

THE IMPERIAL COUNTY

CIVIL GRAND JURY



2009-2010 FINAL REPORT

www.co.imperial.ca.us



Courthouse
P.O. Box 2011
El Centro, CA 92244

Imperial County Grand Jury

June 21, 2010

Honorable Judge Chris Yeager
County of Imperial Superior Court
939 W Main Street
El Centro, CA 92243

And Citizens of Imperial County

Dear Judge Yeager and Citizens of Imperial County,

On behalf of the 2009-2010 Imperial County Grand Jury and in accordance with California Penal Code Section 933, it is my privilege to submit our Final Report to the Court and the citizens of Imperial County.

Our experience as Grand Jurors has led most of us to marvel at this unique institution and we appreciate your selection of us to serve. The Grand Jury serves as a lawful independent institution to enlighten the citizens to the good, mediocre and bad things which happen in their government, and should inspire government leaders to improve their operations. The camaraderie and mutual respect which we as jurors developed, resulted in consensus as the final report developed. We hope that its publication will inspire other residents in Imperial County to serve on future Grand Juries.

On behalf of all 19 members of the Grand Jury, I would like to acknowledge the appreciated advice and guidance throughout the year of our Advisor Judge Yeager, and that our legal consultant, County Counsel Michael Rood. We also want to express our gratitude to the Jury Commissioner's office and county employees.

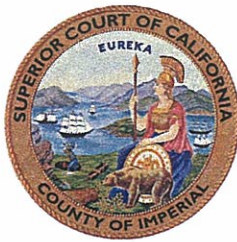
On a personal note, I want to thank my fellow Grand Jurors for the teamwork and dedication they showed, in completing our Final Report. It has been a privilege to serve the citizens of the county in our capacity as members of the Grand Jury.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Kelly Gould'.

Kelly Gould

Foreperson 2009-2010



Superior Court of California
County of Imperial



Office of County Counsel
County of Imperial

On behalf of our judiciary, jury commissioner staff, and Office of County Counsel, we would like to thank and congratulate the 2009-2010 Civil Grand Jury of Imperial County for its service, commitment, and contributions in making the Grand Jury system a relevant and important part of our local government. It is community members, like the grand jurors and regular trial jurors that help us preserve the principles of democracy in action and public trust in our local government.

The many hours devoted by members of the grand jury have resulted in investigations and recommendations aimed at improving the operations and of services by the agencies audited. Each year, the Court engages in community outreach to promote jury service and ensure that community participation in this important civic duty is not simply seen as a burden or inconvenience, but as an opportunity to participate in our democratic governance process and improve our community.

Demographical data required by Rule 10.625 of the California Rules of Court, for the 2009-2010 Civil Grand Jury reflects the following representation of our community:

By Supervisorial District

District 1 = 6, District 2 = 8, District 3 = 8, District 4 = 4, District 5 = 2

Gender

Males = 21, Females = 7

Age

(18-25) = 1, (26-34) = 3, (35-44) = 3, (45-54) = 8, (55-64) = 6, (65-74) = 6, (75 & over) = 0,
Not Available = 1

Race/Ethnicity

American Indian = 2, Asian American = 0, African American = 2, Hispanic = 8, Native Hawaiian = 1,
White = 14, Not Available = 1

Again, many thanks to each member of the 2009-2010 Civil Grand Jury for their civic duty and for making a difference.

Sincerely yours,

Christopher W. Yeager
Presiding Judge

Kristine S. Kussman
Court Executive Officer
Jury Commissioner

Michael L. Rood
County Counsel

**2009-2010 Civil Grand Jury
Imperial County Superior Court
Support Staff**

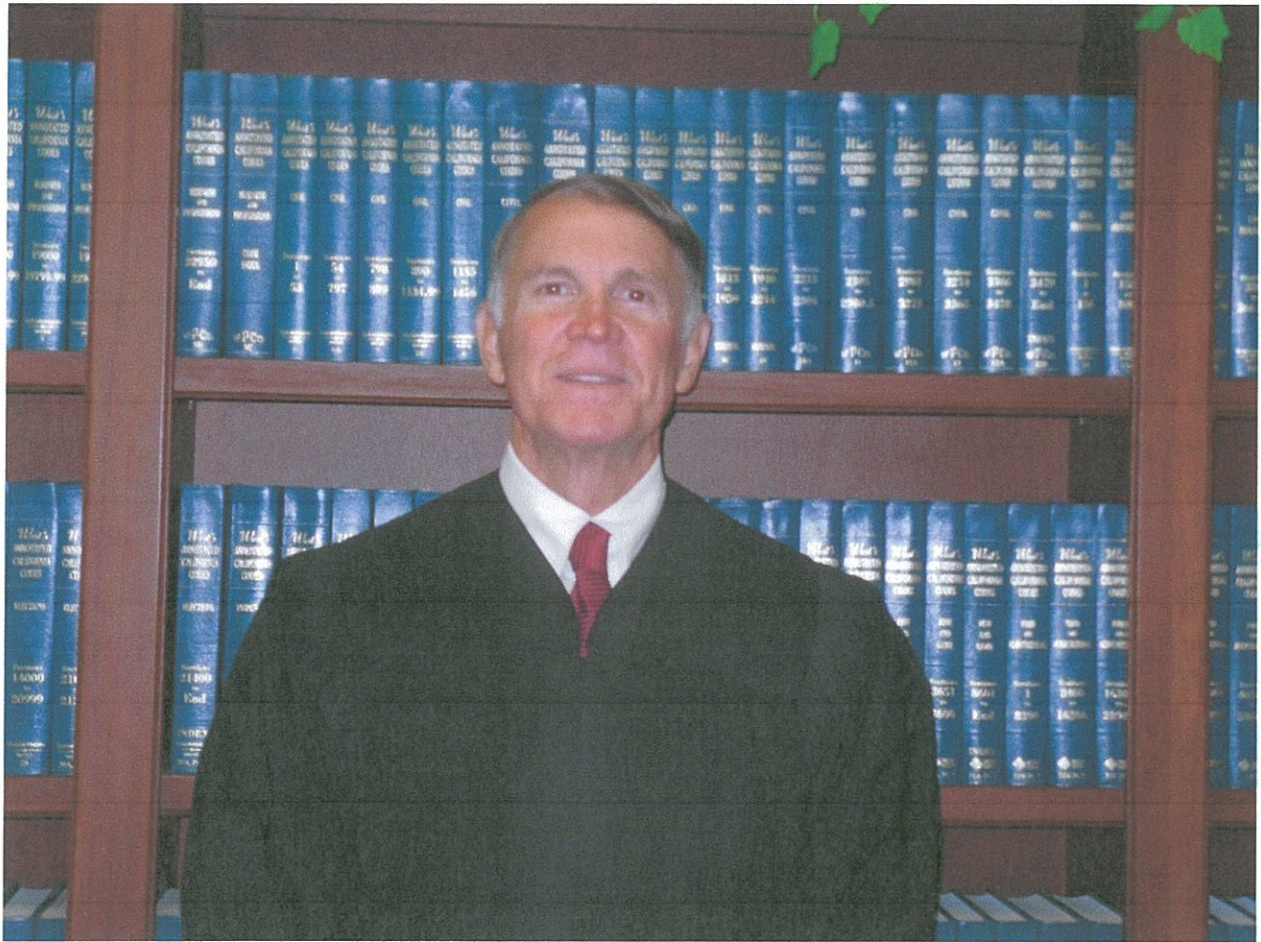


Judy Bird

Jennifer Bolin

Estela Munoz

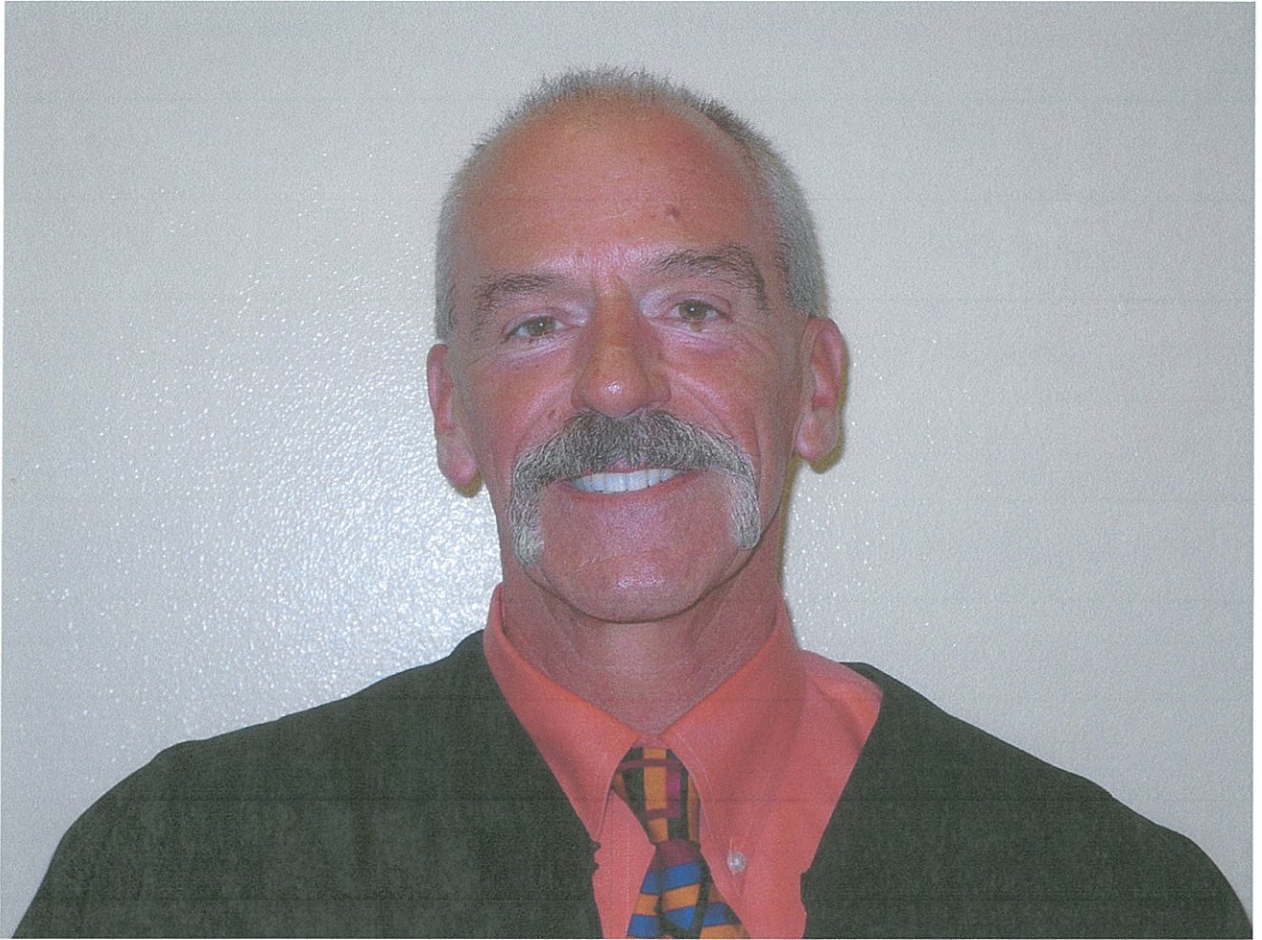
Imperial County Superior Court



Honorable Christopher W. Yeager

Presiding Judge

Imperial County Superior Court



Honorable Donal B. Donnelly

2009-2010 Imperial Valley Civil Grand Jury



Michael L. Rood

County Counsel

Members of the 2009-2010 Imperial County Civil Grand Jury:

Artemio Rodriguez (Calexico)

Clifford Williams (El Centro)

Larry Osa (El Centro)

Kelly Gould (Calexico)

Allen Archer (Ocotillo)

Bennett Kaye (El Centro)

Christine Armendariz (El Centro)

Charles Fisher (El Centro)

Harold Carter (El Centro)

Robert Cline (Imperial)

Susanna Sam (El Centro)

Daniel Santillan (Calexico)

An Overview of the Civil Grand Jury:

The following paragraphs are excerpted from the "Imperial County Grand Jury Procedures Manual," dated February 2006, and are included here to explain the significance of the Civil Grand Jury and the role it plays in local government.

"A Grand Jury derives its name from the fact that it usually has a greater number of jurors than a trial (petit) jury...."

"...Early Grand Juries [in California] investigated local prisons, conducted audits of county books and pursued matters of community interest. The role of the Grand Jury in California is unique in that, by statutes passed in 1880, their duties include investigation of county government. ...California mandate[s] that Grand Juries be empanelled annually to function specifically in a watchdog capacity over county government."

"As constituted today, The Grand Jury is a part of the Judicial Branch of government -- "an arm of the court." It does not have the functions of either the legislative or administrative branches, and it is not a police agency. Additionally, it does not mandate policy changes. It is an inquisitorial and an investigative body tasked with...making recommendations to improve systems, procedures and methods of operations in designated local government. The primary function of the Grand Jury, and the most important reason for its existence, is the examination of all aspects of county government (including special districts), seeing that the public's monies are handled judiciously and that all accounts are properly audited -- in general assuring honest, efficient government in the best interests of the people.."

