUTION (GONE AWRY)”
Issued April 16, 2003, Received May 1, 2003**

Finding 2: The Seabreeze Farms Equestrian Center may be in violation of the San Diego Municipal Code 44.0308 (a); both literal and conservative counts of dwelling units within the one-fourth mile wide belt result in numbers in excess of 300.

The Development Services Department (DSD) applied a strict interpretation and application of the San Diego Municipal Code 44.0308 (d). A more reasonable interpretation could have caused measurement to originate at the jump area fence and at the outer edge of the horse wash racks. Certainly, a preferable option is that of measuring from the outer edge of any significant “equestrian use”. Even better, a 75-foot separation beginning at the homeowners’ property lines to the “equestrian use” should be specified. Public health and safety concerns should require an interpretation resulting in the widest possible buffer.

County Response: Disagree in Part. San Diego Municipal Code 44.0308 requires...(d) no residence or dwelling exists except such as are owned, maintained or occupied by the owner of such horses within a 75’ wide belt surrounding the stable, corral or pasture within which such a horse is kept. The County DEH issued a permit on April 25, 2003, to David Goddell, 5720 Carmel Valley Road, San Diego, operator of the Equestrian Center, after determining the Center had complied with stated distance to dwellings. That permit was issued after a County DEH review to confirm compliance with the 75-foot buffer zone requirement in the Municipal Code, as interpreted by the City of San Diego. Establishment of the present 75-foot buffer based on that interpretation is adequate for public health and safety concerns when all sanitation procedures are observed.

On February 7, 2003, an inspection of the Seabreeze Farms by County DEH, as part of their permit application, showed all manure management practices and vector control procedures were in place and being followed. No subsequent substantiated complaints have been received by County DEH. Establishment of any wider buffer zone, or reinterpretation of the current Municipal Code to establish greater buffer zones in actual practice, would be a land use matter rather than a health and safety matter. Establishing a larger buffer zone based on the interpretation proposed in the report could be problematic in actual practice.

County DEH did not participate in a review for compliance with San Diego Municipal Code 44.0308 (a), regarding dwelling units within one-quarter mile of a proposed facility. The City and County both consider this requirement to be essentially a land use policy, not a public health and safety requirement. In the past, revisions to the Municipal Code have been suggested to City staff by County staff, to clarify that applying this requirement is properly an issue for the City, not for County DEH.

Finding 4: The Development Services Department staff failed to consider "quality of life" issues for the neighboring homeowners by: (1) allowing the construction of the horse wash racks between the large barn and property line (a visual nuisance not shown on any conceptual plan); (2) allowing placement of the dressage or training arena directly behind the properties at the southern end of the facility (a noise and dust nuisance that was shown elsewhere on the conceptual plan); and (3) allowing the site manager to consistently violate his own manure management plan (a public health nuisance).

County Response: Disagree in Part. Manure management, fly, rodent, vector, and dust control plans were provided by Seabreeze Farms and submitted to County DEH in their permit application. The County DEH does not perform scheduled inspections of these permitted facilities and only responds to complaints from the general public. There are no records of fly complaints received concerning Seabreeze Farms by County DEH Vector Surveillance and Control. Flies were not observed in and around the barn during an inspection of the facility on February 7, 2003, which was performed by County DEH as part of the permit application process. Noise generated during manure processing/removal is unavoidable; this is not a regulated public health or safety issue. The County's responsibilities for these kinds of facilities within the City of San Diego do not extend to "quality of life" issues that are not health and safety issues; therefore, the County has no further response to this finding.

Finding 4: The Department of Environmental Health was, until mid-January 2003, unaware of the existence of the equestrian center. This agency needs to be included in the loop earlier, for development and construction projects involving large-scale animal facilities, if it is to fulfill its responsibilities for public health and sanitation.

County Response: Disagree. County DEH was involved in the review of aspects of this proposed facility very early in the City's permitting process. County DEH staff participated in CEQA review for this project, in evaluation of compliance with the 75-foot buffer zone requirement, and in the review of the operator's manure management, fly, rodent, vector, and dust control plans. County DEH was "in the loop" early enough to address public health and sanitation issues.

Recommendation 03-26: The San Diego Grand Jury Recommends that the Director, Department of Environmental Health: Recommend to the City Council an amendment to Municipal Code Chapter 4: Health and Sanitation Article 4: Disease Control-Nuisance Division 3: Animals 44.0308 Horses by:

1. Replacing the words stable, corral and pasture with the phrase "equestrian uses." The intent of this change is to include nighttime and daytime activities as well as permanent and non-permanent equine and equine-related structures and facilities.
2. Clarifying the meaning, intent and use of the words, "dwelling," "residence," "corral," and "pasture."
3. Changing section (d) to read that the 75-foot wide belt extends from the outer edge of any equestrian use and terminates at the homeowner property line.

County Response: The recommendation will not be implemented because it is not within the County of San Diego's jurisdiction. Sections 1 and 2 are City of San Diego zoning issues, wholly under the jurisdiction of the City and, as such, should be considered by the City. Regarding Section 3, County DEH believes the 75-foot buffer, as interpreted by the City (and as applied in this case by the City and by County DEH) adequately protects public health and safety. At present, the interpretation of San Diego Municipal Code 44.0308 is at the discretion of the City of San Diego. The County's interest is the protection of public health and safety, which the 75-foot buffer provides.

Recommendation 03-27: Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the site's manure management program.

County Response: The action described in this recommendation has been taken. County Environmental Health staff advised Seabreeze Farms that they are available for consultation on all aspects of manure and vector control during a February 7, 2003 inspection. Staff from Seabreeze Farms did subsequently contact County DEH in May 2002 for recommendations on manure management and County staff provided Seabreeze Farms with manure disposal procedures, and instructions on transporting manure, fly control and water runoff.

Recommendation 03-28: Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the sites fly control, dust control, rodent control and vector control programs.

County Response: The action described in this recommendation has been taken. Like Recommendation 03-27, Recommendation 03-28 has also already been implemented. The County DEH, during its February 7, 2003 inspection, advised Seabreeze Farms that it would be available for consultation on all aspects of manure and vector control issues. This was also discussed at the request of Seabreeze staff in May 2002.

Recommendation 03-29: Work in consultation with Sandown Way and Rider Place residents whose properties abut the equestrian center's boundary, to:

1. Relocate the horse wash racks (a visual nuisance) to another location,
2. Relocate the dressage arena (a noise and dirt nuisance behind the Rider Place residents) in accord with the conceptual layout.

County Response: The recommendations will not be implemented as they are not public health and safety issues. Visual nuisances and compliance or non-compliance with conceptual plans are concerns that are not regulated by the County within the city limits of San Diego. Noise issues within the city limits are under the jurisdiction of the City of San Diego.

County of San Diego Response to 2002-03 Grand Jury Reports

Recommendation 03-30: Perform the measurements specified in the San Diego Municipal Code 44.0308 (a) and (d) (i.e., one-fourth mile and 75-foot wide belt measures) at the Seabreeze Farms Equestrian Center owner's expense and take whatever action is necessary as a result.

County Response: The recommendation will not be implemented because it would establish a new set of measurements to be performed by County DEH, even though the City and County have already confirmed compliance with the section 44.0308(d) 75-foot buffer zone requirement as established by the City. The existing interpretation protects public health and safety. As stated above, the County considers the section 44.0308(a) requirement to be a local land use matter, not a public health and safety matter.

ATTACHMENT C

**“FOSTER CARE IMPROVING? COUNTY LEADS THE WAY
TOWARD EXPANDING INTERAGENCY COOPERATION”**

Issued May 6, 2003

Recommendation 03-46: Immediately form a task force to develop within six to eight months, a uniform mandate that clearly defines policy and procedures to ensure continuity across agencies and school districts in order to provide quality educational outcomes for San Diego County foster youth. The mandate would include uniform procedures for schools, Health and Human Services, Probation, the Courts and substitute care providers to assure the complete and timely transfer of school and medical records of children who are dependents of the Court. The policies would be developed in conjunction with the San Diego County Office of Education’s Foster Youth Services Program.

County Response: The recommendation will not be implemented because there is already a committee in place to ensure continuity of policies and procedures across agencies and school districts. The Education Committee, chaired by Judge Susan Huguenor, includes the County Office of Education, the courts, the Health and Human Services Agency, Voices For Children, and several other agencies that are committed to ensuring continuity with regard to policies and procedures. In addition to the Education Committee, the Foster Youth Services Advisory Committee is committed to facilitating the exchange of health and education information among agencies providing services to foster youth. This committee is also committed to overcoming obstacles related to sharing information while maintaining confidentiality.

There is also a Health and Human Services Agency policy (Children’s Services Special Notice #12 – 03), which ensures that children are properly dis-enrolled from school when appropriate. The policy provides that a transfer form be sent to the new Substitute Care Provider, the new school, and copied to the regional Health and Education Passport (HEP). This transfer form documents all relevant information about the child’s previous school and credits earned.

Recommendation 03-47: In partnership with the San Diego County Superintendent of Schools, establish a task force to ensure shared responsibility and accountability for all San Diego County foster care children.

County Response: This recommendation will not be implemented because there is an existing agreement between the Health and Human Services Agency and the County Superintendent of Schools in which all parties agree to continue developing a collaborative relationship using resources to best meet the educational and mental health needs of our children/youth and families. The Education Committee and the Foster

Youth Advisory Committee meet each month to work on collaborative problem solving methods.

Each school district in San Diego County has appointed a liaison to assist with problem solving in this area. In addition, San Diego Unified School District has also assigned a liaison to work with HHS for the benefit of foster children.

Recommendation 03-48: Seek legislation to modify the licensing requirements for the unique situations at San Pasqual Academy to reflect the realities of a boarding school as compared to a group home. These modifications would remove barriers that prevent youth from participating in enrichment activities due to licensing regulations.

County Response: This recommendation will not be implemented because staff is already working with State and federal agencies to assure the needs of the Academy students are addressed. To meet the needs of the adolescent foster youth at the San Pasqual Academy, the County is pursuing regulation changes that would take into consideration the Academy's focus on independent living skills.

Recommendation 03-49: Consider establishing a second San Pasqual Academy type of facility to accept middle-school aged youth as well as high school students, not only to service more students but to intervene earlier in this educational life.

County Response: This recommendation will not be implemented because research has shown that the emphasis for younger and middle school-aged youth should be placed on finding adoptive or foster homes. High school-aged children, however, are more difficult to place in permanent homes and that is why the Academy was developed for that specific age group.

Within the Academy's independent living skills environment, the youth focus on furthering their education and vocational skills. It will be important, over the next few years, to examine the level of success at the new campus to ensure that the students can build a firm foundation for an independent adulthood.

Recommendation 03-50: Provide each school-age foster child with multiple copies of his/her HEP before a placement change.

County Response: This recommendation will not be implemented because the action recommended is already being taken. The children's Substitute Care Providers (foster parent, relative or group home) are currently provided with this information when a placement change occurs. Division 31 regulations of the California Department of Social Services, Child Welfare Manual require that a health and education summary be provided to the Substitute Care Provider 30 days after the initial placement or 48 hours after a change of placement. The Health and Human Services Agency policy (Children's Services Special Notice #09-02) reiterates this for social workers. This special notice

also emphasizes the importance of providing the caregiver the health and education summary at the time of placement.

Recommendation 03-51: Require that social workers document the record transfer of both education and medical records whenever there is a change of placement, whether the change involves group or individual homes.

County Response: The County will not implement this recommendation because it has already implemented a procedure for this documentation. Social workers are already required to document the record transfer of both education and medical records whenever there is a change of placement. The social worker is responsible for ensuring documentation of the date the Substitute Care Provider was given the health and education information. The social worker must document all known health and education information or complete a Health and Education Passport. Division 31 regulations of the California Department of Social Services, Child Welfare Manual also require this documentation.

ATTACHMENT D

**“THE TIA JUANA VALLEY COUNTY WATER DISTRICT: WHY?”
Issued June 27, 2003**

The 2002-2003 San Diego County Grand Jury recommends that the San Diego County Board of Supervisors:

Recommendation 03-82: Review the activities of the Tia Juana Valley County Water District and initiate proceedings for the dissolution of the District, so that District tax payers are freed from an unnecessary, open-ended tax assessment.

County Response: The recommendation will not be implemented by the County because it would be more appropriate for a dissolution request to be initiated by the City of San Diego or the San Diego Local Agency Formation Commission.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 allows local agencies to apply for dissolution of a district when there is a successor agency to assume all assets and liabilities. In this case, virtually all properties in the Tia Juana Water District receive water and sanitation services from the City of San Diego which, as the most logical successor agency, would be the most significantly impacted by such an action.

ATTACHMENT E

**“SAN DIEGO COUNTY DEPARTMENT OF GENERAL SERVICES:
REDIRECTING THE FACILITIES OPERATIONS DIVISION”
Issued June 27, 2003**

Finding A: The Director of the Department of General Services and Department management personnel have addressed, corrected, and instituted new procedures to overcome the problems outlined in the complaints.

County Response: Agree.

Finding B: As a result of the Memorandum of Agreement with the Sheriff, the Facilities Operations Division management personnel have made significant changes to improve the conditions outlined in the complaints.

County Response: Agree.

Finding C: The Facilities Operations Division employees, interviewed by the Grand Jury, are willing and able to perform job assignments and are satisfied with their general working conditions.

County Response: Agree.

Finding D: The County departments, investigated by the Grand Jury, are satisfied with the new direction, which the General Services Department management has undertaken, and the Facilities Operations Division employees generally provide timely and supportive maintenance to the County departments served by the MOA with the Sheriff.

County Response: Agree.

Finding E: The recommendations in the 2001-2002 San Diego County Grand Jury report titled, “County General Services, Support of Detention Facilities” and the 1999-2000 San Diego County Grand Jury report titled, “Detention Facilities of San Diego County” have been addressed and improvements have been made.

County Response: Agree.

Recommendation 03-69: Continue to monitor the San Diego County Department of General Services to ensure that Facilities Operations Division staff perform their duties in

an efficient, timely and professional manner, and that the County departments served by the Memorandum of Agreement continue to be satisfied with such efforts.

County Response: The recommendation has been implemented. The Department of General Services has provided the Sheriff's Department with access to the Facility Center Computer Maintenance Management System. Upgrades to the system are being implemented to provide enhanced access, data loading and status reporting via the WEB. This system is the single point of entry for execution of all work on County Facilities. It also provides the basis for budget development and identifies fiscal requirements based on a priority system. Allocations of funds via the Capital Improvement Plan are made annually or, for emergent issues, special funding can be identified via the newly established Facility Planning Board.

In addition to the condition Assessments discussed in the May 30, 2002 report, the Department of General Services has instituted an internal quarterly Facility Assessment Program to provide documentation for the Annual Inspection Summary (AIS). The AIS provides the basis for fund allocations under the Capital Improvement Plan process. This program will also identify those assets, whose functional life cycle is at an end, eligible for replacement under the Capital Renewal Plan. This plan focuses on planned, predictive replacement versus replace upon failure thereby limiting impacts of facility operations and performance of mission.

Routine meetings occur between the Sheriff's Department and Department of General Services to review ongoing issues and identify upcoming needs. Requirements to support the program are being addressed through a combination of these routine meetings, Sheriff Department direct access to the CMMS for project & work order loading and via the Annual Inspection Summary. These efforts combine to become part of the Capital Improvement Plan where funding requirements are identified for prioritization and allocation during the budget process.

ATTACHMENT F

“WRONG PLACE? WRONG TIME? FALSIFIED HALL CHECKS BY SAN DIEGO COUNTY PROBATION OFFICERS AT JUVENILE HALL”

Issued May 14, 2003

Finding A.: During the week in question, there were approximately 58 staff members on the late night shift duty. Thirty-seven officers and two student workers failed to make the mandatory hall checks and made false log entries. An investigation ensued.

Finding A1: The investigation by the San Diego County Probation Department of the October 11-16, 2001 hall check incident was not conducted in a fair and impartial manner.

County Response: Disagree. The San Diego County Probation Department investigation was conducted pursuant to Government Code 3300, Peace Officers Bill of Rights, and the Probation Department’s Policy & Procedures regarding Internal Affairs investigations.

Finding A2: Three supervisors who conducted the investigation had no previous investigative experience. These investigating officers were supervisors from either the day or early night shift during October 2001 assigned to Juvenile Hall, just one step in rank above those being investigated. They were investigating officers who were often social friends or acquaintances from different shifts. During an interview, one of the investigators stated how difficult it was to conduct the investigation. The investigator shared how much peer pressure was endured both during and after the investigation.

County Response: Disagree. The three supervisors selected to conduct the investigation were knowledgeable of Juvenile Hall’s working environment and Juvenile Hall’s Policy & Procedures. These supervisors had prior training and/or experience in conducting investigations.

Finding A3: The SDCPD did not seek the assistance of the San Diego County Internal Affairs Department, which employs expert investigators. The Grand Jury has verified that the San Diego County Internal Affairs Department did have sufficient personnel to conduct such an investigation at the time in question.

County Response: Agree. However, the San Diego County Probation Department did not seek assistance from the CAO’s Office of Internal Affairs (OIA) because OIA staff has no authority to investigate peace officer violations. Therefore, availability of OIA staff is irrelevant.

Finding A4: The SDCPD chose not to utilize personnel from the Department's own Internal Affairs Division to conduct the investigation because it allegedly did not have sufficient staff to handle this assignment.

County Response: Disagree. Internal Affairs Unit personnel advised and reviewed all investigative reports and were available for consultation.

Finding A5: The investigators often discussed their investigation results with the Director of Juvenile Hall and the Internal Affairs Director of the SDCPD. Those contacts give the appearance of "command influence." This "command influence" problem would not have been an issue had the County Internal Affairs Department conducted the investigation.

