

SAN BERNARDINO COUNTY CIVIL GRAND JURY



FINAL REPORT 2017–2018

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FINAL REPORT 2017–2018

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The Editorial Committee acknowledges and thanks the following individuals for their hard work and invaluable assistance in the preparation of the Final Report of the 2017–2018 San Bernardino County Grand Jury:

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GRAND JURY



COUNTY OF SAN BERNARDINO

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June 29, 2018

Honorable John P. Vander Feer, Presiding Judge
Superior Court of California, County of San Bernardino
247 West Third Street, 11th Floor
San Bernardino, CA 92415-0302

Dear Judge Vander Feer:

On behalf of my fellow 2017-2018 San Bernardino County Civil Grand Jury members and in compliance with Penal Code §933, it is my honor and privilege to present our Final Report to you and to the San Bernardino County Board of Supervisors, as well as to the citizens of San Bernardino County.

This Grand Jury was formed on July 1, 2017, as nineteen citizens came together, each bringing his or her own individual experiences and knowledge. The common goals were ensuring our County is governed honestly and efficiently and ensuring County monies are being spent appropriately. As mandated by law, the Grand Jury also inquired into the conditions and management of our public Detention Centers.

As we began our term, we were issued Surface Pro laptops. All necessary Grand Jury documentation was completed online and shared within our group. This system reduced the amount of paper that is normally required by Grand Jury members to document all of their proceedings during the year. This procedure helped speed up the internal documentation sharing process between our members. All of our members agreed this is a valuable tool which will continue to be of great benefit to all future Grand Jury members.

Once we came together, we decided to form a Public Relations Committee to provide the public with information regarding the workings of the Grand Jury. This committee formulated a Power Point® presentation which included an overview of the responsibilities of the Civil Grand Jury, how to file a citizen complaint and how to apply for the Civil Grand Jury. The complete presentation is included in this Final Report.

Throughout our term, Grand Jury members met and interviewed numerous employees of San Bernardino County, Cities and Special Districts. The vast majority of those contacted were extremely helpful in answering our questions and in providing all of the information that was requested of them. On behalf of our entire Grand Jury, I would like to thank all of those contacted, including employees, department heads and elected officials, for their cooperation and willingness to assist us in the completion of our tasks. Our County is fortunate to have so many

hard working employees who are dedicated to providing our citizens with the best service possible.

We also received and investigated various complaints from our fellow citizens. Some of these complaints did not fall within the jurisdiction of the Grand Jury and had to be rejected. However, we investigated those that did fall within our jurisdiction and some are included as part of our Final Report.

I would like to acknowledge our Legal Counsel, Michael Dauber; our Administrative Assistant, Norma Grosjean; and our Automated Systems Analyst II, Sam El Bard, for all their valuable assistance provided during our term. Their individual knowledge and expertise of the Grand Jury process proved very beneficial as we progressed through our term. Without their assistance, our Final Report would not have been possible.

This Final Report represents the combined efforts of 19 dedicated Grand Jury members who spent countless hours interviewing, evaluating, and documenting their findings. I am proud of all of them and the efforts they put forth to complete the assigned tasks.

Thank you former Presiding Judge Haight III and Court Executive Officer Nancy Eberhardt for providing me with this opportunity when you appointed me as Foreman. It has been an honor and a privilege to serve as Foreman for the 2017-2018 San Bernardino County Civil Grand Jury. Thank you to the 2018-2019 Presiding Judge Vander Feer for your invaluable guidance and support.

Respectfully,

A handwritten signature in black ink, appearing to read 'Rosie Hinojos', with a stylized flourish at the end.

Rosie Hinojos, Foreman
2017-2018 San Bernardino County Civil Grand Jury

SAN BERNARDINO COUNTY

2017–2018 CIVIL GRAND JURY

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SAN BERNARDINO COUNTY 2017–2018 CIVIL GRAND JURY



Back Row (left to right): Clara Boswell, Edward Jabo, Brenda Mackey, Lino Martinez, Patricia Hagler, James Sandles, Rick Penaflor, Richard “Kim” Chitwood, Everett Brittain, Burrel Woodring, and Clentis Flournoy

Front Row (left to right): Ruth McMillan, Paul Kielhold, Kent Fogleman, John Hutson, Allen “Skip” Burt, Dave Hutson, Lynn Pidal, and Rosie Hinojos



Honorable
John P. Vander Feer

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COMPLAINTS



COMPLAINTS

The San Bernardino County Civil Grand Jury receives numerous citizen complaints throughout the year. Every complaint is carefully reviewed by the Grand Jury for issues regarding appropriate jurisdiction and importance of the complaint topic.

After completion of the initial review of a citizen complaint, the Grand Jury may approve the complaint and assign it to an appropriate committee. The committee will conduct an investigation with appropriate oversight by the full Grand Jury. A written report of the committee's findings and recommendations regarding a specific complaint may or may not be included in the year-end Grand Jury's Final Report.

The process of submitting a citizen complaint is to obtain a Confidential Citizen Complaint form from either the Grand Jury's website or by calling the Grand Jury's office at (909) 387-9120. The website is www.sbcounty.gov/grandjury/citizencomplaint. Once the complaint form has been completed and signed, it can be returned to the Grand Jury's office for processing. Although the Grand Jury usually does not investigate anonymous complaints, it may conduct an investigation depending on the issue.

The 2017-2018 Grand Jury received a total of 19 complaints. Sixteen were new complaints and three were referred from the 2016-2017 Grand Jury. Two of the 19 were not within the jurisdiction of the Grand Jury. Fifteen of the 19 were rejected due to the nature of the complaint. One complaint is being referred to the incoming 2018-2019 Grand Jury. One is included in this year-end Grand Jury Final Report.

REPORTS



CITY OF SAN BERNARDINO – CODE ENFORCEMENT

BACKGROUND

Enforcement of the San Bernardino City Municipal Code was previously conducted by both the Code Enforcement Division of the Community Development Department and the Community Policing Program within the City Police Department. The two groups were merged on January 1, 2018, and now Code Enforcement is entirely within the City Police Department. The Grand Jury has authority to investigate the City pursuant to Penal Code §925a.

Enforcement of the City Municipal Code protects the value of private investment in property, projects a positive image to visitors and provides incentive for new investment. Code Enforcement officials are tasked with investigating complaints of Municipal Code violations which pertain to the use and maintenance of property. Complaints are submitted by citizens through phone calls or an on-line complaint form. According to the City's website, when a complaint is received, a code compliance officer visits the site and verifies the complaint. If necessary, the officer issues a violation notice and notifies the responsible party with a time frame to correct the problem. Failure to correct the problem may result in remedial or punitive action being taken.

The Grand Jury, responding to a citizen complaint, was asked to investigate the responsiveness of the City regarding Code Enforcement. The complainant indicated that the City code enforcement operation was not responsive to citizen complaints and that only two code enforcement officers were employed to respond to all Municipal Code violations in the City. Additionally, the complainant stated that the City was not able to ascertain the owner of properties in the case of absentee landlords.

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METHODOLOGY

The Grand Jury investigated this issue by interviewing City officials and citizens and by reviewing the City database of complaints and responses. Field observations of existing conditions within the City were made independently by the Grand Jury and with City code enforcement officers. The Grand Jury contracted a Geographic Information System consultant to graphically display information obtained from the City to review the locations of complaints and responses (Attachments Map A and Map B). In addition, photos were taken during site visits. (See attached Photographs 1-3).

FACTS

Statements by all City officials interviewed were consistent with observations made by the Grand Jury about Code Enforcement. Both city officials and citizens stated that code compliance within the City of San Bernardino was poor. Interviews and a review of portions of the City's complaint database revealed that the City had a backlog of five thousand complaints to which there had been no response. The Grand Jury randomly selected the month of August 2017 for review and found the following information:

1. 177 code complaints made in August 2017 (Attachment Map A).
2. 79 code complaints made in August 2017 to which no response had been made by November of 2017 (Attachment Map B).

In addition to responding to Code Enforcement complaints, the City has programs of regular inspections of residential rental properties every two years. One program applies to residential properties consisting of three (3) or fewer units and the other program applies to properties of four (4) or more units. Members of the Grand Jury rode along as observers with Code Enforcement officers as they conducted inspections of rental properties. These inspections are conducted without regard to complaint history. Property owners are notified of the inspection and the results. The Grand Jury observed properties which were in compliance and properties

where violations were noted. If safety or nuisance violations are noted, notice of violation is issued with a time frame to correct the deficiency. Code Enforcement authority is limited to areas of private property which are accessible to the public, such as streets and sidewalks, unless a complaint has been made. Therefore, tenants of rental properties must decide whether to tolerate existing conditions or make a complaint against their landlord.

The Grand Jury was told that the City has eight (8) code enforcement officers instead of the two (2) stated by the complainant. Contrary to the complainant's allegation, the Grand Jury learned the City can access tax assessment records to determine the absentee landlords.

The City authorized a study in 2012 by the Matrix Consulting Group that concluded the Code Enforcement Division was lacking in effectiveness and made recommendations for improvement. That report is now outdated and many of the recommendations are no longer valid. However, the report remains a tool which can be used to improve Code Enforcement. One of the report's conclusions was that the Code Enforcement Division was overstaffed. With the attrition that has occurred since the report was finished, the recommended staffing level has been reached. The assignment of all code enforcement responsibilities to the Police Department in January 2018 was intended to reduce the backlog of complaints which had accumulated during the period of divided responsibility and to create an effective compliance program.

FINDINGS

F1: Code Enforcement response to citizen complaints has been ineffective prior to January 2018 resulting in a substantial backlog of complaints to which there has not been a response.

F2: Code Enforcement has been reorganized (since January 1, 2018) to be entirely within the Police Department in an effort to improve responsiveness and code compliance.