"The Grand Jury has three ways to exercise its powers:

- 1. Reports: Written communications of unsatisfactory conditions...with recommendations for improvements where no crime is charged.*
- 2. Indictments: Written complaints charging a person with a crime.*
- 3. Accusations: Written complaints against a person whose conviction would result in removal from office rather than criminal penalties.*

"While Grand Jurors are a part of the Judicial System and are considered to be officers of the court, the Grand Jury is an entirely independent body. The Presiding Judge of the Superior Court, the District Attorney, the County Counsel, and the State Attorney General act as its advisors, but cannot prevent the actions of the jury except for illegality."

"A Grand Jury is charged with a grave responsibility. The Grand Jury serves as an ombudsman for the citizens of the county. The jury may receive and investigate complaints by individuals regarding the actions and performances of county or public officials. ...Malevolent and unfaithful public servants are uneasy, while honest citizens and the conscientious public servants are reassured. ...Grand Jury service calls for diligence, impartiality, courage and responsibility."

(No Author Cited)

HISTORY OF GRAND JURIES

*“I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform (them).”
Thomas Jefferson.*

The name Grand Jury is derived from the fact that if it has a greater number of jurors than a trial (petit) Jury. The history of Grand Juries traces back to the founding of common law under the English system in the 11th and 12th centuries. King Henry II of England impaneled the first sixteen-man Grand Jury in 1164 to remove criminal indictments from the hands of the church. By the year 1290, we find that the accusing jury was given the authority to inquire into the maintenance of bridges and highways, the defects of jails, and whether the sheriff had kept in jail anyone who should have been brought before the justices.

The Massachusetts Bay Colony impaneled the first Grand Jury in the United States in 1635 to consider such crimes as murder, robbery and wife beating. The Constitution of the United States as first written in 1776 did not include a provision for Grand Juries. However the Fifth Amendment, ratified in 1791, added this protection: ...*“no person shall be held to answer to a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except for cases arising in the land or naval forces, or in the Militia when in actual service in time of war or public danger.”* By the end of the Colonial period the Grand Jury had become an indispensable adjunct of government. They proposed new laws, protested against abuses in government and wielded tremendous authority in their power to determine who should and should not face trial.

In today's world there are two types of Grand Juries, Criminal and Civil.

- Criminal Grand Juries review evidence presented by a prosecutor and determine whether there is probable cause to return an indictment.
- Civil Grand Juries are the “watchdogs” of county government. They ensure that the county, cities within the county and special districts are lawfully carrying out their duties.

In California Criminal and Civil Grand Juries are separate. California's Constitution mandates a Civil Grand Jury be chosen in each county every year.

THE GRAND JURY IN IMPERIAL COUNTY

The Grand Jury is an investigative body created for the protection of society and enforcement of the law. The grand jury in California is unusual because its duty includes investigation of county government as provided by statutes passed in 1880. Only a few other states required grand jury investigation beyond alleged misconduct of public officials. Although the jury responsibilities are many and diverse, these are the main functions.

Civil Watchdog Responsibilities - This is the major function of present day California grand jurors and considerable effort is devoted to these responsibilities. The grand jury may examine all aspects of county and city government and special districts to ensure they are serving the best interests of Imperial County citizens.

The Grand Jury as a fact-finding body has the potential to make constructive changes and suggest meaningful solutions to a wide range of local governmental problems. This is done by reviewing and evaluating procedures, methods, and systems utilized by the county's various entities to determine if more efficient and economical programs may be employed. The Grand Jury is also authorized to and in some cases must:

- Inspect and audit books, records, and financial expenditures to ensure that public funds are properly accounted and legally spent;
- Inspect financial records for special districts in Imperial County;
- Examine the books and records of any nonprofit organization receiving county of city funds;
- Inquire into the conditions of jails and detention centers; and
- Inquire into any changes of willful misconduct in office by public officials or employees.

Most grand jury "watchdog" findings are contained in reports describing problems they discover and their subsequent recommendations for solutions. To accomplish the county watchdog functions, the grand jury normally establishes several committees. During its term, the grand jury issues final reports on government operations in Imperial County.

After a final report is published, the official or governing body of an agency or government covered in the report must respond to the grand jury within a given period of time, as prescribed by California law. Officials must respond within sixty (60) days; governments or agencies must respond within ninety (90) days. The following grand jury publishes the responses to the final report.

Citizen Requests - As part of the civil function, the grand jury receives complaints from citizens alleging official mistreatment, suspicious conduct, or government inefficiencies. The grand jury investigates reports from citizens for their validity. All such requests are kept confidential until a final report is published. In fact, the complainant is not told whether or not the grand jury will investigate until the report is issued.

CALIFORNIA PENAL CODE
Section 933.05

- a) For purposes of subdivision (b) of Section 933, as to each Grand Jury finding, the responding person or entity shall indicate one of the following:
 - i. The Respondent agrees with the finding.
 - ii. The Respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

- b) For purposes of subdivision (b) of Section 933, as to each Grand Jury finding, the responding person or entity shall indicate one of the following actions:
 - i. The recommendation has been implemented, with a summary regarding the implemented action.
 - ii. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - iii. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - iv. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

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

- d) A Grand Jury may request a subject person or entity to come before the Grand Jury for the purpose of reading and discussing the findings of the Grand Jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

- e) During an investigation, the Grand Jury shall meet with the subject of that investigation regarding that investigation, unless the court, either on its own

determination or upon request of the foreperson of the Grand Jury, determines that such a meeting would be detrimental.

A Grand Jury shall provide to the affected agency a copy of the portion of the Grand Jury report relating to that person or entity two (2) working days prior to its public release and after the approval of the Presiding Judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the Final Report.

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Subject of Investigation: Centinela State Prison

Justification: California State Law mandates that the Civil Grand Jury will inspect all prison and jail facilities on a yearly basis.

Background: Centinela State Prison is operated by the California Department of Corrections and Rehabilitation (CDCR). Centinela State Prison is a Level III / Level IV Institution.

Findings: Current inmate population at Centinela State Prison is 4,488 inmates. This is 1,188 inmates over capacity.

There was a disturbance/incident at Centinela State Prison on April 29, 2010, in that an inmate housed in Facility "C" allegedly assaulted a Correctional Officer. As a result, Facility "C" was on a modified program at the time of the Civil Grand Jury's inspection. This modified plan affected the movement, feeding, medical visits, work activities, dayroom activities, recreation, canteen, package deliveries, phone calls, visitations, use of the law library, and access to religious services for all Facility "C" inmates.

While present in Facility "C," members of the Civil Grand Jury observed an active cell-by-cell search. Canine officers and their handlers from an allied agency, the U.S. Department of Homeland Security, were assisting personnel from the prison in searching inmates' cells. This was a useful alliance for both the search itself and for training.

Conclusion: The investigating committee of the Civil Grand Jury, working from a checklist, determined that Centinela Prison met and passed all inspection criteria and requirements.

Recommendation: The Civil Grand Jury endorses the continuing use of allied agencies, especially the use of canine units, for searches at the prison. Further, the Civil Grand Jury recommends that canine officers and their handlers should be on premises during visitations, as well as in the days immediately after visitations, as a means to curtail and prevent infiltration of drugs and other contraband into Centinela State Prison.

Response Required: The Civil Grand Jury expects consideration of these recommendations and a written response by the Centinela State Prison on or before August 30, 2010.

Subject of Investigation: Imperial County Jail

Justification: California State Law mandates that the Civil Grand Jury will inspect all prison and jail facilities on a yearly basis.

Background: The Imperial County Jail is operated by the Corrections Division of the Imperial County Sheriff's Office. It employs approximately 100 correctional personnel. The jail consists of 2 facilities and has a total bed space of about 600 inmates. All local cities use this centralized jail facility to house their prisoners and persons awaiting trial.

Findings: A committee of the Civil Grand Jury inspected the jail facilities using a checklist recommended by previous Civil Grand Juries.

The Checklist covered these areas, among others: Sanitation, Safety, Security, Inmate Access to Legal and Personal Support, Food Service, Medical Assistance, Education and Job Training, Staff Ethnicity and Staff Morale.

Conclusion: The committee determined that all criteria covered by the checklist were in good order and that there were no violations and no immediate concerns.

The Civil Grand Jury found the facilities to be clean and well-kept. Kitchen and laundry facilities were clean. Food quality was high.

Staff at the facility are well-trained and professional in their appearance and manner. Turn-over among personnel appears to be low, which reflects positively on both the facilities and the division as a whole.

Recommendations: None

No Response Required

Subject of Investigation: Central Valley Cemetery District

Justification: The Central Valley Cemetery District is included in the routine matrix of Civil Grand Jury oversight.

Background: The Central Valley Cemetery District is governed by a three-member Board of Directors. It employs a Superintendent and a staff of ten who are responsible for the management and maintenance of Evergreen Cemetery in El Centro, Terrace Park Cemetery in Holtville, and Imperial Cemetery northeast of Imperial. Only the cemeteries in El Centro and Holtville are actively accepting burials at this time.

Findings: A committee of the Civil Grand Jury inspected the grounds of all three cemeteries under the jurisdiction of the Central Valley Cemetery District. We interviewed the Superintendent, Office Manager, Grounds Foreman, Bookkeeper and all three board members.

Cemetery operations are in good order; the grounds are neat and well-groomed, though high alkaline content is adversely affecting the appearance of the Imperial property and a portion of the Holtville property. Some pieces of heavy equipment are getting old and nearing the end of their usefulness, but they remain working and well-maintained. Employee morale is excellent.

Financial records are updated regularly and audited annually by an independent auditor. All business transactions are transparent and operating within stated budgets. All policies and procedures comply with local ordinances and State law, including the Brown Act.

The cemetery district owns property next to each active site that will allow for future expansion, as needed. There is currently no foreseeable reason to consider expanding the Imperial site. The committee found no evidence of any public complaints about the district. Security measures are in place, and incidences of both trespassing and vandalism remain minimal at all three sites.

The cemetery district's operating budget has been adversely affected by a new billing procedure implemented this year by the Imperial Irrigation District (IID) for its delivery of irrigation water to rural schools, cemeteries, and golf courses. Though we agree that a rate increase might be justified, we cannot justify the arbitrariness of the new charges, especially when the change came about as suddenly as it did. Elsewhere in this document, the Civil Grand Jury is recommending that the IID revisit its new policy.

Recommendation: The Central Valley Cemetery District should provide more intensive cleanup and/or more regular routine maintenance for the Imperial Cemetery in Imperial. This will enhance the property's general appearance and foster a more apparent attitude of endowment.

No Response Required

Subject of Investigation: Riverview Cemetery District

Justification: Riverview Cemetery District is included in the routine matrix of Civil Grand Jury (CGJ) oversight.

Background: The Riverview Cemetery District is governed by 3 Board Members that are responsible for the management and maintenance of the business located at 4700 Hovley Rd., Brawley, CA, 92227. The cemetery employs a General Manager, 1 partime receptionist and 4 fulltime grounds keepers. The cemetery is actively accepting burials at this time.

Findings: A committee of the Civil Grand Jury inspected the grounds, office and shop areas of Riverview Cemetery. All were in good order, neat, and well-maintained.

The committee found no evidence of complaints against the district. Vandalism is occasionally a problem. There have been positive steps to combat this issue.

Copies of the Annual Audit for Fiscal Year 2008-2009, the Budget for Fiscal Year 2009-2010, and the district's Policy Manual were inspected. All were found to be in good order. The district is currently operating within budget, and in compliance with Policy.

Riverview Cemetery District has obtained adjacent property for expansion that will allow for an estimate 50 years of operation.

Recommendation: The Civil Grand Jury has no specific recommendations. The Board of the Riverview Cemetery District is working on a solution for the old office and shop building. The area is a distraction from an otherwise very attractive and properly-maintained facility.

No Response Required

Subject of Investigation: The Imperial County Sheriff's Substation

Justification: The Imperial County Sheriff's Substation is included in the routine matrix of the Civil Grand Jury (CGJ) oversight.

Background: An investigating committee of the CGJ visited substations at Winterhaven, Holtville, and Salton Sea and interviewed several deputies.

Findings: While visiting the substations we found Winterhaven and Salton Sea facilities to be in need of major repairs and generally inadequate. The Holtville substation previously transferred from the Holtville Police Department was well maintained and adequate. Maintaining adequate deputies at the Salton Sea and Winterhaven is also a concern as is the high crime rate at these locations, as well as the lack of holding cells or assigned areas to question subjects. Holding cells, questioning areas, detectives and investigators are located in El Centro.

Recommendations: The facilities at Salton Sea and Winterhaven need to be repaired, maintained or replaced. In areas of high crime the manning of personnel issues should be addressed and increased as needed there should be a dedicated detective or investigator at all sites. Every station should have a holding cell and questioning area, saving the sheriff time and money transporting suspects to El Centro.

Response Required: the Civil Grand Jury expects a response to these recommendations and to receive a written response from the Imperial County Sheriff's Department on or before September 30, 2010.

2009-2010 Imperial County Civil Grand Jury

Final Report of Findings

Subject of Investigation: Imperial County Juvenile Hall

Justification: The Civil Grand Jury is authorized to investigate annually the Imperial County Juvenile Hall.