County Response: Disagree. The final results of all investigative reports are reviewed by the Internal Affairs Supervisor, and Probation Human Resources Manager for correctness and consistency, and the Service Director and Deputy Chief Probation Officer for recommendations of disciplinary action, in compliance with the Peace Officers Bill of Rights.

Finding A6: The investigators discussed the interviews with each other, and then by agreement tried to assign friends or work associates to another investigator. Even in cases they chose not to hear, they often sat in as "back up." For the most part, a team of two investigators conducted each interview.

County Response: Agree. Investigators are expected to share information with each other for fairness and consistency in this investigation. It is also standard procedure for all investigations to have two interviewers for each interview.

Finding A7: This investigation has had, and will have, a great impact on both the morale and efficiency of the SDCPD and should have been conducted by the most competent personnel available.

County Response: Disagree. By saying that the investigation "should have been conducted by the most competent personnel available," Finding 7 implies that it was not. The County disagrees with this finding. The Probation Department chose the investigators based on their knowledge and experience of the working environment and the Juvenile Hall's Policy and Procedures manual. The Internal Affairs Unit coordinated the investigations of these cases and reviewed all the investigative reports for consistency and compliance with the aforementioned policies.

Finding A8: Of the 37 officers disciplined or terminated, only two had received substandard ratings prior to October 2001; the rest were rated as competent employees. Two of them had been chosen the Probation Department's "Employee of the Year." Some were mentors to their fellow employees. Many had worked for the SDCPD for over 20 years.

County Response: Disagree in part. Of the Officers disciplined or terminated, only one employee (who resigned in lieu of termination) had over twenty years of service.

Finding A9: The background check procedure for SDCPD officers is very involved and includes psychological testing. This system disqualifies many applicants and makes it difficult to find eligible line and entry-level candidates for employment. These facts support the statement that many of the fired officers had impeccable backgrounds prior to being hired.

County Response: Agree. A thorough background investigation was conducted on all of the officers. They met the minimum standards required for Peace Officers.

Finding B: The Probation Department's investigation focused on personnel assigned only to the late night shift. One of the three investigators reviewing the videotapes with the Grand Jury admitted that violations of the 15-minute hall checks did occur on the early night shift.

Finding B1: Videotapes of the early night shift of the same October 11-16, 2001 period were reviewed by the Grand Jury.

County Response: Disagree in part. The Grand Jury only reviewed a segment of one videotape of Unit 800 and watched thirty to forty-five minutes of the tape.

Finding B2: The Grand Jury's review disclosed that the some hall checks were not made on the early night shift as well as on the late night shift.

County Response: Agree.

Finding B3: Other security violations, such as "popping doors" (opening cell doors from a switch at the guard station without a probation officer in the hallway) and walking in front of wards were viewed on the videotapes.

County Response: Agree.

Finding B4: Two officers, from the early night shift, received disciplinary action. They were found not performing mandatory hall checks during the early night shift. These same two officers were seen on a piece of overlapping videotape reviewed by the three investigators. These two officers received five-day suspensions for missing one hall check.

County Response: Agree.

Finding B5: The facts discovered were communicated to SDCPD management by the investigator reviewing the videotapes along with the Grand Jury.

County Response: Agree.

Finding B6: As of late April 2003, the Grand Jury had not been advised that other shifts have been investigated for violations of hall check regulations.

County Response: Agree.

Finding B7: Management stated that they did not investigate the other shifts because during the daytime and early night shifts there is so much other staff activity going on in the hallways that hall checks on a regular basis are not as likely to be missed.

County Response: Agree.

Finding C: The investigation conducted by the SDCPD did not adequately cover the conduct of supervisors to determine if they had any accountability or responsibility for the events of October 11-16, 2001.

Finding C1: Several of the officers interviewed stated that their supervisors were aware of the so-called practice of "catching up" and had condoned this practice.

County Response: Agree.

Finding C2: Several supervisors were questioned. The three investigators questioning the supervisors were of the same rank as the supervisors being questioned. All were assigned to one of the three shifts as supervisors.

County Response: Disagree in part. The Internal Affairs Supervisor conducted the majority of the Supervisor interviews. The three investigators conducted some preliminary interviews of Supervisors, Senior Probation Officers, and former employees.

Finding C3: These supervisors denied having any knowledge of the "catching up" practice and stated they would not condone it.

County Response: Agree.

Finding C4: The allegations, made by the officers, that supervisors knew of the practice of "catching up" has credibility because of the approximately 58 people who were on the late night shift of October 11-16, 2001, 39 received disciplinary action for misconduct related to "catching up" the logs. Clearly the supervisors could not have been totally unaware that the hall checks were not being made if the practice was that widespread.

County Response: Disagree. As noted in the Civil Service Commission conclusions and supported by the Superior Court findings, the “Employees did not present any convincing evidence of supervisory complicity in their practice of falsifying” and “Employees did not perform a majority of the required hall checks; Employees falsely recorded these unperformed hall checks as completed; and the Department regularly reminded Employees of the need for hall checks through memos, supervisor’s meeting minutes, and at meetings. Additionally, the Department presented circumstantial evidence that Employees were acutely aware that they were engaged in misconduct that they were trying to hide from their supervisors.”

Finding C5: The supervisors should have been disciplined along with the officers, as they were negligent in performing their duties. It appears that the supervisors overlooked violations of the policies and procedures over an indeterminate period of time.

County Response: Disagree. The Department investigated allegations of Supervisor misconduct and found no evidence of misconduct.

Finding C6: The credibility of the supervisors in this instance of misconduct was neither aggressively nor competently pursued.

County Response: Disagree. As noted in the Civil Service Commission conclusions, “Employees attempted to show that the practice was approved by Department supervisors. While it appears obvious from the number of employees being disciplined that such a practice existed among them, they were unable to present any convincing evidence of direct statements or other communications from Department supervisors approving it. Employees’ evidence of Departmental approval consisted primarily of implication and innuendo through the alleged presence of supervisors during incidents of falsification or their disputed use of terms like “catch it up.” Employees did not present any convincing evidence of supervisory complicity in their practice of falsifying.”

Follow-up investigation: “Approximately sixteen Supervisors, thirteen Senior Probation Officers, five Correctional Deputy Probation Officer II, two Directors, and one retired Assistant Chief Probation Officer, (thirty-seven total) were named by terminated Officers either during the Internal Affairs interrogations or the Skelly Conference. Most of the allegations were vague or non-specific and no follow-up investigations were conducted. In those cases where specific dates or incidents were recalled and/or witnesses identified (16 out 37), follow-up investigations were conducted in person, by telephone, written statements, or videotape review.”

Finding C7: A retraining program is needed for supervisory and management personnel. Due to the systemic nature of the problem (over 60% of one shift being found guilty of similar offenses) the situation appears more widespread than the firings presents.

County Response: Disagree in part. Supervisors and management personnel attend a minimum of forty hours training annually. Probationary Supervisors attend an eighty hour training, during their first year, that is mandated by Standards and Training for Corrections (STC). Additionally, the Probation Department provides a twenty-four hour Supervisor Development Academy for new Supervisors that emphasizes personnel matters. Juvenile Hall Supervisors receive on-going training regarding institutional policies and procedures, as well as department wide topics.

Finding D: The regulations, of the California Board of Corrections regarding the hall checks, are set forth in a large SDCPD Manual which is given to each officer when s/he begins.

Finding D1: This Manual must be returned to the Department after the probation officer completes his/her initial training period, which is usually 30 days.

County Response: Disagree in part. The Manual is returned in thirty days unless the employee needs additional time. The manual is also in each living unit.

Finding D2: The training techniques in effect prior to the October 2001 period did not prioritize the mandatory hall check policies and procedures over other regulations nor did they indicate the serious consequences of not performing or correctly documenting the mandatory hall checks.

County Response: Disagree. All employees receive formal training that includes the requirement to perform hall checks every fifteen minutes and the justification and necessity of checks in order to protect the health and welfare of the Detainees.

Finding D3: After the problem was discovered SDCPD senior management stressed to the Grand Jury the fact that making 15-minute hall checks and their proper logging is paramount.

County Response: Disagree. Senior management has always stressed to employees that fifteen-minute hall checks and their proper documentation are paramount.

Finding D4: The officers allege that several supervisors stressed to the officers, in their charge, that the requirement of having the log books up to date and filled in completely was much more important than having the log books reflect late hall checks. Missing or incorrect logbook entries reflected poorly on the supervisors in charge.

County Response: Disagree. The Supervisors stressed to the Officers that conducting fifteen-minute hall checks and documenting was paramount. Supervisors continually reviewed the logbooks to ensure compliance.

Finding D5: In the week following the announcement that there would be an investigation of the violations of October 2001, the log books of one of the three investigator's showed 99 late log book entries. The week before the announcement, there were nine late entries, which give the appearance that completeness was more important than accuracy to the supervisors.

County Response: Disagree. The number of late hall checks only illustrates timeliness of hall checks, not completeness and accuracy.

Finding D6: A Union Tribune article states that "...a February 2002 audit of the county facility by the State Board of Corrections found that the hall check policies were deficient and that the county had not put them into its Policies and Procedures Manual (two months before workers were fired)."

County Response: Agree. However, the Union Tribune article is inaccurate. The Board of Corrections audit, in February 2002, was also inaccurate and a subsequent letter from the Board of Corrections stated we were in full compliance with Title 15 Regulations of hall checks.

Finding D7: The Grand Jury did see a copy of a memo from a Juvenile Hall supervising officer which read "Re: Hall Check Policy, Dated: November 8, 2000. It has come to my attention that the hall checks have not been conducted in a timely manner. In fact, the entire log has not been completed properly. It is imperative that all staff adheres to the juvenile hall policies and procedures and completes this document as prescribed in the policy. I am aware that you are very busy; however, this is a legal document and must be completed per hall check policy 9.8.11.1. Please sign and date that you are aware of this section and understand the contents."

County Response: Agree.

Finding E: There is no evidence, pre-October 2001, that the regulations dealing with the hall checks are stressed above other procedures when reportedly the hall checks are of the utmost importance to the security of Juvenile Hall.

Finding E1: The Manual notes many equally important procedures, such as: Temporary Assistance to Needy Families (TANF) report completion; medical consent forms and their proper completion; intake forms and their proper completion; always walking behind wards; not "popping doors" (the practice of opening a cell door from the control center without a probation officer present in the hallway); etc.

County Response: Agree.

Finding E2: The regulations dealing with hall checks were not posted in the command center of each cellblock. This would have put the probation officers on notice that these regulations were very important.

County Response: Disagree in part. As noted in the Civil Service Commission Conclusions “The testimony of Department supervisors and the Training Officer in which they denied instructing or encouraging the falsification of hall check records. To the contrary, they stated that they emphasized the importance of actually performing hall checks per policy in order to ensure the health, safety, and security of custodial wards. The Department also repeatedly emphasized the importance of proper hall checks in various memos and meetings.”

Finding F: The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation. Upon initial employment, every probation officer signs a document agreeing to this policy.

Finding F1: The regulations associated with punishment did not set forth any specific provision that violating the hall checks and log entry rules would subject the violator to a specified punishment such as discharge.

County Response: Disagree. The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation.

Finding F2: The Grand Jury observed other safety related violations, such as “popping doors” and walking in front of wards.

County Response: Agree.

Finding F3: The Grand Jury found evidence that discipline for infractions of Probation Department regulations has been enforced inconsistently. Discipline has ranged from as minor as counseling to as major as discharge.

County Response: Disagree. The level of discipline is based on the type and severity of misconduct, the mitigating circumstances, and employees’ prior disciplinary history.

Finding G: Frequently Core Training was not given to newly hired SDCPD officers until they had been on the job for some time.

Finding G1: Allegedly one officer did not receive Core Training within the first year.

County Response: Disagree. All available Officers received CORE training within their first year of employment.

Finding G2: The Manual states that Core Training must be completed within the first year of employment. The Grand Jury believes that the specified time period for completion of Core Training should occur within the first three months of employment.

County Response: Disagree in part. The Probation Department does not hire a sufficient number of new employees to conduct CORE Training during the first three months. However, all Juvenile Institutions employees receive forty to eighty hours of training prior to being assigned to a unit.

Finding G3: SDCPD officers who have not received Core Training customarily are placed in a cellblock under the supervision of a fully trained officer. Events could unfold that would disable or distract the trained officer and leave wards security in the hands of an untrained officer.

County Response: Disagree. All new employees receive forty to eighty hours of training prior to being assigned to a unit. Per Title 15, California Code of Regulations mandates that all child supervision staff shall receive at least 40 hours of training before assuming responsibility for the supervision of minors.

Finding H: SDCPD officers are allowed to keep the Manual in their possession for only 30 days after initial employment.

County Response: Disagree. The manual is returned in thirty days unless the employee needs additional time. The manual is also in each living unit and is accessible on line.

Recommendation 03-60: Ensure that there are policies and procedures in place requiring the use of outside investigators (San Diego County Internal Affairs Department or some other objective, impartial group) in all San Diego County Department disputes involving large-scale investigations, which could ultimately result in the discharge of multiple employees.

County Response: The recommendation will not be implemented because it is not warranted. The San Diego County Office of Internal Affairs investigates allegations of improper county government activities, discrimination based on race, color, religion, sex, national origin, age, or disability, and protects the complainant from any act of reprisal for reporting such allegations. They do not investigate allegations of law enforcement misconduct.

Recommendation 03-61: Ensure that investigations are conducted in a fair and consistent manner. A thorough investigation would require that all shifts be reviewed – especially since shifts rotated every 3 months. It is possible that other people may have made the same mistakes as those for which people were discharged on the late night shift.

County Response: The recommendation will not be implemented because it is not warranted. The Probation Department conducts fair and consistent investigations. Each investigation is conducted based on the merit of the case.

Recommendation 03-62: Amend the Juvenile Hall Policy and Procedures Manual to include a more definitive statement emphasizing the importance of hall check and log-in procedures. For example: "A hall check must be recorded when completed."

County Response: The recommendation has been implemented and the action recommended has already been taken. The Policy and Procedures Manual was revised in October of 2002, to re-emphasize the importance of hall checks and proper documentation.

Recommendation 03-63: Provide Core Training to all new hires within at least 90 days after employment rather than within the first year. Policies and procedures must be fully understood prior to placing officers in charge of juvenile wards in all Juvenile facilities.

County Response: The recommendation will not be implemented because it is not reasonable. The Board of Corrections regulations require CORE training to be completed within the first year of employment. They recognize after 20 years of monitoring that it is unrealistic to make a requirement that departments complete CORE training within the first 90 days. Our Department does not hire enough employees to conduct Core Training within the first 90 days. However, all new employees receive forty to eighty hours of training prior to being assigned to a Unit.

Recommendation 03-64: Conduct a comprehensive retraining of all supervisory personnel and management at Juvenile Hall in order that they become more aware and responsible for the performance of the officers in their charge. Given the systemic nature of the problem (over 60 percent of one shift being found guilty of similar offenses) the situation may be more widespread than the firings represent.

County Response: The recommendation will not be implemented because it is not warranted. Supervisors and management personnel attend a minimum of forty hours training annually. Probationary Supervisors attend an eighty hour training course during their first year that is mandated by Standards and Training for Corrections (STC). Additionally, the Probation Department provides a twenty-four hour Supervisor Development Academy for new Supervisors that emphasizes personnel matters. Juvenile Hall Supervisors receive on-going training regarding institutional policies and procedures, as well as department wide topics.

Recommendation 03-65: Post all regulations dealing with hall checks and login procedures in the Command Center of each cellblock.

County Response: The recommendation will not be implemented because it is not warranted. The Policy and Procedures Manual has been revised; in-house training has been expanded; and staff is reminded about hall check policies on an on-going basis through training and at meetings.

County of San Diego Response to 2002-03 Grand Jury Reports

Recommendation 03-66: Amend the Juvenile Hall Policy and Procedures Manual to contain specific provisions that violation of hall checks and login rules will subject the wrongdoers to a specific punishment such as discharge.

County Response: The recommendation will not be implemented because it is not warranted. As stated in this Grand Jury Report, in Facts and Findings paragraph F: "The Manual states in general that staff may be subject to discipline, up to and including termination of employment, for any infraction of a Probation Department regulation. Upon initial employment, every probation officer signs a document agreeing to this policy."

Recommendation 03-67: Amend the Juvenile Hall Policy and Procedures Manual to contain specific provisions that lying and/or falsifying records of any document will result in immediate termination. Specify that the supervisors will be held accountable for the actions of those in their charge.

County Response: The recommendation will not be implemented because it is not warranted. The San Diego Probation Department's Administrative Manual Section 1306 Code of Ethics and Standards of Conduct, is required reading for all employees. This policy states, "The Department expects its employees to adhere to the standards and procedures described below. In the case of misconduct, appropriate action including discipline will be determined on the basis of the facts and circumstances surrounding any particular incident."

Recommendation 03-68: Provide every Probation Officer and Supervisor with a personal Manual, which they can keep in their possession.

County Response: The recommendation will not be implemented because it is not warranted. Each employee receives a manual for thirty days, or longer if needed. The Staff is informed/reminded that the Manual is available to review at their convenience. The manual is available on-line for easy access by staff.

POLICE DEPARTMENT

RECEIVED
JUN 09 2003



City of Coronado, California
ROBERT HUTTON, CHIEF OF POLICE

"Commitment to Community Through Professionalism, Integrity, Respect and Teamwork"

June 5, 2003

Presiding Judge Richard E. L. Strauss
San Diego Superior Court
330 West Broadway
San Diego, CA 92101-3830

Honorable Judge Strauss,

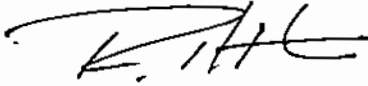
Pursuant to the provisions of Penal code 933(c) this response is provided to the Presiding Judge of the Superior court in reply to the Grand Jury Report of April 23, 2003, concerning Unserved Felony Warrants Issued by the San Diego Superior Court as it relates to recommendation 3-42.

