

1999 - 2000 Ventura County Grand Jury Report

Ventura County Ordinance No. 4088

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Background

In 1993, the California State Legislature responded to an \$8-billion budget deficit by voting to divert \$2.6-billion in local property tax revenues to the state. In order to soften the impact on county public safety agencies, the Governor proposed the Local Public Safety Protection and Improvement Act, Proposition 172, which was approved by the voters as a legislative constitutional amendment. This act was designed to provide counties with replacement funds for a portion of those taken from them by the state. By passing the amendment, the voters made permanent a half-cent sales tax that was initiated to pay for repairs and reconstruction after the Loma Prieta Earthquake and was to expire December 31, 1993. Proposition 172 authorized the half-cent sales tax be spent on public safety; however, the proposition allowed individual counties to define public safety. The ballot summary on Proposition 172 stated in part:

“To assist local governments in maintaining a sufficient level of public safety services, the proceeds of the tax enacted pursuant to this section shall be designated exclusively for public safety.”

On August 17, 1993, the Ventura County Board of Supervisors passed a resolution agreeing to use all of Proposition 172 tax funds for public safety. In 1994, the District Attorney and Sheriff of Ventura County sponsored a successful petition drive for the Public Safety Services Initiative, which designated the Sheriff’s Department, the District Attorney, the Public Defender, the Corrections Services Agency (the Probation Department), and the Fire Protection District as the recipients of public safety funds from Prop 172. On May 16, 1995, on a three to two vote, the Board of Supervisors adopted Ordinance No. 4088 in lieu of submitting the Public Safety Services Initiative to the electorate.

Methodology

The Grand Jury, as part of its oversight responsibilities, elected to review the effect on Ventura County of Ordinance No. 4088 and the use of Proposition 172 tax funds. In this study, the jurors also in-

cluded the impact Proposition 172 funds might have on opening the proposed Juvenile Justice Complex. Pursuant to this, the Jury interviewed and heard presentations by the following:

Harry Hufford, Ventura County Acting Chief Administrative Officer

James McBride, Ventura County Counsel

Thomas Mahon, Ventura County Auditor- Controller

Christine L. Cohen, Assistant Ventura County Auditor-Controller

Calvin Remington, Director Ventura County Probation Agency

Bob Brooks, Ventura County Sheriff

Michael D. Bradbury, Ventura County District Attorney

Greg Totten, Ventura County Chief Deputy District Attorney

Kenneth Clayman, Ventura County Public Defender

Judge Brian Back, Ventura County Juvenile Court

Jurors also reviewed Proposition 172 and the Ventura County 1995-1996 Grand Jury Final Report on Proposition 172 and the response to it from County Counsel James McBride. (Figure 1)

Findings

The Grand Jury during the course of its study of Ordinance No. 4088 established the following:

- Ventura County is the only one of California's 58 counties to pass an ordinance like 4088.
- Ordinance No. 4088 limits public safety spending in Ventura County to four departments: Sheriff, District Attorney, Probation and Public Defender. Although the Fire District is included in the language of Ord. 4088, the Fire Department, with an alternative source of funds as a fire district, has received no Proposition 172 money to date.
- Proposition 172 funds were instrumental in the staffing for the opening of Todd Road Jail.
- Proposition 172 money enabled Ventura County to prosecute more misdemeanors and a higher percentage of cases in comparison to other counties. Prosecutors take to trial 8 percent to 13 percent of the felony cases filed, compared with the statewide average of 3 percent.
- Ventura County is the 11th largest county in California and consistently ranks at the top in safety. This year Ventura County was ranked as the safest county west of Lancaster County, Pennsylvania.
- The Sheriff's Department returned \$30 million to Ventura County's general fund since the adoption of Ordinance No. 4088.

