

September 16, 2011

Honorable Vincent J. O'Neill II
Presiding Judge of the Superior Court
Superior Court of California, Ventura County
800 South Victoria Avenue
Ventura, CA 93009

J. Matthew Carroll
Assistant County Executive Officer

Paul Derse
Assistant County Executive Officer/
Chief Financial Officer

John K. Nicoll
Assistant County Executive Officer/
Human Resources Director

Catherine Rodriguez
Assistant County Executive Officer/
Chief of Operations & Strategic Development

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SEP 22 2011

VENTURA COUNTY
GRAND JURY

Subject: Board of Supervisors' Consolidated Response to 2010-11 Grand Jury Final Report

Dear Judge O'Neill:

In accordance with State requirements, the consolidated response from the Ventura County Board of Supervisors to the 2010-11 Final Grand Jury report is hereby submitted. The Board approved the response on September 13, 2011.

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

Respectfully submitted,



 Michael Powers
County Executive Officer

Enclosure – Board of Supervisors' Consolidated Response to the 2010-11 Grand Jury Final Report

copies: County Clerk, Mark A. Lunn
Superior Court Jury Services (3 copies as listed)

- For Jury Services, Peggy Yost, Manager
- 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
September 13, 2011 at 8:30 a.m.

228.3

COUNTY EXECUTIVE OFFICE – Approval of Responses to the 2010-2011 Ventura County Grand Jury Reports: “Bullying in the Workplace,” “Inmate Processing and Suicide Prevention in the Ventura County Jail,” “Emergency Communications Interoperability,” “Election Process,” and “Under-Enrollment in Proposition 36”

- (X) All board members are present.
- (X) The following person is heard by the Board: Matt Carroll.
- (X) Upon motion of Supervisor Bennett, seconded by Supervisor Foy, and duly carried, the Board hereby approves the attached reports and includes an appreciation to the Grand Jury for their service in terms of presenting their reports to us and complements them for the new and higher standards that they follow.

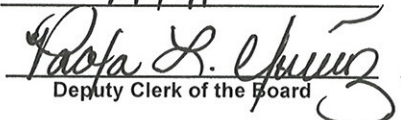
By: 
Deputy Clerk of the Board

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.

MICHAEL POWERS, Clerk of the Board of Supervisors,
County of Ventura, State of California.

Dated: 9.14.11

By: 
Deputy Clerk of the Board



Item# 43
09/13/11

county of ventura

COUNTY EXECUTIVE OFFICE
MICHAEL POWERS
County Executive Officer

September 13, 2011

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

J. Matthew Carroll
Assistant County Executive Officer

Paul Dorse
Assistant County Executive Officer/
Chief Financial Officer

John K. Nicoll
Assistant County Executive Officer/
Human Resources Director

Catherine Rodriguez
Assistant County Executive Officer/
Chief of Operations & Strategic Development

Subject: Approval of Responses to Five (5) 2010-2011 Ventura County Grand Jury Reports: "Bullying in the Workplace," "Inmate Processing and Suicide Prevention in the Ventura County Jail," "Emergency Communications Interoperability," "Election Process," and "Under-Enrollment in Proposition 36"

Recommendation:

That your Board approves responses to the five subject Grand Jury reports 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. The 2010-2011 Ventura County Grand Jury issued 11 individual reports, seven of which pertain to County government.

Responses from the Board of Supervisors were required on four of the seven reports pertaining to County government and were prepared on your behalf by the County Executive Office. Responses from appointed officials were also required for three of the seven reports. These responses have been coordinated through our office and are submitted for your approval.

For your reference, the report titles and respondents listed in the Grand Jury Report are summarized in the table below. The underlined respondents require Board approval.