Recommendation 3-42 asks all local Municipal Police Departments and the Sheriff of San Diego County to "assess and re-evaluate the current methods and procedures for serving felony warrants and specify goals for improving the rate of apprehension of wanted felons". As Coronado's Chief of Police I am supportive of this recommendation and the department will participate in making the requested assessment and re-evaluation. To that end, I am requesting any data that the Grand Jury may have developed that would relate to:

- 1) the number of felony warrants the department served last year;
- 2) the number of felony warrants issued as a result of crimes or arrests which occurred in Coronado last year; and
- 3) the number of felony warrants issued last year for suspects residing in Coronado.

The requested information will be of tremendous assistance to the department in making the requested assessment.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Hutton', with a large, sweeping flourish above the letters.

Robert S. Hutton
Chief of Police

cc: City Manager
Grand Jury file



RECEIVED
JUN 13 2003
SAN DIEGO
COUNTY GRAND JURY

June 10, 2003

San Diego County Grand Jury
Attn: Marcia Gravette Jespersen, Foreperson
330 West Broadway, Suite 477
San Diego, CA 92101

**RE: GRAND JURY REPORT "UNSERVED FELONY WARRANTS ISSUED
BY THE SAN DIEGO SUPERIOR COURT"**

Dear Ms. Jespersen,

As requested by the San Diego County Grand Jury, we have analyzed the goals currently in place for improving the rate of apprehension for wanted felons and have assessed and reevaluated our current methods for serving felony warrants.

The fundamental objectives of the Chula Vista Police Department are to:

- o prevent and control conduct that threatens life and property;
- o aid crime victims and protect people in danger of physical harm;
- o protect constitutional guarantees;
- o facilitate the movement of people and vehicles;
- o assist those who cannot care for themselves;
- o resolve conflict;
- o identify problems that have the potential for becoming more serious;
- o create and maintain a feeling of security in the community.

These objectives are accomplished utilizing such operational strategies as:

- o Preventive patrol,
- o Routine incident response,
- o Emergency response,
- o Criminal investigation,
- o Problem solving.

Preventive patrol is the predominant operational strategy of policing. The objective of preventive patrol is to detect and prevent offenses, and promote a general feeling of security. Preventive patrol includes such activities as routine and targeted patrolling, traffic enforcement, and citizen and suspicious person contacts.

City of Chula Vista

Routine incident response is the means by which most reactive policing is handled. Routine incident response involves the police department responding to citizen calls for service on non-emergency matters. Examples of routine incident response include taking crime and traffic reports, responding to neighborhood disputes, and documenting issues of possible civil liability to the local jurisdiction.

Emergency response is similar to routine incident response only used far less frequently. Although infrequently used emergency response is critical to the success of a policing agency because human life is generally at stake. The general goal of emergency response is to save lives, minimize injury, and restore order. Natural disasters, violent acts in progress, barricaded subjects, unruly crowds, and hostage situations are examples of when the emergency response strategy is used.

The criminal investigation strategy is the effort to identify the person, and if appropriate effect the arrest of the person who committed a crime. Generally criminal investigations are conducted by detectives some period of time after the crime has been committed. The detective attempts to "clear" cases either by arresting the perpetrator of the crime or gathering enough evidence to have the courts issue a warrant for the perpetrator.

Problem solving is the fifth operational strategy of police work. Problem solving uses a systematic approach to reduce harm caused by patterns of chronic offensive behavior. Problem solving utilizes problem identification, analysis, response, and evaluation. Examples of problem solving strategies include long and short-term projects, designed to reduce or eliminate crime and disorder, that involve cooperation between various city departments, community members, and the police department. They may be as complex as gaining restraining orders against chronic offender or abating trouble properties or as simple as a planned saturation of a problem area using uniformed officers.

Service of felony warrants is a secondary function included in four of the five operational strategies used by The Chula Vista Police Department. During preventive patrol officers routinely use the Sheriff's computerized warrant database to check for warrants on subjects contacted during traffic stops and suspicious persons contacts. Officers regularly use computerized databases to check suspicious vehicles. These databases include information on warrants issued to the registered owner of vehicles. Subjects identified as having felony warrants are arrested.

The routine response strategy brings officers into contact with many subjects. Officer will check the warrant status of many of the people they come in contact with. Many times the subjects involved in disturbances have warrants that the officers identify and arrest for. Emergency response, though much less common, results in warrant arrests because standard procedure requires database checks on subjects who create the need for an emergency response. Likewise when order has been restored after an emergency response subjects who have been detained are checked for warrants prior to being released.

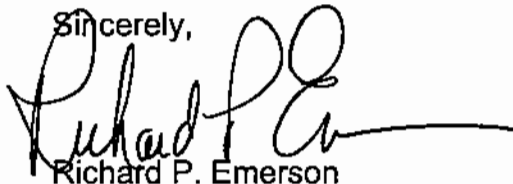
Criminal investigations regularly utilize felony warrants in the investigation of cases. Detectives frequently request the District Attorney's office issue warrants on felony suspects. Additionally detectives will use unrelated felony warrants to arrest suspects on cases the detectives are working.

The problem solving strategy offers the most opportunity for Chula Vista Police officers to target and proactively search for subjects with warrants. The patrol staffing plan allows for officers to work special projects every Friday. The officers regularly use these projects to look for and arrest subjects with felony warrants. Additionally the department's "Street Team" works with the probation department and other local law enforcement on warrant "sweeps". The sweeps are designed to locate and arrest large numbers of subjects with warrants in a condensed period of time. When working projects to reduce crime or disorder problems in specific areas, officers use felony warrants as a tool to remove subjects from the area and send a message to others. Felony warrants are a valuable tool in these projects.

Although warrant service is a secondary objective of the Chula Vista Police Department, the department spends considerable time and effort arresting subjects with felony warrants. In 2002 CVPD arrested 671 subjects on felony warrants. As of the end of April 2003, CVPD has arrested 286 subjects with felony warrants. CVPD leads or participates in between 25 and 30 sweeps or projects, designed to locate and arrest subjects with felony warrants, each year. Additionally, checking subjects for warrants and when appropriate arresting them, is a common, daily practice of both patrol officers and detectives. The department is considering the value of using its web page as a medium to post information regarding wanted subjects. If this is feasible, the number of felony warrant arrests made by the Chula Vista Police Department may increase.

Locating and arresting subjects with outstanding felony warrants is not a primary objective of the Chula Vista Police Department. However CVPD will continue to use felony warrants as a tool to accomplish its primary objectives and assist the Sheriff's Department and Courts in reducing the number of outstanding felony warrants.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard P. Emerson", with a long horizontal flourish extending to the right.

Richard P. Emerson
Chief of Police

¹ Scott, Michael S. *Problem-Oriented Policing: Reflections On The First 20 Years*. Washington D.C.: U.S. Department of Justice, Office of Community Oriented Policing Services, 2000.



City of Carlsbad

Office of the Chief of Police

RECEIVED

JUL 01 2003

SAN DIEGO
COUNTY GRAND JURY

June 26, 2003

Marcia Gravette Jespersen, Foreperson
Grand Jury
County of San Diego
330 West Broadway, Suite 477
San Diego, CA 92101-3830

Re: San Diego Re: Unserved Felony Warrants Issued by the San Diego Superior Court

Dear Ms. Jespersen:

The Carlsbad Police Department has received a copy of the above report issued by the Grand Jury and we understand the concern about the number of unserved outstanding warrants. We saw this as an opportunity to review our own procedures regarding warrant notification and follow-up. Our supervisor and management staff have been briefed and reminded that it is in the best interest of our community to actively seek out suspects wanted on outstanding warrants.

Although the warrants for our area compose a very small percentage of the county backlog, we are committed to doing our part to ensure appropriate warrant follow-up. Our effort is not limited to checking people during police contacts. We also actively look for outstanding suspects who are believed to be in our area and follow-up on our own crime suspects who have fled the area.

We will continue to monitor this important issue and we thank the San Diego County Grand Jury for the efforts made in this regard.

Sincerely,

James R. Hawks
Chief of Police





RECEIVED

July 3, 2003

JUL 08 2003

SAN DIEGO
COUNTY GRAND JURY

San Diego County Grand Jury
Attn: Marcia Gravette Jespersen, Foreperson
330 West Broadway, Suite 477
San Diego, CA 92101

**RE: GRAND JURY REPORT "UNSERVED FELONY WARRANTS ISSUED BY THE
SAN DIEGO SUPERIOR COURT"**

Dear Ms. Jespersen:

The El Cajon Police Department has analyzed the goals currently in place for improving the rate of apprehension for wanted felons and have assessed and re-evaluated our current methods for serving felony warrants.

The fundamental objectives of the El Cajon Police Department are embodied in our mission statement, "Committed to a safe and secure community through service, mutual cooperation and respect."

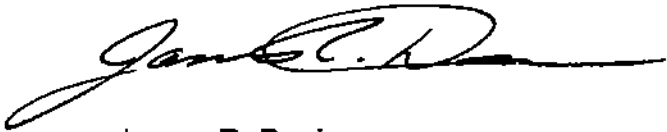
- Public service
- Preserve public peace through the prevention and deterrence of crime
- The apprehension of offenders
- The recovery and return of property
- The preservation of evidence for judicial review
- Safe and efficient movement of traffic
- Preservation of life

These objectives are accomplished utilizing such operational strategies as:

- Directed preventative patrol
- Response to calls for service
- Emergency response to critical incidents
- Criminal investigation
- Community Oriented Policing
- Problem Oriented Policing
- Crime Prevention programs

Page 2
ECPD
Grand Jury

Other specific strategies include: Directed patrol is the predominant operational strategy of policing. The goal of directed patrol is to detect and prevent offenses, and pursues the ideal of a community free from the stigmatizing effects of criminal and social ills. Directed and preventative patrol includes activity such as routine patrolling, traffic enforcement, citizen contacts, and suspicious person contacts. Targeted patrolling remains a priority with resources directed toward the apprehension of wanted DUI (Driving Under the Influence) drivers, sex offenders, and career criminals.

A handwritten signature in black ink, appearing to read "James R. Davis", with a long, sweeping underline.

James R. Davis
Chief of Police

JRD/DKS/mg/jlw
Jrd/letters/2003/070303GrandJury.doc



San Diego County Sheriff's Department

Post Office Box 429000 • San Diego, California 92142-9000



William B. Kolender, Sheriff

John M. Drown, Undersheriff

July 1, 2003

Honorable Richard E.L. Strauss
Presiding Judge, San Diego Superior Court
County Courthouse
220 W. Broadway
San Diego, CA 92101

Dear Judge Strauss:

Response to Grand Jury Report: "Unserved Felony Warrants Issued By The San Diego Superior Court"

On April 23, 2003, the San Diego County Grand Jury issued the above-entitled report, which contained nine (9) recommendations to the Sheriff to improve and enhance "the serving of felony warrants." It has been my policy to publicly respond to all Grand Jury reports that concern the Sheriff's Department.

My overall evaluation of the report is that the Grand Jury's observation that "the serving of felony warrants is an essential part of San Diego's law enforcement process" is entirely correct. The San Diego County Sheriff's Department's desire is to make a significant contribution to the serving of felony warrants, the arrest of the suspects, and the reduction of the number of unserved felony warrants. However, it should be made clear that the Sheriff's Department serves only as a central depository for these warrants and that the Sheriff is not specifically obligated by any statute to be solely responsible for the serving of these warrants. Rather, the Sheriff's Department, as part of the region's law enforcement community, takes on the responsibility of serving these warrants in our respective jurisdictions just as each local law enforcement agency does. In this vein, we have elicited the cooperation and assistance of each police chief in the county towards this effort.

I would also like to make several points that I feel are important in gaining a more complete understanding of the warrant issue this Grand Jury has chosen to address. Among those points are the following:

1. The majority of the outstanding warrants are for violation of probation, including failure to appear. This means that at some point in the defendant's process through the court system, a judicial officer felt that the defendant was not a danger to the public and ordered his/her release under certain conditions. A violation of at least one of those conditions resulted in a warrant issued. For example, forty percent of the outstanding felony warrants are for violation of the terms of probation.

"Keeping the Peace Since 1850"

2. The Sheriff's Department participates in the Violent Crimes Task Force, headed by the U.S. Marshal's Office. This unit takes on all violent felony warrants for service.
3. There are an average of 23 new warrants entering the system each day.

Regarding the Grand Jury's **Facts and Findings**, the Sheriff's Department agrees with the following:

A,B,D,E,F,G,H,I,J,K

The Sheriff's Department disagrees in part with the following findings of the Grand Jury:

- C. The data shows that, since taking the responsibility for serving felony warrants in 2000, the Sheriff's Department has not kept pace with the current warrants issued. Furthermore, the backlog of unserved warrants has not been reduced. This lack of service has not been the result of a lack of effort on the part of the Warrants Division, but rather understaffing.**

This finding refers to "...taking responsibility for serving felony warrants..." As stated earlier, the Sheriff's Department has the responsibility of being the depository of the warrants, not the responsibility of serving them all as this statement implies.

- L. The challenge is clear. How can we maintain, and ideally double, the number of felony warrant teams to keep current with felony warrant issuances, and reduce the backlog of unserved felony warrants? The current economic environment, in fact, raises the possibility that even current staffing in the Warrants Division could be reduced. In order for the community to continue to see progress on backlog reduction, the Sheriff's Department must identify and institute possible staffing realignments and increase citizen involvement by public exposure of the identity and location of wanted felons.**

The Sheriff's Department agrees with all points in this finding except for the clause: "In order for the community to continue to see progress on backlog reduction, the Sheriff's Department must identify and institute possible staffing realignments...". The addition of new deputy positions anywhere in the department is not likely, given the current state of the economy. Creating new positions to this unit would have to be weighed against department needs in other

areas we service such as community-oriented policing assignments(which has been known to prevent crimes from occurring). Similarly, transferring deputies from field assignments, while assisting in the reduction in the number of warrants, could create a situation where emergency response times to crimes occurring would increase. This is a condition I want to avoid.

Regarding the **Recommendations** made by the Grand Jury, the Sheriff's Department offers the following responses:

03-33: Reassign Sheriff's Deputies so that there are a total of nine or more teams available to serve felony warrants.

Response: This recommendation will not be implemented due to financial constraints. The Sheriff's Department has, however, taken alternative steps to fortify the staffing that currently exists in the Felony Warrant Investigations (FWI) Unit, as noted on page 3 of the Grand Jury's Report:

- Two vacancies were filled in 2002, bringing the unit to full strength.
- A procedural moratorium was placed on using FWI deputies for relief bailiff positions in the courthouse, unless exceptional conditions exist.

Should the County Board of Supervisors, as a matter of public policy, desire to comply with the letter of this recommendation and provide the funding for 10 additional law enforcement deputy sheriffs, (estimated at \$980,000) the Sheriff's Department would deploy them.

03-34: Reassign a civilian clerk as replacement for the sworn light-duty police officer currently assigned to perform the clerical duties needed to categorize and enter data into the felony warrants database.

There are no clerks available to comply with this recommendation. However, throughout the Sheriff's Department there is no shortage of injured or temporarily disabled deputy sheriffs who are prohibited by their physicians from working their regular public or inmate contact assignments. Pursuant to this recommendation, we have made it a practice to assign two long-term, limited-duty deputies to this function. By using them, a built-in relief factor is present so that the position is not vacated by the sick leave, vacation time, training time, or other absences of a regularly assigned clerk.

Judge Richard Strauss
Page 4
July 1, 2003

03-35: Reassign detention personnel from Central Detention Facility to guard juveniles appearing in Superior Court rather than using personnel from the Warrants Division, thus avoiding breaking up a Warrants team.

Since the Grand Jury investigated this issue, available court services bureau personnel have been located and assigned this function.

03-36: Negotiate with newspapers throughout the County of San Diego to publish daily or weekly pictures, descriptions, and last known addresses of at least ten wanted felons. Newspapers can be encouraged to do this as a Public Service Announcement.

The Sheriff's Department has begun implementation of this recommendation. Letters were sent to all county newspapers on June 5, 2003, asking for cooperation on this recommendation. The Sheriff's Public Affairs Division and Court Services Bureau will follow-up on all positive responses from the newspapers.

03-37: Negotiate with local television stations to air pictures of one or more wanted felons on a daily basis in a prime time slot. Television stations can be encouraged to do this as a Public Service Announcement.

The Sheriff's Department has begun implementation of this recommendation. On May 9, 2003, letters were sent to the managers and news directors of all seven local television broadcast and cable outlets. As of June 5, stations KSWB and KGTV responded positively. Follow-up meetings with these stations are being scheduled at the convenience of the station representatives.

03-38: Negotiate with local radio stations to air descriptions of one or more wanted felons on a daily basis in a prime time slot. Radio stations can be encouraged to do this as a Public Service Announcement.

The Sheriff's Department has begun implementation of this recommendation. Letters were sent to the managers and news directors of all San Diego County radio stations during the week of June 9, 2003 asking to meet with us to hear our ideas on how this medium, (which cannot show photographs), can direct listeners to the Sheriff's website.

03-39: Communicate with all local law enforcement agencies to stress the importance, and shared mutual responsibility, of apprehending wanted felons. Communicating via a monthly printout of these wanted felons is not sufficient.

The Sheriff's Department implemented this recommendation on June 4, 2003. On that date, Undersheriff Drown and Assistant Sheriff Bill Flores addressed the membership of the San Diego County Chiefs' & Sheriff's Association regarding the warrant backlog, the Grand Jury Report, and recommendations 03-39 as well as 03-42.

