

# ***CCDC: WHAT DOES IT DEVELOP AND WITH WHOSE MONEY?***

## ***SUMMARY***

In response to four citizen complaints regarding the lack of audits and oversight for projects of the Centre City Development Corporation (CCDC) and alleged misrepresentations by CCDC of its activities, the 2007/2008 San Diego County Grand Jury undertook a study of the relationship between CCDC and the City of San Diego's Redevelopment Agency. We have concluded that, while CCDC can take the lion's share of the credit for the redevelopment of downtown San Diego, it is not itself a developer nor does it have its own money to fund redevelopment projects. A more appropriate description of its role would be as an agent for the City Redevelopment Agency, using that Agency's funds, in project management, planning, coordination and facilitation.

## ***PURPOSE***

- To explore the relationship between the City of San Diego Redevelopment Agency and the Centre City Development Corporation.
- To examine the tax increment funding for redevelopment projects.
- To examine at the repayment of funds loaned by the City to the Redevelopment Agency.
- To examine allegations that the Centre City Development Corporation sometimes misrepresents its role in financing downtown redevelopment projects.

## ***PROCEDURES***

Members of the Grand Jury:

Interviewed several citizen complainants.

Interviewed senior financial staff at CCDC.

Interviewed City of San Diego senior redevelopment staff.

Interviewed City of San Diego Comptroller's Office management and line staff.

Reviewed audit reports of CCDC and the City of San Diego Redevelopment Agency.

Reviewed invoices submitted by CCDC to the City of San Diego.

## ***DISCUSSION #1 – Structure of Redevelopment in The City Of San Diego***

In order to understand the operations of CCDC, it is first necessary to have an understanding of the laws governing redevelopment in the State of California and how those laws are applied in the City of San Diego. The California Community Redevelopment Act of 1945 gave cities and counties the authority to establish redevelopment agencies in order to address problems of urban decay and to enable such

agencies to apply for Federal loans and grants. The Act was codified in 1951 and incorporated in the State Health and Safety Code, Section 33000 et seq.

One of the major objectives of redevelopment is the elimination of blight. Section 33031 of the Health and Safety Code gives several examples of conditions causing blight, among which are substandard or overcrowded housing, incompatible land uses, depreciated or impaired property values, lack of necessary commercial facilities such as grocery stores and banks, and a high crime rate. In 1958, the San Diego City Council established the Redevelopment Agency of the City of San Diego as a means of eliminating or reducing blight in selected areas of the City. The authorizing State legislation does not provide for initial funding. Initial costs of a redevelopment agency are usually met by loans from the city or county, which established it, or from Federal loans and grants such as Community Development Block Grants.

As permitted under Section 33200 of the Health and Safety Code (hereinafter called the Code), the City Council declared itself to be the Redevelopment Agency. Even though councilmembers serve as the Board of Directors of the Redevelopment Agency, the Agency is a separate, legally constituted body that operates under the authority granted by redevelopment law. The Redevelopment Agency has no direct employees. As authorized under Section 33126 of the Code, it contracts with the City of San Diego through Service Level Agreements for such services as accounting, investment, purchasing and legal. The Redevelopment Agency also contracts with the City of San Diego to provide a redevelopment staff to manage eleven redevelopment project areas and to provide oversight for six other project areas managed by two public non-profit corporations. The Redevelopment Agency has designated, at its will, the City Mayor as its Executive Director, even though the Mayor's role in redevelopment was not addressed under Proposition F, the "strong mayor" ordinance approved in 2004. To summarize, the Redevelopment Agency is an entity legally separate from the City but with the City Council as its legislative body, the City Mayor as its executive, City employees contracted to perform its staff work and other City employees contracted to provide support services.

The City employees performing staff work for the Redevelopment Agency are employed in the Redevelopment Division of the Department of City Planning and Community Investment. Its 28 employees manage 11 redevelopment project areas:

- 1) Barrio Logan
- 2) City Heights
- 3) College Community
- 4) College Grove
- 5) Crossroads
- 6) Grantville
- 7) Linda Vista
- 8) Naval Training Center
- 9) North Bay
- 10) North Park

## 11) San Ysidro

The budget for the Redevelopment Division in the Fiscal Year 2007/2008 is \$86.9 million of funds belonging to the Redevelopment Agency.

