

**RESPONSE TO
2014-2015 GRAND JURY REPORT
Riverside County Code Enforcement Department**

Following is the response of the Riverside County Code Enforcement Department to the above referenced Grand Jury Report. As the Grand Jury has chosen to also reference the acts of the Office of Riverside County Counsel in its findings, this response has also been prepared on behalf of the County Counsel and his department.

BACKGROUND:

In Fiscal Year 2013-2014, County Code Enforcement responded to 2,785 complaints, conducted 1,807 waste tire inspections, issued 2,374 Notices of Violations, levied \$263,000 in fines, and initiated nine abatements or demolitions of substandard structures.

BACKGROUND RESPONSE:

During fiscal year 2013-2014, the Department overall responded to 3653 complaints, issued 3079 Notice of Violations and conducted 1807 waste tire inspections using the \$581,711 in funding provided by the Tire Grant. The Department levied \$264,200 in administrative citation fines, \$22,675 in parking enforcement fines, and collected \$986,428 from costs recovered through assessments on properties in violation. The Department processed 145 abatement cases of substandard structures, of which 136 resulted in property owner removal of the structures and nine were removed by the Department using contractors.

FINDING No. 1:

Supervision

County Code Enforcement suffers from a systemic lack of supervision of its field Code Enforcement personnel. Field Code Enforcement personnel self-schedule their daily activities, and are not required to maintain an accounting of the time and location of their daily activities. This lack of supervision is conducive to abuse of County time and resources.

RESPONSE: Respondent disagrees with the finding.

Supervising Code Enforcement Officers (Field Supervisors) generally assign caseloads based on geographic areas to each Code Enforcement Officer and utilize many tools for the oversight of assignments. The Department utilizes the County of Riverside Code Enforcement case management system (CORE) to provide daily scheduling of cases that are due for inspections to each Officer, either new cases or re-inspections of on-going cases. CORE also tracks specific case information, status, and time spent on case activities. Field supervisors use daily, monthly

and quarterly reports of case activity from CORE, supplemented with field oversight of personnel, and review of payroll time sheets to track productivity and case progress.

RECOMMENDATION No. 1:

Supervision

Reevaluate the supervisory responsibilities and structure of the entire Code Enforcement Department to ensure that consistent oversight is obtained. Supervisors with direct responsibility over field personnel shall require the completion of a daily field activity log which chronicles the officers' activities. The log shall consist of, but not limited to, time, location, type of activity, and disposition of each log entry. The logs shall be reviewed daily by the respective supervisor for accuracy. Supervisors shall make unannounced visits to field CEOs and obtain real time knowledge of their activities.

Supervisors shall, in accordance with their job description, which states in part:

...assign, review and evaluate the work performed by Code Enforcement personnel; direct day-to-day operations of the Code Enforcement function; create and assign work schedules as outlined in their job description.

RESPONSE: Respondent partially disagrees with the recommendation.

Field Supervisors review daily activities of their staff and evaluate work performed. CORE provides various reporting and management tools to track time spent and detailed case activity, rather than using antiquated paper logs. Field Supervisors use the CORE management tools, monitor field activities, work with code officers and other enforcement agency partners on complex cases, interact with the public to resolve issues of concerns, and direct the day-to-day operations of their assigned office. The Department does operate with a lean management structure, with only two management-level personnel (a Code Official and one Division Manager). The Department intends in the future to hire a second Division Manager to specifically focus on field oversight, which has been left unfilled for two years due to budgetary limitations.

FINDING No. 2:

Cal Recycle Waste Tire Grant Program Supervision

There is a full-time supervisor assigned to the Tire Grant Program; however, only 40 hours of supervision time is charged or billed to the Program per year. The Supervisor of the Tire Grant Program stated his supervisory philosophy is to allow the people he supervises to “self-

manage" themselves; and therefore, they require and receive very little oversight. This lack of supervision leads to abuse of County time and resources.

RESPONSE: Respondent disagrees with the finding.

The Tire Grant Supervisor directly charged 40 hours of time to the grant, which was the amount allowed for direct billing by Cal Recycle, for general supervisory activities. However, the Supervisor does spend the majority of his time overseeing the Tire Grant program, billed through the Department's administrative overhead. The cost is partially recovered indirectly through the Tire Grant, since the program is billed based on the Code fully burdened hourly rate (which includes administrative overhead in addition to salaries and benefits), and captures supervisory time. The supervisor does conduct other Department related work and projects as defined below. The Cal Recycle program provides a daily schedule of facilities to inspect, which the Tire Grant code officers use for their daily assignment of activities. The Supervisor monitors that the inspections are carried out, and performs quality control to ensure consistency and accuracy of the daily inspections of the scheduled facilities. The Department will work with Cal Recycle in future cycles of the Tire Grant to seek to expand the allowed number of direct-billed supervision hours.

