

# **ADMINISTRATIVE AND AUDIT COMMITTEE**

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# ADMINISTRATIVE AND AUDIT COMMITTEE

The Administrative and Audit Committee investigated the following boards, departments and agencies:

- Assessor
- Auditor/Controller-Recorder
- Board of Supervisors
- County Administrative Office
- Human Resources
- Purchasing Department
- Superintendent of Schools

The departments under Administrative and Audit have been through a number of changes in the past two years. The new County Administrative Officer has endeavored to streamline operations and improve customer service.

Two committee members attended all of the Board of Supervisors' meetings, including those that were scheduled in other areas of the County. Two Interim Reports were prepared concerning air ambulance services, which were filed with the Board of Supervisors. The committee received one complaint, which resulted in a final report on the Human Resources Department.

The actions of the Administrative and Audit Committee resulted in the following findings and recommendations.

# COUNTY ADMINISTRATIVE OFFICE

## **BACKGROUND**

The County Administrative Office is responsible for developing and implementing budgets, policies and procedures, directing departmental activities in accordance with the County Charter and general laws, and carrying out the strategic goals adopted by the Board of Supervisors.

The County Administrative Office is under the direction of the County Administrative Officer (CAO) who is appointed by, and reports directly to, the Board of Supervisors. The CAO oversees the operations of County departments and assists in the coordination of activities of departments headed by elected officials.

On September 8, 2005 the Board of Supervisors ratified a proclamation of a local emergency regarding Hurricane Katrina relief efforts. The County responded by providing medical, hospital, social services, public health, mental health, public safety, fire, public works, and other resources to aid in the Hurricane Katrina relief efforts both locally and to the incident.

## **FINDINGS**

Fourteen (14) County personnel traveled by truck convoy to Gulfport, Mississippi to deliver the surplus goods and other donated items. In addition, eight high level County officials, three members of the Board of Supervisors, along with two Supervisors' Chiefs of Staff, and 13 other elected officials and high level management staff from other local public agencies traveled together to Gulfport in one charter flight. This was in violation of County Travel Policy No. 12-08.

The trip was a fact-finding mission to give County officials the opportunity to see first-hand the effects of a major disaster and to learn lessons from Gulfport's response to relief and recovery efforts. The County's Administrative Officer stated *"... the trip served as the impetus for the formation of a County Disaster Task Force to review the County's Emergency Preparedness Plan and apply any lessons that were learned during the Gulfport mission."*

County Travel Policy 12-08 states, in part, that *“No more than two members of the Board of Supervisors shall travel together on whatever transportation mode is utilized”* and *“Department Heads and Assistant Department Heads or their immediate subordinates are strongly discouraged from traveling together on the same flights or other common carrier.”* This is to ensure that the management of County government is not jeopardized by multiple injuries or fatalities to County executives traveling together on common carriers on County related business. If a serious accident with the chartered flight had occurred that resulted in major injuries or deaths, the ongoing management of County government and the other public agencies within the County, would have been jeopardized.

The Grand Jury finds that even though this endeavor may be commendable and its humanitarian efforts applauded, public opinion appears to be mixed on the value of the trip and the costs incurred by the County. The type of disaster that Gulfport experienced (flooding) is not one that this County would likely experience. A San Bernardino County major disaster would probably be an earthquake or a major fire calamity.

The Grand Jury also found the County Administrative Officer does not currently do annual Work Performance Evaluations on department heads. He stated department heads know what they have to do and their job duties and responsibilities are listed in their job description. If a department head is not doing his/her job, he gets rid of them. Currently, departmental evaluations are financially based. Departments are evaluated on their budgets, programs, and achievements accomplished.

## **RECOMMENDATIONS**

- 06-01 COUNTY POLICY 12-08 BE STRICTLY COMPLIED WITH BY ALL COUNTY ELECTED OFFICIALS AND EMPLOYEES ON ALL COUNTY AUTHORIZED BUSINESS TRAVEL.
- 06-02 ESTABLISH AND IMPLEMENT A POLICY FOR ANNUAL WORK PERFORMANCE EVALUATIONS OF ALL COUNTY DEPARTMENT HEADS.

# HUMAN RESOURCES DEPARTMENT

## **BACKGROUND**

During an investigation into allegations made against a San Bernardino County employee, several areas of concern came to our attention regarding the Human Resources Department's policies. Members met with the Director of Human Resources for clarification of our concerns regarding job reclassification and/or upgrading, job descriptions, and employee background checks.