Sheriff's resources were offered to all of the police departments in the county to improve communications with the FWI Unit regarding wanted persons, and to train police officers in the methods of tracking persons in the database. Letters were sent to all police chiefs with follow-up information regarding this material during the week of June 8, 2003.

03-40: Expand the San Diego County Sheriff's website (www.sdsheriff.net) dealing with sex offenders from its present format to include names, pictures, descriptions and addresses of wanted felons or create a new website.

The Sheriff's Department agrees with the concept of this recommendation, however it cannot comply due to logistical, personnel, and fiscal constraints. The Sheriff's Department is, however (in response to the Grand Jury Report), reworking and enhancing the "Ten Most Wanted" feature of its website toward fulfilling the intent of this recommendation.

The reader must understand that photographs of each of the 17,000 warrant suspects are not contained in the Superior Court's files, or in any one central database. In order to comply strictly with this recommendation, Sheriff's staff would need to contact the individual investigator assigned to the felon's original arrest and ascertain if a photograph is available. If the investigator or a photograph were not available, Sheriff's staff would then have to search for a recent, useable photograph. If obtained, the photograph would then be formatted onto the website. The Sheriff's Department does not have the staff or funding to perform such a massive task.

Instead, the Sheriff's Department has placed the Court Services Bureau in charge of the already existing "Ten Most Wanted" website page. The Felony Warrant Investigations personnel will collect photographs and addresses of the most serious cases of the 17,000 outstanding subjects and transmit these packages to an appointed Court Services Bureau deputy, who will place the images and data on the website. Additional "most wanted" persons will be added to the site frequently.

Per recommendations 03-36 through 03-38, the Sheriff's Department will attempt to cultivate the cooperation of local media outlets to publicize the website, broadcast the

images, and place a link from the outlets' websites to the *Sheriff's Most Wanted* page. Currently, the most visited feature on the Sheriff's website is the *Who's In Jail* page, and the next most-visited is the interactive warrant listing. With enhanced publicity and minimal redesign of the Sheriff's website, we feel that these Internet visitors can be directed to the *Most Wanted* page, and exposure of the wanted persons will be significantly increased.

03-41: Create a computer interface to communicate with ARJIS and develop a program so that all officers have information available geographically, per zip code, as to the whereabouts of wanted felons. The information would be in the form of a zip code map (such as used in the Megan's Regional Sexual Offender Map) and would be instantaneously available for the officer through out San Diego County.

The Sheriff's Department implemented early steps of this recommendation, and further analysis will presumably be conducted by another entity. The Sheriff's Department is taking positive steps in the intended direction.

This item was forwarded to the ARJIS Business Committee for discussion and we predict that ARJIS will be further discussing the business, feasibility, funding, and technical implications of the Grand Jury's recommendation.

03-42: Assess and re-evaluate the current methods and procedures for serving felony warrants and specify goals for improving the rate of apprehension of wanted felons.

The Sheriff's Department implemented this recommendation on May 12, when Captain Scott McClintock of the Sheriff's Court Services Bureau (the parent bureau of the FWI), appeared at a monthly meeting of the Law Enforcement Services Bureau and addressed the commanding officers of all of the Sheriff's patrol stations. He discussed the warrant backlog, the Grand Jury Report, and this recommendation. He offered his bureau's resources in order to improve communications and intelligence about wanted felons, and to offer training in methods of tracking the persons in the database. It was stressed that a number of patrol deputies and sergeants now assigned to patrol stations are former Marshal's deputies, and used to work in the FWI Unit or in field assignments, where they were trained and experienced in tracking the warrant suspects. The patrol station commanders were encouraged to utilize these in-house skills to train other patrol deputies and to encourage the practice as time permits. The station commanders were positive and receptive to the tactic, however it was noted that staffing issues at many stations were almost prohibitive of undertaking an additional task. The patrol deputies' time is most often stretched to be able to respond to radio calls for service, perform traffic stops and to patrol high crime areas.

Judge Richard Strauss
Page 7
July 1, 2003

When the impact of the current budget crisis upon our hiring, assignments, and staffing is settled, supervisors can analyze and evaluate the implications of adding this function to their units' workloads. Until these analyses are complete, we are unable to set goals for improving the rate of apprehension as mentioned in this recommendation.

CONCLUSION:

The Sheriff's Department acknowledges its role as the depository of the 22 to 25 felony warrants issued daily by the Superior Court. Resolving the backlog of warrants is not primarily the responsibility of the Sheriff. We again point to the text on a warrant per Penal Code section 817(C)(f): "The people of the State of California to any peace officer of the STATE:"

Being the responsibility of all peace officers in the state, we agree and will comply with the Grand Jury's recommendations regarding enhancing communications and cooperation so as to better arm the "cop on the street" from all county law enforcement agencies to capture warrant suspects. We will also be pursuing enhancements and access to computer databases to facilitate this effort as our budget and staffing allow.

Efforts to engage the media have been somewhat successful so far, and at the time of this writing, meetings with two television stations are being scheduled. The Sheriff's Department will be pursuing additional assistance and cooperation from the media in the near future.

The Sheriff's Department will examine and monitor former Judge Stirling's reported legislative efforts to increase fines for overdue traffic and misdemeanor violations to generate revenue to possibly fund additional Felony Warrant Investigations deputies.

Additional data on specific issues contained in this report is available upon request.

Sincerely,



William B. Kolender, Sheriff

WBK/sdm
Enclosure

cc: San Diego County Grand Jury
San Diego County Board of Supervisors
Clerk of the Board of Supervisors
All County Police Chiefs



San Diego County Sheriff's Department

Post Office Box 429000 • San Diego, California 92142-9000



William B. Kolender, Sheriff

John M. Drown, Undersheriff

July 1, 2003

Honorable Richard E.L. Strauss
Presiding Judge, San Diego Superior Court
County Courthouse
220 W. Broadway
San Diego, CA 92101

RECEIVED

JUL 08 2003
SAN DIEGO
COUNTY GRAND JURY

Dear Judge Strauss:

Response to Grand Jury Report: "Unserved Felony Warrants Issued By The San Diego Superior Court"

On April 23, 2003, the San Diego County Grand Jury issued the above-entitled report, which contained nine (9) recommendations to the Sheriff to improve and enhance "the serving of felony warrants." It has been my policy to publicly respond to all Grand Jury reports that concern the Sheriff's Department.

My overall evaluation of the report is that the Grand Jury's observation that "the serving of felony warrants is an essential part of San Diego's law enforcement process" is entirely correct. The San Diego County Sheriff's Department's desire is to make a significant contribution to the serving of felony warrants, the arrest of the suspects, and the reduction of the number of unserved felony warrants. However, it should be made clear that the Sheriff's Department serves only as a central depository for these warrants and that the Sheriff is not specifically obligated by any statute to be solely responsible for the serving of these warrants. Rather, the Sheriff's Department, as part of the region's law enforcement community, takes on the responsibility of serving these warrants in our respective jurisdictions just as each local law enforcement agency does. In this vein, we have elicited the cooperation and assistance of each police chief in the county towards this effort.

I would also like to make several points that I feel are important in gaining a more complete understanding of the warrant issue this Grand Jury has chosen to address. Among those points are the following:

1. The majority of the outstanding warrants are for violation of probation, including failure to appear. This means that at some point in the defendant's process through the court system, a judicial officer felt that the defendant was not a danger to the public and ordered his/her release under certain conditions. A violation of at least one of those conditions resulted in a warrant issued. For example, forty percent of the outstanding felony warrants are for violation of the terms of probation.

Judge Richard Strauss

Page 2

July 1, 2003

2. The Sheriff's Department participates in the Violent Crimes Task Force, headed by the U.S. Marshal's Office. This unit takes on all violent felony warrants for service.
3. There are an average of 23 new warrants entering the system each day.

Regarding the Grand Jury's **Facts and Findings**, the Sheriff's Department agrees with the following:

A,B,D,E,F,G,H,I,J,K

The Sheriff's Department disagrees in part with the following findings of the Grand Jury:

- C. The data shows that, since taking the responsibility for serving felony warrants in 2000, the Sheriff's Department has not kept pace with the current warrants issued. Furthermore, the backlog of unserved warrants has not been reduced. This lack of service has not been the result of a lack of effort on the part of the Warrants Division, but rather understaffing.**

This finding refers to "...taking responsibility for serving felony warrants..." As stated earlier, the Sheriff's Department has the responsibility of being the depository of the warrants, not the responsibility of serving them all as this statement implies.

- L. The challenge is clear. How can we maintain, and ideally double, the number of felony warrant teams to keep current with felony warrant issuances, and reduce the backlog of unserved felony warrants? The current economic environment, in fact, raises the possibility that even current staffing in the Warrants Division could be reduced. In order for the community to continue to see progress on backlog reduction, the Sheriff's Department must identify and institute possible staffing realignments and increase citizen involvement by public exposure of the identity and location of wanted felons.**

The Sheriff's Department agrees with all points in this finding except for the clause: "In order for the community to continue to see progress on backlog reduction, the Sheriff's Department must identify and institute possible staffing realignments...". The addition of new deputy positions anywhere in the department is not likely, given the current state of the economy. Creating new positions to this unit would have to be weighed against department needs in other

areas we service such as community-oriented policing assignments(which has been known to prevent crimes from occurring). Similarly, transferring deputies from field assignments, while assisting in the reduction in the number of warrants, could create a situation where emergency response times to crimes occurring would increase. This is a condition I want to avoid.

Regarding the **Recommendations** made by the Grand Jury, the Sheriff's Department offers the following responses:

03-33: Reassign Sheriff's Deputies so that there are a total of nine or more teams available to serve felony warrants.

Response: This recommendation will not be implemented due to financial constraints. The Sheriff's Department has, however, taken alternative steps to fortify the staffing that currently exists in the Felony Warrant Investigations (FWI) Unit, as noted on page 3 of the Grand Jury's Report:

- Two vacancies were filled in 2002, bringing the unit to full strength.
- A procedural moratorium was placed on using FWI deputies for relief bailiff positions in the courthouse, unless exceptional conditions exist.

Should the County Board of Supervisors, as a matter of public policy, desire to comply with the letter of this recommendation and provide the funding for 10 additional law enforcement deputy sheriffs, (estimated at \$980,000) the Sheriff's Department would deploy them.

03-34: Reassign a civilian clerk as replacement for the sworn light-duty police officer currently assigned to perform the clerical duties needed to categorize and enter data into the felony warrants database.

There are no clerks available to comply with this recommendation. However, throughout the Sheriff's Department there is no shortage of injured or temporarily disabled deputy sheriffs who are prohibited by their physicians from working their regular public or inmate contact assignments. Pursuant to this recommendation, we have made it a practice to assign two long-term, limited-duty deputies to this function. By using them, a built-in relief factor is present so that the position is not vacated by the sick leave, vacation time, training time, or other absences of a regularly assigned clerk.

Judge Richard Strauss
Page 4
July 1, 2003

03-35: Reassign detention personnel from Central Detention Facility to guard juveniles appearing in Superior Court rather than using personnel from the Warrants Division, thus avoiding breaking up a Warrants team.

Since the Grand Jury investigated this issue, available court services bureau personnel have been located and assigned this function.

03-36: Negotiate with newspapers throughout the County of San Diego to publish daily or weekly pictures, descriptions, and last known addresses of at least ten wanted felons. Newspapers can be encouraged to do this as a Public Service Announcement.

The Sheriff's Department has begun implementation of this recommendation. Letters were sent to all county newspapers on June 5, 2003, asking for cooperation on this recommendation. The Sheriff's Public Affairs Division and Court Services Bureau will follow-up on all positive responses from the newspapers.

03-37: Negotiate with local television stations to air pictures of one or more wanted felons on a daily basis in a prime time slot. Television stations can be encouraged to do this as a Public Service Announcement.

The Sheriff's Department has begun implementation of this recommendation. On May 9, 2003, letters were sent to the managers and news directors of all seven local television broadcast and cable outlets. As of June 5, stations KSWB and KGTV responded positively. Follow-up meetings with these stations are being scheduled at the convenience of the station representatives.

03-38: Negotiate with local radio stations to air descriptions of one or more wanted felons on a daily basis in a prime time slot. Radio stations can be encouraged to do this as a Public Service Announcement.

The Sheriff's Department has begun implementation of this recommendation. Letters were sent to the managers and news directors of all San Diego County radio stations during the week of June 9, 2003 asking to meet with us to hear our ideas on how this medium, (which cannot show photographs), can direct listeners to the Sheriff's website.

Judge Richard Strauss
Page 5
July 1, 2003

03-39: Communicate with all local law enforcement agencies to stress the importance, and shared mutual responsibility, of apprehending wanted felons. Communicating via a monthly printout of these wanted felons is not sufficient.

The Sheriff's Department implemented this recommendation on June 4, 2003. On that date, Undersheriff Drown and Assistant Sheriff Bill Flores addressed the membership of the San Diego County Chiefs' & Sheriff's Association regarding the warrant backlog, the Grand Jury Report, and recommendations 03-39 as well as 03-42.

Sheriff's resources were offered to all of the police departments in the county to improve communications with the FWI Unit regarding wanted persons, and to train police officers in the methods of tracking persons in the database. Letters were sent to all police chiefs with follow-up information regarding this material during the week of June 8, 2003.

03-40: Expand the San Diego County Sheriff's website (www.sdsheriff.net) dealing with sex offenders from its present format to include names, pictures, descriptions and addresses of wanted felons or create a new website.

The Sheriff's Department agrees with the concept of this recommendation, however it cannot comply due to logistical, personnel, and fiscal constraints. The Sheriff's Department is, however (in response to the Grand Jury Report), reworking and enhancing the "Ten Most Wanted" feature of its website toward fulfilling the intent of this recommendation.

The reader must understand that photographs of each of the 17,000 warrant suspects are not contained in the Superior Court's files, or in any one central database. In order to comply strictly with this recommendation, Sheriff's staff would need to contact the individual investigator assigned to the felon's original arrest and ascertain if a photograph is available. If the investigator or a photograph were not available, Sheriff's staff would then have to search for a recent, useable photograph. If obtained, the photograph would then be formatted onto the website. The Sheriff's Department does not have the staff or funding to perform such a massive task.

Instead, the Sheriff's Department has placed the Court Services Bureau in charge of the already existing "Ten Most Wanted" website page. The Felony Warrant Investigations personnel will collect photographs and addresses of the most serious cases of the 17,000 outstanding subjects and transmit these packages to an appointed Court Services Bureau deputy, who will place the images and data on the website. Additional "most wanted" persons will be added to the site frequently.

Per recommendations 03-36 through 03-38, the Sheriff's Department will attempt to cultivate the cooperation of local media outlets to publicize the website, broadcast the

Judge Richard Strauss
Page 6
July 1, 2003

images, and place a link from the outlets' websites to the *Sheriff's Most Wanted* page. Currently, the most visited feature on the Sheriff's website is the *Who's In Jail* page, and the next most-visited is the interactive warrant listing. With enhanced publicity and minimal redesign of the Sheriff's website, we feel that these Internet visitors can be directed to the *Most Wanted* page, and exposure of the wanted persons will be significantly increased.

03-41: Create a computer interface to communicate with ARJIS and develop a program so that all officers have information available geographically, per zip code, as to the whereabouts of wanted felons. The information would be in the form of a zip code map (such as used in the Megan's Regional Sexual Offender Map) and would be instantaneously available for the officer through out San Diego County.

The Sheriff's Department implemented early steps of this recommendation, and further analysis will presumably be conducted by another entity. The Sheriff's Department is taking positive steps in the intended direction.

This item was forwarded to the ARJIS Business Committee for discussion and we predict that ARJIS will be further discussing the business, feasibility, funding, and technical implications of the Grand Jury's recommendation.

03-42: Assess and re-evaluate the current methods and procedures for serving felony warrants and specify goals for improving the rate of apprehension of wanted felons.

The Sheriff's Department implemented this recommendation on May 12, when Captain Scott McClintock of the Sheriff's Court Services Bureau (the parent bureau of the FWI), appeared at a monthly meeting of the Law Enforcement Services Bureau and addressed the commanding officers of all of the Sheriff's patrol stations. He discussed the warrant backlog, the Grand Jury Report, and this recommendation. He offered his bureau's resources in order to improve communications and intelligence about wanted felons, and to offer training in methods of tracking the persons in the database. It was stressed that a number of patrol deputies and sergeants now assigned to patrol stations are former Marshal's deputies, and used to work in the FWI Unit or in field assignments, where they were trained and experienced in tracking the warrant suspects. The patrol station commanders were encouraged to utilize these in-house skills to train other patrol deputies and to encourage the practice as time permits. The station commanders were positive and receptive to the tactic, however it was noted that staffing issues at many stations were almost prohibitive of undertaking an additional task. The patrol deputies' time is most often stretched to be able to respond to radio calls for service, perform traffic stops and to patrol high crime areas.

Judge Richard Strauss
Page 7
July 1, 2003

When the impact of the current budget crisis upon our hiring, assignments, and staffing is settled, supervisors can analyze and evaluate the implications of adding this function to their units' workloads. Until these analyses are complete, we are unable to set goals for improving the rate of apprehension as mentioned in this recommendation.

CONCLUSION:

The Sheriff's Department acknowledges its role as the depository of the 22 to 25 felony warrants issued daily by the Superior Court. Resolving the backlog of warrants is not primarily the responsibility of the Sheriff. We again point to the text on a warrant per Penal Code section 817(C)(f): "The people of the State of California to any peace officer of the STATE."

Being the responsibility of all peace officers in the state, we agree and will comply with the Grand Jury's recommendations regarding enhancing communications and cooperation so as to better arm the "cop on the street" from all county law enforcement agencies to capture warrant suspects. We will also be pursuing enhancements and access to computer databases to facilitate this effort as our budget and staffing allow.