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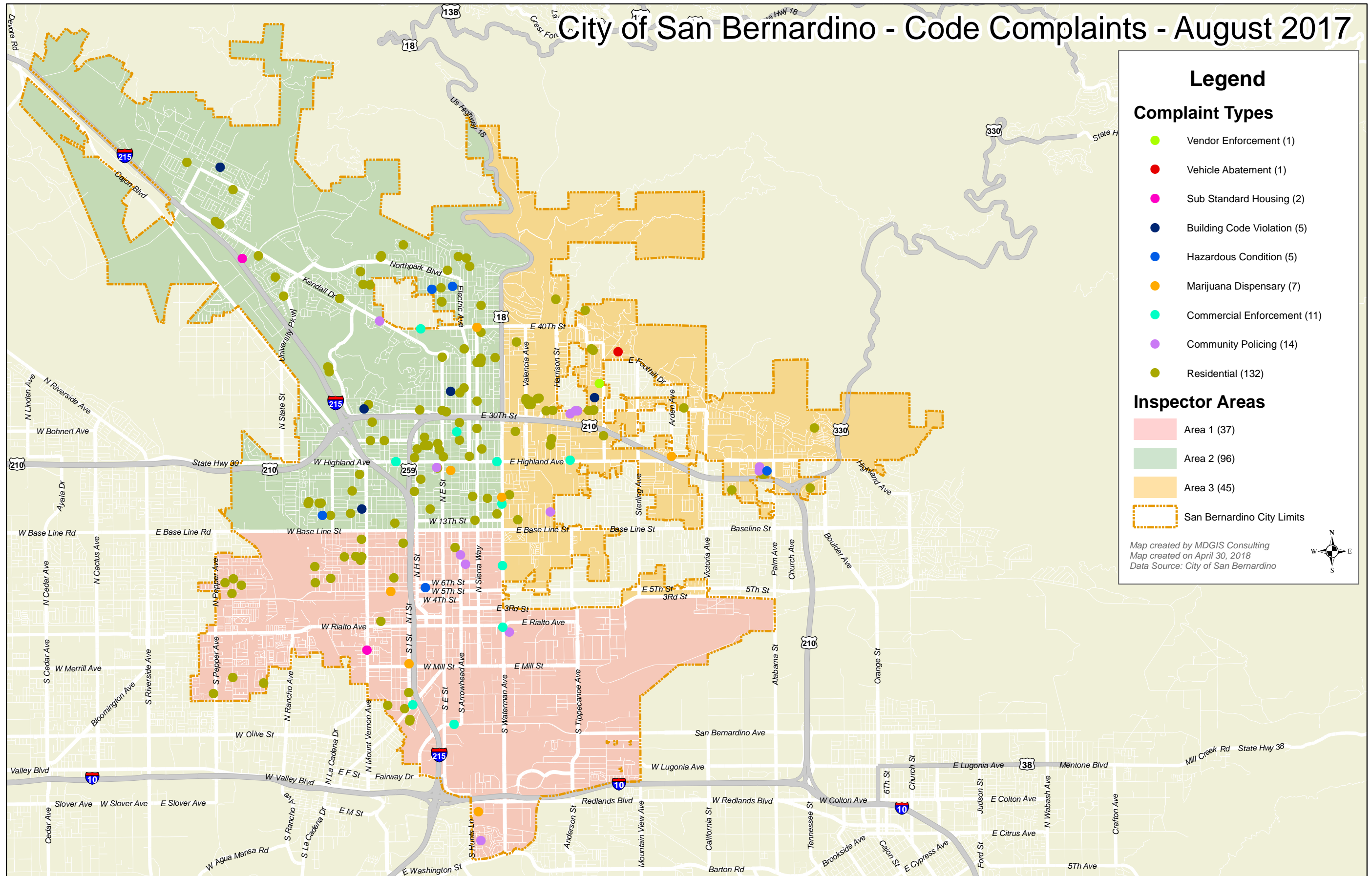
RECOMMENDATIONS

18-1: Prepare a quarterly report of code enforcement complaints received, code enforcement complaints investigated, the number of code enforcement violations issued, the number of violations resolved, and the number of unresolved violations. Submit the report to the City Manager for presentation to the City Council and Mayor.

<u>AGENCY</u>	<u>RECOMMENDATIONS</u>	<u>DUE DATE</u>
San Bernardino City Police Department	18-1	9/27/18

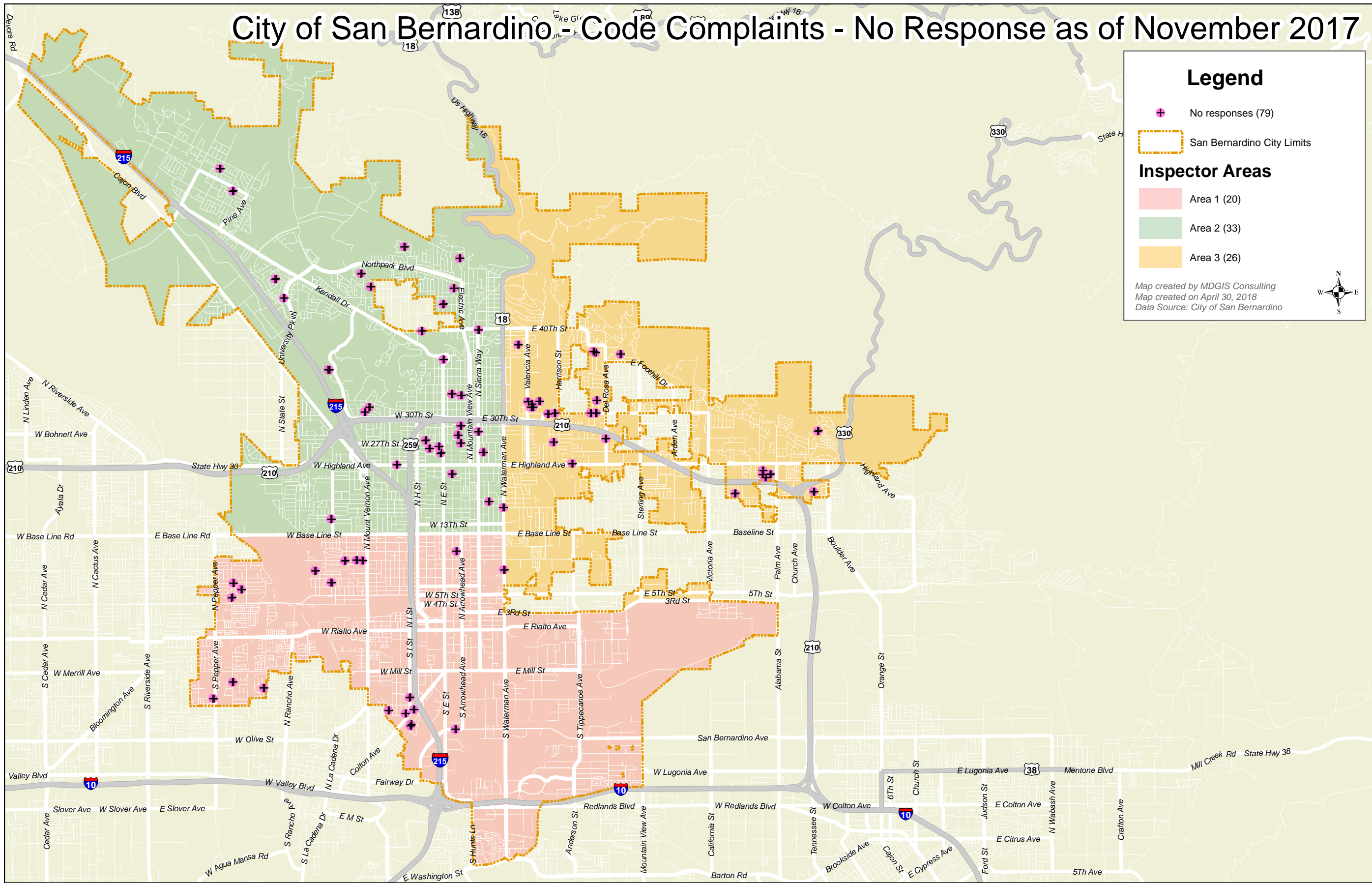
Attachment Map A

City of San Bernardino - Code Complaints - August 2017



Attachment Map B

City of San Bernardino - Code Complaints - No Response as of November 2017



Photograph 1



Photograph 2



Photograph 3



CITY OF SAN BERNARDINO

MUNICIPAL WATER DEPARTMENT

BACKGROUND

The 2017-2018 Grand Jury received a complaint alleging policy violations within the City of San Bernardino Municipal Water Department (Department). After reviewing the complaint, the Grand Jury determined there was enough information provided to warrant an investigation. The Grand Jury has jurisdiction to investigate this matter pursuant to Penal Code §925a.

METHODOLOGY

The Grand Jury utilized the following methodologies in the investigation of a citizen's complaint regarding irregularities within the Department: personal interviews and sworn testimony from current and former employees, review of Department records and interviews of City legal staff.

