

A CALL FOR ETHICAL STANDARDS: CORRUPTION IN ORANGE COUNTY

SUMMARY

The Blind Men and the Elephant is an ancient Indian parable that has been retold in countless variations by cultures throughout the world as a means to illustrate relativism and truth. In the story, six blind men touch different parts of an elephant and find that they are in complete disagreement with each other as to their belief in what the elephant was. The same is true when people are asked to define ethics. Substitute the word “*Ethics*” for “*Elephant*” and the six men may describe, “Morality,” “Legality,” “Belief,” “Principles,” “Values,” and “Integrity.”

Important to note is that this 2012-2013 Grand Jury Report on Ethics by its nature is not intended to be all-inclusive. Rather, the goal is two-pronged: 1) to provide an historical retrospective of ethical violations; and 2) to perhaps lay the foundation for future Grand Jury studies on the subject of ethics and corruption in Orange County government. Sadly, it is the Grand Jury’s hypothesis that untoward behavior continues and is actively festering in today’s political environment. In point of fact, this and several other studies conducted by the 2012-2013 Grand Jury address the fact that corruption has permeated all levels of the organization, and does not apply only to elected officials positioned visibly in the public eye.

Orange County has a long history of ethical violations by elected and appointed officials; as well as by employees that serve its multitude of county, city, school and special district agencies. Influence peddling played a major role in local government scandal as we transformed from an agrarian economy into the third largest populated county in California.

Trust in government is dependent upon officials that place the public interest ahead of their own. Every level of local government has faced allegations of conflict of interest, abuse of authority, patronage and lack of transparency. Equally damaging is the appearance of impropriety.

It is the Grand Jury’s hope that Orange County will commit to a positive ethics environment and program that includes elements of training, advice and enforcement as a model for other local governments to follow. The primary goal of an effective ethics program is to increase public trust in government. The secondary goal is to prevent unethical conduct.

PURPOSE

The purpose of this study is to chronicle the history of corruption in Orange County, research viable methods to reduce unethical behavior by public officials and recommend change.

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METHODOLOGY

The 2012-2013 Orange County Grand Jury's study of local government ethics included the following tasks:

- Examined press articles, documents and books that record or suggest unethical decision making by government officials in Orange County;
- Reviewed press articles, documents and books about the importance of ethics in government and its relationship to the public trust;
- Read academic research papers, books and other publications about ethics and how it relates to decision-making by public officials;
- Interviewed people that work in the field of government ethics;
- Interviewed county employees;
- Consulted academia that provided insight on historical incidents of unethical decision-making by Orange County public officials who can suggest potential solutions to improve the public trust;
- Examined best practices by other California counties with respect to ethics training, monitoring and/or oversight of public officials;
- Listened to testimony by Orange County officials and employees.

BACKGROUND AND FACTS

Why The Grand Jury Conducted This Study:

The Grand Jury chose to study government ethics because of the history of impropriety by local officials. Orange County has gained a reputation (among some) for impropriety rivaling that of New York's Tammany Hall or Chicago under Mayor Richard J. Daley.^{1,2} "From 1974-77, an eye-popping 43 Orange County political figures were indicted, among them, two congressmen, three supervisors and the county assessor."³ Sadly, the conduct continues today at all levels of Orange County government.

What is ethics *exactly*? Webster's defines it as, "the study of standards of conduct and moral judgment" and "the system of morals of a particular person, religion, group, etc."⁴ Based upon our experience as Orange County Grand

¹ Los Angeles Times article (1992)

² Interview of a high-ranking county official (2013)

³ Three Los Angeles Times articles

⁴ Webster's New World Dictionary, Simon & Schuster MacMillian, (1998) p.149

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Jurors, we believe that there exists a direct correlation between ethical conduct and good governance.

The Grand Jury is empowered by law to serve as a sentinel to the community by investigating the conduct of public officials and the actions of their agencies. Yet there are claims that the Grand Jury has limited legitimacy because public officials regularly disregard its reports. Findings and Recommendations found in reports are often ignored or rejected because of political agendas or desire by officials to avoid the spotlight.

The Grand Jury interviewed a professor at a local university who gave a historical perspective on corruption in Orange County: the impact of development dollars on politicians in the post-World War II building boom; the evolution of the political elite; the demise of small, local newspapers in the county that served as a “check and balance” to abuse of power. Moreover, the “lack of effective oversight” allows problems to fester in government at every level.

Orange County is the sixth largest populated county in the United States yet it lives in the shadow of Los Angeles County. The lack of radio and television networks covering metropolitan Orange County allows incidents of corruption to simmer below the surface of public awareness. If the county was located 200 miles from Los Angeles it could potentially have its own television and radio news stations – as do San Diego and Santa Barbara counties.

Perhaps... a local Orange County television station would have covered the debate among Tustin city council members during their meeting of September 4, 2011, in response to a report issued by the 2011-12 Orange County Grand Jury titled, “The Use of Government Influence on a Private Educational Institution.” A spirited discussion ensued about the wisdom and ethics of one of their council members that used political capital to intimidate an academic at a local university. Ultimately, the council member at issue was allowed to cast the deciding vote defeating a motion against him, giving the appearance of a conflict of interest.^{5,6}

Conceivably... a local radio station would have reported alleged conflicts of interest in other cities as well. A Yorba Linda city council member agreed to pay a \$3,000 fine to the Fair Political Practices Commission after that body found the council member in violation of conflict-of-interest laws by “voting on a proposed city redevelopment project that could have affected the value of the council member’s home.”⁷

⁵ Orange County Register article

⁶ Streaming video of the Tustin City Council Meeting held September 4, 2012

⁷ FPPC Settlement Exhibit

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Maybe... a talk show host would have discussed at length an Orange County Public Works sex scandal and the manner in which county leaders handled the investigation. Public debate may have centered on misfeasance by human resources personnel or the practice of protectionism, scapegoating and abuse of power at the highest levels of county government.

The District Attorney's Office got it right when it wrote in an Agenda Staff Report to the Board of Supervisors on September 25, 2012:

*"The citizens of Orange County have the right to expect their public officials will carry out their duties in a lawful, ethical, and professional manner."*⁸

Government Ethics vs. Personal Morality

The Grand Jury recognizes that misconduct is found in all manner of human enterprise - not just in government. Corruption, scandal and unethical behavior are found in businesses, financial brokerage houses, college athletics, religious institutions and even the Olympics. Therefore, standards of ethical conduct are well established in legal, medical, judicial, accounting, education, journalism and many other professions. Adams and Balfour wrote in their book, *Unmasking Administrative Evil*:

*"In the public sphere, ...ethics are meant to safeguard the integrity of the organization by helping individuals conform to professional norms, avoid mistakes and misdeeds that violate the public trust (corruption, nepotism, etc.) and assure that public officials in a constitutional republic are accountable through their elected representatives to the people."*⁹

When examining ethics in government, it is important to make a distinction between personal and public conduct. Personal ethics is to make people morally better and to improve relationships. Government ethics is not interested in the notion of "being good," rather it is concerned with decision-making conflicts between public and private obligations. Public officials and people who do business with the government think more in terms of obligations and biases than in terms of interests. A developer gives a gift to an official not to create an

⁸ Orange County District Attorney, Revised Agenda Staff Report (09/11/2012 #ASR 12-001244)

⁹ Adams, G. and Balfour, D. *Unmasking Administrative Evil*, 3ed, (2009) M.E. Sharpe (London) p. 167

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interest, but to create a feeling of obligation. We don't balance interests – we balance obligations.¹⁰

This study does not judge the morality of the behavior of local government officials. It is the intent of this Grand Jury to review incidents where Orange County officials have failed in their ethical responsibilities to the public, and identify method(s) or program(s) that can minimize these lapses in the future.