Background: The Imperial County Juvenile Hall operates under the regulations of the California Standards Authority (CSA). Juvenile Hall detention facilities are located directly behind the main building of the Imperial County Probation Department, which administers the Juvenile Division and employs a Chief Deputy to oversee the Juvenile Hall and its staff.

Juvenile Hall is a large facility with two wings; an original portion, built in 1976, houses three dormitories and a newer portion, built in 1996, houses two dormitories. At capacity, Juvenile Hall can house seventy two youths, though the average population tends to be well below that number. On the day of inspection, there were thirty youth housed in the facility. The average length of stay in the Juvenile Hall is eight days. While in the Hall, youth work under a point system that allows them to exchange accumulated points earned for positive behaviors and actions for tangible rewards such as; candy bars and extra phone calls. There are specific consequences for negative behaviors such as fighting and the consequences range from loss of privileges to being pepper sprayed. All rules and consequences are explained during in-take following a medical exam and prior to the completion of admittance procedures.

Findings: Dormitory one and two housed the general population including high risk detainees, while dormitory five housed the youngest detainees, first time offenders, females and those considered to be low-risk.

Juvenile Hall is a co-ed facility. Males and females are mixed together for most social, education and recreation activities. Sub-groups are color coded as follows:

- Blue – general population
- Red - high risk
- Yellow – caution at the use of pepper spray
- Green - new youth
- Orange - females

There is an on-site health station staffed by a nurse who also serves the Betty Jo McNeece Receiving Home. Physicians' Assistants are available as needed and emergency health care is referred to El Centro Regional Medical Center either by direct transport or by calling 911. All incoming youth must receive a medical clearance prior to intake, particularly if they indicate an injury of having used a controlled substance.

Some rooms have double occupancy, these rooms are built larger to accommodate two youths as per CSA regulations. Smaller rooms are for single occupants also per CSA regulations. All facilities are clean and sanitary including laundry rooms, showers, toilets and dining halls. All rooms have a camera and intercom. Some showers have modesty panels, the remaining showers are in the process of having modesty panels installed.

The dining area is clean and sanitary. All meals are prepared in the kitchen of the old CYA building and then transferred to the on-site dining areas.

All areas of the interior are monitored centrally by video and by physical proximity of the officers. Exterior areas are also monitored remotely. Yards are well reinforced by barriers against escape and are used regularly for physical education and recreation.

Education classes are mandated for all youth and are staffed by credentialed teachers working under the direct supervision of the Imperial County Office of Education. During school hours an officer is in the classroom to monitor behaviors and maintain proper levels of activity.

Counseling service is on going and available to all youth, service providers include Imperial County Behavioral Health Service and the Center for Family Solutions. Catholic Charities has a program that brings in senior citizens to mentor youth in detention and has been successful. Two of the trained "Grandparents" were working with three of the youth on the day of our inspection.

The entire control panel in the front main office does not work.

The Imperial County Juvenile Hall is well organized, clean, sanitary and safe. Every staff member we met during our visit was pleasant and courteous.

Recommendations: Civil Grand Jury recommends that the broken panel in the front main office be replaced to resume monitoring the daily activities for the safety of the youth and staff.

Response Required: The Civil grand Jury expects to receive a written response to this Final Report of Findings on or before August 30, 2010.

2009-2010 Imperial County Civil Grand Jury**Final Report of Findings**

Subject of Investigation: McCabe Union Elementary School District

Justification: McCabe Union Elementary School District is included in the routine matrix of Civil Grand Jury (CGJ) oversight.

Background: An investigating committee of the Civil Grand Jury interviewed the superintendent, two school site administrators, and a board member. Random interviews with various teachers, staff members, students and parents were conducted as well.

McCabe Union Elementary School District is a rural school that serves 1,150 students in grades K-8, on two adjacent campuses (McCabe Elementary School and Corfman Middle School). It is the fastest growing district in the county. McCabe campus was first built in 1906. Corfman is a newly-opened campus.

Findings: Working from the 2009 standardized tests data, the overall API (Academic Performance Index) Score of the district was up 14 points to 856, ranking McCabe as one of the highest performing schools in the county (under the provisions of the federal “No Child Left Behind” Act).

The attendance rates at McCabe are also high, primarily due to its rural nature and the fact that most students are bused in. Currently, the school holds a 96.7% positive attendance rate. Truancy programs, such as SARB (School Attendance Review Board), are not really needed or used.

The demographics at McCabe reflect the ethnic makeup of the populations living in its service area, but they do not reflect the demographics of most Imperial County schools. Currently, the school serves a 76% Latino population. This statistic is beginning to shift more toward the county’s overall ethnic mix as new housing developments to the south and east of El Centro are included in the school’s service area.

A dispute between local developers and the State over the payment and delivery of Imperial County Development fees has had a huge impact on some school-based services, such as the cafeteria, but the school has successfully weathered the funding difficulties attributed to SB 50 (which is outside of the CGJ’s jurisdiction). In fact, delayed apportionments seem to be the biggest financial hurdle faced by the school. State budget cuts have been addressed successfully (so far) by a 3 day furlough plan that applies to all employees including the superintendent.

A major safety concern at McCabe Union School is the snarled traffic at the intersection of two major roads, McCabe and Austin, which are highly congested and dangerously narrow. School officials are in contact with state and federal transportation officials to urge the expansion and increase the regulation of traffic patterns at this vital intersection.

The district’s budget has been impacted negatively by recent changes in the method that fees are charged to rural schools by the Imperial Irrigation District for delivery of irrigation water. This issue is addressed elsewhere in our final report, under the heading of Imperial Irrigation District, but is mentioned here as well.

Findings (continued): The investigating committee specifically inquired about

arts programming, especially those arts activities that were funded under “Tier 3” monies that were allocated to each school by the State of California for art and music instruction. Within the law, there was a provision allowing the money to be converted from arts allocations to the general fund; the investigating committee was pleased to discover that McCabe District used every bit of the “Tier 3” money for its originally-intended purpose. Though arts instruction remains incidental to academics at both McCabe and Corfman Schools, there is a sense among staff that the visual and performing arts fulfill an important cultural component of education.

There are isolated incidents of gang-related activity at the McCabe Union Schools, but no systemic concerns. There is a tremendous concern, however, about recent patterns of Cyber-Bullying and incidents of “Sexting” among the older students in the district. School staff are working closely with Imperial County Office of Education to develop an in-house program that addresses these issues, as well as the more traditional concerns of school and community violence.

Commendation: The McCabe Union Elementary School District’s School Community Violence Prevention (SCVP) Program is a well-developed and collaborative model that coordinates a broad range of prevention, counseling and case management programs among the several rural schools in the collaboration. Of special note are the school’s PeaceBuilders program and the establishment of a Student Well-Being Specialist.

Recommendation: Given its newly-determined service boundaries, the McCabe District should be as proactive in its anticipation of gang-related and drug-related criminal activity as it is to its current issues of bullying and conflict resolution.

The SCVP Program remains a good model to use with younger students, but many of the older students in the district, especially those living in neighborhoods with developing urban crime patterns, have issues that need to be addressed through an active and expanded partnership with the county’s Probation Department and other Community Resource Officer programs.

No Response Required

2009-2010 Imperial County Civil Grand Jury

Final Report of Findings

Subject of Investigation: Calexico Unified School District (CUSD)

Justification: Calexico Unified School District is included in the routine matrix of Civil Grand Jury (CGJ) oversight.

Background / Findings: The committee of the Civil Grand Jury interviewed the Superintendent, Assistant Superintendent(s), Grant Writer, Calexico High School Principal, one Calexico High School Assistant Principal, Arts Academy (DASA) teachers, DeAnza Junior High School Principal, Associated Calexico Teachers (A.C.T.) President, all Calexico Unified School District Board of Trustees members and one community member.

Arts grant money was properly used by CUSD. Funds assisted in the creation of an arts program at Calexico High School. Funds paid for some salary for arts teachers. Funds were also used to pay for partial construction of the components of a theater at Calexico High School.

There is some evidence of a lack of supervision of students outside of the classrooms at De Anza Junior High School.

There appears to be a lack of clarity among Board of Trustees members. Members do not all share common understanding of policies and procedures.

Recommendations: All arts grant projects need to be completed. CUSD, needs to find ways to fund the completion of arts projects at Calexico High School.

CUSD needs to develop a comprehensive plan for the supervision of students outside of class. CUSD board members need formal, consistent and ongoing training in the duties required of board members with whatever is necessary to assist them in understanding the materials and issues facing them.

Response Required: The Civil Grand Jury expects to receive a written response on or before September 30, 2010.

Other issues that arose during this investigation will require further investigation with the CUSD Superintendent by the 2010 / 2011 Imperial County Civil Grand Jury.

Subject of Investigation: Central Union High School District (CUHSD):
Southwest Academy of Visual and Performing Arts

Justification: The Central Union High School District is included in the routine matrix of Civil Grand Jury oversight. Previous juries have investigated the overall programming and business practices of the CUHSD; this investigation targeted a specific program: the Southwest Academy of Visual and Performing Arts (SAVAPA).

Background: SAVAPA is structured as a school-within-a-school and is one of approximately 350 such programs throughout California. SAVAPA students attend an extended day of instruction and have exclusive access to specialized instruction in one of four strands: theatre, dance, music (vocal and instrumental), and technology (computer animation). The technology classes are in conjunction with a program offered by an allied agency, Imperial Valley Regional Occupation Program (IVROP). Program components include provision for direct instruction, field trips, job shadowing and internships, and various motivational activities.

Currently, there are about 90 students enrolled in SAVAPA. Their ethnic, socioeconomic, and academic performance data are well-documented in the paperwork examined by the investigating committee.

Findings: Students in the SAVAPA program receive high quality, direct instruction in academics and the arts discipline in which they have enrolled. While there is some coordinating between the disciplines, evidence of long-term or sustained collaborations is limited to field trips and assemblies. There is evidence, in fact, that the staff and administration of SAVAPA are falling short of the collaborative models built into the SAVAPA grants. Truly interdisciplinary collaborations -- such as regular cross-teaching or engaging in a large-scale, multidisciplinary production -- were not evident in the current year's offerings.

The computer animation, dance, and technical theatre components had strong professional development, such as resume building, mentoring opportunities and job shadowing; the music and theatre performance components had less evidence of the same. All SAVAPA students were observed to be performing publicly throughout the year; the music and dance programs consistently produced high quality performances on a full calendar and in multiple venues. Data was not available to track how many students go on to arts education in college or into careers within the arts.

Recommendations: CUHSD and Southwest High School administrators should attempt to resolve four areas of concern:

1. building bridges between students' work in SAVAPA and professional careers in the arts;
2. building consistent interdisciplinary collaborations;
3. promoting communication between academy partners; and
4. expanding the visual components of SAVAPA arts instruction.

Recommendations (continued):

SAVAPA classes are full, but most recruiting seems to be in the form of word-of-mouth and incidental student awareness of auditions. There should be a more visible recruitment effort among feeder schools to SAVAPA and among the other schools in the CUHS District.

Special recruitment efforts should be made to balance the socioeconomic, ethnic and gender biases of SAVAPA so that its student makeup is a truer reflection of the campus at large and the community.

The Civil Grand Jury feels that closing Southwest Performing Arts Theatre and/or cutting back drastically on SPAT programming will adversely affect the quality of SAVAPA models and the frequency of arts programming throughout the Imperial Valley. CUHS District administrators should investigate business partnerships that could fund at least a minimal set of offerings and sustain at least a part-time employment of our local, highly-skilled technicians.

The Civil Grand Jury received identical complaints from two local groups that use Southwest Performing Arts Theatre for their programming needs. (The CGJ has forwarded these concerns on to the local fire marshal.) Both complaints worry about earthquake safety, as technical crews have not been provided flashlights by CUHSD and theatre crew members report that neither the fire Marshal nor administration have been present at a test of the emergency backup lights, which do not work. The Civil Grand Jury urges CUHS District maintenance staff to work with the fire marshal and theatre staff prior to a scheduled inspection in order to address community concerns about the theatre's backup batteries and emergency preparedness plans.

Response Required: The Civil Grand Jury expects to receive a written response to these concerns from the CUHSD Superintendent on or before September 30, 2010.

Subject of Investigation: Central Union High School District (CUHSD):
Hostile Work Environment

Justification: The Civil Grand Jury received a specific request from an individual to investigate the CUHS District's mitigation efforts in a workplace-related matter.

Background: An individual filed a complaint with the district about two other individuals, claiming a pattern of abusive behaviors and actions that amounted to allegations of a hostile work environment. The district responded by mitigating a portion of the claim, but not by mitigating it completely - to the dissatisfaction of the complainant.

Findings: A committee of the Civil Grand Jury investigated the allegations and found that there was some evidence that pointed toward hostility and some evidence that pointed away from hostility. It was clear that the district made an attempt to correct minor aspects of the hostility between the three individuals, but the complaint that the district could have done more than it did is a bit more difficult to assess fairly.