Efforts to engage the media have been somewhat successful so far, and at the time of this writing, meetings with two television stations are being scheduled. The Sheriff's Department will be pursuing additional assistance and cooperation from the media in the near future.

The Sheriff's Department will examine and monitor former Judge Stirling's reported legislative efforts to increase fines for overdue traffic and misdemeanor violations to generate revenue to possibly fund additional Felony Warrant Investigations deputies.

Additional data on specific issues contained in this report is available upon request.

Sincerely,


William B. Kolender, Sheriff

WBK/sdm
Enclosure

cc: San Diego County Grand Jury
San Diego County Board of Supervisors
Clerk of the Board of Supervisors
All County Police Chiefs



City of La Mesa

POLICE DEPARTMENT

July 11, 2003

Honorable Richard E.L. Strauss
Presiding Judge, Superior Court
220 West Broadway
San Diego, California 92101

Judge Strauss,

As required per California Penal Code Section 933(c), the La Mesa Police submits the following comments as to the findings and recommendations of the Grand Jury Report dated April 16, 2003.

In accordance with California Penal Code section 933.05(a), the La Mesa Police Department concurs with the Grand Jury's recommendation 03-42. The serving of felony warrants is an essential part of San Diego County's law enforcement process. The La Mesa community has an expectation that a felon evading arrest must be brought to justice in an expeditious manner by those entrusted with the responsibility for serving warrants.

In accordance with the California Penal Code section 933.05(b), the La Mesa Police Department will not implement the recommendation because it is not reasonable.

The Superior Courts of California issues felony warrants of arrest for crimes associated with failure to appear in court, convictions of crimes, jail escape, contempt's and probation or parole violations. The Superior Courts have a law enforcement mechanism designed and funded by the state to enforce their orders and warrants.

The La Mesa Police Department is not staffed and funded, nor mandated to provide these services. While the San Diego Sheriff's Department bears the brunt of the responsibility to serve outstanding felony warrants, the La Mesa Police Department does everything it can to assist them in their endeavors.

The La Mesa Police Department will continue to cooperate with the Superior Courts, serving outstanding felony warrants within reason and would entertain and support a future mechanism to fund warrant services.

Respectfully,

A handwritten signature in black ink, appearing to read "Cliff Resch".

Cliff Resch,
Chief of Police

Working in Partnership with Our Community

RECEIVED
JUL 14 2003

RECEIVED
JUL 16 2003

SAN DIEGO
COUNTY GRAND JURY

OCEANSIDE POLICE DEPARTMENT

MICHAEL POEHLMAN
CHIEF OF POLICE

July 14, 2003

The Honorable Richard E. L. Strauss
Presiding Judge, San Diego Superior Court
County Court House
220 W. Broadway
San Diego, CA 92101

Ref: Response to Grand Jury Report: Recommendation #03-42

Dear Judge Strauss:

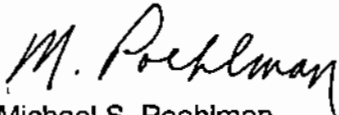
The Oceanside Police Department has received a copy of the April 16, 2003, Grand Jury report titled, "Unserved Felony Warrants Issued by the San Diego Superior Court." We share the Grand Jury's concerns about the disconcerting number of outstanding warrants.

The Oceanside Police Department has requested additional training on the topic of tracking felony warrant suspects. We hope that this future training will increase our officers' ability to capture a number of the outstanding suspects.

However, anticipated fiscal issues, as a result of the State's budget crisis, will have an impact upon our staffing and workload. When these budget issues are settled at the State level, we can better analyze and evaluate the implications of what work functions we're able to emphasize and place a concerted effort on. Until this analysis is complete, we are unable to set goals for improving the rate of apprehension as mentioned in Recommendation #03-42.

I can assure you that I will continue to monitor this issue, and I thank the Grand Jury for its volunteered efforts toward the safety of the citizens of San Diego County.

Sincerely,



Michael S. Poehlman
Chief of Police

MSP:ba

C: Steven R. Jepson, City Manager
OPD Captains Castillo, Grigsby, and Heering

RECEIVED
JUL 16 2003

RECEIVED

JUL 22 2003
SAN DIEGO
COUNTY GRAND JURY

CORE VALUES
Trust
Personal Responsibility
Quality Service
Partnership
Community Safety
Diversity



**City of National City
Police Department**

1200 National City Blvd., National City, CA 91950
Phone: (619) 336-4400

RECEIVED

JUL 21 2003

July 16, 2003

Honorable Richard E. L. Strauss
Presiding Judge, San Diego Superior Court
County Courthouse
220 W. Broadway
San Diego, California 92101

RECEIVED

JUL 22 2003

**SAN DIEGO
COUNTY GRAND JURY**

Dear Judge Strauss,

The National City Police Department has received a copy of the April 16, 2003 Grand Jury Report titled "Unserved Felony Warrants Issued By The San Diego Superior Court." We share the Grand Jury's concerns about the disconcerting number of outstanding warrants.

Our Department requested training in the topic of tracking felony warrant suspects from the Sheriff's Department and has scheduled the training for the near future. We hope that this training will increase our officers' ability to capture a number of the outstanding suspects.

However, anticipated fiscal problems as a result of the State's budget crisis will have an impact upon our hiring, assignments, staffing and workload. When these staffing issues are settled, Patrol/Detective/COPPS supervisors can analyze and evaluate the implications of adding this function to their units' workloads. Until these analyses are complete, we are unable to set goals for improving the rate of apprehension as mentioned in recommendation number 03-42.

I will continue to monitor this issue, and I thank the Grand Jury for its research and volunteered efforts toward the safety of the citizens of San Diego County.

Sincerely,

Craig A. Short, Captain
Administrative Operations Commander

CAS:II



THE CITY OF SAN DIEGO

RECEIVED

JUL 31 2003

July 22, 2003

Honorable Richard E. L. Strauss, Presiding Judge
San Diego County Superior Court
220 W. Broadway, Department SD-P
San Diego, CA 92101

Subject: Response to San Diego County Grand Jury Report

Dear Judge Strauss:

In compliance with California Penal Code 933.05, the City of San Diego has thoroughly reviewed the April 23, 2003 Grand Jury Report titled "Unserved Felony Warrants Issued by the San Diego Superior Court." Responses to the findings and recommendations contained in the report are enclosed and are consistent with the requirements and instructions of California Penal Code 933.05.

The City of San Diego and the San Diego Police Department concur with the Grand Jury's findings and support recommendation 03-42, the need to assess and re-evaluate the current methods for serving felony warrants. The San Diego Police Department has evaluated the number of felony warrants served and the methods of service.

The San Diego Police Department has taken positive steps to ensure all personnel apply a pro-arrest philosophy to members of the public with outstanding warrants. During the last fiscal year, personnel made 44,674 arrests. Of that total, 6,555 or 14.7 % were as a result of outstanding warrants, and almost half of those were felony warrants.

The San Diego Police Department expects each area station captain and all service area lieutenants to identify command priorities. As a result, many commands have identified the apprehension of outstanding warrant suspects as a goal. Commands work from the list provided by the Sheriff's Department. This list often provides a valid name but rarely a valid address.



July 22, 2003

Honorable Richard E. L. Strauss, Presiding Judge

Page 2

Currently, the San Diego Police Department is finalizing a partnership with San Diego Trolley Inc. The Trolley Code Compliance Supervisors will be authorized to book prisoners into the County Jail utilizing San Diego Police Department contracted bed space. This will provide another avenue to decrease the number of outstanding felony warrants.

The San Diego Police Department appreciates the lead the Sheriff's Department has taken on streamlining the information flow. The use of existing resources such as ARJIS, CAL-ID, and the Sheriff's website appear promising. The dissemination of accurate and timely information will assist the San Diego Police Department in having a greater impact on the number of outstanding felony warrants.

The City of San Diego greatly appreciates and values the effort put forth by the 2002 – 2003 San Diego Grand Jury regarding the issues concerning unserved felony warrants.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael T. Uberuaga". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael T. Uberuaga
City Manager

Enclosure

cc: Honorable Mayor and City Council

Marcia Gravette Jespersen, Foreperson, County of San Diego Grand Jury 2002 - 2003

Thomas E. McCarthy, Foreperson, County of San Diego Grand Jury 2003 - 2004

John Welter, Interim-Chief of Police

**CITY OF SAN DIEGO RESPONSE TO GRAND JURY REPORT
"UNSERVED FELONY WARRANTS ISSUED BY THE
SAN DIEGO SUPERIOR COURT"**

Pursuant to Penal Code 933.05, the City of San Diego provides the following response to the findings and recommendations in the above-entitled Grand Jury Report.

FACTS AND FINDINGS

The San Diego Police Department has reviewed the findings. The findings were directed toward the San Diego Sheriff's Department and are, therefore, not necessarily relevant to the operations of the San Diego Police Department.

RECOMMENDATION

The Grand Jury recommends that the San Diego County Sheriff's Department, San Diego Police Department, Carlsbad Police Department, Chula Vista Police Department, Coronado Police Department, El Cajon Police Department, Escondido Police Department, La Mesa Police Department, National City Police Department, and Oceanside Police Department:

03-42: Assess and re-evaluate the current methods and procedures for serving felony warrants and specify goals for improving the rate of apprehension of wanted felons.

The City of San Diego and the San Diego Police Department concur with the Grand Jury's findings and support recommendation 03-42, the need to assess and re-evaluate the current methods for serving felony warrants. The San Diego Police Department has evaluated the number of felony warrants served and the methods of service.

The San Diego Police Department has taken positive steps to ensure all personnel apply a pro arrest philosophy to members of the public with outstanding warrants. During the last fiscal year, personnel made 44,674 arrests. Of that total, 6,555 or 14.7 % were as a result of outstanding warrants and almost half of those were felony warrants.

CONCLUSION

The City of San Diego and the San Diego Police Department agree with the findings and recommendations contained within the San Diego Grand Jury report on unserved felony warrants.



COPY

THE CITY OF SAN DIEGO

RECEIVED

JUL 30 2003

SAN DIEGO
COUNTY GRAND JURY

July 22, 2003

Honorable Richard E. L. Strauss, Presiding Judge
San Diego County Superior Court
220 W. Broadway, Department SD-P
San Diego, CA 92101

Subject: Response to San Diego County Grand Jury Report

Dear Judge Strauss:

In compliance with California Penal Code 933.05, the City of San Diego has thoroughly reviewed the April 23, 2003 Grand Jury Report titled "Unserved Felony Warrants Issued by the San Diego Superior Court." Responses to the findings and recommendations contained in the report are enclosed and are consistent with the requirements and instructions of California Penal Code 933.05.

The City of San Diego and the San Diego Police Department concur with the Grand Jury's findings and support recommendation 03-42, the need to assess and re-evaluate the current methods for serving felony warrants. The San Diego Police Department has evaluated the number of felony warrants served and the methods of service.

The San Diego Police Department has taken positive steps to ensure all personnel apply a pro-arrest philosophy to members of the public with outstanding warrants. During the last fiscal year, personnel made 44,674 arrests. Of that total, 6,555 or 14.7 % were as a result of outstanding warrants, and almost half of those were felony warrants.

The San Diego Police Department expects each area station captain and all service area lieutenants to identify command priorities. As a result, many commands have identified the apprehension of outstanding warrant suspects as a goal. Commands work from the list provided by the Sheriff's Department. This list often provides a valid name but rarely a valid address.



Office of the City Manager

202 C Street, MS 9A • San Diego, CA 92101-3869

Tel (619) 236-6363 Fax (619) 236-6067

July 22, 2003

Honorable Richard E. L. Strauss, Presiding Judge

Page 2

Currently, the San Diego Police Department is finalizing a partnership with San Diego Trolley Inc. The Trolley Code Compliance Supervisors will be authorized to book prisoners into the County Jail utilizing San Diego Police Department contracted bed space. This will provide another avenue to decrease the number of outstanding felony warrants.

The San Diego Police Department appreciates the lead the Sheriff's Department has taken on streamlining the information flow. The use of existing resources such as ARJIS, CAL-ID, and the Sheriff's website appear promising. The dissemination of accurate and timely information will assist the San Diego Police Department in having a greater impact on the number of outstanding felony warrants.

The City of San Diego greatly appreciates and values the effort put forth by the 2002 – 2003 San Diego Grand Jury regarding the issues concerning unserved felony warrants.

Sincerely,



Michael T. Uberuaga
City Manager

Enclosure

cc: Honorable Mayor and City Council

Marcia Gravette Jespersen, Foreperson, County of San Diego Grand Jury 2002 - 2003

Thomas E. McCarthy, Foreperson, County of San Diego Grand Jury 2003 - 2004 ✓

John Welter, Interim-Chief of Police

**CITY OF SAN DIEGO RESPONSE TO GRAND JURY REPORT
“UNSERVED FELONY WARRANTS ISSUED BY THE
SAN DIEGO SUPERIOR COURT”**

Pursuant to Penal Code 933.05, the City of San Diego provides the following response to the findings and recommendations in the above-entitled Grand Jury Report.

FACTS AND FINDINGS

The San Diego Police Department has reviewed the findings. The findings were directed toward the San Diego Sheriff's Department and are, therefore, not necessarily relevant to the operations of the San Diego Police Department.

RECOMMENDATION

The Grand Jury recommends that the San Diego County Sheriff's Department, San Diego Police Department, Carlsbad Police Department, Chula Vista Police Department, Coronado Police Department, El Cajon Police Department, Escondido Police Department, La Mesa Police Department, National City Police Department, and Oceanside Police Department:

03-42: Assess and re-evaluate the current methods and procedures for serving felony warrants and specify goals for improving the rate of apprehension of wanted felons.

The City of San Diego and the San Diego Police Department concur with the Grand Jury's findings and support recommendation 03-42, the need to assess and re-evaluate the current methods for serving felony warrants. The San Diego Police Department has evaluated the number of felony warrants served and the methods of service.

The San Diego Police Department has taken positive steps to ensure all personnel apply a pro arrest philosophy to members of the public with outstanding warrants. During the last fiscal year, personnel made 44,674 arrests. Of that total, 6,555 or 14.7 % were as a result of outstanding warrants and almost half of those were felony warrants.

CONCLUSION

The City of San Diego and the San Diego Police Department agree with the findings and recommendations contained within the San Diego Grand Jury report on unserved felony warrants.



Duane D. White, Chief of Police
700 West Grand Ave., Escondido, CA 92025
Phone: 760-839-4721; Fax: 760-839-4919
dwhite@cf.escondido.ca.us

RECEIVED

September 17, 2003

SEP 22 2003

SAN DIEGO
COUNTY GRAND JURY

Thomas E. McCarthy, Foreman
Grand Jury, County of San Diego
Hall of Justice
330 West Broadway, Suite 477
San Diego, CA 92101-3830

Re: Unserved Felony Warrants Issued by the San Diego Superior Court: Reponse to Recommendation 03-42

Dear Foreman McCarthy:

Thank you for bringing to our attention the concerns you have regarding the number of persons having active felony warrants in San Diego communities. I received your letter dated September 16, 2003, describing our responsibility to promptly reply in this important matter. I apologize for the delay and hope I have provided you with all necessary information.

Our goal is to provide you with information regarding your recommendation numbered 03-42. The recommendation reads as follows:

"Assess and re-evaluate the current methods and procedures for serving felony warrants and specify goals for improving the rate of apprehension of wanted felons."

As you recommended, Escondido police staff conducted a re-evaluation of current procedures for serving felony warrants and recommending goals for improving the rate of apprehension.

Background and Current Methods

In order to provide you a better understanding of how our agency fulfills the responsibility of locating and apprehending persons having felony arrest warrants, I have summarized below the Escondido police procedures undertaken to meet this responsibility.

The Department gathers, disseminates and tracks the identity of persons having active arrest warrants from two primary sources of information. One source is the printout of active warrants provided to our Department by the San Diego County Sheriff's Department Want/Warrant System. The list contains the identifies of all individuals having active warrants, updated every fourth Monday throughout the year and is prioritized by listing all felony warrants grouped together at the beginning of the report, followed by a listing of persons having misdemeanor warrants on the remaining pages.

The list is organized by the zip code of where the wanted persons were known to reside and details information for each wanted person by name, birthdate, race, gender, last known address, warrant number, date issued, criminal offense charged, bail amount, court jurisdiction, and whether or not the warrant is endorsed for night service. The warrants are considered active as of print time of the list, but because warrants are subject to being cleared or recalled on a continuous basis, all warrant-person contacts must go through a confirmation process at the time of contact to ensure active and legal status prior to arrest.

The second source of information on tracking persons with arrest warrants is an Escondido Police Department internal log identifying persons who have outstanding arrest warrants (felony and misdemeanor) generated by Escondido investigative personnel from Escondido jurisdictional crime cases. Each supervisor and investigator has immediate access to the warrant registry log for the management of due diligence in searching, locating and bringing criminal cases to closure by warrant arrests.

Each investigator who obtains a warrant for an individual's arrest in connection with an Escondido criminal case is responsible for conducting investigative work to locate and apprehend those fugitives.

In addition to individual case investigator efforts to make warrant arrests, the Investigations Division is responsible for the dissemination of felony and misdemeanor warrant information to all law enforcement personnel in Patrol, special units, and to Escondido personnel attached to County law enforcement task forces.

The Escondido Police Department implements a direct and proactive method of arrest warrant responsibility, as well as incorporating warrant arrests as part of a police officer's individual daily duty to track arrest warrant suspects and conduct checks of persons during field contacts when feasible.

Directed and proactive arrest warrant efforts in Escondido are conducted by Patrol and Investigations personnel forming arrest warrant teams that are periodically assigned exclusively to conduct search and warrant arrest operations. Generally, these special enforcement details are formed to target priority cases of felony offenders and those with misdemeanor warrants suspected of continuous criminal activity within the Escondido area.

