

**RESPONSES**  
**TO THE**  
**SAN BERNARDINO COUNTY**  
**2016-2017 GRAND JURY**  
**FINAL REPORT**



SAN BERNARDINO COUNTY GRAND JURY  
172 WEST THIRD STREET, SECOND FLOOR  
SAN BERNARDINO, CA 92415-0243  
(909) 387-9120

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- APPLE VALLEY UNIFIED SCHOOL DISTRICT

**SECTION 2:**

- SAN BERNARDINO COUNTY SHERIFF'S DEPARTMENT

**SECTION 3:**

- SAN BERNARDINO COUNTY SUPERINTENDENT OF SCHOOLS
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  - VETERANS AFFAIRS





# **SECTION 1**

## **APPLE VALLEY UNIFIED SCHOOL DISTRICT**





# Apple Valley Unified School District

## BOARD OF TRUSTEES:

Dennis K. Bender • Donna Davis • Ronald J. Powell Ph. D • Richard L. Sauers • Wilson F. So

## SUPERINTENDENT

Thomas E. Hoegerman

September 25, 2017

### VIA ELECTRONIC & CERTIFIED MAIL RETURN RECEIPT REQUESTED

San Bernardino County Grand Jury  
Attn: Honorable Raymond L. Haight, III  
172 West Third Street, Second Floor  
San Bernardino, California 92415-0243

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
GRAND JURY  
SEP 25 2017  
BY NORMA GROSJEAN  
NORMA GROSJEAN, DEPUTY

Re: Response of the Apple Valley Unified School District to the  
June 2017 Report of the San Bernardino County Grand Jury  
Regarding the Apple Valley Unified School District Police Department

To the Honorable Raymond L. Haight, III:

### INTRODUCTION AND OVERVIEW

The Apple Valley Unified School District ("AVUSD" or "District") Board of Trustees thanks the San Bernardino County Grand Jury for its thoughtful report ("Report") dated June 30, 2017 regarding the Apple Valley Unified School District Police Department ("AVUSD-PD").

The District agrees with the Grand Jury that ensuring the safety of school children and employees is the AVUSD-PD's most important responsibility. It has, after inquiry and reflection, modified certain department policies based on the District's own review, and partially based upon the Grand Jury's recommendations. Those modifications are discussed in detail herein.

The District respectfully disagrees with multiple findings that suggest that AVUSD-PD officers exceeded their statutory authority as peace officers when issuing citations for certain Vehicle Code violations. The District concurs with the Grand Jury as to AVUSD-PD's *statutory mission*, but believes the Grand Jury improperly defines the *jurisdiction* of school police as limited to the department's mission, a conclusion not supported by statute or caselaw. The Grand Jury's report presented minimal evidence as to the individual circumstances resulting in the citations in 2014 through 2016. Without evidence of the particular circumstances that led officers to exercise their discretion in issuing citations, such as citing the driver only for the lowest level offense and not for the more serious moving violation observed prior to the stop, the Grand Jury's conclusion that citations exceeded the statutory authority of school police officers is unsupported. In other instances, the Grand Jury failed to take note of evidence that might have

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narrowed the scope of their conclusions such as the fact that roadways where children walk to and from bus stops are in need of patrol protection and are thus places where it is reasonable for officers to monitor.

The most significant issue upon which the Board of Trustees disagrees with the Report is the Grand Jury's confusion of the mission of school police with the statutory authority of school police. This important distinction is discussed in more detail in the District's response to Finding No. 4, commencing on page 6, and Finding No. 6, commencing on page 16.

**APPLE VALLEY UNIFIED SCHOOL DISTRICT'S RESPONSE TO THE FINDINGS  
AND RECOMMENDATIONS OF THE GRAND JURY**

Pursuant to Penal Code Section 933.05, the Apple Valley Unified School District responds to the findings and recommendations stated in the Report. For ease of reference, individual findings and recommendations are set out below, followed by the District's response.

- 1. Finding No. 1: "The AVUSD relied on California Vehicle Code section 22850.5(a) to charge a vehicle release fee and to make increases in that fee. The vehicle code section relied upon gives authority to charge this fee to "...a city, county, or city and county, or a state agency." AVUSDPD is not a city, county, or city and county or a state agency, and thus has no authority to charge this fee."**

**Recommendation No. 17-01: "Refund any monies collected by Apple Valley Unified School District – Police Department for Vehicle Release fees."**

**Response to Finding No. 1:** The District respectfully disagrees with the finding that AVUSD-PD has no authority to charge a vehicle release fee. California Vehicle Code Section 22850.5(a) provides that:

"A city, county, or city and county, or a state agency may adopt a regulation, ordinance, or resolution establishing procedures for the release of properly impounded vehicles to the registered owner or the agent of the registered owner and for the imposition of a charge equal to its administrative costs relating to the removal, impound, storage, or release of the vehicles to the registered owner or to the agent of the registered owner."

The Vehicle Code does not define "state agency" or "special district" for purposes of Section 22850.5. California courts have long held that school districts are agencies of the state. (*People v. Darby* (1952) 114 Cal.App.2d 412, 423 [250 P.2d 743]; *Hall v. City of Taft* (1956) 47 Cal. 2d 177, 181 [302 P.2d 574]; *Board of Trustees v. Leach* (1968) 258 Cal.App.2d 281, 287 [65 Cal.Rptr. 588]; *Laidlaw Waste Systems, Inc. v. Bay Cities Services, Inc.* (1996) 43 Cal.App.4th 630, 635 [50 Cal.Rptr.2d 824]; *Kirchmann v. Lake Elsinore Unified School Dist.* (2000) 83 Cal.App.4th 1098, 1115 [100 Cal.Rptr.2d 289].)



California Education Code Section 35010(b) provides, "The governing board of each school district shall prescribe and enforce rules not inconsistent with law, or with the rules prescribed by the State Board of Education, for its own government."

Additionally, the District is granted broad authority under Education Code Section 35160 which provides:

"On or after January 1, 1976, the Governing Board of any school district may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established."

Penal Code Section 830.32 and Vehicle Code sections 22650 through 22856 authorize school police to order the removal of a vehicle in connection with a traffic offense in which the driver potentially endangered school staff, students, or property. AVUSD-PD increased its vehicle release fee by \$25.00 in May 2015 to defray the cost of the time spent by officers and clerical staff related to storing and releasing vehicles.

AVUSD-PD's flat fee of \$120.00 to release any stored vehicle is similar to vehicle release fees charged by other police departments, including school police departments in California. In some cases, AVUSD-PD's fee is much less. The Apple Valley Station of the San Bernardino County Sheriff's Department charges \$400.00 for a vehicle release if the vehicle was towed for a D.U.I. offense, \$150.00 for a vehicle towed for a suspended driver's license offense, and \$100.00 for a vehicle towed for an expired or unlicensed driver's license offense.

Other school police departments routinely charge vehicle release fees. The San Bernardino City School District Police Department charges a vehicle release fee of \$75.00, unless the vehicle was towed in connection with a D.U.I. offense, in which case the fee is \$100.00. The Fontana Unified School District Police Department's vehicle release fee is \$100.00 for all vehicles. These districts' fees have not been increased for several years.

The Baldwin Park Unified School District Police Department charges \$250.00 to release a vehicle which was towed for a D.U.I. offense. For vehicles towed for any other offense, the department charges \$100.00. The Kern High School District Police Department charges a vehicle release fee of \$125.00 or \$85.00 depending on the type of Vehicle Code violation the driver is charged with. The Stockton Unified School District Police Department charges a fee of \$100.00 for release of any stored vehicle.

In summary, the District's vehicle release fee is legally authorized, reasonable, and comparable to fees of other school district police departments.

**Response to Recommendation No. 17-01:** Pursuant to Penal Code Section 933.05(b)(4), the District respectfully declines to follow the recommendation that AVUSD-PD refund monies

for vehicle release fees. The AVUSD-PD's vehicle release fee complies with Vehicle Code Section 22850.5(a), and is further authorized by Education Code sections 35010 and 35160.

2. **Finding No. 2: "Based on interviews with several AVUSD-PD personnel and several owners/drivers of vehicles that were towed at the direction of AVUSD-PD, the registered owners and legal owners were not notified of their right to a post-storage hearing to determine the validity of the storage, as mandated by California Vehicle Code section 22852(a)."**

**Recommendation No. 2: "Develop a procedure to assure the Apple Valley Unified School District – Police Department notifies the legal and registered owners of vehicles towed in the future of their right to a tow hearing."**

**Response to Finding No. 17-02:** The District partially agrees and partially disagrees with the finding that registered and legal owners of vehicles did not receive notice of their right to a post-storage hearing. AVUSD police officers are aware of the requirement stated in Vehicle Code Section 22852 that an authorized member of a public agency who directs the storage of a vehicle, as permitted under the Vehicle Code, must provide the vehicle's registered and legal owners of record with the opportunity for a post-storage hearing.

Vehicle Code Section 22852(b) states: "A notice of the storage shall be mailed *or personally delivered* to the registered and legal owners within 48 hours..." (Emphasis added.)

The Grand Jury report acknowledges "CHP forms were generally completed for the vehicles ordered towed." It also states that officers "sometimes gave a printed sheet to the driver that explained how to pay the administrative Vehicle Release Form Fee and retrieve the vehicle from the tow yard; however, an explanation to the driver of the process to request a post-storage hearing was not included." This summary does not accurately describe AVUSD-PD's notice procedure in effect during the time the Grand Jury reviewed the AVUSD School Police procedures.

All AVUSD-PD officers *physically hand the driver of the vehicle about to be towed a completed CHP Form 180*. The "Notice of Stored Vehicle" section of CHP Form 180 states:

"Attention Vehicle Owner...Under the provisions of Section 22852 CVC, you have the right to a hearing to determine the validity of this storage. If you choose to contest the validity of this storage, you shall request the hearing in person, writing, or by telephone at the office identified as the Storing Agency on this form."

CHP Form 180 includes a box to indicate whether the notice of stored vehicle was delivered personally. After cooperating in the Grand Jury's investigation, the District commenced its own review, which included interviews of officers and examination of paper records of AVUSD-PD issued citations from January 2014 to June 2017. The District confirmed



that officers routinely handed the completed CHP form to drivers whose vehicles were about to be towed and thereby provided drivers timely notice of the right to a post-storage hearing.

District staff believed, erroneously, that the towing company was mailing a copy of the CHP Form 180, containing post-storage hearing information to registered owners and legal owners of the vehicles. District clerical staff routinely sent a CHP Form 180 to the legal owner of the vehicle when there was a lienholder. As discussed below, this procedure has been reviewed and modified.

At page 12, the Report states, "The AVUSD-PD administration could only recall one instance when a post storage hearing was requested." This question possibly was not posed to the Chief of Police, or if it was, did not provide him an opportunity to explain how frequently AVUSD-PD staff met with owners of towed vehicles to conduct a hearing and release them. Multiple vehicle owners have requested and received the return of their vehicles and, in many cases, waiver of storage fees as a result of this written notification practiced by the District officers prior to the commencement of the Grand Jury's investigation.

**Response to Recommendation No. 17-02:** The District has implemented this recommendation. On March 6, 2017, AVUSD Chief of Police Cesar Molina issued a department directive requiring AVUSD-PD dispatchers and records clerks to notify the registered *and* legal owners of towed vehicles via first class mail within twenty-four hours of the vehicle towing, and of the right to a post-storage hearing using the CHP Form 180. Chief Molina met with AVUSD-PD dispatchers on March 6, 2017 to explain and enforce the directive. The written directive is posted in the dispatch center. AVUSD-PD's Department Directive dated March 6, 2017, Chief Molina's Memorandum to AVUSD regarding the AVUSD-PD's Department Directive dated March 6, 2017, and a copy of CHP Form 180 are attached, collectively, as **Exhibit A** and incorporated herein by this reference.

District police officers will continue to hand deliver the bilingual English/Spanish CHP Form 180 to the driver at the time of the citation if towing is directed. Along with the CHP Form 180, the AVUSD-PD will mail a "Post-Storage Hearing Request" notice to registered and legal owners of vehicles containing information regarding the procedure to request a post-storage hearing. It includes a form the owner may complete to request a post-storage hearing and the address where it must be mailed. The "Post-Storage Hearing Request" notice is attached hereto as **Exhibit B** and incorporated by this reference.

AVUSD-PD also posted the Post Storage Hearing Request notice on the AVUSD website and in the AVUSD-PD office to ensure information regarding post-storage hearings is easily accessible. (See <http://www.avusd.org/administrativeservices/district-police>.)

The District's Towed Vehicle Log has been amended to include a section to record whether a vehicle owner requested a post-storage hearing. The AVUSD-PD has commenced a transition to a computerized recordkeeping system for more efficient record entry and data retrieval of towing record notifications.



3. **Finding No. 3: “After interviewing several AVUSD personnel and owners/drivers of some of the vehicles that were towed by the authority of AVUSD-PD, proper notice of their right to a tow hearing was not given as mandated by California Vehicle Code section 22852(a).”**

**Recommendation No. 17-03: “Refund any towing and storage fees paid by any legal owner or registered owner who was denied the opportunity to request a tow hearing.”**

**Response to Finding No. 3:** The District partially agrees and partially disagrees with this finding. As discussed in Response to Finding No. 2, AVUSD-PD records revealed that officers routinely hand-delivered the CHP Form 180 to drivers when their vehicles were towed and clerical staff mailed forms pursuant to Vehicle Code Section 22852(b) to lienholders. AVUSD’s inspection of citations confirms that the majority of registered and legal owners were timely and properly notified of their right to a post-storage hearing via CHP Form 180, which includes notice of a vehicle owner’s right to a post-storage hearing.

AVUSD acknowledges that some legal or registered vehicle owners may not have received notice of their right to a post-storage hearing prior to Chief Molina’s issuance of the March 6, 2017 Department Directive and AVUSD-PD’s implementation of its Post Storage-Hearing Request form, especially in instances of multiple and/or unrecorded changes of ownership of the stored vehicles.

**Response to Recommendation No. 17-03:** Pursuant to Penal Code Section 933.05(b)(4), the District respectfully declines to implement the Grand Jury’s recommendation to refund *all* towing and storage fees, but will examine each claim received and consider the merits of each claim on an individual basis. As explained above, AVUSD officers timely and properly notified most drivers of the right to a post-storage hearing. The California Tort Claims Act provides members of the public an opportunity to file a claim against a local government entity, including a school district, for injuries caused by acts or omissions of public entity employees within the scope of their employment. (Government Code sections 810 through 895.) The claims process set out in the California Tort Claims Act is appropriate for the resolution of any alleged AVUSD-PD noncompliance with Vehicle Code Section 22852. The District will follow that process. To date, three inquiries have been received. No claims have been received.

4. **Finding No. 4: “Through the combined interviews conducted by the Grand Jury of AVUSD personnel, interviews with drivers/owners of vehicles that were towed at the direction of the AVUSD-PD, review of documents provided by AVUSD-PD, and a legal opinion from San Bernardino County Counsel, it was determined that, in many cases, the AVUSD-PD did not have authority to stop, cite, and tow vehicles. Many owners could not pay the tow and storage fees, and their vehicles were subsequently lien sold.”**

**Recommendation No. 17-04: "Provide restitution to any vehicle owner whose vehicle was lien sold as a result of the vehicle being ordered towed by Apple Valley Unified School District – Police Department in excess of their legal authority to do so."**

**Response to Finding No. 4:** The District respectfully disagrees with the Grand Jury's conclusion that the AVUSD-PD did not have authority to stop, cite, or tow vehicles without reference to or examination of evidence of the particular circumstances surrounding each citation issued. Notwithstanding this objection, the District has made significant improvements to its towing procedures in an effort to limit the number of tows and potential financial impact on cited drivers whose vehicles are towed. (See the AVUSD Office of the Superintendent Directive Pertaining to Traffic Enforcement at **Exhibit D**.)

The District acknowledges that a school district police officer's authority to make arrests, issue citations, and tow vehicles is specified by the California Penal and Education Codes.

Pursuant to Education Code Section 38000, a school district police department's *primary duty* is "to ensure the safety of school district personnel and pupils, and the security of the real and personal property of the school district."

Penal Code Section 830.32 describes the *jurisdiction* of school district police:

"The following persons are peace officers whose authority extends to *any place in the state* for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code...

(b) Persons employed as members of a police department of a school district pursuant to Section 38000 of the Education Code, if the primary duty of the police officer is the enforcement of the law as prescribed in Section 38000 of the Education Code." (Emphasis added.)

Based upon a legal opinion by the San Bernardino County Counsel interpreting Education Code Section 38000 and Penal Code Section 830.32, the Grand Jury stated, "The school police would not have general police powers off school property unless there was an immediate danger to a person or property or of the escape of the perpetrator of that offense." AVUSD disagrees. Neither the Penal Code nor the Education Code limit school police authority to enforcement of laws "on school property."

The plain language of Penal Code Section 830.32 provides that the authority of school police is two-fold. First, school police have authority to enforce laws *anywhere in the state* to ensure the safety of school district personnel and pupils, and the security of the real and personal property of the school district. Criminal activity that affects District students and staff often

occurs outside the boundaries of school campuses. School children and employees travel to and from schools and school activities held off campus on a daily basis. Second, school police have authority *anywhere in the state* to effect an arrest for any public offense, unrelated to the protection of school district pupils, personnel or property, where there is immediate danger to person or property, or of the escape of the perpetrator.

Because school police are charged with the duty of protecting District students, staff, and property, their authority to enforce Vehicle Code violations lawfully extends near bus stops and to roadways upon which students routinely travel to and from school. The District's boundaries extend 203 square miles, include 15 campuses and approximately 700 bus stops. In reviewing citations issued by AVUSD-PD in 2014 to 2016, the Grand Jury report acknowledged that some traffic citations appeared to involve vehicle activity hazardous to students and pedestrians near school sites. 1,202 citation locations are identified on the map included in the Report. As the map illustrates, AVUSD-PD officers primarily stopped motorists at or near District schools or bus stops or on routes to District schools.

The Report states that the AVUSD-PD towed over 700 vehicles from January 2014 through December 2016. At page 5, the Report states, "The San Bernardino Unified School District Police Department, an agency four times as large as AVUSD-PD, towed 272 vehicles during the same time period while the Fontana Unified School District Police Department, with 64 officers, towed only 169 vehicles." The Grand Jury's data regarding school police towing and storage may not be accurate. After inquiry, the Fontana Unified School District police confirmed the department has approximately 16 sworn police officers, not 64. The department has over 40 district safety officers, who may have been erroneously included in the Report. Those employees are civilian personnel who do not enforce Vehicle Code violations. Fontana Unified School District school police reported that they towed approximately 283 vehicles in 2014 to 2016, not 169. The San Bernardino City Unified District PD has not yet confirmed the number of its towed vehicles.

Without stating supporting evidence or legal authority, the Grand Jury found the AVUSD-PD improperly stopped, cited, and towed vehicles for Vehicle Code violations it deemed "non-hazardous" near District schools. At page 8 the Report states that a "significant majority" of the citations were issued for "non-hazardous" Vehicle Code violations "such as expired registration, equipment violations, expired driver's license, no driver's license in possession or not wearing a seat belt." Neither caselaw nor the Vehicle Code defines offenses as hazardous or non-hazardous.

