



RECEIVED
SEP 18 2008

**COUNCIL PRESIDENT
SCOTT H. PETERS**

CITY OF SAN DIEGO

September 18, 2008

RECEIVED
SEP 24 2008
SAN DIEGO
COUNTY GRAND JURY

Honorable Kenneth So
Presiding Judge
San Diego County Superior Court
Main Courthouse, Third Floor
220 West Broadway
San Diego, CA 92101

Re: Grand Jury Report entitled "San Diego City Attorney's Office"

Dear Judge So:

Pursuant to the California Penal Code Section 933.05 (a), (b) and (c), the San Diego City Council has provided the attached responses to the Grand Jury's report dated June 4, 2008.

In summary, on September 9, 2008, the City Council voted to approve the recommendations contained in Independent Budget Analyst Report Number 08-89 dated September 2, 2008.

A summary of the Council's response to the Grand Jury Report is attached along with the Independent Budget Analyst Report, the Mayor's response, and the resolution adopted by the City Council approving their response.

Sincerely,

Scott H. Peters

SHP/ms

Attachments: Council Response to "San Diego City Attorney's Office"
IBA Report 08-89
Mayor's Response to "San Diego City Attorney's Office"
Council Resolution No. R-304097

cc: Honorable Mayor
Councilmembers
Independent Budget Analyst

City Council Responses to Findings and Recommendations in Grand Jury Report “San Diego City Attorney’s Office”

For each of the following items, the City Council joins the Mayor’s Response as reflected in the August 27, 2008 letter to the Honorable Kenneth So, Presiding Judge of the San Diego Superior Court:

All Findings: 1, 2, 3, and 4
Recommendations: 08-122 and 08-123

For the following items, the City Council responds as shown:

GRAND JURY FINDINGS (Numbered in sequential order)

***Finding 1:** Article V, §40 of the San Diego City Charter no longer reflects the generally held viewpoint concerning the role an elected City Attorney should play as general counsel of a modern Municipal Corporation and should be amended.*

Response: The City Council agrees with this finding. However, it should be noted that during the City Council’s discussion of these responses, Councilmember Frye indicated that she was not in agreement with Finding 1, and requested the Council’s response reflect that.

***Finding 2:** San Diego Deputy City Attorneys serve at the pleasure of the City Attorney and are subject to dismissal, with or without cause, provided only that notice is given.*

Response: The City Council agrees with this finding.

***Finding 3:** San Diego Deputy City Attorneys enjoy significantly less job security than their counterparts in the offices of the District Attorney and County Counsel.*

Response: The City Council agrees with this finding.

***Finding 4:** The departure of so many experienced Deputy City Attorneys has had a negative effect on conduct of the city’s business.*

Response: The City Council agrees with this finding.

GRAND JURY RECOMMENDATIONS

Recommendation 08-122: *Draft an amendment to Article V, § 40 of the San Diego City Charter, specifying more clearly the qualifications, duties and responsibilities of the City Attorney, and submit it to the electorate at an appropriate future date.*

Response: The recommendation requires further analysis. The Grand Jury should be commended on their thoughtful and concise suggested changes with regard to Charter Section 40; however, these issues require greater exploration and should be more fully considered by a future charter committee.

Recommendation 08-123: *Explore moving Deputy City Attorneys who have completed an appropriate probationary period from the Unclassified to the Classified Civil Service, in order to provide greater stability in the City Attorney's Office. If this is found to be feasible, amend the city charter as necessary.*

Response: The recommendation requires further analysis. As stated previously, the Grand Jury's thorough analysis and discussion of this matter is greatly appreciated; however as with Recommendation 08-122 the issues surrounding the Deputy City Attorneys should be taken up in a future study of the San Diego City Charter, particularly Section 40.



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9/9

THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date issued: September 2, 2008

IBA Report Number: 08-89

City Council Docket Date: September 9, 2008

Item Number: TBD

Response to Grand Jury Report Titled "San Diego City Attorney's Office"

On June 4, 2008 the San Diego County Grand Jury issued a report to the Mayor and the City Council entitled "San Diego City Attorney's Office". The stated purpose of the Grand Jury Report is twofold: first, to examine whether the role of the City Attorney, as defined in the San Diego City Charter, serves the public in the 21st century as well as it did when the charter was adopted seventy-seven years ago; and second, to examine whether some of the approximately 135 Deputy City Attorneys should be changed to Classified Civil Service positions.

The Grand Jury Report includes four findings and two recommendations. Both the Mayor and the City Council are required to provide comments to the Presiding Judge of the San Diego Superior Court on each of the findings and recommendations made in the Grand Jury Report within ninety days. However, due to the legislative calendar of the City Council, Council President Peters requested an extension to the date for the City Council to respond to September 19, 2008. This report presents the City Council's response as recommended by the IBA.