Clearly there was an incident involving the three individuals, and clearly there was residual friction that lingered long afterward. The documentation to show on-going hostility and abuse, however, fell short of establishing a pattern of targeted conflict or an abusive work environment. Clearly, however, more could have been done at the time to ease the workplace friction. When more was not done by the district, and when the situation was not resolved to anyone's satisfaction, the frustrations then boiled over into interpersonal conflicts that resulted in: setbacks to school programming, strained relationships at various levels of professional interaction, an unfortunate resignation, and a lawsuit.

After the committee had begun its investigation, the allegations developed into the basis of a civil lawsuit, brought against the CUHSD, and to which the CGJ has neither contributed evidence nor influenced opinion. The lawsuit will play itself out in the courts; the concern of the Civil Grand Jury is for the students and programs that were affected by the district's limited efforts at mitigation.

Recommendation: The resignation, the lawsuit, and recent layoffs have rendered any new attempts at mitigation moot at this point. In the future, however, it is imperative that individuals receive at least occasional training by the district on how to properly document allegations of hostility and what steps to take early in the process whenever perceived instances of interpersonal conflict begin to show patterns (wherever and whenever such patterns exist). Even the most blatant patterns of abuse and bias need to be properly documented before they can be completely and fairly resolved; otherwise, options to mitigate become limited and/or ineffective.

Response Required: The Civil Grand Jury expects due consideration of these recommendations, followed by a written response from the Central Union High School District, on or before August 30, 2010.

Subject of Investigation: Imperial Valley College (IVC) Board of Trustees

Justification: The Civil Grand Jury received a complaint from a private citizen that IVC has failed to honor a long-standing Memo of Understanding with the IVC Desert Museum Society, Inc.

Background: In 1992, the IVC Desert Museum Society (IVCDMS) entered into an agreement with the Imperial Community College District. IVCDMS agreed to raise money for and oversee the construction of a museum on college-owned property near the community of Ocotillo. IVC agreed to fund maintenance, repairs, and other support services, including liability and fire insurance, during the construction phase. IVC also agreed to fund certain personnel upon the museum's completion and to take over certain aspects of daily operations at the site as soon as the building was completed.

Findings and Conclusions: A committee of the Civil Grand Jury interviewed officers from the IVC Desert Museum Society and various administrators from the college. The committee also reviewed the following documents:

- * Articles of Incorporation of IVC Desert Museum Society (certified Jan. 18, 1974)
- * Memo of Understanding (dated October 13, 1992)
- * Certificate of Occupancy by IVC Desert Museum Society (dated April 4, 2008)
- * Lease Agreement with Option to Sell (dated 2008)

The committee came to the conclusion that both parties to the Memo of Understanding (MOU) have cooperated and that, to the best of their abilities, have followed and have honored the provisions of the above-referenced MOU. Where there have been exceptions, over the years, both the college district and the museum society have made the effort to reach common ground through meetings and constructive dialog.

The IVC Desert Museum Society has completed and paid for the required structures at the museum site. The facilities are modern and fully appropriate for their intended use.

The Imperial Community College District, which administers Imperial Valley College, provided its required support previously, but has not fulfilled the remaining portions of its agreement now that the building is completed. The stated reason is that the Community College District does not have enough funds available to hire the personnel required by article 10 of the MOU: a Director, a Curator of Collections/Site Recorder, a Clerk Typist, and a Grounds Person. Additional complications to the hiring of these personnel exist due to changes in the hiring policies of the college district and agreements with faculty unions that affect some of the original language of the MOU.

There are provisions in the MOU regarding the lease or purchase of the facility that have not been instituted; other options have been discussed between the two parties, but there have been no amendments to the MOU and no agreements on what options, if any, to pursue.

Recommendation: The Imperial Valley College Desert Museum Society would like to assume ownership of the museum facilities and the Imperial Community College District would like to terminate the obligations of the 1992 Memo of Understanding by transferring ownership to the IVC Desert Museum Society. The Civil Grand Jury recommends, therefore, that both parties make this a priority and that an ad hoc task force be set up to devise a plan that will both terminate the MOU and allow the museum to open and flourish as originally intended.

Recommendation: Currently, the desert museum's building is well-maintained and in excellent condition. It is imperative, however, that the IVC Desert Museum open its doors for business soon, or the resulting disrepair from neglect and disuse will result in potentially disastrous setbacks to the shared vision of a functioning museum in Ocotillo.

Response Required: The Civil Grand Jury requests consideration of these recommendations and a written response from the Imperial Community College District Board of Trustees on or before September 30, 2010.

Subject of Investigation: Imperial County Department of Social Services:
CalWORKS and Welfare-to-Work Programs

Justification: The Civil Grand Jury received an anonymous complaint alleging misuse of CalWORKS funding and personnel; in addition, the complaint alleged a hostile working environment.

Background: CalWORKS operates under the umbrella of the county's Department of Social Services. The purpose of the CalWORK's Welfare-to-Work Program is to enable participants to achieve self-sufficiency in their employment and economic independence through training, education, employment and supportive services (within prescribed time limits). The CalWORKS Welfare-to-Work budget is funded through a combination of federal, State and county sources.

Findings: A committee of the Civil Grand Jury reviewed the CalWORKS budget, funding allocations, personnel assignments and procedures with the director and other management personnel. The allocations and distribution of funds and personnel are transparent and well-documented.

Random interviews with CalWORKS employees found them to have standards and monthly targets, but no undue pressure or penalty if these standards are unmet. Employees stated that supervisors were generally willing to work with them to resolve issues if they couldn't keep up with their assigned standards. Interviewees felt no pressure from upper management and were comfortable with their access to supervisors.

These same interviews established that regular staff meetings were not held with all employees present. Employees stated that more frequent staff meetings, including front-line employees, would make teamwork more effective within the department. Front-line employees voiced the need to have their opinions heard by management. Some employees feel a need for empowerment through greater input into daily operations.

Recommendation: To keep morale up and lines of communication open, the Director of Social Services needs to investigate and implement a method for soliciting and addressing concerns of front-line employees. This should not necessarily be limited to staff meetings or memos.

Recommendation: The Civil Grand Jury should be included in the routine distribution of the Department of Social Services Annual Report and Written Strategic Plans, commencing in 2010.

Response Required: The Civil Grand Jury expects to receive a written response to this Final Report of Findings on or before September 30, 2010.

Subject of Investigation: Imperial County Board of Supervisors (Travel Expenses)

Justification: Prior to beginning what would have been a routine matrix investigation, the Civil Grand Jury received a specific complaint that triggered a targeted investigation instead.

Nature of Complaint: The complaint alleged fraudulent spending.

Background: The investigating committee requested written travel policy for the Board of Supervisors and discovered there is no specific policy in place. The committee then examined the “County of Imperial Cash Control and Accounting Standard Practice Manual (Appendix A: Travel Policy),” the official policy that applies to other county employees, but to which Supervisors and the County CEO are not bound.

Findings: After examining data in the form of receipts and official requests for reimbursement, the committee discovered the following discrepancies and concerns:

- * There were multiple reimbursements for meals in local restaurants, with and without meetings involved.
- * There were multiple receipts for expenses related to the consumption of alcohol.
- * There were multiple instances of supervisors receiving a “per diem” for meals while attending a conference where meals had been included in the registration fee.
- * There were multiple reimbursements for dinner expenses that duplicated dates when “per diems” had been issued to supervisors.
- * There was one instance where a supervisor arrived at the destination for a meeting two days early, but with no justifications attached describing the reason behind the extra day’s expense.
- * There were multiple receipts reimbursed without any specified justifications (or even descriptions) of the expenses.
- * One Supervisor has excessive travel expenses when compared to the remaining four Supervisors.

Recommendations: The Civil Grand Jury recommends the following:

- * By Board policy, meals purchased locally by county employees are generally not reimbursable. Local meals should not be reimbursable for the CEO or the Supervisors.
- * A policy should be adopted by the Board regarding the purchase and reimbursement of expenses relating to alcohol. The Civil Grand Jury recommends a policy prohibiting any reimbursements relating to alcohol for consumption.
- * When meals are included in travel expenses, there should not be a duplication of the reimbursement through a “per diem.”
- * Arrival one day prior and departure one day following a meeting is usually justified, but documentation for any additional days should be required by the Board prior to reimbursement of the extra expense.
- * No reimbursements should be allowed for any undocumented receipts.
- * In light of the current budget crisis, all consideration for travel outside of the county should be weighed against other options. Travel that is necessary for business should be allowed, but networking and conventions should return benefit to taxpayers.
- * Travel policies and reimbursement policies should apply to all, including Supervisors and the CEO.

Response Required: The Civil Grand Jury expects consideration of these recommendations and a written response by the Board of Supervisors on or before September 30, 2010.

Other issues arose during this investigation that will require further investigation into the County Board of Supervisors by the 2010 / 2011 Imperial County Civil Grand Jury.

Subject of Investigation: Matters Relating to the Quechan Tribal Nation

Findings: The scope of the matter from the Quechan Tribal Nation was not in the scope of the Civil Grand jury

However, the investigation revealed a concern for the lack of county services in outlying areas. These areas include: Winterhaven, Salton City, Palo Verde, Bombay Beach, and Ocotillo. These concerns are true of all levels of Imperial County's involvement with outlying areas. Areas of concern involve the distance from these areas from the county seat, the time involved in commuting to and from the county seat during the course of a workday, and lack of access to equipment and other resources at the county level by virtue of their remoteness.

For instance children who are placed into the Betty Jo McNeece Receiving Home for emergency shelter, near the county seat, continue to attend their home school, but this requires a bus ride of from 30-60 minutes in each direction. Similarly, traffic court appearances, other court related matters, routine payments of fines and fees, court mandated drug counseling, anger management classes and all manner of other social services are complicated by the remoteness of these residents. This is especially true since bus routes by Imperial Valley Transit have negatively impacted public transit. Providing agencies and allied services are likewise impacted through their budgets by the expense of transporting agents to remote clients and by the cost of cumulative delays when these delays become the norm rather than the exception.

Recommendations: The County CEO and the Board of Supervisors should appoint a task force of law enforcement officers, court officials, and social service department administrators. The focus of the Task Force should be to improve delivery of county services to and equitable access to county services by residents living in outlying areas of Imperial County.

It should discuss the mission statements, philosophies, and procedural mandates of each participating county agency.

Response: The Civil Grand Jury expects the Imperial County Board of Supervisors to consider the intent of this recommendation and to respond in writing about the concept of a Task Force on or before September 30, 2010.

Subject of Investigation: Heffernan Memorial Hospital District (HMHD)

Justification: A portion of this investigation was initiated by a citizen's complaint alleging misappropriation of public monies. A portion of the investigation was relevant to discussions within the community of Calexico about the board's effectiveness and whether it should be dissolved.

Background: The HMH Board of Directors consists of five members who are elected from within the City of Calexico and its outlying areas. Currently there is one seat that has been vacant for over a year. At this time there is not a hospital in the City of Calexico. Stated powers and functions of the HMH Board are to run the hospital including but not limited to the following:

- Purchase, lease, control, convey, and encumber land

- Administer any and all hospital funds

- Employ, discipline and dismiss staff i.e. legal counsel, officers, doctors, any staff

- Oversee free clinics, health programs, and ambulance services

- Set, provide, administer, and adhere to regulations and rules of conduct

At present the hospital board has a total of \$4 million to administer. Two million came from the State of CA., and the other \$2 million from an expired temporary sales tax. The use of any money from these two funds is strictly controlled by their mandate to provide health services to the community of Calexico.

Nature of Complaint: The specific complaint received by the Civil Grand Jury expressed concern that the HMHB had entered into a contract to purchase land that was now worth less than the original purchase price. It was further alleged that a down payment was actually an illegal loan of public monies to the ineligible private seller of the land.

Data/Evidence and Findings: An investigating committee of the Civil Grand Jury interviewed the principal characters and reviewed all available documents (contracts, land surveys, engineering plans etc). There are three issues on which the Civil Grand Jury focused its investigation.

Purchase of land was it in good faith? Was there fraud or misappropriation of funds involved concerning the down payment?

Should the Hospital pursue the project?

Should Heffernan Memorial Hospital Board be dissolved?

Hospital land purchase was a good faith investment. There is transparency in all documents reviewed by the Grand Jury.

Fraud activities were not noted in any of the multiple documents reviewed.

Dissolving the HMM Board would be premature since they have invested several years in this project and others. The project in question has been cancelled but the board has several excellent options to service the community.

Recommendations:

The fifth board position needs to be filled as soon as possible

Directors need on going training on the Brown Act, parliamentary procedures, and fiscal responsibilities

District should inform the community early and often as it explores healthcare options before spending or making decisions to avoid dissention among agencies.

District needs to strengthen its communication lines with the City of Calexico, Pioneers Hospital and El Centro Regional Medical Center to increase exchange of services.

District should solicit regular input from the community. Strengthening its relationship with the local news media would help get their message out and create more support and involvement from the community.

Response:

The Civil Grand Jury expects consideration of these recommendations and to receive a written response from the Heffernan Memorial Hospital Board of Directors on or before Sept 30, 2010.

Subject of Investigation: Imperial Irrigation District (Water Division):
Illegal Dumpsites Remediation Program

Justification: The Civil Grand Jury received 2 specific complaints from a private citizen.