The Grand Jury found, without citation to legal authority, seven of the seventeen types of citations issued by the AVUSD-PD were non-hazardous and, thus, had no nexus to the protection of school children or staff or the security of District property based on the language of the Vehicle Code section. It concluded erroneously, that the AVUSD-PD did not have authority to issue the majority of citations in 2016 based on the fact that more citations were issued for those seven Vehicle Code violations than for other violations.

A conclusion as to whether a police officer acted within his or her statutory authority cannot be drawn, in most instances, based solely on the type of citation issued. The Grand Jury



drew its conclusion that the AVUSD-PD lacked authority to stop motorists and issue citations for Vehicle Code violations it deemed non-hazardous based upon its review of the citations issued by the AVUSD-PD and interviews with some officers and drivers months or years after the stops occurred. The erroneous conclusion suggests that officers were *not* directly questioned about the facts and circumstances of individual citations they issued or their rationale for the cited offense. Caselaw regarding peace officer authority indicates that California courts, on the contrary, review actions by limited duty peace officers, such as school district police, on a case-by-case basis, examining the circumstances preceding a citation. (*People v. Landis* (2007) 156 Cal.App.4th Supp. 12, 18 [68 Cal.Rptr.3d 267]; *People v. McHugh* (2004) 119 Cal.App.4th 202, 209 [14 Cal.Rptr.3d 142].)

The court in *People v. Landis*, cited by the Grand Jury, determined that a police officer exceeded his authority under the Penal Code based on testimony from the officer regarding the particular circumstances surrounding his citation. (*People v. Landis*, 156 Cal.App.4th Supp. at 20.) The Orange County Superior Court Appellate Division held that the city police officer exceeded his authority under the Penal Code because the exceptions for immediate danger or escape under Penal Code Section 830.1(a)(3), did not apply when he issued a citation in a neighboring city. (*Ibid.*) Similar to Penal Code Section 830.32, Penal Code Section 830.1(a)(3) states *the authority of peace officers extends to "any place in the state"* as to any public offense committed or for which there is probable cause to believe has been committed in the peace officer's presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of the offense.

The Court described in detail the officer's testimony that defendant's vehicle crossed an intersection against a red light but in an otherwise safe manner because no vehicles were coming in the cross-direction that were forced to avoid the vehicle as it crossed the intersection. (*People v. Landis*, 156 Cal.App.4th Supp. at 15.) The officer also testified that when he activated his vehicle's overhead lights, the defendant immediately and fully complied with the officer's command to pull over. (*Id.* at 20.) Based upon this detailed factual description, the Court found that the officer did not have "particularized cause to believe that the motorist [was] likely to take action to avoid being detained." (*Id.* at 19-20.) The Court's determination that the officer exceeded his statutory authority turned on the officer's testimony as to the particular circumstances apparent to him at the time of his stop, and not on a review of the citation he issued to the driver.

Generally, courts uphold actions by peace officers outside their usual territorial jurisdiction or unrelated to their primary duty where the defendant was driving dangerously, such as driving erratically or speeding. (*People v. McHugh* (2004) 119 Cal.App.4th 202, 203 [14 Cal.Rptr.3d 142]; *Brierton v. Department of Motor Vehicles* (2005) 130 Cal.App.4th 499, 515 [30 Cal.Rptr.3d 275] finding a state university police officer was within his authority under Penal Code Section 830.2 to arrest a driver on a city street away from campus because he observed him driving recklessly; *People v. Tennessee* (1970) 4 Cal.App.3d 788, 791-792 [84 Cal.Rptr. 697] finding a county deputy sheriff had authority to stop and arrest a driver outside the county pursuant to Penal Code 830.1(c) who he observed weaving from side to side, failing to stop properly for a red light, and blocking traffic; *Lofthouse v. Department of Motor Vehicles* (1981)

124 Cal.App.3d 730, 733 [177 Cal.Rptr. 601] upheld city police officer's authority under Penal Code Section 830.1 to stop defendant in another city, who he observed driving erratically and making several lane changes which caused other drivers to stop suddenly to avoid him; *People v. Cooper* (2002) 101 Cal.App.4th Supp. 1, 6 [125 Cal.Rptr.2d 188] sustained speeding conviction finding that a Los Angeles police officer had authority under Penal Code Section 830.1 to stop defendant in Beverly Hills where he followed defendant's vehicle driving at an unsafe speed from Los Angeles into Beverly Hills.)

In *People v. McHugh* (2004) 119 Cal.App.4th 202, the California Court of Appeal for the Fourth District found that a school police officer acted within his authority to stop defendant's car while driving home from work where he observed defendant speeding on the freeway and trying to evade the officer. The Court explained that the school police officer did not exceed a school peace officer's powers pursuant to Penal Code Section 830.32 when he stopped defendant away from district schools, because the public offense committed in his presence was one with respect to which there was "immediate danger to person or property." (*People v. McHugh*, 119 Cal.App.4th at 203.)

In the case of the AVUSD-PD, the citation form entitled "Notice to Appear" contains small boxes for the date and time of the violation, the Vehicle Code associated with the violation, the details of the vehicle stopped, and a small box labeled "Comments," which allows for less than ten words. This format allows little room for an officer to describe details of the motorist's actions prior to the stop. Thus, a review of the citation alone cannot provide sufficient evidence to determine whether or not an officer exceeded his or her authority under the Penal Code, particularly in light of the fact that when explicitly asked why they cited a driver for such a low level, "non-hazardous" offense, AVUSD police officers report that they often initiated traffic stops where they observed motorists driving recklessly but, upon discovering the driver's violation of other offenses, typically cited drivers for the single least severe offense and, thus, the least expensive offense in terms of monetary fines the motorist would have to pay. Under such a practice, a motorist travelling at an unsafe speed in a school zone could be cited for a lower level offense such as expired vehicle registration, and the detail of the initial stop and the exercise of discretion would not appear on the citation.

The Grand Jury's finding that the majority of citations were issued outside of AVUSD-PD's statutory authority is inconsistent with the evidence of AVUSD's notice to *all* drivers of the right to contest their citation. When a person is arrested for a traffic infraction or misdemeanor and not immediately taken before a magistrate, the arresting officer must prepare a Notice to Appear. (Vehicle Code Section 40500(a).) Judicial Council of California Form TR-130 entitled "Traffic/Nontraffic Notice to Appear" is used for traffic citations. The reverse of the form provides instructions to contest the violation, either by court trial or trial by written declaration. Drivers issued citations are notified of their right to have their case heard by a judicial officer. At court trial, drivers may be represented by counsel, question the officer who issued the citation, examine witnesses, present evidence, and argue the law. Upon questioning, AVUSD school police officers could not cite any instance where it was determined by a court that an officer acted outside of jurisdiction.

Penal Code Section 1118 provides:

“In a case tried by the court without a jury, a jury having been waived, the court on motion of the defendant or on its own motion shall order the entry of a judgment of acquittal of one or more of the offenses charged in the accusatory pleading after the evidence of the prosecution has been closed if the court, upon weighing the evidence then before it, finds the defendant not guilty of such offense or offenses.”

*All drivers* cited by AVUSD-PD officers for Vehicle Code violations received notice of their right to contest the citation and, thus, to argue that AVUSD-PD exceeded their authority when issuing the citation. On being interviewed, no AVUSD police officers reported a contested citation was overturned upon judicial review for noncompliance with Education Code Section 38000 or Penal Code Section 830.32, nor is this contested by the Grand Jury’s report.

Second, the District acknowledges that a small number of the traffic infractions cited may not have met the standard set forth in Penal Code Section 830.32. This may be the result of officers citing a motorist only for the lowest level infraction that became apparent after the driver was stopped for a serious moving violation. The District has taken action to amend its traffic enforcement practices, including those relating to vehicle registration and driver’s licenses. However, some Vehicle Code violations enforced by AVUSD-PD officers and determined by the Grand Jury to be non-hazardous do, in fact, relate to the protection of school students and staff.

One violation the Grand Jury found to be non-hazardous was Vehicle Code Section 27360(a), which makes it unlawful for a parent to fail to use a proper seat restraint system when transporting children in a motor vehicle. Although the Grand Jury described this offense as a “seat belt issue,” Section 27360 states no adult seat belt requirements. Driving with an unrestrained child in a vehicle is extremely dangerous. Regarding Vehicle Code Section 27360(a), Vehicle Code Section 27364 states: “It is the intent of the Legislature, in enacting this article, to insure that children, who are, because of their tender years, helpless dependent passengers, are provided with the safest transportation possible.” The statute affects children up to the third grade. The AVUSD operates programs for children ages three to nine at eleven District campuses. Fifty-two drivers were cited for this violation in 2016 at or near District campuses. District officers acted within their statutory authority when issuing these citations because ensuring children are safely transported on roadways at and around District campuses and bus stops directly relates to the mission of school district police pursuant to Education Code 38000.

AVUSD-PD officers, on being interviewed, reported that they primarily stopped motorists for a reckless moving violation such as failing to stop at a red light or speeding. Upon checking the DMV database, a standard law enforcement practice after stopping a vehicle, they often discovered the driver was in violation of multiple other traffic offenses, including driving with a suspended license or no license at all, or had outstanding criminal warrants. Using their discretion, officers often cited drivers for lesser offenses, which carried less expensive fines, and issued warnings for the other moving violations. This practice was not noted in the Report.



The Grand Jury believed that the District police exceeded their authority to stop and cite a driver for lack of insurance. Clearly, an officer will not stop a driver for lack of insurance without other valid reason for the stop, as lack of insurance is only ascertained once the driver is stopped. Vehicle Code Section 16028 prohibits a peace officer from stopping a vehicle for the sole purpose of determining whether the vehicle is being driven without the driver having proof of financial responsibility for the vehicle. Thus, although AVUSD-PD officers cited drivers for Vehicle Code Section 16028, they routinely stopped the driver on suspicion of a more serious traffic offense, which likely presented a hazard to school staff, pupils, or property, as they could not otherwise be aware that the driver lacked insurance.

The Grand Jury also found that AVUSD-PD's issuance of citations for Vehicle Code Section 24252, which requires that all lighting equipment on a vehicle be maintained in good working order, was improper because such violations are non-hazardous. The District disagrees with the Grand Jury's blanket conclusion that *all* vehicle lighting violations are non-hazardous. Operation of a vehicle after sunset and before sunrise without properly functioning headlights or brake lights poses a significant threat to students in the area, including student athletes that remain at school for competitions that continue after darkness; i.e. varsity football. Students often arrive to campus before sunrise, especially in the winter months, or remain after school hours for extracurricular activities, many of which begin before and continue into the dusk and evening hours when headlights and brake lights are necessary to illuminate roads in the darkness and avoid collisions.

Vehicle Code sections 12500 and 14601 et seq., make it unlawful for a person who is unlicensed or has a suspended or revoked license to drive a motor vehicle, if the driver has knowledge of the suspension or revocation. A study by the California Department of Motor Vehicles ("DMV") found that, compared to licensed drivers, *suspended or revoked and unlicensed drivers are nearly three times more likely to cause a fatal crash.* (California DMV, (December 20, 2012) "Fatal Crash Rates for Suspended/Revoked and Unlicensed Drivers" Retrieved from [https://www.dmv.ca.gov/portal/dmv/detail/pubs/newsrel/newsrel12/2012\\_19](https://www.dmv.ca.gov/portal/dmv/detail/pubs/newsrel/newsrel12/2012_19).)

AVUSD serves over 13,000 students who travel daily to and from thirteen District schools. Principals and teachers depend upon school police to daily manage student drop off and pick up traffic and to address traffic-related issues at the beginning and end of the school day. District officers cited drivers for violations of Vehicle Code sections 12500 and 14601 et seq., believing that ensuring drivers who traverse roadways frequented by students are properly licensed is within their statutory authority under Education Code Section 38000.

Police officer authority to tow and store vehicles is defined by the Vehicle Code. (Vehicle Code sections 14602.6 and 22651.) Vehicle Code Section 22651(p) permits an officer to store a vehicle, after issuing the driver a citation for certain driver's license violations, including driving unlicensed or driving with a suspended or revoked license. Records reviewed by District administration demonstrate AVUSD-PD officers ordered the storage of vehicles in connection with traffic offenses for which towing is authorized by the Vehicle Code. Due to the high rate of fatal accidents caused by suspended, revoked, or unlicensed drivers, officers often

determined to store a vehicle driven by such a driver to prevent him or her from continuing to illegally drive the vehicle in areas near school children and staff.

Where drivers were arrested, AVUSD police officers sometimes determined to tow a vehicle pursuant to Vehicle Code Section 22651(h) rather than leaving the abandoned vehicle parked on a street where it could draw more crime in an unsafe area. Towing vehicles in those instances assures that the vehicle and any personal property in the vehicle remains secure.

In summary, the AVUSD-PD citation records relied upon by the Grand Jury, standing alone, do not establish that AVUSD-PD officers exceeded their statutory authority when they issued citations for offenses deemed by the Grand Jury as “non-hazardous” Vehicle Code violations in 2016. The Grand Jury concluded, incorrectly, that the citations reflected the reason that the motorist was stopped.

**Response to Recommendation No. 17-04:** Pursuant to Penal Code Section 933.05(b)(4), the District respectfully declines to implement the Grand Jury’s recommendation to provide restitution to vehicle owners whose vehicles were lien sold as a result of the vehicle being ordered towed by AVUSD-PD. The Report does not state evidence to support the finding that vehicles were towed by AVUSD-PD in excess of their legal authority to do so. In consideration of the Grand Jury’s report and focusing on its primary mission of student and staff safety, the District has amended its citation and tow practices to ensure District officers continue to act within their statutory authority and jurisdiction when issuing traffic citations while also effectively providing traffic safety in and around District schools and bus stops.

The AVUSD-PD and the San Bernardino County Sheriff’s Department in Apple Valley recently formally executed a Memorandum of Understanding (“MOU”) clarifying respective responsibilities of the agencies that had been in effect by an unsigned agreement for many years. The MOU approved by the AVUSD Board of Trustees on September 7, 2017, is attached as **Exhibit C** and incorporated by this reference. The parties previously believed that they were operating under the terms of a longstanding written MOU, which was provided to the Grand Jury, but not noted in the Report’s findings. A signed copy of the previous MOU could not be located.

The Board adopted and signed MOU provides that the AVUSD-PD will investigate the majority of crimes that occur on District campuses, with the exception of certain serious felony offenses. In those instances, the AVUSD-PD will communicate with the SBCSD, which will investigate. The agreement specifies that school police shall investigate criminal activity at District-sponsored events occurring off District property. The MOU provides that either party may reach out to the other for assistance with the investigation of any crime. This reflects the parties’ longstanding arrangement of cooperation and mutual aid.

The AVUSD-PD has implemented a new procedure to limit unnecessary towing. Since June 2017, the AVUSD-PD officers who cite drivers for a Vehicle Code violation regarding registration, which authorizes towing of the vehicle, have allowed drivers to immediately contact the registered owner to, within a time window, take possession of the car and avoid towing and storage fees.



The District has adopted and implemented policies regarding AVUSD-PD patrol and issuance of citations. Pursuant to AVUSD's directive for traffic enforcement, AVUSD-PD officers shall stop and issue citations only where a driver is operating his or her vehicle in a manner which endangers District students or staff. The AVUSD Office of the Superintendent Directive Pertaining to Traffic Enforcement dated August 8, 2017 is attached as **Exhibit D** and incorporated herein by this reference.

Chief Molina led a training for all AVUSD police officers regarding the August 8, 2017 traffic enforcement directive ordering officers to enforce traffic offenses which have a nexus to the safety of students, including the following Vehicle Code violations: speeding in posted school zones, disobeying traffic signs, failing to yield to students in crosswalks, driving recklessly, driving with a cell phone in hand, and disobeying school bus red flashing lights. Pursuant to Chief Molina's direction, all officers must submit traffic citations to him daily for review to ensure compliance with the District's policy. Chief Molina's AVUSD-PD Traffic Enforcement Presentation dated August 9, 2017 is attached hereto as **Exhibit E** and incorporated by this reference.

The District believes that the claims process provided in the California Tort Claims Act is appropriate to address any individual concerns regarding vehicles which were sold after storage. The District immediately distributed the Grand Jury's report to local media outlets upon its public release on June 30, 2017. After issuance of the Grand Jury's report, the District received three inquiries regarding towed vehicles. No claims have been received to date.

- 5. Finding No. 5: "Based on interviews with AVUSD and AVUSD-PD personnel and based on a review of documents submitted by AVUSD, the AVUSD-PD was authorizing the towing of vehicles using only one tow service for a number of years, with no written contract, no signed Memorandum of Understanding, and without the involvement of the AVUSD Administrative Services Division."**

**Recommendation No. 17-05: "Engage in a Request for Proposal (RFP) process for any non-district services requested by Apple Valley Unified School District – Police Department."**

**Response to Finding No. 5:** The District agrees that AVUSD-PD previously utilized one towing company for towing services without executing a contract or MOU. Such a written agreement is not required by law. Upon informal inquiry to other similar school police departments, AVUSD learned that several other districts have no written agreements with tow companies as no money is exchanged between the districts and the tow companies. In working with Big Apple Automotive, the AVUSD-PD did not violate Board policies regarding competitive bidding procedures, as neither the District nor any AVUSD employee received remuneration from this arrangement. Big Apple Automotive was utilized because of their reliability and ready availability for towing.

Competitive bidding process and related procedures, stated in AVUSD Board Policy 3300, Board Policy and Administrative Regulation 3311, and Board Policy 3312, apply only to AVUSD-PD contracts to purchase supplies and services.

District Administrative Regulation 3311 provides:

“The district shall purchase equipment, supplies, and services using competitive bidding when required by law and in accordance with statutory requirements for bidding and bidding procedures. In those circumstances where the law does not require competitive bidding, the Board of Trustees may request that a contract be competitively bid if the Board determines that it is in the best interest of the district to do so. (Public Contracts Code 20111, 20112)”

The AVUSD-PD has not engaged in this bidding process for towing services nor executed any contracts with towing companies because there is no exchange of money between AVUSD-PD and a towing company when a vehicle is ordered to be towed by school police. The AVUSD-PD does not charge a franchise fee to towing companies as authorized by Vehicle Code Section 12110(b).

Vehicle owners pay fees directly to the tow companies for towing and storage of their towed vehicles. Other than the vehicle release fee charged to the owner by the AVUSD-PD, the Department does not collect fees when a vehicle is towed. Vehicle release fees are deposited as Miscellaneous Income (Revenue Object Code 8699) in the District's General Operating Fund 01. The AVUSD Police Department Operating Budget as adopted and adjusted throughout the year is not directly impacted by the collection and deposit of the fees.

Although the AVUSD-PD did not engage in the bidding process as outlined in District policies because it was not required to do so, the District evaluated the tow company utilized. Recent practice has been to visit Big Apple Automotive monthly to observe towing and storage practices, posting of required notices and security measures to protect stored vehicles from vandalism.