The special enforcement details are subject to operational limitations of time duration and frequency throughout the year, due to the fact that the officers and detectives must also be available for emergency response and daily operations associated with calls for police service and ongoing criminal case management needs.

The Escondido Police Department routinely evaluates and audits its practice and procedures for detecting and apprehending persons with arrest warrants, especially the priority involving wanted felons. A significant component of the evaluation system is the data collection system of tracking the number of arrests by each warrant category, including felony, misdemeanor, bench warrants of each type, Escondido jurisdictional warrants and out of jurisdiction warrants

of felony and misdemeanor categories. In addition to the broad base tracking of arrests for all categories of arrest warrants, the Escondido Police Investigations Division tracks the arrests by warrant in connection with the particular jurisdictional criminal case from which the warrant arose.

The overall audit and tracking data of warrant arrests is tabulated in monthly reports, enabling staff to evaluate rates and numbers of warrant arrests by category. The individualized criminal case warrant arrest data tracking is kept current on a daily basis by means of a display prominently located for all staff to track the progress of criminal case closures by warrant arrest.

Goal Recommendations for Improvement

The Escondido Police Department is supporting the formation of a County Fugitive Task Force dedicated to locate and apprehend wanted felons and persons having outstanding felony arrest warrants.

The Escondido Police Department will provide one experienced investigator and one undercover vehicle for this assignment at a cost estimate of \$118,709.73, based on a 12-month operational period. It is recommended that the program be evaluated for effectiveness at the end of the first six months of operation. It is also recommended that North County law enforcement agencies join together on this program for efficiency and cost-effectiveness through shared use of personnel and equipment resources.

The task force will allow a team of skilled investigators to target wanted felons in an effort to increase the rate of apprehension to stem the current trend of the growing number of unserved felony warrants and unresolved criminal cases.

Another goal of the Escondido Police Department is to conduct research to improve technology as a tool to reduce the time in locating information to track wanted felons. At present, this research has led to a proposal to contract with a company identified as LexisNexis, which markets a program that incorporates a nationwide computerized database person search designed to analytically detect wanted persons who have made document associations within the realm of public records. The design of this system would call for inputting a list of active felony warrant individuals, using the same identifiers included in the San Diego County Sheriff's Department list of felony warrants. This system, once implemented, has the promise of locating persons with active felony warrants wherever they may be located in the United States.

As demonstrated by the examples above, each law enforcement agency can implement measures to fulfill their lawful duty to serve arrest warrants. These methods provide a proactive approach, rather than simply operating on the dependency of police officers conducting field contacts and conducting random warrant checks.

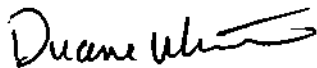
I hope this information will help clarify our Department's efforts concerning the detection and apprehension of those individuals with active warrants. Our staff is carefully considering the proposal to utilize ARJIS as a means to distribute warrant information directly to field officers on

Unserved Felony Warrants
September 17, 2003
Page 4

a timely basis. Our staff will also explore other options to help us become more efficient with identifying, locating, and apprehending wanted persons.

Once again, I appreciate your concern and efforts in this very important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Duane White", with a stylized flourish at the end.

Duane D. White
Chief of Police

JWH:lt

RECEIVED

JUL 17 2003

SAN DIEGO
COUNTY GRAND JURY

July 16, 2003



THE CITY OF SAN DIEGO

RECEIVED

JUL 16 2003

Honorable Richard E. L. Strauss, Presiding Judge
San Diego County Superior Court
220 West Broadway, Department SD-P
San Diego, CA 92101

Subject: Response to San Diego County Grand Jury, Report Dated April 16, 2003

In accordance with the California Penal Code sections 933(c) and 933.05(a), (b), and (c), City staff of San Diego thoroughly reviewed the San Diego County Grand Jury report entitled "City of San Diego Development Services Department: A Case Study in Complaint-Resolution (Gone Awry)." The following are City staff's comments on the findings and recommendations of the Grand Jury.

FINDINGS

1. **Did DSD assure that the equestrian center facility had its required minimum zoned footage and that the footage-per-horse requirement was fulfilled?**

Findings: Based on a review of the development permit 96-7919 and accompanying resolutions, and the documents from the San Diego City Council meeting held September 14, 1999, the San Diego City Council did not provide express declaration of their consideration of, or their decisive intent to override, known provisions of San Diego Municipal Code §44.0308(b) and (c), and §131.0303.

The respondent disagrees with this finding.

City staff does not agree that Municipal Code section 44.0308 (b) was overridden by City Council. This section states that a minimum of 10,000 square feet of land area is necessary to maintain horses and, that 5,000 square feet of land area is necessary for each horse. For the 80 horses proposed by this development, that calculates out to a minimum required lot area 9.18 acres. That area exists within the approved project in the combined area of Lot 153 (equestrian center) and Lots 155 and 156 (brush management support lots to Lot 153). These three lots functionally work as one lot and are all agriculturally zoned and under the same ownership and combined are over 10 acres in area. They are also governed and regulated as one lot for the equestrian center through the legal description included in Carmel Valley Planned District Development



Permit (CVPDD) No. 96-7919. Therefore, the required area for the approved number of horses and the zone has been provided.

City staff does not believe that Municipal Code section 44.0308 (c) was overridden. This section states that in the event more than 4 horses are to be maintained, the authorizing permit must recognize this. At the City Council hearing it was identified that this equestrian development would contain 80 horses.

It should be noted that, San Diego Municipal Code section 131.0303 was not in effect at the time the City Council acted to approve the equestrian center project. This section of the code defines the new purpose and intent of citywide agricultural zones and became effective January 2000. The equestrian project was approved in 1999, where the purpose and intent of the agricultural zones in Municipal Code section 101.0404 A. was "to provide appropriate zoning for areas that are presently in agricultural or open space use, or which are undeveloped and are either awaiting development or premature for development at urban intensities. It is the intention of the City Council that the A-1 zones allow for reasonable present development opportunities through the use of Planned Residential Development or Rural Cluster Development regulations, while promoting the general maintenance of such areas in open and agricultural uses, but without foreclosing future development at urban intensities where appropriate." City staff believes the project was consistent with this purpose and intent.

2. Did DSD assure that the location of the equestrian center facility was in compliance with the distance requirements as set forth in the San Diego Municipal Code?

Findings: The Seabreeze Farms Equestrian Center may be in violation of the San Diego Municipal Code §44.0308(a). Both liberal and conservative counts of dwelling units within the one-fourth mile wide belt result in numbers in excess of 300.

The respondent disagrees with this finding.

This code section states that the number of dwelling units within a one-quarter mile belt surrounding the corral, pasture or stable within which the horses are kept, be less than 300 units. The City measures this from the barns where the horses will be regularly kept and not from the outdoor riding and exercise trails, pens or arenas. We calculate that there were only 233 homes within one-quarter mile of the barns when the City Council approved the equestrian center. City Council approval was, therefore, in

complete compliance with M.C. Section 44.0308(a). The final map for the Seabreeze Farms project was recorded July 21, 2000. Per the San Diego Municipal Code, this utilized the permit and vested the use and development of the equestrian center as approved by City Council. On July 19, 2001, the City approved the Pacific Highlands Ranch Unit 2-4 project. This project did locate an additional 75 units within a quarter mile radius of the barns. Section 44.0308(a), however, does not apply to the additional 75 units since this code section regulates establishing horses within a quarter-mile of existing units. It does not prevent additional housing from being located near an existing facility where horses are kept. It would preclude bringing in or maintaining more horses than previously approved on the property.

3. **Did the planning, approval, and conformance review processes enable appropriate public input/hearing opportunities for area residents and were subsequent plan revisions in compliance with the approved development plan?**

Findings: The Development Services Department staff exhibited insensitivity, given the mixed land use character of this specific project, in performing a substantial conformance review process on September 25, 2001, thereby disallowing any input from the 18-20 homeowners most affected by the revised facility layout. The results of this process triggered the ensuing complaints. If the SCR level one process precludes public input in all cases, the Grand Jury finds that the process is flawed and needs to be amended.

The respondent appreciates the view of the Grand Jury regarding the City's substantial conformance review (SCR) process and partially agrees with the findings. Specifically, staff agrees with the finding that the process could be improved by amending the regulations. The SCR process was created to allow for project changes that normally occur between a concept approval, like the CVPDD Permit No. 96-7919 and final construction plan approval. Changes that often get requested by property owners are due to unexpected field conditions, financing issues, or changes to the property owner's plans to use their property. City staff, to the best extent possible, review change requests through the SCR process to determine if they are in compliance with applicable rules that applied to the originally approved concept and any other information from the public record of that original approval process in order to determine if the requested changes are in substantial conformance and can be approved. As the process is currently, the decision to approve is a ministerial decision and no public notice is required by the code. For the past two years, however, City staff has provided a courtesy copy of any SCR requests to the City Council recognized community planning group that represents the area where the change is being requested.

City staff does believe the changes requested by the equestrian center were in compliance with the original concept approval and with regulations applicable to the center at the time the original approval was granted. Staff was following standard practice in review and public notification for this type of decision and as such not intentionally insensitive.

Nevertheless, City staff agrees that the SCR process can be improved. In recognition of this, a revision is currently being considered by City Council to elevate the SCR process in the future to a Process Two level decision in accordance with the City of San Diego Municipal Code. This would provide public notice of any future SCR requests to all property owners within 300 feet of the property requesting the SCR, and if appealed, allow a fully noticed public hearing before the City Planning Commission. In addition, criteria for City staff to use in making these decisions are also being considered by City Council as part of this action. (A copy of the proposed changes to the SCR process is attached in the City Manager's Report.)

4. Is the City making sure that facility managers are observing stipulated site health, sanitation, and safety requirements?

Findings: The Development Services Department staff failed to consider "quality of life" issues for the neighboring homeowners by (1) allowing the construction of the horse wash racks between the large barn and property line (a visual nuisance not shown on any conceptual plan); (2) allowing placement of the dressage or training arena directly behind the properties at the southern end of the facility (a noise and dust nuisance that was shown elsewhere on the conceptual plan); and (3) allowing the site manager to consistently violate his own manure management plan (a public health nuisance).

The respondent disagrees with this finding. There is no prohibition in either the San Diego Municipal Code or in CVPDD Permit No. 96-7919 approved by City Council regarding construction of accessory facilities on this property or for using the agriculturally zoned property for the commercial use of an equestrian center that includes riding, training, shoeing, washing, grooming, or stable uses.

The City has responded to alleged code violations including those regarding manure management and have taken appropriate action in conjunction with County of San Diego staff to obtain compliance. City staff will continue to actively work with the site manager to maintain compliance.

RECOMMENDATIONS

The San Diego County Grand Jury Recommends that the San Diego City Council:

- 03-19: Amend its DSD procedures to expressly state in approved development permits or their accompanying ordinance(s) and resolutions, any known, specific provisions of the San Diego Municipal Code that are being waived or overridden as a result of the City Council's deliberations and decision-making.**

The City is currently implementing this. Hearing body (Hearing Officer, Planning Commission, and City Council) resolutions granting approval of permits that allow deviations to the City of San Diego Municipal Code generally list those deviations. In addition, staff reports to those same hearing bodies describe known deviations as part of the proposed project description.

The San Diego County Grand Jury Recommends that the Director, Development Services Department:

- 03-20: Re-emphasize within and across the DSD its records management and retention policy and procedures. The objective is to ensure that all department sections and offices are cognizant of their responsibilities in creating, managing, storing, and disposing of project documents, records, and files in accord with said policy and procedures.**

The Development Services Department regularly reviews and trains staff on records management and retention policies and procedures and will reemphasize this with the department's management team.

- 03-21: Establish a formal communication link process with the Department of Environmental Health (DEH) so that in future development projects involving large-scale animal facilities, the DSD staff can notify the DEH of such projects so that it can execute its responsibilities as described in the Municipal Code Chapter 4: Health and Sanitation.**

The Development Services Department does communicate on some projects with the DEH where there are shared review responsibilities. The Department will include in its training program for City project management staff those types of projects where there

are shared responsibilities between the City and DEH so that better communication and coordination begins when a project is submitted.

03-23: Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the site's manure management program.

The Development Services Department continues to work closely with the City's Neighborhood Code Compliance Department, with DEH, and with the equestrian center's manager to ensure compliance with the manure management program.

03-24: Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the site's fly control, dust control, rodent control, and vector control programs.

The Development Services Department continues to work closely with the City's Neighborhood Code Compliance Department, with DEH, and with the equestrian center's manager to maintain the existing fly, dust control, rodent control, and vector control programs.

03-25: Work, in consultation with Sandown Way and Rider Place residents whose properties abut the equestrian center's boundary, to:

1. Relocate the horse wash racks (a visual nuisance) to another location, and

The Development Services Department does not agree there is legal authority to require relocation of the horse rack facilities to another location and, therefore, cannot implement this recommendation. There are no specific limitations contained in either the underlying zone or in the approved development permit that provide authority to the City to require this. City staff have, however, met with concerned property owners and with the site manager to explore ways to minimize visual impacts through landscape screening, to minimize dust and noise impacts through adjustment of on-site operations, and to minimize other perceived impacts through requests for voluntary relocation of some on-site activities. The property owners did not agree that planting would address visual impacts; the equestrian center manager did modify site operations to address some dust and noise concerns, and the manager declined to relocate on-site activities.

2. Relocate the dressage arena (a noise and dirt nuisance behind the Rider Place residents) in accord with the conceptual layout.

The Development Services Department does not agree there is legal authority to require relocation of the dressage arena to another location and, therefore, cannot implement this recommendation. There are no specific limitations contained in either the underlying zone or in the approved development permit that provide authority to the City to require this. City staff have, however, met with concerned property owners and with the site manager to explore ways to minimize visual impacts through landscape screening, to minimize dust and noise impacts through adjustment of on-site operations, and to minimize other perceived impacts through requests for voluntary relocation of some on-site activities. The property owners did not agree that planting would address visual impacts; the equestrian center manager did modify site operations to address some dust and noise concerns, and the manager declined to relocate on-site activities.

(Recommendations 03-26 through 03-30 - County Department of Environmental Health)

The San Diego Country Grand Jury Recommends that the City Manager:

03-31: Assure that the Director, Department of Environmental Health and Director, Development Services Department:

(The following responses reflect that the City Manager has no authority over the County Department of Environmental health)

Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the site's manure management program,

The City Manager will make sure that the Development Services Department continues to work closely with the City's Neighborhood Code Compliance Department, with DEH, and with the equestrian center's manager to ensure compliance with the manure management program.

Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the site's fly control, dust control, rodent control, and vector control programs,

The City Manager will make sure that the Development Services Department continues to work closely with the City's Neighborhood Code Compliance Department, with

DEH, and with the equestrian center's manager to maintain the existing fly, dust control, rodent control, and vector control programs.

Work, in consultation with Sandown Way and Rider Place residents whose properties abut the equestrian center's boundary, to:

1. Relocate the horse racks (a visual nuisance) to another location,

The City Manager does not agree that there is legal authority to require relocation of the horse wash rack facilities to another location and, therefore, cannot implement this recommendation. There are no specific limitations contained in either the underlying zone or in the approved development permit that provide authority to the City to require this. City staff have, however, met with concerned property owners and with the site manager to explore ways to minimize visual impacts through landscape screening, to minimize dust and noise impacts through adjustment of on-site operations, and to minimize other perceived impacts through requests for voluntary relocation of some on-site activities. The property owners did not agree that planting would address visual impacts; the equestrian center manager did modify site operations to address some dust and noise concerns, and the manager declined to relocate on-site activities.

2. Relocate the dressage arena (a noise and dirt nuisance behind the Rider Place residents) in accord with the conceptual layout.

The City Manager does not agree that there is legal authority to require relocation of the dressage arena to another location and, therefore, cannot implement this recommendation. There are no specific limitations contained in either the underlying zone or in the approved development permit that provide authority to the City to require this. City staff have, however, met with concerned property owners and with the site manager to explore ways to minimize visual impacts through landscape screening, to minimize dust and noise impacts through adjustment of on-site operations, and to minimize other perceived impacts through requests for voluntary relocation of some on-site activities. The property owners did not agree that planting would address visual impacts; the equestrian center manager did modify site operations to address some dust and noise concerns, and the manager declined to relocate on-site activities.

Page 9


Honorable Richard E. L. Strauss, Presiding Judge
Response to San Diego County Grand Jury — Seabreeze Farms
July 16, 2003

03-32: Otherwise, order reasonable restoration or mitigation as authorized by San Diego Municipal Code §121.0312. in the Seabreeze Farms development for all violations of the San Diego Municipal Code.

The City Manager takes appropriate enforcement actions in accordance with the San Diego Municipal Code for all known violations of the Municipal Code. The City's Development Services and Neighborhood Code Compliance Departments have responded to all complaints on this project over the past 3-6 months and have worked pro-actively to bring the equestrian into compliance with the permit.

The City of San Diego greatly appreciates and values the effort put forward by the 2002-2003 San Diego Grand Jury regarding the issues with the City of San Diego's development review process. As the Grand Jury report acknowledged, the Development Services Department management team and other City Staff have been and continue to be dedicated to work through issues with this project and with the development review process and to implement improvements that benefit both property owners and the public at large.