Why is Ethics Important to Government?

The Founding Fathers recognized that the abuse of entrusted power for private gain is the normal, default situation historically and internationally. They created a system of governance that gives leaders the opportunity and framework to go against historical precedent and the baseness of human nature.

“... In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is...the primary control on the government...”^{11,12} -- James Madison

“... much of the strength and efficiency of any Government... depends on the general opinion of the goodness of the Government, as well as of the wisdom and integrity of its Governors.”¹³ -- Benjamin Franklin

“Experience has shown that even under the best forms of government those entrusted with power have...perverted it into tyranny.”¹⁴-- Thomas Jefferson

In 2010, the United States fell out of the top 20 least corrupt nations according to Transparency International's Corruption Perceptions Index.¹⁵ It is

¹⁰ Wechsler, R. Local Government Ethics Programs: A Resource for Ethics Commission Members, Ethics Reformers, Local Officials, Attorneys, Journalists, and Students (2012)

¹¹ Madison, J. The Federalist No. 51, “The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments, Independent Journal, (1788)

¹² The use of President Madison's quote was inspired by a conversation with a professor at a local university

¹³ Farrand, M. ed. The Records of the Federal Convention of 1787. Rev. ed. 4 vols. New Haven and London: Yale University Press, 1937. The Founders' Constitution, Volume 4, Article 7, Document 3

¹⁴ Goodreads.com

¹⁵ Transparency International (2010)

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more difficult to see corruption in the United States than it is in developing countries where officials will not act without a bribe. In America, everything happens behind the scenes – manipulation of contract specifications; sweetheart deals with developers; “pay to play” scenarios; and the hiring of family members, friends or close associates by companies doing business with government. Open bribery is rare.

Americans have always cast a wary eye on government. Indeed, America’s very existence is owed to the erosion of trust in the British monarchy. Today, the impact of technology and its ever-changing evolution plays an important role in the public’s ability to access immediate and sometimes fallacious information. Unfortunately, national opinion polls show that the healthy skepticism of yesteryear has turned into rigid cynicism as we embark upon the new millennium. A major source of dissatisfaction with government leadership today is the real or perceived lack of morals, ethics and honesty.

“Many [Orange County] middle-class voters have become distrustful of their elected officials and lack confidence in the way they handle the taxpayers’ money.”¹⁶

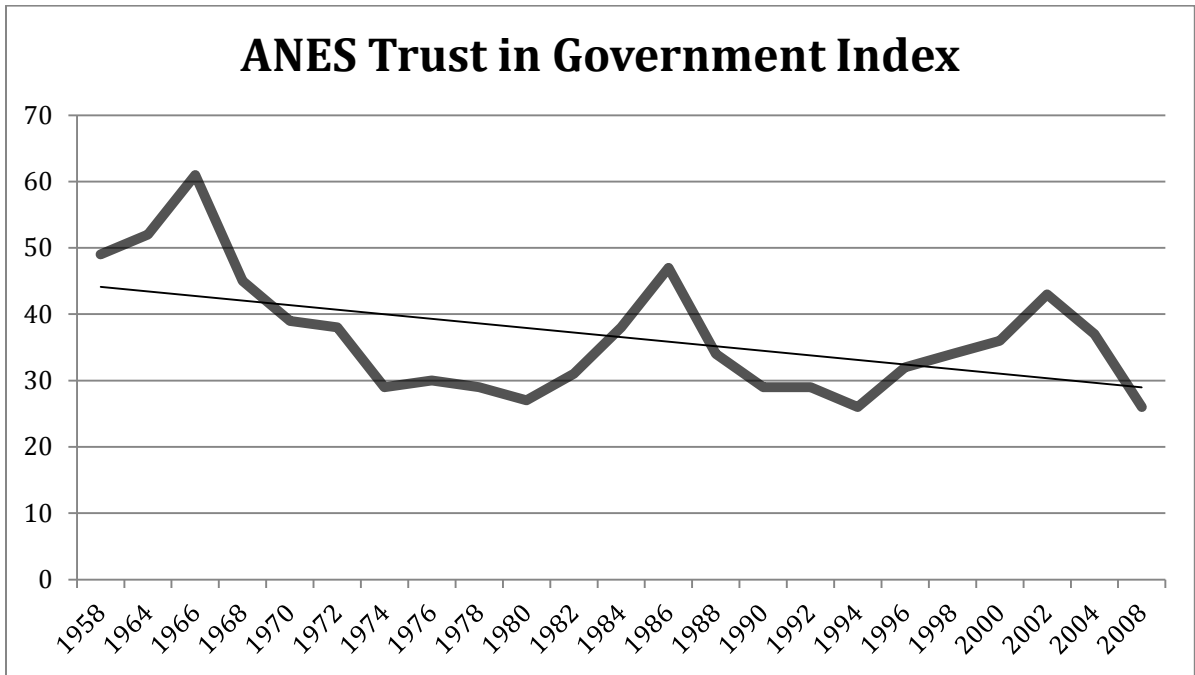
The Field Research Corporation conducted a poll in 2011 and found that “Californians (71%) have become increasingly convinced that the voting public is more likely than their elected representatives to consider the ‘broad public interest in making decisions about state government policies and laws.’” The poll also found that the “voting public rather than their elected representatives ‘can be trusted more often to do what is right on important government issues.’”¹⁷ The American National Election Studies (ANES) has tracked voter trust in government since the 1950’s and has found a decline:¹⁸

¹⁶ Baldassare, M. When Government Fails, The Orange County Bankruptcy (1998) University of California Press (Los Angeles) p. 222 (e-book)

¹⁷ The Field Poll (Release #2394) (10/13/2011) San Francisco

¹⁸ American National Election Studies (8/16/2010)

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“Having public power, authority, and accountability in a democracy means that the public service’s smooth functioning depends on trust. That trust has declined.”¹⁹ President Ronald Reagan underscored the importance of trust in government in 1987:

“The power of the presidency is often thought to reside within this Oval Office, yet it doesn’t rest here. It rests in you, the American people, and in your trust. Your trust is what gives a president his powers of leadership and his personal strength.”²⁰

