

June 30, 2008

Ventura County Grand Jury  
800 S. Victoria Ave., L# 3751  
Ventura, CA 93009

**RE: Response to April 16, 2008 Ventura County 2007 – 2008 Report: “Oxnard Harbor District: Port Security and Safety”**

On April 28, 2008, the Oxnard Harbor District, Board of Harbor Commissioners, officially received and discussed your 2007-2008 Report: “Oxnard Harbor District: Port Security and Safety”. On July 14, 2008, the Board of Harbor Commissioners will discuss the Management Team’s response to your findings, conclusions and recommendations.

In accordance with your request the following response has been prepared:

**Findings:**

**F-01 District management states the Port is a Tier-3 port operating in a region subject to a Tier 1 security risk. [Agree]**

**F-02 The District employs a State of California certified contract security service whose primary responsibility is main gate access to the Port. [Agree]**

**F-03 The District employs eight Wharfingers who generally work 10-hour shifts. At least one Wharfinger is required to be on duty each shift; these shifts are round-the-clock 7 days a week. [Agree]**

**F-04 District management states Wharfinger perform thirty-one essential functions; eleven of these relate directly to the security and safety of the Port. [Concur in Part]** The District provided a copy of the most current Job Description for the position of Wharfinger to the Grand Jury. The Job Description has 31 essential functions. The Grand Jury made the finding that eleven of these relate directly to the security and safety of the Port. The term “security” has different meanings and applications. Security such as checking doors to see if they are locked is different from security under the applicable DHS / USCG regulations. The Grand Jury report does not differentiate among the differences. The Executive Director advised the Grand Jury that the job function provided was not consistent with the District’s Port Security Plan. The District is in the process of up-dating the Wharfinger’s Job Description in association with our Labor / Management process.

Executive Director

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**PORT MANAGEMENT**

Anthony J. Taormina  
Executive Director

**F-05 Wharfingers are designated port security officers who patrol District properties on foot, in a vehicle, and when required, in a patrol boat.** [Disagree] In accordance with 33 CFR, the Oxnard Harbor District has one designated Facility Security Officer (Executive Director) and two Alternate Facility Security Officers (Deputy Executive Directors). The Wharfingers are employees of the District with security duties and responsibilities. One of the security responsibilities requires the Wharfingers to make rounds. The District provides the Wharfingers with a vehicle to make these rounds. The District does not have a patrol boat. The District has two vessels. One is used for the maintenance personnel to inspect Wharves of the Oxnard Harbor District, and the other was purchased as part of the State of California's Security Grant Program as part of the District's Incident Command System and Capabilities.

**F-06 Wharfingers wear distinctive uniforms and shoulder patches and a metal badge stamped Wharfinger/Oxnard Harbor District.** [Concur in Part] The District provides uniforms to District employees in accordance with a MOU with the SEIU. While metal badges have been provided to the Wharfingers, the District is currently reviewing the California statutes regarding the use of badges associated with non-law enforcement functions. The use of the metal badge may be misconstrued as a person with law enforcement authority. At the present time, the badges issued to District employees will have to be redesign to ensure they are not misleading to the public.

**F-07 Wharfingers are unarmed.** [Agree]

**F-08 The Proprietary Security Services Act in Chapter 11.4 of Division 3 of the California Business and Professional Code (§§7574 – 7574.4) requires private security officers to register with the California Department of Consumer Affairs.** [Agree]

**F-09 District Wharfingers are not required to comply with the Proprietary Security Services Act as a pre-condition of employment, or are they required to have a California Security Certificate, commonly known as a Guard Card.** [Agree] The District has a contract for security access control. The security personnel engaged by contract comply with the Proprietary Security Services. The California Business and Professional Code sections are not applicable to the District's Wharfingers.

**F-10 Once employed, Wharfingers are not required to receive training by the District to obtain their Guard Card.** [Agree]. Wharfingers are not required to have Guard Cards as part of their employment. The California Business and Professional Code sections are not applicable to the Wharfingers.

**F-11 The District has an administrative manual for all employees; it does not have a specific Operations Manual for Wharfingers.** [Agree] The District does not have an Operations Manual for the Wharfingers. We have relied on-the-job training with operating procedures passed down by the Wharfingers. The District intends to prepare an Operations Manual.

**F-12 The District has a twenty-four hour security camera and recording system.** [Agree]

**F-13 According to District management there are periods when the camera is not observed by a District employee.** [Agree] As discussed by the Executive Director with the Grand Jury, an employee sitting in front of a CCTV monitoring system on a twenty-four hour basis is not a good security practice. The District's CCTV monitoring system will be linked to an alarm platform that will provide information to the District when an incident occurs. The District is currently in the process of upgrading the CCTV to include this monitoring capability.

**F-14 Wharfingers carry a portable two-way radio that is used for internal communication and ship traffic. The radios are not programmed to directly communicate with local public safety responders. When a public safety response, i.e., police, fire is required at District facilities the Wharfinger calls 911 using the nearest telephone or cell phone.** [Agree]

**F-15 Over the past four years, the District has received approximately \$ 1.3 million in DHS grants to strengthen port security.** [Agree] The District has recently received another \$ 2.9 million.