The Redevelopment Division is only one entity in the tripartite structure of the Redevelopment Agency. The other two are public non-profit corporations created by the Redevelopment Agency pursuant to the State Nonprofit Corporation Law (Corporation Code Section 5000 et seq) and Federal Internal Revenue Code Section 501(c)(3). The Redevelopment Code neither expressly authorizes nor specifically prohibits the formation of such corporations but Section 33126 (a) gives a redevelopment agency wide latitude in selecting its agents. Furthermore, Section 33129 indicates that authorizing payments to such agents for their administrative expenses is not to be construed as placing its officers and employees under Civil Service. In fact, City of San Diego officials have freely acknowledged that both corporations, the Southeastern Development Corporation and the Centre City Development Corporation, were created as a legal mechanism to circumvent Civil Service procedures on the hiring of consultants and project management staff. These non-profit corporations also have the flexibility to customize contracts to meet Agency needs without having to follow City contracting processes which have been described by Redevelopment Division officials as “time consuming, formulaic and process driven.”

The Southeastern Development Corporation (SEDC) was formed in 1981 to implement economic and redevelopment projects in Southeast San Diego. It is governed by a nine-member board of directors appointed by the City Council operating as the Redevelopment Agency. Its staff of 15 people, none of whom are City employees, manage four project areas:

- 1) Central Imperial
- 2) Gateway Center West
- 3) Mount Hope
- 4) Southwest

SEDC’s budget for the Fiscal Year 2007/2008 was approximately \$32.5 million of Redevelopment Agency funds.

CCDC was created in 1975 for the purpose of eliminating blight and revitalizing the downtown San Diego area. It is governed by a seven-member board of directors appointed by the City Council operating as the Redevelopment Agency. It has a staff of 55 people to manage two project areas:

- 1) Horton Plaza- originally established in 1972, but placed under CCDC management in 1975.
- 2) Centre City- which encompasses the Columbia and Marina projects established in 1976, the Gaslamp Quarter project established in 1982 and the Expansion Area (Little Italy, Cortez Hill and East Village) established in 1992.

CCDC's budget for the Fiscal Year 2007/2008 is \$217.5 million of the funds belonging to the Redevelopment Agency. This includes approximately \$9.3 million in administrative expenses, including salaries (\$4.65 million) and office rental (\$707,000). The average salary for the 55 employees is \$84,645. This figure is skewed by the salaries of the top ten salaried employees, which average over \$150,000, well in excess of equivalent positions in the City Redevelopment Division. Our investigation revealed that City Redevelopment managers feel that such relatively high salaries are necessary to compete with the private sector for the services of qualified development professionals.

Because CCDC is not subject to the constraints of City contracting procedures, it is able to negotiate sole source contracts for consultant services and legal services. Two of the complaints we received allege that there is insufficient oversight by the Redevelopment Agency regarding the necessity for some of these contracts and for the appropriateness of the contracted amounts. The Grand Jury agrees that there should be some threshold over which CCDC (and SEDC) should be required to justify the need for sole source contracts and their relevance to the particular project for which services are being requested.

### ***FACTS/FINDINGS***

***Fact:*** CCDC and SEDC are non-profit corporations created by the City of San Diego Redevelopment Agency to manage redevelopment projects in geographically defined project areas.

***Fact:*** CCDC and SEDC are not subject to the same procedural constraints as City staff in negotiating contracts.

***Fact:*** Some of these contracts are sole source, for which there is no competitive bidding and for which up to \$250,000 can be awarded by CCDC management without other approvals.

***Finding #01:*** Since CCDC is authorizing the expenditure of public Redevelopment Agency funds for contracted services, there should be more oversight by the Redevelopment Agency.

### ***RECOMMENDATION***

**The 2007/2008 San Diego County Grand Jury recommends that the San Diego City Council, acting as the City of San Diego Redevelopment Agency:**

**08-116:** Establish a dollar threshold over which any sole source contract, especially for consultant services and legal services, would require prior justification and approval by the Agency.

## ***DISCUSSION 2 – Audit Requirement***

Tax increment revenue is a key component in the funding structure of redevelopment. It is based on the assumption that redevelopment increases property values and therefore property taxes. When a geographic area is established as a redevelopment project area, a base year assessed value for property tax purposes is simultaneously established for all parcels in that area. Tax increment revenue represents those amounts derived each year from the receipt of taxes based on any increase in the taxable value of the land and the improvements to real property in a redevelopment project area over and above the base assessment for parcels in that area.