The History of Public Corruption in Orange County

“Through the years there have been candidates and their backers in Orange County who have stepped over the line of legality, and many of them were apprehended and punished in some fashion.” – Thomas C. Rogers, Chairman of the Orange County Republican Central Committee (1969-1972)²¹

¹⁹ Lewis, Carol W. and Gilman, Stuart C. p. 22

²⁰ Address to the Nation on the Iran Arms and Contra Aid Controversy, March 4, 1987

²¹ Rogers, T. *Agents’ Orange: The Unabridged Political History of Orange County 1960-2000* (2000) (San Juan Capistrano), p. 295

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Local government includes county and city agencies, school districts, special districts and joint powers authorities. Historically, Orange County has been a hotbed of corruption, conflict of interest and abuse of authority – much of it due to the money influence of developers on officials during its growth phase. The following is a list of selected incidents *at the county level*²² that serves to underscore the abuses:

1970's

- A motion was made to expel Andrew Hinshaw from the U.S. House of Representatives after he was convicted of receiving bribes in exchange for lower tax assessments in 1976 when he was the Orange County Assessor.^{23,24}
- Dr. Louis J. Cella was a hospital developer and major donor to political candidates. He was California's largest campaign donor in 1975 when he donated more than \$500,000 to 60 candidates and causes. He was convicted of 22 counts of conspiracy, tax evasion and Medicare fraud. "His case unfolded during a tumultuous era in Orange County politics...when more than 40 public officials and their aides were indicted."^{25,26,27,28} Three County Supervisors were beneficiaries of Cella's money:
 - Supervisor Phillip L. Anthony was indicted in 1976 and pled no contest to a misdemeanor count of laundering campaign funds.^{29,30,31}
 - Supervisor Robert W. Battin was convicted of misusing county staff while seeking his party's nomination for lieutenant governor in 1976.^{32,33}

²² See Grand Jury Table 1 at the end of the report for a listing of ethics allegations and convictions by officials from cities and special districts

²³ The House Committee on Standards of Official Conduct, 94th Congress, 2d Session, Report Number 94-1477; Orange County Register article and Los Angeles Times article

²⁴ Rogers, T. Agents' Orange, p. 303

²⁵ Two Los Angeles Times articles

²⁶ U.S. Court of Appeals 9th Circuit decision 568 F.2d 1266

²⁷ People v. Cella (1981) 114 Cal. App. 3d 905 [170 Cal. Rptr. 915]

²⁸ Rogers, T. Agents' Orange, pp. 298-301

²⁹ Two Los Angeles Times articles

³⁰ Anthony v. Superior Court (People) (1980) 109 Cal. App. 3d 346 [167 Cal. Rptr. 246]

³¹ Rogers, T. Agents' Orange, p. 297

³² The People v. Robert William Battin, 77 Cal.App.3d 635, 143 Cal. Rptr. 731 (1978)

³³ Rogers, T. Agents' Orange, p. 296

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- Supervisor Ralph Diedrich was convicted of two counts of bribery and one count of conspiracy to commit bribery with an Anaheim Hills land developer in 1979.^{34,35}

1980's

- W. Patrick Moriarty was a fireworks magnate in Orange County. He was the subject of a three-year investigation into allegations that “political favors were obtained through bribery, kickbacks, money laundering and prostitution.” He was convicted in federal court on fraud and bribery charges with eleven other people (including five city council members) in 1986. The influence peddling case affected two county supervisors. Neither was charged with a crime, but one said that his candidacy was tainted by the Moriarty scandal.^{36,37,38,39}

1990's

- Supervisor Don R. Roth was the subject of an eleven-month probe by the Orange County District Attorney's office that led to his conviction on ethics law violations in 1993. The probe, prompted by information uncovered by the Los Angeles Times centered on these ethical issues:
 - Roth killed a residential fire-prevention measure in exchange for thousands of dollars in improvements to his Anaheim Hills home.
 - Two weeks prior to voting to approve a \$5 million dollar condominium proposal, Roth discussed his vote with the landowners during a trip to Catalina Island that they hosted for the Supervisor. Evidence uncovered on credit card receipts revealed handwritten notations about the discussions.^{40,41}

³⁴ The People v. Diedrich, 31 Cal.3d 263, Stanford Law School

³⁵ Rogers, T. *Agents' Orange*, p. 301-302

³⁶ Five Los Angeles Times articles

³⁷ *The Moriarty Affair* (3/85) (The California Journal) p. 107-109

³⁸ *The New Gold Rush: Financing California's Legislative Campaigns* (1985) (California Commission on Campaign Financing) excerpted, pp. 9, 129-132, 149-150

³⁹ Rogers, T. *Agents' Orange*, p. 304

⁴⁰ Ten Los Angeles Times articles, One Orange County Register article

⁴¹ Rogers, T. *Agents' Orange*, p. 304-306

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“This is a person who has gotten us millions of dollars. I don’t know how in the hell he does it, but it makes us all look good.” – Supervisor Thomas Riley (about Treasurer Robert Citron) ⁴²

Eight months after Supervisor Riley’s comment, the county declared bankruptcy after the Orange County Investment Pool reported a \$1.7 billion loss due to risky investments made by County Treasurer Robert L. Citron. He became the County’s tax collector (and prominent political figure) in 1971. Although he was “never implicated” in Dr. Louis Cella’s “criminal activities,” he was “closely associated with Cella and learned a personal style of politics and favor-trading that would mark his behavior for the rest of his public career.”⁴³ Citron pled guilty to six felonies that included filing a false and misleading financial summary to participants purchasing securities in the Orange County Treasury Investment Pool.^{44,45} Fallout from the largest municipal bankruptcy in United States history included:

- Government service at the county, city, school district and special district levels was reduced as public employees were discharged or furloughed.^{46,47}
- The Grand Jury indicted the County Budget Director and leveled civil accusations against two County Supervisors and the Auditor-Controller.^{48,49}
- Assistant Treasurer Matthew Raabe “siphoned nearly \$90 million dollars in interest earnings from local cities and school districts. The money was then deposited into the county’s general fund for use by county government.” He was convicted on five counts of securities fraud and misappropriating public funds in 1997. His conviction was overturned when a court of appeal ruled that the district attorney’s office had an overwhelming conflict of interest prosecuting the case.

⁴² Jorion, P., Big Bets Gone Bad – Derivatives and Bankruptcy in Orange County (1995), Academic Press, San Diego p. 7

⁴³ Jorion, P., p. 10-11

⁴⁴ People vs. Robert Lafee Citron Plea/Sentencing Agreement (4/27/95)

⁴⁵ Associated Press article

⁴⁶ Wikipedia

⁴⁷ Los Angeles Times article

⁴⁸ Baldassare, M. When Government Fails, The Orange County Bankruptcy (1998) University of California Press (Los Angeles) Table A-5 and a Los Angeles Times article

⁴⁹ Rogers, T. Agents’ Orange, p. 284-285

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The Securities and Exchange Commission entered final judgments of permanent injunction against Robert L. Citron and Matthew R. Raabe after investigating a complaint that the men fraudulently offered and sold over \$2.1 billion in municipal securities issued in 1993 and 1994 by Orange County government.^{50,51}

Robert Citron and others involved in the county bankruptcy sorely betrayed the public trust by their carelessness and indifference. The lack of effective oversight contributed to an environment that allowed them to recklessly invest public funds.