## **FINDINGS**

When a position is being considered for reclassification, Human Resources and the office of the County Administrative Office (CAO) review the current duties and responsibilities of the position under consideration. Wording changes in the job title may be required due to changes in technology or technical requirements. If justified, a reclassification or an upgrade is recommended. The CAO's office and the affected department approve the job title change. It is then recommended to the Board of Supervisors that the request for reclassification be approved, subject to final approval from the Human Resources Department. The job descriptions, in some cases, are not complete when submitted to the Board for approval. Writing a job description after the fact makes it appear the job description is being written around a person already holding the position. Most counties complete the job description first, obtain final approval from the appropriate administration, and then fill the position under the new job description.

The County does background checks on most applicants being considered for employment. This is limited to a medical exam, drug testing, and a DMV check. If the position is for a high level post, or one that includes working with finances, a more thorough background check is done. The current policy on background checks is not consistent throughout the County, and they are not required for those hired for "at will" (appointed) positions. The Human Resources Department is working on a new background check policy that will set standards for positions from entry level (level 1) to the highest positions requiring a more extensive background investigation (level 4). This policy, if approved, will apply to any employees hired by the Board of Supervisors, new hires, and any promotional upgrades working for the County. Background checks cannot be done on present employees without just cause.

Currently the County does not have a program in place with the Department of Motor Vehicles (DMV) to automatically notify the County when a County employee has been charged with or convicted of any violations of the Vehicle Code. It is up to the employee to notify his or her supervisor of any such incidents. If an employee's license has been suspended for any reason, it could be putting the County at risk, especially with employees who drive County vehicles or conduct County business using their own personal vehicles.

## **RECOMMENDATIONS**

- 06-03        REVISIONS TO THE RECLASSIFICATION AND/OR UPGRADE PROCESS TO PROVIDE FOR A COMPLETE JOB DESCRIPTION BEFORE FILLING THE POSITION.
  
- 06-04        IMPLEMENT A STANDARD BACKGROUND CHECK POLICY FOR ALL NEW, UPGRADED, AND "AT WILL" EMPLOYEES.
  
- 06-05        IMPLEMENT A PROGRAM WITH THE DEPARTMENT OF MOTOR VEHICLES (DMV) THAT ALERTS THE COUNTY TO VIOLATIONS INVOLVING A COUNTY EMPLOYEE.

# SUPERINTENDENT OF SCHOOLS

## **BACKGROUND**

The County Superintendent of Schools (CSS) employs a staff of 2,000 that includes five assistant superintendents and a management team of 30. Their office is located in San Bernardino, and was built by the County in 1984. By Contract Agreement 84-552, the County is required to monetarily cover the costs of utilities and maintenance. What began as a \$196,541 annual expenditure 21 years ago now has escalated to \$1,200,000.

## **FINDINGS**

Short of audit authority, the Grand Jury could determine little oversight or authority the Superintendent has over San Bernardino County's school systems. Even with audits, their responsibility was limited to simply determining if each school district had sufficient money available to cover their budget. The County Superintendent of Schools had no input into budgeting items or procedures. Even though all County schools are on the CSS accounting system, abuse or mishandling of Associated Student Body funds (as in the San Bernardino High School incident in November 2005) goes undetected.

School districts are not required to report absences and trancies to CSS; districts must first request CSS assistance before they can become involved. The 129 San Bernardino County schools that were not meeting their Annual Yearly Progress goals are only accountable to themselves and the State, not the County Superintendent of Schools.

When inquiries were made to determine the extent of illegal immigrant attendance, CSS chooses to interpret *Plyler v. Doe* as prohibition to identify, even though that court decision specifically applies to *denial* of services. Clearly, the Grand Jury only wanted to identify costs involving the 14,000 classrooms in the San Bernardino County school system, each with 20 or more non-English speaking students.

The above assimilation of facts is in no way meant to suggest that the County Superintendent of Schools is denying or shirking responsibilities. It is to say that the time has come to recognize the benefit of the CSS to the County would not denigrate with the transfer of funding to the State. Currently, the State of California reduces financial support to CSS to the extent of county funding. We are the lowest State-funded County Superintendent of Schools in California, and one of only three that is not totally funded by the State.

## **RECOMMENDATION**

06-06 THE COUNTY SUPERINTENDENT OF SCHOOLS OFFICE SEEK LEGISLATIVE ACTION TO BECOME FISCALLY INDEPENDENT, AND THE COUNTY ADMINISTRATIVE OFFICE WORK WITH THE COUNTY SUPERINTENDENT TO DEVELOP A PROCESS TO MOVE TOWARD FISCAL INDEPENDENCE WHILE SUSTAINING CURRENT AND FUTURE FISCAL AND ADMINISTRATIVE SUPPORT FROM THE COUNTY OF SAN BERNARDINO, TO ENSURE NO REDUCTION OF STATE REVENUES TO THE COUNTY SUPERINTENDENT OF SCHOOLS OFFICE.