Nature of Complaints: The first complaint stated that descriptions of illegal waste didn't match the actual roadside deposits of waste, but were being used anyway by the IID to justify increases in municipal water rates. There was an additional allegation that the IID used an inappropriate bidding process for hiring the remediation contractor.

Background: The IID Water Division was cited by the Division of Environmental Health Services' Local Enforcement Agency and directed to remediate the banks of the New River, where there were discovered 15 identifiable dump sites on IID property.

The IID responded by creating a planned remediation, finding funds for the project, and hiring a remediation contractor. The project was created on March 1, 2009, with remediation scheduled to be completed by May 15, 2011, and final project close-out scheduled to be finished on or before July 1, 2011.

The project has been designed to be accomplished in 5 phases:

1. Waste Characterization
2. Solid Waste Segregation
3. Removal of Solid Waste
4. Clean-Up and Clearing of Right-of-Way
5. Final Site Disposition

The project was estimated to cost a total of \$7,315,869 in funding.

Findings: The committee interviewed the principal planner and administrator of the project and examined a collection of appropriate documentation.

The method for determining waste was explored, as well as the justifications given by the IID for sole sourcing the remediation contractor. Current status of the project was reviewed; notably, four sites have already been cleared.

The project required considerable time and attention for planning and implementation, and this has been thoroughly accomplished. IID staff took great pains to find funding from State sources, successfully locating and obtaining matching grant funding.

Individual elements of the testimony were vetted and verified, and all statements were found to be factual.

Evidence submitted showed a minor amount of specific agricultural waste and significant amounts of general waste. This was supported by photographic evidence.

Concurrent to the interviews, a copy of the Major Work Authorization (MWA) for Illegal Dumpsites Remediation was placed into evidence. This document is part of the IID's public record and was properly approved, as per policy, by the Executive Program Manager of the Water Division, the Chief Financial Officer, the General

Manager, and the IID Board of Directors. The MWA was dated in October of 2009.

Sole sourcing of remediation contractors is not an unusual practice; in this case, the justifications were comprehensive and fully-verifiable. The contractor that was selected has unique qualifications in the handling of such remediation processes. The timeline was intentionally shortened by the project planners in order to take advantage of the matching funds from the State and to avoid fines that might otherwise have been assessed.

Commendation:

The Civil Grand Jury found the IID's Illegal Dumpsite Remediation Program to be well-implemented and well-managed. The project adheres to stated policy. Managers put extra effort into the process of locating and securing matching sources for grant funding. The Civil Grand Jury commends the managers and employees of this program for their work and for their efforts to maintain transparency and accountability.

Recommendations:

The IID should implement a public information program, similar to the models used in the "Dippy Duck" program, to educate the general public about the environmental, financial, and legal implications of dumping trash illegally.

IID should implement a reward program for reporting and prosecuting illegal dumping and illegal dumpsites.

Response Required: The Civil Grand Jury expects to receive a written response from the IID's Board of Directors on or before September 30, 2010.

Subject of Investigation: Imperial Irrigation District: Local Entity Mitigation
(Competitive Grant Program)

Justification: The Civil Grand Jury received a specific complaint about the Local Entity.

Background: The following is a direct quote from correspondence by the IID's legal counsel: "The Local Entity concept was originally established...in section 14.5 of the Revised Fourth Amendment to the Agreement between IID and SDCWA [San Diego County Water Authority] for Transfer of Conserved Water....Under the settlement, among other things, SDCWA agreed to make payments to IID and IID agreed to utilize such funds for socioeconomic mitigation...."

In short, the Local Entity manages the designation and funding of appropriate projects and programs, both competitive and non-competitive, that seek to mitigate adverse socioeconomic impacts resulting from the fallowing of active farmland in order to conserve water supplies that are then transported to San Diego users. Non-competitive mitigation takes the form of payments to farm service providers who demonstrate, through a process of filing claims, that they suffered a reduction in work or a loss of income when fallowing occurred. Competitive mitigation takes the form of grant allocations to local organizations that serve affected clientele, such as migrant farm workers.

The Civil Grand Jury agreed to investigate the Competitive Grant Program after reviewing certain financial statements that indicated mitigation money was allocated but not monitored, and that designated funds were disbursed to, but not actually spent by, the receiving agencies.

Note: The Civil Grand Jury also considered looking into non-competitive mitigation, but decided not to duplicate a pending internal audit by the IID on direct mitigation for local farm service providers. If appropriate, this issue may be a matter for the 2010-2011 Civil Grand Jury to consider.

Findings: The committee interviewed consultants, bidders, management, and three board members. The committee also reviewed the Revised Fourth Amendment, various internal documents (including auditors' reports), and original paperwork and proposals for grant allocations.

The committee discovered the following:

- * The Local Entity process is embroiled in politics and controversy, but the actual competitive money was not misspent. The process, however, was full of gaps and confusion with very little oversight.
- * The on-site Local Entity Coordinator was disorganized and unresponsive to bidders and awardees. Every interviewee attested to the shortcomings of the coordinator.

Findings (Continued):

- * Competitive service providers didn't provide new services, but funded existing programs. Pre-existing programs were allowed to use the funds they received from the IID for rent, utilities, and other indirect expenses.
- * The Local Entity was originally set up as an independent board with eleven members appointed by the county and the IID. Currently, the IID Board of Directors serves as the Local Entity. Acting as such, it approves or denies funding, then acts as its own board of appeals for funding denials and disputes.
- * There were discrepancies on the ledger between budgeted amounts and allocations.
- * There was at least one discrepancy in the method for determining which entities received funding. Dairy Design Consultants received competitive funding without ever going through the stated application process. To date, this entity has produced no deliverables.
- * There were two discrepancies in the method of issuing payments to grant recipients. Neighborhood House of Calexico received its full allocation in one payment (rather than percentages over time). Dairy Design Consultants received funding directly from SDCWA.
- * The Local Entity failed to disburse all funds under the mitigation plan.

Recommendations: The Civil Grand Jury recommends the following:

- * The coordinator should be an internal employee of the IID, not a consultant.
- * The coordinator should have a clear job description that outlines all duties and responsibilities.
- * The Local Entity should investigate alternative means to distribute mitigation monies that widen the impact of the mitigation spending and that actually reach a broader cross-representation of affected parties than is happening now.

Conclusion: The intent of the Competitive Grant Program was to foster an economic stimulus within the affected region, but the program has clearly failed to achieve its intentions. Many of these problems have been addressed in presentations by the internal auditors to IID management and the Board of Directors.

Response Required: The Civil Grand Jury expects due consideration of these recommendations, followed by a written response from the IID's Board of Directors, on or before September 30, 2010.

Subject of Investigation: Bidding Process - Imperial Irrigation District (IID)

Justification: The CGJ received a written complaint that the IID bidding process procedures were not being followed.

Background: Some bids were not considered as they did not meet the exact specifications of an item. However, no item manufactured met the exact specifications. The item purchased was \$112,000 more than the low bid.

According to IID representatives the IID is exempt from accepting the lowest bid because Water Code II Sections 20-500 states other wise.

Internal auditors submitted an audit on January 8, 2008 regarding purchasing agreements that were outdated and needed to be addressed.

Findings: The 2010 – 2011 CGJ will inspect the item in question and compare it to the specifications of the bid.

Recommendations: The IID needs to update and follow its policy on purchasing agreements.

Response: The Civil Grand Jury expects the Imperial Irrigation District to consider the intent of this recommendation and respond in writing on or before September 30, 2010.

Subject of Investigation: Imperial Irrigation District (IID)

Justification: The IID is included within the routine matrix of the Civil Grand Jury oversight. Due to its tremendous economic impact, the IID is listed on our matrix for annual consideration.

The 2008-2009 Civil Grand Jury specifically recommended that the 2009-2010 Civil Grand Jury revisit certain lines of inquiry it had begun during the previous matrix investigation. We elected to do so after reading their recommendations.

We fielded over two dozen complaints about the IID from individuals outside the IID and six requests by various management and administrative personnel within the organization to intervene on their behalf.

Background: The Imperial Irrigation District includes approximately 1,062,300 acres, including most of Imperial County and portions of San Diego County and Riverside County. Its operations are divided into:

- 1) a Water Division, which diverts and distributes water from the Colorado River to cities and nearly 500,000 acres of agricultural land in Imperial County;
- 2) An Energy Division, which is responsible for procuring, generating and distributing electrical power to a base of customers within both Imperial County and that portion of Riverside County known as Coachella Valley;
- and 3) a General Services Division that supports and maintains operations and administrative functions between the two other divisions.

The mission of the Imperial Irrigation District, according to IID Board Policy E-1, adopted July 24, 2007, is “to meet the needs of water users in its irrigation service territory and electrical customers in its energy control area and to do so in the most comprehensive, cost-effective and environmentally-sensitive way possible.”

To further those ends, the IID’s Board of Directors, on the same date, adopted the following language into official policy as well: “IID is a public agency whose programs, initiatives and people are organized around building a culture of transparency, instilling a system of accountability, fostering a sense of community and advancing the common good.”

The Civil Grand Jury (CGJ) spent much of the past year interviewing IID personnel and reading through policies, strategic plans, board actions and in-house service data.

The Civil Grand Jury wishes to impose accountability, not bureaucracy, on the IID and its personnel.

We submit the following report to the Imperial Irrigation District’s Board of Directors and to the general public; it has been properly endorsed and adopted by a quorum vote of the 2009-2010 Imperial County Civil Grand Jury.

Findings Regarding the ECA (Energy Cost Adjustment):

Historically, the Energy Cost Adjustment (ECA) was a variable rate attached to the usage rate on every customer's bill. It was designed to offset the fluctuating production costs involved in delivering electricity. In 2006, the ECA was artificially frozen by the IID Board of Directors to control spiraling charges after the gas hedging disaster, at which time this charge ceased being a true ECA, though its name and description on the billing statement was never changed. The 2008-2009 Civil Grand Jury pointed out during testimony that the ECA needed to be variable or that it needed to be renamed.

The ECA adopted by the IID Board, at the insistence of its management, is not a true ECA, and it needs to be called something else. There would be strong incentive and little preventive oversight on the part of the IID to turn the proposed ECA, a variable rate on top of a fixed base, into a powerful short-term tool for fund-raising. A one cent surcharge on a customer's bill, spread among the entire pool of consumers, would result in approximately 3 million dollars in increased income monthly, and in 30 to 40 million dollars in increased income annually.

Re-designating the current ECA as a base-fund would re-categorize the income generated by that portion of a consumer's bill. Instantly, the monies generated would switch categories from a restricted fund - restricted by the IID's covenant with its ratepayers to the arena of supply and trading - to a much less fettered fund, which indeed could then be considered a part of the IID's General Fund.

Recommendation: A true ECA should be responsive to production costs through an automatic accounting process, not through board action. There is a definition of the ECA within FERC (Federal Energy Regulatory Commission) Guidelines. This is the ECA which should be used by the IID, along with a board-adopted formula that conforms to FERC guidelines as well. At a minimum, IID usage of such a formula should operate as a separate, autonomous activity, with appropriate oversight, to measure and determine whether funds are being under- or over-collected; any over-collection of public monies must immediately trigger a process for issuing refunds of some sort.

If, the IID Board adopts their version of a modified ECA and Rate Stabilization Account (RSA) then what they are calling an ECA must be relabeled appropriately. In addition, the RSA fund should be seeded by a portion of the \$ 100 million target in order to create at least some assurance that the IID's ratepayers will not have to wait a decade for variable costs to decrease when the cost of fuel used in energy production has already, in fact, begun to decrease from its recent high.

Findings Regarding the Way Spending Limits Are Handled:

Managers and department heads have discretionary abilities to fund projects up to specified amounts, such as \$ 10,000 or \$ 50,000, without having to seek approval from a superior manager prior to authorizing the expenditure of the money. If a proposal or a new project is to cost more than the cap, then prior approval is required in order to move forward. We have found evidence supporting the claim by certain whistleblowers that some projects are started with the full knowledge that they will cost more than the spending cap, but the managers in question do not seek the required approval -- by knowingly stating project totals at less than they will ultimately become. This effectively

ties the hands of the next higher administrator to continue the funding or throw out the project entirely and thereby waste all expenditures accrued to that point in time.

Similarly, the IID's General Manager has a \$200,000 spending cap per expenditure without having to go to the IID Board for prior approval. We have found that this particular limit is a factor in the practice of bypassing Board input on the hiring and renewal of consultants. At least one of the full-time managers recently hired by the GM as a consultant, and then almost immediately converted into a full-time manager, illustrates this pattern. Though hiring and firing is not generally done at the Board level, the salary and benefits of this manager should have been reviewed prior to their acceptance because they add up to more than \$ 200,000 annually; yet this manager's salary and contract were decided by the GM without requesting prior IID Board approval. The manager's employment was announced, and he was introduced to the board at a public meeting (after the fact), and his salary was reported to be funded at just below the cap.

Even if the salary in question had fallen within the spending limits, the legitimacy of the hiring process is in question. Consultants becoming fulltime employees without engaging the Human Resource Department procedures seems to skirt employment policies. The Board's awkward position then turns into a precarious one: approve the expenditure by default or interfere with a hire after the decisions have been made because the process was so far along before the spending passed the cap.