As an oversimplified example, The Gaslamp Quarter was established as a project area in 1982, which also was established as the base year for assessed values of all parcels in that area. For example, a parcel was assessed at \$100,000 in 1982. Its property tax would be approximately 1% or \$1,000 of which 17.7% or about \$177 would accrue to the general fund of the City of San Diego. After the same parcel was redeveloped in 2002, it might be reassessed at a value of \$1 million, an increase of \$900,000. The gross tax increment of 1% or \$9,000 would accrue to the Redevelopment Agency while the City's general fund would still be allocated the tax on the parcel's 1982 value, adjusted for inflation at no more than 2% annually. The Redevelopment Agency could continue to collect the tax increment for the balance of the fifty-year period dating from the inception of the project area, or until 2032 in the case of the Gaslamp Quarter. As a condition of receiving the tax increment, the project area must have debts in excess of the total tax increment allocated to that area (Code Section 33670(e)).

One of the citizen complaints the Grand Jury considered concerned the failure of CCDC to provide an independent audit of the use of the tax increment funds it received. Section 33080.1 of the Code requires a redevelopment agency to submit an independent financial audit to both its legislative body and the State Controller. That audit should include the amount of tax increment property tax revenues generated in the agency. This citizen complaint was somewhat misleading in that it implied, as CCDC also often does (see Discussion 3), that CCDC has its own funds and is responsible for independently auditing them. Also CCDC is not itself a redevelopment agency but merely an agent of one. The section of the Code cited above does not apply to CCDC but to the Redevelopment Agency as a whole. The tax increment funds are allocated by the Property Tax Services Division of the County Auditor and Controller to accounts for each of the 17 project areas under the umbrella of the Redevelopment Agency. These accounts are under the control of the City of San Diego Controller's Office under contract with the Redevelopment Agency and can be accessed by its three component entities to pay approved budgeted expenses.

CCDC is required to have an external audit of its administrative expenses conducted. In November 2007, we received the independent auditor's report of those expenses for Fiscal Year 2007. All but approximately \$26,000 of its \$7 million in revenue is reported as contributions from the Redevelopment Agency of the City of San Diego. The report states that CCDC has only one governmental fund, an operating fund that accounts for all

financial resources of CCDC. No findings of material weaknesses were reported in this audit. This audit was subsequently presented at two sessions of the Audit Committee of the City Council and received and filed by the full City Council in April 2008.

However, questions did arise in several areas:

- 1) Audits of the Redevelopment Agency;
- 2) Gross tax increment revenue received;
- 3) Allocation of tax increment revenue to low and moderate income housing funds;
- 4) Repayment of loans by the Redevelopment Agency to the City of San Diego.

Audits of the Redevelopment Agency are performed by the City Controller's Office under the terms of the Service Level Agreement. These audits are contingent upon the completion of the audited financial statements of the City as a whole, which, near the beginning of our term, were four years behind (FY 2003 through FY 2006). City audits for FY 2003 and FY 2004 were released in mid-2007 and the Redevelopment Agency audits for those years followed shortly thereafter. These audits give a thorough accounting of the Agency's assets and indebtedness but the information is not current. In violation of State law, they were not submitted to the State Controller within six months after the close of the two respective fiscal years. The penalty for each violation is a one-time fine of \$10,000. As this report is being written in May 2008, the overdue Redevelopment Agency audits for FY 2005, FY 2006 and FY 2007 had not been completed due to the tardiness of the overall City audits for those years.

The FY 2004 audit revealed two findings relating to the Agency's Low and Moderate Income Housing Fund. As interpreted by the State Attorney General, Section 33334.6(c) of the Code mandates that 20% of the gross tax increment funds collected in a project area be deposited in that area's Low and Moderate Income Housing Fund. The Redevelopment Agency had been depositing the net tax increment. This deficiency has been corrected effective Fiscal Year 2006. Section 33334.16 mandates that the Agency begin to develop property acquired with Low and Moderate Income Housing funds within five years from the acquisition date. The Redevelopment Agency did not have a complete and detailed listing of these properties. This deficiency has been corrected and the Agency has improved its monitoring process to ensure compliance. A Grand Jury review of the City's FY 2007 property listing indicates that properties acquired with Low and Moderate Income Housing funds have been properly identified.