In approximately December 2016, the District inquired of the Apple Valley Station of the San Bernardino County Sheriff's Department regarding local towing companies. A-Action Towing Inc. and Desert Valley Towing were named as companies approved by the Sheriff's Department. Upon inquiring with A-Action Towing Inc. and Desert Valley Towing, the companies provided AVUSD-PD information related to towing fees and practices and confirmed that they require criminal background checks for all employees.

In January 2017, the District instituted a weekly rotation of three companies for towing services. The three tow companies include Big Apple Automotive, A-Action Towing Inc. and Desert Valley Towing. The AVUSD-PD Tow Rotation Schedules from January 2017 to July 2017 and from August 2017 to January 2018 are attached, collectively, as **Exhibit F** and incorporated by this reference.

Neither the District nor AVUSD-PD officers receive gifts, payments, or any type of compensation from Big Apple Automotive, A-Action Towing Inc., Desert Valley Towing, or any other towing companies.

**Response to Recommendation No. 17-05:** Although not required by law nor by the District's competitive bidding procedures, the District will seek proposals from qualified and responsible vendors to provide tow services for the District on a rotational basis. Tow companies must agree to meet the District's insurance requirements and vehicle storage security standards and abide by conflict of interest prohibitions.

- 6. Finding No. 6: "Based on interviews with AVUSD-PD personnel, interviews with AVUSD personnel, and a review of California Penal Code section 830.32, Education Code 38000, and case law, the majority of instances where the AVUSD-PD stopped, cited, and authorized the towing of vehicles exceeded the authority of the AVUSD police officers, since most instances did not indicate an immediate threat to persons or property."**

**Recommendation No. 17-06: "Clarify to all members of the Apple Valley Unified School District – Police Department their geographical area of responsibility and the limits of their authority."**

**Response to Finding No. 6:** The District respectfully disagrees with Finding No. 6 that AVUSD-PD officers exceeded their statutory authority as peace officers when issuing citations without evidence that there was no risk to student or staff safety or immediate danger to persons or property. Anecdotal evidence obtained speaking with police officers about their exercise of discretion in citation practices is to the contrary.

As explained in the Response to Finding No. 4, the Grand Jury's report presented minimal evidence of the circumstances preceding citations in 2014 through 2016. AVUSD-PD officers reported that they often stop vehicles based on unsafe driving, but issue a citation for a lesser offense, as this will result in a significantly lower monetary fine to the driver. Without evidence of the specific circumstances that led an officer to stop a motorist and issue a citation, perhaps for the lowest level offense with the lowest fine, the finding that AVUSD-PD officers issued most citations in the absence of an immediate threat to persons or property is unfounded and misleading.

In *Brierton v. Department of Motor Vehicles*, the California Court of Appeal for the Fourth Appellate District upheld a state university police officer's stop and citation off campus where he observed defendant speeding and saw him briefly lose traction. (*Brierton v. Department of Motor Vehicles*, 130 Cal.App.4th at 515.) The Court explained that police officers must have reasonable suspicion to effect a traffic stop, stating "[a] police officer may stop and question persons on public streets, including those in vehicles, when the circumstances indicate to a reasonable man in a like position that such a course of action is called for in the proper

discharge of the officer's duties." (*Id.* at 509 citing *People v. Flores* (1974) 12 Cal.3d 85, 91 [115 Cal. Rptr. 225, 524 P.2d 353].)

The Court found that the driver's excessive speed on the freeway and brief loss of traction provided reasonable suspicion for the traffic stop. *The Court found the officer's stop was within his statutory authority despite the fact that he did not cite defendant for any violation of the exhibition of speed.* It held: "A traffic stop is lawful at its inception if it is based on a reasonable suspicion that *any* traffic violation has occurred, even if it is ultimately determined that no violation did occur." (*Brierton v. Department of Motor Vehicles*, 130 Cal.App.4th at 510.) (Emphasis added.)

The Court rejected the defendant's argument that state university officers lack authority to effect traffic stops more than one mile from university campuses. Interpreting Penal Code Section 830.2 and Education Code Section 89560 (which correspond to the language of Penal Code Section 830.32 and Education Code Section 38000), the Court stated, "*we conclude that the intent of the statutes, when read together, is to create a class of state peace officers whose primary duty is law enforcement in and around state university campuses, but who nevertheless possess the authority to enforce the law statewide.*" (*Brierton v. Department of Motor Vehicles*, 130 Cal.App.4th at 512.) (Emphasis added.)

The District's informed investigation into AVUSD-PD practices, which included a review of citation records, tow logs, and training materials and manuals, revealed that the majority of drivers stopped by AVUSD-PD were driving in an unsafe manner in District school zones. Based on a review of citations issued in 2016, some traffic stops appear to involve criminal activity which likely did not risk the safety of District students or staff or present an immediate threat to persons or property.

To define AVUSD-PD's geographical and substantive areas of responsibility, AVUSD enlisted the assistance of law enforcement professionals, a former school district police chief from a district other than AVUSD, and legal counsel to draft a comprehensive policy regarding patrol and citation practices. AVUSD's August 8, 2017 traffic enforcement directive defines AVUSD-PD's patrol area as all District properties, school zones, routes to and from schools, areas directly adjacent to schools, areas at or near school bus stops, and locations where school activities are held. (See **Exhibit D.**) The policy further focuses AVUSD-PD's services on times when students are in school, for periods before and after school hours, and any time after school or on weekends when students are present.

Under the policy, AVUSD-PD officers will not perform traffic stops *solely* for the following offenses without a showing of a clear nexus to student or staff safety: expired registration, cracked windshields except where the driver's vision is unreasonably obstructed, one inoperative rear tail lamp, inoperative headlights except during dusk, evening or early morning hours, lack of front license plate, tinted glass except where the driver is not visible, an overweight vehicle load, or an inoperative license plate light. For each citation issued for a Vehicle Code violation, officers must record the offense for which the driver was stopped and the specific location of the stop. The policy requires that all citations have a clear nexus to the safety of students and staff or the protection of District property.



**Response to Recommendation No. 17-06:** Based on the above noted facts and rationale, the District has implemented this recommendation. As explained in Response to Finding No. 4, the District has formally executed a MOU with the San Bernardino County Sheriff's Department, similar to their longstanding practice regarding their respective responsibilities in and around District schools. It has also implemented focused traffic enforcement procedures. (See **Exhibits C, D, and E.**)

- 7. Finding No. 7: "Based on the examination of citations written by the AVUSD-PD during the years 2014, 2015 and 2016, there is a constant increase in the number of citations written and vehicles being towed, with the vast majority of citations being for non-hazardous vehicle code violations. This activity results in the officers being taken away from their primary duty, which is the protection of school children, school personnel, and school property."**

**Recommendation No. 17-07: "Prioritize the duties and responsibilities of the Apple Valley Unified School District – Police Department to confirm with their primary duty of protecting school children, school staff, and school property."**

**Response to Finding No. 7:** The District respectfully disagrees with the finding that the number of traffic citations issued by the AVUSD-PD in 2014-2016 shows school police officers were taken away from their primary duty of protecting school children, personnel, and property. The Report cites no evidence for the statement that "it appears that as, traffic citations ... increased, there was a corresponding decline in student related interactions..." (Report at page 11.) To AVUSD's knowledge, the Grand Jury interviewed not a single school site administrator to attempt to find evidence in support of this conclusion. No data on student interaction with school police is cited to support this conclusion. This is especially significant in light of the fact that AVUSD site administrators consistently report the positive impact of school police working with students at their sites. The District concurs that the AVUSD-PD's primary mission continues to be the protection of the students, staff, and property of the District.

Again, the practice of issuing a citation for the lowest level offense available to limit expense to the cited motorist, an exercise of officer discretion expressly permitted by statute, has resulted in the Grand Jury's unwarranted and erroneous conclusion. The AVUSD-PD will continue to support the District's goals of fostering student achievement and providing a safe and nurturing learning environment.

AVUSD-PD officers are assigned to District elementary, middle, and high schools, with the exception of night shift officers who patrol District-wide. They report interacting with students daily. Officers become a part of their school communities and regularly work with school site administrators and staff to support all students, and, in particular, at-risk students. Officers participate in school efforts to reduce the number of student criminal citations and school suspensions and expulsions. California Department of Education Superintendent Tom Torlakson has praised school efforts to reduce suspension and expulsion rates, explaining that removing students from the learning environment can be very harmful. (California Department



of Education (January 13, 2016) "*State Schools Chief Tom Torlakson Announces Decline in Suspensions and Expulsions for Third Year in a Row*" Release No. 16-5, Retrieved from <http://www.cde.ca.gov/nr/ne/yr16/yr16rel5.asp>.) District expulsions and suspensions have decreased each year since 2014.

The AVUSD-PD has conducted "Clean Sweeps" in which police officers patrolled with school administrators for students whose absence is unexcused and for other minor infractions. On occasion, officers and administrators use discretion when students commit infractions and elect to issue a warning to students instead of a citation with the goal that the student will positively respond to encouragement to follow school rules. Citations are issued for violations of school rules or minor criminal offenses.

Another way AVUSD-PD engages with students is the Post 95 Explorer Program, with nineteen students currently enrolled. Students attend ride-alongs with officers and participate in a unique training program with AVUSD-PD officers who volunteer their off duty personal time as Explorer Advisors. Volunteer officers work with community members who also volunteer their time to support the Explorer program. Students often participate for multiple years, earning promotions in rank as they meet their goals. Several former Explorer students have embarked upon law enforcement careers.

**Response to Recommendation No. 17-07:** The District continues its proactive positive efforts to engage all students and encourage thoughtful and respectful conduct by students as they attend to their responsibilities. (See **Exhibits C and D.**)

Traffic safety presents a daily challenge for school site personnel and parents. The AVUSD's amended policies will ensure that AVUSD-PD's traffic enforcement focuses on offenses which impact the safety of students and staff as they attend and travel to and from school.

**8. Finding No. 8: "The AVUSD has operated without a signed MOU with SBCSD."**

**Recommendation No. 17-08: [To San Bernardino County Sheriff's Department]  
"Review all Memorandum of Understandings with school police departments and the San Bernardino County Sheriff's Department to insure that jurisdictional authority has not been exceeded by school police departments."**

**Response to Finding No. 8:** Notwithstanding the long history of mutual cooperation of the parties under an unsigned MOU, the District agrees with this finding. The AVUSD-PD and the San Bernardino County Sheriff's Department cooperated in their respective enforcement duties, believing they were operating under an MOU. No formally executed agreement could be located. As described above in Response to Finding No. 4, the AVUSD Board of Trustees approved an executed MOU between the AVUSD-PD and the SBCSD outlining areas of responsibility regarding investigation of criminal activity on and off District property on September 7, 2017. (See **Exhibit C**). The MOU reflects the parties' longstanding cooperative relationship. By way of example, recently and prior to Board approval of the MOU, the SBCSD



requested and received AVUSD-PD's assistance with patrol in Apple Valley when a SBCSD officer suffered an injury in the line of duty.

**Response to Recommendation No. 17-08:** The MOU executed by and between the SBCSD and the AVUSD-PD, which was approved by the AVUSD Board of Trustees on September 7, 2017, confers no more authority on District police officers than is authorized by the Penal and Education Codes.

- 9. Finding No. 9: "Based on the tow log received by the AVUSD-PD on all cars that department ordered to be towed by the only tow company used during the years 2014, 2015, and 2016, and compared to the cars that the tow company received during 2014, 2015, and 2016, over 500 cars are unaccounted for even though both the AVUSD-PD and the tow company stand by their records."**

**Recommendation No. 17-09: [To San Bernardino County Sheriff's Department]**  
**"The appropriate state agency opens an investigation into this matter which is beyond the jurisdiction of the Grand Jury."**

**Response to Finding No. 9:** The District respectfully disagrees with the Grand Jury's sweeping, inaccurate conclusion. In a joint effort with the towing company, *the District reviewed and confirmed tow records for all 500 of the allegedly unaccounted for vehicles.* AVUSD disagrees with Finding No. 9. Upon issuance of the Report, the District reviewed records from Big Apple Automotive of the vehicles towed for the AVUSD-PD from July 1, 2014 to June 30, 2017 and matched each of them to District records.

Vehicle Code Section 22651.07 requires that a tow company provide vehicle owners whose vehicles were towed by a law enforcement agency a written invoice for any towing or storage. A vehicle owner has the right to request the Towing Fees and Access Notice, which states that a vehicle owner may bring an action in small claims court against a towing company who does not meet the disclosure requirements stated in Vehicle Code Section 22651.07. Big Apple Automotive's records demonstrate their compliance with Vehicle Code Section 22651.07.

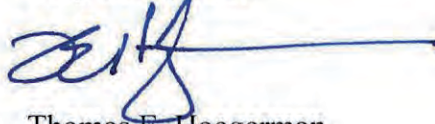
Clerical staff process all tows by recording the information for each vehicle into AVUSD-PD's Towed Vehicle Log. The Towed Vehicle Log provided to the Grand Jury accurately reflects the vehicles ordered towed by AVUSD-PD. Within sixty days of this response, the District will seek proposals from qualified and responsible vendors to provide tow services and require the selected tow companies to maintain computerized records of all vehicles towed at AVUSD-PD's direction and make those records available to AVUSD upon request.

**Response to Recommendation No. 17-09:** By reviewing towed vehicle records of the AVUSD-PD and Big Apple Automotive, the District was able to account for all of the 727 vehicles towed from 2014 through 2016.

The Board of Trustees has reviewed and concurs with implementation of the measures discussed in this response.

Honorable Raymond L. Haight, III  
September 25, 2017  
Page 21

Very truly yours,

A handwritten signature in blue ink, appearing to read 'TH', followed by a long horizontal line extending to the right.

Thomas E. Hoegerman  
Superintendent

TH: [initials]

Enclosures: Exhibits A-F

cc:

- Norma Grosjean, Grand Jury Assistant  
San Bernardino County Grand Jury
- Laura Welch, Clerk of the Board of Supervisors  
San Bernardino County
- Apple Valley Unified School District Board of Trustees





# MEMORANDUM

Apple Valley School District Police Department

**Date:** 7/18/17

**From:** Cesar Molina  
*Chief of Police*

**To:** Apple Valley USD

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**Subject: Rectification of tow notice and right of a hearing**

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**Notice:**

Upon meeting with the Grand Jury on March 6, 2017, I was made aware that our department was not fulfilling the requirement of sending the registered owners a notice of their vehicles being towed and the right of a tow hearing via first class postal service.

**Rectification:**

On March 6, 2017, I met with dispatcher Linda Gibson and Anna Sunseri and executed a department directive. The directive was for them to notify the registered and legal owner that their vehicle was towed and the right for a tow hearing. The notifications were to be mailed to the address of registered and legal owners via first-class postal service on the same day the vehicle was towed. The mailed information to the legal owners shall contain a copy of the CHP 180 form and information of a tow hearing. The written directive was also posted in the dispatch center.

# MEMORANDUM

Apple Valley District Police Department



**Date:** 3/6/17

**From:** Cesar Molina  
*Chief of Police*

**To:** Police Dispatchers / Records

*"Protecting Our Future"*

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**Subject: Department Directive: Tow notice and the right to a tow hearing**

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Effective immediately the legal and registered owners of any and all vehicles towed by this department shall be mailed via first-class postal service a notice that their vehicle was towed and the right of a tow hearing. Department policy 510.2.6

**Instructions:**

- 1) The cover page of the CHP 180 form along with any citations shall be filed and ready for review by the chief of police or designee on the day the vehicle was towed.
- 2) The other remaining pages of the CHP180 form and the right of a tow hearing are to be mailed to the registered and legal owners via first-class postal service the same day of the tow.
- 3) Any citations and applicable form shall be forward to the appropriate courts.

**VEHICLE REPORT**

CHP 180 (Rev. 7-13) OPI 061

NOTE: CHP 180 IS FURNISHED TO ALL PEACE  
OFFICERS BY THE CALIFORNIA HIGHWAY PATROL

REPORTING DEPARTMENT		LOCATION CODE	DATE / TIME OF REPORT	NOTICE OF STORED VEHICLE DELIVERED PERSONALLY <input type="checkbox"/>	FILE NO.
LOCATION TOWED / STOLEN FROM		ODOMETER READING	VIN CLEAR IN SVS? <input type="checkbox"/> YES <input type="checkbox"/> NO LIC. CLEAR IN SVS? <input type="checkbox"/> YES <input type="checkbox"/> NO	DATE / TIME DISPATCH NOTIFIED	LOG NO.
YEAR	MAKE	MODEL	BODY TYPE	COLOR	LICENSE NO. <input type="checkbox"/> ONE <input type="checkbox"/> TWO MONTH / YEAR STATE
VEHICLE IDENTIFICATION NO.			ENGINE NO.	VALUATION BY <input type="checkbox"/> OFFICER <input type="checkbox"/> OWNER	
				<input type="checkbox"/> 0-500 <input type="checkbox"/> 501-4000 <input type="checkbox"/> 4001+ <input type="checkbox"/> \$	

REGISTERED OWNER		<input type="checkbox"/> SAME AS R/O	LEGAL OWNER
<input type="checkbox"/> STORED <input type="checkbox"/> IMPOUNDED <input type="checkbox"/> RELEASED <input type="checkbox"/> RECOVERED - VEHICLE / COMPONENT			

TOWING / STORAGE CONCERN (NAME, ADDRESS, PHONE)	STORAGE AUTHORITY / REASON
---	----------------------------

REASON FOR STOP	AIRBAG? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> 1 <input type="checkbox"/> 2	DRIVEABLE? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> JUNK <input type="checkbox"/> UNK	VIN SWITCHED? <input type="checkbox"/> YES <input type="checkbox"/> NO
-----------------	--	--	--

CONDITION	YES	NO	ITEMS	YES	NO	ITEMS	YES	NO	ITEMS	YES	NO	TIRES / WHEELS	CONDITION
WRECKED			SEAT (FRONT)			REGISTRATION			CAMPER			LEFT FRONT	
BURNED HULK per 431(c) CVC			SEAT (REAR)			ALT. / GENERATOR			VESSEL AS LOAD			RIGHT FRONT	
VANDALIZED			RADIO			BATTERY			FIREARMS			LEFT REAR	
ENG. / TRANS. STRIP			TAPE DECK			DIFFERENTIAL			OTHER			RIGHT REAR	
MISC. PARTS STRIP			TAPES			TRANSMISSION						SPARE	
BODY METAL STRIP			OTHER RADIO			AUTOMATIC						HUB CAPS	
SURGICAL STRIP per 431(b) CVC			IGNITION KEY			MANUAL						SPECIAL WHEELS	



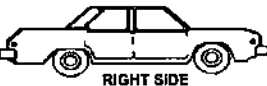


RELEASE VEHICLE TO: <input type="checkbox"/> R/O OR AGENT <input type="checkbox"/> AGENCY HOLD <input type="checkbox"/> 22850.3 CVC	GARAGE PRINCIPAL / AGENT STORING VEHICLE (SIGNATURE)	DATE / TIME
---	--	-------------

NAME OF PERSON / AGENCY AUTHORIZING RELEASE	I.D. NO.	DATE	CERTIFICATION: I, THE UNDERSIGNED, DO HEREBY CERTIFY THAT I AM LEGALLY AUTHORIZED AND ENTITLED TO TAKE POSSESSION OF THE ABOVE DESCRIBED VEHICLE.
SIGNATURE OF PERSON AUTHORIZING RELEASE			SIGNATURE OF PERSON TAKING POSSESSION