FACTS

The Department has policies and procedures which are available online and through Human Resources. The Department provided the Grand Jury with a thumb-drive containing a copy of the Policies and Procedures Manual (Attachment A). Review of the manual revealed that 65 out of the 79 policies have not been updated since 2010 which is 82% of the policies. (Table 1)

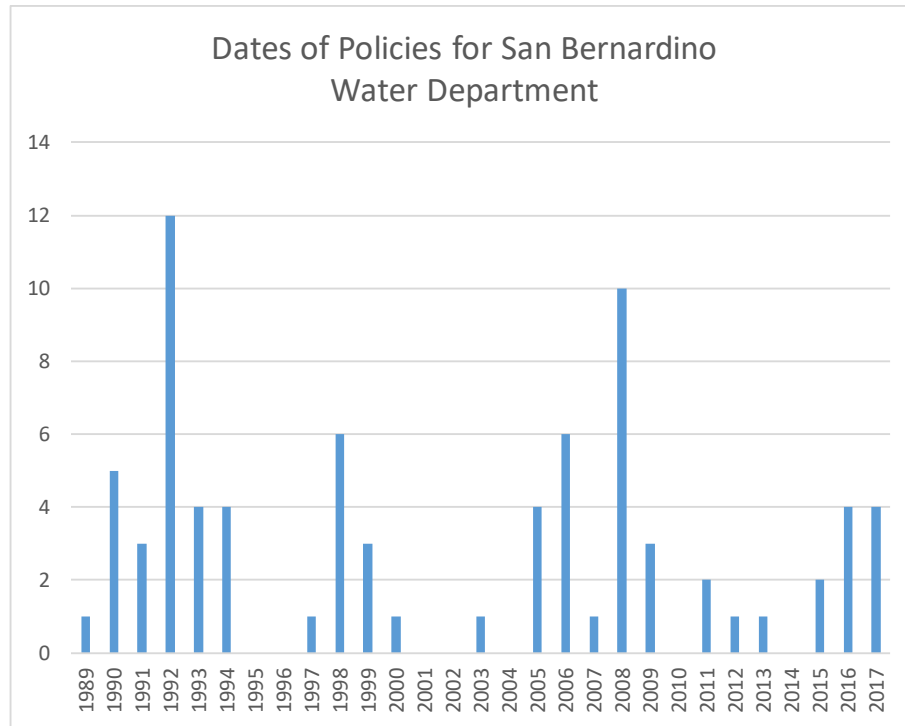


Table 1

SOURCE: Data compiled by the Grand Jury from City Water Department

The Department operated pursuant to a Memorandum of Understanding (MOU) between the City of San Bernardino Board of Water Commissioners and the San Bernardino Water Department Employees' Association, which expired on June 30, 2016. Water Department employees interviewed indicated that Department's policies had not been reviewed with them in several years; some as many as twenty years.

FINDINGS

F1: The Memorandum of Understanding has expired; therefore, there is no agreement in place regarding terms and conditions of employment.

F2: The Policy and Procedures are not reviewed and updated on an annual basis; therefore, employees may not be conducting themselves in accordance with policies.

RECOMMENDATIONS

18-2: Approve and maintain a current Memorandum of Understanding.

18-3: Review all Department policies and the Memorandum of Understanding on an annual basis with employees. Employees should acknowledge receipt of this review.

<u>AGENCY</u>	<u>RECOMMENDATIONS</u>	<u>DUE DATE</u>
City of San Bernardino City Manager	18-2 through 18-3	9/27/18

ATTACHMENT A

Policy #	Description of Policy	Date
10.010	Public Information Officer	Sept. 6, 2011
20.010	Adoption - Amendment of Human Relations	Aug. 12, 1992
20.020	General Manager Authorizing the Deputy General Manager & Division Directors to Sign	Feb. 29, 2008
20.030	Personal Mail-Magazines Etc.	Sept. 1992
20.040	Check Cashing for Employee	Sept. 9, 2015
20.050	Records Retention Policy	Mar. 5, 1991
20.070	Selling Goods and Materials at the Workplace	May 14, 1993
20.080	Posting-Bulletin Boards	June 17, 1998
20.090	Claims Handling	May 20, 2008
20.100	Naming of SBMWD Prop	Dec. 6, 2011
21.100	Fair and Accurate Credit Transactions Act	Nov. 4, 2008
31.010	Equal Opportunity-Affirmative Action	Aug. 12, 1992
31.020	Seniority-Transfer from City Departments	Sept. 24, 1990
31.030	New Employee Orientation	July 1, 2006
31.040	Time Off to Vote	Oct. 30, 1990
31.050	Light Duty Program	June 17, 1998
31.060	Acceptance of Gifts, Favors and/or Other Considerations	April 30, 1990
31.070	Status Change-Insurance Change	Aug. 16, 1990
31.080	Employee Consultation/Commendation	August 1, 2008
31.090	Mandatory Retirement Contributions for PST Employees	July 12, 1991
31.100	Voluntary Training Conducted on Water Department Time	Feb. 12, 1986
31.110	Personnel Records and Release of Information	June 17, 1998
31.120	Outside Employment	May 12, 1993
31.130	Higher Acting Classification	Apr. 1, 2009

31.140	Business Casual Attire	June 23, 2016
31.160	Classification-Compensation Plan Maintenance	June 24, 2016
31.170	Tattoos Piercings and Body Jewelry	Aug. 5, 2008
32.015	Vacation Time Upon Resignation or Retirement	Sept. 30, 2005
32.025	Transfer of Benefit Hours	May 3, 2012
32.030	Jury Duty Compensation	Feb. 1, 1994
32.040	Personal Leave	July 13, 1992
32.050	Special Performance Evaluation	Oct. 2, 1992
32.060	Leave Usage Slips	Jan. 23, 2007
32.070	Family Medical and Pregnancy Disability	Jan. 2017
32.080	Paid Sick Leave Part-Time, Temporary Employees	June 10, 2015
32.100	Preapproval Form	
32.100	Take Your Daughter-Son to Work Day	Aug. 24, 2005
33.010	Drug Free Workplace Act Implementation	June 6, 1989
33.020	Prohibition Against Smoking and Use of Smokeless Tobacco in all City/Department Owned Vehicles	June 22, 2017
33.035	Drug Alcohol and Substance Use	July 1, 2008
33.050	Sexual Harassment	Feb. 11, 2008
33.060	Nepotism	July 18, 2008
33.070	Non-Discrimination-Harassment	July 30, 2008
41.010	New Employee Driving Evaluation	Sept. 1992
43.010	Cashiering Alarm System	May 12, 1992
43.020	Access to Yards 195 D Street	Oct. 13, 1992
43.100	Access to Yards 195 D Street	
51.010	Petty Cash Procedure	Apr. 18, 2006
51.020	Modification to Professional Services & Competitive Bid Contracts	Aug. 3, 1993
51.030	Purchasing	Jan. 1, 2017
51.040	Goods and Materials Receiving Water Reclamation Plan	Oct. 1992

51.050	Fixed Assets	Mar. 22, 2005
51.060	Handwritten Checks	June 23, 1994
51.070	Local Bid Preference	Nov. 12, 2003
51.080	Criteria for Bill Messages and Inserts by Others	April 1, 2000
51.090	Budget Amendments	Dec. 2, 2008
52.010	Payroll Distribution	Oct. 7, 1992
52.020	Overtime	Nov. 5, 1992
53.010	Reimbursable-Allowable Travel Expenses	Mar. 2006
54.010	Reserve Policy	Feb. 19, 2013
54.020	Write Off of Uncollectible Accounts Receivable	Sept. 7, 2017
54.030	Disclosure Policy and Procedure	July 18, 2016
54.040	Tax Exempt Bonds	Aug. 12, 2016
61.020	Internet Access and Electronic Mail (E-MAIL)	June 1, 1999
62.010	Cellular Telephones	Nov. 1998
62.020	Personal Use of Telephone	Aug. 12, 1992
62.030	Personal Use of Fax Machines	Nov. 1998
62.040	Coverage During Lunch Periods	Aug. 6, 1990
62.050	Requests for Telephone Changes	Dec. 1994
70.010	Department Furnished Uniforms	Jan. 1, 1999
80.010	Utilization of Water Department Vehicles	Dec. 11, 1997
80.020	Standardization of Water Department Colors & Department Decals	Nov. 1998
80.030	Vehicle Idling Policy	Feb. 18, 2009
80.040	Locking Water Department Vehicles	Feb. 1, 1994
90.010	Reserving the Board Room	June 1, 2006
90.020	Resignations-Retirements Board of Water Commissioners Resolutions	June 1, 2006
90.030	Regulation of Concentrated Waste Streams	July 6, 1999
90.040	Board of Water Commissioners Quorum and Attendance	June 1, 1993

90.050	Deposits Required for Board of Water Commissioners Conference Attendance	Apr. 23, 1991
90.060	Commendation by Board of Water Commissioners for Selfless & Heroic Acts	June 14, 2005
90.070	Expense Guidelines and Reimbursement Policy for Members of Legislative Bodies	Mar. 7, 2006
100.100	Newmark Groundwater Superfund Site Institutional Controls Implementation Policy	Sept. 2009

HESPERIA UNIFIED SCHOOL DISTRICT SEXUAL HARASSMENT POLICY AND PROCEDURES

BACKGROUND

The 2017-2018 Grand Jury received a complaint of several incidents involving student-on-student behavior termed “Slap Ass Friday” occurring on campuses in Hesperia Unified School District (HUSD). This practice is an unwanted and offensive student-on-student physical contact. After interviewing the complainant and reviewing HUSD’s policy and procedures on Sexual Harassment, Administrative Regulation (AR) 5145.7¹ and Board Policy (BP) 5145.7², the Grand Jury determined that there was sufficient information to warrant a further investigation. During the interview process, this behavior was defined as a sexual battery offense.

The primary focus was whether the District followed its own policies and procedures when complaints of sexual harassment or sexual battery were reported by students and/or parents. Another focus of this investigation was to determine if HUSD’s policies and procedures are sufficient.

The Grand Jury investigated under the jurisdiction of Penal Code §933.5. Two 2017/2018 Grand Jurors were recused from this investigation. They were not in the plenary meeting when information was originally provided. They received redacted minutes from all other meetings in which this investigation was discussed. They did not vote on acceptance of this report.

METHODOLOGY

The Grand Jury conducted interviews with HUSD elected officials, District officials, school officials, San Bernardino County Sheriff’s Department personnel, and parents of students. The Grand Jury reviewed Board Policies (BP), District Administrative Regulations (AR), the

¹ <http://hesperiausd.org>

² <http://hesperiausd.org>

California Penal Codes and California Education Codes. Additionally, the Grand Jury examined other San Bernardino County school districts' policies and procedures. The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records; therefore, the Grand Jury was not authorized to review student records.

FACTS

A detective in the San Bernardino County Sheriff's Department, Crimes Against Children Unit, was interviewed and asked to review HUSD's AR5145.7 titled Sexual Harassment to determine if any of the types of conduct listed met the definition of battery and/or assault. The detective responded that number 7 (massaging, grabbing, fondling, stroking, or brushing the body), number 8 (touching an individual's body or clothes in a sexual way) and number 11 (sexual assault, or sexual battery, or sexual coercion) constitute battery and/or assault.

