

**ETHICS AND CAMPAIGN REPORTING:
WHY AND HOW TO IMPLEMENT STRONGER
OVERSIGHT, TRANSPARENCY, AND ENFORCEMENT**



GRAND JURY 2013-2014

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SUMMARY

The 2013-2014 Orange County Grand Jury undertook part of the mission of the Blue Ribbon Commission recommended by last year's Grand Jury by studying ethics and campaign and lobbyist reporting oversight and enforcement in the County. The 2013-2014 Grand Jury studied ethics commissions in California and other jurisdictions to see if a similar model would be suitable for Orange County. The Grand Jury also analyzed the proposed initiative to have the California Fair Political Practices Commission (FPPC) enforce Orange County's TINCUP Campaign Finance Reform Ordinance.

The 2013-2014 Grand Jury found that ethics, campaign and lobbyist reporting oversight and enforcement in Orange County is deficient in a number of areas, including coordination, audits, transparency, law and policy advice and recommendations, and independence.

Existing ethics commissions in California provide an established and effective model to monitor and enforce campaign finance and reporting and lobbyist reporting laws as well as other ethics laws and policies. The Grand Jury concluded that an ethics body in Orange County would not be bureaucratic, unnecessary, irresponsible, or wasteful, as asserted by the Board of Supervisors. The potential cost of an ethics body is outweighed by its potential benefits, including coordinated oversight, transparency, independence, and creating atmosphere of deterrence to law violations and corruption that could contribute to improving overall trust in local government.

The Grand Jury concluded that the proposed enforcement by the California Fair Political Practices Commission (FPPC) of the County's campaign finance law has several drawbacks:

1. It could possibly invalidate current campaign contribution limits specified in Orange County's TINCUP Campaign Finance Ordinance.
2. Its independence may be limited because it would be under control of and subject to continuing Board of Supervisors approval, including budget approval.
3. It would be limited to only civil (not criminal) enforcement.
4. It could defeat the purpose of establishing coordinated oversight and enforcement in the County of ethics compliance and campaign and lobbyist reporting.

Ethics bodies work effectively to deter, detect, and punish ethics violations. The 2013-2014 Grand Jury calls on County officials and candidates to declare themselves in favor of establishing an ethics program, which could move County government closer to being beyond ethical reproach.

REASON FOR THE STUDY

When the 2012-2013 Orange County Grand Jury called for the creation and implementation of an ethics reform program for the County,¹ it met with strong opposition from members of the Board of Supervisors. With dissenting opinions, the Board declined the recommendation to create a Blue Ribbon Commission to study and recommend an ethics reform program for the County.

The 2013-2014 Grand Jury chose to undertake part of the mission of the previously recommended Blue Ribbon Commission themselves, by analyzing current ethics oversight in the County, and by studying bodies (ethics commissions) that fulfill this purpose in California and other jurisdictions. The Grand Jury also wished to analyze the stated objections of the Board of Supervisors to an ethics body, and the justification and feasibility of fitting parts of the model into County's current structure.

The Board of Supervisors has accepted that there is a need for additional ethics enforcement in the County. They have sponsored legislation (Senate Bill 1226) to allow the FPPC to investigate violations and enforce campaign finance laws in the County. The Grand Jury also wished to study how this FPPC initiative might fit into an overall County ethics program, and the initiative's advantages and disadvantages.

The reasons for 2012-2013 Grand Jury ethics study and report were based partly on a historical recounting of alleged corruption in Orange County politics. This study by the 2013-2014 Grand Jury does not attempt to recount additional recent incidents of alleged corruption in the County, although they are certainly reported, and in many cases apparently supported, in the local news media. The 2013-2014 Grand Jury does not believe that in Orange County, politicians and public officials or people in general, tend to be more corrupt than in other jurisdictions in California.

Orange County, however, is very wealthy,² and land and economic development are still very active here. When such robust development and economic activity is combined with the size and scope of government activity in general today, unethical attempts at self-enrichment and increased power tend to follow, and have followed in Orange County. Such is human nature. Oversight of ethics compliance is necessary to not only uncover and punish violations, but to create an atmosphere in which everyone knows they must fully understand and comply with ethical standards. With such oversight, people who are inclined toward unethical behavior know that such behavior is monitored and are thus discouraged from engaging in it.

¹ 2012-2013 Grand Jury report "A Call for Ethical Standards", accessed 4/8/14 at http://www.ocgrandjury.org/pdfs/2012_2013_reports/Corruption-in-OC04152013.pdf

² In 2011, O.C. was 2nd among California Counties in total income, and in the top ten in per capita, household, and family income. Source: U.S. Census Bureau. American Community Survey, 2011, http://en.wikipedia.org/wiki/California_locations_by_income#Counties, viewed 5/21/14

The need for trust in government by those who are democratically governed cannot be over emphasized. Nevertheless, surveys and polls show that such trust continues to decline,³ perhaps with justification. For example, the California FPPC has reported that prosecutions of both serious campaign violations and lobbying violations were the highest ever in 2013.⁴ The overriding reason for this Grand Jury study was to outline a concrete method for Orange County government to take a leadership role in overcoming this mistrust and rise to a level of being truly beyond ethical reproach.

BACKGROUND AND FACTS

Ethics Provisions Applicable to Orange County Government

A plethora of Federal and State laws, local ordinances, codes of conduct, policies, guidelines, and procedures govern ethical behavior of Orange County officials, employees, contractors, candidates, political campaigns and lobbyists. These rules can be general in nature, or only apply to specific agencies, departments, or activities. Some local Orange County examples are

- a) the Orange County Gift Ban Ordinance,
- b) agency and department Codes of Conduct,
- c) the County's Lobbyist Registration and Reporting Ordinance, and
- d) the Orange County Campaign Reform Finance Ordinance (TINCUP).

Generally, ethics provisions fall under three categories:

1. Personal and financial gain,
2. Transparency, and
3. Fair process and merit based decision making. This category refers to processes and decision based on objective criteria for the benefit of the residents of the County, rather than on personal gain, personal relationships (cronyism), or personal bias.

