



August 23, 2024

The Honorable Maria Hernandez
Presiding Judge of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

RE: 2023-2024 Orange County Grand Jury Report "*Talking Trash: Recyclables and Organic Waste*"

To the Honorable Maria Hernandez:

In accordance with California Penal Code Sections 933 and 933.05, the 2023-2024 Grand Jury requires responses from each agency affected by the findings presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation titled "*Talking Trash: Recyclables and Organic Waste*," the 2023-2024 Orange County Grand Jury has arrived at the following principal findings:

FINDINGS

Container Standardization:

F1

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

Response to Finding F1

We wholly disagree with this finding. We are not in a position to opine as to what other cities are doing. However, the City's franchise agreements require compliance with the provisions of SB 1383 and its implementing regulations.

Funding and Enforcement:

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 to Finding F2

We wholly disagree with this finding. We are not in a position to opine as to what other cities are doing. However, note that State Law does not authorize a hauler to impose fines for violations of the law. The City has adopted an Ordinance that imposes administrative and potentially criminal fines for violations, and any such fines will be used in accordance with well-established laws related to that topic.

F3

All jurisdictions will eventually start collecting fines from residents for non-compliance, 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 to Finding F3

We wholly disagree with this finding. We are not in a position to opine as to what other cities are doing. Should the City ever collect fines for non-compliance, such funds will be used in accordance with well-established laws related to this topic.

Education and Outreach:

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.

Response to Finding F4

We disagree partially with this finding. We are not in a position to opine as to what other cities are doing. The City along with its haulers and consultants have embarked upon a robust public outreach and education program that includes engaging customers in the field, electronic communications and website information, and distribution of hard-copy materials.

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 to Finding F5

We disagree partially with this finding. We are not in a position to opine as to what other cities are doing. The City will be able to make some determination of the effectiveness of our outreach and education through the quarterly hauler diversion numbers.

Procurement of Recovered Organic Waste Products:

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 to Finding F6

We agree with this finding.

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 to Finding F7

We agree with this finding.

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 to Finding F8

We agree with this finding.

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 to Finding F9

We agree with this finding.

F10

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

Response to Finding F10

We agree with this finding.

RECOMMENDATIONS

In accordance with California Penal Code Sections 933 and 933.05, the 2023-2024 Grand Jury requires responses from each agency affected by the recommendations presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation titled "Talking Trash: Recyclables and Organic Waste," the 2023-2024 Orange County Grand Jury makes the following recommendations:

Container Standardization:

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 to Recommendation R1

The recommendation has been implemented. Per the terms of the City's franchise agreements, all of the City's haulers are required to comply with all legal requirements related to containers.

Funding and Enforcement:

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 to Recommendation R2

The recommendation has been implemented. The City's Exclusive Franchise Agreement was amended on April 1, 2023, providing for the initial phases of the implementation of SB 1383. The following year, April 1, 2024, new Exclusive and Non-Exclusive Franchise agreements were executed, the latter going into effect on September 1, 2024.

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 to Recommendation R3

The recommendation will not be implemented because it is not warranted or is not reasonable. Existing laws govern the proper use of fines collected in connection with compliance efforts.

Education and Outreach:

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 to Recommendation R4

The recommendation has been implemented. The City of Irvine has utilized a multitude of methods to communicate the information and effects of Senate Bill 1383 to our residents, visitors, and community. This includes the following:

- Posting information on our social media channels of Facebook, Nextdoor, Twitter, TikTok, and Instagram;
- Sending press releases and newsletters regarding the topic to subscribers;
- Placing multi-lingual (eight languages) ads in newspaper and online media outlets;
- Placing ads on the gaming site Twitch;
- Placing ads on the social media site TikTok;
- Placing ads on the Google search engine in various threshold languages spoken in the City of Irvine;
- Hosting information booths at City events;
- Sending letters to residents regarding SB 1383;
- Creating and posting videos to the City's website regarding SB 1383;
- Creating City website for SB 1383;
- Creating fliers and FAQ sheets for information about SB 1383 in eight languages.

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 to Recommendation R5

The recommendation has not yet been implemented. However, the City is currently using Google Analytics to assess the impacts of web traffic based on the various social media platforms currently being utilized for outreach and education campaigns. By the end of this year, the City will implement an online survey to be hosted on the City's SB 1383 website. This will be used to both assess familiarity with and attitude towards the new requirements under SB 1383.

Procurement of Recovered Organic Waste Products:

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 a circular economy as a long-term goal.

Response to Recommendation R6

The recommendation has not yet been implemented but will be implemented in the future, with a timeframe for implementation. The potential will be addressed by the upcoming Waste Infrastructure and Systems Enhancement Agreement (WISE) between the County and each jurisdiction, which provides for the development of a comprehensive program to both fund and operate an organics recycling infrastructure. The timeframe will be stipulated in the County's final WISE agreement.

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 to Recommendation R7

The recommendation will not be implemented because it is not warranted or is not reasonable. Policy issues of this type are the exclusive purview of elected officials.

If you have any questions, please feel free to call Public Works & Sustainability Sean Crumby at 949-724-6070.

Sincerely,

A handwritten signature in black ink, appearing to read 'Farrah Khan', written in a cursive style.

Farrah N. Khan
Mayor
City of Irvine

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

Irvine City Council
Oliver C. Chi, City Manager