2000's

- Perhaps there isn't a greater example of public corruption in Orange County history than the saga of former sheriff Mike Carona. His meteoric rise and fall began when he was appointed County Marshal at the age of 33. Ten years later he became the county's "top cop" when elected to sheriff. He became known as "America's Sheriff" in 2002 after a news conference in which he warned a child murderer: "Don't sleep. Don't eat. We're coming after you."⁵² During a prolonged fall from grace, Carona was convicted on charges of attempting to obstruct a Federal Grand Jury in 2009. Selected incidents:
 - Carona appointed 86 "political allies, friends, relatives and others" to reserve deputy positions before their background investigations were completed and days before California increased training requirements for reserve police officers. The appointments were made over the objections of Carona's staff and County Counsel concerned about "prior drug use, a child endangerment accusation and lack of training."^{53,54,55}
 - A Newport Beach inventor admitted to illegally laundering \$29,000 for Carona's campaign in 2000.^{56,57}

⁵⁰ One New York Times article and two Los Angeles Times articles

⁵¹ SEC v. Robert L. Citron and Matthew R. Raabe, Civ. Action No. SACV 96-74 GLT (C.D. Cal.), Litigation Release No. 14792 (January 24, 1996) (complaint)

⁵² Orange County Register article and San Diego Union Tribune article

⁵³ The appointed deputies were issued guns and badges – See ^{54,55}

⁵⁴ Orange County Register article and Los Angeles Times article

⁵⁵ Bardzik v. Orange County Sheriff's Department and Michael Corona, United States Court of Appeals for the Ninth Circuit No. 09-55103 D.C. No. 8:07-cv-00141-JVS RNB Opinion (April 9, 2010)

⁵⁶ Three Los Angeles Times articles

⁵⁷ FPPC Summary of Administrative Activity (August 16, 2005)

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- Carona fired assistant sheriff George Jaramillo for misusing a county-owned helicopter and for interfering with a Newport Beach Police Department rape investigation. (The son of another assistant sheriff committed the crime.) Jaramillo was indicted on charges of suspicion of bribery, conspiracy and conflict of interest. He pled “No Contest” in 2007 for perjury and misappropriation of public funds and was sentenced to jail.⁵⁸
- A sheriff’s secretary filed a sexual harassment suit against Carona in 2006 for ignoring her allegations that George Jaramillo showed her sexually explicit photographs.^{59,60}
- A sheriff’s captain offered a written apology for soliciting campaign donations for Carona while on duty in exchange for the cessation of a criminal prosecution against her in 2006.^{61,62}
- Photographs were published in 2006 showing Carona “arm in arm” with the owner of a Las Vegas strip club later convicted of federal racketeering charges.^{63,64}
- Carona terminated, reassigned and demoted sheriff employees that supported political rival Lieutenant Bill Hunt in 2006-2007. Lawsuits were filed alleging political retaliation.⁶⁵
- A federal grand jury indicted Carona, his wife and long time mistress on charges of public corruption, conspiracy and bankruptcy fraud. He was later convicted of witness tampering.⁶⁶
- A civil engineer at an Orange County Department pled guilty to charges of receiving bribes in exchange for expediting swimming pool construction

⁵⁸ Jaramillo v. County Of Orange (2011) 200 Cal.App.4th 811 , -- Cal.Rptr.3d --; O.C. District Attorney press release (1/29/07); L.A. Times articles

⁵⁹ One Orange County Register article

⁶⁰ Redacted F.B.I. Exhibit Case 8:06-cr-00224-AG

⁶¹ Orange County Register article and Los Angeles Times article

⁶² California Attorney General Complaint

⁶³ OC Weekly article

⁶⁴ U.S. Department of Justice Press Release, Las Vegas Strip Club Owner Pleads Guilty to Conspiring to Defraud the United States (June 1, 2006)

⁶⁵ William J. Hunt v. County of Orange; Michael S. Carona, Sheriff-Coroner for the County of Orange, United States District Court of Appeals, Ninth Circuit No. 10-55163 D.C. No. 8:07-cv-00705- MMM-MLG Opinion (October 11, 2011)

⁶⁶ United States District Court for the Central District of California, Fourth Superseding Indictment, United States v. Carona, et al, October 2007 Federal Grand Jury; United States Court of Appeals for the Ninth District, United States v. Michael S. Carona, February 6, 2011, No. 09-50235 D.C. No. 8:06-cr-00224-AG-2 Opinion; and numerous press articles.

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permits.^{67,68}

2010's – (During the Term of the 2012-13 Grand Jury)

- Orange County is again under scrutiny with the unfolding tale of sexual harassment, misfeasance, and incompetence involving county employees. A former city council member, employed as an executive at a large County department, is criminally charged with sexually assaulting seven women over an eight-year period.^{69,70} Political fallout from the unfolding case includes the forced resignation of the County's chief executive officer, the firing of a high ranking executive at the large County department and several early retirements and unplanned leaves of absence by key county personnel at a cost of hundreds of thousands of dollars.
- The Grand Jury heard sworn testimony about a county employee that falsified documents to the State of California about a compressed natural gas project. The employee was investigated and terminated but returned to work upon a successful judicial appeal.
- The Grand Jury received a complaint letter, read press articles, interviewed a high ranking county employee and heard sworn testimony about the practice of Executive Assistants to the Board of Supervisors being offered full-time county employment and circumventing normal competitive recruitment and hiring.^{71,72} It is a practice by some Orange County Supervisors that gives the public the appearance of cronyism and favoritism. In spite of protestations to the contrary, it is easy to imagine a Supervisor using his or her power to influence the selection of a valued aide or intern.
- California Government Code § 3500-3511 (Known as the Meyers-Milias-Brown Act) established how public employee groups can organize and engage in collective bargaining with employers over wages, benefits and working conditions. Many of the County's approximate 17,000 employees are represented by different labor groups often referred to as "unions" or

⁶⁷ Orange County District Attorney Press Release

⁶⁸ Los Angeles Times article

⁶⁹ KABC News Los Angeles – Orange County News (7/3/2012)

⁷⁰ Orange County Register article that included a link to the District Attorney's press conference (reviewed) outlining charges against the executive

⁷¹ Orange County Register and Voice of OC

⁷² Interview of high-ranking public official (2013)

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“associations.”⁷³

There exists a situation today, whereby managers at one County department are compensated at a lesser pay rate than managers at another department - even though their jobs are classified the same. This “equity issue” is attributed to the fact that the employees work under contracts (known as a Memorandum of Understanding) negotiated by different labor groups.