In August 2007, a group comprised of affordable housing advocates sued the Redevelopment Agency over its failure to produce mandated audits within the legally required time frame. The lawsuit seeks to enjoin the Redevelopment Agency from receiving funds, spending funds and acquiring debt. That suit is still pending at the time this report is being written.

In the absence of the audited figures, certain financial information relevant to the Redevelopment Agency can be obtained from other sources. The County Auditor and Controller reports that it transmitted approximately \$150 million in tax increment revenues to the Redevelopment Agency in the 2006/2007 Fiscal Year. About \$104

million was allocated for project areas managed by CCDC, \$6 million for SEDC projects and \$40 million for project areas managed by the City Redevelopment Division. Unaudited dollar amounts of each project area's indebtedness are contained in the Redevelopment Agency Annual Report for Fiscal Year 2007, dated December 31, 2007. All project areas remain sufficiently in debt to receive their allocation of tax increment revenue. Total indebtedness for the Redevelopment Agency is approximately \$713 million: \$497 million is for projects managed by CCDC, \$82 million for projects managed by SEDC and \$134 million for projects managed by the City's Redevelopment Division. Approximately \$250 million of this debt are loans repayable to the City of San Diego; the balance is primarily debt service on bond issues. Per report 08-41 of the City's Independent Budget Analyst, Page 55, "It has always been anticipated that these funds would be repaid; however, no timetable has been established."

The City's budget for Fiscal Year 2009 does include a repayment of \$5 million from the Redevelopment Agency, with funds allocated from a CCDC managed project area, to fund part of the debt service on the Petco Park bonds. This is about 2% of what the Redevelopment Agency owes the City. The Grand Jury is recommending that the Redevelopment Agency compile a listing of all loans from the City, with amounts due and a realistic schedule for repayment to the City. Since the Redevelopment Agency's debt exceeds tax increment revenue by over \$550 million, repayment of loans to the City should not jeopardize the Agency's ability to continue collecting tax increment revenue.

### ***FACTS/FINDINGS***

***Fact:*** The Redevelopment Agency is required by law to publish an independent financial audit within six months after the end of each fiscal year.

***Fact:*** The City of San Diego Redevelopment Agency is currently out of compliance with this requirement for Fiscal Years 2005, 2006 and 2007.

***Finding #02:*** The lack of current audited financial statements opens the Redevelopment Agency to law suits and fines and hinders public oversight of revenues collected and expended, indebtedness and allocations for low and moderate income housing.

***Fact:*** The Redevelopment Agency owes the City approximately \$250 million in loan repayments.

***Finding #03:*** There is no timetable for repayment of these loans to the City.

### ***RECOMMENDATIONS***

**The 2007/2008 San Diego County Grand Jury recommends that the San Diego City Council, acting as the City of San Diego Redevelopment Agency:**

- 08-117:** Take steps to insure the timely submission of the Fiscal Year 2007/2008 Redevelopment Agency Annual Financial Report, and all such future reports, to the Office of the State Controller as required by law.
- 08-118:** Direct staff of the three component entities of the Redevelopment Agency to compile a grid, broken down by project area, which would list all monies owed to the City of San Diego, the date the debt was incurred, the fund from which the monies were borrowed and a realistic timetable for repayment.

### ***DISCUSSION #3 – Whose Money Is It?***

Citizen complaints have called the Grand Jury's attention to certain alleged misrepresentations of fact made by CCDC in its public pronouncements. Specifically, it is alleged that CCDC claims to invest its own money in redevelopment projects, instead of acknowledging that the funds invested belong to the Redevelopment Agency. Also CCDC is credited in some of its publications with being a developer or co-developer when in reality it does not invest in land.

We can cite numerous misrepresentations by CCDC, among which are:

- 1) In the 2007 CCDC brochure "Downtown San Diego Affordable Housing", there is a statement that "CCDC funded five projects to create a total of 655 rent-restricted units." A more correct statement would replace the word "funded" with "brokered."
- 2) In the same brochure there is a chart headed "Summary of CCDC Investments in Affordable Housing 2000 to 2007" with a column labeled "CCDC Funds." No reference is made to the Redevelopment Agency on this chart.
- 3) In a CCDC report to the Redevelopment Agency dated July 31, 2007, on funding for the Children's Museum Park, reference is made to CCDC funds of \$2,612,713. In actuality these are Redevelopment Agency funds.
- 4) In the CCDC publication Downtown Today (Summer 2007 edition) there is a statement: "CCDC has purchased a 19,000 square-foot site along the north side of Broadway between 13<sup>th</sup> and 14<sup>th</sup> avenues to develop the East Village Fire Station." The FY 2007 Property Report of the Redevelopment Agency and records of the County Assessor indicate that the owner of this parcel is the City of San Diego Redevelopment Agency.
- 5) In the same publication, a discussion of an affordable housing development called Studio 15 references "a \$16.5 million contribution by CCDC." A statement that partial Redevelopment Agency funding would be allocated to the project would have been more accurate.