RECOMMENDATION No. 2:

Cal Recycle Waste Tire Grant Program Supervision

To further enhance the efficiency of the operation of their organization, the supervisor assigned to the Tire Grant Program shall not be limited to waste tire activities only, but assigned additional code enforcement duties and responsibilities. The supervisor shall monitor employees on a regular basis to stop abuse of County time.

RESPONSE: Respondent disagrees with the recommendation.

The supervisor assigned to the Tire Grant Program does conduct other assigned department related duties including enforcement of illegal vending and dumping, and provides administrative assistance to management in several department-wide initiatives such as the development of policies and procedures and training programs. Please also see response to Recommendation No. 1.

FINDING No. 3:

Cal Recycle Waste Tire Grant Program Agreement

The Tire Grant Program operates as an agreement with the State of California (State). The State, in its agreement, allows up to four hours per waste tire inspection. Most on-site tire inspections require much less time, some as little as 15 minutes. It is noted in the Tire Enforcement Grant Program Agreement (TEA 18-10-14) that inspection research, report writing, and actual time spent inspecting are included as part of the 3 ½ hours billed, but most on-site inspections are completed in one hour or less.

Since the State is billed at 3 ½ hours per inspection, Tire Grant Program personnel are only tasked to perform three inspections per day. Testimony from some field CEOs has revealed they are "bored" with little to do at times. As a result, Tire Grant Program personnel are underutilized.

RESPONSE: Respondent disagrees with the finding.

Riverside County's Tire Grant Program has been acknowledged by Cal Recycle staff as one of the model tire grant programs for the State. In FY 2013/14, the Department committed to performing 1324 inspections in the grant application and actually delivered 1807 inspections, more than any other public agency. Cal Recycle staff has asked that the Riverside County team to present at its upcoming annual conference and share our experiences and process of conducting thorough inspections.

The State grant allows up to 4 reimbursable hours to be billed for an inspection of a waste tire facility. Inspections require more than just time spent on site. They also vary depending on the size of the site and level of compliance found. Prior to going out on site, the officers review the case history on the Cal Recycle database, any complaints filed, and records kept by the operator. The Tire Grant team covers all of Riverside County and travel time to inspections can vary greatly depending on the location of the facility, which can range from approximately 30 minutes to over two hours in remote areas. Once at the facility, most inspections average approximately one hour to inspect, including counting actual tires on-site, checking the operator records, explaining the inspection process and answering any questions that the operator may have. After the inspection is conducted, a report is prepared and logged into the Cal Recycle database. The time spent per case generally averages 3 to 3 ½ hours. Department staff has worked with Cal Recycle staff to increase the detail and quality of our time reporting over the years of implementing the Tire Grant Program.

RECOMMENDATION No. 3:

Cal Recycle Waste Tire Grant Program Agreement

Code Enforcement Officers assigned to the Tire Grant Program shall not be limited to waste tire activities only, but assigned additional Code Enforcement responsibilities.

RESPONSE: Respondent partially disagrees with the recommendation.

During the period of FY13/14, the Tire Grant team conducted 1807 waste tire facility inspections, exceeding the commitment of the number of facility inspections made in the grant. The Tire Grant team also conducts illegal tire dumping surveillance, attends program training, and performs other duties as requested by Cal Recycle. In addition to their primary duties of implementing the Tire Grant Program, the team on occasion also works on other department assignments including investigations of illegal vending, dumping and other case related duties.

FINDING No. 4:

Training

Code Enforcement Policies and Procedures do not reflect any mandated training/certification requirements or subsequent in-service training, which leads to inconsistencies in code enforcement practices. All training is optional except for California Penal Code §832, which is titled, *Course of training prescribed by commission on peace officer standards and training; examination; necessity to exercise powers; exemptions; examination fees.*

RESPONSE: Respondent disagrees with the finding.

The Department provides California Penal Code §832 training to all Code Enforcement Officers and Technicians. Additionally, the Department provides other required and optional job related training. This training includes required annual safety training; required annual storm water discharge inspection (NPDES) training; hazardous materials training; annual CALBO certification training for our staff who are certified building inspectors; Dog Bite Awareness; Human Trafficking; required Human Resources training (such as Employee Workplace Violence; Employee Harassment Prevention; Information Security, Electronic Media and Use), and various other training classes. The department has had to reduce some optional training opportunities over the last few years due to budgetary constraints, but will continue to look for opportunities to expand training based on budgetary ability.

RECOMMENDATION No. 4:

Training

Management of the Department holds a monthly team meeting with Supervising Code Enforcement Officers where information is disseminated, including updates to policy and procedures. Training items are provided, safety topics are discussed and various monthly reports regarding productivity of the department are reviewed. Supervising Code Enforcement Officers hold at least one monthly meeting with their respective staff to disseminate information received from the monthly management team meeting. Additionally, Supervisors also hold frequent 'tail gate' meetings with their staff when information needs to be disseminated as soon as possible.

RECOMMENDATION No. 5:

Communications

County Code Enforcement shall mandate regularly scheduled staff meetings conducted by supervisors or department heads to facilitate the dissemination of information to CEOs.

