



County of Orange

California

Michael B. Giancola
County Executive Officer

June 25, 2013

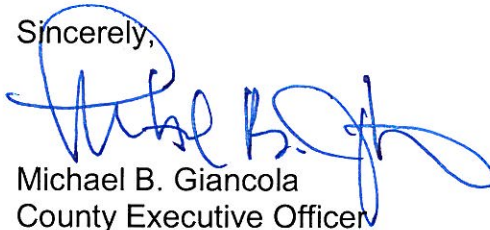
Honorable Thomas J. Borris
Presiding Judge of the Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92701

Subject: *"A Call for Ethical Standards: Corruption in Orange County."*

Dear Judge Borris:

Per your request, and in accordance with Penal Code 933, please find the County of Orange response to the subject report as approved by the Board of Supervisors. The respondent is the Orange County Board of Supervisors. If you have any questions, please contact Margaret Cady (714) 834-3646 in the County Executive Office who will assist you.

Sincerely,



Michael B. Giancola
County Executive Officer

Enclosure

cc: Frank Kim, Chief Financial Officer
Margaret Cady, CEO/Budget

County Executive Office
333 W. Santa Ana Blvd.
Third Floor
Santa Ana, California
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ORANGE COUNTY BOARD OF SUPERVISORS
MINUTE ORDER
June 25, 2013

Submitting Agency/Department: County Executive Office

Approve proposed response to FY 2012-13 Grand Jury Report "A Call for Ethical Standards: Corruption in Orange County." - All Districts

The following is action taken by the Board of Supervisors:

APPROVED AS RECOMMENDED OTHER

Unanimous (1) NGUYEN: Y (2) MOORLACH: Y (3) SPITZER: A (4) NELSON: Y (5) BATES: X

Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order

Documents accompanying this matter:

- Resolution(s)
- Ordinances(s)
- Contract(s)

Item No. 49

Special Notes:

Copies sent to:

CEO/Budget
Superior Court
Grand Jury

6/28/13



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California.
Susan Novak, Clerk of the Board

By: 
Deputy



AGENDA STAFF REPORT

2013 JUN 17 11:12:20

ASR Control 13-000846

MEETING DATE: 06/25/13

LEGAL ENTITY TAKING ACTION: Board of Supervisors

BOARD OF SUPERVISORS DISTRICT(S): All Districts

SUBMITTING AGENCY/DEPARTMENT: County Executive Office (Approved)

DEPARTMENT CONTACT PERSON(S): Margaret Cady (714) 834-3646
Frank Kim (714) 834-3530

2354

SUBJECT: Response to Grand Jury Report "A Call for Ethical Standards"

CEO CONCUR Concur	COUNTY COUNSEL REVIEW N/A	CLERK OF THE BOARD Discussion 3 Votes Board Majority
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Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A

Staffing Impact: No **# of Positions:** **Sole Source:** N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A

Prior Board Action: N/A

RECOMMENDED ACTION(S):

1. Approve proposed response to FY 2012-13 Grand Jury Report entitled "A Call for Ethical Standards: Corruption in Orange County."
2. Direct the Clerk of the Board to forward this ASR with exhibits to the Presiding Judge of the Superior Court and the FY 2012-13 Orange County Grand Jury no later than July 15, 2013.

SUMMARY:

Approve proposed response to FY 2012-13 Grand Jury Report entitled "A Call for Ethical Standards: Corruption in Orange County."

BACKGROUND INFORMATION:

On April 15, 2013, the Grand Jury released a report titled "A Call for Ethical Standards: Corruption in Orange County." This report directed Findings and Recommendations to the Board of Supervisors. Enclosed as Exhibit 2 is the proposed response to the Findings and Recommendations.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

EXHIBIT(S):

1. Grand Jury Report Issued 4/15/13
2. Proposed Response to Grand Jury Report
3. Transmittal Letter to the Presiding Judge



COUNTY OF ORANGE

Responses to Findings and Recommendations

2012-13 Grand Jury Report entitled "A Call for Ethical Standards: Corruption in Orange County"

Summary Response Statement

The Grand Jury's report discusses a set of idiosyncratic, historical events over a 40-year period in an effort to paint Orange County government as an institution plagued by corruption. The report provides no benchmarking against other jurisdictions, provides precious few examples of unethical behavior in recent history, and makes a highly tenuous case for their ultimate recommendation: to study the need for a County Ethics Commission. The few recent instances of clearly unethical behavior that are cited have more to do with improper behavior on the part of County employees, not elected officials. The reality is that there are a whole host of coordinated oversight and accountability mechanisms that exist within the County for addressing improper behavior on the part of all County employees, including elected officials. Not only are there already multiple layers of oversight, which the report flippantly dubs a "patchwork," but the report also ignores the existing mandate of the Grand Jury itself to investigate and call out unethical behavior. According to Penal Code Section 925, the Grand Jury "shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county." The expansive nature of this mandate certainly provides an opportunity for current and future Grand Juries to identify and fully investigate instances of perceived or actual unethical behavior. Moreover, the process for selecting Grand Jury members, described in Penal Code Sections 895-902 ensures that the Grand Jury is able to operate independently from any political influence of existing County elected officials. The case for researching and creating yet another bureaucratic structure at taxpayer expense to oversee the behavior of public officials has simply not been made in this report. Accordingly, the pursuit of a feel-good but practically unnecessary County Ethics Commission would be an irresponsible and wasteful reaction to an unsubstantiated conclusion.