<input type="checkbox"/> STOLEN VEHICLE / COMPONENT	<input type="checkbox"/> EMBEZZLED VEHICLE	<input type="checkbox"/> PLATE(S) REPORT
---	--	--

DATE / TIME OF OCCURRENCE	DATE / TIME REPORTED	NAME OF REPORTING PARTY (R/P)	DRIVER LICENSE NO. / STATE
LAST DRIVER OF VEHICLE	DATE / TIME	ADDRESS OF R/P	TELEPHONE OF R/P ( )
I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.		SIGNATURE OF PERSON MAKING REPORT	

REMARKS (LIST PROPERTY, TOOLS, VEHICLE DAMAGE, ARRESTS)			
DRIVER'S NAME	ARRESTED / SECTION? <input type="checkbox"/> YES <input type="checkbox"/> NO	REPORTED BY	CARGO / TYPE? <input type="checkbox"/> YES <input type="checkbox"/> NO
		VALUE \$ <input type="checkbox"/> BILL OF LANDING ATTACHED	

				
SIGNATURE OF OFFICER TAKING REPORT		I.D. NO.	SUPERVISOR	REQUIRED NOTICES SENT TO REGISTERED AND LEGAL OWNERS PER 22852 CVC? <input type="checkbox"/> YES <input type="checkbox"/> NO
		DATE NOTIFIED		

## STOLEN / EMBEZZLED NARRATIVE

Exhibit A

Page 4 of 7

1. AREA <input type="checkbox"/> RURAL <input type="checkbox"/> URBAN		2. TAKEN FROM <input type="checkbox"/> STREET <input type="checkbox"/> PARKING LOT <input type="checkbox"/> GARAGE <input type="checkbox"/> DRIVEWAY <input type="checkbox"/> OTHER		3. REGISTRATION IN VEHICLE? <input type="checkbox"/> YES <input type="checkbox"/> NO	
4. WAS NEIGHBORHOOD CHECKED FOR VEHICLE, WITNESSES, CLUES, OTHER CRIMES? <input type="checkbox"/> YES <input type="checkbox"/> NO		5. PAYMENTS CURRENT? <input type="checkbox"/> YES <input type="checkbox"/> NO		6. DOORS LOCKED? <input type="checkbox"/> YES <input type="checkbox"/> NO	
7. KEYS IN VEHICLE? <input type="checkbox"/> YES <input type="checkbox"/> NO		8. ALL KEYS ACCOUNTED FOR? <input type="checkbox"/> YES <input type="checkbox"/> NO		9. WHEN WAS VEHICLE LAST SERVICED?	
10. WHERE?		11. IS THIS THE USUAL MECHANIC? <input type="checkbox"/> YES <input type="checkbox"/> NO		12. RECENTLY LEFT IN PARKING GARAGE OR PARKING VALET SERVICE? <input type="checkbox"/> YES <input type="checkbox"/> NO	
13. IF YES, WHERE?		14. VEHICLE EQUIPPED WITH ORIGINAL ENGINE? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		15. ORIGINAL TRANSMISSION? <input type="checkbox"/> YES <input type="checkbox"/> NO	
16. ORIGINAL PAINT? <input type="checkbox"/> YES <input type="checkbox"/> NO		17. IF ANSWER TO 14, 15, OR 16 IS NO, PROVIDE ADDITIONAL INFORMATION, SERIAL NO., ORIGINAL COLOR, ETC.		18. HAS VEHICLE BEEN PREVIOUSLY INVOLVED IN AN ACCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO	
19. IF YES, HAS DAMAGE BEEN FIXED? <input type="checkbox"/> YES <input type="checkbox"/> NO		20. PARTS DAMAGED		21. FACTORY EQUIPPED RADIO? <input type="checkbox"/> YES <input type="checkbox"/> NO	
22. IF NO, MAKE AND SERIAL NO.		23. DOES VEHICLE HAVE LOCKING GAS CAP <input type="checkbox"/> YES <input type="checkbox"/> NO		24. IS VEHICLE FULLY INSURED? <input type="checkbox"/> YES <input type="checkbox"/> NO	
25. NAME / ADDRESS OF INSURANCE COMPANY		26. NAME / ADDRESS OF NEAREST RELATIVE NOT LIVING WITH R/P		27. IDENTIFYING MARKS, BUMPER STICKERS, ADD ON EQUIPMENT, ETC.	

## RECOVERY NARRATIVE

29. NAME, DATE AND CASE NUMBER OF REPORTING AGENCY			
30. AREA RECOVERED <input type="checkbox"/> RURAL <input type="checkbox"/> URBAN		31. DESCRIPTION OF RECOVERY AREA	
32. RECOVERY <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL		33. ANY EVIDENCE LOCATED? <input type="checkbox"/> YES <input type="checkbox"/> NO	
34. WITNESSES, CLUES AND OTHER CRIMES		35. HAVE MISSING, IDENTIFIABLE PARTS BEEN ENTERED IN SVS? <input type="checkbox"/> YES <input type="checkbox"/> NO	

## COMPONENT RECOVERY

36. DESCRIPTION	37. SERIAL NO.
-----------------	----------------

## NARRATIVE

**NOTICE OF STORED VEHICLE (22852 CVC)**

NOTE: CHP 180 IS FURNISHED TO ALL PEACE OFFICERS BY THE CALIFORNIA HIGHWAY PATROL

REPORTING DEPARTMENT			LOCATION CODE		DATE / TIME OF REPORT		NOTICE OF STORED VEHICLE DELIVERED PERSONALLY <input type="checkbox"/>			FILE NO.				
LOCATION TOWED / STOLEN FROM					ODOMETER READING		VIN CLEAR IN SVS? <input type="checkbox"/> YES <input type="checkbox"/> NO LIC. CLEAR IN SVS? <input type="checkbox"/> YES <input type="checkbox"/> NO			DATE / TIME DISPATCH NOTIFIED		LOG NO.		
YEAR	MAKE	MODEL	BODY TYPE		COLOR		LICENSE NO.		<input type="checkbox"/> ONE <input type="checkbox"/> TWO	MONTH / YEAR	STATE			
VEHICLE IDENTIFICATION NO.					ENGINE NO.		VALUATION BY <input type="checkbox"/> OFFICER <input type="checkbox"/> OWNER							
							<input type="checkbox"/> 0-500 <input type="checkbox"/> 501-4000 <input type="checkbox"/> 4001+ <input type="checkbox"/> \$							
<input type="checkbox"/> REGISTERED OWNER					<input type="checkbox"/> SAME AS R/O		LEGAL OWNER							
<input type="checkbox"/> <b>STORED</b> <input type="checkbox"/> <b>IMPOUNDED</b> <input type="checkbox"/> <b>RELEASED</b> <input type="checkbox"/> <b>RECOVERED - VEHICLE / COMPONENT</b>														
TOWING / STORAGE CONCERN (NAME, ADDRESS, PHONE)										STORAGE AUTHORITY / REASON				
REASON FOR STOP					AIRBAG? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> 1 <input type="checkbox"/> 2			DRIVEABLE? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> JUNK <input type="checkbox"/> UNK			VIN SWITCHED? <input type="checkbox"/> YES <input type="checkbox"/> NO			
CONDITION		YES	NO	ITEMS		YES	NO	ITEMS		YES	NO	TIRES / WHEELS		CONDITION
WRECKED				SEAT (FRONT)				REGISTRATION				LEFT FRONT		
BURNED HULK per 431(e) CVC				SEAT (REAR)				ALT. / GENERATOR				RIGHT FRONT		
VANDALIZED				RADIO				BATTERY				LEFT REAR		
ENG. / TRANS. STRIP				TAPE DECK				DIFFERENTIAL				RIGHT REAR		
MISC. PARTS STRIP				TAPES				TRANSMISSION				SPARE		
BODY METAL STRIP				OTHER RADIO				AUTOMATIC				HUB CAPS		
SURGICAL STRIP per 431(b) CVC				IGNITION KEY				MANUAL				SPECIAL WHEELS		
RELEASE VEHICLE TO: <input type="checkbox"/> R/O OR AGENT <input type="checkbox"/> AGENCY HOLD <input type="checkbox"/> 22850.3 CVC					GARAGE PRINCIPAL / AGENT STORING VEHICLE (SIGNATURE)					DATE / TIME				
NAME OF PERSON / AGENCY AUTHORIZING RELEASE					I.D. NO.		DATE		CERTIFICATION: I, THE UNDERSIGNED, DO HEREBY CERTIFY THAT I AM LEGALLY AUTHORIZED AND ENTITLED TO TAKE POSSESSION OF THE ABOVE DESCRIBED VEHICLE.					
SIGNATURE OF PERSON AUTHORIZING RELEASE					SIGNATURE OF PERSON TAKING POSSESSION									

Exhibit A

SEE REVERSE FOR INFORMATION Page 5 of 7

**NOTICE OF STORED VEHICLE (22852 CVC)**

NOTE: CHP 180 IS FURNISHED TO ALL PEACE  
OFFICERS BY THE CALIFORNIA HIGHWAY PATROL

**A. ATTENTION VEHICLE OWNER**

The vehicle identified on the reverse side, registered/owned in your name, was stored pursuant to the provisions of the California Vehicle Code (CVC) by the agency shown below.

Under the provisions of Section 22852 CVC, you have the right to a hearing to determine the validity of this storage. If you choose to contest the validity of this storage, you shall request the hearing in person, writing, or by telephone at the office identified as the Storing Agency on this form.

Your request for a hearing shall be received at the Storing Agency's office within ten (10) days from the date of this notice. If you request a hearing, it will be conducted within 48 hours of the request, excluding weekends and holidays. The vehicle storage hearing is an informal process to determine whether or not a vehicle was lawfully stored.

If the hearing determines the storage to be unlawful, the storing agency will be responsible for the towing and storage charges. Your failure to request or attend a scheduled hearing shall satisfy the Post-Storage Validity requirements of Section 22852 CVC. If you have any questions, or if this vehicle is no longer owned by you, please contact the Storing Agency shown below.

**B. CERTIFICATION**

I hereby certify that notices with postage prepaid were deposited in the United States Mail, and these notices, of which this is a copy, were addressed to the person named herein.

NAME / TITLE	LOCATION	DATE DEPOSITED
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**C. NOTICE TO DEPARTMENT OF JUSTICE**

☐ Owner cannot be identified

☐ Owner cannot be notified

We have been unable to give notice to the owner of record as required by the Notice of Stored Vehicle (22852 CVC) and the vehicle, after 120 hours of storage, has not been returned. Send to Department of Justice, Stolen Vehicle Unit, P.O. Box 903387, Sacramento, CA 94203-3870.

STORING AGENCY

**A. PROPIETARIO DEL VEHICULOS ATENCIÓN**

El vehículo identificado en el reverso, propiedad/registrado a su nombre, se almacenó en virtud de las disposiciones del código de vehículos de California (CVC) por la agencia que se muestra a continuación.

Bajo las disposiciones de la sección 22852 CVC, usted tiene el derecho a una audiencia para determinar la validez de este almacenamiento. Si usted decide impugnar la validez de este almacenamiento, deberá solicitar la audiencia en persona, escribir, o por teléfono en la oficina, identificada como la Agencia de almacenamiento en este formulario.

La petición para una audiencia será recibida en la oficina de la Agencia de almacenamiento dentro de diez 10 días desde la fecha de este aviso. Si usted solicita una audiencia, se realizará dentro de 48 horas de la solicitud, excluyendo los fines de semana y días feriados. La audiencia de almacenamiento del vehículo es un proceso informal para determinar si o no un vehículo legalmente fue almacenado.

Si la audiencia determina el almacenamiento a ser ilegal, la Agencia almacenamiento será responsable de los cargos de remolque y almacenaje. La imposibilidad de solicitar o asistir a una audiencia programada deberá cumplir los requisitos de la Post-Storage de sección 22852 CVC. Si usted tiene alguna pregunta, o si este vehículo ya no es propiedad de usted, póngase en contacto con la Agencia de almacenamiento se muestra a continuación.

## B. CERTIFICACIÓN

Por la presente certifico que avisos con portes pagados fueron depositados en el correo de Estados Unidos, y estos avisos, de que se trata de una copia, se dirigian a la persona nombrada en el presente.

NOMBRE / TÍTULO	UBICACIÓN	FECHA UBICACIÓN DEPOSITADO
-----------------	-----------	----------------------------

### C. AVISO AL DEPARTAMENTO DE JUSTICIA

☐ Dueño no puede ser identificado

[ ] Dueño no puede ser notificado

Hemos sido incapaces de dar aviso al dueño del registro según lo requerido por el aviso del vehículo almacenado (22852 CVC) y el vehículo, después de 120 horas de almacenamiento, no ha sido devuelto. Enviar al Departamento de justicia, unidad de vehículo robado, P.O. Box 903387, Sacramento, CA 94203-3870.

**AGENCIA ALMACENAMIENTO**







**Exhibit B**  
**Page 1 of 1**

**APPLE VALLEY DISTRICT POLICE DEPARTMENT**  
**22852 VC – POST STORAGE HEARING REQUEST**

**PURPOSE OF HEARING:**

The purpose of Post storage Hearing is solely for determining the validity of the impoundment. A hearing is also to determine if a vehicle that is impounded for thirty-days is eligible for early release, pursuant to 14602.6 of the California Vehicle Code. As a vehicle owner, you have the right to a Post Storage Hearing pursuant to 22852 of the California Vehicle Code.

**HOW TO REQUEST A HEARING:**

The request for a hearing must be within ten (10) days of the date of mailing of the "Notice of Stored Vehicle". Failure to request a hearing within ten (10) days of the notice, or failure to attend a scheduled hearing will end your right to a hearing. Information regarding this process is available Monday – Friday from 6:30 am to 4:00 pm, by calling 760-961-0672.

1. For a hearing in writing, you must complete the bottom of this form and return it to:  
**Apple Valley District Police Department**  
**12555 Navajo Road, Apple Valley, CA 92308**  
**Post Storage Hearing Hours: 8:00 am - 11:00 am, Monday through Friday (closed on holidays)**
2. Hearings by telephone or in person are by appointment only. To request an appointment call **760-961-0672**

**RESULTS OF HEARING:**

Pursuant to Section 22852 VC, a hearing will be conducted within forty-eight (48) hours (excluding weekends and holidays) after your request has been received by the Apple Valley District Police Dept. The Supervisor that reviews the matter will provide a written reply to you. You may also call 760-961-0672 for the results of your hearing.

**TO BE COMPLETED BY THE REGISTERED OR LEGAL OWNER:**

TODAY'S DATE: \_\_\_\_\_ TIME: \_\_\_\_\_ DATE OF IMPOUND: \_\_\_\_\_ POLICE CASE NO. \_\_\_\_\_

**VEHICLE INFORMATION:**

YEAR: \_\_\_\_\_ MAKE: \_\_\_\_\_ MODEL: \_\_\_\_\_ LIC PLATE #: \_\_\_\_\_ STATE: \_\_\_\_\_

**PERSON REQUESTING HEARING:**

FULL NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

**YOUR INTEREST IN VEHICLE:**

\_\_\_\_ THE REGISTERED OWNER

\_\_\_\_ THE LEGAL OWNER

\_\_\_\_ OTHER

(EXPLAIN): \_\_\_\_\_

**STATEMENT OF ALL OF THE FACTS THAT YOU WOULD LIKE CONSIDERED: (Attach an additional page if necessary):**

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**SIGNATURE:** \_\_\_\_\_

**DO NOT WRITE IN THIS AREA – FOR OFFICE USE ONLY:**

**DATE/TIME RECEIVED:** \_\_\_\_\_

**RECEIVED BY:** \_\_\_\_\_

**COMMENTS:** \_\_\_\_\_



**Memorandum of Understanding Between  
Apple Valley Unified School District  
And  
San Bernardino County Sheriff's Department**

Rev. 8-10-2017

This Memorandum of Understanding (MOU) is entered into by the Apple Valley Unified School District, and the San Bernardino County Sheriff's Department on August 10, 2017.

**PURPOSE:**

The purpose of this MOU is to formalize an understanding between the Apple Valley Unified School District ("District") and the San Bernardino County Sheriff's Department as to matters of law enforcement over which both the Apple Valley Unified School District Police Department ("School Police") and the San Bernardino County Sheriff's Department have concurrent jurisdiction. The procedures set forth herein are intended to make the investigation of, and the prosecution for, offenses occurring on or related to the District sites more expeditious and efficient. The School Police have full police powers and should, with the exception of certain serious crimes, handle all criminal activity on school property when related to school activities.

Criminal activities involving pupils that are not on school property, but where the District or any officer or employee of the District has undertaken to provide transportation for such pupil to and from the school premises, has undertaken a school-sponsored activity off the premises of such school, or has otherwise specifically assumed such responsibility or liability for the conduct or safety of the pupil, will be handled by the School Police, if reported or occurring during the normal school day.

**INVESTIGATION:**

The following guidelines shall apply in determining whether the School Police or the San Bernardino County Sheriff's Department will conduct a particular investigation. Regardless of which agency is ultimately charged with the responsibility of an investigation, both agencies shall cooperate fully with one another in all matters of mutual concern.

**1. Felonies**

The following felonies will be investigated by the San Bernardino County Sheriff's Department:

PC 187	Murder
PC 207	Kidnap
PC 273, et al	Child Abuse
PC 261	Rape
PC 451	Arson
PC 12303.3	Possession/Explosion of Destruction Device
CVC 10851	Grand Theft Auto
CVC 20001(a)	Felony Hit and Run
CVC 23153	Felony DUI

**Memorandum of Understanding**  
**Page 2**

All other felonies, not listed above when related to school activities, school transportation of the pupil or any other situation in which the District does in fact specifically assume responsibility or liability for that conduct or safety of the pupil, will be investigated by the School Police.

2. Misdemeanors

School Police will investigate all misdemeanors occurring on or around school grounds, when related to school activities or committed during school transportation of the pupil, or in any other situation in which the District does in fact specifically assume such responsibility or liability for the conduct or the safety of the pupil.

3. Arrests

School Police personnel may exercise their authority to detain and/or arrest persons suspected of violating any laws as prescribed.

All detainees and/or arrestees who are detained and/or arrested by School Police will be the responsibility of School Police. The Sheriff's Department will not be responsible for transporting and booking of any detainees and/or arrestees who are detained or arrested by School Police.

4. Traffic

Traffic Enforcement on or related to the District sites will be handled by the School Police. This includes issuing of traffic citations and the investigation of all non-injury traffic collisions. The San Bernardino County Sheriff's Department will investigate any injury traffic incidents which occur on or around District sites.

5. After Hours Responses

The San Bernardino County Sheriff's Department will respond to verified burglar alarm calls at District sites after normal school hours. This response will be for the purpose of detecting any criminal offenses and conducting any initial investigation into such offenses. Any subsequent investigation and/or arrest will be followed up by the Sheriff's Department, at their discretion. The San Bernardino County Sheriff's Department may contact the School Police for a call-out response after normal school hours if such criminal activity is detected.

