



County of San Diego

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SAN DIEGO
COUNTY GRAND JURY

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

CHIEF ADMINISTRATIVE OFFICE

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

HELEN N. ROBBINS-MEYER
ASST. CHIEF ADMINISTRATIVE OFFICER
(619) 531-4940
FAX: (619) 557-4060

June 28, 2011

The Honorable Kevin Enright
Presiding Judge, San Diego Superior Court
220 West Broadway
San Diego, CA 92101

Dear Judge Enright,

The 2010-11 San Diego County Grand Jury issued six reports during their tenure that addressed findings and recommendations to the County of San Diego. Today, the County Board of Supervisors approved responses to these six reports and directed me to forward these responses to your office, as required by the California Penal Code.

The responses, which are enclosed, correspond to the following reports:

- In-Home Supportive Services: An Open Door for Abuse and Fraud
- Oh, For Critters' Sakes!
- County Supervisor Discretionary Funds: More Transparency Needed
- Detention Facilities Inspection
- Pertussis (Whooping Cough) Epidemic: Let's Get Educated!
- Hitting Back at Domestic Violence

If you have questions or need additional information, please contact me at (619) 531-5250.

Sincerely,

WALTER F. EKARD

Chief Administrative Officer

Attachment

cc: Board of Supervisors



COUNTY OF SAN DIEGO

AGENDA ITEM

BOARD OF SUPERVISORS

GREG COX
First District

DIANNE JACOB
Second District

PAM SLATER-PRICE
Third District

RON ROBERTS
Fourth District

BILL HORN
Fifth District

DATE: June 28, 2011

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TO: Board of Supervisors

SUBJECT: RESPONSE TO 2010-11 GRAND JURY REPORTS (DISTRICT: ALL)

SUMMARY:

Overview

The 2010-2011 San Diego County Grand Jury recently completed their term and issued 7 reports that address County programs under the purview of the Board of Supervisors. Six of those reports contained recommendations and one contained only commendations.

According to the California Penal Code Section 933(c), agencies that are the subject of Grand Jury reports must respond in writing to Findings and Recommendations addressed to them. Therefore, this is a request for your Board to review and approve the draft Finding and Recommendation responses prepared by the Chief Administrative Officer and authorize the Chief Administrative Officer to transmit your Board's responses to the Grand Jury, via the Superior Court Presiding Judge. The proposed responses address the recommendations and findings contained in following reports:

- In-Home Supportive Services: An Open Door for Abuse and Fraud
- Oh, For Critters' Sakes!
- County Supervisor Discretionary Funds: More Transparency Needed
- Detention Facilities Inspection
- Pertussis (Whooping Cough) Epidemic: Let's Get Educated!
- Hitting Back at Domestic Violence

Recommendation(s)

CHIEF ADMINISTRATIVE OFFICER

Approve the proposed responses and authorize the Chief Administrative Officer to transmit the responses to the Grand Jury via the Superior Court Presiding Judge.

Fiscal Impact

This recommendation will have no fiscal impact.

SUBJECT: RESPONSE TO 2010-11 GRAND JURY REPORTS (DISTRICT: ALL)

Business Impact Statement

N/A

Advisory Board Statement

N/A

BACKGROUND:

The 2010-2011 San Diego County Grand Jury recently completed their term and issued 7 reports that address County programs under the purview of the Board of Supervisors. Six of those reports contained recommendations and one contained only commendations.

According to the California Penal Code, agencies that are the subject of Grand Jury reports must respond in writing to Findings and Recommendations addressed to them. Therefore, this is a request for your Board to review and approve the draft Finding and Recommendation responses prepared by the Chief Administrative Officer covering these six reports and authorize the Chief Administrative Officer to transmit your Board's responses to the Grand Jury, via the Superior Court Presiding Judge.

The proposed responses address the recommendations and findings contained in following reports:

- "In-Home Supportive Services: An Open Door for Abuse and Fraud"
- "Oh, For Critters' Sakes!"
- "County Supervisor Discretionary Funds: More Transparency Needed"
- "Detention Facilities Inspection"
- "Pertussis (Whooping Cough) Epidemic: Let's Get Educated!"
- "Hitting Back at Domestic Violence"

The seventh report the County received was titled "Civic Successes: Public Service at its Best" and commended the County's Child Welfare Services, Commission on Children and Families, Polinsky Children's Center, Planning and Land Use Department, Medical Examiner, and Sheriff's Office Crime Lab. Commendations do not require a written response.

Individual elected officials who received Grand Jury recommendations, such as the San Diego County Sheriff and District Attorney, submit their responses separately, under the Penal Code. However, copies of all Grand Jury reports and the subject agencies' responses to them are posted on the Grand Jury website.