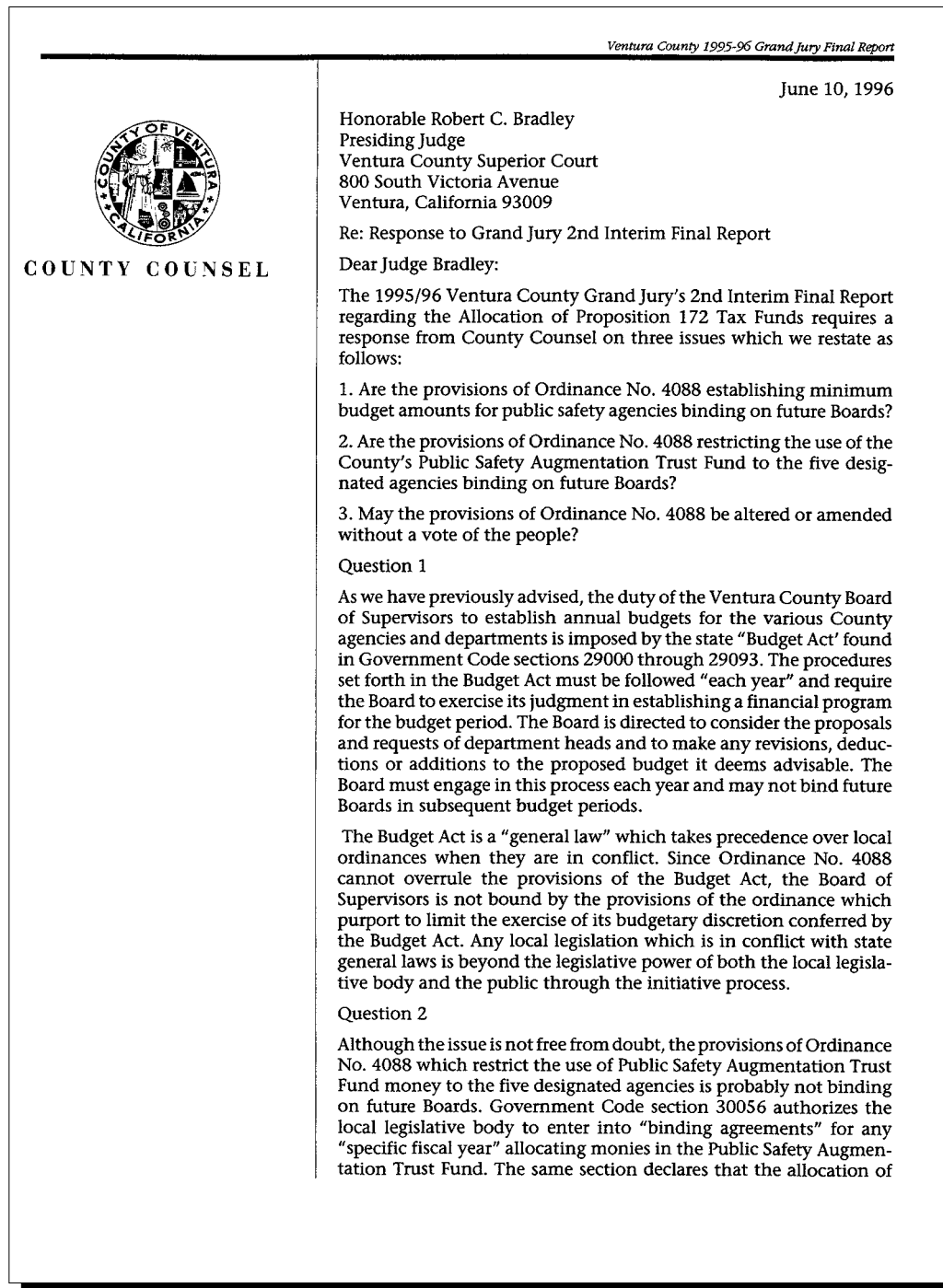


Figure 1. Letter from County Council James McBride to Honorable Robert C. Bradley. June 10, 1996.