Sincerely,



Michael T. Uberuaga
City Manager

TPC/lgb-- DS 03-44 / AIM 03-0124

Enclosure

cc: Honorable Mayor and City Council, City of San Diego
P. Lamont Ewell, Assistant City Manager
Tina P. Christiansen, A.I.A., Development Services Director
Marcia Gravette Jespersen, Foreperson, County of San Diego Grand Jury 2002-2003
Thomas E. McCarthy, Foreperson, County of San Diego Grand Jury 2003-2004

A:\seabreezegrandjury_070803.wpd



THE CITY OF SAN DIEGO
MANAGER'S REPORT

DATE ISSUED: June 30, 2003 REPORT NO. 03-141
ATTENTION: Land Use and Housing Committee
Docket of July 2, 2003
SUBJECT: Substantial Conformance Review
REFERENCE: Memorandum to the Land Use and Housing Committee dated
June 21, 2002

SUMMARY

Issue – Should the Land Use and Housing Committee recommend adoption of the proposed modifications to the Substantial Conformance Review process as outlined in this report?

Manager's Recommendation – Support the proposed revisions to the substantial conformity review process and direct Development Services Department staff to prepare the necessary amendments to the Land Development Code and associated reference guides in order to implement the proposed modifications to the Substantial Conformance Review process as outlined in this report.

Other Recommendations –

Community Planners Committee (CPC)

On May 27, 2003 the CPC voted 18-2-2 to recommend approval of the modifications to the Substantial Conformance Review process as presented by staff.

Technical Advisory Committee (TAC)

On June 11, 2003 the TAC members present voted unanimously to recommend approval of the modifications to the Substantial Conformance Review process as presented by staff.

DISCUSSION

Procedure for Review

Substantial Conformance review is triggered by a desire to revise a project's design after the City has approved a project. This can result from encountering unknown field conditions, from a property owner's desire to make improvements to the development proposal, from a change request by a potential buyer, as result of changes in the marketplace, from unexpected project construction costs, or because of a change in project ownership. These changes can be requested at various points in the review or construction process. Many Substantial Conformance reviews are processed as construction changes that occur once construction is underway and are often time sensitive. Others are done well in advance of an applicant submitting plans for construction permits.

Staff begins a review for substantial conformance by first determining the nature and extent of the change being proposed by comparing it to the approved project and permit conditions. Staff then determines if the changes are consistent with prior approval. Appropriate land use plans are then reviewed to determine if the project is still consistent with applicable guidelines and objectives. Staff then consults with the public record for the initial approval including project notes, written correspondence, testimony at decision hearings, and discussions with staff involved in the original approval. Staff also reviews applicable regulations to insure that the proposed modifications would still comply. Professional judgment is then used to make the determination of whether the revised project is in substantial conformance with the original approved project.

Examples of changes regularly proposed as substantial conformance within the project area include relocation of plant material, change of plant material types within the context of the original landscape design (i.e., a different species of shade tree); modifications to grading to reduce cut and fill, changes to structure locations within lot setback; changes in driveway or road alignment to improve safety or site design considerations, modifications to signage, changes to utility locations, changes in finish materials within the context of the originally approved materials; modifications to parking lot layouts within the quantity of required spaces, changes to pedestrian circulation to coordinate with the final site and architectural design, etc. Staff reviews approximately 70 Substantial Conformity applications each year.

In a memorandum dated April 15, 2002, Councilmember Peters proposed that projects which allow significant density transfers within the project area, should be required to submit for a Process Two decision to allow the community to appeal the City staff's decision to the Planning Commission. This issue can be dealt with on future project proposals as part of the development permit process. In the past, staff typically included standard substantial conformity language utilizing a Process One approach. Staff proposes to modify this practice in the future to require a Process Two Substantial Conformance Review.

Existing Code Section

Substantial Conformance Review
LDC Section 126.0112 -
Minor Modifications to a Development Permit

A proposed minor modification to an approved development permit may be submitted to the City Manager to determine if the revision is in substantial conformance with the approved permit. If the revision is determined to be in substantial conformance with the approved permit, the revision shall not require an amendment to the development permit. **Within the Coastal Overlay Zone or as specified within an approved permit, any substantial conformance determination shall be reached through a Process Two review [emphasis added].**

Proposed Code Section

Substantial Conformance Review
LDC Section 126.0112 -
Minor Modifications to a Development Permit

A proposed minor modification to an approved development permit may be submitted to the City Manager to determine if the revision is in substantial conformance with the approved permit. If the revision is determined to be in substantial conformance with the approved permit, the revision shall not require an amendment to the development permit. **Within the Coastal Overlay Zone, any substantial conformance determination shall be reached through a Process Two review. Citywide, a substantial conformance determination shall also be reached through a Process Two review if:**

- specified within an approved permit for a specific permit condition; or
- if subsequent implementation of an approved master discretionary permit requires review through a Substantial Conformance Review process (e.g. conformance against design guidelines).

DISCRETIONARY PERMITS: SUBSTANTIAL CONFORMANCE GENERAL STAFF REVIEW GUIDELINES

BACKGROUND:

At the time a discretionary project is approved by the City, it is acknowledged by both the Development Services Department and the developer that the plans being approved are "conceptual plans." The plans are of sufficient detail to show department staff and citizens what the project will be and how it will look. However, the developer, because of cost and the uncertainty of whether the project will be approved, does not prepare construction documents for the discretionary review phase of the project.

After a project is approved, a developer may find it necessary to modify the project. These guidelines some give guidance as to the limits that such projects can be modified without requiring a formal amendment to the project.

A FINDING OF SUBSTANTIAL CONFORMITY CANNOT BE MADE IF CHANGES OR MODIFICATIONS TO A PROJECT ARE INCONSISTENT WITH FACTORS OR ISSUES SPECIFICALLY ADDRESSED BY STAFF IN A MEMORANDUM TO THE FILE BASED ON INFORMATION PRESENTED TO THE DECISION-MAKER.

GENERALLY, THE MORE SIGNIFICANT THE CHANGE, THE MORE DIFFICULT IT WILL BE TO DETERMINE SUBSTANTIAL CONFORMITY. CONVERSELY, IT CANNOT BE ASSUMED THAT SEEMINGLY MINOR CHANGES WILL BE FOUND IN SUBSTANTIAL CONFORMITY IF IT WAS A SPECIFIC ISSUE IDENTIFIED BY THE DECISION-MAKER AS AN AREA OF CONCERN AT THE HEARING.

DETERMINATION:

Following are issues to be considered and evaluated when reviewing a Substantial Conformity Review Application.

Land Use - No change in-land use (permitted uses) from that which was approved can be found to be in substantial conformity. Unless permitted uses section of permit specifies uses permitted by the underlying zone, only those uses identified on the permit are to be allowed.

Architecture - Review of proposed changes to the architectural style of an approved project should weigh the significance that the department and/or the decision-maker(s) placed on the appearance/architectural style of the project when it was approved. Where findings of neighborhood compatibility were required to be made, even minor changes to architectural elements or materials could be considered significant. Though the City does not regulate private views, changing a flat roof structure to a gabled roof could affect neighbors and lead to some controversy over why the design change occurs after the public hearing.

The overriding goal should be that the modified plans result in a project that is "better than or equal to" the conceptual plans that were approved. This is an aesthetic determination, not an economic one.

Accessory Uses/Structures - Proposed Changes to a project's accessory uses or structures need to be reviewed within the context of the significance given to them in the course of approval. Applicants cannot propose an Olympic size swimming pool and then convert the area to an open grassy space. However, substituting facilities of a similar nature and size may be acceptable. The addition of accessory uses/structures needs to consider whether the use or structure is truly accessory in nature to the approved use and project design and how it physically fits into the project.

Environmental Documents

No projects can be found to be in substantial conformance if it exceeds the elements described and analyzed in an environmental document. Increased density, grading, traffic, biological impacts, etc., needs to be closely scrutinized and evaluated.

Landscaping

The overriding principle is that wholesale modification in the overall amount of landscaping should not be approved. Minor changes may be appropriate but these must be viewed in the context of the full landscape program for the project. Eliminating significant mounts or types of landscape treatment only because of the cost is not substantial conformance.

Article 2: Required Steps in Processing

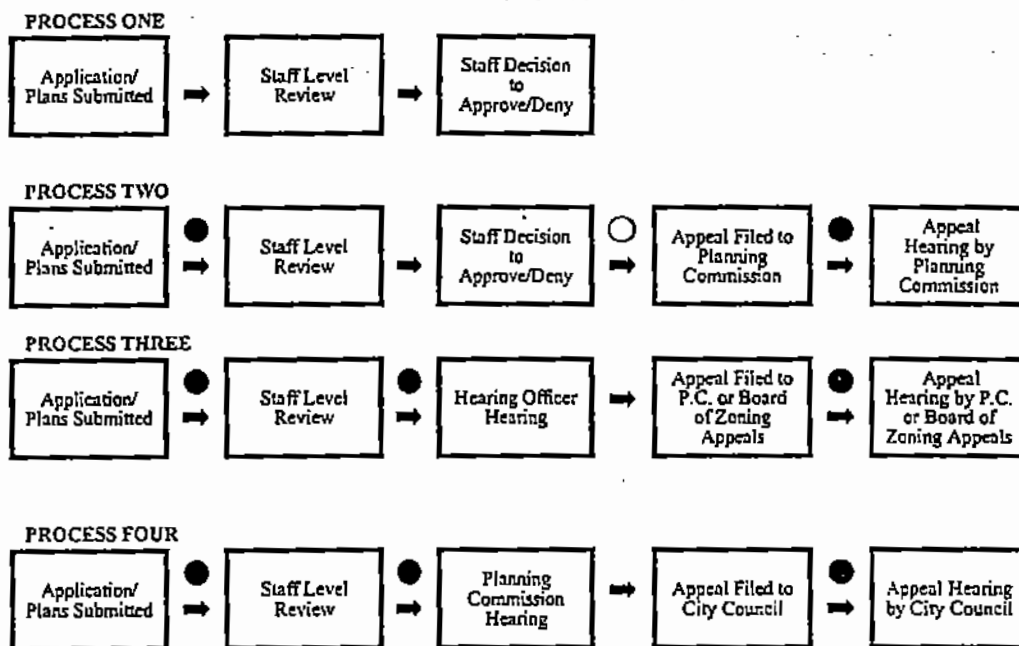
Division 5: Decision Process

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§ 112.0501 Overview of Decision Process

Applications for permits, maps, or other matters shall be acted upon in accordance with one of the five decision processes established in this division and depicted on Diagram 112-05A. The subject matter of the *development* application determines the process that shall be followed for each application. The provisions of Chapter 12 that pertain to each permit, map, or other matter describe the decision process in more detail. Diagram 112-05A is provided for convenience of reference only and does not define, describe, or limit the scope, meaning, or intent of any provision of the Land Development Code. This diagram describes the City of San Diego's processes only and does not describe other decision processes that may be required by other agencies, such as the State Coastal Commission.

Diagram 112-05A
Decision Processes with Notices



date.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

§112.0504 Process Two Appeal Hearing

The Planning Commission shall hear appeals of Process Two decisions subject to the following.

- (a) **Persons Who Can Appeal.** The following persons may request an appeal hearing after the designated staff person's decision:
 - (1) An *applicant*; or
 - (2) Any other person who files an application for a Process Two appeal hearing in accordance with Section 112.0504(b).
- (b) **Request for a Process Two Appeal Hearing.** A Process Two decision may be appealed by filing an application for a Process Two appeal hearing with the City Manager no later than 12 *business days* after the *decision date*.
- (c) **Scheduling an Appeal Hearing.** The City Manager shall assign a date for an appeal hearing before the Planning Commission no later than 10 calendar days after the date on which an application for the appeal hearing is filed with the City Manager. The appeal hearing shall generally be held within 60 calendar days following the filing of the application for the hearing. The appeal hearing shall be noticed in accordance with Section 112.0308.
- (d) **Power to Act on the Decision at Appeal Hearing.** At the conclusion of the appeal hearing, the Planning Commission may affirm, reverse, or modify the staff decision.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§112.0505 Process Three

An application for a permit, map, or other matter acted upon in accordance with Process Three may be approved, conditionally approved, or denied by a Hearing Officer in the following manner.

- (a) ~~Notice.~~ The City Manager shall mail a Notice of Application to the persons described in Section 112.0302(b) no later than 10 *business days* after the date on which an application for a permit, map, or other matter is *deemed complete*.

- (3) *Findings Not Supported.* The decision maker's stated *findings* to approve, conditionally approve, or deny the permit, map, or other matter are not supported by the information provided to the decision maker; or
 - (4) *Conflicts.* The decision to approve, conditionally approve, or deny the permit, map, or other matter is in conflict with a *land use plan*, a City Council policy, or the Municipal Code.
- (d) *Scheduling the Appeal Hearing.* The appeal hearing before the Board of Zoning Appeals or the Planning Commission shall be held, or the City Manager shall set a date for the appeal hearing, no later than 30 calendar days after the date on which the application for an appeal is filed. The appeal hearing shall be noticed in accordance with Section 112.0308.
- (e) *Power to Act on Appeal.* After the conclusion of the public hearing, the Planning Commission or Board of Zoning Appeals may affirm, reverse, or modify the decision being appealed.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§112.0507 Process Four

An application for a permit, map, or other matter acted upon in accordance with Process Four may be approved, conditionally approved, or denied by the Planning Commission in the following manner.

- (a) *Notice.* The City Manager shall mail a Notice of Application to the persons described in Section 112.0302(b) no later than 10 *business days* after the date on which an application for a permit, map, or other matter is *deemed complete*.
- (b) *Decision Process.* The Planning Commission may approve, conditionally approve, or deny the application at a public hearing noticed in accordance with Sections 112.0301(c), 112.0302, and 112.0303.
- (c) *Waiver of Appeal Period.* Before the close of the public hearing, an *applicant* may request that the appeal period be waived. The Planning Commission shall grant the request only after determining for the record that there are no *interested persons* and that the *applicant* has waived all rights to appeal.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000; amended 6-19-2000 by O-18814 N.S.)

- (d) Scheduling Appeal Hearings. The appeal hearing before the City Council shall be held, or the City Clerk shall set a date for the appeal hearing, no later than 30 calendar days after the date on which the application for an appeal is filed. The appeal hearing shall be noticed in accordance with Section 112.0308.
- (e) Power to Act on Appeal. After the conclusion of the public hearing, the City Council may affirm, reverse, or modify the decision being appealed.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§112.0509 Process Five

A Process Five decision on a permit, map, or other matter shall be made by the City Council in the following manner.

- (a) Notice. The City Manager shall mail a Notice of Application to the persons described in Section 112.0302(b) no later than 10 *business days* after the date on which an application for a permit, map, or other matter is *deemed complete*.
- (b) Planning Commission Recommendation. Before the City Council decision, the Planning Commission shall hold a public hearing to consider the application. The hearing shall be noticed in accordance with Sections 112.0301(c), 112.0302, and 112.0303. The hearing may be continued if desired by the Commission to solicit and obtain information needed to make a recommendation. However, the hearing shall be concluded no later than 60 calendar days after the initial hearing date. At the conclusion of the public hearing, the Planning Commission shall make a written recommendation to the City Council to approve, conditionally approve, or deny the application. If the Planning Commission fails to act within this 60-day period the matter shall proceed to City Council without a recommendation.
- (c) Decision Process. After receiving the Planning Commission's recommendation or expiration of the 60-day time period with no recommendation, the City Council shall hold a public hearing to consider the application. The hearing shall be noticed in accordance with Sections 112.0301(c), 112.0302, and 112.0303. The City Council may approve, conditionally approve, or deny the application at the conclusion of the hearing.
- (d) Exception to Process Five. The City Council may waive the requirement of Section 112.0509(b) that the Planning Commission make a recommendation before a decision by the City Council when the City Council determines that action is required by a provision of the Municipal Code or is required to facilitate timely action by the City on a matter in accordance with state law.



THE CITY OF SAN DIEGO

Substantial Conformance Review

CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT
1222 FIRST AVENUE, MS 301, SAN DIEGO, CA 92101
CALL (619) 446-5300 FOR APPOINTMENTS AND (619) 446-5000 FOR INFORMATION.

INFORMATION
BULLETIN**500**

APRIL 2001

Substantial Conformance Review (SCR) is a voluntary service available to customers who are proposing to modify their project after a discretionary permit has been approved by the City. Prior permits could include any of the more than 80 types of discretionary permits contained in the repealed Municipal Code, or the new development permit/approvals, subdivision approvals, or policy approvals of the Land Development Code. If the only prior discretionary action, however, was a tentative map or vesting tentative map, and a final map for the project has been approved, then this service is not available.

The goal of SCR is to determine if the change proposed for a project is consistent and in conformance with the previously approved permit. This includes a review of the revised project against the approved exhibits, permit conditions, environmental documentation, applicable land use policies, and the public record for the prior permit. Staff will recommend approval of the modified project if the change falls within the parameters of the prior approval.

This service is offered to allow customers to provide only the information needed to make a conformance determination, without having to go to the expense of preparing complete construction documents. The process does not include a review for conformance with other City regulations, which is performed when an application for a construction permit approval such as a building, grading, or public improvement permit is made.

Instead of a SCR, customers may choose to include their project changes as part of a complete construction permit application (building permit, grading permit, public improvement permit, etc.). Staff will review the project change for conformance with the prior permit as part of the process of checking the plans against applicable regulations. If the project changes are not deemed to be in conformance with the previously approved discretionary permit, minor to significant project redesign or an amendment to the previously approved permit may be required. The customer makes the choice to risk a full construction permit submittal, or to opt for the more tailored SCR service.