Linkage to the County of San Diego Strategic Plan

The Grand Jury reports listed above and the County's corresponding responses address issues associated with all three of the County of San Diego's 2011-16 Strategic Initiatives, which are to Improve Opportunities for Children and Families; Preserve and Protect the Environment and Promote Safe and Livable Communities. They also link to the County's eight Required Disciplines, which focus on the organization's commitment to: Fiscal Stability; Customer Satisfaction; Regional Leadership; a Skilled, Adaptable and Diverse Workforce; Essential

SUBJECT: RESPONSE TO 2010-11 GRAND JURY REPORTS (DISTRICT: ALL)

AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: Yes No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED
 Yes No

PREVIOUS RELEVANT BOARD ACTIONS:
N/A

BOARD POLICIES APPLICABLE:
A-43 Response to Grand Jury Reports

BOARD POLICY STATEMENTS:
N/A

MANDATORY COMPLIANCE:
N/A

ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION NUMBER(S):
N/A

ORIGINATING DEPARTMENT: Chief Administrative Office

OTHER CONCURRENCE(S): Community Services Group
 Health and Human Services Agency
 Public Safety Group
 Finance and General Government Group

CONTACT PERSON(S):

Janice Graham	
_____ Name	_____ Name
619-531-6271	
_____ Phone	_____ Phone
619-557-4060	
_____ Fax	_____ Fax
A6	
_____ Mail Station	_____ Mail Station
Janice.graham@sdcounty.ca.gov	
_____ E-mail	_____ E-mail

COUNTY OF SAN DIEGO RESPONSE TO 2010/2011 GRAND JURY REPORTS

“In-Home Supportive Services: An Open Door for Abuse and Fraud”

Issued April 19, 2011

Finding 01: State and federal laws regarding the administration of the IHSS program are complex, overlap and contain many loopholes that could lead to fraud and/or abuse and prevent the County from validating that services are delivered to consumers.

Response: Agree.

Finding 02: Eligibility criteria for IHSS services are imprecise and may not be interpreted uniformly by all counties.

Response: Agree.

Finding 03: The IHSS program regulations and the enormous caseloads carried by IHSS caseworkers do not allow close monitoring of consumers and caregivers to assure services are delivered appropriately, especially to those consumers receiving the maximum care hours and funding. Such large caseloads may result in the caseworker failing to detect a consumer is being physically or financially abused and/or neglected.

Response: Agree.

Finding 04: Sheriff’s investigators do not have access to IHSS consumer records to conduct criminal investigations, absent a warrant or court order.

Response: Agree.

Finding 05: The County is required to seek a federal “Medicaid waiver” and state approval to implement a comprehensive, coordinated long-term care program that provides a system of care rather than uncoordinated, stand-alone programs delivering only one mode of care, such as in-home care.

Response: Disagree. A waiver is no longer necessary as the County may now apply to the State Department of Health Care Services for consideration to serve as one of four pilot counties to develop an integrated system of care for dually eligible Medicare and Medi-Cal seniors/persons with disabilities. This application process will occur in FY 11-12.

Finding 06: County officials recognize the shortcomings of the IHSS model and have taken steps to improve it within the limitations permitted by state and federal law. This includes instituting the new state-mandated Public Integrity unit to prevent, detect and prosecute fraud, and ensure all caregivers completed a background check by December 31, 2010. However, the state’s failure to provide working protocols for the investigators inhibits the unit’s ability to discover or prevent fraud.

Response: Agree in part. Disagree in part. The Program Integrity unit is not a mandated State program. Funding was provided by the State, and the County developed this new program in response to concerns expressed by the County Board of Supervisors. The Program Integrity unit does not complete criminal background checks; the IHSS Public Authority performs this function.

RECOMMENDATIONS - The 2010/2011 San Diego County Grand Jury recommends that the San Diego County Board of Supervisors:

11-21: Write legislation, in collaboration with local state legislators, which revises the eligibility requirements for In-Home Supportive Services to ensure that consumers clearly need such services to remain safely in their home.

Response: This recommendation requires further analysis. With the passage of recent State law (SB 72), all IHSS applicants and recipients will be required to provide a statement from a health practitioner verifying the need for services. Should this process be insufficient to document the need for services, the Health and Human Services Agency will review the need to submit a legislative proposal to the Board of Supervisors for approval.

11-22: Write legislation, in collaboration with local state legislators, which revises time card management regulations to permit local In-Home Supportive Services and Public Authority staff to validate caregiver time cards.

Response: This recommendation will not be implemented. Without a significant increase in funding to support more staff to perform this function, In-Home Supportive Services and Public Authority staff would be unable to validate caregiver time cards. It is unlikely that the State will put more funding into the IHSS program for staff increases, given the current economic climate.

11-23: Direct the Health and Human Services Agency to develop a plan to encourage the state legislature and the appeals court to implement the existing law that will prevent all convicted felons from working as In-Home Supportive Services caregivers.

Response: This recommendation will not be implemented because it is not warranted. Current State law (AB 1612), which took effect February 1, 2011, now prohibits all individuals with serious or violent felonies from providing In-Home Supportive Services, unless the IHSS recipient who wishes to hire them signs a waiver or the caregiver receives a general exception to work in IHSS from the State.

