



County of Orange  
California

**Frank Kim**  
County Executive Officer

July 31, 2015

Honorable Glenda Sanders  
Presiding Judge of the Superior Court of California  
700 Civic Center Drive West  
Santa Ana, CA 92701

Subject: Supplemental Responses to FY 2013-14 Grand Jury Responses

Dear Judge Sanders:

On July 21, 2015, the Board of Supervisors approved supplemental responses to 2013-14 Grand Jury Reports, "Maximizing the Benefits of John Wayne Airport to Better Serve Orange County," and "Ethics and Campaign Reporting: Why and How to Implement Stronger Oversight, Transparency, and Enforcement." The minute order and supplemental responses are attached.

If you have any questions, please contact Jessica O'Hare of the County Executive Office at 714-834-7250.

Sincerely,

Frank Kim  
County Executive Officer

Enclosures

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cc: FY 2014-15 Orange County Grand Jury Foreman  
Mark Denny, Chief Operating Officer, County Executive Office  
Jessica O'Hare, Assistant to the COO, County Executive Office  
Larry Serafini, Acting Airport Director

ORANGE COUNTY BOARD OF SUPERVISORS  
AND JOHN WAYNE AIRPORT, ORANGE COUNTY  
Supplemental Response  
2013-14 Grand Jury Report:

*“Maximizing the Benefits of John Wayne Airport to Better Serve Orange County”*

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**R.3. The John Wayne Airport Director should evaluate and recommend to the Board of Supervisors to determine the cost/benefit of increasing runway length to improve safety and allow for larger aircraft or heavier take-offs in accordance with the Federal Aviation Administration Displacement Runway Threshold (DRT) study. (F.3. and F. 5.)**

Original County Response: The recommendation will not be implemented because it is not reasonable. California Penal Code 933.05 (b) (3) states that, where a recommendation from the Grand Jury requires further analysis, the respondent should provide “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.”

With the recent approval of amendments to the Settlement Agreement and the establishment of capacity limitations through 2030, it would be appropriate at this time to evaluate the efficiency of the existing airfield and determine if improvements could and should be made to enhance safety, improve air service and reduce environmental impacts. Such a study, however, could not be reasonably completed within the time frame defined in the Penal Code section referenced above.

Based on: (i) comments received as part of the recently completed environmental review of amendments to the Settlement Agreement; (ii) anticipated improvements in performance, fuel efficiency and emissions of next generation aircraft; and (iii) the inability of air carriers to optimize performance of their current fleet from JWA’s existing runway, the Airport believes there is merit in evaluating the economic, operational and environmental effects of various airfield improvements, including construction of a displaced threshold.

The Board of Supervisors fully recognizes that such a study would be of significant interest to the traveling public, the air transportation industry and the communities along JWA’s approach and departure corridors. Any evaluation of airfield improvements would need to be carefully and openly conducted, with unbiased, thorough and clear documentation of resulting costs and benefits. As evidenced by the Board’s recent action to extend the Settlement Agreement and the long-standing curfew, the County is committed to retaining a balance between the need to

provide air service and the need to provide environmental certainty to those who bear the impact of that service.

Grand Jury Rebuttal: "Under Penal Code section 933.05(b)(2), the 'time frame for implementation' is *open-ended*, i.e., contains no time limits – as long as an estimate of the time needed to complete implementation is provided by the respondent. In other words, Respondents are *not* limited to six months to implement the recommended action. Respondents are merely obligated to state how long it will take to complete their implementation of the Recommendation."

Draft County Supplemental Response: The recommendation has not yet been implemented, but will be implemented in the future. The Airport believes there is merit in evaluating the existing airfield and determining whether improvements, such as a displaced threshold, could enhance safety, improve air service and/or reduce environmental impacts. This conclusion is based on (i) comments received as part of the recently completed environmental review of amendments to the Settlement Agreement; (ii) the inability of air carriers to optimize performance of their current fleet from JWA's existing runway; and (iii) anticipated improvements in performance, fuel efficiency and noise/emissions of next generation aircraft.

The Board of Supervisors recognizes that such a study would be of significant interest to the traveling public, the air transportation industry and the communities along JWA's approach and departure corridors. Any evaluation of airfield improvements would need to be carefully and openly conducted, with unbiased, thorough and clear documentation of resulting costs and benefits.

A study, such as the one being recommended by the Grand Jury, must be considered within the context of the Airport's ongoing planning, construction, budgetary and operational needs. We anticipate that a study of airfield improvements, such as a displaced threshold, could be conducted in the next two to seven years.



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### Supplemental Response to Recommendations

#### 2013-14 Grand Jury Report entitled "Ethics and Campaign Reporting: Why and How to Implement Stronger Oversight, Transparency, and Enforcement"

#### **R1. The Board of Supervisors should place a proposition on the next available general election ballot to establish an Orange County Campaign Reporting and Ethics Commission, similar to commissions in other jurisdictions in California.**

Original County Response: The recommendation will not be implemented because it is not warranted and is not reasonable. The 2012-13 Grand Jury also looked at ethics and made a number of findings and recommendations. In response to that report and based on research and analysis, the County determined that San Bernardino's model of contracting with the FPPC was the best option to meet the recommendations from the Grand Jury. As a result, the recommended efforts are duplicative and costly as the Board has placed a measure on the November ballot to allow the FPPC to prosecute violations of the Orange County Campaign Finance Reform Ordinance pending future legislative authorization.