The Grand Jury was *appalled* to hear testimony about the widespread practice of inflating the performance evaluations of mediocre managers to “correct” the “equity issue.” An example was given of a \$47 per hour manager who demonstrated average skill, questionable dedication and poor attendance. His/her supervisor falsely rated the employee as “Exceeds Expectations” in order to justify a significant merit increase to about \$54 per hour. This practice circumvents the purpose and spirit of collective bargaining. It does a disservice to the mediocre manager who can benefit from an *honest* appraisal of his or her performance. It appears to have elements of cronyism, abuse of authority and a sense of entitlement. It appears dishonest. It appears unethical.

- The Grand Jury read a series of news reports⁷⁴ about a present Board member’s proposal⁷⁵ (and subsequent December 2011 adoption⁷⁶) to expand the size of the CalOptima Board of Directors and significantly alter the balance of power in favor of medical service providers over patients.⁷⁷ Only *two months later*, the hospital industry organized a \$250-per-person campaign fundraising event ostensibly billed as a “Tribute” to that supervisor.⁷⁸ A review of campaign finance documents⁷⁹ revealed that in 2012 the supervisor raised \$189,302 in cash donations, of which \$42,522 (or 24%) came from businesses or individuals associated with the healthcare industry. *Within five months* of the board reorganization, CalOptima suffered a slew of “controversial ousters and resignations” as the supervisors played a pivotal role in the oversight of the \$1.4 billion dollar managed health care program.⁸⁰

⁷³ The scope of representation includes all matters relating to employment conditions and employer-employee relations, covering wages, hours, and other terms and conditions of employment. (§3504)

⁷⁴ Voice of OC articles

⁷⁵ Agenda Staff Report, *OC Health Authority Ordinance Amendments* (10/2011)

⁷⁶ Regular Meeting of the Orange County Board of Supervisors (12/2011)

⁷⁷ Hospital Association of Southern California Press Release (2011)

⁷⁸ Voice of OC article

⁷⁹ FPPC California Form 460 documents for calendar 2012

⁸⁰ Voice of OC article

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While this may be allowable under campaign finance laws, it may give the appearance of impropriety (“pay to play” or an abuse of authority) to the general public where a politician places his or her own political interest above the public good.

This is not simply a listing of individuals that have chosen to act (or appear to act) unethically. Each of the aforementioned people worked closely with others in government – a fact that has the Grand Jury concerned about a continued culture of indifference. It is evident to the Grand Jury that some *employees at all levels of county government* are unable or unwilling to learn from the mistakes of the past.

The Importance of Independence from Political Interference

Orange County has demonstrated a pell-mell approach to government ethics reform – usually as a result of scandal and the resultant negative public opinion. Several units of county government provide an oversight function – some with unclear direction or competing areas of responsibility.

1. The Internal Audit Department

Following the county bankruptcy in 1994, both the Grand Jury and a Blue Ribbon Commission made recommendations that the *internal audit* function of the Auditor-Controller’s Department needed independence and should report directly to the Board of Supervisors. County Resolution 95-271 was adopted in 1995 creating the Internal Audit Department “to ensure for the integrity of the County’s internal audit.”⁸¹

The Director of the Internal Audit Department is dependent upon the Board of Supervisors for an employment contract. While the Grand Jury has found nothing to the contrary, the Director’s reliance upon the Board for his/her employment contract creates a potential conflict of interest. Truly independent oversight requires a situation where the truth is told without concern of retribution or payback.

2. The Office of Independent Review

The Board of Supervisors created the Office of Independent Review in 2008 following the fatal beating of a prisoner at the Theo Lacy Jail. The

⁸¹ Internal Audit Report, “Historical Origins of OC Internal Audit Department as a Separate, Independent Function Reporting Directly to the Board of Supervisors,” Peter Hughes, Ph.D., CPA (2009)

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Sheriff's Department was also heavily criticized following revelations that deputies encouraged inmates to assault a prisoner wrongly suspected of child molestation.

It was reported by a local news organization on August 25, 2011, that the Board of Supervisors was frustrated with the Office of Independent Review because the Office wasn't providing the results they expected. Supervisors cited an agency in Los Angeles County that has a similar function to the Office of Independent Review that has released numerous reports to the public.⁸² They "made it clear that the Office of Independent Review is on a short leash" after extending the Director's contract for only six months.^{83,84}

3. The "Public Integrity Unit"

The District Attorney's Office identified a need to add staffing due to increased complaints about public officials in Orange County. Moreover, the sexual misconduct probe caused additional strain. As a result, the District Attorney presented to the Board of Supervisors an agenda staff report requesting additional funding to staff a "Public Integrity Unit" on September 11, 2012:

*"... Over the last several years, complaints and investigations of crimes involving people holding public office have steadily increased... Some specific types of crimes include, but are not limited to: illegal or inappropriate use of public funds; bribery; election and campaign violations; conflicts of interest [and] malfeasance in office..."*⁸⁵

Following concerns raised by the Board of Supervisors and political operatives in Orange County, the language of the agenda staff report was softened and modified to place the requested "Public Integrity Unit" positions into the existing "Special Prosecutions and Special Assignments Unit."^{86,87} One Supervisor expressed concern about the title and worried that the unit would

⁸² The Los Angeles Office of Independent Review has issued 23 reports since 2008, some of which have identified significant areas of concern regarding law enforcement conduct. (www.laoir.com/Reports2.html)

⁸³ Two Voice of OC articles

⁸⁴ Regular Meeting of the O.C. Board of Supervisors, Tuesday, August 23, 2011, Item 55: APPROVED STAFF RECOMMENDATION WITH MODIFICATIONS TO RECOMMEND ACTIONS 1&2 CHANGING THE CONTRACT TERMS TO 1 YEAR FOR THE PERIOD 9/1/11 – 8/31/2012, CONTINGENT UPON AN ACCEPTABLE PERFORMANCE EVALUATION AFTER 6 MONTHS

⁸⁵ OC District Attorney Agenda Staff Report (9/11/12)

⁸⁶ OC District Attorney Revised Agenda Staff Report with Related Documents (9/19/2012)

⁸⁷ Voice of OC article

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seek work in order to justify its existence.⁸⁸ The Board of Supervisors approved the report on September 25, 2012.

The District Attorney and Auditor-Controller are elected officials. As such they enjoy a higher level of independence from political interference than the appointed Directors of the other oversight departments. The Board of Supervisors' ability to leverage the terms and duration of employment contracts has a chilling effect on freedom of action to fulfill the oversight mission and guard the public trust. The threatened (or implied) loss of employment to influence an oversight authority is tyranny. It is hard to imagine the effectiveness of the Sheriff-Coroner if she were retained "on a short leash" while executing her law enforcement duties.

While the Grand Jury applauds the hard work and effort of present-day oversight units, the Grand Jury recommends that county officials embrace comprehensive ethics reform to reduce incidents of corruption in the future.

What are the Goals of an Effective Ethics Program?