When the detective was asked if the actions of a student-on-student slap to the buttocks would constitute a sexual assault, the response was that it would be sexual battery. Sexual battery must involve law enforcement and be reported to San Bernardino County Children Family Services (CFS). The detective referenced California Penal Code §243.4³.

District representatives stated that training is provided by HUSD to District and school officials regarding sexual harassment twice a year. It includes refresher training and any new or changed laws. According to officials interviewed, it does not include sexual battery and/or assault. District officials define the act of sexual battery as "skin-to-skin" contact and proof of sexual arousal.

The Grand Jury learned in interviews with the District and school officials that security cameras are located at all school sites. The area of concern for the Grand Jury is the retention time of the recordings. District officials were questioned about the length of time video recordings from

³ <http://leginfo.legislature.ca.gov>

school surveillance cameras are retained and only one answered with certainty. All others did not know for sure; some took guesses. If there is a policy, no one knows about it. One District representative stated a policy may be “buried somewhere.”

HUSD Administrative Regulation 5145.7

Administrative Regulations are detailed directions to put policy into practice. They tell how, by whom, where, and when things are to be done.

The HUSD’s procedures for filing a sexual harassment complaint are included in AR 5145.7(b), School-Level Complaint Process/Grievance Procedures.

Initial Interview with Student: “...The student who is complaining shall have an opportunity to describe the incident, identify witnesses who may have relevant information, provide other evidence of the harassment, and put his/her complaint in writing on the District’s official complaint form.”

District officials stated that interviewing students is part of the investigative process. When interviewing an elected school official regarding the interview process, the elected official stated that the school officials would talk to the student and witnesses.

Parents interviewed stated that their child came home and told them that he/she was slapped on the buttocks by a student at school. The parents contacted the school, spoke to a school official, and were informed that staff was aware of that type of behavior on campus. The school official also advised that an announcement would be made over the loud speaker that this behavior wouldn’t be tolerated. The parents asked why they were not notified and the response was, “Well, you should have been.” According to the parents, their child was never asked to give a statement verbally or in writing.

Another parent interviewed stated that when he/she called the school and described what happened to his/her child, a school official used the phrase “kids being kids” to describe the inappropriate touching.

When interviewed, an elected official described a slapping incident as “kids being stupid.” One school official stated to the Grand Jury that interviews with students regarding sexual harassment were conducted by staff members of the same gender as the students. However, parents expressed their disapproval of the fact that their child was interviewed by a school official of the opposite gender. The parents stated their child was embarrassed and uncomfortable.

When incidents of sexual battery occur, the HUSD Police Department is involved. Currently, there is no female officer on the school police force. If the complainant is a female, only a male officer is available to talk with the student.

Official Complaint Form: “...and put his/her complaint in writing on the District’s official complaint form.” Neither the parents nor their children were offered the District’s Official Complaint Form according to interviews. They were shown the Official Complaint Form by the Grand Jury and indicated that they had never seen it.

Investigation Process: “The Principal or designee shall interview individuals who are relevant to the investigation including but not limited to...anyone who witnessed the reported sexual harassment...”.

During interviews of school officials, they stated that the investigative process would include interviews of witnesses to the incident and statements from other students.

In an interview with a parent, it was stated that his/her child had witnessed a slapping incident, but he/she was not interviewed by school officials. According to the parent, when the student requested to be interviewed, the request was denied without explanation. Another parent did not know of any witnesses being interviewed for an investigation in which his/her child experienced a slapping incident. The child told school officials that there were a number of students who observed the incident.

Interim Measures: “The Principal or designee shall determine whether interim measures are necessary during and pending the results of the investigation, such as placing students in separate classes...”.

According to one parent interviewed, his/her child, was required to continue attending the same class as the other involved student. The child was offered a class change so that he/she would not be in the same class as the other involved student. The parent also stated that it was suggested that his/her child spend free periods in the school office rather than on the outdoors campus. The parent believed that his/her child was being punished by removing the child from the class and sitting in the office during lunch periods. As a result of this issue being raised by the parent, the other involved student was eventually removed from the class.

Written Report and Findings and Follow-Up: “No more than 30 days after receiving the complaint, the Principal... shall conclude the investigation and prepare a written report of his/her findings...”

Based upon Grand Jury interviews with the parents, none of them had received a report of the investigation.

District officials agree there should be a written report of investigations; however, due to privacy rights, the information within the report must be limited.

Appeal Process: “An appeal process will be afforded to the complainant should he or she disagree with the resolution of the complaint filed pursuant to this policy.” The Administrative Regulation (AR) further states that this report shall be presented to the student who complained, the person accused, and the parents/guardians among other recipients.

Although the AR includes an appeal process, since the parents did not receive a written copy of the report, they were not afforded their appeal rights as an option.

Board Policy 5145.7

Board Policies are principles and guidelines adopted by the Board in support of school system goals and guide administrative decisions.

Sexual Harassment Prevention: “District and school strategies shall focus on prevention of sexual harassment by providing age-appropriate training and information to students and staff, including, but not limited to, the District’s anti-harassment policy, what constitutes prohibited behavior, how to report incidents, and to whom such reports should be made.”

District officials told the Grand Jury that at the start of the school year, students are informed about the Student Handbook including the Sexual Harassment policy and procedures. One administrator called it “boot camp.” It is unknown if there is any additional training regarding inappropriate student-on-student behavior; however, parents advised the Grand Jury that a voicemail went out to parents more than a month after an incident occurred. The message recommended that parents talk with their children about inappropriate slapping/hitting, etc.

Intervention: “...As appropriate, the Superintendent or designee shall notify the parents/guardians of victims and perpetrators...” Board Policy 5145.7(a).

The Grand Jury asked a district official what is meant by “as appropriate.” The official was asked whether contacting the parent of the complainant is optional. The district official’s response was, “Probably need to rewrite it.”

FINDINGS

F-1: HUSD has a narrower definition of sexual battery than law enforcement.

F-2: HUSD officials and staff have had sexual harassment training, but are not trained in the elements of sexual battery.

F-3: The Grand Jury interviews found inconsistencies regarding the retention of video recordings from surveillance cameras on campuses.

F-4: District officials' explanation of the complaint/grievance procedures differs from what parents told the Grand Jury they and their children experienced.

F-5: AR 5145.7 Investigative procedures have not been followed.

F-6: Students have been interviewed by school officials who are of the opposite gender.

F-7: Neither the complainants nor the parents were provided a copy of the investigative report in accordance with AR 5145.7, or advised of their appeal rights.

F-8: There is limited training for students regarding offensive student-on-student touching.

F-9: Board Policy 5145.7 (Intervention) needs to be rewritten as the phrase "as appropriate" indicates that contacting parents is optional instead of required.

RECOMMENDATIONS

18-4: Provide all District personnel with training on sexual harassment, sexual assault and sexual battery, defining the elements of each in accordance with Penal Code §243.4. Training should include a third party expert such as personnel from the Crimes Against Children Unit, San Bernardino County Sheriff's Department.

18-5: Follow a consistent policy regarding the use of campus surveillance cameras, the length of time recordings kept, and the location of stored recordings.

18-6: Develop a checklist of the steps to be taken when a complaint of sexual harassment, discrimination or bullying is received in order that all requirements of AR 5145.7(b) School-Level Complaint Process/Grievance Procedure are met.

18-7: Recruit and hire a female officer for the Hesperia Unified School District Police Force.

18-8: Amend Administrative Regulation 5145.7 to include that complainants shall be interviewed by an administrator of the same gender.

18-9: Amend Administrative Regulation 5145.7 (Written Report and Findings and Follow-up) to include parent/guardian receipt of all written investigative reports.

18-10: Develop age-appropriate training specific to Hesperia Unified School District students regarding student-on-student offensive touching behavior and conduct training sessions for the entire student body.

18-11: Amend Board Policy 5145.7 (Intervention) to specifically require notification of parents/guardians of both complainants and other involved students of sexual harassment, assault and/or battery, and obtain written confirmation from the parents/guardians of report notifications.

<u>AGENCY</u>	<u>RECOMMENDATIONS</u>	<u>DUE DATE</u>
Hesperia Unified School District	18-4 through 18-11	9/27/2018

**SAN BERNARDINO COUNTY EMERGENCY
GROUND AMBULANCE CONTRACT #12-254**

BACKGROUND

This topic was chosen due to a newspaper article which stated that this contract has never gone out for bid. Also, the contract has been extended multiple times. In 1981 San Bernardino County contracted with the primary ambulance service provider and other smaller ambulance providers to conduct a pilot project. As a result of this pilot project, in 1984 the Inland Counties Emergency Medical Agency (ICEMA) established an Emergency Medical Services (EMS) plan that included establishing Exclusive Operating Areas (EOAs) as allowed under California Health and Safety Codes Sections. The plan resulted in contracts being established, without going out to bid with the current providers within the pilot project.

On April 20, 2004, twenty years later without going out to bid, ICEMA approved a performance based contract with the primary provider that included setting up six (6) EOAs. The contract was written to expire on April 30, 2012, and included six (6) automatic extensions.

In 2010, ICEMA entered into discussion with the Emergency Medical Services (EMS) providers to negotiate contract extensions with the understanding that a bid process would be needed in the near future.

Jurisdiction to investigate is under Penal Code 925a; 933.1.

METHODOLOGY

The Grand Jury reviewed the County's purchasing policies and procedures, pilot project documentation, the Emergency Medical Services (EMS) contracts, amendments specific to the

current provider, various statistical reports and business plans. It held interviews with leaders in various San Bernardino County departments.

The contract number 12-254, dated 5/8/2012 and its six amendments were acquired from the San Bernardino County Purchasing Department. The San Bernardino County Grand Jury reviewed the County's policies and procedures specific to contracts and extensions to validate if the established criteria had been applied to the original contract and the subsequent extensions.

