

county of ventura

COUNTY EXECUTIVE OFFICE
MARTY ROBINSON
County Executive Officer

October 29, 2009

J. Matthew Carroll
Assistant County Executive Officer

Paul Dorse
Chief Financial Officer

John K. Nicoll
Human Resources Director

Honorable Kevin J. McGee
Presiding Judge of the Superior Court
Superior Court of California, Ventura County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

Subject: **Board of Supervisors' Response to 2008-09 Grand Jury Report entitled, "Is Your Favorite Restaurant Clean?"**

Dear Judge McGee:


In accordance with State requirements, the response from the Ventura County Board of Supervisors to the 2008-09 Grand Jury Report entitled, "Is Your Favorite Restaurant Clean?" is hereby submitted.

This concludes the Board's responses to the 2008-09 Grand Jury reports that are under the Board's authority.

The remaining report "Did Your Vote Count?" is the responsibility of the County Clerk & Recorder as an elected official and does not require the Board's approval, however we will work with the Assistant Clerk-Recorder to move this response forward in the near future. The Grand Jury also indicated it would accept a response from the Board of Supervisors to this report but did not specifically require one.

Should you have any questions, please contact Matt Carroll at 654-2864 or Kathleen Van Norman at 654-2566.

Respectfully Submitted,


MARTY ROBINSON
County Executive Officer

Enclosures: - BoS Response to Grand Jury Report "Is Your Favorite Restaurant Clean?"

Cc: County Clerk & Recorder, James Becker
Superior Court Jury Services (3 copies as listed below for distribution)

- For Jury Services, Richard Goldner, Court Program Supervisor
- For transmittal to State Archives
- For transmittal to Grand Jury

BOARD MINUTES

BOARD OF SUPERVISORS, COUNTY OF VENTURA, STATE OF CALIFORNIA

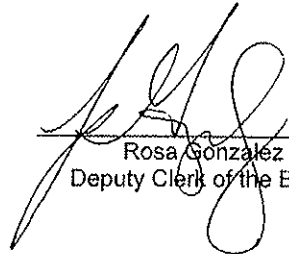
SUPERVISORS STEVE BENNETT, LINDA PARKS,
KATHY I. LONG, PETER C. FOY AND JOHN ZARAGOZA
October 13, 2009 at 8:30 a.m.

228.3

COUNTY EXECUTIVE OFFICE - Approval of Response to the 2008-09 Ventura County Grand Jury Report Entitled "Is Your Favorite Restaurant Clean?" for Submittal to the Presiding Judge of the Superior Court.

- (X) All board members are present.
- (X) The following persons are heard: Matt Carroll and Robert Gallagher.
- (X) Upon motion of Supervisor Long, seconded by Supervisor Foy, and duly carried, the Board hereby approves the attached staff recommendation and directs staff to provide additional information on the County of Ventura web site home page about Environmental Health Division's web site.

By:



Rosa Gonzalez
Deputy Clerk of the Board

CLERK'S CERTIFICATE

I hereby certify that the annexed instrument is a true and correct copy of the document which is on file in this office.
MARTY ROBINSON, Clerk of the Board of Supervisors,
County of Ventura, State of California.

Dated: _____

By: _____
Deputy Clerk of the Board

Item# 20
10/13/09

DISTRIBUTION: Originating Agency, Auditor, File

county of ventura

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October 13, 2009

County of Ventura
Board of Supervisors
800 South Victoria Avenue
Ventura, CA 93009

Subject: Approval of Response to 2008-09 Ventura County Grand Jury Report Entitled "Is Your Favorite Restaurant Clean?" for Submittal to the Presiding Judge of the Superior Court

Recommendation:

That your Board approve the response to the subject Grand Jury report pertaining to County government under your authority for submittal to the Presiding Judge of the Superior Court in accordance with State statute.

Discussion:

Penal Code §933.05 requires that your Board comment on the findings and recommendations of the Grand Jury pertaining to county government under your authority.

On August 11, 2009, your Board considered responses to a majority of the 2008-09 Grand Jury reports and approved those responses with a minor modification to the report dealing with pension issues. We indicated at the time that two remaining responses would be presented at a later date.

The County-Clerk and Recorder is preparing his response for submission later this month to the Grand Jury report entitled "Did Your Vote Count?"

In this letter, we present the draft response to the second remaining report "Is Your Restaurant Clean?" included as Exhibit 1 to this letter. As your Board is required to respond to all findings and recommendations to county government under your authority, this draft consolidates both those responses requested of your Board as well as those requested of the Resource Management Agency (RMA).

Given the complexity, importance to the public and the Board's history of involvement in this area, additional clarification and information is provided on the 41 findings, 16 conclusions and 8 final recommendations contained within the report. Based on this information, the draft response supports implementing two of the eight Grand Jury recommendations. These

include recommendation R-5: EHD Review of Operating Procedures and Inspection Districts for Greater Operating Procedures and recommendation R-7: Improve EHD Website for Easier Access to Restaurant Inspection Information.

The remaining six recommendations are not supported as they are either not practical for all food establishments, would result in additional costs, would be unique in the state, would apply only to restaurants in the unincorporated areas or could possibly cause the consumer to erroneously consider food was unsafe, among other issues. These recommendations include R-1: Require Inspection Placards at Main Restaurant Entrance; R-2: Use of a "Conditional Placard"; R-3: Addition of Numerical Scoring to Inspection Process; R-4: Issuance of Self-Inspection Checklist; R-6: Reduced Requirement for EHD Inspectors to Report Daily to Government Center and R-8: Board of Supervisors Direction to EHD to Implement a Performance/Incentive/Grading System.