# INTERIM REPORT

## Released November 10, 2005

### IS YOUR LIFE AT RISK?

On October 13, 2005, an unfortunate incident occurred in Apple Valley involving a young man on a bicycle, who was struck by a passing automobile. The Adelanto-based Mercy air ambulance was unavailable, and the Sheriff's air rescue helicopter was on another incident in Victorville. The next Mercy air ambulance on the list was also unavailable. The third Mercy airship took the call, only to report back three minutes later that it was also unavailable. At that point, personnel at the scene decided to do a ground transport to Loma Linda University Medical Center.

On October 6, 2005, there was another unfortunate incident involving a young motorcyclist and two vehicles, requiring three air transport helicopters. The Sheriff's air rescue helicopter responded to the initial call. When the call came for the second air ambulance unit, Mercy's first three air ambulances were unavailable, and it became necessary to go to the Mercy unit assigned in Banning. California City Air Ambulance was not called.

In early 2004, unavailability was again the issue when there was a traffic accident on Highway 58 at the BNSF Railroad crossing west of Kramer Junction. The first two Mercy units were not available. While the third Mercy unit responded some 37 minutes later, California City Air Ambulance had an ETA of less than ten minutes. In spite of the restrictions imposed by giving priority to Mercy Air, California City Air Ambulance continued to provide "last resort" services as a mutual aid provider to San Bernardino County on ten occasions during 2004.

**gold-en hour *adj.* That time period when most trauma patients, suffering from shock, can most likely be saved.**

Trauma begins the moment a person is involved in a serious accident. If trauma is severe enough, circulation becomes impaired or non-existent, and chemical changes in the body bring on shock. If bleeding can be stopped and blood pressure restored within that **golden hour**, the medical community contends that a patients' chances of surviving are greatly increased.

*Some trauma patients in San Bernardino County may not have been afforded that increased chance for survival.*

In April, there was an accident involving three vehicles near Kramer Junction, resulting in seven patients, six of which had to be extricated, four needed immediate attention by a trauma unit, and one expired at the scene. Two Mercy units were dispatched rather than utilizing the services of California City Air Ambulance, who could have arrived at the scene approximately 30 minutes prior to arrival of Mercy's second airship. ICEMA's (Inland Counties Emergency Medical Agency) staff report to the Emergency Medical Care Committee (EMCC) included this information, also noting there could potentially have been "four fatalities".

Under authority of the California Code of Regulations, Title 22, Division 9, Chapter 8, Section 100276, ICEMA is the governing body designated to recommend and approve EMS (emergency medical service) aircraft policies, as well as recommend the integration of EMS aircraft into San Bernardino County's transport system. The San Bernardino County Board of Supervisors is also the ICEMA Board of Directors.

In early 2004, ICEMA recognized inherent delays with San Bernardino County's ALS (Advanced Life Support) system due, in part, to there being only one permitted provider: Mercy Air. Having proven the need and necessity to increase emergency medical helicopter assistance in the Highway 395/Highway 58 corridor in the High Desert of San Bernardino County, ICEMA approached California City Air Ambulance with a request for them to become qualified under ICEMA's pre-hospital requirements. After completion of a study, ICEMA proposed to the EMCC in January 2005, that California City Air Ambulance be permitted to operate within San Bernardino County's 20,000 square miles to improve response times in certain corridors. This proposal passed by EMCC 8-0, with one abstention.

California City Air Ambulance agreed to pursue the permitting process, and after an out-of-pocket expense of \$48,500, passed all qualifications and signed an agreement with ICEMA on June 8, 2005 to become permitted to operate in San Bernardino County.

On June 21, 2005, Item 130, "Agreement with California City Fire Department to Authorize and Classify Advanced Life Support Air Ambulance Service" was placed on the San Bernardino County Board of Supervisors' Consent Calendar for approval. The County Administrative Office, County Counsel and Department of Public Health supported this action. The First District Supervisor requested that Item 130 be continued until July 12, 2005.

On July 12, 2005 the item again appeared on the Consent Calendar, and this time the First District Supervisor pulled it off calendar without explanation. As of the date of this report, the Board of Supervisors' has never voted on this issue.