FACTS

The Contract

The primary ambulance service provider has continued to be a contracted provider to the County for 34 years. During this time frame, the contract has never gone out for a bid. Amendment Six (6) extends Ambulance Services contract 12-254 for an additional 18 months for the period of January 1, 2017, through June 30, 2018. Based upon interviews, the time frame needed to prepare a Request for Proposal (RFP) for a contract is 18 – 24 months.

The Grand Jury's interviews and review of documentation validates that there are no set policies which prohibit the extension of contracts. The ambulance services contract is extremely complicated due to the required levels of safety. These levels of safety include but are not limited to adequately trained Emergency Medical Technicians, Paramedics and Advanced Life Support (ALS) equipped ambulances. The standard County contract's life is five years. The Board of Supervisors has the authority to extend any contract. The contract between the primary ambulance services provider and the County has never gone out for bid since 1984.

The current contract has performance monitoring requirements and penalties to which current ambulance service providers must adhere. ICEMA receives a fee for the monitoring of the performance of all contracted providers.

The following statistics came from page six (6) of San Bernardino County Emergency Ground Ambulance Review dated April 18, 2016 was contracted by the County Board of Supervisors. This review was conducted by Vizient Incorporated. As of April 18, 2016 approximately 80% of the County's land is uninhabited, 15% is utilized for military purposes, and slightly over 2% of the land is designated for residential housing purposes. The desert region is located in the north and is the largest area in the County. This region includes parts of the Mojave Desert and makes up approximately 93% of the County's total land area.

The ambulance services contract for the nation's most expansive county of 20,105 square miles has not gone out for bid in its four decades of existence. Based upon the Vizient report, it was suggested that there are several options: renegotiate the current contract, prepare a RFP and put it out for bid, and/or change the EOAs.

Per contract Amendment Six (6) dated 12/6/2016, the County intended to draft a RFP which would eliminate the existing EOAs and create a single EOA for the entire County.

ICEMA

The County's Board of Supervisors also serve on the ICEMA board. The primary ambulance service provider has been serving San Bernardino County since 1981. In the early 1990's, the primary provider formed a corporation with regulations written as "Successor Clauses." The Successor Clauses address the transition from one service provider to another. These regulations allow the provider "Grandfather rights" for successive contracts and extensions, addressed in section 1797.201 of the Health and Safety Code. (See Attachment 1 for grandfathering defined).

The eleven Exclusive Operating Areas (EOAs) that the primary provider covers have never gone out to bid. The primary provider has "Grandfathering rights", covered in the State of California Health and Safety Code, sections 1797.201, 1797.224 and 1797.226. (See attachment 2).

Additionally, ICEMA cannot put one EOA out for bid; only the entire contract must be in the bidding process.

Ambulance service is considered a critical service as are the police and fire departments in the bidding process, which could take 18 to 24 months.

In the Grand Jury's interviewing process, it became apparent that County leadership thought it would be difficult to provide the necessary level of critical service in a changeover process (Successor Clause).

The changeover process (Successor Clause) is covered in section 1797.226 of the State of California Health and Safety Code. The changeover process is addressed as a successor; the successor replaces previous providers (See attachment 2).

The bidding process has been discussed for five years by the governing bodies. The primary ambulance service provider has all the most populated EOAs of which eleven of the total twenty-seven were grandfathered. The eleven EOAs are in the following cities: Rancho Cucamonga, San Bernardino, Redlands, and Victorville. The other ambulance service providers are the San Bernardino County Fire Department, city Fire Departments, and four other private ambulance service providers.

The area serviced by the current provider represents approximately 9% of the County's total geographic area; this region includes over 80% of the total population.

A number of factors are involved in selecting an ambulance service provider. The primary provider must maintain a 90 percent response time of 9:59 minutes. Based upon our interviews, it was stated that San Bernardino County Fire Department could not provide a more cost efficient level of ambulance services. The Fire Department stated that it could provide better service,

make a profit and cover the entire County. Currently, the department is not monitored for its response time like the primary provider.

Board of Supervisors

All decisions regarding the primary ambulance service contract including the extensions are made by the Board.

The Primary Provider

The current ambulance service providers started servicing San Bernardino County in 1981. Eight (8) ambulance service providers that were servicing the County were acquired by the primary ambulance service provider. The acquisition also included the grandfathered EOAs which the State of California Health and Safety Code 1797.224 allowed.

As Health and Safety Code 1797 dictates, if an ambulance provider were providing services in a specific area within a County EOA, they retain it (Grandfathered). The County could lose Grandfathering protection and some control could revert over to the state if the contract were put out for bid under the Health and Safety Codes.

FINDINGS

F1: The County issues five year contracts and can extend at its discretion. Three of the six extensions were limited to six months or shorter not allowing the time needed for a Request for Proposal (18-24 months). Modifying boundaries of existing contracted EOA's would warrant for the complete bidding process of the contract. The Health and Safety Code 1797.224 states if the EOAs are amended, the entire contract must go out for bid.

F2: The primary service provider currently services eleven EOAs of the twenty-seven EOAs within the County. This represents nine (9) percent of the geographic area and 80 percent of the total population.

RECOMMENDATIONS

18-12: Create one Exclusive Operating Area (EOA) that covers the entire County. This would allow one provider to cover the County and require the provider to service populated and rural areas. If one EOA were created to encompass the remaining sixteen EOAs, the current provider could retain grandfathering protection.

18-13: Create a Request for Proposal (RFP) for a new service provider contract.

18-14: Present a new contract to the Board of Supervisors.

<u>AGENCY</u>	<u>RECOMMENDATIONS</u>	<u>DUE DATE</u>
Inland Counties Emergency Medical Agency	18-12 through 18-14	9/27/18

ATTACHMENT 1

Grandfather defined:

“Provision in a new law or regulation exempting those already in or a part of the existing system which is being regulated. An exception to a restriction that allows all those already doing something to continue doing it even if they would be stopped by the new restriction.”

Source: Black’s Law Dictionary Fifth Edition by Publisher’s Editorial Staff West Publishing Company 1979.

ATTACHMENT 2

State of California Health and Safety Code Division 2.5, Statutes in Effect as of January 1, 2010.

1797.6. (a) It is the policy of the State of California to ensure the provision of effective and efficient emergency medical care. The Legislature finds and declares that achieving this policy has been hindered by the confusion and concern in the 58 counties resulting from the United States Supreme Court’s holding in *Community Communications Company, Inc. v. City of Boulder, Colorado*, 455 U.S. 40, 70 L. Ed.2d 810, 102 S. Ct. 835, regarding local governmental liability under federal antitrust laws. (b) It is the intent of the Legislature in enacting this section and Sections 1797.85 and 1797.224 to prescribe and exercise the degree of state direction and supervision over emergency medical services as will provide for state action immunity under federal antitrust laws for activities undertaken by local governmental entities in carrying out their prescribed functions under this division. [Added by AB 3153 (CH 1349) 1984.]

1797.85. “Exclusive operating area” means an EMS area or subarea defined by the emergency medical services plan for which a local EMS agency, upon the recommendation of a County, restricts operations to one or more emergency ambulance services or providers of limited advanced life support or advanced life support. [Added by AB 3149 (CH 1349) 1984.]

1797.201. Upon the request of a city or fire district that contracted for or provided, as of June 1, 1980, prehospital emergency medical services, a County shall enter into a written agreement with the city or fire district regarding the provision of prehospital emergency medical services for that city or fire district. Until such time that an agreement is reached, prehospital emergency medical services shall be continued at not less than the existing level, and the administration of prehospital EMS by cities and fire districts presently providing such services shall be retained by those cities and fire districts, except the level of prehospital EMS may be reduced where the city council, or the governing body of a fire district, pursuant to a public hearing, determines that the reduction is necessary. Notwithstanding any provision of this section the provisions of Chapter 5 (commencing with Section 1798) shall apply. {H&SC 39}

1797.224. A local EMS agency may create one or more exclusive operating areas in the development of a local plan, if a competitive process is utilized to select the provider or providers of the services pursuant to the plan. No competitive process is required if the local EMS agency develops or implements a local plan that continues the use of existing providers operating within a local EMS area in the manner and scope in which the services have been provided without interruption since January 1, 1981. A local EMS agency which elects to create one or more exclusive operating areas in the development of a local plan shall develop and submit for approval to the authority, as part of the local EMS plan, its competitive process for selecting providers and determining the scope of their operations. This plan shall include provisions for a competitive process held at periodic intervals. Nothing in this section supersedes Section 1797.201. {H&SC 44}

1797.226. Without altering or otherwise affecting the meaning of any portion of this division as to any other County, as to San Bernardino County only, it shall be competent for any local EMS agency which establishes exclusive operating areas pursuant to Section 1797.224 to determine the following:

- (a) That a minor alteration in the level of life support personnel or equipment, which does not significantly reduce the level of care available, shall not constitute a change in the manner and scope of providing service.
- (b) That a successor to a previously existing emergency services provider shall qualify as an existing provider if the successor has continued uninterrupted the emergency transportation previously supplied by the prior provider. [Added by AB 3434 (CH 965) 1986.]

SAN BERNARDINO COUNTY SHERIFF'S DEPARTMENT

INMATE WELFARE FUND

BACKGROUND

The Inmate Welfare Fund is administered on behalf of inmates in custody of the San Bernardino County Sheriff's Department. In accordance with California Penal Code (PC) §4025, the San Bernardino County Sheriff is responsible for the establishment and administration of an Inmate Welfare Fund (Fund). PC§4025 stipulates that these funds are to be used solely for the benefit, education, and welfare of county jail inmates. The Fund receives no taxpayer support.