Of particular importance for your Board's consideration is background on recommendation R-8: *Board of Supervisors Direction to EHD to Implement a Performance/Incentive/Grading System*, which is not supported in the draft response. On January 6, 1998 your Board approved and adopted the Ventura County Food Protection Program modifications that enabled the Environmental Health Division to enhance public health protection, maximize the use of available resources, and improve equity in the fees charged to the retail food industry. Subsequently, on April 14, 1998, your Board examined, among others, the issue of requiring the posting of letter grades at food facilities. Your Board did not adopt a grading system for food facilities at that time. Instead, your Board adopted program enhancements to include: an inspection placard, an inspection summary report available to patrons, and posting of all food facility closures on-line.

California Retail Food Code does not mandate "grading" of food facilities. Even if the Board were to adopt an ordinance establishing "grading," its authority to implement a grading program is limited to the unincorporated area with approximately 220 retail food facilities of the collective ten cities' 4,500 retail food facilities.

California Retail Food Code Section 113725.1 states, in part: "A copy of the most recent routine inspection report conducted to assess compliance...shall be maintained at the food facility and made available upon request. The food facility shall post a notice advising consumers that a copy of the most recent routine inspection report is available for review by any interested party." The State code allows local jurisdictions to provide public notifications of inspection results that exceed state standards. Since 1998, Ventura County implemented such notification enhancement program as summarized above. Furthermore, as of January 2006, on-line inspection results of routine and follow-up inspections from January 1, 2004, to the present have been posted. The results include any violations of the California Health and Safety Code found during the inspection and a general description of the violation.

Perhaps most importantly, as noted in the draft response, there is no clear causal connection between a letter grade system and reduction in food-borne illnesses. Another challenging factor to implementing this recommendation is that there is a lack of consistency as there is no universal grading system. For example, Kern, Los Angeles, Riverside, San Bernardino and San Diego counties have each implemented a differing scoring system and established differing parameters for the various letter grades. Unless a consumer is familiar with the specifics of each county's grading system, it may be difficult to ascertain the specific meanings of each letter grade and how many inspection violations or the nature of the specific violations a food facility may have had during the most recent inspection.

Finally, the implementation of a letter grading system would likely require an increase in EHD staffing to ensure the provision of due process and dispute resolution are consistent; staff training; community outreach; ordinance adoption; additional materials and equipment; and database revisions. The potential primary cost would be for additional inspection time to compute the "score", explain the inspection results and the correlated score, and to discuss process and timeframes for re-inspection for "re-grading". Thus, instead of focusing efforts on ensuring compliance by partnering and educating food facility owners and operators regarding proper food handling requirements, the focus will shift attention to grades and disputed violations.

As noted in the report, many complex and labor intensive tasks must be assessed, reviewed and completed to fully adopt and implement a letter grading system. To illustrate the magnitude of this workload, Orange County Environmental Health Division staff recently determined the development and implementation of a food facility grading system in its county would increase costs approximately \$528,000 during the first year and \$344,000 during subsequent years. Since Los Angeles County's grading system was implemented in 1998, only Kern and San Bernardino Counties have adopted ordinances requiring posting of letter grades. In 1998, EHD prepared estimated costs of Ventura County's grading program model based on Los Angeles and San Diego's counties, reflecting inspection frequency, grading, and mandatory food safety training as required in those counties for the Board's consideration. At that time, the estimated program cost was approximately \$1,810,000. The costs would be distributed to all food facilities resulting in a fee increase.

Additional information on the remaining five recommendations, which are not supported, is provided in the draft response.

Staff from RMA's Environmental Health Division will be available to provide further information and answer any questions your Board may have on the draft response at today's Board meeting. If your Board elects to amend the draft response, CEO staff will, at your direction, work with RMA to make such changes or additions prior to submitting the responses to the Presiding Judge.

Board of Supervisors
Response to 2008-09 Grand Jury Report
"Is Your Restaurant Clean?"
October 13, 2009
Page 4 of 4

Should you have any questions or require additional information, please contact J. Matthew Carroll at 654-2864 or Kathleen Van Norman at 654-2566.

Sincerely,



MARTY ROBINSON
County Executive Officer

Attachment:

Exhibit 1 – Responses to 2008-09 Grand Jury Report, "Is Your Restaurant Clean?"

RESPONSE TO GRAND JURY REPORT

Report Title: Is Your Favorite Restaurant Clean?
Report Date: June 23, 2009
Response by: Ventura County Board of Supervisors and Environmental Health Division

EXECUTIVE SUMMARY

On April 14, 1998, the Ventura County Board of Supervisors examined the issue of perhaps requiring the posting of letter grades at restaurants and other retail food facilities in Ventura County. The Board decided not to require the posting of grades at that time. Instead, program enhancements that provide improved public health protection were enacted. These program enhancements included: the establishment of retail food facility inspection frequencies based on health risk and expanded training of food handlers as well as Environmental Health Division (EHD) staff.

The enhanced food protection program also included the following alternate methods of providing the public with information about the compliance status of retail food facilities:

1. an inspection placard;
2. an inspection summary report available to restaurant patrons in Ventura County; and,
3. posting of all food facility closures on the internet.