F1. Public officials are stewards of the public trust and maintain it by placing the civic interest ahead of their own. Even the appearance of impropriety damages public faith in government. Citizens expect its officials to conduct business in a lawful and ethical manner.



COUNTY OF ORANGE

Responses to Findings and Recommendations

2012-13 Grand Jury Report entitled "A Call for Ethical Standards: Corruption in Orange County"

Response: Agrees with the finding. The County government has the same expectations of both elected and non-elected officials.

F2. The unparalleled development of Orange County from an agrarian to world-class economy in the post-World War II era led to the creation of a "power elite" of land developers and public officials. The influence of "development dollars" in the form of contributions to public officials resulted in a series of public cases over a forty-year period. Other ethics scandals involved the abuse of power.

Response: Disagrees wholly with the finding. This conclusion is completely subjective and the evidence presented in this report does not support such a sweeping assessment. Although individual historical events referenced in the report are not disputed, the Grand Jury's synopsis is selective, one-sided and clearly tailored to reach a predetermined conclusion.

F3. Orange County reacted to the 1994 bankruptcy scandal by creating a patchwork of oversight offices to audit financial, performance, and professional standards. These offices have varying levels of independence, jurisdiction and legislative support. They need to be accountable as well.

Response: Disagrees partially with the finding. The County of Orange has established a number of oversight bodies and functions over time in order to provide adequate levels of review. The County does not agree with the characterization of these entities as a "patchwork." Rather, the County views these entities as a network of oversight functions with specialized expertise in financial, operational, and legal oversight. These bodies include the Internal Audit Department, the Performance Audit Department, the District Attorney's Office, the Office of Independent Review, the Audit Oversight Committee, the Treasurer's Oversight Committee, the Auditor-Controller, and the Compliance Oversight Committee. Also included in this list of oversight functions is the Grand Jury itself. The County is also scrutinized by a variety of oversight bodies at the state and federal level for compliance with a litany of rules and regulations. The County agrees that these entities need to be accountable and believes that their accountability lies with the electorate.



COUNTY OF ORANGE

Responses to Findings and Recommendations

2012-13 Grand Jury Report entitled "A Call for Ethical Standards: Corruption in Orange County"

F4. Unethical behavior at the local government level is not something that "simply fixes itself." The County needs an independent Ethics Program that provides training, advice and guidance to public officials and private persons seeking to do business with government.

Response: Disagrees partially with the finding. The County concurs that unethical behavior will not "simply fix itself." Moreover, the statement that "the County needs an independent Ethics Program" is not a finding, but a recommendation, and the imperative to create such a Program was not established in the report. The Grand Jury report did not demonstrate that the existing network of oversight functions has failed to catch and correct unethical behavior once it occurs. Lastly, the County does have an ethics training program that complies with the provisions of Assembly Bill 1234, as well as a lobbyist registration to inform the citizenry of who is doing business with the County.

F5. Citizens need a clearinghouse to voice complaints about actual and perceived incidents of corruption and unethical behavior by public officials.

Response: Agrees with the finding. Again, this "finding" is actually a generic recommendation. There are several avenues already in existence for citizens to voice such concerns, including the District Attorney's Office, the Internal Audit Fraud Hotline, the California Attorney General, the Office of Independent Review, the Fair Political Practices Commission, as well as the Grand Jury itself.

F6. In California, the Cities of San Diego, Los Angeles, San Francisco and Oakland have ethics commissions that address similar ethics issues.

Response: Agrees with the finding. It should be noted, however, that with the exception of San Francisco, these examples are cities, not counties.



COUNTY OF ORANGE

Responses to Findings and Recommendations

2012-13 Grand Jury Report entitled "A Call for Ethical Standards: Corruption in Orange County"

F7. Orange County lacks effective ethics oversight of its public officials.

Response: Disagrees wholly with the finding. This statement is irresponsibly broad, vague, and not substantiated in the report. Only a few idiosyncratic examples from recent years are mentioned. As discussed in several previous answers, there is already a network of oversight functions that provide adequate review of Orange County elected official behavior.

R1. The Orange County Board of Supervisors creates a Blue Ribbon Commission to study ethics programs in California and around the nation. The Commission shall recommend an ethics reform program and oversight authority to the Board of Supervisors within 12 months.

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. The County wholly disagrees with the findings that prompt the Grand Jury to make this suggestion. Consequently, expending the financial resources and staff time needed to pursue the Grand Jury's recommendation would be wasteful.

R2. The Orange County Board of Supervisors shall select Blue Ribbon Commission members based upon their knowledge of government ethics, ability to conduct research and desire to make positive change to Orange County government. Their selections should represent a cross-section of Orange County's population and be free of political influence. Commission applicants should be vetted and randomly selected from an approved pool of candidates.



COUNTY OF ORANGE

Responses to Findings and Recommendations

2012-13 Grand Jury Report entitled "A Call for Ethical Standards: Corruption in Orange County"

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. The County wholly disagrees with the findings that prompt the Grand Jury to make this suggestion. As the County will not implement R1, this recommendation is not relevant.

R3. The Board of Supervisors shall require that ethics reform recommended by the Blue Ribbon Commission address the following in their report: [details excluded]

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. The County wholly disagrees with the findings that prompt the Grand Jury to make this suggestion. As the County will not implement R1, this recommendation is not relevant.