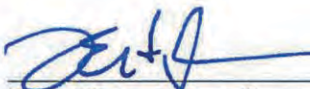
The above are agreed upon guidelines for determining the responsibility for an investigation. School Police is encouraged to call the San Bernardino County Sheriff's Department, to aid or assist with enforcement or investigation of any criminal or traffic violations. Every effort will be made by the San Bernardino County Sheriff's Department to render assistance to School Police.

Officers from both agencies will continue to provide effective, appropriate cover for each other in all situations; on and off campus where needed and when staff is available. In emergency situations, the first officer from either agency to arrive at the scene of an incident, on or off campus, will take appropriate action. Follow-up investigation will continue in accordance with the guidelines set forth in this MOU.


**Memorandum of Understanding**  
**Page 3**

Both departments will continue to exchange reports and information, so an accurate account of crime on and around campus is maintained and available to both agencies.

The undersigned agree to cooperate fully in carrying out the policies and procedures set forth in this MOU. Said MOU shall remain in effect until further notice and shall be subject to review at any time. The terms of this MOU may be changed only by written agreement of all parties. This MOU may be terminated in writing by any party to the MOU.

  
\_\_\_\_\_  
Tom Hoegerman, Superintendent  
Apple Valley Unified School District

8.10.17  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Cesar Molina, Chief of Police  
Apple Valley District Police Department

8/10/17  
\_\_\_\_\_  
Date

Date of Board Approval

8/3/17  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
John McMahon, Sheriff  
County of San Bernardino

8-21-17  
\_\_\_\_\_  
Date







## *Apple Valley Unified School District*

### BOARD OF TRUSTEES:

Dennis K. Bender • Donna Davis • Ronald J. Powell, Ph.D. • Richard L. Sauers • Wilson F. So

### SUPERINTENDENT

Thomas E. Hoggerman

August 8, 2017

## **OFFICE OF THE SUPERINTENDENT**

### **DIRECTIVE PERTAINING TO TRAFFIC ENFORCEMENT**

The Apple Valley Unified School District's goals are supporting student achievement, providing a safe and nurturing school environment, establishing strong parent and community relations, and assuring fiscal solvency.

The mission of The Apple Valley School Police Department is to provide a safe environment for students, staff, and parents, while on campus; to provide a safe route to and from school, to protect District assets and to build a positive relationship with students, parents and the community.

This mission includes District properties at all times, routes to and from school while students are present, and bus stops while students are present, and may include school activities that take place away from school sites or in the evenings and on weekends, when students are present.

In order maintain safe schools, safe routes to and from school, and to build and maintain good relations with our parents and community, the following directive is to be followed by all AVUSD school police officers and staff until superseded by the Superintendent:

- Traffic Patrol will occur only within the parameters as follows:
  - Briefly before and after, and during hours of the particular schools' operation, including after school and weekend school related activities; students are believed to be present.
  - Within the school zone, or directly adjacent to the school, a school bus stop, or a route to school.
  - Stops initiated solely for the following violations shall not be conducted without a clear and concise statement of articulable existing facts to show a clear nexus to student or staff safety, which are explained in an accompanying police report.
    - Expired Plates
    - Adult driver not wearing seatbelt
    - Lighting, windshields, etc., or other nonhazardous safety violations
    - Minor infractions deemed not a safety issue to students in the area.
  - Appropriate stops include but are not limited to:
    - Unsafe Speed in a school zone while students are present
    - Unsafe turns or stops that could cause student safety issues
    - Use of Cell Phone or Distracted Driving
    - Erratic, unsafe driving
    - Controlled intersections adjacent to schools
    - School Bus Red Light enforcement
    - Immediate danger to the general public likely to produce serious harm or life threatening
    - All moving violations as described by the California Vehicle Code and the courts, (CHP-SWITRS)
    - Other actions that could be threat to student safety.
    - There must be a clear nexus for the reasonable person to see the relationship of safety and the citation.

**Exhibit D**  
**Page 2 of 2**

- All citations shall list the offense for which the driver was stopped, the location with cross street, or clear location.
  - Must have a clear nexus to student safety
  - If not within school zone or adjacent to school, students must be present (route to and from school or bus stop)
- All citations will be written in clear text
- If the officer determines a citation is warranted, the officer shall cite for the safety violation that caused the stop.
- If the violator is stopped on a district property, clearly state which campus and the precise location on campus.
- All traffic stops must demonstrate jurisdiction, linked directly to student safety, or student criminal activity,
- All traffic citations will be reviewed by the AVSDPD Chief of Police
- Any vehicle to be towed will be cleared through the AVSDPD Chief of Police via dispatch before towing. Dispatch will manage the rotations of the tow companies and notate such.
  - The officer shall issue the Form 180 to the driver for all cars being towed
  - The officer shall check the appropriate notification boxes
  - All 180s will also be mailed to the registered owner including any lien holder, and to the registered driver.
- All AVSDPD officers and staff will adhere to the MOU between AVUSD and San Bernardino County Sheriff approved by the Board of Trustees on August 3, 2017.
- Any officer who is in doubt as to whether a potential stop is sufficiently related to student or staff safety or preservation of District property shall first contact the Chief of Police before stopping the vehicle.

Page 2 of 2

**Exhibit D**  
**Page 2 of 2**



# Apple Valley USD Police Department Traffic Enforcement 8/9/2017

Presented by Cesar Molina  
*Chief of Police*

# The Mission

- The motto "Protecting our Future"
- Keeping our students safe
- Protecting our staff
- Protecting district property
- Mentoring our students
- Parent and Community Relations



**SAFE SCHOOL  
NOTICE**



**ALCOHOL, DRUG, WEAPON  
AND BULLY FREE SCHOOL ZONE.**  
VIOLATORS WILL FACE SEVERE FEDERAL, STATE AND  
LOCAL CRIMINAL PENALTIES.

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# Speeding in a posted school zone

In a posted 25 MPH when children are present.

Speed enforcement an hour before or after school is reasonable. (Breakfast programs, afterschool activities)

Unsafe speeds adjacent to school including surrounding streets/roadways where students are present.

When children are walking to and from school.

Remember we are there to protect our students!



## Unsafe moving violations

- Unsafe moving violations
- Disobey a posted sign
- Fail to stop at a controlled intersection
- Fail to yield to students in crosswalk
- Reckless, Erratic
- Cell Phone in hand while driving
- School Bus red light flashing
- There should be a nexus to the safety to students when enforcing the law.



## Violations that are not in the mission

The following are example of violations that are not in the mission of keeping our students safe. These violations shall not be the sole purpose when patrolling the school zones, in jurisdiction, surrounding streets where students are present.

Expired registration

Cracked windshield (Except when unreasonable to see out of)

A rear tail lamp (Except both tail lights inoperative)

A head light out (Except both during when night or dusk hours)

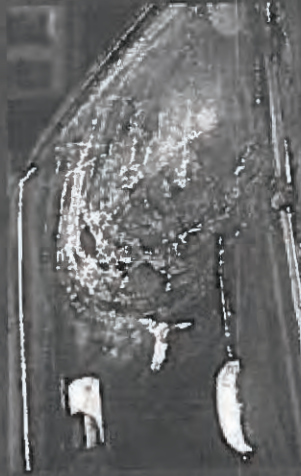
No front plate

Tinted glass (Except Limo Tint when driver is not visible)

Unsafe load

License plate light

Remember there should be a nexus to the safety to our students. If a traffic enforcement stop is conducted on the above a supervisor shall be notified and a report with pictures shall be submitted at the end of the shift.





# Ordering for a vehicle to be towed

The following are examples of when a vehicle may be towed. The peace officer shall make the decision, though it is not mandatory, and the traffic stops were conducted within our mission, and/or within the exception.

**Suspended or Unlicensed driver.** Driver is not the registered owner and the owner is not present. A 20 minutes ETA for owner to pick vehicle at the traffic stop.

**Expired Licensed Driver.** If within reasonable time frame, Officer has discretion. If to be towed and driver is not the registered owner and the owner is not present. A 20 minutes ETA for owner to pick vehicle at the traffic stop.

**Driver is pulled over for an unsafe moving violation and the driver has an active "No Bail Warrant" or a warrant that requires the person to be booked into the local jail. Exception:** If the driver is the R/O and allows a licensed driver to pick up the car within 20 minutes.

**An abandoned vehicle** which poses a safety concern for our students, motorists in a school zone, adjacent to a school where students would walk in or near the vehicle. Pictures and a written shall be taken.

**A non-injury traffic accident, inoperative vehicle** where the driver requests for a tow of their choice. If the driver has no preference the tow on rotation shall be notified.



# CHP Form 180

- A CHP 180 form shall be given to the driver, unless registered owner (R/O) is present.
- If the R/O was present, the appropriate box shall be checked prior to serving the driver.
- Officer shall explain to them of their right to a hearing which is printed on the back of the CHP 180.

## Documentation of CHP 180 form and Citations

- ✓ Clear and correct text spelling
- ✓ The initial reason for the stop (Remember within our mission)
- ✓ Use plain text in written report
- ✓ If warranted, the officer shall cite for the initial violation as well as others that apply if a vehicle is determined to be towed.
- ✓ All applicable boxes of the citation / CHP 180 shall be checked
- ✓ Clear location of the violation and where vehicle was towed from
- ✓ Cross street or school sites shall be documented on the forms



## Chief's Responsibilities

All towed vehicles will be cleared by the chief or watch commander prior to tow via dispatch.

Chief will review that the appropriate tow rotation is utilized.

Chief will review all citations and CHP 180s

Chief or Watch Commander will ensure CHP180 and right to a hearing was mailed to the registered owner.

Chief will give all employees a copy of the M.O.U between the San Bernardino County Sheriff's Department and the Apple Valley School District Police Department.

Chief will make sure all employees understand and sign the acknowledgement of the updated traffic enforcement department directive and the M.O.U

Chief will ensure all personnel are trained and updated on a regular basis with current best practices.







**Exhibit F**  
**Page 1 of 2**

**Apple Valley District Police Department**  
**Tow Rotation**  
**Thru 7/2017**

**TOW COMPANY**

Big Apple	21775 Hwy 18, Apple Valley	(760) 247-7255
Desert Valley	14043 Pioneer Rd., Apple Valley Ste.1	(866) 248-6948
A-Action	14043 Pioneer Rd., Apple Valley Ste.3	(760) 240-6757

<u>DATES</u>	<u>TOW COMPANY</u>
01/30/17-02/05/17	BIG APPLE
02/06/17-02/12/17	DESERT VALLEY
02/13/17-02/19/17	A-ACTION
02/20/17-02/26/17	BIG APPLE
02/27/17-03/05/17	DESERT VALLEY
03/06/17-03/12/17	A-ACTION
03/13/17-03/19/17	BIG APPLE
03/20/17-03/26/17	DESERT VALLEY
03/27/17-04/02/17	A-ACTION
04/03/17-04/09/17	BIG APPLE
04/10/17-04/16/17	DESERT VALLEY
04/17/17-04/23/17	A-ACTION
04/24/17-04/30/17	BIG APPLE
05/01/17-05/07/17	DESERT VALLEY
05/08/17-05/14/17	A-ACTION
05/15/17-05/21/17	BIG APPLE
05/22/17-05/28/17	DESERT VALLEY
05/29/17-06/04/17	A-ACTION
06/05/17-06/11/17	BIG APPLE
06/12/17-06/18/17	DESERT VALLEY
06/19/17-06/25/17	A-ACTION
06/25/17-07/02/17	BIG APPLE

**Exhibit F**  
**Page 2 of 2**



**Apple Valley District Police Department**  
**Tow Rotation**  
**Aug 7, 2017 thru Jan. 7, 2018**

**TOW COMPANY**

Big Apple	21775 Hwy 18, Apple Valley	(760) 247-7255
Desert Valley	14043 Pioneer Rd., Apple Valley Ste.1	(760) 240-4207
A-Action	14043 Pioneer Rd., Apple Valley Ste.3	(760) 240-6757

<b><u>DATES</u></b>	<b><u>TOW COMPANY</u></b>
08/07/17-08/13/17	BIG APPLE
08/14/17-08/20/17	DESERT VALLEY
08/21/17-08/27/17	A-ACTION
08/28/17-09/03/17	BIG APPLE
09/04/17-09/10/17	DESERT VALLEY
09/11/17-09/17/17	A-ACTION
09/18/17-09/24/17	BIG APPLE
09/25/17-10/01/17	DESERT VALLEY
10/02/17-10/08/17	A-ACTION
10/09/17-10/15/17	BIG APPLE
10/16/17-10/22/17	DESERT VALLEY
10/23/17-10/29/17	A-ACTION
10/30/17-11/05/17	BIG APPLE
11/06/17-11/12/17	DESERT VALLEY
11/13/17-11/19/17	A-ACTION
11/20/17-11/26/17	BIG APPLE
11/27/17-12/03/17	DESERT VALLEY
12/04/17-12/10/17	A-ACTION
12/11/17-12/17/17	BIG APPLE
12/18/17-12/24/17	DESERT VALLEY
12/25/17-12/31/17	A-ACTION
01/01/18-01/07/18	BIG APPLE

# **SECTION 2**

**SAN BERNARDINO COUNTY  
SHERIFF'S DEPARTMENT**





# INTEROFFICE MEMO



**DATE:** September 6, 2017

**PHONE:** (909) 708-8767

**FROM:** RAYMOND L. HAIGHT *RLH*  
Presiding Judge

**TO:** NORMA GROSJEAN  
Grand Jury Assistant

---

**SUBJECT:** GRAND JURY REPORT RESPONSE

---

Please find attached the original Response from the Sheriff's Department regarding the 2016-17 Grand Jury Final Report.

Please process the Response according to the Grand Jury protocol.

RLH:sb



JOHN McMAHON, SHERIFF • CORONER



August 28, 2017

Honorable Raymond L. Haight III,  
Presiding Judge Superior Court,  
San Bernardino County  
247 West Third Street, 11<sup>th</sup> Floor  
San Bernardino, CA 92415

RECEIVED  
SEP 01 2017  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
EXECUTIVE OFFICE

Dear Honorable Judge Haight III,

Pursuant to California Penal Code Section 933.05, please accept the following responses to the findings and recommendations for the 2016-17 San Bernardino County Grand Jury's Final Report that was presented to your office on or about June 30, 2017.

As you know, the Grand Jury's Law & Justice subcommittee listed findings and made recommendations for change. My staff has reviewed their Final Report and offer our responses to the recommendations made for the following operational areas:

- 17-08: *Review all Memorandum of Understandings with school police departments and the San Bernardino County Sheriff's Department to ensure that jurisdictional authority has not been exceeded by school police departments.*
- 17-09: *The appropriate state agency opens an investigation into this matter which is beyond the jurisdiction of the Grand Jury.*

Please let me know if there is any additional information you may need for clarification on our position. An informational copy of our responses is being provided to the County's Board of Supervisors, as is required by law.

Best Regards,

  
John McMahon, Sheriff-Coroner/Public Administrator

cc: County Board of Supervisors  
County Administrative Office

SAN BERNARDINO COUNTY SHERIFF'S DEPARTMENT

655 East Third Street • San Bernardino, California 92415-0061

Post Office Box 569 • San Bernardino, California 92402-0569

# ATTACHMENT I

## 2016-17 GRAND JURY REPORT RESPONSE FORM

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
GRAND JURY

SEP 01 2017

BY Norma Grosjean  
NORMA GROSJEAN, DEPUTY

GROUP Law & Justice  
DEPARTMENT Sheriff-Coroner  
SUBMITTED BY John McMahon, Sheriff-Coroner

DATE 8/28/17  
RECOMMENDATION NO 17-08 & 17-09  
PAGE 17

### FINDINGS/RECOMMENDATIONS – AGREE/DISAGREE:

#### RECOMMENDATION 17-08:

“Review all Memorandum of Understandings with school police departments and the San Bernardino County Sheriff’s Department to ensure that jurisdictional authority has not been exceeded by school police departments.”

**RESPONSE:** *The Sheriff’s Department is in the process of locating and reviewing memorandums of understandings with surrounding school police departments throughout the county for jurisdictional authority. More specifically, the memorandum of understanding with the Apple Valley Unified School District Police Department was recently updated and signed by all parties on August 21<sup>st</sup>, 2017.*

#### RECOMMENDATION 17-09:

“The appropriate state agency opens an investigation into this matter which is beyond the jurisdiction of the Grand Jury.”

**RESPONSE:** *The Sheriff’s Department acknowledges the Grand Jury’s recommendation for consideration.*





## **SECTION 3**

**SB COUNTY SUPERINTENDENT OF SCHOOLS  
ADELANTO UNIFIED SCHOOL DISTRICT**





# San Bernardino County Superintendent of Schools

Ted Alejandre  
County Superintendent

*Transforming lives through education*

August 31, 2017

ATTN: San Bernardino County Civil Grand Jury  
Superior Court of California  
County of San Bernardino  
Grand Jury Office  
172 West Third Street, Second Floor  
San Bernardino, CA 92415-0243

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
GRAND JURY  
**AUG 31 2017**  
BY NORMA GROSJEAN  
NORMA GROSJEAN, DEPUTY

Dear Members of the Grand Jury:

Thank you for your interest in the oversight of charter schools in San Bernardino County. This correspondence provides a formal response to the Grand Jury's 2016-2017 Report, *Oversight of San Bernardino County Charter Schools* (Report) prior to the September 1, 2017 deadline for responding to the Report recommendations. You will find below actions the San Bernardino County Superintendent of Schools (SBCSS) office has taken or is taking in response to the Report recommendations (specifically Recommendations 17-27 through 17-29 and 17-31, 17-32 and 17-34).

As you note in the report, California law provides for charter schools to petition local school districts, a county or the State of California to act as the authorizing agency. In deference to the scope of the Grand Jury report, this response will focus on SBCSS, on behalf of the San Bernardino County Board of Education (SBCBE), oversight role in response to the reports recommendation for SBCSS.

My office has thoroughly reviewed the Report recommendations, in addition to existing state laws and guidance pertaining the oversight of charter schools. Please note our response to each recommendation outlined below.

Recommendation(s):

17-27: Update charter school websites at Desert Trails Preparatory Academy and Norton Science and Language Academy with approved minutes of Board meetings within the Ralph M. Brown Act required five-day window following each Board meeting.

*Response: As of July 1, 2017, the approved Board meeting minutes of both Desert Trails Preparatory Academy and Norton Science and Language Academy were posted to their respective charter school websites. While not a requirement of law, my office and charter school administrators are aware of the public interest in having access to board meeting minutes and will post this information as agreed to in the charter Memorandum of Understanding (MOU) and within any timelines required by statute.*

17-28: Update charter school websites on an annual basis to include a list of Board members and their biographies. Include information and forms regarding enrollment.