Prior to Los Angeles County implementing a grading system in 1998, the only counties in California that posted grade cards were San Diego and Riverside, who had been doing so for over 35 years. With the highly publicized implementation in Los Angeles County, many other California counties, including Ventura, Sacramento, Napa, San Francisco, Kern, San Bernardino, and Orange, considered implementation of a grading system. Only Kern and San Bernardino counties subsequently adopted ordinances requiring posting of letter grades.

Since the Board's action on April 14, 1998, little or no public interest has been expressed about implementation of a grading program in Ventura County. The Grand Jury report recommends the adoption of a grading system based on its conclusions that grading: (1) enhances public information and (2) improves sanitation. There is little or no evidence that supports these conclusions over time. While the simplicity of letter grades seems appealing, less costly alternatives such as the Ventura County program are equally, if not more, effective. Lastly, the Board of Supervisors' authority to implement a grading program is limited to the unincorporated area, where only about 220 retail food facilities are currently operating. Each of the ten cities, where collectively about 4,500 retail food facilities are located, would need to adopt a separate ordinance to enable implementation of a County grading program within the city's jurisdiction. No city council has expressed an interest in or formally requested that the Board of

Supervisors establish a grading program. Additionally, based on experiences in other counties, obtaining universal city support of a County grading program is problematic. For example, after 10 years there are still at least 8 cities in Los Angeles County that have not adopted the necessary grading ordinance. This can result in a fractured, confusing system.

Given the effectiveness of the previous actions taken by the Board to establish an enhanced food protection program, the experiences of other counties, and the lack of authority over food facility grading programs within cities, staff recommends the Grand Jury's recommendations related to implementation of a retail food facility grading program not be implemented.

FINDINGS

F-01 The County has about 4,700 food providers of which about 1,900 are restaurants. The others consist of grocery stores and retail outlets selling pre-packaged foods, for example.

Response: Concur

F-02 The EHD restaurant inspection program is funded by the County General Fund; however, these are "revenue offset operations," in that the fees generated from licensing are adequate to cover all costs of the inspection program. Fees are set annually by the County of Ventura Board of Supervisors (BOS), based on recommendations from the EHD.

Response: Concur.

F-03 The EHD maintains a website (www.ventura.org/rma/envhealth) on which it posts summary inspection data. Restaurant closures and re-openings are also posted. Some Grand Jurors found this site difficult to navigate.

Response: Concur in part.

We agree that restaurant closures and re-openings are posted on the EHD website. However, a complete listing of the violations found on food facility inspections is also posted on this website, not just a summary.

F-04 There are from between 5 and 90 visits to the above website daily with the normal range between 30 and 40.

Response: Concur.

F-05 There are 18 authorized EHS positions, four of which were filled in 2008; placing the division at full staff. In early 2009, one of the EHSs was promoted, creating a vacancy.

Response: Concur.

F-06 All EHS positions require a college degree in the appropriate sciences and are California State Registered Environmental Health Specialists.

Response: Concur.

F-07 The primary function of the EHS is to ensure that restaurants and other food providers meet the requirements of the Cal Code. [Ref-01]

Response: Concur.

F-08 The average inspection takes one to two hours and only reflects the condition at the time of the inspection.

Response: Concur in part.

The average restaurant inspection takes 2.31 hours.

F-09 The BOS has defined a goal of three routine inspections per year for each restaurant. During the last several years, with only 14 EHSs, the EHD has been achieving about one inspection per year per restaurant.

Response: Concur in part.

We agree that the BOS has defined a goal of three routine inspections per year for each restaurant. We also agree that EHD has not been fully staffed in recent years and therefore has been unable to meet this goal. EHD has, however, conducted more than one inspection per restaurant per year in 2006, 2007, and 2008. Data regarding the number of routine and follow-up inspections conducted per quarter from October 2005 through May 27, 2009 was requested and provided to the Grand Jury. As reflected in Findings 16 and 17, and based on the 1,900 restaurants as stated in Finding F-01, more than one routine inspection was conducted annually and 40% of the restaurants received a follow-up inspection.

F-10 The EHD has not determined whether 18 EHSs are sufficient to achieve three routine restaurant inspections per year. The EHD stated that it will re-evaluate its staffing needs after a year of experience with full staff.

Response: Concur.

F-11 Each EHS has a defined region to cover, typically working a two-week 80-hour schedule, nine out of ten days.

Response: Concur.

F-12 EHSs start their day at the Government Center to complete various office activities prior to picking up their County car and proceeding to their region for inspections. The car is returned at the end of each day.

Response: Concur in part.

On June 15, 2009, EHD opened and staffed an office space in the East County Courthouse complex in Simi Valley. EHD staff that are assigned to geographic districts in the East part of the County now start their day, and pickup and return their County car at the East County Office.

F-13 EHSs are also responsible for enforcement of the California Sherman Act. This law requires menu accuracy and other similar items. The EHD stated that this is a low priority activity and enforcement is usually reactive in response to citizen complaints or a blatant violation.

Response: Concur in part.

EHD is authorized by the State Department of Public Health to enforce portions of the Health and Safety Code entitled the Sherman Food, Drug and Cosmetics Act that relate to truth in menu, labeling and advertising of food in retail food facilities. However, enforcement is proactive, not "reactive" as suggested in the report. Menus, labels, and advertising are reviewed as part of the inspection and violations are noted on the report. Enforcement activities are generally only undertaken when the violation is not corrected or in conjunction with regional or Statewide action involving corporate chain facilities.