A very important point is that the broad topic of "ethics" in public service refers to much more than just laws, and certainly to more than just laws relating to campaign finance. Ethics training for public officials strongly emphasizes that laws are only a minimum standard. Quoting a well-known ethics textbook:

"Because public trust and confidence is vital to the strength of a democratic system, ethics laws sometimes set very high standards for public official conduct. Even so, it is important to keep in mind that these standards are

³ See American National Election Studies at http://www.electionstudies.org/nesguide/toptable/tab5a_5.htm, viewed 5/27/14

⁴ FPPC 2013 End of Year Report, <http://www.fppc.ca.gov/agendas/01-14/Enforcement%20End%20of%20Year%20Report.pdf>, viewed 5/16/14

*only minimum standards: it is simply not possible or practical to write laws that prevent all actions that might diminish the public's trust. For this reason, the laws should be viewed as a floor for conduct, not a ceiling. Just because a given course of conduct is legal does not mean that it is ethical (or the public will perceive it as such)."*⁵

The Orange County Campaign Reform Ordinance (TINCUP)

The Orange County Campaign Reform Finance Ordinance (known as TINCUP - Time is Now to Clean Up Politics) was originally adopted in 1978 and applies to twelve Orange County elected offices:

1. Sheriff-Coroner
2. District Attorney/Public Administrator
3. Auditor–Controller
4. Clerk–Recorder
5. Assessor
6. Treasurer/Tax Collector
7. Superintendent of Schools
- 8-12. County Supervisors (five)

The Ordinance has been amended a number of times since adoption and is currently comprised of these main elements:

1. Election campaign donations are limited to \$1,900 per person or per campaign committee during an election cycle.
2. Post-election campaign statements are required to be filed with the Registrar of Voters.
3. Provisions/guidelines are established for slate mailers and independent expenditures such as media advertisements, “robo” calls, posters and other campaign style literature.
4. Violations of the ordinance may be prosecuted as misdemeanors by the District Attorney’s office. Civil violations are punishable by fines of up to \$5,000.

⁵ “Understanding the Basics of Public Service Ethics Laws, Principles and California Law,” p.3, viewed 5/14/14 at http://www.ca-ilg.org/sites/main/files/file-attachments/understandingbasicethicslaws_finalproof_0.pdf

The purpose of the ordinance is to lessen opportunities for disproportionate influence of affluent individuals on County elections.

While TINCUP provisions are generally widely accepted as desirable, compliance oversight of the ordinance has been left to volunteer watchdog groups, opposition candidates, or the media. Complaints about violations of the Ordinance are referred to the District Attorney (DA), who then may refer them to the State Attorney General or to the FPPC. The DA's office reported to the Grand Jury that they have occasionally found violations and imposed fines. However, since 1992 no misdemeanor or felony criminal prosecutions have taken place under TINCUP.⁶ Any civil enforcement of TINCUP by a private individual must be preceded by notice to the District Attorney, who may investigate for 90 days before deciding whether to pursue civil action. Only after the DA declines action may another party pursue a civil action.

FPPC Enforcement and SB1226

In 2013, San Bernardino County contracted with the FPPC for enforcement of that County's Campaign Finance Reform Ordinance. San Bernardino County was the first and only local jurisdiction (city or county) in California to contract with the FPPC for enforcement of a local ordinance. San Bernardino County budgeted just under \$500,000 over a two-year period for FPPC enforcement.⁷ Through February 2014, approximately 13 months into FPPC enforcement in San Bernardino, the FPPC had only billed the County for a little more than \$9,000⁸, although San Bernardino had not yet begun an election year cycle at that time.

In February 2014 the Orange County Board of Supervisors approved proposed legislation to empower the FPPC to assume enforcement responsibility of the Orange County Campaign Finance Reform Ordinance. This approval took place after Board members visited San Bernardino County officials to inquire about San Bernardino's hiring of the FPPC for campaign finance enforcement. Subsequently, at the Board's behest, the State Senator from Orange County's District 34 introduced SB1226 to allow such enforcement in Orange County by the FPPC.

As of this writing, SB1226 has been amended to allow FPPC enforcement of campaign finance ordinances in any California city or county that requests it. The bill has been reported out by the Senate Elections Subcommittee with unanimous approval, and will come up for a vote in the Legislature sometime in mid-year of 2014.

⁶ The DA's office was unable to produce any data regarding TINCUP enforcement when requested to do so by the Grand Jury. Representatives of the office did not refute that no criminal prosecutions under TINCUP had taken place since 1992.

⁷ San Bernardino County staff reported to the Orange County Grand Jury that for the 13 month period from 1/13 through 2/14, the FPPC billed SB County \$9,397.

⁸ Information obtained through an inquiry of San Bernardino officials by the Grand Jury

Current Oversight and Enforcement in Orange County

In addition to individual agency and department management, the following County-wide offices are charged as part of their responsibilities with monitoring, uncovering, investigating, or penalizing ethics violations in County government.

District Attorney

The Orange County District Attorney (DA) is charged with investigating all possible criminal activity, including State and local ethics violations, campaign law violations, as well as Accusations by a Grand Jury of corruption and malfeasance by public officials. The DA's office is the only office that can bring resulting criminal prosecutions, unless the case is referred by the DA to the State Attorney General. The DA is also charged under TINCUP with investigating and enforcing civil violations of the ordinance. Such investigations may result in settlements that include corrections of violations (such as amended filings or return of contributions), or fines up to \$5,000.

Internal Audit

The Internal Audit Department assists agencies and departments regarding County policies and procedures, including advising Human Resources on revisions to these. The Department manages the County-wide OC Fraud Hotline and may conduct or oversee investigations of ethics complaints. The Audit Oversight Committee has proposed to rename the OC Fraud Hotline as the Fraud, Ethics, and Compliance Hotline, with the specific purpose of publicizing that in addition to fraud complaints, ethics and other complaints are accepted. The Internal Audit Department also offers ethics training to agencies and departments.