<p>Special Property Tax Assessments</p> <p>Responses from the Auditor-Controller and Treasurer-Tax Collector are for information only. Approval is not required.</p>	<p>Auditor-Controller Treasurer-Tax Collector</p>
<p>Rancho Simi Recreation and Park District Rangers</p> <p>The RSRPD is an independent entity. Response from the Sheriff is for information only. Approval is not required.</p>	<p>Sheriff</p>
<p>Bullying in the Workplace</p> <p>Response from the Auditor-Controller is for information only. Approval is not required.</p>	<p><u>Board of Supervisors</u> Auditor-Controller *<u>Director-Human Resources Division (CEO)</u> (*Response was requested, not required)</p>
<p>Inmate Processing and Suicide Prevention in Ventura County Jail</p> <p>Responses from the Sheriff and the District Attorney are for information only. Approval is not required.</p>	<p>Sheriff District Attorney <u>Health Care Agency</u></p>
<p>Emergency Communications Interoperability</p> <p>Responses from the Sheriff and the Ventura County Emergency Planning Council are for information only. Approval is not required.</p>	<p><u>Board of Supervisors</u> Sheriff *Ventura County Emergency Planning Council (*Response was requested, not required)</p>
<p>Election Process</p> <p>Response from the Registrar of Voters (County Clerk and Recorder) is for information only. Approval is not required.</p>	<p>Registrar of Voters <u>Board of Supervisors</u></p>
<p>Under-Enrollment in Proposition 36</p>	<p><u>Board of Supervisors</u> *<u>Behavioral Health (Health Care Agency)</u> (*Response was requested, not required) *<u>Probation</u> (*Response was requested, not required)</p>

The responses that pertain to County government under your control will serve as your Board's response to the subject 2010-2011 Grand Jury Reports to be filed as indicated in the above-recommended action along with any additional comments your Board may wish to make.

If your Board does elect to amend responses submitted from agencies headed by appointed officials or if your Board elects to change a response prepared on your behalf by the County Executive's office, then CEO staff, at your direction, will make such changes or additions prior to submitting the responses to the Presiding Judge.

As you are aware, elected officials submit their Grand Jury responses directly to the Presiding Judge. Although your approval is not required for responses from elected officials, copies of responses from the following elected officials are included here for your information: from the Auditor-Controller and the Treasurer Tax Collector to the report "Special Property Tax Assessments;" from the Sheriff to the report, "Rancho Simi Recreation and Park District Rangers;" from the Auditor-Controller to the report, "Bullying in the Workplace;" from the Sheriff and District Attorney to the report, "Inmate Processing and Suicide Prevention in the Ventura County Jail;" from the Sheriff to the report, "Emergency Communications Interoperability," and from the Registrar of Voters to the report, "Election Process."

This letter has been reviewed by County Executive Office, Auditor-Controller and County Counsel. Should you have any questions or require additional information, please contact Matt Carroll at 654-2864 or Kathleen Van Norman at 654-2566.

Sincerely,



MICHAEL POWERS
County Executive Officer

Attachments:

- Exhibit 1 – Response to "Special Property Tax Assessments"
- Exhibit 2 – Response to "Rancho Simi Recreation and Park District Rangers"
- Exhibit 3 – Response to "Bullying in the Workplace"
- Exhibit 4 – Response to "Inmate Processing and Suicide Prevention in the VC Jail"
- Exhibit 5 – Response to "Emergency Communications Interoperability"
- Exhibit 6 - Response to "Election Process"
- Exhibit 7 - Response to "Under-Enrollment in Proposition 36"

EXHIBIT 3

FY 2001-2011 GRAND JURY FINAL REPORT

RESPONSES TO FINDINGS (FI) AND RECOMMENDATIONS (R)

Report Number (& Date)	Report Title	Respondents (with FI and R #)
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REPORT NO. 03. (May 24, 2011)

Title: Bullying in the Workplace

Required Respondents: Board of Supervisors (FI-01 thru FI-04) and (R-01 thru R-06)
Auditor-Controller (FI-02 & FI-03) and (R-02 & R-05)

Requested Respondent: *Director, HR Division (FI-01 thru FI-04) and (R-01 thru R-06)

(*See response provided by BOS above)

Response to 2010-2011 Grand Jury Report

Report Title: Bullying in the Workplace

Report Date: May 24, 2011

Response by: Board of Supervisors , County Human Resources

FINDINGS

- I (we) agree with the findings numbered: FI-03
- I (we) disagree wholly or partially with the findings numbered: FI-01, FI-02, FI-04,

RECOMMENDATIONS

- Recommendations number R-03, R-06 have been implemented.
- Recommendations numbered R-01, R-02, R-04 and R-05 have not been implemented but will be implemented in the future.
- Recommendations numbered R-05 will be implemented however requires further analysis.
- Recommendations numbered (none) will not be implemented because they are not warranted or are not reasonable.