F-14 Cal Code requires that food served in public establishments must be obtained from approved sources. Ensuring compliance with this law is also part of the EHS's responsibilities.

Response: Concur.

F-15 EHSs are also responsible for public swimming pool inspections.

Response: Concur.

F-16 In 2008, there were 2,551 routine restaurant inspections, 1,354 restaurant re-inspections, and approximately 100 closures.

Response: Concur.

F-17 Quarterly data on restaurant inspections from the last five years shows a consistent pattern of about 40% re-inspections and 4% closures.

Response: Concur.

F-18 Inspection frequencies are variable and unannounced.

Response: Concur.

F-19 The County uses a pass/fail system for restaurant inspections and, except for closures, issues a "passed" placard that identifies the date of inspection, and the name of the inspector. The placard also shows the EHD website where inspection results are available and the EHD phone number. (Att-01)

Response: Concur in part.

The placard also states that a copy of the inspection summary report is available at the facility. The Food Code requires that a notice be posted that informs the consumer that inspection results are available for review at the facility. The placard allows the facility to post one document to meet state law and to provide the public with information. Facilities in counties that post grade cards have to post an additional document to comply with State law.

F-20 Placards must be posted in public view within the establishment and inspection results must be made available, if requested.

Response: Concur.

F-21 The County's re-inspection procedures and protocol are:

- **restaurants subject to closure will be re-inspected as soon as the problem is corrected; most closures last less than two days**
- **when there are a number of violations, but not enough to warrant immediate closure, a re-inspection is scheduled with instructions of what must be done to bring the restaurant back into compliance**
- **a "passed" placard is issued with no indication that a re-inspection is required**
- **if a second re-inspection is still unsatisfactory, a letter is sent strongly delineating what must be done**
- **non-compliance after a third re-inspection results in a hearing and possible closure**
- **a "passed" placard remains in place throughout this process**

Response: Concur in part.

EHD concurs with the first bullet.

EHD disagrees with the second bullet. The Grand Jury incorrectly implies that there are a prescribed number of violations that warrant closure of a retail food facility. In fact, closure is determined by the public health threat associated with a specific violation or violations observed during an inspection. We also disagree with the Grand Jury's implication that a prescribed number of violations automatically results in a follow-up inspection by EHD staff. Actually, follow-up inspections are conducted for a variety of reasons including the seriousness of a violation or violations noted during a routine inspection, construction, changing equipment, modifying menus, and consultation requested by the owner/operator.

EHD concurs with the third bullet with the following comments:

1. At the conclusion of each passed inspection, a new placard, inspection report, and summary report are issued. Re-inspection information is provided when applicable on the inspection and summary reports available at the food facility. Violations noted on follow-up inspections are posted on the EHD website. Based on the concern brought by the Grand Jury, when a follow-up inspection is warranted, a notation that a re-inspection is required will be posted along with the violations noted on the inspection.
2. It is noted that grading systems such as the Los Angeles County system do not provide reinspection information.

EHD does not concur with the fourth bullet. Depending on the nature of the uncorrected violations, EHD staff will either immediately suspend the facility permit to operate, issue a Notice of Violation, take other appropriate enforcement actions such as impounding equipment and embargoing food, schedule a hearing, schedule a re-inspection, or, for very minor violations, review compliance status at the next routine inspection.

EHD does not concur with the fifth bullet. See response above.

EHD does not concur with the last bullet. As noted, a new placard and summary report is issued at each inspection.

F-22 The EHD does not currently assign numeric values (points) to the various elements of the inspection process.

Response: Concur.

F-23 The EHD uses the Envision System from Decade Software for restaurant inspections. This software will support a point value system.

Response: Concur

F-24 The EHD is in the process of assigning numeric scores for specific violations. This is planned to be completed by September 2009.

Response: Disagree.

EHD is not in the process nor has any plans of assigning numeric scores for specific violations.

F-25 Each EHS uses a laptop computer to input observations during inspections and print out the results on site for review with the owner or manager. This information is later uploaded to the Envision System on the EHD server.

Response: Concur.

F-26 The EHD plans major Envision System upgrades, estimated by June 2009. This will give EHSs wireless capability to connect to the EHD server from the field.

Response: Concur.

The Envision upgrades are estimated to be installed by September 2009.

F-27 Public complaints regarding a restaurant's sanitary condition result in an immediate investigation by EHD.

Response: Concur.

F-28 During a Grand Jury inspection observation, it was noted that a number of adjacent restaurants were in different inspection districts.

Response: Disagree.

Adjacent food facilities are not located in different inspection districts. Food facilities are grouped into geographic districts to ensure equal and efficient workload for inspection staff. Streets, roads, and highways are often used to define the boundaries of inspection districts. Additionally, the cities of Oxnard, Simi Valley, Thousand Oaks, and Ventura have multiple inspection districts due to the number of food facilities located in these cities. Although the district boundaries are carefully drawn to avoid food facilities being on opposite sides of a boundary and thus being in different districts, there are a few examples in the cities with multiple districts where this is the case. We also believe Grand Jury members may have observed inspection placards in adjacent food facilities that were issued by different inspectors and assumed these facilities were in different districts. In fact, the usual reason for this situation is that multiple inspectors are at various times assigned to perform inspections in unstaffed districts, which results in inspection placards being issued by different inspectors until permanent staffing is restored. This was explained to several Grand Jury members during our interviews.