"There is nothing wrong with America that cannot be cured by what is right with America." – President William Clinton's 1993 Inauguration Address.⁸⁹

The Grand Jury met with a well-respected professor at a local university and discussed the issue of corruption and ethical lapses by Orange County officials. He provided the Grand Jury with great detail about Orange County in the post-World War II era – an era defined by large-scale development and the influence of those development dollars on local politicians. He spoke of special districts formed decades ago that are largely unaccountable to anyone and the fact that Orange County is lacking in effective civilian oversight.⁹⁰

When voters go to the polls to elect public officials, they are informed of the candidates' qualifications and positions on issues of the day. Unfortunately, they are often uninformed regarding the character of those that run for local office. Buena Park voters, for example, elected a city council member later arrested for using a false social security number and driver's license to avoid paying child support.^{91,92} In another example, a member of the Board of Supervisors wondered why a person would seek public office while carrying the

⁸⁸ Orange County Register article

⁸⁹ Clinton, W. (1/20/1993) Inaugural Address

⁹⁰ Interview conducted on December 5, 2012

⁹¹ Orange County Register article

⁹² Orange County District Attorney press release

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baggage of impropriety.⁹³

The Grand Jury cannot control or predict the competence of elected (or appointed) officials. The Grand Jury understands that political ideology will always be part of a politician's decision-making process. The Grand Jury does expect however, that local officials govern with high ethical standards -- always placing the public good ahead of their own.

The Grand Jury believes that the primary goal of an effective ethics program is the enhancement of public trust in government. After corruption, it is the appearance of impropriety that is so damaging to public confidence. When presented with a conflict of interest or obligation situation, officials often seek the advice of an attorney.

Legal advice is an important consideration for public officials, but it is often narrowly interpreted to convey whether a proposed conflict resolution is lawful - with little regard to the appearance of impropriety. When facing allegations of misconduct in office, officials often insist that they sought legal advice and what they did was "legal." It is not appropriate for public officials to use loopholes in ethics laws to their advantage at the expense of the public. What is sometimes technically legal doesn't always equate to what is ethical. Too many bureaucrats take a legalistic approach to government ethics – an approach that may be the biggest problem officials face when dealing with conflicts of interest.⁹⁴

Public officials are *best served* by seeking advice from a neutral ethics professional to see how their conduct would appear to the public.

A secondary goal of an effective program is to prevent unethical conduct and to establish a healthy ethical environment at all levels of County government. The County should serve as a shining example to all other forms of local government. It is in local government where politicians that aspire to higher office "cut their teeth" and experience their first ethical challenges, "learn to play the game," misplace their convictions and "begin to feel a special [sense of] entitlement."⁹⁵ Unfortunately, local government has more ethics scandals than effective ethics programs. Poor ethics environments start at the local level.

The Ideal Ethics Program

⁹³ Los Angeles Times article

⁹⁴ Wechsler, R. pp. 29-34

⁹⁵ Wechsler, R. pp. 21-22

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The Grand Jury examined ethics commissions in San Diego, Los Angeles, San Francisco and Oakland, California, as well as other oversight bodies across the country.^{96,97} Grand Jury members attended a meeting of the Los Angeles City Ethics Commission in November 2012. Each of these groups had the following in common: They monitored local ethics ordinances; provided formal and informal advice; conducted ethics training; maintained a whistleblower hotline; ensured compliance through the use of administrative settlements and published annual public reports available on their websites.

Components of an Ideal Ethics Program in Orange County would be:

1. The Creation of a Healthy Ethics Environment

Government and community leaders that believe in the importance of public trust will do everything possible to help public officials (and those that conduct business with the government) deal responsibly with conflicts of interest and obligation, “before they exist, when they become relevant and after mistakes are made.”⁹⁸ In a healthy ethics environment, leaders are not afraid of an independent ethics program because they understand that the best measure is to do everything possible to prevent officials and employees from creating an appearance of impropriety.^(see 94) Department heads should foster an environment where honesty, ethical decision-making, customer service and transparency are openly and frequently discussed at staff meetings, training sessions and other informal settings.

2. Ethics Training

Prevention of unethical conduct is best accomplished through training at all levels of government. Orange County should provide ethics training to all its employees to build a foundation of understanding. The training should be a fusion of individual integrity, ethics law, compliance measures and the relationship between public perceptions and trust in government. Lastly, the County should host an annual ethics seminar for lobbyists and businesses to inform them of the County’s commitment to ethical governance and its expectations of employee conduct – particularly in the area of contracts⁹⁹ and procurement of goods and services.

⁹⁶ Office of the Ombudsman, Kings County, Washington and Ethics Reform in Chicago, Illinois

⁹⁷ Source material from ethics commissions studied

⁹⁸ Wechsler, R. p. 52

⁹⁹ A clause about the County’s commitment to ethics should be included in every contract

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3. Ethics Advice

President Lyndon Johnson said in his 1965 State of the Union Address: “*A President's hardest task is not to do what is right, but to know what is right.*”¹⁰⁰

In addition to the Orange County's fraud hotline,¹⁰¹ employees should be offered the services of an independent ethics advisor to assist them when conflicts arise. Ethics advice differs from legal advice in several ways, one of which is that it focuses on the public's perception of a proposed action and can provide advice on potential conflicts, recusals, disclosures, transparency, gifts, procurements, etc.

Ethics advice should be available in two forms: informal and formal. Informal advice can be provided via a telephone call or meeting when an official needs quick help on an issue at hand or on a minor issue. Formal advice is rendered in writing that is published to support an official's decision and serves as a repository of opinion on ethical issues.¹⁰²

Since the appearance of impropriety is as much a problem as impropriety itself; a government ethics professional will not interpret an ethics code narrowly, as lawyers often do when giving advice. The importance of providing an ethics counselor to County employees cannot be overstated.

4. Effective Ethics Ordinances

Local ethics ordinances complement State law in that they can be crafted to reflect the needs of Orange County and be used by an oversight authority in a civil, administrative capacity. Effective ordinances include provisions on conflicts of interest, preferential treatment, recusals, gifts, confidential information, misuse of government property, patronage, nepotism, transparency, procurement, campaign financing, lobbying and post-employment of government officials. In crafting effective government ethics laws, the Cowan Commission stressed the importance of simplicity and clarity:

¹⁰⁰ Johnson, L. (1/4/1965) State of the Union Address

¹⁰¹ Orange County's Fraud Hotline is available for the employees and the general public alike to report questionable behavior, waste, and abuse involving County vendors, employees, and processes

¹⁰² Wechsler, R. p. 54

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“We have also been guided by the conviction that the goal of any good ethics law is compliance, rather than prosecution, and that the law should be as clear – and as fully understood – as is humanly possible. In short, we have sought to banish the gray: to eliminate those areas of uncertainty that represent loopholes for those who wish to avoid compliance and are confusing traps for those who wish to comply.”¹⁰³

The “Time is Now to Clean Up Politics” (TINCUP) ordinance passed by Orange County voters in 1978 (and updated in 1992) is an example of a local initiative dealing with campaign financing and disclosure. The ordinance is an example of a law that needs continuous “tweaking” to stay abreast of the complexities of campaign fundraising.^{104,105,106} Many ethics commissions review and recommend local ordinances to keep them current with changes in the law.