Human Resources

The Human Resources Department addresses issues related to employee relations, such as hiring, rating, promotion and firing practices, and policies relating to, for example, nepotism and sexual harassment. In many cases, the Human Resources Department would also be the first referral from a department in cases of suspected misuse of funds or fraud.

Registrar of Voters

The Orange County Registrar of Voters (Registrar) is charged with receiving and filing election related forms, including campaign establishment and financial reporting (460) forms. To fulfill this responsibility, the Registrar maintains an electronic database of filings. The database is searchable by a number of criteria, including candidate name, committee name, and elections dates.

The Registrar also issues reminders of filings due from committees, and levies fines for late filings. Interestingly, the Registrar's office can levy fines for late filing by committees; however,

they have no power to fine committees which never file required forms. Following an election, the Registrar of Voters office conducts an audit of each form filed. Registrar of Voters senior management described these audits as “cursory”. In addition, the Registrar of Voters conducts numerous training programs for campaign staff and candidates regarding campaign and reporting legal requirements. In the Grand Jury’s opinion the Registrar of Voters office thereby fulfills all of its State mandated obligations.

Also, the California State Board of Equalization (the State’s taxing authority) does random audits of campaign filings. The Grand Jury did not obtain information about what percentage of filings are audited by the Board of Equalization.

The Clerk of the Board

The Clerk of the Board is charged with receiving and filing the State required Statement of Economic Interest California Form 700 from County officials. The Clerk maintains an electronic database of the forms and is required by the FPPC to audit at least 20% of the filings every year. Audits look for anomalies in forms, such as major investment and asset changes from year to year. *Audits do not investigate the truthfulness of filings.*

The Clerk of the Board also receives registration forms and filing fees from County lobbyists. An electronic database of filings is maintained that is accessible by lobbyists and searchable by the public by lobbyist name. Lobbyists are required to keep registration information up to date, however no audits are conducted and the process is an “honor system” according to senior staff in the Clerk’s office. The Clerk sends reminders to lobbyists each year to renew their filings, and fines are specified for late registration. One fine in 2014 is the only such fine that senior management of the Clerk’s office recalls ever being levied.

In addition, the Clerk of the Board receives and files a report when a County employee receives a “gift” such as lunch or dinner within the function of their job, such as when attending or speaking at a luncheon or dinner.

Grand Jury

The constitution and operations of the Grand Jury are specified under State law. Governance of the Grand Jury is under the Superior Court. The Grand Jury may investigate and issue reports regarding almost any aspect of County government as well as City government, School Districts, and Special Districts within the County. Such investigations can include ethics related issues and violations. The Grand Jury may subpoena individuals to testify, or records relating to an investigation. The Grand Jury may also bring an Accusation against a government official for corruption or malfeasance in office. The District Attorney is charged with prosecuting Accusations brought by the Grand Jury. No formal Accusations have been brought by the Orange County Grand Jury since 1994.

Grand Jury members are chosen from a pool of volunteer applicants and serve a one-year term. The limited Grand Jury budget precludes extensive use of outside lawyers, investigators, or other outside services for very lengthy and complex investigations.

Ethics Commissions in California Cities and Counties

The 2013-2014 Orange County Grand Jury surveyed city and county ethics commissions in California and other jurisdictions in order to understand this method of monitoring and enforcing ethics, and campaign finance and reporting compliance. A table showing the results of the survey is shown in the Appendix. The data in the table will give the reader an idea of the wide variation of commission characteristics relative to the government operations they oversee.

The following is a summary of the information the Grand Jury learned.

Characteristics

Name: All but one of the commissions studied has the name Ethics Commission. Kern County has a Campaign Finance Hearing Board. Ventura calls theirs the Campaign Finance Ethics Commission.

Age: The oldest California ethics commission (in its current format) is the Los Angeles City Ethics Commission, established in 1990.

Scope: The commissions which the Grand Jury studied address, to varying degrees, Federal, State and local laws and policies regarding:

- a) elections,
- b) election campaign financing,
- c) conflicts of interest of elected and appointed officials,
- d) reporting of financial interests of elected and appointed officials,
- e) public records disclosure, and
- f) fraud, waste, and other illegal or unethical behavior in government operations.

Authority: Authority for all the commissions comes from either a city charter or municipal code section or ordinance. Some ordinances were voter approved.

Governance: All are governed by a Board of Supervisors or a City Council, which controls budget.

Size: The size of the commissions is either three, five, or seven commissioners (not including hired staff).

Appointment: Done by a combination of appointed or elected officials. Only the Oakland Commission appoints some of its own members.

- Term:* Varies from three to six years.
- Pay:* Only Los Angeles City and Kern County Commissions provide pay for Commission service. The Los Angeles Commission provides \$50 per meeting.⁹ Kern County provides \$125 for a half day, and \$200 for a full day.
- Paid Staff:* Paid staff varies from none in San Jose and Kern County to 21 in Los Angeles. Note that commission members are not considered paid staff. Paid staff performs all of the functions of a commission except hearing and ruling on cases.
- Budget:* Of those commissions for which budget information was available, the highest was \$4.2 million for San Francisco, which included \$1.9 million of campaign matching funds.

Functions and Operations

The ethics commissions studied by this Grand Jury performed some or all of the following functions:

1. Receiving mandated filings
2. Collecting data
3. Educating regarding compliance
4. Monitoring compliance
5. Receiving complaints of possible violations
6. Issuing subpoenas, investigating and ruling on possible violations
7. Enforcing with fines and other sanctions
8. Issuing formal and informal opinions and advice regarding compliance
9. Making recommendations for additions and modification to applicable laws
10. Administering candidate matching funds programs

All of the commissions the Grand Jury studied have at least one currently practicing or former attorney as an appointed member, since much of a commission's work deals with interpreting and applying laws. Legal work for the commissions is performed either by full or part-time attorneys on the paid staff, attorneys working as independent contractors, the City Attorney, County Counsel, or volunteer attorneys.

⁹ The Grand Jury was told by Los Angeles Ethics Commission staff that current L.A. Ethics Commissions all decline to receive pay.