Current practices by top management work to remove the IID Board of Directors from the fiscal decisions behind the hiring of consultants at a time when full-time employees are being laid off or eliminated due to serious budget issues. The spending cap, as a stated policy, is clearly meant to curb abuses by management up and down the chain of command. Any perceived end-runs around this policy make a mockery of the board's intent in setting policy; which is what the policy is designed to prevent in the first place.

Recommendation: All spending that approaches or exceeds the individual cap limits of a manager or a department head should be reviewed by the IID's Internal Auditors as a matter of protocol.

Recommendation: If signs of intentional policy abuse are detected, then the guilty parties need to be disciplined per IID policy and their spending practices need to be monitored more closely.

Recommendation: Any pattern of such abuses should result in specific disciplinary action, or termination, as outlined in district policy.

Recommendation: Procedures must be tightened to eliminate the practice of issuing for a single project more than one Major Work Authorization (MWA) in order to skirt fiscal controls.

Less costly, but equally undesirable, are the smaller authorizations that cumulatively add up to a circumnavigation of fiscal controls. Hiring a manager for six months at \$ 120,000 comes in under the cap. Rehiring the same manager for another 6 months also comes in under the cap. Added together annually, however, the two contracts exceed even the General Manager's cap, and should have to be reviewed at the

Board level prior to any of the expenditures being issued. This practice of hiring fulltime consultants on arbitrary, short-term contracts should be closely monitored and used sparingly.

Recommendation: At least one Director of the IID Board indicated an interest in receiving fiscal training. We feel more training is better than less training, and so we endorse this request and recommend that the IID provides such training sometime after each election.

Recommendation: The 20% contingency on project budgets is standard, but it should also be monitored in any investigations into abuses of individual spending limits. If a pattern of exploiting the contingency amounts becomes apparent, then that should trigger an internal audit and/or disciplinary action as well.

Findings Regarding IID Policies and Procedures in General:

The Imperial Irrigation District has many good policies and many excellent procedural protocols in place. We have discovered multiple instances, however, where policy is bypassed or where procedural guidelines are routinely skirted during the course of “business as usual.”

Our position remains the same as that of previous Civil Grand Jury Final Reports: The Imperial Irrigation District is a publicly-funded company that needs to be administered in a transparent, efficient manner. The elected Board of Directors adopts policy, which is thereafter binding on all employees of the IID. If an employee violates policy, then it is the responsibility of the employee’s immediate supervisor to implement protocols of accountability, as outlined in the IID’s own guidelines.

We have found evidence that certain supervisors have knowingly and repeatedly glossed over performance evaluations, and otherwise allowing individuals who would otherwise be removed for cause to remain employed. This means that some employee issues never get resolved and that policy violations rarely get acted upon.

The IID management’s response to the 2008-2009 Civil Grand Juries’ Final Report seemed to indicate a willingness to strengthen accountability within departments, but our investigations uncovered only one instance of actual employee reprimand for cause, and three instances where reprimand might have been appropriate but apparently wasn’t pursued. A stated willingness to strengthen accountability only goes so far when the IID’s policies, are not being consistently applied or monitored.

Recommendation: The board should insist on the expanded role of Internal Auditors and personnel of the PMO (Project Management Office). These departments have the expertise, resources, and mechanisms for policing the fiscal and operational regulations of the district as a whole, and for countering abuses within the organization’s most problematic sections, such as the La Quinta-based operations.

Recommendation: We find projects running under the direct supervision of a PMO from start to finish remain more efficient and come in closer to budget than those projects running independently of direct PMO oversight. In their role as fiscal policymakers, the Board of Directors must insist on direct oversight by, and direct

accountability to, regulatory personnel both within and without the chain of daily operations. Add auditors to the staff at the LaQuinta offices, at this time the district's three auditors are expected by management to do their jobs diligently when they have little or no clerical support staff. This situation should be resolved as soon as possible.

Recommendation: The IID should consolidate three groups into one self-policing department: the Internal Auditors, the Project Management Office, and the internal investigators. These groups should work independently of the top management, and they should report directly to the IID's Board of Directors. Consolidating these groups would create a shared clerical pool and would also create a solid defense against fiscal and procedural improprieties by strengthening lines of communication within the organization. This consolidation would strengthen the efficiency of the district's new whistleblower policy by supporting clearly-designated referees and independent, investigatory personnel. Well-intentioned managers will not be hampered by such a restructuring; the point of such safeguards and the need for such regulatory staff is to ferret out existing fiscal abuse and to prevent questionable and unlawful procedural violations from occurring in the future. Transparency in hiring practices should include proper vetting and evaluation of candidates at all levels, especially management, and the entire process should at all times adhere to standard hiring practices within the public arena. The IID Board of Directors needs to adopt an Anti-Nepotism Policy. Service contracts must follow the IID's written guidelines for transparency. Unless there is a demonstrated sense of urgency, sole sourcing should be the exception, not the norm.

The practice of hiring consultants, by the IID should be minimized and instead develop specialized knowledge or expertise within the ranks of its own employees. Wherever possible, consultants should be hired on short-term, nonrenewable contracts; further, all contracts with outside consultants should have clear deliverables that include local training and/or a schedule showing how local employees might assume the expertise required for these consultative services.

A portion of each meeting is already set aside for public comments from the floor. Once the new videoconferencing system is set up, additional public comments, if any, could also be fielded and transmitted live to the board from the second site. This practice would promote transparency by inviting consistent input from and greater inclusion of concerned stakeholders.

Two of the IID's mid-level managers complained that certain members of the Board of Directors were in the habit of contacting them directly and attempting to assert their personal and political influence into spending, hiring, and other decisions, contrary to protocol. The CGJ supports an active interest on the part of board members into the daily operations of IID departments. There is in place a standard of conduct and a chain of command. The process of accountability includes following all stated policies by all personnel, regardless of rank, and such unprofessional conduct of board members toward employees is, inappropriate.

The process of accountability also includes making lower-level management and staff fully aware of the reorganized chains of command and the policies about which this document and others are concerned.

Commendation: The Civil Grand Jury recognizes that the General Manager has called a series of “All Hands” meetings and has embarked on a modest schedule of brown bag lunches to meet and greet the rank and file employees. This is a good practice, and members of the CGJ hope these meetings become routine.

Findings Regarding Sarbanes-Oxley Compliance:

The Sarbanes-Oxley Act (SOX) is a federal measure that mandates risk management and other financial reporting requirements for all publicly-traded companies on the stock market, including utilities. This mandate does not apply to the Imperial Irrigation District, but the IID Board of Directors initiated a voluntary Sarbanes-Oxley Compliance Program.

The Civil Grand Jury applauds the IID’s decision to adopt these federal mandates. Ultimately, the SOX will enhance the climate of accountability and transparency that is the recurrent theme of this report. Members of the committee, however, were in attendance at a public meeting of the IID’s Board of Directors when a particular director and a high-level manager both indicated that SOX might not be fully implemented; this development was after investing nearly \$300,000 in the course of SOX implementation to that point in time.

Recommendation: The Civil Grand Jury reminds the IID Board as a whole that it has already invested large sums of money to date in the feasibility study and first two phases of the Sarbanes-Oxley Compliance Program. It would become money poorly spent if the adoption were to be derailed by politics or by complacency. The Civil Grand Jury recommends a full adoption, following the details of Implementation Plans already in process.

Findings Regarding the Falling Water Charge:

The “Falling Water Charge” is a fee charged to the Energy Division of the IID by the Water Division for recovery of costs incurred during the production and delivery of electricity at the various drops along the All-American Canal. Our concern is that this fee, along with other fees about which we have made inquiry, does not seem to conform to FERC (Federal Energy Regulatory Commission) Guidelines. The Falling Water Charge should be responsive to actual costs, but it is, instead, an arbitrary fee fixed and set by IID Board decision, as described in a February 2009 Cost of Service Analysis.

Recommendation: When the Falling Water Charge is fixed, as it currently is, it does not reflect the actual cost of the production of power at the drops. This results in a potential overcharge to the Energy side and a potential subsidy of Water Division costs by Energy Division consumers. The money passing between the two divisions should neither mingle nor subsidize. The Falling Water Charge should, instead, be based on data related to actual power production costs and also be responsive to changes in those costs. A realistic and variable fee is the only form of adjustment that seems fair.

Findings Regarding Other Water Fees Charged:

Cattle feed yards are charged for their water use (based on our understanding of the study) by a per day rate of \$ 12.50. This charge applies no matter the number of cattle nor the amount of water delivered; in effect, cattle feed yards can use as much water as they wish for a fraction of the rate that metered users pay. There is no consumption data to regulate or justify the fees charged; and there is no incentive to conserve water under such billing schedules, as there would be no change in the fees charged if they remain arbitrarily assigned.

Cemeteries, golf courses, and rural schools, have been surprised recently by a hefty charge for water usage. The new rate is the same as municipal rates, municipal delivery rates are charged for actual use while the members of this user group are charged based on their acreage. There is no consumption data to regulate or justify the fees charged; and there is no incentive to conserve water under such billing schedules, as there would be no change in the fees charged if they remain arbitrarily assigned.

Recommendation: There should be a system put in place for metering actual delivery of water to cattle feed yards, and a fair fee should then be assessed based on actual use. Similarly, a system for monitoring and fairly assessing fees on the delivery of water to the cemeteries, golf courses, schools, and others in that category of use should also be developed.

Findings Regarding Violations of the Brown Act:

CGJ have fielded numerous complaints regarding regular, repeated, and on-going violations of the Brown Act by members of the IID Board of Directors, especially in regard to voting blocs, lobbying (serial polls), and the amount of business that is conducted in closed session. Some of these complaints are just posturing on the part of disgruntled members of the community, but there is evidence that may support several of the complaints. Violations of the Brown Act are a criminal matter, and we have forwarded our concerns to the State Attorney General's office and to other criminal investigators. These concerns will remain confidential until and unless acted upon by those agencies with the authority to do so.

Recommendation: It is our recommendation as a Civil Grand Jury that the IID Board of Directors receive training as to what behaviors and actions are allowed by law, and what actions are disallowed. Trainings on the Brown Act should include key management and administrative personnel, including those members of the clerical staff that handle Board-related matters; in addition, trainings should be on-going throughout a Director's tenure on the Board.

CGJ recommends that the 2010-2011 Civil Grand Jury continue to monitor this situation closely.

We remind the IID Board of Directors that the Civil Grand Jury has a job to do and that, given its mandate to investigate, future Civil Grand Jury investigations are NOT to be sabotaged by attempts to route interviews through counsel, by attempts to route appointments through general management, or to manipulate the flow of information.

CGJ recommend that the Riverside Civil Grand Jury add the IID to its matrix; and we are further recommending that the Riverside Civil Grand Jury consider an immediate investigation into the IID's La Quinta-based operations and throughout its north-end operations.

Recommendation: As per California Law, the Civil Grand Jury is entitled routinely to receive a board packet prior to each board meeting. We are hereby requesting that the IID Board direct its staff to prepare these packets as a routine part of its preparation for such meetings, and to arrange an on-going and reasonable method of delivery in a timely manner.

Response Required: The role of the Civil Grand Jury is to serve as a public watchdog. To the degree that a group of volunteers working with limited timelines and support could do so, we have investigated the Imperial Irrigation District. We have interviewed a significant number of players, we have issued many subpoenas, and we have put in hundreds of hours of work. We have fielded dozens of complaints and have reassured ourselves that when a complaint is valid, we can make a difference in resolving the concerns and raising awareness on the issues.

It now becomes the burden of the IID's Board of Directors to discuss, determine, and file a response to this Final Report in a timely manner. They are the public officials who are on the matrix, along with the organization they head; and they are the individuals who are responsible for the success or failure of the IID. But the tendency of the current board to dismiss criticism with a simple majority vote is not what we are looking for when we file this current document. We are looking for meaningful reform to be enacted by the elected officials of the Imperial Irrigation District. They have been duly elected and thereby put in charge of billions of dollars of infrastructure and millions of dollars of our money in assets and cash flow. This is not a routine matter, but a suggested course of action -- from a Civil Grand Jury operating within and because of its legal jurisdictions.

Last year's Final Report was only partially answered by staff, but never addressed formally or completely by the Board of Directors; indeed, in interviews it was evident that we received our copy of the initial response before some of the directors did. A complete, officially-signed, response never arrived.

We, as the 2009-2010 Civil Grand Jury, therefore, hereby state without hesitation that it is time to discard the general disregard for the rules of the process that have characterized the IID's previous communications with local Civil Grand Juries. We expect the IID's elected Board of Directors to work with their top management and to address all points of this report, as required by California Law, and to respond in writing to the 2010-2011 Civil Grand Jury prior to our stated deadline of September 30, 2010, ninety days from the official date of issuance of this report, as per California Penal Code (Section 933).

2009-2010 Imperial County Civil Grand Jury Final Report of Findings.

Subject of Investigation: Imperial County Civil Grand Jury (CGJ)

Justification: Though not formally placed within its own matrix of investigations, each outgoing Civil Grand Jury has traditionally included a list of suggestions designed to strengthen the incoming Civil Grand Jury, the equivalent of investigating itself.

In addition, the CGJ received four specific complaints about Grand Jury actions, which will be reviewed here as well.