SUBMITTAL REQUIREMENTS

Phone (619) 446-5300 to schedule a submittal appointment for SCR. At this appointment, provide the information in the quantities shown below (you may, however, choose to provide one copy of everything for a determination by staff of the final number of copies

Documents referenced in this Information Bulletin

- General Application (DS-3032)
- Information Bulletin 503, "Fee Schedule For Development Permits/Approvals and Policy Approvals"
- Information Bulletin 512, "How to Obtain Public Noticing Information"

that would be required as the quantities may be vary depending upon the magnitude of the change):

1. Provide twelve (12) copies of the following:
 - a. A letter detailing the modifications being proposed to the project that was previously approved;
 - b. the final, approved permit and resolution(s) of the subject permit;
 - c. the approved exhibit A drawings and documents that are being affected by the proposed project modifications (each sheet individually folded to 8 1/2" by 11" size); and
 - d. marked up exhibit A drawings and documents or new drawings at the same scale as the approved exhibits that clearly show and highlight the proposed project modifications (each sheet individually folded to 8 1/2" by 11" size).
2. General Application (DS-3032)
3. For SCR's in the Coastal Zone or when a Process 2 SCR is required by a previously approved development permit, a Public Notice Package is required. This includes:
 - a. One set of adhesive mailing labels, on 8 1/2" by 11" sheets. Each set includes the names and addresses of current property owners located within a 300-foot radius of the perimeter of the property for which an application is being made. Where properties are not owner occupied, occupant labels must also be provided in addition to the property owner labels. (See Information Bulletin 512, "How to Obtain Public Noticing Information," for more details.)
 - b. A photo copy of the mailing labels.
 - c. Assessor Parcel Map(s) outlining the 300-foot radius.
4. Fee (see Information Bulletin 503, "Fee Schedule for Development Permits/Approvals and Policy Approvals," for Substantial Conformance Review Fees).

Printed on recycled paper. This information is available in alternative formats for persons with disabilities.
To request this document in alternative format, call (619) 446-5446 or (800) 735-2929 (TT).
Be sure to see us on the WorldWide Web at www.ci.san-diego.ca.us/development-services

**CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT:
A CASE STUDY IN
COMPLAINT-RESOLUTION (GONE AWRY)**

SUMMARY

In the fall of 1999, the San Diego City Council approved a development permit for the Seabreeze Farms project in Carmel Valley. The project included single- and multi-unit housing, open space, and an equestrian center.

In the spring of 2002, homeowners living along the equestrian center's eastern boundary noticed that the facility under construction was taking shape with significant differences from what they had been told and shown when buying and occupying their homes in 2001. This Grand Jury (GJ) report covers events occurring from September 1999, when the project was approved, through January 2003 when the Grand Jury completed its investigation.

Four key issues of contention embroiled certain homeowners and the San Diego Development Services Department (DSD) in a lengthy series of written and face-to-face communications. The issues, in brief, were zoning footage, distancing requirements, citizen participation in administrative decision-making, and health and safety. The Grand Jury investigated the origins of the issues and how they were resolved (or not resolved).

The Grand Jury's recommendations suggest changes in the Development Services Department's methods and procedures to keep such problems from happening again.

PURPOSE OF THE STUDY

The purpose of this study is to address the City's handling of the following questions:

- Does the equestrian center facility have its required minimum zoned footage and is the footage-per-horse requirement fulfilled?
- Was the location of the equestrian center facility in compliance with the distance requirements as set forth in the San Diego Municipal Code?
- Did the planning, approval, and conformance review processes enable appropriate public input/hearing opportunities for area residents and were subsequent plan revisions in compliance with the approved development plan?

FIGURE 1 Conceptual Plan (Spring 1999) Equestrian Center Facility

Please contact the Grand Jury Office at 619-515-8707 for copies of Figures 1 and 2.

Cease Illegal Occupancy notice for each barn. (The notice applies to both horses and to humans providing care for the horses inside the barns.)

staff, the approximate 9 acres of the equestrian facility meet the 5,000 square foot requirement for 76 horses, not 80.

An examination of the development permit 96-7919 document, approved on September 14, 1999, by the San Diego City Council, reveals no specific mention of the 10-acre zoning requirement, the 5,000 square foot-per-horse requirement, the 80 horses, or the "more than four horses" authorization requirement. Nor do the accompanying resolutions help. In fact, resolution R-292175 includes a statement that all Seabreeze Farms project lots meet the minimum dimension requirements of their respective zones.

The DSD management and staff indicate that the specific issues are cited in various staff memos, reports, maps, layouts, and proposals addressed to the Planning Commission and to the City Council as part of the project's pre-approval process. All of that documentation is found in the DSD's "project file". The "project file" is normally reviewed by the City Council during the sequential approval decision points for a project. For the Seabreeze Farms project, the DSD's position is that, since the development permit 96-7919 was approved by City Council, they—as the decision-makers—gave due consideration and consent to the issues raised by the complainants.

The Grand Jury examined all pertinent files and documents to ensure that the zoning acreage and per-horse square footage issues were part of the pre-approval record and that they were discussed by the decision-making body as part of the approval process. The Grand Jury's review included an examination of the project file in the DSD's Records Section as well as a copy of the City Clerk's file of project documents. Grand Jurors also listened to the audiotape of the entire City Council proceedings on the day that the Seabreeze Farms Council item was approved. Throughout the documents, we found only a few scattered references to "equestrian village of 8.9 acres", "8 acre equestrian area", and "80-horse facility". The audiotape yielded no information of use as it apparently appeared on the Council's Consent Agenda, which eliminated the need for any discussion.

Subsequent DSD correspondence indicated a possible solution. Specifically, the owner of lot 153 can reallocate two lots currently abutting the western border of the equestrian facility. Those lots are part of the 25-acre open space zoning and are to be used for brush management support purposes. Incorporating those lots—155 and 156—into the equestrian facility would achieve the 10-acre minimum zoning and thus meet the 5,000 square foot-per-horse requirements. Procedurally, the developer would seek zoning footage changes for the open space and equestrian facility areas and notify the Tax Assessor of the changed lot acreages. The developer may take those steps voluntarily or not at all.

Findings: Based on a review of the development permit 96-7919 and accompanying resolutions, and the documents from the San Diego City Council meeting held September 14, 1999, the San Diego City Council did not provide express declaration of their consideration of, or their decisive intent to override, known provisions of San Diego Municipal Code §44.0308(b) and (c), and §131.0303.

Interpretation and application of these code provisions can lead to a variety of outcomes. The following hypothetical examples illustrate this confusion:

In a mixed land use setting, there is a farm the shape and size of which is a perfect circle with a diameter of one-fourth mile. In example one, a barn sits in the center of the circle. In example two, there are four barns – one sits up against the fence in each of the circle's four quadrants.

As a result of applying the code, in example one, the number of dwelling units within one-fourth mile equals zero, and the 75-foot wide belt is non-applicable. However, in example two, all of the dwelling units from the farm's outer fence to a distance of one-fourth mile beyond will be counted; the 75-foot wide belt begins at the farm's outer fence line.

With the foregoing as background, we can proceed to examine how the interpretation and application of both the one-fourth mile wide belt and the 75-foot wide belt provisions became flashpoints of contention.

As part of the project's pre-approval process leading up to the granting of the development permit, the DSD staff sent a letter to Del Mar Land Management, in early December 1998, requesting certain additional information about various aspects of the Seabreeze Farms project. Plans were in a conceptual layout phase at that time. That letter indicated that DSD staff was evaluating previously submitted information, and they were seeking to collect additional data. That information was to be used to make an appropriate recommendation to the Planning Commission and the City Council. That standard practice helps DSD staff bring development projects to a successful and timely approval.

This particular letter sought maps, layouts, and other documents for a variety of needs. For the equestrian center portion of the project, it specified the following requests:

Provide an exhibit to demonstrate compliance with Section 44.0308 of the Municipal Code (number of dwelling units within $\frac{1}{4}$ mile of the stables, corrals, or pasture, adequate area for the number of horses on site, etc.). Equestrian uses must be at least 75 feet from residences. Lots 48-51, 57 & 61-68 may not meet this requirement. Plot residences on these lots to demonstrate compliance with Section 44.0308(d) of the Municipal Code.

In the project files made available to us for review in the Records Section, we found no documented response from the developer.

The first major issue of the two measures of distance is that of the one-fourth mile wide belt provision. One can draw a scaled circle on a housing tract plat and count the units inside the line or walk the area and achieve a similar count. Determining the belt line and the number of dwelling units within it is a more difficult task than it would first appear. The neighbors, in various counts, found 437, 440, and 500 dwelling units. DSD staff reported an initial

daytime hours when the real activity begins: exercising, horse washing, hot walking, riding, corral activities, manure processing, etc. This seems to be the time when that buffer assumes a paramount importance.

The concept of "equestrian uses" (a DSD term appearing in the record of correspondence) can help clarify the issue. The Grand Jury finds that use of the term should encompass structures and activities as well as nighttime and daytime intervals. Thus, for both the one-fourth mile and 75-foot wide belt measures, we suggest that measurements start at the outer edge of any significant equestrian use. Such a "use" includes: permanent and semi-permanent structures such as barns, stables, paddocks, riding arenas, corrals, pens, turnouts, storage sheds, hot walkers, wash racks, and clubhouses. It also includes areas devoted to riding paths, pastures, arenas, manure management, etc. For those perimeters of the equestrian facility directly abutting residential properties, it seems logical to expect a sensitive application of the 75-foot buffer that would include a minimum 50-foot offset from the facility's perimeter fence line for any significant equestrian use.

In the spring of 2002, neighbors of the equestrian center had to look at the world in a completely new way – literally. In the next section, we discuss the event that triggered the complaints.

Findings: The Seabreeze Farms Equestrian Center may be in violation of the San Diego Municipal Code §44.0308(a). Both liberal and conservative counts of dwelling units within the one-fourth mile wide belt result in numbers in excess of 300.

The Development Services Department applied a strict interpretation and application of the San Diego Municipal Code §44.0308(d). A more reasonable interpretation could have caused measurement to originate at the jump arena fence and at the outer edge of the horse wash racks. Certainly, a preferable option is that of measuring from the outer edge of any significant "equestrian use". Even better, a 75-foot separation beginning at the homeowners' property lines to the "equestrian use" should be specified. Public health and safety concerns should require an interpretation resulting in the widest possible buffer.

3. Did the planning, approval, and conformance review processes enable appropriate public input/hearing opportunities for area residents and were subsequent plan revisions in compliance with the approved development plan?

Facts: The residents on Sandown Way and Rider Place began purchasing, or renting, and moving into their newly built Seabreeze Farms homes in 2001. The residents were not invited to, nor did they attend, the public hearing on September 14, 1999, during which the City Council approved the development permit for the entire 73-acre project. Additionally, they were not invited to, nor did any attend, the public hearing on July 17, 2000, when the San Diego City Council gave its approval for the final map of the Seabreeze Farms development project.

The Grand Jury asked a few of the residents what plans they were shown, or what they were told by their realtors, about the equestrian center as part of their home buying process. Their

then go through the same level of approval process that the original permit approval followed.

Proposed changes for the equestrian center went through a level one substantial conformance review. The DSD staff approved, under level one SCR authority, the changes and revisions to the original development permit. These SCR approved changes included:

- Three barns being consolidated into two.
- The barn nearest several residences growing from 10,000 to 15,800 square feet, lengthening by 80 feet and showing 26 additional horse stalls for a total of 52. A roof cupola being removed from the barn's roof.
- The manager's residence moving further from the residences.
- Trees being added between the barn and the residences.
- A trailer loading-unloading area being replaced.

Figure 2 shows the layout of the equestrian facility after the SCR approval by the DSD staff.

The DSD staff believed that the homeowners on Sandown Way and Rider Place would welcome the changes.

However, in April 2002, some Sandown Way residents took exception to the action: the re-oriented barns blocked some backyard views; complainants perceived that one barn had been moved closer to their properties; fixed structures known as wash racks appeared between their fence line and the larger barn.

Complainants' concerns raised the issue of due process. There had been no public hearing or any opportunity to influence the DSD's decision that the changes were in substantial conformance with the project's permit and plans. They asked for a stop work order.

The complaints and responses began in earnest.

The Grand Jury found that the DSD staff made a judgment call that the requested changes were minor as opposed to major. If staff determined that the requested changes were major, a level one review would not be applicable. Because the DSD staff performs these level one reviews on a regular and daily basis, one could defer to their decision that the proposed revisions were minor in total. However, when one compares the site layouts in Figure 1 and Figure 2, it is clear that major and significant site realignment occurred as a result of this DSD staff approval.

Given the mixed land use features of this specific development project, along with the obvious "quality of life" implications of the review decision for the residents, it is reasonable to believe that the complainants deserved the opportunity to view, discuss, and attempt to influence the DSD's level one review decision. Noticing the residents and informally

FIGURE 2 Equestrian Center Layout-After a Substantial Conformance Review, Sept. 2001

occasional project that bears "quality of life" issues, perhaps a level one-and-a-half process, or simply an appeal process to the DSD itself, is needed.¹³

One cannot overlook concerns that the complainants note in their early letters. What can be done about the equestrian use fixtures (i.e., wash racks) that now appear between barn and residences? Has the one-fourth mile wide belt changed again? (It was noted in the previous section that the "less than three hundred dwelling units" provision might have already been violated.) When the barns were re-oriented, was the 75-foot wide belt reduced so that some residences now had less than the required buffer?

Findings: The Development Services Department staff exhibited insensitivity, given the mixed land use character of this specific project, in performing a substantial conformance review process on September 25, 2001, thereby disallowing any input from the 18-20 homeowners most affected by the revised facility layout. The results of this process triggered the ensuing complaints. If the SCR level one process precludes public input in all cases, the Grand Jury finds that the process is flawed and needs to be amended.

4. Is the City making sure that facility managers are observing stipulated site health, sanitation, and safety requirements?

Facts: Members of the Grand Jury visited the Seabreeze Farms neighborhood in early January 2003 and viewed the equestrian center from the backyards of three different residents. We saw a long, flat stretch of land bearing an attractive large barn (the second barn is located behind the larger one and thus hidden), several temporary house-trailer units, a parking area, small corrals or pens, horse wash racks, the partially hidden manure storage area, and several large riding arenas. At the north end, the facility lies at the bottom of a 25-30 foot steep drop from the backyards; in the southern end, the drop is a mere 3-5 foot from the abutting backyards. Trees on the slope are still small.¹⁴ The manager's residence, the clubhouse, and the employee housing – which all appear on the conceptual plan to be permanent structures – may or may not be housed in the house-trailer units at this time.

In the northern section several homeowners have an "up close and personal" view of horses being washed in the wash racks. Homeowners in the southern section endure the sounds and action of horse training just a short distance from their backyard fence. These same residents claim that their day begins earlier than the usual 6:30 a.m. tractor startup; regularly between three and four a.m., they are roused by what sounds like a horse attempting to kick its way out of its stall!

The approved development permit required that the developer submit a variety of plans including manure management, and fly and dust control. The permit also specified requirements concerning lighting, hours of operation, noise abatement, vector control, rodent control, brush management, etc.¹⁵

¹³ DSD management states that a level two process – a department level one review with an appeal option to the Planning Commission – is not available in this case because the original permit approval occurred via a level five process.

¹⁴ Subsequent to our visit, two residents noticed a landscaping change that significantly altered their backyard views. We do not know if the department had approved the location and type of the new plantings.

¹⁵ The permit also specified a facility fence. Residents found that their own backyard fences serve as the facility's perimeter fence.

diligence and persistence.

2. The Development Services Department management expended significant time and energy in responding to the complaints. Responses included both written and face-to-face meetings. We commend their efforts.

RECOMMENDATIONS

The San Diego County Grand Jury Recommends that the San Diego City Council:

- 03-19: Amend its DSD procedures to expressly state in approved development permits or their accompanying ordinance(s) and resolutions, any known, specific provisions of the San Diego Municipal Code that are being waived or overridden as a result of the City Council's deliberations and decision-making.

The San Diego County Grand Jury Recommends that the Director, Development Services Department:

- 03-20: Re-emphasize within and across the DSD its records management and retention policy and procedures. The objective is to ensure that all department sections and offices are cognizant of their responsibilities in creating, managing, storing, and disposing of project documents, records, and files in accord with said policy and procedures.
- 03-21: Establish a formal communication link process with the Department of Environmental Health (DEH) so that in future development projects involving large-scale animal facilities, the DSD staff can notify the DEH of such projects so that it can execute its responsibilities as described in the Municipal Code Chapter 4: Health and Sanitation.
- 03-22: Determine an appropriate course of action for implementing the Cease Illegal Occupancy order that was served on September 25, 2002, to the site manager of the Seabreeze Equestrian Center.
- And, if Seabreeze Farms Equestrian Center continues to operate under an "active or open" permit:
- 03-23: Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the site's manure management program.
- 03-24: Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the site's fly control, dust control, rodent control, and vector control programs.

1. Relocate the horse wash racks (a visual nuisance) to another location, and
2. Relocate the dressage arena (a noise and dirt nuisance behind the Rider Place residents) in accord with the conceptual layout.

03-30: Perform the measurements specified in the San Diego Municipal Code §44.0308 (a) and (d) (i.e., one-fourth mile and 75-foot wide belt measures) at the Seabreeze Farms Equestrian Center owner's expense and take whatever action is necessary as a result.

The San Diego County Grand Jury Recommends that the City Manager:

03-31: Assure that the Director, Department of Environmental Health and Director, Development Services Department:

Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the site's manure management program,

Work with the Equestrian Center's manager to achieve consistent and appropriate implementation of the site's fly control, dust control, rodent control, and vector control programs,

Work, in consultation with Sandown Way and Rider Place residents whose properties abut the equestrian center's boundary, to:

1. Relocate the horse racks (a visual nuisance) to another location,
2. Relocate the dressage arena (a noise and dirt nuisance behind the Rider Place residents) in accord with the conceptual layout.

03-32: Otherwise, order reasonable restoration or mitigation as authorized by San Diego Municipal Code §121.0312. in the Seabreeze Farms development for all violations of the San Diego Municipal Code.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report

San Diego City Council	03-19	07/15/03
Director, Development Services Department	03-20 through 03-25	07/15/03
Director, Department of Environmental Health	03-26 through 03-30	07/15/03
San Diego City Manager	03-31 and 03-32	07/15/03