Commissions use varying degrees of automation for collecting, analyzing, and distributing data and information. Some use commercially available software packages, and some have developed their own applications. Functionality ranges from simply scanning and indexing documents by a few categories, to extensive analysis and some automated intelligence. Examples of the latter are sophisticated database search capabilities such as analyzing campaign contributions from suspiciously similar names or from connected businesses to uncover hidden campaign contribution limit violations.

One commission, Oakland, is charged with setting the salaries of City Council members.

METHOD OF STUDY

The Grand Jury performed the following tasks in the completion of this study:

1. Reviewed various ethics laws, codes of conduct, policies, guidelines, the Orange County campaign reform ordinance, and the County of San Bernardino campaign reform ordinance
2. Interviewed members of the Orange County Board of Supervisors and senior management and staff of the Office of the District Attorney, the Registrar of Voters, the Internal Audit Department, the Clerk of the Board, County Counsel, and the FPPC.
3. Reviewed characteristics of existing ethics commissions in California that have oversight responsibility over senior elected and appointed officials, including their functions, powers, budgets, history, and governance
4. Interviewed ethics commission management and staff of commissions in
 - a. Ventura County,
 - b. the City and County of San Francisco,
 - c. the City of Los Angeles,
 - d. the City of San Diego, and
 - e. the City of Seattle, Washington
5. Received information from the Office of County Counsel of San Bernardino County
6. Analyzed ethics commission operations and results, as well as past Grand Jury reports from Orange and other counties, and relevant literature, to determine which best practices might apply to Orange County

ANALYSIS

Deficiencies in Current Ethics and Campaign Reporting Enforcement

The Grand Jury found that there are a number of deficiencies in current ethics and campaign reporting enforcement in Orange County. Deficiencies include:

1. Ethics Oversight

There are many areas where literally no one in County government is monitoring ethical behavior. For example, officials who make decisions regarding County contracts, relations with outside parties such as labor unions, or lawsuits, are relied upon to monitor themselves for conflicts of interest, and recuse themselves from decisions where appropriate. No officially authorized body is correlating, for example, California Form 700 economic interest data, or California Form 460 campaign data with decisions and votes about contracts to monitor such potential conflicts. The public, the news media, and usually political opponents are the ones who point out these instances.

This kind of oversight is what ethics commissions do, to call out illegal behavior, or behavior which may not go so far as to be illegal, but would generally be regarded as unethical.

An example of the latter, and of a questionable provision of state and federal law, is when campaign contributions correlate closely with government contracts awarded to those who contribute. Because campaign contributions are not considered “personal gain” to a candidate under the law, the practice is not illegal. However, it could certainly be viewed questionably as unethical “quid-pro-quo.”

This is a particular problem when such contributions are given to independent PACs (Political Action Committees) for which contribution limits tend to be higher than limits for individual candidates, or to “Super” PACs, for which there are no contribution limits. When PACs then donate to candidates, the original source of the contributions can be disguised, and contribution limits can be thwarted.

2. Campaign and Lobbyist Reporting Oversight

While the Registrar of Voters and the Clerk of the Board fulfill their legal responsibilities over campaign and lobbyist reporting, neither has the authorization, not to mention the budget and the staff to be thorough oversight bodies. The Registrar of Voters office collects forms and campaign reporting information, but senior management of the office acknowledged in interviews with the Grand Jury that they only do a “cursory” review to verify the completeness and accuracy of information. Indeed, the Grand Jury found from an examination of samples of campaign reporting 460 forms from past elections that many had important required information missing such as names of campaign officials, addresses, contribution amounts, cumulative

contribution amounts, etc. Also, even when the Registrar knows that campaign forms are due and has sent out letters reminding treasurers to submit them, there is no authority for the Registrar to do anything further if forms are not filed.

The Clerk of the Board has responsibility to collect lobbyist registration forms and maintain reporting information. The Clerk, however, does not have the authority, the budget, or staff, to monitor the correctness of information submitted. Senior management was only able to identify one fine ever levied for a filing violation. Lobbyist registration is on an honor system.

3. TINCUP Oversight

As mentioned above, there is no official authorized body in the County that comprehensively monitors compliance with the TINCUP ordinance provisions. Complaints about violations of the Ordinance are referred to the District Attorney, who then may refer them to the State Attorney General or to the FPPC. The District Attorney has occasionally found violations and imposed fines; however, *since 1992 no criminal prosecutions have taken place under TINCUP.*

A very active private citizen in the County has for years taken on the responsibility of monitoring TINCUP compliance and has forwarded complaints to the District Attorney for investigation. This individual was the author of many of the provisions of TINCUP. However, this individual cannot do it forever, and there is no existing body which would take over these responsibilities.

4. Law and Policy Training, Advice, Opinions, and Recommendations for Change

Most of the ethics commissions which the Grand Jury studied, including the largest and most comprehensive ones (Los Angeles, San Francisco, and San Diego) offer government officials, candidates, and campaign officials extensive education and training, as well as informal advice and official written opinions about compliance. They also make recommendations for changes and additions to ethics laws and policies.

The Grand Jury learned from ethics commission staff in other jurisdictions and from Orange County elected officials that such advice, opinions, and particularly education and training is very valuable. Ethics laws and policies, and particularly campaign finance and reporting laws can be very complicated and difficult to follow. (That is why skilled campaign treasurers and staff are highly prized by candidates.) Proper training and advice helps candidates avoid innocent mistakes and oversights, which are the most common types of violations.

In Orange County, no official body is charged with offering advice or providing written opinions about, or suggesting changes to ethics or campaign finance and reporting laws or policies. Senior staff of the Registrar of Voters told the Grand Jury that inquiries about campaign laws are referred to County Counsel. Senior Staff of County Counsel told the Grand Jury that people making such inquiries are referred to their own private attorneys.

While ethics training is mandatory for County officials, training about campaign laws is not. Campaign law training is available from the Registrar of Voters and from the FPPC at the request of candidates.