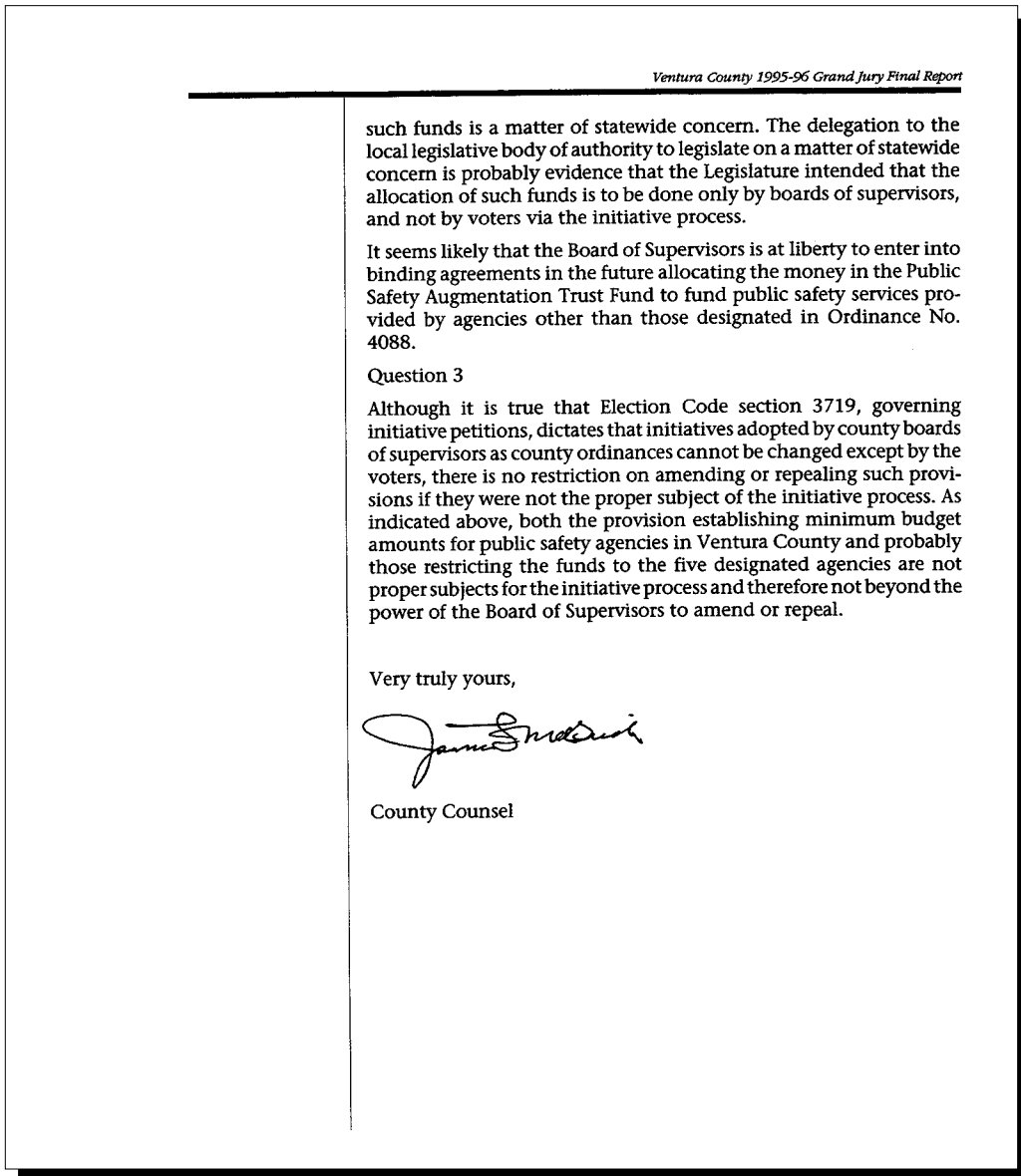


Figure 1 (continued). Letter from County Council James McBride to Honorable Robert C. Bradley. June 10, 1996.

- With passage on March 7, 2000, of Proposition 21, the “tougher” juvenile justice measure, there is a strong perception that the workload of the Probation Department will increase, necessitating additional staffing.

The Grand Jury studied the County budget process and the effect of Ordinance 4088 and ascertained the following:

- A letter of March 1, 1994, from the District Attorney, advised the Board of Supervisors of an agreement by the County’s criminal justice agencies to a formula for distribution of Proposition 172 moneys. The letter stated, “of every dollar of Proposition 172 funds that is spent in the future on the criminal justice agencies, 65 cents will be allocated to the Sheriff, 17 cents to the District Attorney, 12 cents to the Corrections Services agency, and 6¢ to the Public Defender.” Since 1995-96, the District Attorney’s office has consistently spent substantially less than its allocated amount, while the Sheriff’s Department has consistently spent more. (Figure 2)

AUDITOR-CONTROLLER PUBLIC SAFETY SALES TAX ALLOCATION		Attachment II											
	95/96		96/97		97/98		98/99		99/00			Bd Ltr 03/01/84 %	
		%		%		%		%	Increment I	Increment II	Prelim Budg		%
DISTRICT ATTORNEY	2,733,100	9%	3,576,200	10%	3,401,800	10%	3,849,500	10%	3,926,500	0	3,926,500	10%	17%
PUBLIC DEFENDER	1,148,507	4%	1,701,500	5%	1,454,000	4%	1,849,200	4%	1,682,200	0	1,682,200	4%	6%
SHERIFF	23,613,363	76%	26,822,800	75%	26,188,700	74%	28,360,900	74%	28,928,100	1,014,870	29,942,970	75%	65%
PROBATION AGENCY	3,507,967	11%	3,903,000	11%	4,137,400	12%	4,261,500	11%	4,346,800	0	4,346,800	11%	12%
TOTAL	31,002,937	100%	36,003,500	100%	35,181,700	100%	38,121,100	100%	38,883,600	1,014,870	39,898,470	100%	100%

(a)

(a) DA includes \$600,000 VCIJIS
 Sheriff includes \$1,000,000 Jail Door Project

Figure 2. Auditor-Controller Public Safety Sales Tax Allocation, 1995 /96 - 1999/2000