5. Compliance

The Fair Political Practices Commission enforces compliance of California government ethics law. California has the eighth largest economy in the world and is the size of many nations. Consequently, the Commission is limited in its ability to enforce provisions and struggles to provide timely advice. A local ethics program can, if properly constructed, provide better service. Given the dual goals of enhancing the public trust and preventing unethical behavior, the compliance arm of an ethics program should use measures such as warning letters, administrative settlements and annual public reports to encourage appropriate ethical behavior. Compliance measures should be relatively simple and inexpensive, usually ending in settlements that themselves provide guidance to other officials.

6. Disclosure

The disclosure of relationships with individuals seeking benefits from local government accomplishes three things: First, it helps officials recognize potential conflicts and deal with them appropriately. Second, disclosure informs others about potential conflicts. Third, regular disclosure of relationships is proof of commitment to and participation in a

¹⁰³ Cowan Commission Report (11/20/1989) p. ii

¹⁰⁴ UCI Guide to Shirley Grindle Papers MS.R.084 (2011)

¹⁰⁵ Los Angeles Times article

¹⁰⁶ Orange County Weekly article

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healthy ethics program.¹⁰⁷

7. Jurisdiction

Administrators of a County ethics program should have jurisdiction over every County department, agency, commission, board and joint powers authority regardless of whether the head of such a body is elected or appointed. An ethics program, whether it takes the form of a commission, advisory group, ombudsman or other form should also have jurisdiction over the elected leadership of the County.

8. Independent Administration

Officials under the jurisdiction of an ethics program should not be involved in the selection of members serving on an ethics program or oversight authority. *It cannot be emphasized enough* that freedom to act without political interference is paramount to the success of any ethics program.

9. A Central Point of Contact

An ideal ethics program should serve as a central clearinghouse for the public (as well as officials and government employees) to complain about real or perceived violations of ethics provisions. Complaints could be via telephone hotline, correspondence or the Internet.

10. Public Reports

The ethics program should publish annual reports about complaints, formal advice letters, referrals to the District Attorney and administrative settlements. These reports serve the greater good by informing the public of sustained unethical behavior by public officials. They should be published in writing and available for download from the Internet.

If Madison, Franklin and Jefferson were with us today, they would see a beautiful, vibrant, multi-cultural Orange County much different from their colonial world. They would marvel at modern technology, construction, freeways, beaches and Disneyland. The challenges of creating and nurturing an infant nation are long gone – replaced by the challenges presented to us in the 21st Century. It would be fascinating to hear what they think about government today.

¹⁰⁷ Wechsler, R. p. 59

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The Grand Jury is determined that a forty-year cycle of repeated ethics violations by officials in Orange County be broken. As the largest form of local government, the County should take the lead in ethics reform as a model for cities, school boards and special districts to follow.

FINDINGS

In accordance with California Penal Code Sections 933 and 933.05, the 2012/13 Grand Jury requests responses from each agency affected by the findings presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation of corruption in Orange County, the 2012-2013 Orange County Grand Jury has arrived at seven principal findings as follows:

F1. Public officials are stewards of the public trust and maintain it by placing the civic interest ahead of their own. Even the appearance of impropriety damages public faith in government. Citizens expect its officials to conduct business in a lawful and ethical manner.

F2. The unparalleled development of Orange County from an agrarian to world-class economy in the post-World War II era led to the creation of a “power elite” of land developers and public officials. The influence of “development dollars” in the form of contributions to public officials resulted in a series of public corruption cases over a forty-year period. Other ethics scandals involved the abuse of power.

F3. Orange County reacted to the 1994 bankruptcy scandal by creating a patchwork of oversight offices to audit financial, performance and professional standards. These offices have varying levels of independence, jurisdiction and legislative support. They need to be accountable as well.

F4. Unethical behavior at the local government level is not something that “simply fixes itself.” The County needs an independent Ethics Program that provides training, advice and guidance to public officials and private persons seeking to do business with government.

F5. Citizens need a clearinghouse to voice complaints about actual and perceived incidents of corruption and unethical behavior by public officials.

F6. In California, the Cities of San Diego, Los Angeles, San Francisco and Oakland have ethics commissions that address similar ethics issues.

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F7. Orange County lacks effective ethics oversight of its public officials.

RECOMMENDATIONS

In accordance with California Penal Code Section 933 and 933.05, the 2012/13 Grand Jury requires responses from each agency affected by the recommendations presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation of corruption in Orange County, the 2012-2013 Orange County Grand Jury makes the following three recommendations:

R1. The Orange County Board of Supervisors creates a Blue Ribbon Commission to study ethics programs in California and around the nation. The Commission shall recommend an ethics reform program and oversight authority to the Board of Supervisors within 12 months. [F1, F3, F6, F7]

R2. The Orange County Board of Supervisors shall select Blue Ribbon Commission members based upon their knowledge of government ethics, ability to conduct research and desire to make positive change to Orange County government. Their selection should represent a cross-section of Orange County's population and be free of political influence. Commission applicants should be vetted and randomly selected from an approved pool of candidates. [F2, F7]

R3. The Board of Supervisors shall require that ethics reform recommended by the Blue Ribbon Commission address the following in their report: [F3, F4, F5, F7]

A. Goals

- a. The enhancement of public trust in government.
- b. The prevention of unethical conduct.

B. Legislation

The oversight authority has the power to review and recommend County ordinances related to ethics, including but not limited to: Conflicts of Interest, Preferential Treatment, Recusals, Gifts, Confidential Information, Misuse of Government Property, Patronage, Nepotism, Transparency, Procurement, Campaign Financing, Lobbying and Post-Employment of Government Officials.

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C. Advice and Training

- a. The oversight authority shall provide formal and informal ethics advice to public officials and employees.
- b. The oversight authority shall plan, develop, implement and facilitate regular ethics training for public officials and employees -- at all levels of Orange County government.

D. Whistleblower Hotline

- a. The oversight authority shall create, maintain, monitor and publicize a hotline for citizens and County employees alike to report real or suspected unethical conduct.

E. Enforcement

- a. The oversight authority shall ensure compliance through the use of administrative settlements and published annual reports that are available on their website.

F. Independence and Jurisdiction

- a. The oversight body shall have the following powers:
 - i. Be free to act without political interference.
 - ii. Have jurisdiction over each County department, agency, commission, and board and joint powers authority – regardless of whether the head of such a body is elected or appointed.
 - iii. Have ethics-related jurisdiction over the elected leadership of the County.

- G. The oversight body must have the authority to enforce compliance through the use of warning letters, administrative settlements and the issuance of annual public reports.

REQUIREMENTS AND INSTRUCTIONS:

The California Penal Code §933 requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report

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containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code Section §933.05 (a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

(a.) As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b.) As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

(c.) If a finding or recommendation of the Grand Jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the Grand Jury, but the response of the Board of Supervisors shall address only those budgetary /or personnel matters over which it has some decision making aspects of the findings or recommendations affecting his or her agency or department.