These are only a small sampling of misstatements that might lead the public and the media to believe that CCDC has its own funds for projects and acquires properties in its own name. The funds for the project areas managed by CCDC are Redevelopment Agency Funds. The properties that CCDC claimed to have acquired are listed with the County Assessor's Office as being owned by the City of San Diego Redevelopment

Agency. As of May 5, 2008, the Assessor's records show that the Redevelopment Agency owns 202 parcels while CCDC owns three.

In its 2008 publications, CCDC has avoided the misrepresentations exemplified above. Our investigation has revealed that CCDC staff has received memoranda from both its internal financial section and the City Controller's Office to identify funds used to finance projects as Redevelopment Agency funds.

However, based on previous misrepresentations by CCDC, the news media continues to report somewhat inaccurate information. Two examples are:

- In coverage of CCDC's management of the restoration of the historic Balboa Theatre, two publications stated that CCDC acquired that property by eminent domain in 1985. The Assessor's Office indicates that the parcel for the Balboa Theatre is owned by the City of San Diego Redevelopment Agency.
- In coverage for the debt service on Petco Park, a recent (April, 2008) news article reported that CCDC is "sharing the stadium bill" by contributing \$5 million of the City's \$11.3 million annual payment. The article further states that CCDC's FY 2009 budget is expected to be \$236 million. A more accurate statement is that \$5 million of Redevelopment Agency funds from the East Village district in the Centre City Redevelopment Project would be allocated for bond repayment; also that \$236 million of Redevelopment Agency funds would be allocated for projects and administrative expenses for the Centre City Development Corporation. The phrase "Redevelopment Agency" does not appear in this article.

The same article referenced above refers to CCDC as "the city's downtown redevelopment arm", a common description of CCDC in the print media. This description is inadequate. A better, if lengthier, description would be: "The City Redevelopment Agency's downtown redevelopment project manager."

In the Winter/Spring issue of Downtown Today, CCDC lists itself as the developer or co-developer of several projects:

- Children's Museum Park
- San Diego Quiet Zone
- Little Italy Street Lights
- Bayside Fire Station (co-developer)
- C Street Revitalization Master Plan
- North Embarcadero Master Plan
- 7<sup>th</sup> and Market mixed-use high-rise (co-developer)

We considered a citizen complaint that, since CCDC does not invest in land and has no funds of its own to finance development, it cannot refer to itself as a developer. We consulted several web sites of real estate organizations and found varying definitions of the word "developer." Since not all definitions require investment in land and many include land and infrastructure improvements in a broad definition of "developer", we

don't consider this to be a serious misrepresentation on the part of CCDC. With only one exception (7<sup>th</sup> and Market), the examples cited above involve amenities, infrastructure and planning as opposed to major construction projects.

Past misrepresentations by CCDC have obscured its true status as a manager and planner of projects and have given the impression that it has funds to finance these projects. We recommend that the Redevelopment Agency emphasize the true source of funding for all redevelopment projects at the time they are docketed for approval and also that the Agency monitor CCDC's public statements on that funding. The CCDC staff report to the Redevelopment Agency dated April 29, 2008 on the affordable housing project at 1050 B Street is a perfect example of how such disclosures should be presented correctly.

### ***FACTS/FINDINGS***

***Fact:*** CCDC has at times credited itself, rather than the Redevelopment Agency, as a funding source for projects.

***Finding #04:*** This misrepresentation has sometimes misled the public and the media as to the true role of CCDC as an agent, planner and project manager for the Redevelopment Agency.

### ***RECOMMENDATIONS***

**The 2007/2008 San Diego County Grand Jury recommends that the San Diego City Council, acting as the City of San Diego Redevelopment Agency:**

**08-119:** Identify the true funding mechanism for every approved project at the time of approval.

**08-120:** Notify the Centre City Development Corporation to identify the true funding mechanism for every project it publicizes or in which it is otherwise involved.