Background: The current Civil Grand Jury was summoned by the Presiding Judge to serve for one year, commencing on July 1, 2009, and ending on June 30, 2010.

Following the pattern of recent years, the current Grand Jury started the year with a full empanelment, but its jurors dwindled considerably in number as the year progressed until, on occasion, it became difficult to meet as a quorum.

Findings and Conclusions: In its Final Report, the 2006-2007 Civil Grand Jury requested a permanent meeting room be set aside for dedicated use by the CGJ. At the time, this request was denied as “unreasonable”. In 2009, however, a dedicated meeting room was made available in the basement of the courthouse; this room holds 12 persons comfortably, making it impractical for full Grand Jury meetings, but it does have dedicated and adequate storage for confidential papers and it does have adequate room for committee meetings. Since most grand jury meetings are held in the evening, after regular court house hours, a telephone and control of the air conditioning unit is a necessity.

The CGJ website has not been maintained or updated.

In its Final Report the 2008-2009 CGJ included a letter from the Presiding Judge to the County Chief Executive Officer requesting that the CGJ budget be increased from \$19,000 to \$50,000 annually. Instead the budget for 2009-2010 was decreased from \$19,000 to \$17,000. In September of 2009, the CGJ alerted the CEO’s office that it was likely to run out of money prior to the end of the fiscal year; the matter was not addressed officially by the county until a meeting in April 2010 – by which time the budget limits had already been exceeded.

Some technology was purchased through the CEO’s office by the CGJ, but a vital component was never provided; a CD burner.

The individual members of the CGJ should not be expected to supply their own computers, printers and other materials necessary to an investigation. In addition, the CGJ should have some assurance of access to the county’s technical support personnel, especially for repairs, software needs, and upgrades.

Several problems and questions arose during the 2009-2010 session. Lack of communication and procedures with the courts/county and lack of experience by the CGJ members didn’t allow the jury to function in the most efficient manner.

Many members of the CGJ were unable to complete their term during the 2009-2010 session because of health, time constraints, and lack of understanding of CGJ responsibilities.

Although not on the CGJ yearly matrix, the Imperial Irrigation District has been subject to CGJ investigations for the last several years. The Imperial County Board of Supervisors is currently investigated annually.

Recommendation: Establish reliable after-hours telephone access to the CGJ.

Recommendation: The air conditioning unit in the CGJ's current room needs to have a switch installed within easy access.

Recommendation: The Jury Commissioner should locate a larger professional room where the full Civil Grand Jury can conduct its meetings, while also preserving the use of the smaller room (already in service) for the CGJ committee work and storage of sensitive papers.

Recommendation: The Superior Court website must be maintained. The site should provide a listing of all investigations since 2005, and it should link to copies of all Final Reports since 2008-2009 (when the website was first proposed).

Recommendation: To allow for modest upgrades in technology and for legitimate per diem expenses of 19 Civil Grand Jury members, the CGJ recommends that the annual budget be funded at no less than \$30,000. Additionally, the CGJ should have assurance of access to the county's support personnel, especially for repairs, software needs and upgrades.

Recommendation: The CGJ needs a liaison /advocate at the county level to guide the members with departments and procedures. This would facilitate communication between the CGJ, county, and the courts.

Recommendation: Monthly meetings should be set up between the Foreperson and Pro Temp, County Council or the judge. These meetings can be formal or informal, but they should be regular and repeatedly scheduled.

Recommendation: The CGJ recommends a more effective screening of applicants during the initial phases of the Grand Jury empanelment in order to stress the necessary time commitments and to foster a feeling of inclusion.

Recommendation: Update the matrix to reflect annual investigations of the Imperial Irrigation District and Bi Annual investigations of the Imperial County Board of Supervisors.

Findings and Conclusions: The Civil Grand Jury was the subject of four specific complaints during the course of the year.

Nature of Complaints: 1) Juror misconduct (four complaints)
2) Overstepping jurisdictional bounds (one complaint)
3) Showing up to inspect a site unannounced (two complaints)
4) Spending past the allotted budget

Findings in Relation to These Complaints:

1) In every instance of alleged juror misconduct, the presiding judge made inquiry. Two individuals were removed from their empanelment for incidents of juror misconduct; other individuals were counseled and allowed to continue serving.

2) Occasional meetings were held between the County Counsel and the Civil Grand Jury foreperson to resolve these questions (and others) as they arose.

3) The Civil Grand Jury cites the following instructions from its training manual: “...*the agency should be notified that both announced and unannounced visits will be made.*” (pg. 49)

4) This item was addressed on a previous page.

Response Required: Though some of the recommendations in this report fall within the responsibilities of other county departments, the bulk of this list is for the Jury Commissioner’s Office to resolve. The Civil Grand Jury expects, therefore, a written response to these recommendations from the **Jury Commissioner** and the **appropriate departments** on or before September 30, 2010.

**THE IMPERIAL COUNTY
2008-2009 CIVIL GRAND JURY
FINAL REPORT
RESPONSES**

Niland Sanitary District
P.O. Box 40
125 West Alcott Rd.
Niland, CA 92257
760-359-0454

To: Imperial County Grand Jury

From: NSD Board of Directors

07/20/2009

We the NSD Board of Directors and staff have been communicating with various agencies and are pursuing funds necessary to correct the deficiencies listed in the Grand Jury Report dated April 21, 2009.

The Niland Sanitary District (NSD) is currently pursuing funds to pay for the preparation of an Engineering Report describing alternative methods of treatment and disposal to phase out the discharge of effluent to receiving waters to present to the Regional Water Quality Control Board. Funds are being pursued from the Imperial Valley Economic Development Department. The Boarder Environment Cooperation Commission (BECC) sent the NSD a letter dated June 2, 2009 stating that they could not fund our project at this time due to a shortage of funds. The United Sates Department of Agriculture Rural Development Department presented the NSD with a letter of conditions on May 28, 2009 that will provide a grant in the amount of \$670,000.00 once all conditions have been met. The grant would provide funds to refurbish the influent pump station replace the existing chemical feed systems, replace guard rails and missing covers to vaults that were stolen, and for the installation of a new emergency generator. The Imperial County Economic Development Department has gone out to bid to purchase six new aerators that would improve the performance of the treatment plant using funds in the amount of \$ 75,000.00 which are being provided through a State of California Community Development Block Grant if there is adequate funds remaining they will be used to purchase a new Emergency Generator. The aerators will be installed by the NSD immediately after delivery to the plant site.

Sincerely,

Vince Hernandez
Board President
760-455-2797



Niland Sanitary District is an Equal Opportunity Employer

TEDDY TURNER
Purchasing Agent

DEBBIE WRAY
System Coordinator

FAX:
(760) 353-4956



TELEPHONES:
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PURCHASING DEPARTMENT
1125 W. Main Street
El Centro, California 92243

August 12, 2009

Imperial County Civil Grand Jury
Frances Obeso, Foreperson
Courthouse
P.O. Box 2011
El Centro, CA 92244

SUBJECT: Grand Jury Final Report

Imperial County Purchasing Department is a vital entity for the County in as daily decisions effect multiple departments throughout the County. Purchasing is the watchdog for the Imperial County taxpayers whereas it is constantly looking for contracts, which will provide best value for the dollars spent.

In response to the four (4) recommendations Purchasing has the following input:

- **All County purchases should be reviewed by the Purchasing Department before being finalized. The expertise and experience of this departments should be utilized even for items that are not being put out for bid.**

Currently the County Executive Office is working on a Board Agenda form that requires any purchases to be reviewed by Purchasing before going to the Board of Supervisors.

- **The mail service for the County needs to be examined carefully. A new facility for just the mail is probably not too far from being a necessity.**

Due to the economics throughout the nation a new facility needs to wait until the economy turns around. Although, in the mean time, plans can be started on the future needs and make assessments based on the historical data available.

- **A barcode scanner for the mail room, although initially a considerable expense, would save the County a large amount of money annually and should therefore be budgeted as soon as possible.**

The Purchasing Agent has contacted United States Postal Services and requested information on the software, which will provide the barcode needed to ensure the lower rates. Once this information is received plans can be made on the amount of funds that will be needed to acquire said software.

- **The surplus items stored in the Quonset hut need to be better inventoried and more efficiently disposed of.**

Starting in May of 2008 Purchasing has had an individual open the Quonset hut every other Thursday from 8:00 a.m. until 11:00 a.m. in which that person inventories the items being received from various departments. Also, Purchasing has contacted surrounding counties to find out which auction companies are being used to dispose of their surplus items. With the approval of the Board of Supervisors, Purchasing will dispose of the current surplus items through auction companies.

Respectfully submitted,



TED TURNER
Purchasing Agent



IMPERIAL COUNTY

PLANNING & DEVELOPMENT SERVICES

PLANNING / BUILDING INSPECTION / ECONOMIC DEVELOPMENT / PLANNING COMMISSION / A.L.U.C.

JURG HEUBERGER AICP, CEP, CBO
PLANNING & DEVELOPMENT SERVICES DIRECTOR

August 11, 2009

Imperial County Civil Grand Jury
P.O. Box 2011
El Centro, CA 92244

Subject: Response to 2008/2009 Final Report on Imperial County Planning & Development Services Department.

Honorable Jury Members:

This office has reviewed the above report, and offers the following comments/corrections. For the most part the report is accurate, however on page 23, we would like for you to note that while we did bring the renovation of the current office at 801 Main Street, and under the budget as authorized by the Board of Supervisors and while we were able to also acquire covered carports, there was no funding at any time used for the BBQ Trailer. The BBQ Trailer was an effort by the staff with its own resources and its own funds and not a dime of County Funds has been spent on the BBQ.

Item 2, with regards to recommendations on page 24, this office consistently works with the Board of Supervisors as well as the Imperial Irrigation District on a variety of topics, not the least of which of course is water availability as well as power availability.

With regards to the permitting fees, we routinely review our permitting fees and make appropriate adjustments. As explained to The Grand Jury Committee, the actual permit fees for the department are the result of a very comprehensive study prepared by an outside Consultant that reviewed the actual cost of the operation vs. the fees. There are two types of fees which are typically confused. Those are the departmental fees for actual work performed and the development impact fees that are charged by the County. While this office does collect impact fees, this office does not spend or have authority to make decisions regarding spending impact fees and does not set the rate. That is a matter of the Board of Supervisors and the County Executive Officer (CEO).

We disagree wholeheartedly that there is a disparity in certain fees. Certainly there is difference in fees collected between the County and some of the Cities. However, our fees are based on an actual study to verify the actual cost of the operation and since it is the policy of the County for the "User" to pay for the services; those are in fact the fees.

We have looked at some of the Cities fees. Whether they are adequate to cover their expenses is unknown. However, it should also be noted that the County provides services over a 5,200 square mile area, while most of the Cities are limited to 5 to 10 square miles. Therefore, the cities incur substantially less cost in some arenas particularly in building inspections.

MAIN OFFICE: 801 MAIN ST., EL CENTRO, CA 92243
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(760) 482-4236
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E-MAIL: planning@imperialcounty.net
(AN EQUAL OPPORTUNITY EMPLOYER)

We appreciate the comprehensive review done by the Grand Jury we certainly take it seriously. I hope we have answered your questions, if you have any more please contact me at (760) 482-4236, extension 4310 or e-mail me at jurgheberger@co.imperial.ca.us

Sincerely,



Jurg Heuberger, AICP, CEP
Imperial County Planning & Development
Services Director

Cc: Board of Supervisors
Michael L Rood, County Counsel
Katherine Turner, Deputy County Counsel
Joanne Yeager, Assistant County Counsel
Ralph Cordova Jr., County Executive Officer
Darrell Gardner, Assistant Planning Director
File 10.101, 10.105, 10.130, 10.133

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Lee Hindman
Jacinto Jimenez
Jeanne Vogel
Steve Walker
Richard Acosta

Central Union High School District

Central Union High School District
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Superintendent
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Assistant Superintendent
Educational Services
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Principal
Danette Morrell

Desert Oasis High School
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Principal
Maria Ambriz

The Honorable Donald B. Donnelly
Presiding Judge of the Superior Court
County of Imperial
939 West Main Street
El Centro, CA 92243

July 18, 2008

RE: RESPONSES to the GRAND JURY FINDINGS

Dear Judge Donnelly:

Sections of the Imperial County Civil Grand Jury 2007-2008 Final Report and responses to the findings and recommendations related to the Central Union High School District were reviewed by the Board of Education during their July 15, 2008 meeting. Ten Findings and six Recommendations were included in the report. District responses to the Findings and action on the Recommendations are below (Note: Only the first line of the finding or recommendation is reprinted below in italics):

RESPONSE TO FINDINGS

- *Southwest High School is ten years old and the buildings are in good condition...*
RESPONSE: Central Union High School District agrees with the findings

- *The Academic Performance (correct word) Index for the District is good...*
RESPONSE: The district disagrees with the findings in part. The wording regarding the SHS Distinguished School status is misleading. Central Union High School and Southwest are California Distinguished High Schools. Schools are identified as "Distinguished" for a five year period.

The data regarding the percent of seniors passing the CAHSEE is inaccurate. More than 70% of grade 10 students pass the CAHSEE on the first administration. More than 90% of students have passed the exam by the end of their senior year.