F-29 Cal Code requires that each food establishment have one employee or the owner be certified in food handling and sanitation. [Ref-01]

Response: Concur.

F-30 The County may impose more stringent standards than Cal Code requires; each city in the County may accept or reject the more stringent requirements.

Response: Disagree.

The State Food Code (Health and Safety Code (HSC) Section 113705) expressly precludes counties and cities from imposing more stringent requirements related to retail food facility health and sanitation standards. It is noted that the Food Code (HSC Section 113709) also authorizes county boards of supervisors and/or city councils to adopt at their discretion evaluation or grading systems for retail food facilities operating in their respective jurisdictions. However, locally adopted requirements associated with such systems cannot alter the health and sanitation standards set forth in the Food Code.

F-31 Fifteen cities in Los Angeles County (L.A. County) did not initially adopt the "A B C" grading system when instituted in 1998. Currently, all of these cities have adopted this grading system.

Response: Disagree.

The cities of Long Beach, Pasadena, and Vernon have Environmental Health departments independent of Los Angeles County and do not post grades in retail food facilities. It is our understanding there are currently eight other cities in Los Angeles County that have not adopted the grading ordinance.

F-32 After the initiation of the grading system, the L.A. County Department of Public Health (DPH) reported a 13% decrease in hospital admissions for food-borne illness. State-wide levels remained constant during the same time frame (1993-2000). [Ref-02]

Response: Concur in part.

An examination of the State Health Department report concerning foodborne hospital admission rates for the time period of 1995-1999 revealed that foodborne illness admission rates for all of California dropped 27% from 4.1 to 3.0 per 100,000 population.

F-33 The most common causes of food-borne illness in restaurants are: [Ref-03]

- poor personal hygiene (hand washing, etc.)
- contaminated equipment (utensils, prep surfaces, etc.)
- inadequate cooking

- improper holding temperature
- food from unsafe sources

Response: Concur.

F-34 Many counties in California and other parts of the country have adopted rating systems using numerical scoring on the basic elements of the inspection requirements. [Ref-03 through Ref-05]

Response: Concur in part.

In a statewide survey conducted in 2002, only 19 of the 62 (30%) county and city environmental health agencies indicated that they rate, score, or grade food facilities. Of these, only 5 issue letter grades.

F-35 While L.A. County's grading system has been used as a model for many jurisdictions, other variations and approaches are used to establish rating or awards of excellence. [Ref-03]

Response: Disagree.

It is an over-statement to say that "many" counties have adopted grading systems modeled after Los Angeles County's system. Since Los Angeles County's grading system was implemented in 1998, only Kern and San Bernardino Counties have adopted ordinances requiring posting of letter grades.

Seven other counties and cities have adopted substantially different posted public notification systems: Ventura, Monterey and Orange Counties post an inspection placard, Sacramento and Merced Counties post color coded placards, and San Francisco and Long Beach post an inspection report/summary.

F-36 In the last few years, numerous studies have been conducted about the effect of rating systems on restaurant sanitation. A recent study by the Center of Science in the Public Interest (CSPI) was issued in August 2008. All of these studies concluded that restaurants are cleaner and that there are health benefits to the public attributable to restaurant grading systems. [Ref-02, Ref-05]

Response: Disagree.

The CSPI study results cited actually found that Las Vegas, one of the two cities included in the study which posts grade cards, to have a greater severity of violations found on inspections (risk factors for foodborne illness) than 12 of the 20 other cities studied. St. Louis, the other city included in the study which posts grade cards, was higher than 4 of the 20 cities.

Furthermore, the City of Wichita, Kansas did away with a 30-year-old grading system because they felt it gave patrons a false sense of security. The City of Wichita Environmental Services Department, like Ventura County, now provides access on their website to more complete inspection information that is specific to the violation.

F-37 In January 2008, the DPH issued a ten-year status review of its grading system to the L.A. County Board of Supervisors. This report concluded that public health had improved, public information on restaurant conditions was improved, and most importantly, restaurants were cleaner. [Ref-02]

Response: Concur in part.

When Los Angeles County began its restaurant grading system, it also implemented several other program enhancements that may have lead to the noted improvements. The County increased inspection staff, enhanced training for staff, increased the number of inspections performed, created a risk-based approach to inspection priorities, increased public access to inspection results through the County website, and increased industry education relating to safe food handling practices. Each of these actions on its own could lead to improved inspection results. It would be unsupported and likely inaccurate to claim that posting grading placards was the sole cause of the improved inspection results.

F-38 The DPH has also noted that, as a result of the grading system, restaurants shifted from a reactive approach to violations to a proactive approach in order to achieve higher grades. [Ref-02]

Response: Disagree.

As detailed in the referenced report, a major component of the Los Angeles County grading system was working with restaurant and retail market owners to ensure they have the knowledge and capacity to maintain safe and clean facilities. Concurrent with the adoption of letter grading, the Los Angeles County Board approved an action plan requiring restaurant managers and workers to participate in a food safety training program. Starting in 1999, at least one individual who has successfully completed the four-hour Certified Food Handler training program is required by Los Angeles County to be on duty while the establishment is open to the public.