Date: _____ Signed: Linda Parker
Chair, Board of Supervisors

Date: _____ Signed: John R. Niell
Director, Human Resources

Number of pages attached: 4

Response to 2010-2011 Ventura County Grand Jury Report
Bullying in the Workplace
From Board of Supervisors and County Human Resources

FINDINGS

FI-01 Workplace Bullying is occurring in the County workplace and there is no policy or employee training to preclude bullying.

Bullying in any form is unacceptable. Maintaining a workplace free from threatening or bullying behavior is a priority of the Board of Supervisors and the County Executive Office. We acknowledge "Bullying" may be occurring in the County Workplace as it would be unrealistic in a 26 Agency, 8000+ employee organization to assume that incidents of inappropriate and/or discourteous conduct, here being labeled as "bullying," do not occur.

We disagree with regard to the perception that such conduct is pervasive and is not addressed by current policy or training. The testimony of 12 unidentified individuals, an unknown number of whom testified on the same issue(s), do not provide sufficient evidence to conclude misconduct is routinely occurring in the County Organization that is not being addressed. That being said, even one instance of inappropriate behavior is too many and we intend to ensure our mandatory training, rules and policies continue to stress our commitment to a work environment in which its officials, managers/supervisors and employees treat each other, their customers and clients with courtesy, dignity and respect.

Although specific terminology may differ, we believe that the existing rules address the conduct called "Bullying." The County Personnel Rules and Regulations, Article 21 Section 2105, Reasons for Discipline, specifically cites "discourteous treatment" and "any other failure of good behavior or acts which are incompatible with or inimical to the public service." Included within these terms is the entire range of inappropriate behavior that can be identified as bullying. Any and all reported misconduct is assessed to determine the facts and if further assessment is warranted, the matter is investigated.

Additionally, the County's Administrative Manual Policy entitled Workplace Violence encompasses the following: "Violence is defined for this policy as any unlawful use of physical force, harassment or intimidation, or abuse of power or authority, where the impact is to control by causing pain, fear, or hurt." Although we believe this language addresses the type of behavior referred to as "Bullying", the County will revise this Policy to include further language specific to the identified inappropriate conduct. Please see our response to recommendation R-01 for further background and information on the County's proposed policy changes.

FI-02 Processes in place to report workplace behavior problems are not trusted by employees because the agency with the alleged bullying issue is allowed to investigate complaints using personnel within its own organization. This system risks exposure of a complainant's identity and reinforces employee perception that the investigation would not be conducted fairly.

Despite the fact that County employees have and use the numerous existing options available to them should they want to report a workplace problem, a separate hotline would provide a reasonable additional way to report inappropriate conduct. The County's response to Recommendation R-02 will address implementation of this hotline.

As documented within the County's Employee Complaint Resolution Process brochure referenced within the Grand Jury's Report, employees currently have these avenues open to report such misconduct: their supervisor, their agency/department HR Unit or Labor Relations Unit; their department Equal Employment Opportunity (EEO) officer; their department head; the County Central HR Department (CEO-HR); County Central Labor Relations (CEO-LR); County Central Equal Employment Opportunity (EEO) officer; the Employee Assistance Program or their respective Unions.

Whenever possible it is desirable for employees to resolve conduct issues directly with their supervisor or within their department. However, we acknowledge there are certain instances, including those where the employee wishes their complaint to remain confidential; where working directly with one's supervisor or department is not possible. In such cases the employee is free to utilize any of the above noted resolution options, which in the future will include the new hotline. This new hotline will include the option for anonymous complaint reporting.