This Grand Jury was sworn in July 1, 2005, and in August began an investigation into the status of this matter. San Bernardino County is divided into 18 HDZ's (helicopter demand zones) in order to cover emergency medical evacuation needs. While San Bernardino County air space is non-exclusive, Mercy Air is the **only** permitted company, aside from the Sheriff's air rescue unit, operating within the County. Others, such as California City Air Ambulance, are not permitted and can only provide service within the County as a mutual aid provider. Being a "non-permitted" or mutual aid provider means:

1. On-board medical equipment may not meet ICEMA standards and medical personnel on board may not have the required qualifications.
2. Because of infrequency of use in most areas of San Bernardino County, pilots and crews of mutual aid providers are not always current on flight routes, facilities and other associated issues with regard to critical timing issues.
3. The only permitted carrier (Mercy Air) receives absolute priority over all mutual aid providers, **even though response times may not be superior.**

Air ambulance dispatches increased from 1,382 in 2002 to 1,819 in 2004, an increase of 32 percent. As populations increase, it is likely that trauma incidents requiring air ambulance rescue will also increase. Of necessity, resources providing this service must also increase.

After interviewing ICEMA personnel, as well as California City's Fire Chief, inquiry was made of each member of the Board of Supervisors as to the status of the ICEMA recommendation that was pulled from the Board's agenda. Of the five Supervisors, the Board Chairman took responsibility, advising that he was "... *not convinced that providing a permit to California City Air Ambulance was the right thing to do.*" He further stated "... *the Board has to concern itself with the financial security and stability of its current provider.*". Mercy Air's business manager has also written several letters of objection to ICEMA, EMCC, and the Board of Supervisors.

Inasmuch as ICEMA's endorsement request had only recommended approval for California City Air Ambulance to be "third on the list" in only three of the 18 HDZ's, it was obvious that this, in itself, would not cause the insolvency of a major provider such as Mercy Air, whose parent company, Air Methods, reported second quarter 2005 results of a net income increase of 32 percent. The only "financial issue" the County Board of Supervisors should have concern for is that they can ill afford **not** to provide additional emergency aircraft resources. ICEMA should be allowed to function in its intended

capacity. The Board of Supervisors should not discount ICEMA's expertise and allow Mercy Air's business manager to override the recommendation of its own designated authority.

Further investigation revealed that 9-1-1 and emergency transport calls are not the greatest monetary provider to the air ambulance industry. The bigger picture is in "after the fact inter-hospital transports." In that regard, only those providers with a permit from ICEMA are allowed to provide such service. Therefore, Mercy Air is now the sole provider of inter-hospital service, and there is no restriction or cap on the amount that can be charged for this service. Indeed, if the Board of Supervisors desired to operate the County's air ambulance service in the best financial interests of its citizens, they would consider the fact that California City Air Ambulance is a non-profit entity.

The tendency might be to divert criticism toward Mercy Air; however, mechanical failures do occur, and an extraordinary sequence of events will sometimes preclude availability of equipment. Under FAA regulations, helicopters must be periodically grounded for necessary inspections and, in the free-enterprise system, companies will work hard to gain a competitive advantage. However, no provider of services should ever be allowed to position itself to dictate to the County. It is not cost effective or efficient to allow a single-source provider. If *any* company doing business in San Bernardino County is financially unstable, it is not the responsibility of the County Supervisors to protect them. The Board of Supervisors must be in the business of protecting the health and welfare of its citizens.

A review of public records found that Mercy Air and its parent company, Air Methods, based in Colorado, have over a period of time, contributed thousands of dollars to the campaigns of several former and current members of the San Bernardino County Board of Supervisors. When genuine concern for the safety of constituents gives way to politics, the public suffers!

## **RECOMMENDATIONS**

06-07 THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS, SITTING AS THE GOVERNING BOARD OF INLAND COUNTIES EMERGENCY MEDICAL AGENCY (ICEMA) SHOULD APPROVE THE PERMITTING OF CALIFORNIA CITY AIR AMBULANCE AS AN ADVANCED LIFE SUPPORT (ALS) PROVIDER WITHIN SAN BERNARDINO COUNTY, IN ORDER TO PROVIDE ITS CITIZENS WITH THE BEST OPPORTUNITY TO REACH A TRAUMA CENTER WITHIN THAT CRITICAL "GOLDEN HOUR."