In preparing these recommended responses, the IBA worked in coordination with the Mayor's Office. For each finding and recommendation, the City Council may 1) join the Mayor's response; 2) respond with a modification of the Mayor's response; or 3) respond independently of the Mayor.

Of the six items included in the Mayor's response, the IBA recommends that the City Council join the Mayor's response on all six items. The table below provides a summary of the IBA's recommendations.

Office of Independent Budget Analyst

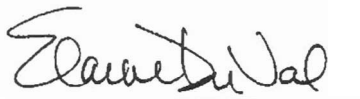
202 C Street, MS 3A • San Diego, CA 92101

Tel (619) 236-6555 Fax (619) 236-6556

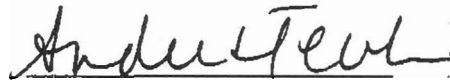


Findings:	1, 2, 3, 4	<i>Join the Mayor's Response</i>
Recommendations:	08-122, 08-123	<i>Join the Mayor's Response</i>

The full text of the Mayor's responses, and the IBA's recommended responses on behalf of the City Council, can be found in the attachment to this report.



Elaine DuVal
Fiscal & Policy Analyst



APPROVED: Andrea Tevlin
Independent Budget Analyst

Attachments:

- 1) Recommended City Council Responses to Findings and Recommendations in Grand Jury Report "San Diego City Attorney's Office"
- 2) San Diego County Grand Jury Report "San Diego City Attorney's Office"

**Recommended City Council Responses to Findings and Recommendations
in Grand Jury Report “San Diego City Attorney’s Office”**

GRAND JURY FINDINGS (Numbered in sequential order)

Finding 1: Article V, §40 of the San Diego City Charter no longer reflects the generally held viewpoint concerning the role an elected City Attorney should play as general counsel of a modern Municipal Corporation and should be amended.

Mayor’s Response: The Mayor agrees with this finding.

IBA Recommendation: Join the Mayor’s Response.

Finding 2: San Diego Deputy City Attorneys serve at the pleasure of the City Attorney and are subject to dismissal, with or without cause, provided only that notice is given.

Mayor’s Response: The Mayor agrees with this finding.

IBA Recommendation: Join the Mayor’s Response.

Finding 3: San Diego Deputy City Attorneys enjoy significantly less job security than their counterparts in the offices of the District Attorney and County Counsel.

Mayor’s Response: The Mayor agrees with this finding.

IBA Recommendation: Join the Mayor’s Response.

Finding 4: The departure of so many experienced Deputy City Attorneys has had a negative effect on conduct of the city’s business.

Mayor’s Response: The Mayor agrees with this finding.

IBA Recommendation: Join the Mayor’s Response.

GRAND JURY RECOMMENDATIONS

Recommendation 08-122: *Draft an amendment to Article V, § 40 of the San Diego City Charter, specifying more clearly the qualifications, duties and responsibilities of the City Attorney, and submit it to the electorate at an appropriate future date.*

Mayor's Response: The recommendation requires further analysis. The Grand Jury should be commended on their thoughtful and concise suggested changes with regard to Charter Section 40; however, these issues require greater exploration and should be more fully considered by a future charter committee.

IBA Recommendation: Join the Mayor's Response.

Recommendation 08-123: *Explore moving Deputy City Attorneys who have completed an appropriate probationary period from the Unclassified to the Classified Civil Service, in order to provide greater stability in the City Attorney's Office. If this is found to be feasible, amend the city charter as necessary.*

Mayor's Response: The recommendation requires further analysis. As stated previously, the Grand Jury's thorough analysis and discussion of this matter is greatly appreciated; however as with Recommendation 08-122 the issues surrounding the Deputy City Attorneys should be taken up in a future study of the San Diego City Charter, particularly Section 40.

IBA Recommendation: Join the Mayor's Response.



JERRY SANDERS
MAYOR

August 27, 2008

Honorable Kenneth So
Presiding Judge
San Diego County Superior Court
Main Courthouse, Third Floor
220 West Broadway
San Diego, CA 92101

Dear Judge So:

Subject: 2007-2008 San Diego County Grand Jury Report entitled "San Diego City Attorney's Office".

Pursuant to California Penal Code Section 933.05(a), (b), and (c), The City of San Diego provides the following responses to the findings and recommendations in the above-entitled Grand Jury Report:

FACTS & FINDINGS:

Finding #01 Article V, §40 of the San Diego City Charter no longer reflects the generally held viewpoint concerning the role an elected City Attorney should play as general counsel of a modern Municipal Corporation and should be amended.

Mayor's Response: The Mayor agrees with this finding.

Fact: All of the approximately 135 San Diego Deputy City Attorneys are in the Unclassified Civil Service.