Similarly, beginning in January 1999, a new State law required that food facilities throughout California that prepare, handle, or serve non-prepackaged potentially hazardous food have an owner or employee who has passed an approved and accredited food safety certification examination. There is currently legislation that would require that every restaurant employee be certified. Since January 1999, Ventura County EHD staff has verified during inspections that there is a certified individual at each facility where required by State law. In our view, this education component of the food inspection program has contributed more than any other component to improving the proactive nature of food facility owners and operators.

F-39 Economists Leslie and Jin reported in 2003, in the Quarterly Journal of Economics, that incentives work. Grading systems forced restaurants to improve because lower-graded establishments lost business while the highest-graded places gained customers.

Response: Disagree.

The referenced report related grading to revenue, not numbers of customers. The findings, based on revenue data covering two years before and one year after the grade cards, were that, restaurants obtaining an A-grade obtained an average of 5.7% higher revenue than before grade cards. For B-grade restaurants, there was a 0.7% increase, and for C-grade restaurants, revenue decreased by 1.0%. It was noted that during the one year that the grade cards were initiated, there was a general trend of increasing revenue for all restaurants.

EHD is not aware of any follow-up or current information regarding the long term effects of grading on revenue. A Los Angeles Times article dated September 28, 2005, reported that in the San Gabriel Valley, home to the nation's largest Chinese American community, the letter-grade system is often viewed as little more than a minor intrusion on a proud cuisine - if diners consider it at all. According to this article, restaurants with C-grades are filled with customers.

F-40 In San Diego County, EHSs issue a Self-inspection Checklist to each restaurant as part of the routine inspection procedure. (Att-02)

Response: Disagree.

According to San Diego County staff, the Self-Inspection Checklist attached to the report is part of an Operator Guide that is given to each restaurant when a new permit is issued. The checklist is not handed out at all routine inspections. San Diego County advises the restaurant to use their inspection report as a self-inspection checklist. Ventura County EHD staff also provides this advice.

F-41 A random survey conducted by the DPH in 2001 showed that over 91% of the 2,000 respondents liked and used the grading system. A follow up survey of 8,600 respondents in 2005 showed similar results. A national survey in 2007 conducted by the CSPI showed comparable results. [Ref-02, Ref-03]

Response: Disagree.

The 2001 survey results referenced by the Grand Jury indicated that only 65% of respondents were influenced in their selection of food facilities by letter grades always or most of the time. The national survey in 2007 referenced actually found that 50 percent of consumers said that a letter grade synopsis of the most recent inspection results posted in a restaurant window would be most useful to them in deciding where to dine. This survey also found that 85 percent of respondents said that knowing the results of a restaurant's most recent health inspection would affect their decision of

whether to dine at that establishment. Ventura County's posting of the placard, availability of the summary report at the facility and availability of inspection results on line provide the consumer with ready access to the results of a restaurant's most recent inspection.

CONCLUSIONS

C-01 No system of restaurant inspections is of any value unless it is properly staffed with EHSs who are competent, properly educated, and motivated. The Grand Jury concludes that the Ventura County EHD meets these criteria.

Response: Concur.

C-02 The ultimate responsibility for restaurant food safety rests with the management of the establishment; they must ensure employees are properly trained and follow the highest food safety standards at all times.

Response: Concur.

C-03 The first priority of the EHD is to ensure that restaurants and other food providers throughout the County are sanitary and safe for the dining public.

Response: Disagree.

The first priority of the EHD with respect to retail food facilities is to ensure compliance with applicable sections of the Food Code so that public health is safeguarded and consumers are provided food that is safe, pure, and unadulterated.

C-04 The pass/fail system used by the EHD ensures an acceptable level of sanitation is achieved to meet State requirements. Meeting State minimum requirements, by definition, means the restaurant is safe for the dining public.

Response: Concur with the following comments.

EHD staff's responsibility is to determine if a food facility complies with the requirements of the Food Code. It is unclear what the Grand Jury means by the terms "level of sanitation" and "safe." EHD staff assures a retail food facility complies with the Food Code section 113980, which states:

All food shall be manufactured, produced, prepared, compounded, packed, stored, transported, kept for sale, and served so as to be pure and free from adulteration and spoilage; shall have been obtained from approved sources; shall be protected from dirt, vermin, unnecessary handling, droplet contamination, overhead leakage, or other environmental sources of contamination; shall otherwise be fully fit for human consumption; and shall conform to the applicable

provisions of the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875)).

When an inspector completes an inspection and determines that the facility operation is substantially in compliance with the Food Code requirements, a placard is issued that indicates the facility passed the inspection on that date. If an imminent health hazard is found during an inspection that can not be immediately corrected, the facility "fails" the inspection, the permit is suspended and the facility is closed until that hazard can be corrected.

C-05 Grading systems provide incentives for a restaurant to maintain more than the minimum level of sanitation; the pass/fail system does not.

Response: Disagree.

We are unsure what the Grand Jury means by "minimal level of sanitation." In our view, Food Code Section 113980 (text included in response to C-04) describes the standards under which food is to be stored, prepared, cooked and otherwise handled. We are unaware of any documentation that grading systems provide incentives for food facilities to exceed Food Code Section 113980.

In fact, in the five California counties that currently post grades, food facilities can maintain an "A grade" while violating Section 113980.

C-06 The Grand Jury agrees with most professionals in this field, that a cleaner more hygienic environmental benefits the public.

Response: Concur.

C-07 The Grand Jury concludes that the EHD's second priority should be consumer notification of actual restaurant sanitary conditions. The EHD needs to improve in this area.