- 06-08 INLAND COUNTIES EMERGENCY MEDICAL AGENCY SHOULD REVISE THE HDZ (HELICOPTER DEMAND ZONE) PROVIDER LIST. QUICKEST RESPONSE TIMES SHOULD BE THE DETERMINING FACTOR IN DECIDING WHICH PERMITTED PROVIDER IS FIRST CALLED TO RESPOND TO THE NEED.
- 06-09 OTHER AIR AMBULANCE PROVIDERS WHO HAVE APPLIED AND BEEN DENIED IN THE PAST SHOULD BE RECONSIDERED. IF THEY COMPLY WITH ICEMA'S QUALIFICATION REQUIREMENTS, THEY SHOULD ALSO BE GIVEN AN OPPORTUNITY TO QUALIFY AS A PERMITTED AIR AMBULANCE PROVIDER.
- 06-10 THE COUNTY BOARD OF SUPERVISORS SHOULD NOT SERVE AS THE GOVERNING BOARD OF INLAND COUNTIES EMERGENCY MEDICAL AGENCY (ICEMA). IN ADDITION MEMBERS OF THE BOARD OF DIRECTORS OF ICEMA SHOULD NEVER BE IN A POSITION TO ACCEPT DONATIONS OR CAMPAIGN CONTRIBUTIONS FROM ANY PERMITTED PROVIDER OR ITS PARENT COMPANY.

# **COUNTY OF SAN BERNARDINO RESPONSE TO NOVEMBER 10, 2005 INTERIM REPORT OF THE 2005-2006 COUNTY GRAND JURY January 31, 2005**

The County of San Bernardino welcomes the grand jury's interest in the important subject of air ambulance Advanced Life Support services within the County. However, the grand jury's interim report dated November 10, 2005, contains key inaccuracies and is not in the County's view a balanced account of the current status of air ambulance service in the County.

As an overall premise, the report erroneously states the public's safety is at risk because California City Air Ambulance in Kern County has not been granted a permit to provide Advanced Life Support services within San Bernardino County. This conclusion creates the false impression that California City's services are not available to accident victims in San Bernardino County and is based on the inaccurate notion that a permit would improve air ambulance response times and availability.

In fact, California City has been and would continue to be utilized as a provider of emergency air services in the County regardless of whether it is granted a permit. It must be noted that a permit would not change the fact that California City has only one helicopter in its fleet, and that currently it has no helicopters at its disposal, compared to eight owned by Mercy serving the County and 15 total from all providers serving the County (California City's one helicopter has been removed from service, and the agency does not expect to have a replacement aircraft in operation until late April). Also, a permit would not move California City's helicopter any further up on the priority call list.

The grand jury's interim report contains errors of fact and omission that call the report's conclusions and recommendations into question. They include:

- The grand jury used an account of an October 13, 2005 emergency incident to support its conclusion that granting California City a permit would increase the availability of air ambulance service in San Bernardino County. The grand jury's account of the incident omits the fact that California City was contacted to respond to the incident, but that its one helicopter was unavailable.
- The grand jury used an account of an October 6, 2005 emergency incident to support its conclusion that granting California City a permit would improve air ambulance response times. The grand jury's account of the incident omits the

fact that the units that were contacted all responded in less than 40 minutes, and that a permit for California City would not have affected response times for that incident.

- The grand jury used an account of an April 18, 2004 emergency incident also to support its conclusion that granting California City a permit would improve air ambulance response times. The grand jury concluded that California City's helicopter "could have arrived at the scene approximately 30 minutes prior to arrival of Mercy's second airship." This would have been impossible given the fact that the Mercy helicopters arrived a respective 25 minutes and 27 minutes after they were dispatched.
- The grand jury reported that Mercy air "receives absolute priority over all mutual aid providers, even though response times may not be superior." This is false. In some regions, California City is higher in the dispatch order than some Mercy units. For instance, in Red Mountain, California City is third in the dispatch order, ahead of six Mercy units. In Barstow, California City is fifth in the dispatch order, ahead of seven Mercy units. In some of the more remote regions of the County, mutual aid providers are first in the dispatch order, ahead of all permitted units.
- The grand jury states "California City Air Ambulance is a non-profit entity." Although on its face this statement is true, it omits the fact that California City's Air Ambulance provider, Tri-State Care Flight, is a private for-profit entity that may have a direct financial stake in whether California City is granted a permit.

The grand jury concluded via a statement attributed to the Chairman of the Board of Supervisors that the County should not concern itself with the financial viability of companies providing services to the County and its citizens and visitors.

When appropriate, the County responsibly concerns itself with the financial security and stability of providers of vital public services to ensure that there is no interruption of service. This is why the County in contract situations often requires prospective providers of critical and/or ongoing services to provide certified documentation of their fiscal health and stability.

In the case of air ambulance service, the grand jury stated that inter-hospital transports are the greatest monetary provider to the air ambulance industry. Since the County has established that granting a permit to California City would have zero impact on air ambulance response times, California City's entrance into the inter-hospital business in San Bernardino County becomes an issue.

