



OFFICE OF THE CITY COUNCIL

Remembering what connects us.

July 23, 2024

Honorable Maria Hernandez, Presiding Judge
Superior Court of California, County of Orange
700 Civic Center Drive West
Santa Ana, CA 92701

RE: Response to 2023-2024 Orange County Grand Jury Report “Talking Trash: Recyclables and Organic Waste”

Dear Judge Hernandez:

The City of Tustin has reviewed the Orange County Grand Jury Report titled “Talking Trash: Recyclables and Organic Waste.” In accordance with California Penal Code §933.05(a) and (b), the City of Tustin submits the following response to the findings and recommendations included within the report. Each of the applicable findings and recommendations is listed below in italics, followed by the City’s response.

Findings:

F1: The majority of Orange County jurisdictions have not yet required their haulers to distribute residential containers that meet the CalRecycle standardized colors, leaving legacy and often incorrect or illegible labeling and embossing in place.

Response: The City of Tustin partially disagrees with the finding. The Grand Jury's Report is based on 11 jurisdictions interviewed. Whether the majority of Orange County jurisdictions have required their hauler to distribute new containers and whether the containers meet the requirements for SB 1383 is not known to the City of Tustin.

F2: While a jurisdiction may not delegate its overall responsibility for compliance with State requirements to a hauler, some jurisdictions have designated the task of imposing and collecting fines from residents to the hauler in accordance with State law. However, not all jurisdictions are clear on who ultimately receives and retains the collected fines.

Response: The City of Tustin partially disagrees with the finding. The Grand Jury's Report is based on 11 jurisdictions interviewed. It is not known to the City of Tustin how other Orange County jurisdictions are enforcing the requirements of SB 1383 and how citation revenue is being collected.

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F3: All jurisdictions will eventually start collecting fines from residents for noncompliance, but some have not yet determined whether the revenues will go into a waste and recycling enterprise fund or into the jurisdiction's general fund.

Response: The City of Tustin partially disagrees with the finding. The Grand Jury's Report is based on 11 jurisdictions interviewed. It is not known to the City of Tustin how other Orange County jurisdictions are accounting for citation revenue.

F4: In most jurisdictions, education and outreach is a joint effort between jurisdiction, hauler, and sometimes consultants, with the jurisdiction reviewing the materials before publication. The methods of dissemination vary by jurisdiction and hauler but frequently rely on a resident actively seeking the information, which requires the resident to have some awareness of the new mandates in the first place. Most efforts primarily revolve around intermittent hard-copy paper mailings.

Response: The City of Tustin partially disagrees with the finding. The Grand Jury's Report is based on 11 jurisdictions interviewed. It is not known to the City of Tustin how education and outreach is being conducted by other Orange County jurisdictions.

F5: Most jurisdictions currently have no way to accurately determine the effectiveness of their respective education and outreach efforts other than the eventual inspections or audits that will take place.

Response: The City of Tustin partially disagrees with the finding. The Grand Jury's Report is based on 11 jurisdictions interviewed. It is not known to the City of Tustin how the effectiveness of education and outreach is being measured by other Orange County jurisdictions.

F6: There is some concern that there are not enough composting facilities in Orange County to process all organic waste, forcing some jurisdictions/haulers to transport it long distances for processing.

Response: The City of Tustin partially disagrees with the finding. The Grand Jury's Report is based on 11 jurisdictions interviewed. It is not known to the City of Tustin if the other Orange County jurisdictions are concerned about the availability of composting facilities in Orange County.

F7: There is currently no infrastructure in the county that is a State-approved source of Renewable Natural Gas (RNG) and energy from organic waste. Jurisdictions that use vehicles running on RNG procured from non-approved sources cannot count that RNG towards fulfillment of their procurement requirement.

Response: Agree.

F8: The formula used by the State to calculate a jurisdiction's procurement target does not account for a jurisdiction's population density or geographic size (square miles). As such, meeting the annual procurement target presents a significant challenge for most jurisdictions.

Response: Agree.

F9: Many Orange County jurisdictions were unable to meet the requirement in SB 1383 to reduce organic waste sent to landfills by the 2020 deadline. It is unlikely the required seventy-five percent reduction will be achieved by the 2025 deadline.

Response: Agree.