- Proposition 172 set a standard of “maintenance of effort formula” based on the 1992-1993 budget. The maintenance of effort standard has been interpreted by the Board of Supervisors to mean that staffing and funding for equipment must be maintained at least in the same amount as in the base 1994-1995 year with adjustment for inflation.
- Ordinance No. 4088 established a higher base year than Proposition 172. It uses the **recommended** budget for fiscal year 1994-1995 as the base, which is higher than the Proposition 172 base year **and** higher than the adopted budget for fiscal year 1994-1995.
- In Ventura County, Proposition 172 funds received from the State are placed in a trust account and used before money from the general fund in financing the four designated public safety departments.
- No other county in California removed its law enforcement agencies from the annual budget process as a consequence of Proposition 172.
- The California “Budget Act,” found in Government Code sections 29000 to 29093, requires the Board of Supervisors to annually exercise its judgment in setting a financial program for the fiscal year. The Budget Act requires the Board to consider proposals from each department head and to make revisions as necessary to develop a budget in the best interests of the county.
- County Counsel stated in his June 10, 1996, response to the 1995-1996 Grand Jury that “the Board must engage in this [budget] process each year and may not bind future Boards in subsequent budget periods.” [Figure 1] He further advised that Ordinance No. 4088 cannot overrule the provisions of the Budget Act because state general law takes precedence over the legislative power of the local legislative body and the public through the initiative process when there is a conflict. There has been no change in the opinion of County Counsel since 1996.

In the Grand Jury’s inquiry into the impact of Proposition 172 funds on the proposed Juvenile Justice Complex scheduled for opening in May 2003, the following facts were established:

- The State awarded the County \$40.5-million in construction grant funds for replacing the present Juvenile Justice Complex, which is antiquated and overcrowded. According to grant restrictions, the new facility must be completed no later than September 29, 2003.
- The County borrowed \$9-million toward its portion of construction costs. Additional money is needed for construction and staffing.

- The Sheriff and District Attorney have stated Proposition 172 revenue, above the present \$40-million amount received from current fiscal receipts, should be used for staffing the new Juvenile Justice Complex.

Conclusions

- C-1 Proposition 172 money has enhanced the law enforcement and prosecutorial capabilities of Ventura County.
- C-2 The Board of Supervisors is bound by the requirements of Ordinance No. 4088 in the distribution of Proposition 172 funds during its annual budget deliberations. This violates the California Budget Act which requires the Board to annually consider the budget proposal from each department and to make revisions to reflect a budget the Board believes is in the best interests of the county. The current Board cannot be bound by budget decisions of past Boards.
- C-3 Ordinance No. 4088 appropriates funds in excess of that which would be required under Proposition 172. Under 4088, the base year for determining the budget of each public safety entity is the recommended budget for fiscal year 1994-1995, and not 1992-1993 as prescribed by Proposition 172. This results in a significantly higher inflationary factor and consequently higher costs for the County.
- C-4 When public safety departments at the end of the fiscal year return surplus funds, they are directed to the General Fund. These funds may be from Proposition 172 money since they are not separately identified.
- C-5 The definition of Public Safety per Ordinance No. 4088 is too restrictive and prevents the Board of Supervisors from consideration of other recipients for Proposition 172 funds.
- C-6 The Board of Supervisors needs more discretion in allocating Proposition 172 funds. The Board should not be locked into a formula established in 1994. Passage of Proposition 21 in March 2000 exemplifies the possibility of changing department requirements.

Recommendations

- R-1 The budgets of the public safety departments and the allocation and proposed use of Proposition 172 moneys should be reviewed annually by the Board of Supervisors as part of the overall budget process and in accordance with The California Budget Act.

- R-2 The Sheriff's Department should budget more accurately so that excess funds, now included in its budget and returned to the General Fund at the end of the year, are available to other agencies during the course of the fiscal year. If necessary, the County's contingency fund should pay Sheriff's Department overruns caused by unforeseen emergencies.
- R-3 The Board of Supervisors should rescind the constraints of Ordinance No. 4088 and reconsider the allocation of Proposition 172 funds to public safety agencies during their annual budgeting process.
- R-4 The public safety departments should work together with the CAO and Board of Supervisors to ensure availability of funding for staffing of the Juvenile Justice Complex when it is completed.

Commendations

Ventura County's public safety agencies should be commended for the consistent ranking of the County as one of the safest in the United States.

Responses Required

Ventura County Board of Supervisors	All recommendations
Ventura County Chief Administrative Officer	All recommendations
Ventura County Sheriff	All recommendations
Ventura County District Attorney	Recommendations 1, 3, & 4
Ventura County Probation Agency Director	Recommendations 1, 3, & 4
Ventura County Auditor-Controller	All recommendations
Ventura County Public Defender	Recommendations 1, 3, & 4