Finding #02: San Diego Deputy City Attorneys serve at the pleasure of the City Attorney and are subject to dismissal, with or without cause, provided only that notice is given.

Mayor's Response: The Mayor agrees with this finding.

Finding #03: San Diego Deputy City Attorneys enjoy significantly less job security than their counterparts in the offices of the District Attorney and County Counsel.

Mayor's Response: The Mayor agrees with this finding.

***Finding #04:** The departure of so many experienced Deputy City Attorneys has had a negative effect on conduct of the city's business.*

Mayor's Response: The Mayor agrees with this finding.

RECOMMENDATIONS:

08-122: Draft an amendment to Article V, §40 of the San Diego City Charter, specifying more clearly the qualifications, duties and responsibilities of the City Attorney, and submit it to the electorate at an appropriate future date.

Mayor's Response: The recommendation requires further analysis. The Grand Jury should be commended on their thoughtful and concise suggested changes with regard to Charter Section 40; however, these issues require greater exploration and should be more fully considered by a future charter committee.

08-123: Explore moving Deputy City Attorneys who have completed an appropriate probationary period from the Unclassified to the Classified Civil Service, in order to provide greater stability in the City Attorney's Office. If this is found to be feasible, amend the city charter as necessary.

Mayor's Response: The recommendation requires further analysis. As stated previously, the Grand Jury's thorough analysis and discussion of this matter is greatly appreciated; however as with Recommendation 08-122 the issues surrounding the Deputy City Attorney's should be taken up in a future study of the San Diego City Charter, particularly Section 40.

Please contact Ed Plank, Council Liaison at (619) 236-6330 if you have additional questions.

Sincerely,



JERRY SANDERS

Mayor

cc: San Diego County Grand Jury
Chief Operating Officer
San Diego City Council
Deputy Chief Operating Officer, Community and Legislative Services
City Clerk
Administration Department Director

RESOLUTION NUMBER R- 304097

DATE OF FINAL PASSAGE SEP 09 2008

APPROVING THE CITY COUNCIL'S RESPONSE TO THE
2007-2008 SAN DIEGO COUNTY GRAND JURY REPORT
ENTITLED "SAN DIEGO CITY ATTORNEY'S OFFICE."

WHEREAS, on June 4, 2008 the 2007-2008 San Diego County Grand Jury [Grand Jury] filed a report titled "San Diego City Attorney's Office" [Report] that requested a response from the Mayor and City Council; and

WHEREAS, under California Penal Code section 933(c), within 90 days after the filing of the report, each public agency which the Grand Jury reviewed, and about which it issued the Report, must comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency; and

WHEREAS, the Grand Jury requested that the Mayor and City Council respond to each of the findings and recommendations in the Report; and

WHEREAS, the Office of the Independent Budget Analyst has proposed a response to the Report as set forth in IBA Report No. 08-89 dated August 28, 2008, for the City Council's consideration; and

WHEREAS, under Charter section 280(a)(1) this resolution is not subject to veto by the Mayor because this matter is exclusively within the purview of the City Council and not affecting the administrative service of the City under the control of the Mayor; NOW,
THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Council approves and adopts as its own the response to the to the 2007-2008 San Diego County Grand Jury Report filed June 4 2008, and titled "San Diego City Attorney's Office," as set forth in IBA Report No. 08-89 dated August 28, 2008, and that Councilmember Frye's disagreement with Finding 1 is noted for the record.

BE IT FURTHER RESOLVED, that the Council President is authorized and directed, on behalf of the San Diego City Council, to execute and deliver the above-described response to the Presiding Judge of the San Diego County Superior Court no later than September 19, 2008.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

[submitted unsigned – see accompanying memo]

By _____
Deputy City Attorney

CMB:als
09/16/08
Or.Dept:IBA
R-2009-234

Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 236-6220

DATE: September 16, 2008
TO: Elizabeth Maland, City Clerk
FROM: City Attorney
SUBJECT: Resolution Approving the City Council's Response to the 2007-2008 San Diego County Grand Jury Report Entitled "San Diego City Attorney's Office" (R-2009-234)

The attached Resolution R-2009-234 is provided by the City Attorney in accordance with San Diego Charter section 40 that requires that resolutions be prepared in writing and to facilitate the processing and publishing of the resolution by the City Clerk. The City Attorney has submitted a response to the Grand Jury's Report which takes a position different from that of the Mayor and City Council. The resolution, which is unsigned, reflects the actions of the City Council on September 9, 2008 on item 330 as noted in the Clerk's minutes. If you have any questions regarding this matter, please feel free to contact us.

MICHAEL J. AGUIRRE, City Attorney

By



Michael J. Aguirre
City Attorney

MJA:als
Attachment

R 304097