- *Forty percent of the students are English language learners...*
RESPONSE: The district disagrees with the findings in part. English language learner data is inaccurate. The latest Language Census Audit indicates that 29% of CUHSD students are identified as English learners.

The wording regarding the Gifted and Talented Education program is misleading. Only the GATE World History, US History and English 11 classes have been phased out and replaced with Advanced Placement courses. AP courses are considered GATE courses and a re part of the GATE program; they're just not labeled GATE. In total three GATE English classes and nineteen Advanced Placement course options are available to gifted students in the district.

- *Three of the four administrators at Southwest...*

RESPONSE: The district disagrees with the findings in part. Only two administrators at Southwest are new to the school. Both of these administrators are experienced school administrators with combined experience exceeding forty years.

- *The Southwest campus includes the Southwest Academy for the Visual and Performing Arts...*

RESPONSE: The Central Union High School District agrees with the finding

- *Food Services is not self-sustaining and has to be subsidized from the General Fund....*

RESPONSE: Central Union High School District agrees with the finding.

- *There is one police officer assigned to the district...*

RESPONSE: The district disagrees with the findings in part. The District has an agreement with the City of El Centro to provide two school resource officers (SRO) and collaborates with the probation department to provide them access to students. There is, however, no probation officer employed by the district. The district does employ its own security guards and a community liaison. In addition, the district contracts with a local private security company to provide night guards. The district agrees with the remainder of the observations in this finding.

- *The restrooms on the northwest outside of the gym at Southwest have been closed during school hours because of security problems...*

RESPONSE: Central Union High School District agrees with the findings

- *There are continuing efforts at all sites to encourage parent involvement...*

RESPONSE: The district disagrees with the findings in part. The District implements numerous strategies to solicit parent involvement and offers extensive athletic, co-curricular, and extra curricular activities before and after school for students to participate in. There is no data to support and the district disagrees with the contention that, "Many students, especially Hispanics, are unable to participate...because of bus schedules." All senior, junior, and most sophomores are old enough to drive. All students, even those in Heber and Seeley, have access to public transportation and are mature enough to ride unsupervised. Previous attempts to offer school-provided after school transportation have been abandoned because of the lack of participation.

- *Southwest High School has a Lead Custodian with eight employees under him...*

RESPONSE: The district disagrees with the findings in part. Duties have not been increased. However, the accountability to complete the duties already in custodial job descriptions has increased. Custodians report to the Director of Maintenance and Operations not the warehouse supervisor.

ACTION ON RECOMMENDATIONS

- *Given the large number of Spanish speaking parents in the district....*

RESPONSE: The District advertises and fills administrative vacancies as "Spanish speaking desired." The prevailing philosophy is to hire the best candidate not just the one who speaks Spanish. If two candidates are equally qualified the Spanish speaking candidate will always get the job. Considering a candidate's language skills in the hiring of new administrators is already part of the recruitment and selection process.

- *The workload of custodial staff should be assessed given the recent changes in workload.*

RESPONSE: There have not been changes in the work load; the custodial staff is being required to do their job duties, some of which they have not been doing. Another workload analysis is not warranted.

- *At Southwest High School, the District should consider the need for new carpet shampooers.*

RESPONSE: Continuous repair costs as a result of custodial staff abuse have resulted in discontinued replacement of this equipment. Implementation of this recommendation is not reasonable because of previous abuse.

- *At Southwest High School, the District should consider the need for a mechanized cart to assist custodians when moving heavy loads.*

RESPONSE: Continuous repair costs as a result of custodial staff abuse have resulted in discontinued repair of this equipment. Implementation of this recommendation is not reasonable because of previous abuse.

- *The District should examine ways to improve communication between the Maintenance Supervisor and the school-site custodial staff.*

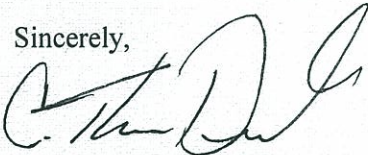
RESPONSE: Implementation of this recommendation is not reasonable or warranted. The Maintenance Supervisor communicates with the lead custodians at each school site who communicate any direction from the Supervisor to the custodial staff.

- *The district should reexamine bus schedules...*

RESPONSE: This recommendation will not be implemented because it is not warranted or reasonable. There is no data to support the need for it and previous implementations have failed to justify district-provided after school transportation.

Should you need additional information please contact me.

Sincerely,



C. Thomas Budde, Ph.D.
Superintendent



Imperial Irrigation District

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Imperial County Civil Grand Jury 2008-09 Final Report Imperial Irrigation District Official Response

A fundamental duty to be fair and accurate

In responding to the final report issued by the Imperial County Civil Grand Jury on the Imperial Irrigation District's operations and policies, the district commits itself to making a careful assessment of its internal processes and external communications to ensure that both are aligned with its overarching responsibility to serve the public good. Where areas of concern have been identified in the final report that demand an organizational remedy, IID, as a public agency, will not hesitate to act in the public interest; at the same time, the district has a fundamental duty to correct the record where obvious misunderstandings of the law or misstatements of fact have been relied on to arrive at what it believes to be an erroneous conclusion.

At the outset of its final report justification, IID is described as "a special district, which has operated as a public entity in Imperial, San Diego and Riverside counties since 1904, when the Imperial County Board of Supervisors created it." This sentence is replete with errors, since Imperial County did not exist as a separate county until 1907 and the vote to create the IID, which was formed under the state of California's Irrigation District Act, occurred in 1911. Moreover, IID didn't enter the public power business until 1936; prior to that time its geographical operations were exclusively confined to the Imperial Valley.

These may appear to be innocuous mistakes – and they are when compared to the more sinister (and unsubstantiated) allegations of "corruption" sprinkled throughout this report – but the grand jury has its own responsibility to observe basic principles of fairness and accuracy in writing and releasing such a document to the public.



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A curious coda to doing the people's business

The grand jury cites comprehensive investigations of IID that were conducted in 1992-93 and 1995-96. It chides the district for its failure to provide a response to either of these inquiries, which it concedes were "of a timely nature, and therefore no longer pertinent." The district cannot respond for the manner in which it treated grand jury investigations in 1992-93 and 1995-96; at a minimum, an official response should have been proffered and released to the public. That it wasn't is regrettable, but neither the current board nor its executive management is in a position to account for this oversight.

The IID board's longest-serving director is Stella Mendoza, who was elected in 2000; its management team has been in place, including General Manager Brian Brady, for just over a year. Even so, one of the chief findings of the final report is that the current grand jury "is deeply concerned that the previous status quo in the IID remains their current and accepted way of doing business."

It is instructive to note that IID management, when it received the final report on June 11, 2009, and was advised that its public release was imminent, asked that its response be included in the published document. This seemed only fair, since one of the criticisms of IID contained in the final report is that it had been unresponsive to past investigations by the grand jury. At first, management was told that this courtesy would be extended to IID, but later in the day it was informed that such an accommodation simply wouldn't be possible, as the 2008-09 grand jury had "run out of time."

Consider that when IID received the final report for its review, the general manager had been subpoenaed for a second interview to be held the following week (on June 17). Any new information that might be gleaned from this subsequent meeting, which follows four months of interviews with all board members and members of the management team, will stand as a curious coda to the investigation, since the grand jury has already completed its inquiry and published its findings.



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Rate increases contemplated but never enacted

The impetus for this investigation, according to the background component of the final report, was “a series of public forums that reviewed the justifications for proposed water and power rate increases in ... the Imperial and Coachella valleys.” These public forums, or workshops, began in February and were conducted throughout the district’s irrigation and energy service areas. Increases were contemplated for both the water and energy rate schedules and were reflected in the 2009 budget approved by the IID board on December 22, 2008.

Those rate increases, though, were always contingent on a separate up-or-down vote by the board, which could only occur after public workshops had been held in both valleys. The grand jury finds fault with IID for passing a 2009 budget that had rate increases built into it, even though this is the established way in which a public agency with ratemaking responsibility approaches its task. In addition, IID approved its consolidated 2008 budget based on the performance of water and energy cost-of-service studies that would validate the need for upward adjustment to both rate schedules, a matter of provable fact that was made known to the grand jury.

What’s more, the Energy Department refinanced its electric system in September of last year, issuing bonds of \$250 million that anticipated across-the-board revisions to the rate schedule; in fact, IID sought to assure Fitch Ratings Agency, other ratings agencies and prospective bondholders that, in order to preserve its AA-minus credit rating, the district would enact energy and water rate increases in 2009. This fact, too, was made clear to the grand jury.

On the water side, a \$3-per-acre-foot increase was proposed to the \$17 agricultural rate, and corresponding municipal rates were also suggested for upward adjustment. The water cost-of-service study performed by Entrix is not a credible document, proclaims the final report, because “the conclusions misrepresent the findings to such a degree that, again, either the actual claim that the IID is attempting to provide honest data is suspect, or the resultant data is so full of errors that its validity is nil.”



Imperial Irrigation District

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An attachment from the Entrix study showing a comparison of water rates is included in the final report as proof of its unreliability. It is one of two attachments that the grand jury has in its possession that “conflict with testimony.” On what does the grand jury base this alleged unreliability? The omission of the Bard/Winterhaven District from the list of comparable, nearby districts and the mislabeling of the Yuima Municipal Water District, a California agency, which was depicted as being in Yuma, Arizona.

These are typographical mistakes, clerical errors not unlike those contained in the grand jury’s final report. While they should have been corrected by IID staff before the analysis was circulated in final form, they do not constitute a smoking gun. Neither do they prove that the data compiled and interpreted in this report cannot be relied on by the IID board in carrying out its ratemaking responsibility.

In the end, though, all of the explication above, which was shared with the grand jury in multiple interviews with IID board members and executive management, adds up to little more than an academic exercise. And that’s because the proposed water and energy rate increases recommended by management and contemplated in the 2009 budget were not enacted by the board. This is an inescapable fact that demonstrates not only the district’s responsiveness to direct public input but the board’s ultimate authority in making policy and setting rates. IID acted, in other words, exactly as a public agency that is responsible to its stakeholders and ratepayers should act – in the public interest.

As for the second document in the grand jury’s possession that is somehow in “conflict with testimony,” this is a July 20, 2007 news brief that was posted on the IID Web site in the aftermath of the failed 2005-06 natural gas hedging program and the termination of former General Manager Charles Hosken. In it, the public is advised that an independent investigation undertaken by the Baker Street Group “found no evidence of any employee acting for personal gain or to intentionally cause harm to the district.” The text goes on to say that the matter will be turned over to the state Attorney General’s Office “to ensure no criminal actions occurred.”



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That this item was still posted nearly two years later was an obvious mistake, but what the grand jury objects to is that no follow-up was provided. The truth is, both the Imperial County District Attorney and the Attorney General's Office were consulted and neither found any evidence of criminal wrongdoing. This was generally reported by the district's general counsel at board meetings and in contemporaneous press accounts. There was no effort to deceive, since furnishing the requested information could only buttress what IID had been saying all along, that no criminal act had occurred.

Still, there is a problem with the district's Web site, which contains a plethora of public information but is difficult to navigate and has not received the time and attention, to this point, that it warrants in this new era of digital communications. An overhaul of the site is included in the 2010 budget and it is the intention of responsible IID staff to exert greater care and more control over its content.

Roles of the board and general manager

Six recommendations are included in the final report, and IID is expected to provide an official response to each of them in the next 30-90 days. The district will respond to each of these recommendations in detail and within the proscribed time period. In the interim, though, one of the recommendations warrants at least a preliminary response from IID.

This recommendation, which appears as No. 2 in the final report, and IID's answer to it are as follows: "The IID Board of Directors must commit its time and talents to running the entity themselves, rather than allowing decisions to rest in and information to filter through the hands of a single general manager, who is unelected and unaccountable to stakeholders."

The IID board is elected by voters within the irrigation service territory. Its five board members are elected at large to set policy and to represent the public on water and energy matters. The board is not elected to "run" the district, a task for which it is unsuited and ill-equipped to carry out. The general manager, who is charged by the board to "run" the district, is the board's agent; in fact, he is its only employee.



Imperial Irrigation District

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Viewed in its most charitable light, this recommendation is perhaps meant to address a perception included elsewhere in the final report that “day-to-day operations at IID seem to indicate a strategy by middle management, and perhaps even rank-and-file employees, to ignore and to stall on requests and directives for reform and transparency in order to wait out the terms of elected officials ...” Viewed as it appears on the printed page, this recommendation betrays a misperception on the part of the grand jury as to the distinction between an elected board and its general manager: one sets district policy and the other is responsible for translating that policy into action.

A cavalier and careless use of the word ‘corruption’

Finally, IID takes serious exception to the cavalier use of the word “corruption” in the grand jury’s final report. If evidence exists of corruption at IID, it has not been shared with the district or included in this document. To employ such a term in the preparation of its final report is, at best, careless and imprecise; at worst, it is reckless and impugns the integrity of an organization that has served the public interest for nearly a century.

Since another of the six recommendations is for the grand jury to investigate the district on an annual basis, IID would ask that its members, in discharging their public watchdog function, refrain from such intemperate and emotionally charged language – unless it can be clearly substantiated – in future installments of this ongoing line of inquiry.