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Comments to the Presiding Judge of the Superior Court in compliance with Penal Code section §933.05 are required from:

RESPONSE MATRIX

	F1	F2	F3	F4	F5	F6	F7	R1	R2	R3
Board of Supervisors	X	X	X	X	X	X	X	X	X	X

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Report Appendix

1. Table-1
2. Case Study – City of Los Angeles Ethics Commission

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Grand Jury Listing of Ethics Violations Not Used in this Report

Table-1

Year	City Official	Summary of Ethics Violation ¹⁰⁸
1972	Westminster Mayor and Planning Commissioner	Convicted of soliciting a bribe from a farmer leasing land at Mile Square Park.
1992	Brea Mayor	Convicted of 7 counts of Conflict of Interest. He failed to disclose millions of dollars in loans and other financial interests.
1992	Brea Council Member	Acquitted of 5 counts of misdemeanor conflict of interest. Alleged to have lobbied to give a city contract to a company that employed him as a consultant.
2000	Huntington Beach Mayor	Allegation that the Mayor voted on matters involving companies that paid for advertising in the Local News and the city's visitor guide. County and State documents reveal that the mayor owned the newspaper. Convicted.
2001	Santa Ana Council Member	Council member convicted of extortion and money-laundering in a scheme to take control of the city council.
2002	Seal Beach Council Member	Council member settled with the Fair Political Practices Commission and fined \$25,000 after making governmental decisions in which he had a financial interest, by taking action in closed-session meetings regarding a lawsuit filed against the Redevelopment Agency.
2006	Huntington Beach Mayor	Convicted of scheme to illegally convert apartments into condominiums.
2008	Placentia Public Works Director	Convicted of felony Conflict of Interest Charges -- Public Works Director used his influence to be hired as private consultant on OnTrac Project.
2008	Placentia City Manager	Indicted for Aiding and Abetting OnTrac Director – Overturned on appeal.
2012	Huntington Beach Planning Commissioner	Fair Political Practices Commission settled with the Commissioner after voting on a housing development without disclosing a donation to his/her failed city council campaign.

¹⁰⁸ Source material

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Case Study – The Los Angeles City Ethics Commission

The Los Angeles City Ethics Commission was created after citizens passed Charter Amendment H in the 1989 election with 57% of the vote. The proposition was placed before voters after a series of allegations were leveled against the city's mayor. The Cowan Commission was created to research and propose local ethics legislation and the structure of an oversight body. The Cowan Commission asserted its independence by using private funds to fund its study. Critical early funding came from groups such as Bank of America, the Cedar Fund, 20th Century Fox, and Warner Brothers. Over a six-month period, commissioners studied “dozens of national, state and local laws, read scores of reports and documents and interviewed more than 200 individuals in Los Angeles and around the country.”¹⁰⁹

The Cowan Commission issued a report on November 20, 1989, that contained 30 recommendations including:

- The Creation of a City Ethics Commission
- Enforcement of City Ethics Law
- Ethics Education and Training
- Disclosure of Financial Information
- Honoraria, Travel Expenses and Gifts
- Conflicts of Interest

The voter mandate and Cowan Commission Report led to the adoption of local ethics law into the Los Angeles City Municipal Code that are grouped into three broad areas: Government Ethics, Campaign Financing and Lobbying.

The Los Angeles County Ethics Commission was created and consists of five commissioners serving staggered, five-year terms with a support staff of 19 employees. They meet monthly to “consider policy issues, draft legislation for city council consideration, and make determinations regarding violations of the City's ethics laws.”¹¹⁰

The “Duties of the Los Angeles City Ethics Commission,” as taken from their informational pamphlet are as follows: ^(See Citation 110)

Advice – To help people understand and comply with City laws, the Ethics Commission provides both informal and formal advice. Informal advice can be provided in person or over the telephone, regarding general guidance about

¹⁰⁹ Cowan Commission Report, Ethics and Excellence in Government – The Commission to Draft an Ethics Code for Los Angeles City Government (1989)

¹¹⁰ Los Angeles City Ethics Commission Information Pamphlet at www.ethicslacity.org

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laws. Formal advice is provided in writing in response to a written request, and it applies the law to a requestor's specific facts. A person who receives formal advice and follows it is immune from Commission enforcement actions.

Education and Compliance Assistance – Education and compliance assistance are essential to an effective ethics program. In partnership with the Office of the City Attorney, the Commission has developed an online course for city officials who are required to participate in ethics training every two years. The Commission provides general ethics briefings for City agencies, trainings for ethics liaisons in city departments, and trainings for candidates for elective office. The commission also produces publications and other materials to help educate candidates, public officials and the general public.

Audits – Commission staff audits the political committees of city candidates and the fundraising and expenditure statements they file. All committees controlled by city candidates who either raise or spend at least \$100,000 in an election or who receive public matching funds must be audited.

Enforcement – The commission investigates and brings enforcement actions against persons who violate the City's ethics laws. Many cases begin as complaints to the whistleblower hotline. If a violation has occurred, administrative penalties of up to \$5,000 per violation or three times the amount of money that was unlawfully contributed, accepted, or concealed may be levied. The Commission works closely with both the District Attorney's office and the Fair Political Practices Commission as needed.

Policy and Legislation – The Commission must regularly evaluate the effectiveness of the City's ethics laws and make recommendations about the laws to the Mayor and City Council. The Commission staff collects data, identifies trends, and analyzes issues to help the commissioners assess existing policies. The Commission proposes legislation to the City Council and makes recommendations to help shape ethics laws and policies.

Whistleblower Hotline – The commission is required to maintain a whistleblower hotline, through which City officials, employees, and members of the public can report potential violations of the City's ethics laws. Commission staff independently investigates all complaints, which may be submitted 24 hours a day by phone, or online.

The Grand Jury reviewed documents that showed how the Los Angeles City Ethics Commission wrote a detailed advice letter to a former official asking about post-employment consulting with the City. The advice letter reviewed applicable laws and provided analysis and a conclusion to assist the former official and others with similar questions about post-employment restrictions under their

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municipal code.¹¹¹ Advice letters issued by the Commission cover other topics as well: contribution limits, outside employment, post-election fundraising, gifts from lobbying firms, gifts of travel, etc.¹¹²

The Grand Jury read two press releases by the Los Angeles City Ethics Commission where they announced the imposition of penalties for violations of the City's ethics laws. In the first release, commissioners approved stipulations for fines in the amount of \$175,000 for two violations of campaign finance laws. In the other release, stipulations were agreed to in the amount of \$185,000 for two violations of political money laundering during an election campaign.¹¹³

¹¹¹ Los Angeles City Ethics Commission Advice Letter

¹¹² Formal advice letters published online by the LA City Ethics Commission

¹¹³ Los Angeles City Ethics Commission Press Releases