**F-16 Ports in the United State are eligible to apply for DHS port security grants which total \$ 400 million. The State of California has \$ 40 million available for port security grants state-wide. The District intends to apply for these grants.** [Agree] The District has applied for Proposition 1 B funding and has applied for the DHS Round 7 B and 8.

**F-17 In December 2007, the White House Office of Management and Budget proposed a nationwide \$ 1.4 billion reduction for the fiscal 2009 DHS grants, some of which specifically target port security.** [Unknown]

## Conclusions

**C-01 A Wharfinger position, as utilized by the District, is a multifaceted position because of the variety of assigned duties to be performed.** [Agree with the Comments F-03 to F-08]

**C-02 Even though Wharfingers perform many sensitive security functions, they are not subject to security officer certification as outlined in the Proprietary Services Act.** [Agree with the Comments F-04, F-05 F-08 through F-10]. Wharfingers are employees with security functions. They do not have access to the sensitive security functions set forth in the Oxnard Harbor District Security Plan prepared pursuant to the USCG regulations.

**C-03 Wharfingers perform security functions, although they are not subject to a comprehensive background evaluation, such as fingerprint checks, as required of private security officers under the Proprietary Services Act.** [Agree with Comments F-04, F-08]. The Wharfingers are required to have mandatory background checks in accordance with the Transportation Worker Identification Card program. The Proprietary Security Services Act is not applicable to Wharfingers.

**C-04 Wharfingers would be better prepared to perform safety and security functions if they receive similar certified training as outlined in the Proprietary Security Services Act .** [Disagree] The Proprietary Security Services Act is not applicable to Wharfingers. Training is provided in accordance with CFR 33, the District Port Security Plan and the Federal and State Incident Command System.

**C-05 The lack of certified training, as outlined in the Proprietary Security Services Act, could raise liability issues for the District.** [Disagree] The Proprietary Security Services Act is not applicable to the Wharfingers.

**C-06 Wharfingers ability to contact emergency public safety responders is limited by primary reliance on the 911 system. Reliability would be strengthened by the development of additional means of communications.** [Agree]

**C-07 Port security is not optimal when only one Wharfinger is on duty.** [Disagree] The District has a robust port security plan that takes into account one Wharfinger on duty and one security guard at the main gate.

**C-08 Port security is compromised by the failure to provide 24/7 observation of the Port security camera system.** [Disagree] As noted above, having a dedicated person to observe Port security cameras on a 24/7 basis is not "best practices" for security procedures.

**C-09 The proposed reduction of DHS funding will adversely affect future security enhancements at the Port.** [Disagree] The District has received a fair share allocation of State and Federal security funding.

## **Recommendations**

**R-01 Wharfingers, as utilized by the District, should receive security certification as outlined in the Proprietary Security Services Act.** [Disagree] Wharfingers are not, nor intended to be, law enforcement officers such as police. The District has a contract with the City of Port Hueneme for police [law enforcement] services. The Wharfingers training and duties are more applicable to the USCG rules and regulations regarding port security.

**R-02 Future employment requirements of Wharfingers should include the possessions of a California Security Certificate (Guard Card).** [Disagree] The California Security Certificate (Guard Card) is not applicable to the Wharfingers. All gate security guards have Guard Cards.

**R-03 The District should develop a Field Operations Manual for Wharfingers.** [Agree] The District is in the process of implementing this recommendation.

**R-04 Wharfingers' radio should provide two-way communications to primary public safety agencies.** [Agree] Communications with law enforcement is the responsibility of public safety agencies to regulate and control. The District does not have access to these radio bands.

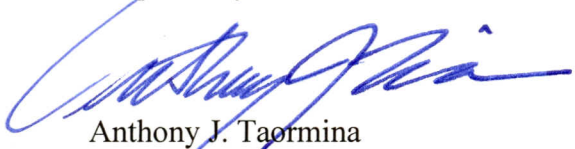
**R-05 The District should develop backup system of communication with responding public safety agencies. Additional methods of communication may include devices such as a dedicated telephone circuit, commonly known as a "ring down phone".** [Concur in Part] The District has engaged the Center for Asymmetric Warfare to investigate the development of a Joint Port Operations / Security Center to ensure improved communications between federal, state, and local agencies.

**R-06 The District should provide 24-hour uninterrupted observations of the port security camera system.** [Disagree] This is not a proper method of monitoring CCTV systems. The District is in the process of linking the CCTV to a platform that will provide 24-hour uninterrupted notifications to appropriate port security and operations personnel.

**R-07 The District should continue to pursue strengthening and upgrading Port security without regard to funding sources.** [Concur in Part] The District does continue to pursue upgrades to port security; however, it is essential that the District utilize a "cost-benefit" analysis to ensure appropriate use of funds and funding sources.

Please contact me directly, if you have any further questions regarding the District's response to your findings, conclusions and recommendations.

Respectfully submitted,



Anthony J. Taormina  
Executive Director  
Oxnard Harbor District

cc: Each Commissioner  
Honorable Colleen Toy White, Presiding Judge  
Superior Court of California, Ventura County  
Hall of Justice, # 2120  
800 S. Victoria Avenue  
Ventura, CA 93009