5. Coordination

A critical deficiency in ethics and reporting enforcement is the lack of coordination among those charged with partial responsibilities in these areas. The agencies and departments performing various functions do not correlate their information and activities in any sophisticated way. For example, it would be valuable to correlate information the Clerk of the Board has about whom lobbyists are representing and about County officials' economic interests, with information the Registrar of Voters has about campaign contributions. It would also be valuable to coordinate information about ethics complaints the Internal Auditor receives with confidential investigations the District Attorney may be conducting, or with Form 460 Economic Interest forms the Registrar of Voters currently receives but does not analyze.

Of particular benefit would be a sophisticated database and analysis software to automate this correlation process. Such software exists. A software package that the Registrar of Voters, as well as offices in other counties use has some of this needed analysis capability. The City of Los Angeles Ethics Commission has developed and uses their own software system, which they offer for sale to other jurisdictions. The Los Angeles software can, for example, automatically detect when a large number of campaign contributions are coming from individuals who work for the same company. Commission staff is then alerted, and can investigate whether coercion is being exercised by the employer. Such instances have been detected and prosecuted in Los Angeles.

6. Audits

As mentioned above, the Registrar of Voters conducts cursory audits of campaign filings after an election. In addition to such cursory audits, which allow forms with critical missing information to go uncorrected, an audit *after* an election does nothing to affect the election itself. More timely audits *before* an election would allow voters to make decisions based on more information about a candidate's campaign and support.

These audits by the Registrar of Voters, along with the audits of 20% of lobbyist filings and the random audits by the Board of Equalization do not constitute a comprehensive audit program. A comprehensive program would include complete audits of important documents such as form 460 (campaign contributions), independent verification of information provided, and follow-up to correct errors and omissions. More importantly, a comprehensive audit program would uncover violations that are not intentional, and encourage correction before the formal process of issuing notices of violations, penalties and fines could take place. This would save time and effort for all parties involved.

7. Transparency

One of the hallmarks of government and campaign ethics is transparency. Transparency is simply making comprehensive, accurate, and up-to-date information available quickly and on-demand to the public. Such transparency is possible today as never before because of information technology and the Internet.

An important element of ethics commissions is that, to varying degrees, they use comprehensive databases and create public websites with information about campaign reporting and finance and ethics enforcement activities available to the public. Having this information and these activities spread among various groups, without coordination and consolidation, makes such transparency difficult if not impossible. Ethics commissions with this specific responsibility can and do create such transparency. The reader is invited to visit the San Francisco Ethics Commission website at <http://www.sfethics.org/> and the Los Angeles Ethics Commission website at <http://ethics.lacity.org/> as notable examples.

8. Independence

In interviews with ethics commission senior officials in other jurisdictions, the Grand Jury was consistently told of the importance of having a commission and staff which is as independent as possible from those whom they are charged with monitoring. Clearly, it is a conflict for government officials whom the commission monitors to have ultimate control over the commission, including appointment and budget. Clearly it is also a conflict for the DA's office to have responsibility for investigating and prosecuting violations of campaign laws, when, in fact, the DA is an elected official who campaigns for office. Both of these are cases of the "fox guarding the henhouse." Quoting Cityethics.org, a web based organization dedicated to "making government more ethical"

*"The fact that elected officials like to have the final say is itself a conflict of interest, because it is certainly not in the public interest to give them this final say. The more independent the ethics commission, the more it will be trusted by city residents, the less it will be used for political purposes and the more respect its decisions will be given. When an ethics system is not perceived as independent and ethics accusations are politicized, the ethics system can actually undermine the very confidence in government it is supposed to protect."*¹⁰

Every organization mentioned previously as having enforcement responsibilities in Orange County is under some degree of control by the Board of Supervisors, with the head of the organization either appointed directly by the Board, and/or the Board approving their budget appropriations.

¹⁰ <http://www.cityethics.org/content/model-code-introduction>, viewed 5/17/14

Even the Grand Jury is subject to budget approval by the Board of Supervisors. The Grand Jury is appointed to serve a one-year term and has a very minimal budget. It has no power to levy fines or impose sanctions. Because of limited budget and time, it would be impractical for the Grand Jury to conduct lengthy or complex investigations, hire experts, or purchase or pay for development of computer hardware and software to support analyzing campaign and lobbyist filings.

Advantages and Disadvantages of FPPC Oversight and Enforcement

Advantages

The FPPC has deep and lengthy experience in investigating and enforcing campaign and election law. They do so all over California and have done so in Orange County. They have the staff and infrastructure already in place to begin enforcement. Although their staff would have to learn the details of the TINCUP ordinance, it is similar to other such laws, including the ordinance the FPPC is now enforcing in San Bernardino County. Thus, effective oversight and enforcement of TINCUP could begin very quickly after the approval and contract process.

Depending on how an FPPC contract with Orange County would be structured, it may allow the County to have significant flexibility in how it uses FPPC services. The San Bernardino contract has the FPPC billing on an hourly basis. If this is the structure of an Orange County contract, without a long-term commitment or guarantee by the County, this “pay-as-you-go” approach would mean costs could be predictable and controllable. The County could have flexibility to cut back on or terminate services if they become too expensive or otherwise unsatisfactory. The Grand Jury learned however, that the FPPC may wish Orange County and other jurisdictions with which they contract to fund part-time or full-time positions to support the additional work, which may limit such flexibility.

Disadvantages

The primary disadvantage of FPPC enforcement of TINCUP is that it defeats one of the main purposes of an ethics oversight body, which is to be a coordinating and central body of *all* ethics and reporting monitoring and enforcement activities in the County. The TINCUP ordinance *only* addresses campaign reporting and contribution limits relative to twelve elected offices in the County. It does not address the entire spectrum that an ethics body would address, including ethics oversight for other elected officials in the County such as School Boards and Special Districts, non-elected officials including those on various boards and commissions, as well as lobbyist reporting. Neither does it include the important tasks of coordinating such enforcement and correlating collected information in a central database.

There is also a question about whether TINCUP’s current contribution limits would remain the same under FPPC enforcement. An FPPC spokesperson has been quoted as saying that

enforcement of TINCUP's current limits would require specific legislative authority.¹¹ When San Bernardino County hired the FPPC, they increased their local contribution limit to be the same as the State limit of \$4,100 for Assembly candidates.¹² The stated reason was to simplify the process for FPPC staff. A local ethics body enforcing Orange County's own campaign ordinance would entirely avoid this potential problem.