### ***DISCUSSION #4 – Redevelopment Reorganization***

In April 2008, senior staff of the City's Redevelopment Division presented a plan for the reorganization of the Redevelopment Agency, particularly as it concerns the 11 project areas now being managed by City staff under contract with the Agency. The City Council, operating as the Redevelopment Agency, gave staff the approval to develop a model of the three options presented. Under this option, called the "Agency-Employee Model", the Redevelopment Agency would be able to hire staff that directly reports to the Agency instead of contracting with the City to manage these 11 redevelopment project areas.

Under this model, the Redevelopment Agency would have greater flexibility in hiring staff that would not be subject to the City's civil service rules and recruitment

procedures. A redevelopment professional could be hired as Executive Director. Employee costs would continue to be funded through property tax increment revenue.

The Agency would no longer be bound by City procedures for contracting for consultants, architects and other professionals needed for specific projects; instead it would be able to customize contracting policy to meet Agency needs. The newly organized Agency would retain the City Council as its governing board, but would have a technical advisory committee.

One senior staff member commented that this reorganization process would be like starting a new corporation. Issues of salaries, pensions, health benefits and labor relations would have to be addressed for current City employees transferring in to the newly constituted Redevelopment Agency. A final report on the details of the new Agency is due back before the City Council in January 2009.

Under the proposed reorganization, the Redevelopment Agency would continue to have three divisions, none of which would have City employees on its staff. There would be three separate governing boards, three sets of administrative expenses and three sets of well-paid executive staff. If the Agency is being reorganized at this time, a plan for the eventual incorporation of the project areas now being managed by CCDC and SEDC should be considered. Such a consolidation would reduce administrative expenses and allow for the savings to be applied to redevelopment projects. Accordingly, the Grand Jury is recommending that the Redevelopment Agency's reorganization plan be expanded to include a model in which all three of its components are consolidated under one administrative structure.

### ***FACTS/FINDINGS***

***Fact:*** Under a reorganization model now being considered, the Redevelopment Agency would no longer contract with the City of San Diego for staff to manage 11 project areas.

***Fact:*** This model does not include the six project areas currently being managed by CCDC and SEDC.

***Finding #05:*** A single tiered Redevelopment Agency for all 17 project areas can be operated with greater efficiency than the present three-tiered model.

### ***RECOMMENDATION***

**The 2007/2008 San Diego County Grand Jury recommends that the San Diego City Council, acting as the City of San Diego Redevelopment Agency:**

**08-121:** Direct City Redevelopment Division staff now working on reorganizing the City's component of the Redevelopment Agency to take the additional

step of preparing a plan to consolidate all three existing components under one administrative structure.

## ***COMPLETE RECOMMENDATIONS***

### **The 2007-2008 San Diego County Grand Jury recommends that the San Diego City Council, acting as the City of San Diego Redevelopment Agency:**

- 08-116:** Establish a dollar threshold over which any sole source contract, especially for consultant services and legal services, would have to come before the Agency for justification and approval
- 08-117:** Take steps to insure the timely submission of the Fiscal Year 2007/2008 Redevelopment Agency Annual Financial Report, and all such future reports, to the Office of the State Controller as required by law.
- 08-118:** Direct staff of the three component entities of the Redevelopment Agency to compile a grid, broken down by project area, which would list all monies owed to the City of San Diego, the date the debt was incurred, the fund from which the monies were borrowed and a realistic timetable for repayment
- 08-119:** Identify the true funding mechanism for every approved project at the time of approval.
- 08-120:** Notify the Centre City Development Corporation to identify the true funding mechanism for every project it publicizes or in which it is otherwise involved.
- 08-121:** Direct City Redevelopment Division staff now working on reorganizing the City's component of the Redevelopment Agency to take the additional step of preparing a plan to consolidate all three existing components under one administrative structure.

## ***REQUIREMENTS AND INSTRUCTIONS***

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
  - (1) The respondent agrees with the finding
  - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
  - (1) The recommendation has been implemented, with a summary regarding the implemented action.
  - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
  - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
  - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

<b><u>Responding Agency</u></b>	<b><u>Recommendations</u></b>	<b><u>Date</u></b>
<b>City Council, City of San Diego</b>	<b>08-116 through 08-121</b>	<b>9/2/08</b>