The County has received no indication from the customers of inter-hospital transports – hospitals within the county – that competition is needed to control rates, improve patient care, or achieve some other public benefit.

While the County is not directly concerned with the financial state of Mercy Air, it would be highly irresponsible for the County not to concern itself with factors that might influence the level of service Mercy makes available to the County. While the grand jury is most likely correct in assuming that competition from California City's one helicopter would probably not threaten Mercy's existence, it may prompt Mercy to make a business decision to reduce the number of airships currently serving the County or to not add airships as need increases. Whereas the vast majority of air ambulance Advance Life Support service in the County is provided by Mercy, it seems questionable to grant a permit to California City when the only effect would be to create competition that serves no apparent benefit to the public and could compromise a vital life-saving public safety function.

Finally, the County will keep the 2005-2006 Grand Jury informed of any action or changes regarding this subject matter.

## **RECOMMENDATIONS**

1. THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS, SITTING AS THE GOVERNING BOARD OF INLAND COUNTIES EMERGENCY MEDICAL AGENCY (ICEMA) SHOULD APPROVE THE PERMITTING OF CALIFORNIA CITY AIR AMBULANCE AS AN ADVANCED LIFE SUPPORT (ALS) PROVIDER WITHIN SAN BERNARDINO COUNTY, IN ORDER TO PROVIDE ITS CITIZENS WITH THE BEST OPPORTUNITY TO REACH A TRAUMA CENTER WITHIN THAT CRITICAL "GOLDEN HOUR."

County Response: Granting a permit to California City Air Ambulance would provide no increased opportunity to reduce air ambulance response times or otherwise provide County citizens or other injured persons a better opportunity to reach a trauma center within one hour of the onset of injuries. A permit provides ICEMA with the opportunity to exert medical supervision over an air ambulance provider's operations, and allows the provider to transport stabilized patients from one hospital to another. If a recommendation can be made to the ICEMA governing board that granting a permit to California City Air Ambulance is in the best interests of the public, the board will reconsider the recommendation.

2. INLAND COUNTIES EMERGENCY MEDICAL AGENCY SHOULD REVISE THE HDZ (HELICOPTER DEMAND ZONE) PROVIDER LIST. QUICKEST RESPONSE TIMES SHOULD

BE THE DETERMINING FACTOR IN DECIDING WHICH PERMITTED PROVIDER IS FIRST CALLED TO RESPOND TO THE NEED.

County Response: This recommendation has been implemented. During the summer, several months before the grand jury's interim report was released, the Chairman of the Board of Supervisors' office requested that California City be moved higher in the dispatch order in the Red Mountain, Barstow, and Kramer Junction areas. The request apparently never reached ICEMA staff, so the request was renewed following the appearance of the grand jury interim report. The dispatch order is set based upon recommendations by the Emergency Medical System Aircraft Providers Task Force, which includes all providers, including Mercy and California City. ICEMA staff brought the issue before the Task Force on January 18, 2006. California City did not attend meeting, at which the Task Force unanimously recommended moving California City from third to second in the dispatch order in the Red Mountain area, from fifth to third in the Barstow area, from seventh to fifth in the Victorville area, and from third to second in the Kramer Junction area. This recommendation will be implemented when California City resumes air ambulance service.

3. OTHER AIR AMBULANCE PROVIDERS WHO HAVE APPLIED AND BEEN DENIED IN THE PAST SHOULD BE RECONSIDERED. IF THEY COMPLY WITH ICEMA'S QUALIFICATION REQUIREMENTS, THEY SHOULD ALSO BE GIVEN AN OPPORTUNITY TO QUALIFY AS A PERMITTED AIR AMBULANCE PROVIDER.

County Response: This recommendation cannot be implemented because the ICEMA Executive Director is aware of no other provider besides California City that has applied for a permit.

4. THE COUNTY BOARD OF SUPERVISORS SHOULD NOT SERVE AS THE GOVERNING BOARD OF INLAND COUNTIES EMERGENCY MEDICAL AGENCY (ICEMA). IN ADDITION, MEMBERS OF THE BOARD OF DIRECTORS OF ICEMA SHOULD NEVER BE IN A POSITION TO ACCEPT DONATIONS OR CAMPAIGN CONTRIBUTIONS FROM ANY PERMITTED PROVIDER OR ITS PARENT COMPANY.

