

## COUNTY COUNSEL

June 10, 1996

Honorable Robert C. Bradley, Presiding Judge  
Ventura County Superior Court  
800 South Victoria Avenue  
Ventura, California 93009

Re: Response to Grand Jury 2nd Interim Final Report

Dear Judge Bradley:

The 1995/96 Ventura County Grand Jury's 2nd Interim Final Report regarding the Allocation of Proposition 172 Tax Funds requires a response from County Counsel on three issues which we restate as follows:

1. Are the provisions of Ordinance No. 4088 establishing minimum budget amounts for public safety agencies binding on future Boards?
2. Are the provisions of Ordinance No. 4088 restricting the use of the County's Public Safety Augmentation Trust Fund to the five designated agencies binding on future Boards?
3. May the provisions of Ordinance No. 4088 be altered or amended without a vote of the people?

### Question 1

As we have previously advised, the duty of the Ventura County Board of Supervisors to establish annual budgets for the various County agencies and departments is imposed by the state "Budget Act" found in Government Code sections 29000 through 29093. The procedures set forth in the Budget Act must be followed "each year" and require the Board to exercise its judgment in establishing a financial program for the budget period. The Board is directed to consider the proposals and requests of department heads and to make any revisions, deductions or additions to the proposed budget it deems advisable. The Board must engage in this process each year and may not bind future Boards in subsequent budget periods.

The Budget Act is a "general law" which takes precedence over local ordinances when they are in conflict. Since Ordinance No. 4088 cannot overrule the provisions of the Budget Act, the Board of Supervisors is not bound by the provisions of the ordinance which purport to limit the exercise of its budgetary discretion conferred by the Budget Act. Any local legislation which is in conflict with state general laws is beyond the legislative power of both the local legislative body and the public through the initiative process.

### Question 2

Although the issue is not free from doubt, the provisions of Ordinance No. 4088 which restrict the use of Public Safety Augmentation Trust Fund money to the five designated agencies is probably not binding on future Boards. Government Code section 30056 authorizes the local legislative body to enter into "binding agreements" for any "specific fiscal year" allocating monies in the Public Safety Augmentation Trust Fund. The same section declares that the allocation of such funds is a matter of statewide concern. The delegation to the local legislative

body of authority to legislate on a matter of statewide concern is probably evidence that the Legislature intended that the allocation of such funds is to be done only by boards of supervisors, and not by voters via the initiative process.

It seems likely that the Board of Supervisors is at liberty to enter into binding agreements in the future allocating the money in the Public Safety Augmentation Trust Fund to fund public safety services provided by agencies other than those designated in Ordinance No. 4088.

### Question 3

Although it is true that Election Code section 3719, governing initiative petitions, dictates that initiatives adopted by county boards of supervisors as county ordinances cannot be changed except by the voters, there is no restriction on amending or repealing such provisions if they were not the proper subject of the initiative process. As indicated above, both the provision establishing minimum budget amounts for public safety agencies in Ventura County and probably those restricting the funds to the five designated agencies are not proper subjects for the initiative process and therefore not beyond the power of the Board of Supervisors to amend or repeal.

Very truly yours,

[signed: James L. McBride]

County Counsel