Office of the Superintendent

601 North E Street • San Bernardino, CA 92415-0020 • P: 909.386.2406 • F: 909.888.5480 • [www.sbcss.k12.ca.us](http://www.sbcss.k12.ca.us)

*Response: The SBCSS charter school liaison worked collaboratively with Desert Trails Preparatory Academy and Norton Science and Language Academy in June, prior to the release of the Grand Jury Report, to ensure that the elements agreed upon in each charter school's respective MOU are posted on charter websites and are up-to-date. This may include: Articles of Incorporation and Bylaws, roster and biographies of current governing board members, annual calendar of Board meetings, notification of how the public will be notified of and participate in Board meetings, approved Board minutes from prior meetings, and enrollment information and necessary forms.*

*In addition to the information provided in response to recommendations 17-27 and 17-28, additional steps have been taken to ensure compliance. Each authorized charter will be provided with a Charter School Website Posting Requirements review sheet based on the specific and unique requirements outlined in each approved charter petition and MOU. The review sheet specifies the required items that must be posted to the charter school's website and the timeframe in which they must comply. The review sheet will be provided to each school annually and will be updated as necessary to reflect any changes made throughout the year. Annually and periodically throughout each school year, SBCSS staff will audit each charter's website to verify compliance. Website audit findings will be provided to the charter operator with a request to correct any audit findings within a specified timeframe. A copy of the Charter School Website Posting Requirements review sheet created for Desert Trails Preparatory Academy has been included for your review.*

17-29: Schedule charter school board meetings at times that are convenient for Board members, parents, and teachers to attend. Anticipate meeting the needs of parents who bring non-school age children.

*Response: The Memorandum of Understanding, and charter petition agreed upon between SBCSS and each authorized charter, states the steps each charter will take to include parents and teachers during board meetings. The Charter School liaison will provide a memo to the charter schools with best practices used by other governing boards on ways to increase parent participation at governing board meetings. The Grand Jury's findings also will be enclosed for informational purposes. We agree parent participation in charter school governance is very important.*

17-31: Continue providing more than the required one visit a year from the charter liaison who has a broad understanding of charters.

*Response: We agree the single visit required by law is not enough, and we believe monitoring should be more extensive and communication should be ongoing. SBCSS practice has been to conduct two formal oversight evaluations annually, as well as several other informal visits. Visits are scheduled in the fall and spring of each year. The Charter School liaison also regularly attends the charter school's governing board meetings and makes periodic unannounced visits throughout the year. In addition, the SBCBOE makes an annual visit to each charter school authorized under its authority. As indicated in Finding 13 (F13) of the Report, the SBCSS Charter School liaison exceeds the minimum number of charter school visits. This practice will continue.*

17-32: Communicate among school district administration, charter school administration, the County school personnel, and central office staff when there are issues regarding oversight and operations.



*Response: The Charter School liaison works closely with San Bernardino County school district administrators with regard to charter authorizing and oversight. The Charter Liaison provides various training opportunities throughout the year for school district administrators specific to charter school matters. In addition, the Charter Liaison was selected as the Region Lead for the California Charter Authorizer's Regional Network (CARSNet). As part of those duties, the Charter Liaison is responsible for connecting with school district and county charter authorizers in San Bernardino, Riverside, Imperial, Inyo and San Diego counties. Information regarding best practices, workshops and conferences are routinely provided to all school districts within the region. Additionally, the Charter Liaison regularly attends monthly meetings held by charter school administrators in San Bernardino County as well as quarterly charter operator meetings held by the California Charter Schools Association.*

17-34: Report by the liaison on the high priority facility repairs made on the Desert Trails Preparatory Academy Charter School Facility Inspection Form dated August 9, 2016, to the San Bernardino County Office of Education which serves as the authorizing agency.

*Response: As part of routine oversight practice, the SBCBOE will be provided with a copy of the completed facility inspection report for Desert Trails Preparatory Academy at its September meeting. The report notes current findings as well as outstanding items from the prior year inspection, and requests that the charter operator respond with a repair status by a specified date. A copy of the letter has been provided for your information. The facility inspection for Norton Science and Language Academy has been scheduled for late September. The SBCBOE will receive a copy of the inspection report upon completion.*

High quality charter schools that operate within our public school system serve an important role in California. Charter schools provide quality and innovative learning opportunities for students and parents when operated and overseen in compliance with law. Like all public schools, the ultimate goal of charter schools is to improve student learning transparently and at no cost to parents or students. Therefore, charters must be held to high standards of accountability—in and outside the classroom.

Given the expansion of charter schools throughout California and the importance of the supervisory oversight role, I appreciate the Grand Jury's interest in this topic and your ongoing interest in and support of public education in San Bernardino County. My office is pleased to work collaboratively and positively with the Grand Jury in response to the report recommendations. Should you have any questions, please feel free to contact my office.

Sincerely,

A handwritten signature in black ink that reads "Ted Alejandre". The signature is written in a cursive, flowing style.

Ted Alejandre  
San Bernardino County Superintendent

Attachments





# Adelanto Elementary School District

11824 Air Expressway Adelanto, California 92301  
Phone 760-246-8691 Fax 760 3-16-4259 Web www.aesd.net

Superintendent  
Dr. Amy Nguyen-Hernandez

Board of Trustees  
Evelyn Glasper, President  
Holly Eckes, Clerk  
Debra S. Jones, Member  
Jayson Hughes, Member  
Christine Turner, Member

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
GRAND JURY

OCT 13 2017

October 1, 2017

Honorable Raymond L. Haight III, Presiding Judge  
San Bernardino County Superior Court  
San Bernardino Justice Center  
247 W. Third Street, 1<sup>st</sup> Floor  
San Bernardino, CA 92415-0312

BY NORMA GROSJEAN  
NORMA GROSJEAN, DEPUTY

Re: Response of Adelanto Elementary School District to Grand Jury Report

Dear Presiding Judge Haight:

The Adelanto Elementary School District ("District") has received the 2016-2017 San Bernardino County Grand Jury Report titled "Oversight of SB County Charter Schools" ("Report"). In the Report, the Grand Jury identified several maintenance concerns on the Desert Trails Preparatory Academy's ("Academy" or "Charter School") campus. The District appreciates the Grand Jury's efforts to investigate and report on the condition of the facility.

As the Grand Jury is aware, the District previously operated the campus as Desert Trails Elementary. On June 26, 2013, the District entered a Charter Facilities Agreement ("Agreement") with the Academy whereby the District would allow the Academy to operate in its facilities. The campus remained the District's property, but the Academy would be required to perform all "routine maintenance and minor repairs." (See Agreement, Section 9 ["Section 9"].) The District, for its part, would be "responsible for the major maintenance of the Site." (*Id.*)

Despite the parties' intentions to delineate responsibilities for maintenance and repairs, it appears that there has been some confusion as to what forms of upkeep each party shall perform. The confusion has resulted in periodic nonperformance by each party overseeing the school site, causing the facility to occasionally fall short of the District's and the Academy's respective high expectations.

The Report requests that the District reply to the Grand Jury's recommendations and, implicitly, its findings by October 1, 2017. As Superintendent, I submit this response on behalf of the District's Board of Trustees and myself pursuant to subdivision (c) of Penal Code section 933.

Below, the Grand Jury will find our responses to each of the Report's recommendations and findings. We also provide our suggestions for future practices to ensure better maintenance services on the Desert Trails campus. But first, we provide some background on the legal and factual bases for our overall response.

**Amy Nguyen-Hernandez, Superintendent**

Adelanto Elementary School District ♦ 11824 Air Expressway ♦ Adelanto, CA 92301 ♦ (760)246-8691





## **Bases for Response**

We rely on the text of the Report and its Attachments to determine which recommendations and findings require a response. We base our responses on our interpretations of the Agreement, section 17582 of the Education Code, and the California School Accounting Manual which all help the District identify its responsibilities. The Agreement ultimately determines the parties' respective responsibilities, but the other materials instruct on how to interpret the Agreement.

### **The Agreement**

The term "major maintenance" refers to "the major repair or replacement of plumbing, heating, ventilation, air conditioning, electrical, roofing, and floor systems, exterior and interior painting, and any other items considered deferred maintenance under Education Code section 17582." (Section 9.) "All other kinds of maintenance shall be considered routine maintenance to be performed by the [Academy]." (Section 9.) So, the District is responsible for "major maintenance," and the Academy is responsible for "routine maintenance" (*non-major maintenance*).

In addition to Section 9, the Agreement's Section 11 identifies the responsibilities of the parties. (Agreement, Section 11 ["Section 11"].) "The Charter School shall not be responsible for any conditions of the Site . . . that existed prior to the Charter School's occupancy of the Site." (*Id.*) The District remains responsible for compliance with the ADA, building code standards, and other facilities regulations with respect to "any condition of the Site or existing compliance issue prior to the date of the Charter School's occupancy of the Site." (*Id.*) The Charter school had an opportunity to inspect the facilities to notate conditions at the time it took possession.

### **Section 17582**

As described above, the Agreement incorporates the definition of "deferred maintenance," as articulated in section 17582 of the Education Code. Under the Education Code school districts may establish a restricted fund for "deferred maintenance." (Ed. Code § 17582, subd. (a) ["Section 17582"].) "Funds deposited in the district deferred maintenance fund may be received from any source and shall be accounted for separately from all other funds and accounts and retained in the district deferred maintenance fund for purposes of this section." (*Id.*) Section 17582 describes significant repairs with costs eligible for deferred maintenance fund accounting. The uses relevant to this matter are "major repair or replacement of plumbing, heating, air-conditioning, electrical, roofing, and floor systems; the exterior and interior painting of school buildings." (*Id.*)

The arrangement whereby the District performs major system repairs and replacements and items of deferred maintenance is consistent with the Agreement which provides that the District retains ownership. The "major maintenance" items for which the District is responsible serve to improve the long-term value of the campus, whereas the *non-major maintenance* items for which the Academy is responsible serve to maintain the status of the facilities as the District presented them.

### **California School Accounting Manual**

Despite the clarity of the Agreement and Section 17582, we understand neither the Agreement nor Section 17582 completely and unambiguously answers questions about whether the District or the

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Academy should resolve a particular maintenance issue. In order to better answer questions of responsibility for maintenance, we consult the California School Accounting Manual.

Section 17582 describes school maintenance work, but its primary function concerns school accounting as the code section establishes a separate fund and its purpose. Thus, the District and the Academy expressed their intent within the Agreement to rely on an accounting standard for distinguishing between "major maintenance" and "routine maintenance" (*non-major maintenance*). This means that the parties should resolve questions about the meaning of Section 17582 and the Agreement with reference to the California School Accounting Manual. (See, Ed. Code § 41010 ["The accounting system used to record the financial affairs of any school district shall be in accordance with the definitions, instructions, and procedures published in the California School Accounting Manual."]; See also, Cal. Dept. of Ed., Cal. School Accounting Manual, Procedure 770 "Distinguishing Between Supplies and Equipment" (2016) ("Procedure 770").) Procedure 770 assists local education agencies with making various distinctions in the course of accounting for a school's economic activity. Two areas of guidance are particularly relevant for the distinction between "major maintenance" and "routine maintenance," which includes everything that is not within the definition of "major maintenance."

#### Repairs vs. "Additions and Betterments"

The distinction between "major maintenance" and "routine maintenance" (*non-major maintenance*) is similar to the distinctions that local education agencies ("LEA") must make when distinguishing between "repair costs" and the costs of "additions and betterments" in the course of accounting for the LEA's economic activity. (Procedure 770 at 5.)

"Repair costs are those outlays that are necessary to keep an asset in its intended operating condition but that do not materially increase the value or physical properties of the asset." (*Id.*) An "addition" is "a physical extension of some existing asset." (*Id.*) A "betterment" occurs "when a part of an existing asset is replaced by another and the replacement provides a significant increase in the life or value of the asset." (*Id.*, at 5 – 6.)

Pursuant to Procedure 770, the costs of repairs are kept separate from the costs of an addition or betterment. Similarly, under the Agreement, it appears that the District remains responsible for additions and betterments whereas the Academy is responsible for "[a]ll other kinds of maintenance." (Section 9.)

At some point in accounting for the costs of repairs, additions, and betterments, an individual will have to make a determination of whether a given cost will be charged to the District or the Academy. Where the Agreement does not clearly determine whether a given repair item is "major" or "routine" (*non-major*) maintenance, the question should be decided by analyzing whether the repair item in question is similar to an addition or betterment. If a given repair item is not similar to an addition or betterment, then the Academy is responsible for the repair item.

#### Supplies vs. Capitalized Equipment

According to Procedure 770, "Supplies are items of an expendable nature that are consumed or worn out, deteriorate in use, are easily broken, damaged, or lost." (Procedure 770 at 1.) Supplies "are

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constantly consumed and replaced without substantially increasing the value of the physical assets of the LEA." (*Id.*) Capitalized equipment, on the other hand, "has relatively permanent value and substantially increases the value of the physical assets of the LEA." (*Id.*) Capitalized equipment lasts more than a year, can be repaired rather than replaced, exists as an independent unit rather than being incorporated into another unit item, and is valued above \$5,000. (*Id.* at 2, 4.)

In instances wherein the District and Academy dispute which party has responsibility for the cost of a tangible item used in the course of maintenance or repair, the distinction between supplies and capitalized equipment is helpful. The District should be responsible for tangible items similar to capitalized equipment, and the Academy responsible for items similar to supplies. The Agreement is consistent with Procedure 770's distinction where the former makes the Academy "responsible for all supplies necessary for maintenance" (Section 9) as these are costs routinely incurred. (Procedure 770 at 1.) The Agreement is also consistent with Procedure 770's distinction where the Agreement makes the District responsible for deferred maintenance, the costs of which, as the term suggests, are not routinely incurred. The maintenance may be deferred over a series of years due to the significant costs.

### **Summary of Bases for Response**

The District is responsible for an item of maintenance if the Agreement says as much. In order to understand the Agreement, we look to the text of Section 17582 which the Agreement expressly incorporates. We also look to Procedure 770 which all local education agencies must follow in accounting for their economic activities.

### **Response to Specific Recommendations and Findings**

Having reviewed the Grand Jury's specific recommendations and findings, the District responds as follows:

#### **Recommendation 17-30: Provide major maintenance repairs at Desert Trails Preparatory Academy on a timely basis.**

The District agrees with the recommendation's statement that the District should provide "major maintenance" repairs at Desert Trails. Indeed, the District has provided or begun the process of providing the "major maintenance" items identified in the Report. The District's Director of Maintenance, Operations, and Transportation treats the Desert Trails campus as he would a campus under the District's operation. Everyone who makes facilities-related decisions on behalf of the District shares those sentiments, and we take seriously our obligations to provide a suitable campus. With this perspective, we respond to each of the three findings that support Recommendation 17-30.

*Finding No.1 asserts that Desert Trails has deficiencies with respect to "ADA requirements."*

The Report states that "the upper number 700 building . . . is accessible only by three stairs" and lacks a ramp for persons with impaired mobility. We at the District regret any exclusion or inconvenience that the lack of access has caused, however this is not true. The access to the upper number 700 building which is ADA compliant is from the backside of the building through the gates. There were several asphalt cracks in the pathway which were repaired by our staff on July 14, 2017 to provide a

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smooth and level access to the 700 building provided that the site unlocks the gates to allow access to the pathway.

*Finding No. 2 asserts that "[Desert Trails] has major maintenance issues regarding its site."*

The second finding may refer to one of two possible passages within the body of the Report. On the one hand, it might refer to alleged "major maintenance" issues, within the meaning of the Agreement, which existed on August 9, 2016 when the Grand Jury visited the campus. (See Report, Attachment 1.) The District interprets the Report's Attachment 1 ("DTPA Site Visit Report") as identifying then existing maintenance concerns. On the other hand, the phrase "has major maintenance issues" may refer to the allegedly "major maintenance" items identified on page 89 of the Report which the Academy has already repaired, and for which the Academy seeks a reimbursement from the District.

The District addresses the Report's Attachment 1 items here, in its response to Finding No. 2, and will address the page 89 repair items in response to Recommendation 17-35, below. In this way, the District will respond to each of the Report's allegations. The responses to the Report's Attachment 1 repair items include a statement regarding responsibility for the item of repair and a statement regarding any steps taken to remedy the problem.

#### Rooms 26 & 36

According to the Report's Attachment 1, the air conditioners in the two classrooms were not working as of August 9, 2016. One of the rooms is currently in use by a class.

The District respectfully disagrees with the Report to the extent that it concludes that the malfunctioning air conditioners are items of "major maintenance." The Agreement describes major maintenance "major repair or replacement" of identified *systems*. The District contends that maintenance on the two malfunctioning classroom units does not constitute repair or replacement to the air conditioning system.

Despite our position on maintenance, our staff investigated the work order history for both air conditioning units. We found no work orders relating to Room 26 near in time to August 9, 2016. We did find work orders relating to *Room 23* and believe that this is the room referenced in the Report. Technicians replaced a compressor and fan motor and "cycled [the] system." On September 8, 2016, the work order was closed.

Regarding Room 36, a work order was entered on August 3, 2016 for a malfunctioning HVAC unit. According to records, the work order was closed out on August 8, but another work order for that unit opened on the same day. The second work order was closed out on August 12 without any comments.

Our staff inspected air conditioning units for both Room 23 and Room 36 in July of 2017 and found them to be running properly.

#### Rooms 25, 36, 37, 38

According to the Report's Attachment 1, four classrooms had broken windows as of August 9, 2016.

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The District respectfully disagrees with the Report's conclusion that the broken windows are items of "major maintenance."

Window pane replacement is not a major repair or replacement to any of either the "plumbing, heating, ventilation, air conditioning, electrical, roofing, and floor systems," as described in the Agreement. The window pane replacement is not an item of deferred maintenance under Education Code section 17582. As such, the District contends that broken windows are not the District's responsibility under the Agreement.

We do not believe that there is any ambiguity under the Agreement on this matter, but we still refer to Procedure 770's distinction between repairs (Academy's responsibility) and betterments (District's responsibility). The cost to repair the broken windows are the costs to keep the classroom building in its intended operating condition but do not materially increase the value or physical properties of the building. On this analysis, the District must disagree with a conclusion that the District is responsible for repairing the broken windows.

Again, we reviewed the associated work orders. A pair of work orders were entered in April of 2016 for broken windows in Room 25 and Room 38. One work order was closed on June 15, 2016 and the other on September 8, 2016 with comments that "all windows are fixed." A third work order was opened on July 22, 2016 for broken windows in rooms 26, 36, and 37. That work order was also closed on September 8. An invoice from Vern's Glass (Attachment 3 to the Report) indicates that repairs occurred on or about August 22, 2016.

Based on the Academy's work order history, we would agree that the identified windows were broken on August 9, 2016. We confirmed, however, that as of July 2017, there were no broken windows on campus.

#### Outside Basketball Courts

According to the Report's Attachment 1, the basketball courts have "large cracks running directly through and around" them—cracks which present a trip hazard. Additionally, the nearby landscaped areas drain on to the courts, resulting in standing water after the grass has been watered.

We are aware of separation cracks in the playground asphalt, and we will be seeking bids from contractors to address the problem. In the meantime, we will confer with the Academy to determine appropriate measures for minimizing the risk of harm to children at play and complying with all legal requirements for maintaining a safe play area.

The District respectfully disagrees with the conclusion that the District is responsible for the drainage issue on the basketball courts. According to the Agreement, repairs and maintenance to the landscaping system are not among the items for which the District is responsible. The Agreement states that "all other kinds of maintenance shall be considered routine maintenance to be performed by the Charter School." Accordingly, we believe that the Academy is responsible for the landscape maintenance and drainage. Nevertheless, the resurfacing of the playground should eliminate any tendency for water to pool on the playground.