Because an FPPC contract may allow flexibility, it may have to be regularly renewed by the Board of Supervisors, and enforcement activities would be much easier to terminate than would those of a permanently established commission. The FPPC would remain strictly under the control of the Board, which could terminate the contract for whatever reason it wished. This factor significantly reduces the independence of enforcement compared to a permanently established County ethics body.

It is also noteworthy that the recent trend of U.S. Supreme Court decisions has been to strike down campaign contribution limits as violations of the First Amendment right to free speech.¹³ Proponents of eliminating contribution limits also point out that limits favor incumbents over newcomers. This is because newcomers must spend more money, and raise it from a smaller number of supporters who know them, to achieve the same name recognition and media exposure that incumbents already enjoy. If the trend continues and the Court eventually rules all contribution limits as unconstitutional, TINCUP contribution limits could be invalidated and become irrelevant. In that case, the efforts and costs to establish FPPC enforcement in Orange County will have been partly wasted and no longer needed.

The Grand Jury has concluded that the disadvantages of FPPC enforcement of TINCUP may outweigh the advantages. This conclusion is based on its limited scope, its negative impact on coordinated enforcement, its possible repeal of current TINCUP contribution limits, and its control by the Board of Supervisors versus truly independent enforcement.

Solutions for Orange County

The Grand Jury has concluded that the ideal solution for addressing the deficiencies in current ethics and campaign and lobbyist reporting oversight and enforcement is an ethics commission, similar to those studied and described above. An ethics commission would consist of a body of independent commissioners who adjudicate hearings regarding violations and penalties, and a paid staff, overseen by the Commissioners, to carry out all of the duties of the commission. These duties would include receiving and investigating complaints, conducting audits, collecting and analyzing consolidated data, providing training, education, and opinions, etc. The commission would be a single consolidated body performing the functions now spread among many departments and agencies in the County.

¹¹ http://www.voiceofoc.org/countywide/county_government/article_d206351e-94d2-11e3-85df-0019bb2963f4.html viewed 5/10/14

¹² <http://sbsentinel.com/2014/01/county-waters-down-political-donation-limitation-ordinance/>, viewed 5/26/14

¹³ See, e.g., <http://www.voanews.com/content/us-supreme-court-overturns-limits-on-political-campaign-donations/1884818.html>, viewed 5/17/14

Recognizing, however, that the Board of Supervisors is moving in the direction of hiring the FPPC for TINCUP oversight, enforcement, and possibly training,¹⁴ the Grand Jury believes that an independent office performing some of the functions of an ethics commission is still needed. It would function like administrative staff of an ethics commission, but would not include commissioners to conduct hearings or govern enforcement. Enforcement and some investigation would still be done in those agencies where it is currently being done. The office could be called the “Office of Ethics and Compliance”, and would have the following characteristics:

Scope: Data collection, monitoring, investigation and recommendations for enforcement of County ethics laws and policies including Code of Conduct, gift limitations, and conflict of interest. Possible TINCUP and State law violations would be referred to the FPPC or the DA. Monitoring and enforcement would not include fraud and waste or human resources related policies such as sexual harassment or nepotism, since these are now covered under the Human Resources Department and individual agency and department responsibilities.

Authority and Governance: County Ordinance

Paid Staff: A Director appointed by the Board of Supervisors on nomination by either a panel of the past three available retired Presiding Judges of the Superior Court, or by the Orange County Grand Jury Association; two to four full-time staff selected by and reporting to Director. Budget would be a consideration here, along with the degree to which staff attorneys would be used versus outside counsel. Legal services should be independent of County Counsel or the DA.

Jurisdiction: The Office should have jurisdiction over every County department, agency, commission, board, special district, and joint powers authority regardless of whether the head of such a body is elected or appointed, as well as over the elected leadership of the County.

Budget: Mandated budget from the County General Fund to support paid staff, outside services such as legal services, and operations; yearly mandated baseline with automatic cost-of-living increases. No more than 10% reduction cumulative allowed every three years. (See *Potential Costs*, below.)

Functions and Operations

- a) Receiving and maintaining campaign, lobbyist, and economic interest filings
- b) Collecting and maintaining filing data
- c) Education and training regarding compliance
- d) Monitoring compliance

¹⁴ The details of FPPC engagement have yet to be defined by the Board

- e) Receiving complaints of possible violations
- f) Issuing subpoenas and investigating possible violations
- g) Recommending settlements, fines, and penalties to appropriate enforcing agencies and following-up to see if recommendations were implemented
- h) Auditing economic interest, campaign, and lobbyist filings
- i) Issuing formal and informal opinions and advice regarding compliance
- j) Making recommendations for additions and modification to applicable laws

Independence: To maintain as much independence as possible for the Office, the Grand Jury recommends:

1. Permanent establishment through ordinance, and guaranteed budget
2. Independent counsel selected by the Office
3. Director appointment as noted above

Hotline: The Internal Audit Department currently manages the OC Fraud Hotline. As of this writing, the Audit Oversight Committee has proposed that the Hotline be renamed the Fraud, Compliance, and Ethics Hotline, emphasizing that it addresses all of these areas. The Grand Jury concurs with this proposal and recognizes the competent job that the Internal Audit Department has done with the Hotline. The responsibility for Hotline management should remain with the Internal Audit Department. Calls regarding possible ethics violations and related legal violations would be forwarded to the Commission for investigation.

Potential Costs

Costs of the Office would be primarily for staff and outside (primarily legal) services. The San Diego Ethics Commission has five staff members and hires outside attorneys for legal services. Their budget appropriation was \$781,000 in 2012 and \$977,000 in 2013. With a smaller staff, and smaller scope of responsibility than San Diego (i.e. not including local campaign ordinance enforcement that may be done by the FPPC), the Grand Jury estimates the cost for an Office of Ethics and Compliance in Orange County would be less than \$500,000 per year. Note that if costs for hiring the FPPC are budgeted at \$250,000/yr., the same as San Bernardino County, total

yearly costs for the whole program could be about \$750,000 for roughly the same scope of responsibility as the City of San Diego's ethics commission.