Response: Disagree.

We cannot agree with this conclusion without knowing what the Grand Jury means by "actual restaurant sanitary conditions." Moreover, EHD provides information to consumers about the compliance status of food facilities through issuance of a placard, posting closure and re-opening information on the EHD website, and providing inspection reports that are available for public viewing at each food facility as well as online.

C-08 The EHD website does not provide a sufficiently clear, easy, and direct path to restaurant inspection information.

Response: Disagree.

There are two links on the EHD home page that quickly link to restaurant inspection information. The first link is the *Restaurant/Food Facility Compliance Status & Closures* which is one of eleven clearly listed "buttons" under Environmental Health Updates. The second is on the Quick Links pull down menu under *Restaurants and Markets*. The link to the Inspection Results has its own icon on the top of the Consumer Food Protection program page.

EHD has been informed by numerous individuals that they check on the compliance status regularly; and no one has indicated that they have difficulty finding the information. The link has been published numerous times in the Ventura County Star also. Based on our latest review, approximately 106,000 people have accessed the web site information over the last year.

C-09 The placard is the consumer's primary source of information concerning a restaurant's most recent inspection.

Response: Disagree.

The placard (see enclosure) provides information about the most recent inspection, including the date and name of the inspector, which a letter grade does not provide. The placard primarily provides the consumer with information about the availability of the most recent inspection report at the facility and on-line.

C-10 The dining public would be better served if the County had a system that incentivizes restaurants to shift to a proactive stance on sanitation.

Response: Disagree.

Ventura County's retail food regulatory program provides incentives to owners/operators to maintain a proactive stance regarding Food Code compliance. No owner/operator wants public disclosure that their food facility was closed by EHD. In addition, no owner/operator wishes to have any negative inspection results posted on the EHD website.

Additionally, for over ten years, EHD staff has been offering free food handler training emphasizing the proactive approach. This training has been well-received by industry. For example, from January 1, 2009 through July 31, 2009, 276 employees attended this training.

C-11 Adding numerical scoring to the EHDs basic inspection procedures for restaurants will provide the department metrics with which it can determine trends and track past performance. The Envision software program used by the EHD fully supports adding numerical scoring.

Response: Disagree.

This statement inappropriately suggests that the EHD does not currently determine trends and track past performance using the current version of Envision. Reports are readily available to identify current and historical trends related to the violations observed during inspections and are used to determine when administrative enforcement is appropriate. These reports are also used to review inspector performance and evaluate consistency in citing violations. Reporting on each violation individually provides more accurate metrics than numerical scoring.

C-12 The planned upgrade to a wireless connection of the laptop computer can reduce the number of required visits to the County Government Center. It is inefficient to have all EHSs report daily to the Government Center for their assignments and to pick up their County vehicles.

Response: Disagree.

We disagree that wireless connections for laptop computers will reduce the number of required "visits" to the County Government Center. Generally, inspectors are required to report to their assigned work site at either the Government Center or East County Courthouse at the beginning and end of each work day. This enables staff to receive training and direction, respond to public inquiries, prepare and file reports, and perform vehicle permit inspections.

C-13 A review of the recently redrawn inspection district boundaries may yield additional efficiencies.

Response: Disagree.

See response to finding F-28.

C-14 The dining public will be better served if, prior to entering a restaurant, they could see a placard that gives more definitive information on the sanitary condition as of the last inspection.

Response: Disagree.

Not all restaurants have entrances that allow for placard posting that is visible from the outside of the facility. Moreover, the placards issued by EHD staff provided definitive information including that the food facility passed the inspection, the date of the inspection, the name of the inspector, and directions for accessing the details of the inspection history of the facility.

C-15 The EHD has the tools to develop an incentive/performance/graded rating system.

Response: Disagree.

It is erroneous to assume EHD has the "tools" to develop an "incentive/performance/graded rating system" simply because EHD uses a software program that can support a point value system (see responses to findings F-23 and F-24). Many complex and labor intensive tasks must be completed to fully adopt and implement an "incentive/performance/graded rating system". EHD does not currently have sufficient staffing or funding to take on this additional workload. To illustrate the magnitude of this workload, Orange County Environmental Health Division staff recently determined the development and implementation of a food facility grading program in their county would increase costs by approximately \$528,000 during the first year and \$344,000 during subsequent years.

C-16 It would be beneficial for EHSs to issue self-inspection checklists to restaurants, similar to the ones used in San Diego County.

Response: Disagree.

See response to Finding F-40.

RECOMMENDATIONS

R-01 The Grand Jury recommends that the BOS direct the EHD to require and enforce placard placement at the main entrance of the restaurant and that the placard be visible from the outside.

Response: Will not be implemented.

The inspection placard issued by EHD inspectors is primarily intended to assist retail food facility owners/operators in complying with the Food Code, in particular Section 113725.1. Section 113725.1 states in pertinent part: "the food facility shall post a notice advising consumers that a copy of the most recent routine inspection report is available for review by any interested party." The location of this posting is not specified in the Food Code and EHD inspectors typically request the placard or notice be placed in a location that is easily visible by customers of the facility. We are not aware of any facility operators that have refused to post the placard as requested.

Furthermore, EHD has not received any comments or complaints from the public regarding the placement of the placard. EHD is unable to find any other county or city with a requirement similar to the Grand Jury's for placards or grade cards. San Diego County requires the grade card be displayed near the public entrance during hours of operation. Riverside County requires the grade card be posted in public view.