Because of the significant value of the Fund and the substantial discretion that the Sheriff has over the Fund for the benefit, education and welfare of inmates within the County Jails system, the 2017-2018 San Bernardino Grand Jury decided to examine the operations, policies and procedures used in the administration of the Fund with an interest in making recommendations that will make these administrative procedures more effective and efficient. California PC §925 states the following:

“The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in their ex officio capacity as officers of the districts. The investigations may be conducted on some selective basis each year, but the grand jury shall not duplicate any examination of financial statements which have been performed by or for the board of supervisors pursuant to Section §25250 of the Government Code; this provision shall not be construed to limit the power of the grand jury to investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county. The grand jury may enter into a joint contract with the board of supervisors to employ the services of an expert as provided for in Section §926.”

METHODOLOGY

The Grand Jury utilized the following methodologies in the examination of the Sheriff's Department oversight of the Fund. The Grand Jury reviewed the Sheriff's Department web page, conducted interviews of members of the department and the Inmate Welfare Trust Fund Committee (Committee) and reviewed data received from the department and financial reports of the Fund. The Committee Guidelines were reviewed and an Inmate Welfare Trust Fund Committee Meeting held Monday, November 27, 2017 was attended by the Grand Jury. The 2017-2018 Grand Jury concentrated its investigation into two areas. It examined the policies and procedures that govern how funds are disbursed by the Committee. Second, the Grand Jury examined how the funds were actually distributed. This amount, or the Fund budget, was examined and analyzed by data provided by the Sheriff's Department through reports to the Board of Supervisors and from the Committee.

FACTS

The Fund has a substantial balance (\$13,075,562.01 as of August 31, 2017) generated from two primary sources. One source is from the profits of jail commissary operations selling snacks, drinks, and other sundry items to inmates. The second source is from the profits of the inmate telephone services within each institution. The Sheriff's Department reported to the County Board of Supervisors (October 31, 2017) that the Fund had expenses of \$4,417,660.27 in Fiscal Year 2014/15 and expenses of \$5,172,606.06 in Fiscal Year 2013/14. The Fund is used to pay the salaries of counselors, teachers and trainers for inmates in County custody as well as for the fixed assets which are used in programs for inmate benefit (e.g. culinary).

To examine the policies and procedures that govern how Fund monies are distributed, the Grand Jury attended a San Bernardino County Sheriff's Department, Inmate Welfare Trust Fund Committee meeting held on Monday, November 27, 2017. The Committee consists of six (6)

civilian members who are appointed by the Sheriff. The members are volunteers who serve an indefinite term until they resign or are replaced. The Committee meets six (6) times per year. During this meeting, an officer representing the administrative arm of the Sheriff's Department presented five (5) funding requests submitted for consideration. All five (5) funding requests were followed by explanations and descriptions from department staff as to how these expenditures would benefit the welfare of county jail inmates. Four (4) of the funding requests were approved unanimously. One (1) of the funding requests was tabled because it had only one bid submitted and three bids are required.

Interviews of members of the Inmate Services Unit and Inmate Welfare Trust Fund Committee confirmed that funding requests submitted to the Inmate Welfare Trust Fund Committee are usually approved. Thus, the acceptance of any request by the Committee is significant. All policies and procedures that govern how the Committee operates, including how funding requests are made and reviewed, are documented in their policies and procedures manual. Because this manual presents the overall plan that governs the organizational administration of the Fund, the 2017-2018 Grand Jury respectfully submits the following:

1. Neither the Inmate Welfare Fund nor the Committee appear on the Sheriff's Department public web page.
2. The Inmate Welfare Trust Fund Committee Guidelines were last updated on March 17, 2014.
3. There is no strategic master plan for expenditure of inmate welfare funds.
4. There is no inventory of assets that are financed through the Inmate Welfare Fund.
5. There is no program for assessing inmate needs for education and counseling.
6. There is no means of tracking inmate educational and counseling progress.
7. The report of the Inmate Welfare Fund (required by PC§4025) was not submitted to the County Board of Supervisors in two of the last three years.

The 2017-2018 Grand Jury learned that the annual financial report of the Fund has not been presented to the Board of Supervisors for two of the last three years. The Grand Jury also discovered that past Committee minutes were not posted on the Sheriff's Department website. Finally, the Grand Jury learned that one of the trust fund requests approved at the November 2017 meeting was for a Tablet Program. This program can be used to establish a program of tracking recidivism, inmate program endeavors, and other vocational and educational successes. With the use of such a program, the Sheriff's Department could conduct an assessment of inmate needs for education, training, and counseling for use in administering the Fund. Additionally, the Sheriff's Department could also track the progress of inmates with regard to education, training, and counseling.

FINDINGS

F1: Neither the IWF nor the Inmate Welfare Trust Fund Committee appear on the Sheriff's Department public website.

F2: The Inmate Welfare Trust Fund Committee Guidelines were last updated more than four (4) years ago.

F3: There is no strategic master plan of spending or guiding how specific requests are to be evaluated by the Inmate Welfare Trust Fund Committee.

F4: There is no inventory of assets financed by the IWF; therefore, no current asset records are available for planning the use of monies in the Fund.

F5: PC §4025 stipulates funds are to be used for inmate educational, training, and counseling needs. No program exists to assess these inmate educational, training, and counseling needs; therefore, the effectiveness of these programs cannot be determined.

F6: There is no means of tracking the progress of inmates in regard to education, training, and counseling programs as required in IWF guidelines; therefore, the effectiveness of these programs cannot be determined.

F7: An annual report of the IWF was not presented to the Board of Supervisors for two of the last three years as required by PC§4025.

RECOMMENDATIONS

18-15: Revise the Sheriff's Department public website to indicate the existence of the Inmate Welfare Fund and Inmate Welfare Trust Fund Committee to increase public awareness.

18-16: Review regularly (e.g. every two years) and update (as needed) the Inmate Welfare Trust Fund Committee Guidelines.

18-17: Establish and update a strategic master plan of spending that will guide the Inmate Welfare Trust Fund Committee when considering spending requests.

18-18: Establish and maintain an inventory of assets available to inmates for their benefit to assist the Inmate Welfare Trust Fund Committee in implementation of the master plan of spending (e.g. the remaining life of assets).

18-19: Conduct an assessment of inmate needs (education, training, counseling etc.) for use in guiding expenditures of the Inmate Welfare Fund.

18-20: Establish a mechanism for tracking the progress of inmates with regard to education, training and counseling for use in guiding expenditures of the Inmate Welfare Fund.

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18-21: Establish a practice that will ensure a financial report shall be submitted to the Board of Supervisors each year as required in PC§4025.

<u>AGENCY</u>	<u>RECOMMENDATIONS</u>	<u>DUE DATE</u>
San Bernardino County Sheriff's Department	18-15 through 18-21	8/28/2018

VISITS OF JAILS/PRISONS/DETENTION CENTERS WITHIN THE COUNTY OF SAN BERNARDINO

BACKGROUND

The Grand Jury, per California Penal Code §919b, is mandated as follows: “The grand jury shall inquire into the condition and management of the public prisons within the county.” The term prison applies to State facilities, the term jails applies to County facilities, and Detention Centers can be any of those two or Federal facilities.

METHODOLOGY

The Grand Jury performed visitations to all three public prisons within San Bernardino County using the Jail Inspection Handbook for Grand Jurors provided by the California Board of State and Community Corrections as noted in the California Grand Jury Association Web site: www.cgja.org. The Grand Jury does not have the time necessary to inspect each facility within the County but can visit each State prison. The Grand Jury did not receive requests to investigate any jail, prison or detention center. The Grand Jury visited the following three State prisons:

- California Institution for Men, Chino
- California Institution for Women, Chino
- Desert View Modified Community Correctional Facility, Adelanto

CONCLUSION

There were no questions raised as a result of the Grand Jury visits to the State prisons. The Grand Jury was impressed with the professionalism and knowledge demonstrated by all personnel during each site visit. The Grand Jury would like to extend its sincere appreciation to each of the Wardens and staffs for both their hospitality and their cooperation.

INFORMATIONAL REPORT

EDUCATIONAL AND OUTREACH PROGRAM 2017-2018

The 2017-2018 San Bernardino County Civil Grand Jury determined there was a need to provide an educational and outreach program to the citizens of the County. A committee was created to focus on reaching out to citizens for the purpose of educating them on the duties and responsibilities of the San Bernardino County Civil Grand Jury.

The Grand Jury selected the following subjects to include in its educational program:

- The duties of the Civil Grand Jury
- How to file a formal Citizen Complaint
- How to apply for the Civil Grand Jury

The Committee developed a PowerPoint® slide presentation (Attachment A) and handouts to be used at booth events as well as speaking engagements. In an effort to reach as many County citizens as possible, the Grand Jury prepared letters of introduction (Attachment B) offering guest speakers and booth participation. The targeted groups during fiscal year 2017-2018 were Chambers of Commerce, Non-Profit Organizations, Service Clubs, Social Clubs, and Senior Centers.

The following organizations responded to the Grand Jury with invitations to provide guest speakers or to staff an information booth:

Apple Valley Chamber of Commerce
Barstow Senior Center
Fontana Rotary
Highland Senior Center

Rancho Cucamonga VIP Senior Club (two events)
Redlands Kiwanis
San Bernardino High School Alumni
San Bernardino Area Chamber of Commerce
San Bernardino County Past Grand Jurors' Association
San Bernardino League of Women Voters
San Bernardino Rotary Club
Yucaipa Chamber of Commerce

Members of the Grand Jury spoke at 12 events reaching a total audience of nearly 500. Additionally, the Grand Jury participated in one booth event and had the opportunity to speak with more than 60 individuals.

A number of San Bernardino County departments provided support and resources that enabled the Grand Jury to achieve success in its initial endeavor to educate and provide outreach. Thanks are extended to the following departments:

- The County Administrative Department for providing the avenue to post press releases publicizing the outreach program on the County's social media outlets.
- Information Services Department for the updating of the Grand Jury website www.sbcounty.gov/grandjury.
- The Telecommunication Services Department for setting up a toll free phone number making it easier for citizens to contact the Civil Grand Jury at 1-855-520-2691.