County Response: The County will not implement this recommendation. As representatives directly accountable to the people of San Bernardino County, the Board of Supervisors is ideal to serve as the governing board members overseeing an agency charged with such an important public safety mission. Also, having the Board of Supervisors serve as directors of ICEMA ensures that all matters involving the agency are deliberated during public meetings of the Board of Supervisors. Assigning this task to an appointed board would result in ICEMA matters being considered during meetings of that appointed board, which would most likely be sparsely attended and receive

much less news media coverage than meetings of the Board of Supervisors. Clearly, the public is best served by having the Board of Supervisors act as the ICEMA governing board.

# **INTERIM REPORT**

## **Released May 11, 2006**

### **WHY ISN'T THERE COMPETITION?**

#### **BACKGROUND**

In February of 2004, the Inland Counties Emergency Medical Agency (ICEMA), which includes authority over air ambulance service, approached California City Air Ambulance (CCAA) with a request to qualify to meet ICEMA standards in order to become "permitted" within San Bernardino County. CCAA agreed to do so, completing all requirements by April of 2004, after expending \$48,500 to do so.

After considerable investigation, ICEMA substantiated it to be in the best interests of the public to add "permitted" air ambulance resources. Before proceeding with any recommendations to its governing board (Board of Supervisors), ICEMA followed protocol, bringing the issue before the Emergency Medical Care Committee (EMCC) to secure their approval. This Committee is comprised of physicians, law enforcement personnel and hospital administrators, as well as nurses and Emergency Medical Technician (EMT) personnel. At their January 2005 meeting, the EMCC voted 8-0 in favor of ICEMA's recommendation to request the governing board (Board of Supervisors) to permit CCAA. ICEMA then submitted the recommendation to County staff, and it was placed on the June 21, 2005 Board of Supervisors' agenda.

On June 13, 2005 the Chairman of the Board received a \$1,000 donation from Mercy Air Ambulance. Eight days later, at the June 21<sup>st</sup> meeting, the Chairman deferred the ICEMA agenda item until July 12, 2005. At the July 12<sup>th</sup> meeting, the Chairman then pulled the item from the agenda.

After investigation, the Grand Jury released an Interim Report dated November 15, 2005, recommending the Board of Supervisors grant California City Air Ambulance a permit. On January 31, 2006 the Board responded regarding their denial to do so stating, "If a recommendation can be made to the ICEMA governing board that granting a permit to California City Air Ambulance is in the best interest of the public, the board will consider the recommendation."

## **FINDINGS**

In response to the aforementioned Interim Report, the Board's Chairman stated he had instructed the ICEMA staff to revise the calling order of air ambulance providers, *"...in the summer, several months before the Grand Jury's interim report was released."* The Director of Public Health recalled a discussion took place, but did not interpret it as a directive. The Public Health Officer, who was also at the meeting, did not recall such a statement. The Director of ICEMA, who would have enacted such instructions, never received such an order. What the Grand Jury *has* found is the following:

1. San Bernardino County has a reputation that its top officials accept contributions from people it does business with, and grants favors in return.
2. Mercy Air Ambulance's parent company donates to members of the Board of Supervisors.
3. June of 2005 the proposal of permitting CCAA to be a provider of air ambulance service, in addition to Mercy Air, was placed on the Boards' calendar.
4. June 13, 2005, Mercy Air contributed \$1,000 to the Chairman of the Board.
5. Eight days later, on June 21, 2005, the item was continued until July 12, 2005.
6. July 12, 2005, the Chairman pulled the item from the Consent Calendar.
7. November 15, 2005, the Grand Jury released its Interim Report criticizing the Boards' actions.
8. Board of Supervisors then requests "an objective view" of the proposal from someone not involved; a Deputy County Administrative Officer.
9. November 21, 2005, the report from the Administrative Officer was returned to the Board of Supervisors. This "study" was accomplished by reviewing ICEMA's original recommendation and analysis, and no new data was obtained. The study recommended that ICEMA reconsider several issues and resubmit the proposal to the Emergency Medical Care Committee (EMCC) for another vote.

10. January of 2006, ICEMA did reconsider these issues as outlined in the November recommendations from the Administrative Officer and, once again, presented it to the EMCC. The vote was again 8-0 in favor of allowing California City Air Ambulance to be permitted.
11. Board of Supervisors' responded in January of 2006 to the Grand Jury report, stating it is "inaccurate, offensive, and the reported risk to the public's safety is erroneous". However, the Town of Apple Valley has subsequently requested ICEMA to undertake a study to evaluate automatic air ambulance dispatching to improve air ambulance response. Apparently, Apple Valley did not feel the stated issues were "erroneous".