Implementation of an Office of Ethics and Compliance may result in some reductions of current costs. If a commission takes on some of the responsibilities for collection and reporting of campaign, economic interest, and lobbyist information from the Registrar of Voters and the Clerk of the Board, costs could be reduced in those departments. Taking on education and training responsibilities of the Registrar of Voters and Internal Audit would also reduce costs in those departments. Also, if the commission does some of the investigation and receiving of complaints now performed by the DA and Internal Audit, their current costs would also be reduced.

In order to further gauge the estimated costs for an Orange County ethics body compared to other jurisdictions, please refer to the discussion following the table shown in the Appendix.

The Grand Jury believes that at the very least, the Board of Supervisors should address the deficiencies in current ethics and campaign lobbyist reporting oversight and enforcement by:

1. Charging and appropriating funds for an existing agency in the County, perhaps the Internal Audit Department, to perform comprehensive oversight of ethics compliance. This would include not just receiving and forwarding complaints, but conducting investigations, recommending actions, offering advice to officials and candidates, and recommending additions and changes to laws and policies. The agency should be empowered to perform analysis across multiple sources of information to detect subtle or hidden violations (see no. 3, below) and offer regular (if not mandatory) training and education programs.
2. Charging and appropriating funds for the Registrar of Voters and the Clerk of the Board to accomplish more comprehensive oversight of campaign and lobbyist reporting, including more complete audits, and some investigation and verification of data provided.
3. Charging and appropriating funds for an existing agency in the County (perhaps the CEO Office of Information Technology) to create and manage a consolidated, comprehensive database of economic interest and campaign reporting data and information. It should be available to the public via the Internet and should include complex search capability on a number of criteria.
4. Add an additional degree of independence for the three functions described above by mandating their appropriations through an ordinance which also sets a floor under the percentage of cuts to the appropriation allowed year to year.

Objections to an Orange County Ethics Body

The response of the Board of Supervisors to the 2012-2013 Grand Jury recommendation for an Orange County ethics body centered around two main objections:

1. In addition to the Grand Jury, a “host of coordinated accountability and oversight mechanisms...exist within the County for addressing improper behavior”, and
2. An Ethics Commission would be “another bureaucratic structure at taxpayer expense” that would be “practically unnecessary...irresponsible and wasteful.”¹⁵

The current deficiencies in the County for addressing improper behavior are outlined above. As to whether an ethics body would be bureaucratic and unnecessary, or establishing one would be irresponsible and wasteful, the Grand Jury considered the following:

- a) A staff of approximately three to five could hardly be called bureaucratic.
- b) Summaries of FPPC enforcement actions on the FPPC’s website appear to show that the FPPC has concluded only thirteen settlements of violations of election law in Orange County since 1990?¹⁶ This number can be compared, for example, to 10 such settlements in the City of San Diego and 49 settlements in the City and County of San Francisco in 2012 alone, both of which jurisdictions have ethics commissions. The conclusion has to be that ethics commissions work to uncover unethical and illegal behavior which is not uncovered elsewhere. The Grand Jury disagrees that this function is unnecessary.
- c) Would establishment of an ethics body be irresponsible? The Grand Jury finds it hard to understand why uncovering unethical, illegal, and corrupt behavior by those in positions of public trust is irresponsible. Indeed, it is irresponsible *not* to uncover, investigate, and prosecute such behavior.
- d) Would establishing an ethics body be wasteful? Orange County is the third largest government jurisdiction in California in terms of population, behind the County of Los Angeles and the City of Los Angeles, and roughly equal in population to San Diego County. The Grand Jury is proposing an estimated expense for an ethics body that is less than 0.01 of one percent of Orange County’s total budget.

Orange County receives less of a percentage of the property tax it pays to the State than any of the other 57 counties in California. This factor, as well as the recent ruling taking additional vehicle license fees from Orange County, and the current economic climate have put extreme pressures on Orange County’s budget. Nevertheless, calling the establishment of an ethics body wasteful means that it would not serve an important or useful function. The Grand Jury believes that there is no more important or useful

¹⁵ Response to Grand Jury report by County Executive Office, accessed 4/8/14 at http://www.ocgrandjury.org/pdfs/2012_2013_reports/County%20Executive%20Officer062513.pdf

¹⁶ See FPPC website at <http://www.fppc.ca.gov/Act/2009AppendixIV.pdf>, viewed 5/23/14

function by public officials than maintaining the trust of the population and assuring the most ethical and transparent political environment possible.

The Grand Jury has concluded establishing an ethics body, or at least addressing the deficiencies in current oversight and enforcement would greatly serve Orange County residents in creating an atmosphere of trust, transparency, and high ethical respect.

FINDINGS

In accordance with California Penal Code Sections 933 and 933.05, the 2013-2014 Grand Jury requires (or, as noted, requests) responses from each agency affected by the findings presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation of existing ethics commissions, and of oversight and enforcement in Orange County of ethics laws and policies, and of campaign and lobbyist reporting, the 2013-2014 Orange County Grand Jury has arrived at six principal findings, as follows:

F.1. Ethics monitoring and enforcement is important, not just to punish violators, but to promote understanding of ethical guidelines and to remind public officials, employees, and candidates that their behavior is under close scrutiny. Vigorous ethics monitoring and enforcement is necessary to develop and maintain trust in government.

F.2. Governmental ethics includes much more than just campaign finance. It covers prohibitions against personal and financial gain, requirements for transparency, and requirements for fair process and merit based decision making. Most importantly, it includes prohibitions of behavior that is unethical but may not be illegal, such as campaign contributions as quid-pro-quo for government favors and lucrative contracts.

F.3. Orange County is subject to the same potential for corruption as anywhere else, yet monitoring and enforcement of ethics, and campaign and lobbyist reporting in the County is deficient in a number of areas, including oversight, law and policy advice and recommendations, audits, coordination, transparency, and independence.