F10: The current procurement requirements mandated by SB 1383 are unrealistic and likely unachievable by most jurisdictions.

Response: Agree.

Recommendations:

R1: All jurisdictions should expedite the acquisition and distribution of residential containers that meet the CalRecycle standardized colors. Additionally, until the compliant containers can be distributed, all jurisdictions should ensure the distribution of labeling for non-compliant containers that explain the current SB 1383 requirements applicable to their jurisdiction by June 30, 2025.

Response: The recommendation has been implemented. The City's contract with CR&R became effective on April 1, 2019, and required all customers receive new containers labelled according to the processing facility capabilities.

R2: By December 31, 2024, all jurisdictions should ensure their waste hauling agreements are in compliance with State statute so that haulers may be designated to perform certain required tasks but are not improperly delegated overall responsibility for compliance. Additionally, all jurisdictions should ensure that any fines collected by a hauler are forwarded to the jurisdiction.

Response: The recommendation has been implemented. The City's contract with CR&R became effective on April 1, 2019, and considered provisions of SB 1383 that were known at the time, including inspection, monitoring and education. CR&R is not obligated to perform enforcement activities. Public Works staff, as the program administrator, sends a Notice of Violation providing the property owner with 15 days to correct a violation. Should the violation not be remedied, the City's Code Enforcement personnel will issue citations until compliance is achieved.

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R3: The OCGJ recommends that all jurisdictions utilize a dedicated waste and recycling enterprise fund for collection of fines for non-compliance with SB 1383 by December 31, 2024.

Response: The recommendation has not been implemented but will be by December 31, 2024.

R4: By December 31, 2024, all jurisdictions should diversify the methods and media used for education and outreach to include, among others, various social media platforms, emails to residents, newspaper, television, flyer mailings, community events, and appearances at other public gatherings.

Response: The recommendation has been implemented. CR&R provides each customer with relevant environmental information with quarterly billing and participates in community events each year. They staff booths and engage with residents on a variety of topics, including how to properly sort materials to ensure recyclability. The City of Tustin has developed a year-round social media outreach campaign to supplement CR&R's efforts.

R5: By December 31, 2024, and in order to gauge the effectiveness of their education and outreach efforts, all jurisdictions should develop new methods to engage residents directly to help determine their awareness of the requirements associated with SB 1383, such as surveys, online quizzes, and door-to-door polling.

Response: The recommendation has not yet been implemented but will be implemented in the future. The City's social media outreach campaign just began and an effort to determine its effectiveness will occur after one year.

R6: By June 30, 2025, the OCGJ recommends that all jurisdictions participate in the OCW&R-led efforts to develop a coordinated county-wide approach to the organics recycling infrastructure and programs as well as procurement requirements associated with SB 1383, working towards creating circular economy as a long-term goal.

Response: The recommendation has been implemented. The City of Tustin has and will continue to partner with OCWR to develop a county-wide approach to organics recycling.

R7: By December 31, 2024, the Orange County Board of Supervisors and all Orange County cities should lobby appropriate members of the State Legislature and/or CalRecycle to revise the organic waste diversion targets to better reflect Orange County's waste amounts, revise the jurisdictions' procurement requirements to better represent the limited options currently available for procurement, the jurisdictions' varying populations, population densities, and geographic size, and to delay associated enforcement actions by the State.

Response: This recommendation requires further analysis to determine how such a change to SB 1383 legislation would be implemented. The City of Tustin will contact members of the legislature representing Tustin to discuss modifications to the jurisdictions' procurement requirements, including a delay to enforcement actions, in the six months from the date of publication of the grand jury report.

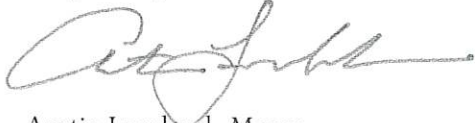
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Should you have any questions or need any additional information, please contact Acting Assistant Director of Public Works, Stacey Cuevas, at (714) 573-3037 or via email at scuevas@tustinca.org.

Respectfully,

A handwritten signature in black ink, appearing to read "Austin Lombard", written in a cursive style.

Austin Lombard, Mayor

cc: Orange County Grand Jury
700 Civic Center West
Santa Ana, CA 92701