The delay since this issue initially surfaced has taken its toll. California City Air Ambulance has apparently been discouraged from becoming a competitive asset to the County. The Fire Chief in California City, who established their air ambulance service, has since accepted another position. The helicopter has been placed out of service for major equipment upgrades, and we have now been informed CCAA will no longer pursue the "permitting" process in San Bernardino County.

In a letter from the State Director of Emergency Medical Services Authority, the State has concluded that, in spite of allowing Mercy Air an exclusively "permitted" air ambulance contract, San Bernardino County has never applied at the State level for approval of an Exclusive Operating Area (EOA). If nothing changes, the County is subject to anti-trust litigation. This applies not only to the County, but the local EMS agency (ICEMA) as well, in spite of their recommendation to the Board. Such exposure to litigation is totally unnecessary. Any successful litigation would drain precious funds from critically needed projects.

Lack of competition has also taken its toll. There are a total of 18 helicopter "calling zones" within San Bernardino County. Of these, Mercy Air is first on the list to be called in 15 of these zones, with our County Sheriff's rescue copter being listed first in two other zones. The one remaining zone, on the Arizona border, is protected with resources from Mercy Air in Nevada, and Native and Guardian Air from Arizona who, like California City, are mutual aid non-permitted providers.

Aside from safety, what better "interest of the public" could there be than cost? Below is a reproduction of an actual invoice received from Mercy Air, covering less than 90 minutes service time, from dispatch to return to base, a 28 mile flight.



While Mercy Air received \$3,500 from the recipient’s insurance carrier as payment, the patient was billed for the additional \$7,220. *This is not an issue with which the Grand Jury faults Mercy Air – they are exercising the freedom provided them by the County.* Without competition and an operating agreement that places a cap on charges, Mercy Air is simply participating in a perfect business world. The issue lies with those responsible for making governmental decisions.

Justification for alternative resources cannot be better exemplified than the results of a comparison of fees charged in San Bernardino County with other counties. Calstar provided air ambulance service, alongside Mercy Air, in Santa Barbara County and adjoining Ventura County. Mercy Air’s “liftoff” rate (Helicopter Base Rate) in Ventura County was \$7,897, or \$1,200 less than San Bernardino County. Also, the mileage charge was \$49.50, or \$7.43 per mile less than San Bernardino County.

Approximately 90 days following completion of a new contract with Ventura’s Board of Supervisors, Mercy Air stopped serving both Ventura and Santa Barbara counties.

Mercy Air moved that equipment to the Marine Base at Twentynine Palms. During this process, unauthorized Mercy Air equipment operated in San Bernardino County. Mercy Air's departure from Santa Barbara and Ventura counties points out the severe need for an alternative, competitive air ambulance resource in San Bernardino County.

The Board of Supervisors needs to revisit this entire issue. ICEMA is mandated to make recommendations on behalf of the health and well being of the citizens of San Bernardino County. It is ill advised, at best, to allow a *political* board to have veto power over a *medical* panel such as ICEMA and the EMCC. Because of the Board's response citing concern for the "stability" of Mercy Air, the citizens of San Bernardino County are benefactors of a governmental system that has responded to "special interests" and not the "public's interest."

When the Board of Supervisors sits as the governing board of ICEMA, they are subject to California Government Code Section 84308, that "Prohibits any public official acting in a non-elected or appointed capacity from being involved in a decision that affects anyone who has donated more than \$250.00 in the preceding 12 months to his or her campaign". This Code is not currently being complied with.

ICEMA is one of eight EMS agencies in the State with multiple county jurisdictions. Unlike the other seven counties, our Board of Supervisors serves as ICEMA's governing board. San Bernardino County Supervisors, in response to an earlier Interim Report, insist on serving as ICEMA's governing board because it "...ensures that all matters involving the agency are deliberated during public meetings..." In this case, however, "deliberations" consisted of pulling the item from the agenda, and San Bernardino County is now vulnerable to anti-trust litigation.

## **RECOMMENDATIONS**

- 06-11      ADVERTISE AN IMMEDIATE REQUEST FOR PROPOSAL (RFP) IN AN ATTEMPT TO SECURE ADDITIONAL COMPETITIVE AIR AMBULANCE RESOURCES.
  
- 06-12      THE BOARD OF SUPERVISORS CEASE FUNCTIONING AS THE GOVERNING BOARD OF THE INLAND COUNTIES EMERGENCY MEDICAL AGENCY (ICEMA) TO AVOID EVEN THE APPEARANCE OF IMPROPRIETY.
  
- 06-13      THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS CEASE ACCEPTING CAMPAIGN DONATIONS FROM ALL EMERGENCY MEDICAL PROVIDERS, GROUND AND AIR.