Regardless of the source of any allegations received, the County's Human Resources Division does currently and will continue to investigate allegations of retaliation. Historically such investigations, which have resulted from the use of existing reporting systems, have substantiated only a small percentage of alleged instances of retaliation.

FI-03 The BOS does not receive detailed data that would identify bullying problems within county offices.

The Board does not currently receive reports of this nature. Such reports would be of benefit to the Board and will be implemented when the new hotline is established. As noted in our response to Recommendation R-05, additional analysis is required to determine the appropriate level of detail for these reports.

FI-04 Forms used for employee disciplinary actions are not reviewed for content on a periodic basis by county counsel. Since county counsel has opined that the "placement on paid administrative leave memorandum" form is improper, it is likely that other forms used for employee's disciplinary actions may have legal issues.

County Counsel over the last several years has reviewed proposed discipline letters to assure that we meet the California requirements for due process for public employees (Skelly letters) and has represented the County in arbitration cases.

RECOMMENDATIONS

R-01 The BOS should establish a written policy defining bullying actions and the consequences to those engaging in bullying behaviors. A sample policy is included in attachment 5.

This recommendation will be implemented through the updating of existing policies. As stated in response to Finding 1, updates to the County's Workplace Violence Policy will be made. The Workplace Violence Policy will be broadened to cover "Workplace Environment and Violence", and will include additional specifics on inappropriate workplace behavior.

With regard to the recommendation for a separate policy, creating duplicate or overlapping policies is ineffective and confusing and potentially encourages costly and unnecessary legal costs. These concerns are similar to those associated with anti-bullying legislation noted in the New York Law Journal Article attached to the Grand Jury Report. This report identifies the lawsuit risk of "Anti-bullying legislation" this way:

Employers should be wary of such legislation. Anti-bullying legislation would allow employees having nothing more than ordinary disputes and personality conflicts with their supervisors and co-workers to threaten their employers with litigation. Surely some of these disputes would end up in court even though they wouldn't rise to the level of actionable bullying. (Grand Jury Report, Attachment 1, New York Law Journal, January 2011)

While we agree that expanding existing rules and policies on appropriate work place behavior is warranted, we believe that creating a separate "Anti-bullying" policy using terms such as "Excessive Monitoring, Excessive Demands, Excessive Supervision, and unnecessary discipline" will provide grounds for costly, unwarranted grievances, arbitrations and lawsuits. Updating of existing policies is also consistent with the recommendations for employers cited in the above-referenced New York Law Journal article.

R-02 The CEO-HR should create an independent hotline to receive complaints specific to improper workplace behavior that is separate from the A-C Employee Fraud Hotline. It should be staffed by non-County personnel to protect the anonymity of callers.

This recommendation will be implemented. It is anticipated that this capability will be in place within 90 days from the date of this response. Using a Hotline will provide an additional avenue in the event employees fear retaliation. We will put in place an Employee Misconduct hotline using an outside firm similar to the HCA Compliance hotline.

R-03 The CEO-HR should be responsible for coordinating all workplace behavior investigations and for ensuring these investigations are performed by personnel outside of the agency against which the complaint was made.

This recommendation has been implemented as detailed in our response to finding FI-02. For clarification purposes CEO Labor Relations (CEO-LR) and/or CEO Human Resources (CEO-HR) should be responsible depending on the nature of the complaint or allegation.

R-04 The CEO-HR should provide employee education on bullying and the process for reporting and investigating bullying complaints.

Additional training components have been implemented effective this month. CEO-HR has training for workplace harassment and the proper process for reporting those types of incidents. Components on specific types of inappropriate and discourteous treatment or behavior that is being labeled as "Bullying" have been added to this training.

R-05 The BOS should require that reports be provided periodically from the CEO-HR with detailed statistics that quantify the extent bullying occurs in the County. The data should include all complaints as well as the number of substantiated complaints of bullying reported by specific agency and department. This information will allow the localization of a problem. Data provided should include all complaints and substantiated complaints as a function of time in order to identify trends.