Grand Jury Rebuttal: "First in explaining its refusal to implement the recommendations regarding the formation of a local ethics commission, Respondent proposed an alternative solution that depended on the passage of legislation that would authorize the County to contract with the Fair Political Practices Commission (FPPC) for civil and administrative enforcement of the County's campaign reform ordinance. Although Respondent alleged in its response that passage of Measure E 'would allow the FPPC to provide those [enforcement] services with legislative authority,' the proposed state legislation (AB 1421), had already met defeat one month before the County filed its response with the Superior Court. Thus, the premise underlying the Response is fundamentally flawed because it was known to be invalid."

Draft County Supplemental Response: Although SB 1226 (Correa), the legislation sponsored by the County of Orange (and co-sponsored by the Urban Counties Caucus) was substantially re-written in the face of opposition from organized labor, obtaining legislative authorization for FPPC enforcement of TINCUP continues to be a priority for the Board and is included in the County's legislative platform. AB 910 (Harper) was introduced in the 2015-16 session to provide this authority. The original response recognized the need for future legislative authorization which can require a multi-year effort. The passage of Measure E by over 56% of Orange County voters was a big step in allowing the County to move toward FPPC enforcement of campaign finance reform.

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### Supplemental Response to Recommendations

#### 2013-14 Grand Jury Report entitled "Ethics and Campaign Reporting: Why and How to Implement Stronger Oversight, Transparency, and Enforcement"

**R2. The Board of Supervisors should carefully weigh the drawbacks to FPPC enforcement outlined in the Findings before pursuing it as an option to enforcing the County's campaign finance ordinance.**

Original County Response: The recommendation has already been implemented. Prior to seeking legislation and placing a measure on the ballot, the Board of Supervisors reviewed the advantages and disadvantages of FPPC enforcement and determined that FPPC enforcement was the best and most cost effective option for the County. The County will continue to pursue this course of action under Board direction.

Grand Jury Rebuttal: "Second, Respondent's alternative method wrongly presupposes that the FPPC is the functional equivalent of an ethics commission and can sanction unethical conduct. Respondent's assertion that a County ethics commission would be 'duplicative' of FPPC enforcement is incorrect. As noted above, the FPPC-contract option is no longer viable, but even if it were, the FPPC would never monitor or sanction any unethical conducted unrelated to the enforcement of the County's TINCUP ordinance, as emphasized in the above-referenced Grand Jury Report, such as conflict of interest, gift bans, lobbyist registration and reporting, and codes of conduct.

Draft County Supplemental Response: The recommendation suggested that the Board of Supervisors weigh the drawbacks to FPPC enforcement. The Board has done so. The Fair Political Practices Commission currently has jurisdiction to bring administrative and civil enforcement actions against County elected officials and employees who are designated Statement of Economic Interest (FPPC Form 700 filers) who violate the conflict of interest provisions or gift limits of the Political Reform Act. The County continues to seek legislative authorization to allow the Fair Political Practices Commission (FPPC) to provide local enforcement of the County's campaign finance reform ordinance. This year, AB 910 was introduced by Assemblyman Harper to grant the FPPC such authority.



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### Supplemental Response to Recommendations

#### 2013-14 Grand Jury Report entitled "Ethics and Campaign Reporting: Why and How to Implement Stronger Oversight, Transparency, and Enforcement"

**R3. If the Board of Supervisors contracts with the FPPC for enforcement of the County's campaign finance ordinance, it should establish an Office of Ethics and Compliance charged with receiving complaints, monitoring, and investigating possible ethics law and policy violations, and offering training, advice and recommendations regarding such laws and policies. The Office should have the following characteristics:**

- a) a director nominated independently from County government officials,**
- b) a budget mandated by ordinance, with a floor on year-to-year reductions**
- c) paid staff, including its own inside or outside counsel, and**
- d) power to subpoena records and persons.**

Original County Response: The recommendation will not be implemented because it is not warranted and is not reasonable. An Office of Ethics is duplicative and costly as the Board has placed a measure on the November ballot to allow the FPPC to provide those services with legislative authority. Also, County of Orange adopted an Electronic Campaign Disclosure ordinance (section 1-6-32), which requires county officers, candidates, or committees to file campaign disclosure documents electronically. These are available to search, review, and export online at [www.ocvote.com/voting/campaign-finance-info/](http://www.ocvote.com/voting/campaign-finance-info/). Also, the FPPC already makes the Form 700: Statement of Economic Interest available for all County Supervisors on the [www.fppc.ca.gov](http://www.fppc.ca.gov) website.

In the County's budget the amount of discretionary or non-mandated general purpose revenue is extremely limited. Orange County is underfunded and ranks last out of all 58 counties in allocation of property tax revenues. The creation of another County department would be duplicative and costly and being an ongoing drain on those scarce resources.

Grand Jury Rebuttal: "Third, the respondent's alternative method presumes that only the twelve Orange County elected officials listed in the TINCUP ordinance are in need of ethics oversight. FPPC enforcement of TINCUP would overlook the wide spectrum of elected and appointed official throughout the county that a local ethics commission would oversee, as pointed out in the above

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### Supplemental Response to Recommendations

#### **2013-14 Grand Jury Report entitled "Ethics and Campaign Reporting: Why and How to Implement Stronger Oversight, Transparency, and Enforcement"**

referenced Report. Thus, the Response is clearly insufficient because it fails to address the Grand Jury's call for an ethics commission that would monitor, investigate, and sanction ethics violations by elected and appointed officials throughout the county."

Draft County Supplemental Response: The Grand Jury's rebuttal did not address the County's response to R3 which cited duplication and costliness of implementation of an Office of Ethics, with the implementation of FPPC enforcement. The Fair Political Practices Commission currently has jurisdiction to bring administrative and civil enforcement actions against County elected officials and employees who are designated Statement of Economic Interest (FPPC Form 700 filers) who violate the conflict of interest provisions or gift limits of the Political Reform Act.