11-24: Direct the Health and Human Services Agency to form a County task force/working group consisting of representatives of the District Attorney's office, Sheriff, local police departments, Adult Protective Services, In-Home Supportive Services and other appropriate agencies to coordinate and evaluate cases of all types of elder and disabled abuse (neglect, physical, financial) and fraud by staff, caregivers, relatives and the consumers themselves. For example, the Sacramento County District Attorney formed a similar task force to coordinate efforts to prevent and detect fraud in this program.

Response: This recommendation will not be implemented because it is not warranted. A current Memorandum of Understanding is already in place between IHSS and the District Attorney to investigate and prosecute IHSS fraud. The District Attorney is also responsible for providing fraud training for IHSS staff. Representatives from the District Attorney's office, IHSS, the State Department of Health Care Services and the Program Integrity Unit meet quarterly to coordinate fraud investigation and prosecution efforts. The IHSS Program Integrity Unit has been formed in San Diego specifically to assist with fraud prevention efforts, and includes staff members from the District Attorney and Health and Human Services staff.

11-25: Provide evidence that the State has requested a "Medicaid waiver" that will allow the County to use In-Home Supportive Services and other appropriate social services funds to implement the approved long-term, integrated "system of care" for frail elderly and disabled citizens who meet the eligibility criteria.

Response: This recommendation will not be implemented because it is not warranted. A Medicaid waiver is no longer required to implement an integrated system of long-term care for frail elderly and disabled citizens. The California Department of Health Care Services will be accepting proposals from counties in October 2011 to provide integrated services, including medical services and long-term care services and supports (which can include nursing home services as well as In-Home Supportive Services) for those individuals dually eligible to Medicare and Medi-Cal. San Diego County has hired an actuarial firm to analyze the long-term care expenditure data for our region to determine whether it is financially feasible to participate in a pilot program.

The 2010/2011 San Diego County Grand Jury recommends that the San Diego County Health and Human Services Agency:

11-26: Develop a paid or unpaid internship with local universities that educate future social workers to handle routine tasks, i.e. paperwork, returning phone calls, other follow-up functions, etc., freeing caseworkers to give more attention to at-risk consumers. This proposed program could be funded by available grants and serve as a recruiting tool for future caseworkers.

Response: This recommendation requires further analysis. The Health and Human Services Agency now utilizes interns from local colleges in a variety of programs. It may be possible to expand the use of interns further to assist In-Home Supportive Services caseworkers.

11-27: Develop an interagency agreement with the San Diego County Sheriff to permit Sheriff's investigators access to the records of consumers enrolled in In-Home Supportive Services for criminal investigations.

Response: This recommendation requires further analysis. Currently, State law only allows for the sharing of confidential In-Home Supportive Services recipient information with other entities involved in administering public social services or for the purposes of IHSS fraud investigation and prosecution. Providing recipient information to the Sheriff for the purposes of other criminal investigations not related to the administration of the program or IHSS fraud is not

allowed under current law. Further discussion will occur between the Sheriff and the Health and Human Services Agency to determine how best to proceed in order to enhance collaboration among agencies.

“OH, FOR CRITTERS’ SAKES!”

Issued April 20, 2011

Finding 01: The current complaint log combines calls for animal services as well as complaints against the department.

Response:Disagree. The department does not keep a “complaint log.” The department maintains a correspondence file entitled Chief Administrative Office (CAO) Referrals/City Route Slips, which are letters or electronic mail from members of the public to members of the Board of Supervisors (BOS) or the various City Councils in Department of Animal Services’ service area. These letters and emails may question or disagree with the department’s actions or policies in the field, shelter policies or actions, or the decisions made at administrative hearings by the department’s Hearing Officer. The BOS refers the inquiries to the CAO who then refers them to the department for a response. The City Councils send them directly to the department to respond to the constituent(s). “Calls” or requests for service come to the call center and are dispatched to animal control officers in the field. Records of those requests and actions are part of a permanent record in Chameleon, the Department of Animal Services’ integrated shelter software case management system.

Finding 02: Volunteers play vital role in the care and comfort of the animals in the shelters.

Response: Agree.

RECOMMENDATIONS- The 2010/2011 San Diego County Grand Jury recommends the San Diego County Department of Animal Services:

11-16: Develop a plan to increase public awareness of the benefits of spaying/neutering pets.

Response: The recommendation has been implemented. Since the early 1980s, the Department of Animal Services (DAS) has had a robust spay/neuter public awareness program in place that highlights the resources available to the public and the benefits of spaying or neutering pets. The department prominently features spay/neuter information on its website (www.sddac.com), blankets the community with news articles, flyers, brochures, newsletters and animal welfare journals. In addition, animal control officers go to schools and teach the Be Aware Responsible and Kind (BARK) Program, which educates children about responsible pet ownership — including the medical and behavioral benefits of altering pets, as well as combating pet overpopulation. The department also partners with hundreds of private organizations, including the Spay Neuter Action Project, House Rabbit Society, San Diego Humane Society, Humane Society of the United States, Rancho Coastal Humane Society and