This recommendation will be implemented however further analysis is also required. Since we have agreed to a new Employee Misconduct hotline, we will provide regular reports regarding volume and status of activity to the Board. However, the level of detail that will be appropriate in the reports requires further analysis, which will be completed in time to begin producing the reports on a semi-annual basis after the implementation of the agreed-to hotline.

R-06 The CEO-HR should establish a plan to have all employee disciplinary action forms periodically reviewed by County Counsel and should ensure all agencies only use current forms obtained directly from CEO-HR.

This recommendation has already been implemented as County Counsel currently reviews our forms. CEO-LR provides the proper forms for agencies to use and will further communicate the requirement for agencies and departments to utilize these forms. The appointing authority of the specific agency is responsible to ensure the use of these forms by their staff.

CHRISTINE L. COHEN
AUDITOR-CONTROLLER
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009-1540



CHIEF DEPUTIES
LOUISE WEBSTER
SANDRA BICKFORD
BARBARA BEATTY
JOANNE McDONALD

2011 JUL -6 AM 1:25

COUNTY OF VENTURA - CEO
RECEIVED

July 5, 2011

The Honorable Vincent O'Neill, Jr.
Presiding Judge of the Superior Court
County of Ventura
800 South Victoria Avenue
Ventura, CA 93003

Report Title: Bullying in the Workplace

Report Date: May 24, 2011

Response by: Christine L. Cohen

Title: Auditor-Controller

FINDINGS

- FI-02 states, "Processes in place to report workplace behavior problems are not trusted by employees because the agency with the alleged bullying issue is allowed to investigate complaints using personnel within its own organization. This system risks the exposure of a complainant's identity and reinforces employee perception that the investigation would not be conducted fairly."

I disagree partially with the finding numbered FI-02. The Employee Fraud Hotline was not intended for these types of personnel complaints. However, although not under the intended purview of the Employee Fraud Hotline, we do not disregard such complaints; rather, we accommodate the complainant and facilitate investigation. Of the complaints received during FY 2010-11 that could fall under the category of bullying, HR was informed of the complaints for investigation or oversight purposes.

- FI-03 states, "The BOS does not receive detailed data that would identify bullying problems within County offices."

I disagree partially with the finding numbered FI-03. The BOS is informed of substantiated complaints in accordance with Government Code 53087.6, which governs the Employee Fraud Hotline.

RECOMMENDATIONS

- R-02 states, "The CEO-HR should create an independent hotline to receive complaints specific to improper workplace behavior that is separate from the A-C Employee Fraud Hotline. It should be staffed by non-County personnel to protect the anonymity of callers."

Recommendation numbered R-02 requires further analysis. While action to create an independent hotline rests with the CEO-HR, it should be noted that multiple hotlines can create confusion for complainants and, as a result, complainants sometimes use the Employee Fraud Hotline as a "catchall" for various types of complaints, including those for which a separate hotline already exists. In cases where the complainant does not wish to be redirected to the other hotline, the Employee Fraud Hotline accommodates the complainant and facilitates investigation. Therefore, the Employee Fraud Hotline may continue to be involved in such personnel complaints. We will coordinate with the CEO-HR to evaluate options. It is anticipated the review will be completed by October 31, 2011.

- R-05 states, "The BOS should require that reports be provided periodically from the CEO-HR with detailed statistics that quantify the extent bullying occurs in the County. The data should include all complaints, as well as the number of substantiated complaints of bullying reported by specific agency and department. This information will allow the localization of a problem. Data provided should include all complaints and substantiated complaints as a function of time in order to identify trends."

Recommendation numbered R-05 requires further analysis. While the CEO-HR would report such statistics, substantiated personnel complaints facilitated by the Employee Fraud Hotline are also reported to the BOS in the semiannual Employee Fraud Hotline report. The appropriateness of CEO-HR reporting on unsubstantiated personnel complaints facilitated by the Employee Fraud Hotline requires further analysis in conjunction with the CEO-HR and County Counsel. It is anticipated the review will be completed by October 31, 2011.

Date: 07/05/2011

Signed: 

Number of pages attached: 0

cc: Foreman, Ventura County Grand Jury
Mike Powers, County Executive Officer