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### Play Structure

The Report's Attachment 1 describes the play structure as lacking wood chips which "have been completely depleted. " The depleted condition exposes the underlying landscape fabric which presents a trip hazard.

The wood chips are not part of "major maintenance" or deferred maintenance as defined by either the Agreement or Section 17582 respectively. Procedure 770 would regard wood chips as supplies which are "items of an expendable nature that are consumed or worn out, deteriorate in use, are easily broken, damaged, or lost." The Agreement provides that the Academy shall be responsible for maintenance supplies. The District contends that the Academy is responsible for replacing wood chips that have been depleted in the course of children's play and weathering.

We investigated the work order history relating to the play area. In November of 2016, a work order was entered for installing wood chips. The Grounds department completed the installation over winter break and arranged mats over the heavy use areas to discourage wear and weathering.

As of a September 6, 2017 inspection, the wood chips needed to be raked. Some areas of high use had the wood chips moved by usage. Raking from other areas may resolve the apparent deficiency. The current deficiency is a "routine maintenance" issue (i.e., Academy's responsibility) for the Academy's site custodian to address.

### Sand Play Area

The Report's Attachment 1 describes the Kindergarten sand play area as having a cracked slide and holes in the rubberized play surface.

As with wood chips, the slide and rubberized play surface are not part of "major maintenance or deferred maintenance." Accordingly, repairs and maintenance to both fall into the category of "all other maintenance" for which the Academy is responsible. Despite our position with respect to responsibility for the repairs, the District has taken action to repair both items.

The work order history shows that a work order was entered on November 3, 2015 for a crack in the Kindergarten tube slide. We verified the nature and location of the crack and determined that the manufacturer of the slide is no longer in business. We inquired about a replacement slide with other manufacturers, but none was willing to install a slide onto another company's structure. On August 6, 2017, we arranged to have the pieces of the slide reconfigured so that the crack is situated in a non-contact location.

We did not observe any work order history for the rubberized play surface. On July 11, 2017, our team entered a work order for the repair and ordered the necessary supplies. We repaired the rubberized surface on August 6, 2017.

### Boys' Restroom

The Report's Attachment 1 describes multiple deficiencies in the boys restroom. A urinal has broken from the wall on which it was mounted and needs to be remounted. According to the Report, one

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toilet has a crack in it and needs to be replaced. Bolts in the toilets need to be cut and capped for safety, and the exhaust fans are not working.

The urinal mounting and bolt cutting and capping are routine maintenance for which the Academy is responsible. Mounting, cutting, and capping activities are not "major maintenance" activities under either the Agreement or Section 17582.

The toilet replacement is also a repair item for which the Academy is responsible. The District contends that a single toilet is not a plumbing *system* for which the District is responsible. Further, and according to the Agreement, "Charter School shall be solely responsible for providing all supplies necessary for maintenance." (Section 9.) Procedure 770 is consistent with the Agreement where it states that "[r]epair parts that LEAs purchase for the maintenance of buildings, equipment, and grounds, regardless of cost, are normally charged as *supplies*." (Procedure 770 at 5, emphasis added.) Procedure 770 specifically identifies plumbing fixtures as supplies. Given the language of the Agreement and of Procedure 770, by which all schools must operate, the District concludes that the Academy is responsible for replacing the cracked toilet.

An exhaust fan repair or replacement is not an item of "major maintenance" which includes "the major repair or replacement of . . . ventilation . . . *systems*." (Section 9, emphasis added.) While an exhaust fan may be a component of an exhaust system, the fan is not the system itself. We find Procedure 770's distinction between repair parts, on the one hand, and additions and betterments, on the other, to be particularly informative. Repair parts that LEAs purchase for the maintenance of buildings, equipment and grounds are treated as supplies. (Procedure 770 at 5.) Examples include plumbing fixtures, air conditioning compressors (if part of a larger unit), bus transmissions, and engines. (*Id.*) According to the Agreement, the Academy is responsible for maintaining and replacing supplies.

An exhaust fan is akin to the engine or transmission of a bus. It does not function independently from a larger system. An exhaust fan is part of a ventilation system which includes ducts, ports and vents through which air would eventually leave the building. The system includes electrical wiring to power the fan, which may be synched to a lighting system or a timer. Further, an exhaust fan typically costs under \$150.00, which is a small fraction of the cost to replace the entire ventilation system, and is well short of the \$5,000 capitalization threshold. The low cost of an exhaust fan, along with its other characteristics, leads us to conclude that the Academy is contractually responsible for either repairing or replacing the exhaust fan.

In light of the seriousness of the Grand Jury's concerns, and despite our contentions, we inspected the boys' restroom for the above-described repair items. On July 6, 2017, we entered work orders to check the mounting of all urinals, cut and cap the toilet bolts, and check for cracked toilets. On July 7 we entered a work order to fix the exhaust fan. On July 11, we verified that all urinals were mounted properly and resealed them with caulking. On the same day, we cut and capped the toilet bolts and replaced a failed timer to control the exhaust fan. On July 14, we replaced a toilet, which was indeed cracked, although it still functioned properly.

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### Girls' Restroom

According to the Report, the girls' restroom has a malfunctioning light fixture which is "most likely" the result of a burned out ballast. Also, the exhaust fan was not working.

A ballast moderates the electric current that flows to a fluorescent lamp. It allows for enough current to start the lamp and then quickly reduces the flow to prevent a lamp from overheating and burning out. A malfunctioning or blown out ballast will cause a lamp to flicker or burn out quickly. A ballast replacement typically costs under \$100 and is not an item of "major maintenance" under the agreement. Neither is a ballast replacement deferred maintenance under section 17582. Procedure

770 suggests that a ballast is a supply item (Procedure 770 at 5) for which the Academy would be responsible. Therefore, the District denies that it has an obligation to repair the malfunctioning light fixture.

Regarding the malfunctioning exhaust fan in the girls' restroom, please see the District's analysis regarding the exhaust fan in the boys' restroom. The District contends that it is not responsible for repairing or replacing exhaust fans.

At present, both of the girls' restroom items have been resolved. As of May 5, 2017, the regular and emergency ballasts had been replaced. On July 11, 2017, the District replaced a failed timer on the exhaust fan.

### Multi-Purpose Room

According to the Report's Attachment 1, the "MPR," which we presume to mean multipurpose room, has multiple maintenance concerns. "Wallpaper is damaged or missing in multiple locations." A prior leak in either the ceiling or roof left a stain upon a ceiling tile in the center of the room. Small cracks appear in the floor tile along the foundation seam.

The Report's Attachment 1 labels the concerns in the multipurpose room as "low priority." That designation suggests that the maintenance required is routine or minor in nature, and that the District would not be responsible therefor.

*Finding No. 3 asserts that the District has not complied with the Agreement regarding major maintenance.*

We respectfully disagree with the finding that the District has not complied with the Agreement. As explained throughout this response to the Report, many of the maintenance and repair items identified in the Report are not "major maintenance" items for which the District is responsible. The District is not in violation of the Agreement where it has not assumed responsibilities beyond those identified in the Agreement. Furthermore, our staff has responded to "major maintenance" repair items when they have been brought to our attention. While we find it unfortunate that the repair items have occasionally gone unfixed, we cannot agree that we have breached the Agreement.

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**Recommendation 17-33: Prioritize work orders received by Adelanto Elementary School District by ranking the repairs needed and repair accordingly.**

Recommendation 17-33 relates Finding F14 which asserts that "[w]ork orders are prioritized by [the District] but not repaired accordingly." The District disagrees with the finding. Our staff have either addressed the maintenance items identified in the Report, or, in the case of the separation cracks in the asphalt, have begun planning repairs.

Despite the point of disagreement with respect to Finding F14, the District agrees with the Report's recommendation that it should prioritize work orders with a ranking system that reflects the urgency of the repair. The District's maintenance team members have already incorporated the priority system articulated in the Report's Attachment 1 into their own priority system.

**Recommendation 17-35: Compensate Desert Trails Preparatory Academy for major maintenance repairs paid by the school because Adelanto Elementary school District is responsible for major repairs according to the Charter Facilities Agreement of June 26, 2013.**

The District is committed to paying its share as per the Agreement and applicable law towards the maintenance at Desert Trails. While the District is proud to live up to its responsibilities in providing suitable school facilities, the District respectfully disagrees with the Grand Jury's determinations of which parties are responsible for the identified repairs. The District disagrees with Finding F10 which asserts that "[Desert Trails] has paid for major maintenance repairs when Adelanto Elementary School District should have paid per the [facilities agreement] of June 26, 2013."

The Report identifies four maintenance items for which Desert Trails paid, and the Report attached the receipts therefor as Attachments 3–6.

***Window Panes (5)***

The first maintenance item was for window pane replacement and installation. The five panes cost \$1,511.82 (average of \$302.36). The vendor charged \$478.00 to install them, bringing the total value of parts and services to \$1,989.82.

The District disagrees that the replacing of five window panes constitutes a "major repair or replacement" of a ventilation system. As stated above, in reference to rooms 25, 36, 37, and 38, window pane replacement is more similar to a "routine" or minor repair (i.e., *non-major maintenance*) under Procedure 770 than it is to an addition or betterment. For this reason, the District contends that the Academy should pay the cost of window pane replacement.

***Air Conditioning Motor and Freon***

The second maintenance item was for replacement of a motor and related components for an air conditioner. The vendor also added Freon to the system. The total price was \$750.00.

The District contends that the cost of the air conditioning repair should be regarded as supply costs which are the Academy's responsibility. Air conditioning units may require additional Freon to remain functional in the event of a leak. Freon is thus a supply that may be consumed and replaced

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without substantially increasing the value of the facility. (See Procedure 770 at 1.) Also, according to Procedure 770, component parts are supplies. (*Id.* at 5.) The replacement motor is thus a supply for which the Academy is responsible.

#### *Air Conditioning Compressor*

The third maintenance item related to installation of a new compressor for a wall mounted air conditioning unit. The Academy paid a vendor \$2,050.00 (after receiving a \$250.00 credit) to install a new compressor for a wall air conditioning unit. The District contends that the new compressor was an item of routine maintenance.

Procedure 770 specifically identifies air conditioning compressors which are part of a larger unit as supplies. (*Id.* at 5.) As with the other supplies mentioned in the Report, the Academy should be responsible for the compressor. Notably, even if the compressor were not a part of a larger unit, and were instead a separate item of equipment, Procedure 770 would regard the compressor as a supply. The compressor's low acquisition cost, less than half of the capitalization threshold, indicates that an LEA should treat it as a supply. Again, the Agreement states that the Academy is responsible for supplies. The District respectfully disagrees with the conclusion that it should reimburse the Academy for the cost of the compressor.

#### *Roofing Tiles (10)*

The fourth maintenance item was a purchase of ten roofing tiles at \$14.00 each, for a total of \$140.00. The District contends that it should not have to reimburse the Academy for this cost.

The ten roofing tiles make up a small percentage of facility's rooftop surface area. As such, the tiles do not constitute the repair or replacement of a roofing system per either Section 9 or Section 17582.

Given the small amount of tiles, the District denies that there is any ambiguity about this determination but points to Procedure 770's distinction between supplies (Academy's responsibility) and capitalized equipment (District's responsibility). The tiles are parts of the larger roofing unit, and their combined cost is far below the capitalization threshold. The tiles should be regarded as supplies—items for which the Academy is responsible.

### **Suggested Future Practices**

We acknowledge that it is in the best interest of all parties—the District, Academy and those we serve—that the District and Academy better coordinate their maintenance efforts. To that end, we identify two measures that the District and Academy can take in order to coordinate our efforts.

First, we suggest that the parties more consistently rely on Procedure 770 to distinguish "major maintenance" from "routine maintenance" (*non-major maintenance*). As part of that reliance, the Academy should be presumed responsible for equipment and repairs with costs under \$5,000. The Academy may contend that the \$5,000 threshold amount is too high when applied to an inexpensive addition or betterment. We gather from experience, however, that in most instances, items below the \$5,000 threshold will be regarded as "routine."

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Second, we suggest that any item for which the Academy seek a reimbursement be presented to the District, in the form of a work order, prior to the Academy's incurring any expense. This will further the cooperative relationship between the District and the Academy.

### Closing

We at the Adelanto Elementary School District strongly believe in providing the best educational environment for all students—charter or otherwise. For that reason, we embrace our role in helping to provide students at Desert Trails Preparatory Academy with high quality facilities that better enable them to achieve their academic goals.

In closing, we reiterate that the District takes the Grand Jury's findings and recommendations seriously. We have worked to remedy the identified issues. Additionally, we have proposed measures to better ensure that the District's facilities meet the high standards of our staff and the community.

Sincerely,

A handwritten signature in black ink that reads "Dr. Amy Nguyen-Hernandez". The signature is written in a cursive, flowing style.

Dr. Amy Nguyen-Hernandez, Superintendent

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# **SECTION 4**

**COUNTY OF SAN BERNARDINO**





**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF SAN BERNARDINO COUNTY, CALIFORNIA  
AND RECORD OF ACTION**

September 12, 2017

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
GRAND JURY

SEP 12 2017

**FROM: DENA M. SMITH, Interim Chief Executive Officer  
County Administrative Office**

BY UNMALLIKARJUN NIRMALAKRISHNAN  
NORMAN SEAN, DEPUTY

**SUBJECT: 2016-17 GRAND JURY FINAL REPORT – PROPOSED RESPONSE**

**RECOMMENDATION(S)**

Approve the Proposed Response to the 2016-17 Grand Jury Final Report and direct publication and filing with the Presiding Judge of the Superior Court, the Clerk of the Board of Supervisors, and the County Clerk.

(Presenter: David Wert, Public Information Officer, 387-4842)

**BOARD OF SUPERVISORS COUNTY GOALS AND OBJECTIVES**

**Improve County Government Operations.**

**Operate in a Fiscally-Responsible and Business-Like Manner.**

**Provide for the Safety, Health and Social Service Needs of County Residents.**

**Pursue County Goals and Objectives by Working with Other Agencies.**

**FINANCIAL IMPACT**

Approval of this response and filing will not result in the use of additional Discretionary General Funding (Net County Cost).

**BACKGROUND INFORMATION**

California Penal Code Section 933(c) requires the Board of Supervisors (Board) to formally adopt and file with the Presiding Judge of the Superior Court a response to the findings and recommendations contained in the Grand Jury's Final Report on matters under the Board's purview no later than 90 days after the Final Report is submitted. The 2016-17 Grand Jury submitted its Final Report on June 30, 2017, giving the Board through September 28, 2017 to adopt and file its response.

The 2016-17 Grand Jury Final Report contains five reports on matters under the Board's purview: Children and Family Services; High Desert Ambulance Availability and Bed Delay; Request for Proposals for the Indigent Adult Appointed Representation Service Contract; San Bernardino County Facilities, Site Security and Public Safety; and San Bernardino County Department of Veterans Affairs. The Proposed Response addresses the findings and recommendations contained in these two reports in compliance with PC 933(c).

**PROCUREMENT**

Page 1 of 2

cc: CAO-Smith  
CAO-Wert  
CAO-Shea  
Superior Court-Presiding Judge w/  
response  
County Clerk w/ response  
File - 2016-17 Grand Jury w/ response  
jll 09/20/17

**ITEM 26**

Record of Action of the Board of Supervisors

**APPROVED (CONSENT CALENDAR)  
COUNTY OF SAN BERNARDINO**

Board of Supervisors

MOTION	AYE	ABSTAIN	SECOND	MOVE	AYE
	1		2		5

LAURA H. WELCH, CLERK OF THE BOARD

BY Ginnifer

DATED: September 12, 2017







**County of San Bernardino Board of Supervisors  
Response to the  
2016-17 San Bernardino County Grand Jury Final Report**

(NOTE: The original verbatim text from the 2016-17 Grand Jury Final Report is in *plain italic type*. The responses from the Board of Supervisors are in **bold non-italic type**.)

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## *CHILDREN AND FAMILY SERVICES*

### *FINDINGS*

*F1: CFS has made steady progress on implementing changes in organizational objectives.*

**The County agrees with this finding.**

*F2: No progress reports have been made directly to the BOS to apprise them of the value of investing \$250,000 in the redesign.*

**The County disagrees with this finding. CFS provided a progress report to the Board of Supervisors on October 4, 2016 regarding completed redesign-related improvements designed to equip staff to better serve the children and families of San Bernardino County.**

**The progress update informed the Board about:**

- **The creation of the After-hours Response Center**
- **Recruitment and retention efforts, including the hiring of 38 Social Services Practitioner Vs**
- **The distribution of 600 cell phones and 200 laptops to social work staff**
- **The adoption of the Structured Decision Making (SDM) Assessment Tool.**

*F3: A disconnect exists between the implementation of the redesign elements and the changes brought about in organization and operations.*

**The County partially agrees with this finding. A number of steps have been taken to communicate major changes in organization and operations made as a direct result of the Business Redesign Project to staff at all levels. For example, coaches and champions were designated to disseminate knowledge and information regarding redesign elements at the regional level. In addition, *The CFS View* - a video conferencing network - was introduced and is being used for the monthly All-Staff meeting to facilitate a free flow of information regarding all aspects of organization and operations, including the redesign.**

**The County however, agrees that there is an opportunity to better communicate to staff the relationship between the Business Redesign Project and the organizational and operational changes that have been made as a direct result of the project.**

*F4: Workers who had been part of blended units expressed a preference for them for their teamwork aspect.*

**The County acknowledges that some of the workers interviewed by the Grand Jury expressed a preference for blended units. However, the organizational change from blended units to "unblended" specialized units (which narrows the focus of supervision and increases**

accountability) is based on a study and recommendation by the Deloitte Consulting Group. Emphasizing the importance of specialization in child welfare services, Deloitte noted in its report:

- Court work is complicated and there is a high degree of specialty needed.
- The blended units require a high level of program knowledge as well as time and effort from the supervisors.

Further, the implementation of this Deloitte recommendation regarding “unblended” specialized units was facilitated by the Unit Configuration and Caseload Management Committee comprised of all levels of staff and was created as part of the Business Redesign Project.