It is noted that the authority of the Board of Supervisors to implement this Grand Jury recommendation is limited to the unincorporated area. Lastly, as a practical matter, the Grand Jury's recommendation cannot be fully implemented because not all retail food facilities have a "main" entrance or a suitable posting location "visible from the outside." A common example would be a food court located within a mall.

R-02 A "conditional" placard should be issued when a re-inspection is required.

Response: Will not be implemented.

A new placard is posted after each inspection of a retail food facility indicating that the facility passed an inspection. The accompanying inspection summary provides the public with the most accurate information on any violations observed during the last inspection. A "conditional" placard does not provide specific information and might lead consumers to erroneously conclude that the food facility was unsafe. For example, a re-inspection could be necessary for the installation of new flooring in a store room.

R-03 The EHD should add numerical scoring to their inspection process.

Response: Will not be implemented.

EHD staff is not aware of any documentation demonstrating the value of numerical scoring of inspection results. Moreover, there is no universal scoring system, leaving those jurisdictions that assign a point value for violations to set those values independently. Without a statewide standard, a numerical score may have little meaning to the consumer. For example, Napa County has an assigned point value for critical and non-critical violations but lists only the total points deducted on the bottom of the inspection report.

R-04 The EHD should develop and issue a self-inspection checklist to all restaurants as part of the inspection process.

Response: Will not be implemented.

While EHD staff agrees that providing information to the food facility operators is very important, we disagree that issuing an inspection checklist to all restaurants as part of the inspection process provides the most important information. Information that emphasizes safe food handling procedures to prevent foodborne illness provides better public health protection than focusing on the inspection process. EHD staff issues an inspection report at the conclusion of each inspection that details the violations found during the inspection, the conditions observed that caused the violation, and the corrective action needed. The inspector lists the violations in order of importance related to the risk of causing a foodborne illness and reviews this report with the person in charge. The focus is on correcting food handling practices that may lead to a foodborne illness, not on every detail that the inspector looks for on an inspection. Numerous handouts are provided at the inspection including a laminated pocket guide to safe food that provides, in English and Spanish, a readily available reference to final cooking temperatures, cold storage methodology, proper holding temperatures, rapid cooling methods and sanitizer levels/contact times. EHD staff is currently developing magnetic displays with this information that would be posted in the food preparation areas for immediate reference.

R-05 The EHD should thoroughly review its operating procedures and inspection districts to determine whether greater efficiencies could be achieved.

Response: Already implemented.

EHD operating procedures and inspection districts are routinely monitored and periodically adjusted to enhance efficiency. For example, EHD recently opened an office in Simi Valley to eliminate the need for staff assigned to districts in the eastern part of the County to travel daily to and from the Government Center in Ventura. This reduction in travel time will enable staff in these districts to perform more inspections.

R-06 The EHD should reduce the requirement to have the EHSs report daily to the Government Center.

Response: Will not be implemented.

To maximize efficiency, EHD inspectors are assigned County vehicles where inspection equipment and supplies are maintained for daily use. County policy requires that all vehicles assigned to individuals be stationed at the principal work site.

In addition, EHD staff maintain office hours to respond to public inquiries, prepare and file reports, receive training and direction, and perform vehicle permit inspections. Lastly, now that the Simi Valley office is opened, six of eighteen inspection staff no longer report daily to the Government Center.

R-07 The EHD should revise its website to make it easier for the public to find restaurant inspection information.

Response: Already implemented.

EHD staff periodically adds features to the EHD website based on public input. Additional instruction for using the search feature on the restaurant inspection information page has been provided based on the Grand Jury's input.

R-08 The Grand Jury recommends that the BOS direct the EHD to develop and implement a performance/incentive/graded system, such as the "A B C" system, tailored specifically for County restaurants. The BOS should draft a sample ordinance, for the 10 cities, to facilitate adoption of the new system.

Response: Will not be implemented.

On April 14, 1998, the Ventura County Board of Supervisors examined the issue of requiring the posting of letter grades at restaurants and other retail food facilities in Ventura County. The Board decided not to require the posting of grades at that time. Instead, program enhancements that provide improved public health protection were enacted. These program enhancements included: establishment of inspection frequency based on health risk and expanded training of food handlers and EHD staff.

The enhanced food protection program also included the following alternate methods of providing the public with information about the compliance status of retail food facilities:

1. an inspection placard;
2. an inspection summary report available to restaurant patrons in Ventura County; and,
3. posting of all food facility closures on the internet.

Beginning in January 2006, EHD further enhanced the ability of the public to check on the compliance status of retail food facilities by posting inspection results on the internet.

As presented to the Board of Supervisors in 1998, a grading program affecting all food facilities in Ventura County would require a significant increase in existing EHD staffing, in particular to ensure the provision of due process, dispute resolution, and consistency. The cost of implementing this program in 1998 was estimated at \$565,000. Given the lack of any clear causal connection between a letter grade system and a reduction in foodborne illnesses, there does not appear to be sufficient justification for the significant increase in costs associated with implementing a letter grading program in Ventura County.

Attachment (placard)

_____ passed an inspection conducted by the
Ventura County Environmental Health Division

on date: _____

By: _____

A copy of the inspection summary report is available
at this facility. Inspection results are also
available on the website at:

<http://www.ventura.org/rma/enyhealth>