RESPONSE: Respondent agrees with the recommendation.

The Department will continue with the practice already in place by holding regularly scheduled monthly Management team meetings and Supervisory staff meetings at their respective offices. In addition, information is made available to staff via 'tail gate' meetings, Department-wide emails, Training Bulletins and other internal communication tools.

FINDING No. 6:

Operating Procedures

The County Code Enforcement Policies and Procedures Manual is incomplete and outdated. The manual does not adequately reflect the current procedures nor communication equipment available to field personnel (e.g., handie- talkie). Various sections of the manual are seven to eight years old.

RESPONSE: Respondent disagrees with the finding.

The Department has an extensive Policies and Procedures Manual and revises this Manual when changes occur. If a policy and procedure is still applicable and in effect then it may have an older origination/approval date listed. Policies are revised as necessary to reflect new procedures, changes in County policies, implementation of new ordinances, and other changing requirements. The Department issues cell phones to all field staff and has a pool of Public Safety Enterprise Communications (PSEC) Handy Talkie radios available for staff to use at each office,

and staff has been trained on their use. The Department is currently in the process of purchasing additional PSEC Handy Talkie radios to provide to each field staff member.

RECOMMENDATION No. 6:

Operating Procedures

The County Code Enforcement Policies and Procedures Manual shall be reviewed and revised to reflect current practices.

RESPONSE: Respondent agrees with the recommendation.

As changes occur and updates become necessary, the Department will continue with the practice of reviewing and revising the Policies and Procedures Manual.

FINDING No. 7:

County Counsel Interference

During the course of this investigation regarding abuses and deficiencies in the Code Enforcement Department, the Grand Jury encountered interference from the Riverside County Office of County Counsel (County Counsel). County Counsel has directed all County department heads to advise their subordinates to obtain legal representation from his office for sworn interviews, as well as screening of any documentation prior to complying with Grand Jury requests. County Counsel has taken the position that his office has the legal responsibility to represent all County employees in any matters involving the Riverside County Civil Grand Jury.

The Grand Jury is tasked with examining County departments for possible improprieties or inefficiencies pursuant to California Penal Code §925. Efforts by County Counsel to hinder the examination process and impede transparency are not beneficial to the citizens of the County of Riverside.

RESPONSE: Respondent disagrees with the finding.

Respondent disagrees with the Grand Jury's statement that the Office of County Counsel's (County Counsel) offer of advice and representation to its client is somehow interference. The Grand Jury clearly does not fully understand the role of County Counsel, nor does it understand the limits of grand jury action.

County Counsel has a legal and ethical duty to serve as legal advisor to the County Board of Supervisors, its officers and employees. (See CA Government Code §§ 26526, 26529 & 27642)

Also the California Rules of Professional Conduct require County Counsel to act in the County's best interest by providing fair and competent legal advice.

The Grand Jury maintains that they are "entitled to free access....to all public records within the county." (CA Penal Code §921) We do not disagree. However, the Grand Jury is not entitled to access to "all" records; only access to public records. One of the various duties and obligations of County Counsel in representing its client, the County of Riverside, is to protect against inadvertent disclosure of attorney-client and attorney work-product privileged documents, as well as documents protected by Constitutional, statutory or common law privileges. The law is clear - - the grand jury is not entitled to such information. The Grand Jury's assertion that County Counsel should not be allowed to provide legal advice to its client by requesting that a particular request be made in writing and that the request be reviewed by counsel so as to advise its client on compliance with the law or be represented pursuant to Penal Code section 939.22 is misguided and contrary to the County Counsel's ethical and statutory duties to its client.. Expecting its client to fend for itself and not avail itself of counsel, would have been a dereliction of County Counsel's responsibilities.

Furthermore, this "Finding" is indicative of the Grand Jury's misunderstanding of the role of County Counsel to represent its client, the County of Riverside and its constituent entities. Based upon the foregoing facts and circumstances, the County Counsel properly discharged his ethical and statutory duties pursuant to Rules 3-110, 3-310, and 3-600 of the California Rules of Professional Conduct in representing his client.

RECOMMENDATION No. 7:

County Counsel Interference

The Riverside County Board of Supervisors shall instruct County Counsel to comply with California Penal Code §925 titled, County officers, departments or functions; operations, accounts and records; investigations and reports.

RESPONSE: The recommendation will not be implemented because it is not warranted and is not reasonable.

The recommendation is wholly without factual or legal basis. The grand jury simply objects to the County Counsel performing his ethical and statutory duties and responsibilities.

County Counsel has a legal and ethical duty to serve as legal advisor to the County Board of Supervisors, its officers and employees. (See CA Government Code §§ 26526, 26529 & 27642) Also, the California Rules of Professional Conduct require County Counsel to act in the County's best interest by providing fair and competent legal advice.

Based upon the foregoing facts and circumstances, the County Counsel properly discharged his ethical and statutory duties pursuant to Rules 3-110, 3-310, and 3-600 of the California Rules of Professional Conduct in representing his client.