ATTACHMENT A



2017-2018 CIVIL GRAND JURY

Presenter:

Our Mission

The county Grand Jury is charged by the California Penal Code to investigate all aspects of county government, including cities and special districts, to ensure the county is being governed honestly and efficiently and that county monies are being handled appropriately...



This presentation includes:

An **overview** of the **responsibilities and Jurisdiction** of the **Civil Grand Jury**.



How to file a **Confidential Citizen Complaint**.



How to **Apply** for the **Civil Grand Jury**.

WHAT IS THE CIVIL GRAND JURY?

- The only local independent “**watchdog**” investigative body.
- An arm of the **Superior Court**.
- **Voluntary**.
- **19 citizens** who serve a one (1) year term.



Resources for the Civil Grand Jury



Honorable
John P. Vander Feer
Presiding Judge

The Grand Jury may ask for support and advice from:

- The Presiding Judge of the Superior Court
- Grand Jury Assistant
- Legal Advisor / District Attorney
- County Counsel
- Attorney General

Responsibilities/Jurisdiction of the Civil Grand Jury

- Determines if investigations meet the jurisdiction of the Grand Jury.

Examples of our jurisdiction: County, Cities, or Special Districts.

- To investigate, examine and report.
- Conducts **field visits** and **interviews**.



Responsibilities/Jurisdiction of the Civil Grand Jury continued...

- **Inquires** into the **willful** or **corrupt** misconduct of **public officers** and **employees**.
- Examines records and gathers information.
- **Inquires** into the condition and management of the **detention facilities** in the County.
- **Issues reports** for increasing the accountability and effectiveness of local governments.

Training

- State of California Grand Jurors' Association.
- Expert Speakers.
- Report Writing.
- Code of Ethics.
- Investigative and Interviewing Techniques.



A Chance to Improve Your Local Government



HOW TO FILE A FORMAL CITIZEN COMPLAINT

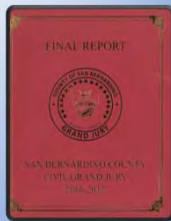
1. Mail it with all supporting documentation to the address on the form.
2. A complaint committee will review and determine if the complaint is within their jurisdiction.
3. You will receive a letter that we received your complaint. However, you may or may not be contacted further.
4. Your name will be kept confidential.

Access Website www.sbcounty.gov/grandjury/citizencomplaint

By law, the Grand Jurors **cannot disclose information** as to any investigations.

A juror must recuse themselves if:

- Employed by an agency within the last three years that is being investigated.
- If there is an investigation that may involve a family member or friend.



FINAL REPORTS / RESPONSE ACCOUNTABILITY REPORTS



Access Website www.sbcounty.gov/grandjury/reports



To Volunteer

Who would make a good Grand Juror?

- You are **interested** in how local government works and how it can operate more effectively.
- You are **willing** to cooperate with eighteen other jurors.
- You can **serve** from ten to twenty hours (or more) each week for one year (July 1 through June 30).

Who would make a good Grand Juror continued...

- You are willing to **learn** (or already have) the skills of **listening**, asking thoughtful **questions**, **reviewing** documents, open to feedback and assist in writing reports.
- You can exercise strict **CONFIDENTIALITY** during and after your term as a grand juror.

How to Apply for the Civil Grand Jury



**TOLL FREE
855-520-2691**



Access Website www.sbcounty.gov/grandjury



ATTACHMENT B



The San Bernardino County Civil Grand Jury has produced a brief PowerPoint presentation to educate the public on its responsibilities and duties concerning local and county governments. Members of the current grand jury are available to present the program.

The presentation includes:

- Overview of the responsibilities of the Civil Grand Jury
- How to file a Citizen Complaint
- How to Apply for the Civil Grand Jury

Grand jurors are also available to staff a booth at civic events.

If your organization would be interested in scheduling a presentation, or having a Civil Grand Jury booth an event, please contact me to discuss further.

Sincerely,

Norma Grosjean
Grand Jury Assistant
Norma.grosjean@gj.sbcounty.gov
172 West Third Street, Second Floor
San Bernardino CA 92415-0243

(909) 387-9120

RESPONSE ACCOUNTABILITY



RESPONSE ACCOUNTABILITY

The Grand Jury is required by Penal Code 933(c) to submit a Final Report to the Presiding Judge of the Superior Court with appropriate recommendations and results from investigations conducted by the Grand Jury.

The Grand Jury chose to include a section of the Final Report this year which reviewed a 2016-2017 Grand Jury Final Report on the Apple Valley Unified School District Police Department. A Response Accountability Report contains follow-up interviews and information gathered to determine if the agencies and/or departments have complied with the recommendations and responses in prior reports.

The Grand Jury also included a Response Accountability Report on the 2013-2014 Victor Valley Union High School District.

RESPONSE ACCOUNTABILITY

APPLE VALLEY UNIFIED SCHOOL DISTRICT

BACKGROUND

The 2016-2017 San Bernardino County Grand Jury Final Report contained an investigatory component concerning the Apple Valley Unified School District Police Department (AVUSD-PD). These investigatory components included in depth information collected via physical review of records, as well as interviews with key personnel of the District. Topics of investigation concerned towed vehicles and parameters of jurisdiction of the AVUSD-PD.

This data collection process produced multiple recommendations to the District by the Grand Jury regarding the towed vehicles and limits of authority of the Police Department. During this investigation, it was determined in the years 2014, 2015, and 2016 that the school police department towed 727 vehicles. During this same time period, the AVUSD-PD used only one towing company. That tow company provided a list of 217 vehicles that it received from AVUSD-PD. Comparing the two lists resulted in a discrepancy of 510 vehicles.

Based upon the discrepancy in the two lists, the 2016-2017 Grand Jury decided to subpoena the tow company to confirm the accuracy and completeness of its list that contained 510 fewer vehicles than the list provided by the AVUSD-PD.

Information received under oath from the towing company on March 3, 2017 was that the list of 217 vehicles was complete and accurate and that the tow facility could not physically handle the number of vehicles that AVUSD-PD authorized for towing. This witness was asked to contact the Grand Jury immediately if any additional information was discovered that would account for the missing vehicles. It should be noted that the testimony of this witness did not include any mention of computer, scanner, or any data storage problems within that tow company.

Based on the testimony, under oath, of both AVUSD and the tow company, their respective lists of towed vehicles during the exact same time period were complete and accurate. The 2016-2017 Grand Jury was left with the indisputable conclusion that over 500 vehicles were unaccounted for and missing.

The AVUSD response to the Grand Jury's Final Report stated that the Grand Jury's Findings amounted to a "...sweeping, inaccurate conclusion." The response further stated, "In a joint effort with the towing company, the District reviewed and confirmed tow records for all 500 of the allegedly unaccounted for vehicles."

The responses received from the AVUSD to the Grand Jury's Final Report stated that a meeting was held sometime in August 2017 between the school district and the towing company. During the meeting, the two entities were able to reconcile all but ten of the missing vehicles. Representatives from the AVUSD stated they were ultimately able to account for the ten vehicles.

The 2017-2018 Civil Grand Jury decided to confirm the meeting between the AVUSD and the tow company, and more importantly, to determine whether the 2016-2017 Grand Jury's Final Report contained any inaccuracies as mentioned in the AVUSD-PD response. On December 6, 2017, representatives from AVUSD were subpoenaed to appear before the Grand Jury. They were placed under oath and testified to meeting at the tow company's business address and to reconciling their respective lists. They testified to accounting for all but ten of the missing vehicles. According to their testimony, these ten vehicles were subsequently accounted for after they rechecked their tow list.

Information under oath by the same towing company on February 21, 2018 was that there was never a meeting with the AVUSD regarding the towing lists. Based on the conflicting sworn testimony of representatives of the AVUSD and the tow company, the Grand Jury cannot confirm whether a meeting to reconcile the two vehicle tow lists ever took place.

The tow company then testified that the list previously given to the 2016-2017 Grand Jury was neither complete nor accurate, and the tow company was having problems with its computers and a broken scanner. After resolving these issues, the tow company found all the vehicles listed on the AVUSD tow list. The tow company indicated that the tow facility put too much faith in its computer storage system.

The tow company further testified that the updated list containing most of the missing vehicles was sent to the Grand Jury. Later in the testimony, the tow company confirmed the documents were not sent to the Grand Jury, but were sent to another agency. The 2017-2018 Grand Jury did not receive the updated documents until February 21, 2018, when the tow company brought the documents in response to the Grand Jury's subpoena. Had these documents been received by the Grand Jury in 2017 as requested, the Grand Jury would have confirmed the missing vehicles were accounted for and there would have been no need to subpoena the tow company in 2018.

Based upon the 2018 testimony from the tow company, the 2017-2018 Grand Jury was unable to confirm the AVUSD's assertion that the 2016-2017 Grand Jury's Final Report contained inaccurate conclusions. Moreover, the conclusions made by the 2016-2017 Grand Jury were based on sworn testimony of the AVUSD-PD and the tow facility.

In response to the 2016-2017 Grand Jury Final Report, the AVUSD signed a Memorandum of Understanding (MOU) on August 2, 2017, with the San Bernardino County Sheriff's Department. This MOU memorializes the duties and enforcement parameters of the AVUSD-PD. The MOU also addresses many of the recommendations set forth in the 2016-2017 Grand Jury Final Report.

Worthy of note is the fact that 151 vehicles were towed, under the direction of the AVUSD-PD, during the period September 2016 through November 2016. After the 2016-2017 Grand Jury Final Report was released, for the similar period in 2017, only 29 vehicles were towed under the direction of AVUSD-PD.

2016-2017 Grand Jury Recommendations and AVUSD Responses:

RECOMMENDATION 17-01: REFUND MONIES

Stated: Refund any monies collected by Apple Valley Unified School District-Police Department for Vehicle Release fees.

RESPONSE TO RECOMMENDATION 17-01 FOR AVUSD:

The District respectfully declines to follow the recommendation that AVUSD-PD refund monies for vehicle release fees. The AVUSD-PD's vehicle release fee complies with VC Section 22850.5 (a) and is further authorized by EC Sections 35010 and 35160.