*F5: Although CFS is approaching full staffing, professional training takes one to two years. Therefore, it will be some time before current staff members, whose case and workloads remain high, feel the effects of full staffing.*

**The County agrees with this finding.**

*F6: There were no clear job descriptions to distinguish among SSP classes I-V.*

**The County agrees with this finding.**

*F7: CFS has begun to provide ARC shifts in outlying offices.*

**The County agrees with this finding.**

*F8: Staff welcomed the issue of new technological tools. In the field these tools will enable staff to better utilize time and communicate with offices and clients.*

**The County agrees with this finding.**

*F9: The wording of 2012-2013 Grand Jury Recommendation 13-10 lacked specificity: “Enhance the Annual Report for this purpose.” The “Annual Report” that the Grand Jury recommended to be upgraded for the purpose of accountability to the public was not SIP. It was the former in-house report intended for the staff, which CFS has since made a public document on the CFS website.*

**The County agrees with this finding.**

*F10: Updating of CFS website is limited.*

**The County agrees with this finding.**

#### RECOMMENDATIONS

*17-10: Implement fully the Deloitte methodology and replicate portions of it that would reveal Children Family Services staff perceptions of the redesign changes.*



**Children and Family Services has fully implemented the Deloitte business redesign methodology of Project Initiation, Data Gathering, Data Analysis and Recommendations. The recommendation to replicate portions of the methodology to reveal CFS staff perceptions of the redesign changes will be implemented. Consistent with the methodology, CFS will use some combination of focus groups, learning circles, surveys and ad-hoc meetings to better understand the perception of CFS staff related to the business redesign changes. Information-gathering forums will begin October 2017 and will extend to June 30, 2018. Findings will be reported to and considered by the CFS Executive Team on or about October 31, 2018.**

*17-11: Review Deloitte's research methodology and replicate relevant tools to compare pre- and post-measurements of staff perceptions toward changes in operations, organization and their work lives resulting from the redesign.*

**The County will implement this recommendation. Consistent with the research methodology, CFS will use some combination of focus groups, learning circles, surveys and ad-hoc meetings to better understand staff perceptions toward changes in operations, organization and their work lives resulting from the redesign. Findings will be reported to and considered by the CFS Executive Team on or about October 31, 2018.**

*17-12: Provide a full progress report to the Board of Supervisors.*

**The County will implement this recommendation. In collaboration with the County's Program Development Division, CFS will finalize and submit a final progress report to the Board of Supervisors based on the recommendations of the Deloitte Consulting Group by July 1, 2018.**

*17-13: Present a full progress report to the Children Family Services staff.*

**The County will implement this recommendation. Throughout the redesign project CFS provided staff at all levels with regular verbal progress reports delivered by Coaches and Champions for each initiative through regional meetings and the CFS View - the video conferencing channel being used for the monthly all-staff meeting. In collaboration with the County's Program Development Division (PDD), CFS will complete and submit a final progress report to staff by July 31, 2018.**

*17-14: Survey the Children Family Services staff on the effectiveness of blended units.*

**The effectiveness of blended units as well as other redesign efforts will be determined through the research outlined in the County's Response to Recommendation 17-10.**

*17-15: Maintain intensified efforts to hire, train, and retain professional workers to lower cases and workloads, particularly in the High Desert and other remote locations.*

**The County will implement this recommendation. Intensified efforts to hire, train and retain professional workers to lower case and workloads, particularly in the High Desert and other remote locations, will continue through the end of 2018 and into 2019 based on need and as permitted by fiscal resources.**

*17-16: Provide Children Family Services staff with full job descriptions for each Social Service Practitioner classification (I-V).*

**The County will implement this recommendation. Full job descriptions for each Social Service Practitioner classification (I-V) will be provided to all CFS staff by the end of calendar 2017.**

*17-17: Give increased priority to expand After-hours Response Center shifts, particularly in remote offices in 2018.*

**The County will implement this recommendation. The After-hours Response Center became operational on June 25, 2016 with 12 social workers. Presently, the After-hours Response Center is staffed with 18 social workers with all shifts and geographic areas covered. It is anticipated that in 2018, the After-hours Response Center will be staffed with 22 social workers, providing sufficient coverage for the remote offices.**

*17-18: Adapt the former in-house annual report as the Children Family Services Annual Report for accountability to the public. Replace raw numbers with statistical numeric and percentage comparisons for data in the revised Annual Report.*

**The County is in the process of fully implementing this recommendation. CFS has made the former in-house annual report a public document since 2015 by posting it on its website. Beginning this calendar year (2017), the Children and Family Services Annual Report will include statistical numeric and percentage comparisons for data contained in the report. The annual report for calendar year 2017 will be published by September 30, 2018.**

*17-19: Update the status of the Redesign Executive Summary and the System Improvement Plan Roadmap on the Children Family Services website annually.*

**Regarding the Redesign Executive Summary, the County will partially implement this recommendation. The summary will be updated in the form of a close-out report that will contain relevant information drawn from the full progress report to Children and Family Services staff (Recommendation 17-13) and the final progress report to the Board of Supervisors. The Redesign Executive Summary final progress report will be posted on the CFS website by July 1, 2018.**

**Regarding the System Improvement Plan (SIP), this recommendation will be implemented. San Bernardino County CFS and the Probation Department are collaborating with the California Department of Social Services (CDSS) and a significant number of stakeholders and community partners to update the SIP. It is expected that CDSS will approve the County's new SIP sometime around February 2018. The new SIP will be in effect until February 2023.**

**Upon CDSS approval of the new SIP, the SIP Roadmap will be updated on the CFS website as pertinent changes occur to the SIP in consultation with CDSS. The SIP Roadmap for the current System Improvement Plan has been updated and posted on the Children and Family Services Website.**



17-20: Provide the telephone numbers and email address for Children Family Services Administrative Offices on the "Contact Us" page of the website.

**This recommendation has been implemented.**

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#### HIGH DESERT AMBULANCE AVAILABILITY AND BED DELAY

**The Board of Supervisors is responding to this report in its capacity as the Governing Board of the Inland Counties Emergency Management Agency (ICEMA)**

#### FINDINGS

*F1: Demands on the 9-1-1 system are influencing the need for a re-evaluation of the EMS system. It was designed "to provide better management of resources, real-time exchange of medical information, and improvement in the delivery of appropriate, safe, cost effective, and quality healthcare." (Attachment 1, page i).*

**ICEMA agrees with this finding.**

*F2: Bed delay directly affects the safety of patients and the general public who experience emergencies.*

**ICEMA agrees with this finding.**

*F3: A shortage of ED beds and the lack of a trauma center exist in the High Desert. This shortage leads to hospital and emergency department overcrowding resulting in bed delays.*

**ICEMA agrees with this finding.**

*F4: The misuse of the 9-1-1 system on a regular basis overloads dispatch and decreases the availability of ambulances.*

**ICEMA agrees with this finding.**

*F5: A lack of coordination occurs among the three high desert hospitals, AMR, and SBCFD regarding overcrowding.*

**ICEMA agrees with this finding.**

*F6: Communication problems result from AMR and SBCFD not operating on the same radio frequency.*

**ICEMA agrees with this finding.**

*F7: Enhanced 9-1-1 call screening data is collected but not utilized.*

**ICEMA agrees with this finding.**



*F8: No effective action has taken place to begin implementation of the ICEMA "Centralized Medical Control Proposal."*

**ICEMA agrees with this finding.**

#### **RECOMMENDATIONS**

*17-21: Implement the Inland Counties Emergency Medical Agency's "Centralized Medical Control Proposal."*

**This recommendation requires further analysis, specifically a discussion involving the various stakeholders on the costs, feasibility, and various possible configurations of a Centralized Medical Control program. This analysis will take place within six months of the date of this response.**

*17-22: Educate the general public for the correct use of the 9-1-1 system.*

**Public education on the proper use of the 911, including alternatives for those who believe they need emergency assistance, is necessary. This recommendation requires further analysis, specifically a discussion involving the various stakeholders on the costs and various possible configurations of a 911 public education program. This analysis will take place within six months of the date of this response.**

*17-23: Implement and utilize enhanced 9-1-1 call screening of pre-hospital triage strategies. Include utilization of existing nurse advice lines designed to identify patients who do not require the traditional Emergency Medical Services response or an Emergency Department to provide care for the patient's medical complaint.*

**Enhanced 911 call screening is worthy of consideration. This recommendation requires further analysis, specifically a discussion involving the various stakeholders on the costs, feasibility, and various possible configurations of an enhanced 911 call screening program. This analysis will take place within six months of the date of this response.**

*17-24: Track dispatches between American Medical Response and San Bernardino County Fire Department to determine the number of patients each hospital can serve based on the availability of beds to ease the number of bed delays.*

**This recommendation requires further analysis, specifically a discussion involving the various stakeholders on the costs, feasibility, and various possible approaches involved in tracking dispatches. This analysis will take place within six months of the date of this response.**

*17-25: Create a process to facilitate access to a common radio frequency between American Medical Response and San Bernardino Fire Department that will aid in the real time monitoring of their ambulances.*

**The ICEMA Governing Board sees the merit in this recommendation. However, this recommendation requires further analysis, specifically a discussion involving the various stakeholders on the costs, feasibility, and various possible approaches involved in improving**

**emergency medical communications. This analysis will take place within six months of the date of this response.**

*17-26: Build a new San Bernardino County hospital in the High Desert similar to Arrowhead Regional Medical Center that includes a trauma center.*

**This recommendation requires further analysis, specifically a discussion involving the various stakeholders on the costs, feasibility, and various possible approaches to addressing the concerns upon which the recommendation is based. This analysis will take place within six months of the date of this response.**

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*REQUEST FOR PROPOSAL FOR THE INDIGENT ADULT APPOINTED REPRESENTATION SERVICE CONTRACT*

*FINDINGS*

*F1: When the contract was awarded in March 2014, a decision was made to issue the contract to only one proposer to cover all four regions. The Grand Jury was informed that there was a catch-all statement within the RFP that authorized the proposal to be issued to either one region or to all four regions. When the interviewees were asked to locate this statement in the RFP, they were unable to do so.*

**The RFP contained language that allowed the County to award the contract to one proposer to cover all four regions:**

**VI. PROPOSAL SUBMISSION**

**B. Proposal Presentation**

**"The County reserves the right to reject any and all proposals or portions of proposal or alternates received by reasons of this request, to negotiate separately with any source whatsoever in any manner necessary to serve its interests."**

**VII. EVALUATION AND AWARD**

**D. Award**

**"Contract(s) will be awarded based on a competitive selection of proposals received. The contents of the proposal of the successful proposer will become contractual obligations, subject to negotiations per section III. H of this document, and failure to accept these obligations in a contractual agreement may result in cancellation of the award."**

*F2: The Grand Jury determined that based upon interviews and the terms used within the purpose of this RFP, the proposers were led to believe that the contract would be awarded based upon past practices.*

**The County agrees with this finding. However, the purpose statement would not typically contain language regarding proposal conditions or award.**



*F3: The Grand Jury found that the statement including one or more regions, up to all four regions, was omitted from this RFP.*

**The County agrees with this finding. However, the RFP contained language allowing the County to award the contract to one proposer to cover all four regions.**

*F4: Based upon the Grand Jury's interviews and documentation received, the Purchasing Department had no guidelines to define when a RFP should be re-issued.*

**The County partially agrees with this finding. There is no written policy or procedure that states specifically when an RFP should be re-issued, but the Purchasing Agent has guidelines or practices to address various circumstances.**

**Examples of when an RFP may be terminated include, but are not limited to, changing needs, funding issues, a poorly written scope of work, or if a protest is upheld. In any of these situations, the County may deem it necessary to cancel and/or re-issue a RFP. The County reserves the right to terminate an RFP at any time.**

*F5: When the Grand Jury inquired why State's Superior Court Judges were included, it was stated that they would be in the best position to know the reputations of the attorneys submitting the bid proposals.*

**The County is unable to address this finding because the County is not aware of any such statement being made.**

*F6: The Grand Jury does not have jurisdiction to request interviews or obtain any documentation from the State's Superior Court Judges who served as two members of the panel.*

**The County respectfully declines to address this finding because the County is not an authority on the grand jury's jurisdiction.**

*F7: Two attorney from County Counsel served as members of this panel.*

**The County agrees with this finding.**

*F8: No process was in place to validate the legal entity of the proposer.*

**The County agrees with this finding. The nature of each proposer's organizational structure was not a factor in the evaluation. It is simply standard information collected when proposals are submitted.**

**For the Indigent Defense RFP, six proposals were received including two that indicated "joint venture" and a third as "other" but also describes a business enterprise involving personnel from two law firms. The others were proprietors and a partnership.**

**It is impractical to validate every statement or claim made in a proposal. For example, these proposals contained dozens of resumes and curriculum vitae outlining credentials for attorneys involved in each organization. The solution is to require proposers to attest to the accuracy of the contents of the proposal, knowing that the contents will be the basis for the contract.**



*F9: In reviewing the appeal letters, it was discovered by the Purchasing Department that one of the proposers was not a legal entity at the time the proposal was submitted.*

**The County disagrees with this finding. The Purchasing Department is unable to locate any reference to organizational structure in the appeal letters. There was no requirement or proposal condition regarding legal status of the proposing entity.**

*F10: The justification of the scoring of references could not be validated as no documentation could be located.*

**The County partially agrees with this finding. The County does acknowledge that scoring sheets did include the evaluators' scores for references. As stated in the grand jury report, the buyer's duties did not include reference checks. Due to ongoing contract administration by the Court, the Court retained original materials specific to the procurement. The County cannot address any documentation that may or may not be contained in Court files.**

*F11: The Grand Jury noted that there were wide variations among the evaluators' scores within the same categories.*

**The County agrees with this finding. Evaluation panels by nature reflect the differing perspectives of those involved, as evaluators draw different conclusions about the content of each proposal. The scoring process therefore averages the ratings.**

*F12: The Purchasing Department is currently working on training modules that will include specific guidelines for issuing of RFPs.*

**The County agrees with this finding.**

#### **RECOMMENDATIONS**

*17-36: Clearly state on the RFP whether one region or all four regions will be considered for awarding a contract.*

**The County will implement this recommendation during the next Indigent Defense solicitation process at no additional cost to the County.**

*17-37: Follow written guidelines from the Purchasing Department when choosing panel members who evaluate proposals for RFPs.*

**The County will implement this recommendation as part of the RFP training (Evaluation and Award Module) expected to commence during the current fiscal year at no additional cost to the County.**

*17-38: Assemble stakeholders to determine who would best serve as evaluation panel members. Explore using representatives from other counties as potential panel members.*

**The County will implement this recommendation to the degree it is practical. The Purchasing Department will provide written guidelines to instruct departments regarding the choice of**

panel members, including the use of stakeholders and, in some situations, potential representatives from other public agencies, to the extent that the other agencies authorize participation in our County's process.

*17-39: Require that each proposer submit a copy of a valid business license with its bid proposal.*

**The County will not implement this recommendation because it is unnecessary. Every vendor is obligated by contract to ensure they have all necessary licenses, permits and/or certifications by federal, state, county and municipal laws, ordinances, rules, and regulations. The contractor is required to maintain these licenses, permits, and/or certifications for the duration of the contract.**

*17-40: Create a permanent tracking log that lists each step in the process, including who is responsible for each step and the date it was completed.*

**The County will implement this recommendation in the form of a tracking log template for departments to use at their discretion. The Purchasing Department will urge the use of a log as part of the RFP training (Managing the Process Module) at no additional cost to the General Fund.**

*17-41: Use the median score to lessen the effect of the highest and lowest scores on the final score.*

**The County will not implement this recommendation. Various evaluation methods are employed, most that weight and/or average scores. A median score by definition may distort the overall score, whereas an average, or mean, would be considered an industry best practice.**

*17-42: Implement training modules specific to the RFP process.*

**The County is in the process of implementing this recommendation during the 2017-18 Fiscal Year.**

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## SAN BERNARDINO COUNTY FACILITIES, SITE SECURITY AND PUBLIC SAFETY

### FINDINGS

*F1: The County Security Sub-Committee is using best practice standards as outlined by Department of Homeland Security and Interagency Security Committee standards when assessing the buildings mentioned.*

**The County agrees with this finding.**

*F2: Employee training on security procedures and best methods is an important component to overall safety.*

**The County agrees with this finding.**

*F3: Remodeling, renovations and training for enhanced security come at a considerable financial cost.*

**The County agrees with this finding.**

#### **RECOMMENDATIONS**

*17-43: Best practice standards as outlined by Department of Homeland Security and Interagency Security Committee be continued in all phases of this project.*

**The County is implementing this recommendation. Future building assessments will be qualitative and include threat definition/identification, determination of critical assets, a vulnerability analysis, security program analysis, and operational analysis. The assessments are based on Department of Homeland Security standards and guidelines with input from local law enforcement and subject-matter expert partners.**

*17-44: All future new construction should incorporate Department of Homeland Security and Interagency Security Committee standards.*

**The County is implementing this recommendation. The County's security subcommittee is currently reviewing all new building security measures and features to ensure that Department of Homeland Security standards and guidelines are incorporated into their design.**

*17-45: Training by the Sheriff's Department regarding Safety and Security be scheduled regularly for all County departments.*

**The County will implement this recommendation. The County Administrative Office, the Sheriff's Department, the County Fire Office of Emergency Services, County Information Services, Human Resources, Risk Management, County Real Estate Services, and the County Performance, Education and Resource Centers are working together to develop a safety and security training curriculum and delivery strategy for all County employees for implementation sometime during the current fiscal year.**

*17-46: Regular training, such as that provided by Guidepost Solutions, be made a priority for all County employees.*

**Please see the response to the previous recommendation.**

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#### **VETERANS AFFAIRS**

##### **FINDINGS**

*F1: There are limited promotional opportunities from the VSR I classification to the VSR II classification as one can only be promoted when a VSR II position becomes vacant.*



**The County disagrees with this finding. The VA Department can request a reclassification from VSR I to VSR II.**

*F2: VSR Is are leaving their job to pursue positions with better advancement, taking valuable training and experience with them.*

**The County agrees with this finding. VSR I staff members have left the department to pursue other job opportunities with greater advancement potential.**

*F3: The County General Fund contributed \$1,570,326 in 2016. The 2016 allotment was less than the amount received in 2011.*

**The County disagrees with this finding. The County General Fund contributed \$1,570,326 to the department budget in Fiscal Year 2016-17 and \$1,276,566 in Fiscal Year 2011-12.**

*F4: The State and Federal Departments of Veteran's Affairs are constantly changing the procedures and eligibility requirements for claims and benefits.*

**The Federal Government periodically changes the laws (US Code Title 38) governing the U.S. Department of Veterans Affairs, making veterans eligible for new benefits.**

*F5: Because the State funding is distributed to counties on a pro-rata basis, the more claims filed by a county with a reasonable chance of approval result in more funding that the county receives.*

**The County agrees with this finding.**

*F6: The current staffing numbers of experienced VSRs does not allow adequate staffing of satellite facilities and contributes to long wait times for veterans.*

**The County disagrees with this finding. The department has increased available hours at satellite facilities with existing staff. Service availability in Twentynine Palms and Yucca Valley was increased from one day per month to one day per week at each facility. Additionally, service was added to the VA Ambulatory Care Clinic (VA Loma Linda Hospital) four days per week.**

#### **RECOMMENDATIONS**

*17-47: Increase staffing to reduce veterans wait times and relieve the current workload on the VSRs. Allow the SBC VA to staff satellite offices more than one day a week. Open the full time offices five days a week and allow staffing for additional locations as identified while maintaining the 9/80 employee work schedule.*

**Organizational staffing levels for the department are undergoing analysis during the current 2017-18 Fiscal Year. Additional staff positions are being considered.**

*17-48: Create an upward mobility track that would allow a qualified VSR I to promote to VSR II when requirements are met and he/she can demonstrate the ability to perform the duties of a VSR II.*

**The County will implement this recommendation. VSR I positions can be reclassified to a VSR II position when the employee demonstrates they are working at the VSR II level. The additional cost for each upgraded position is \$3,349 per year.**

*17-49: Revisit the County's funding to allow for additional VSR II positions to meet the needs of veterans in the County.*

**The County will take this recommendation into consideration as it develops future fiscal year budgets.**