RECOMMENDATION 17-02: DEVELOP A PROCEDURE

Stated: Develop a procedure to assure the Apple Valley Unified School District-Police Department notified the legal and registered owners of vehicles towed in the future of their right to a tow hearing.

RESPONSE TO RECOMMENDATION 17-02:

The District has implemented this recommendation. On March 6, 2017, the AVUSD-PD Chief of Police issued a department directive requiring AVUSD-PD dispatchers and records clerks to notify the registered and legal owners of towed vehicles via first class mail within twenty-four hours of the vehicle towing, and of the right to a post-storage hearing using the CHP Form 180.

RECOMMENDATION 17-03: REFUND FEES

Stated: Refund any towing and storage fees paid by any legal owner or registered owner who was denied the opportunity to request a tow hearing.

RESPONSE TO RECOMMENDATION 17-03:

Pursuant to Penal Code Section 933.05 (b)(4), the District respectfully declines to implement the Grand Jury's recommendation to refund all towing and storage fees, but will examine each claim received and consider the merits of each claim on an individual basis.

RECOMMENDATION 17-04: RESTITUTION

Stated: Provide restitution to any vehicle owner whose vehicle was lien sold as a result of the vehicle being ordered towed by Apple Valley Unified School District-Police Department in excess of their legal authority to do so.

RESPONSE TO RECOMMENDATION 17-04:

Pursuant to Penal Code Section 933.05 (b)(4), the District respectfully declines to implement the Grand Jury's recommendation to provide restitution to vehicle owners whose vehicles were lien sold as a result of the vehicle being ordered towed by AVUSD-PD. The Report does not state evidence to support the finding that vehicles were towed by AVUSD-PD in excess of their legal authority to do so. In consideration of the Grand Jury's report and focusing on the District's primary mission of student and staff safety, the District has amended its citation and tow practices to ensure District officers continue to act within their statutory authority and jurisdiction when issuing traffic citations while also effectively providing traffic safety in and around District schools and bus stops.

RECOMMENDATION 17-05: ENGAGE IN A PROPOSAL PROCESS

Stated: Engage in a Request for Proposal (RFP) process for any non-district services requested by Apple Valley Unified School District-Police Department.

RESPONSE TO RECOMMENDATION 17-05:

Although neither required by law nor by the District's competitive bidding procedures, the District will seek proposals from qualified and responsible vendors to provide tow services for the District on a rotational basis. Tow companies must agree to meet the District's insurance requirements and vehicle storage security standards and abide by conflict of interest prohibitions.

RECOMMENDATION 17-06: CLARIFY JURISDICTION

Stated: Clarify to all members of the Apple Valley Unified School District-Police Department their geographical area of responsibility and the limits of their authority.

RESPONSE TO RECOMMENDATION 17-06:

Based on the above noted facts and rationale, the District has implemented this recommendation. As explained in Response to Finding #4, the District has formally executed a MOU with the San Bernardino County Sheriff's Department, similar to their longstanding practice regarding their respective responsibilities in and around District schools. It has also implemented focused traffic enforcement procedures.

RECOMMENDATION 17-07: PRIORITIZE DUTIES AND RESPONSIBILITIES

Stated: Prioritize the duties and responsibilities of the Apple Valley Unified School District-Police Department to confirm with their primary duty of protecting school children, school staff, and school property.

RESPONSE TO RECOMMENDATION 17-07:

The District continues its proactive positive efforts to engage all students and encourage thoughtful and respectful conduct by students as they attend to their responsibilities.

RECOMMENDATION 17-08: REVIEW MOUs

Stated: Review all Memorandum of Understandings with school police departments and the San Bernardino County Sheriff Department to insure that jurisdictional authority has not been exceeded by school police departments.

RESPONSE TO RECOMMENDATION 17-08:

The MOU executed by and between the SBCSD and the AVUSD-PD, which was approved by the AVUSD Board of Trustees on September 7, 2017, confers no more authority on District police officers than is authorized by the Penal and Education Codes.

RECOMMENDATION 17-09: FURTHER INVESTIGATION

Stated: The appropriate state agency opens an investigation into this matter which is beyond the jurisdiction of the Grand Jury.

RESPONSE TO RECOMMENDATION 17-09:

By reviewing towed vehicle records of the AVUSD-PD and its towing company, the District was able to account for all of the 727 vehicles towed from 2014 through 2016.

RESPONSE ACCOUNTABILITY
VICTOR VALLEY UNION HIGH SCHOOL DISTRICT TRACKING OF
EQUIPMENT AND CAPITAL ASSETS

BACKGROUND

The 2013-2014 Grand Jury investigated the Victor Valley Union High School District in the areas of equipment inventory, tracking of capital assets and delays in the actual opening of the new Adelanto High School. The Grand Jury made the following recommendations.

RECOMMENDATION 14-07: EMPLOYEE LOG-IN IDENTITIES

Stated: Each district employee has a unique log-in name and password when using a computer program.

RECOMMENDATION 14-08: TRACKING DISTRICTS ASSETS

Stated: Maintain access to the AssetMAXX program that tracks district assets or contract for a similar financial program.

RECOMMENDATION 14-9: USING AN ASSET TRACKING SYSTEM

Stated: Acquire or use an asset tracking system that meets needs of tracking capital assets and equipment. Either the AssetMAXX program needs to allow for a variety of other headings than for those set on the property accounting ledger, or another software source needs to be utilized with yearly payment of user fees.

RECOMMENDATION 14-10: GUIDELINES FOR ALL INVENTORIES

Stated: The District follow guidelines in AR 3440 requiring that copies of all inventories should be kept at the District office or school site and that a physical inventory be conducted annually.

RECOMMENDATION 14-11: INVENTORY

Stated: Each site administrator or designee maintain an inventory of all equipment.

RECOMMENDATION 14-12: TAGGING ASSETS

Stated: Each item purchased for \$500 or more needs to be asset tagged then processed and submitted to the proper department/school in a timely manner.

RECOMMENDATION 14-13: BARCODE READER

Stated: Each site dealing with inventory management needs a barcode reader.

RECOMMENDATION 14-14: PURCHASE PROCEDURES

Stated: The District maintain their policy (AR 3310) of equipment purchases including special orders of equipment valued at \$500 or more being sent to the District warehouse prior to distribution to school sites.

RECOMMENDATION 14-15: NEW SCHOOL SITE PROCEDURE

Stated: As new school sites are opened in the future, the District should have a representative available on site to receive valuable equipment.

RECOMMENDATION 14-16: DISPOSAL OF SURPLUS ITEMS

Stated: Adhere to VVUHSD BP 3270 for disposal of surplus items.

RECOMMENDATION 14-17: DECLARATIONS OF SURPLUS EQUIPMENT

Stated: Declarations of surplus equipment need to have methods of disposal noted. If the equipment were purchased through federal funds or matching non-federal funds, it needs to be sold with funds distributed accordingly.

RESPONSE AND STATUS

The Grand Jury investigation took place in 2013-2014. The District was required to respond at that time but did not do so. The Final Report Response was due 90 days after the issuance of the report. Since the District did not voluntarily comply with Penal Code 933(c), letters were sent out to the District and phone calls were made. Due to the lateness of the response, the Grand Jury was unable to verify the District's responses. The District represented that changes were made by the District. Many of the exhibits are no longer active or pertinent but the recommendations and changes in procedures as a result of the investigation are being addressed here.

The response and status of the 2013-2014 Grand Jury recommendations were received from Victor Valley Union High School District on February 21, 2018 and are as follows:

“The Grand Jury findings and recommendations have been carefully reviewed and many of the recommendations have been implemented. The concerns generally relate to identification of fixed assets, equipment and asset inventory, and proper tagging of equipment for inventory purposes.”

“The District developed an in-house asset inventory system in 2013. The process of purchasing and accounting for equipment are as follows:

Equipment purchases begin with a requisition prepared by a school or department by an employee with a unique system sign-in code. Requisitions are submitted to the proper manager for purchase authority then forwarded to the business office for account code and budget approval. A purchase order is issued and sent to the vendor. When equipment is received at the warehouse, it is tagged with the appropriate number then delivered to the ordering site. The paperwork is then forwarded to the business office and added to the inventory list. Schools and departments are supposed to also track equipment at their locations.”

“The disposal of equipment is required to be Board of Trustee approved. At a regularly scheduled Board meeting, a list of obsolete or damaged assets is presented to the Board by the school or department wanting to dispose of the equipment. Once board approved, the obsolete items are either sold to an outside salvage company such as Recycle International in El Monte, CA (all technology equipment) or stored in a storage unit until a salvage sale is conducted or another salvage company wishes to purchase damaged items. Most of the obsolete equipment is related to computers and technology due to breakage, obsolescence, or new updated technology purchases. The obsolete items are removed from the inventory list. The technology department also keeps separate inventory lists due to the large amount of such equipment in classrooms and schools.”

“The school sites and departments are supposed to take inventory counts on an annual basis and notify the business office of changes or errors.”

“The District is looking into contracting with an outside inventory specialty company to take a one-time district-wide inventory to verify that the records are correct and updated if necessary. This process should be done at least every other year to ensure accuracy.”

“In the case of the loss of equipment and furniture at Adelanto High School during construction, that was an unforeseen problem that will not happen again. If new construction occurs now, all equipment and furniture is kept in a safe storage facility until the construction has been completed.”

“The warehouse and delivery drivers as well as the administrative assistant in charge of the inventory control system have been trained and follow the proper procedures. The school principals and department managers know that keeping track of equipment and furniture is a requirement.”



Information regarding the
San Bernardino County Grand Jury
or an application to serve on the Grand Jury
can be obtained by contacting the

Office of the Grand Jury
172 West Third Street, Second Floor
San Bernardino, CA 92415-0243

Office: (909) 387-9120

Information is also provided on the website at <http://cms.sbcounty.gov/grandjury/Home.aspx>