F.4. Independence in monitoring and enforcing of ethics and reporting violations from those who are monitored is critical. Organizations performing these functions in Orange County, including the District Attorney, Internal Audit, Human Resources, The Registrar of Voters, the Clerk of the Board, and even the Grand Jury, are not truly independent since appointment of their head officials, and/or their budget appropriations are controlled by the Board of Supervisors.

F.5. Hiring the FPPC to enforce the County's TINCUP ordinance has some advantages, but would have a number of drawbacks:

- a) It could more than double TINCUP contribution limits.

- b) A contract with the FPPC would be under the control of the Board of Supervisors, while at the same time the FPPC would be responsible for policing the Board.
- c) Enforcement would only include civil and not criminal violations.
- d) It would be a pioneering and entirely new enforcement model in California versus the already established ethics commission model.
- e) It may soon become irrelevant because campaign finance regarding contribution limits may disappear in the near future given the current trend of decisions by the U.S. Supreme Court.

F.6. Ethics bodies in California function effectively to monitor and enforce campaign finance laws as well as other ethics laws and policies, and serve as a check and balance on government officials, employees, and candidates.

RECOMMENDATIONS

In accordance with California Penal Code Sections 933 and 933.05, the 2013-2014 Grand Jury requires (or, as noted, requests) responses from each agency affected by the recommendations presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation of existing ethics commissions, and of oversight and enforcement in Orange County of ethics laws and policies, and of campaign and lobbyist reporting, the 2013-2014 Orange County Grand Jury makes the following four recommendations:

R.1. The Board of Supervisors should place a proposition on the next available general election ballot to establish an Orange County Campaign Reporting and Ethics Commission, similar to commissions in other jurisdictions in California. (**F.1., F.2., F.3., F.4., F.5., F.6.**)

R.2. The Board of Supervisors should carefully weigh the drawbacks to FPPC enforcement outlined in the Findings before pursuing it as an option to enforcing the County's campaign finance ordinance. (**F.5.**)

R.3. If the Board of Supervisors contracts with the FPPC for enforcement of the County's campaign finance ordinance, it should establish an Office of Ethics and Compliance charged with receiving complaints, monitoring, and investigating possible ethics law and policy

violations, and offering training, advice and recommendations regarding such laws and policies. The Office should have the following characteristics:

- a) a director nominated independently from County government officials,
- b) a budget mandated by ordinance, with a floor on year-to-year reductions
- c) paid staff, including its own inside or outside counsel, and
- d) power to subpoena records and persons. (F.1., F.2., F.3., F.4., F.6.)

R.4. At a minimum, to address current deficiencies in ethics and campaign and lobbyist oversight and reporting, the Board of Supervisors should:

1. Charge and appropriate funds for an existing agency in the County to perform comprehensive oversight of ethics compliance.
2. Charge and appropriate funds for the Registrar of Voters and the Clerk of the Board to accomplish more comprehensive oversight of campaign and lobbyist reporting, including more complete audits.
3. Charge and appropriate funds for an existing agency in the County to create and manage a consolidated, compressive database of economic interest and campaign reporting data and information, available to the public via the Internet. (F.1., F.2., F.3., F.4., F.6.)

REQUIRED RESPONSES

The California Penal Code §933 requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made no later than 90 days after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made within 60 days to the Presiding Judge with an information copy sent to the Board of Supervisors.

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

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

(1) The respondent agrees with the finding

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

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

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

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

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

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

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

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

Responses Required:

Responses to Findings **F.1.**, **F.2.**, **F.3.**, **F.4.**, **F.5.**, and **F.6.** are required from the Board of Supervisors

Responses to Recommendations **R.1.**, **R.2.**, **R.3.** and **R.4.** are required from the Board Supervisors

APPENDIX: Ethics Commission Survey Results

(Figures are for FY 2012-2013 unless otherwise noted)

	ORANGE COUNTY	CITY OF SAN DIEGO	CITY OF LOS ANGELES	CITY AND COUNTY OF SAN FRANCISCO	COUNTY OF SAN BERNARDINO
Population	3,090,132	1,328,073	3,866,133	826,003	2,081,313
Total budget	\$5.6 billion	\$2.8 billion	\$20, billion	\$7.9 billion	\$4.3 billion
Total employees	17,000	19,500	42,000	19,919	
Agency name		City of San Diego Ethics Commission	Los Angeles City Ethics Commission	San Francisco Ethics Commission	Office of Compliance and Ethics (OCE)
Authority		City Charter, City Ordinance	Voter approved proposition, City Ordinance	Charter Amendment, voter approved	Appears to be part of county government structure.
Date established		2001	1990	1993	
Mission		City's governmental ethics laws including education, training, investigation, advice, recommendations, enforcement	Shape, administer, and enforce laws regarding governmental ethics, conflicts of interest, campaign financing, and lobbying,	Education, training, complaint investigation, statistical reporting, advice, audits, recommendations, enforcement,	Operate a strategic countywide compliance and ethics program, ensuring regulatory and ethical
Governance /Budget		City Council	City Council	Board of Supervisors	Appears to be county CEO.
Purview (elections, elected, staff, cities, county)		Political activities of elected officials, candidates, political committees, com. Treasurers, public employees, lobbyists, 1,500 people	Campaign finance audits, candidate matching funds, lobbyist registration and disclosure, city official financial	Elections, elected officials, candidates, city & county employees, lobbyists, school & college board. Jurisdiction over investigations, subpoena, opinions, enforcement proceedings, fines, oral, written informal & formal	
Actions		Investigations, subpoena power, outreach & education, advice letters, fines, audits	Investigations, campaign funding, training, education, whistleblower hotline, audits, fines.		Monitor changes in state laws, recommend policies, develop internal controls, audits, helpline.
Whistleblower hotline (Y, N)		Y -@ Auditor/Controller's office	Y	Y -@ Controller's Office	Yes, 3rd party is host.
Body size		7	5	5	Appears to be 2 listed on web-site.
Jurisdiction Population		1,328,073	3,866,133	826,003	
Jurisdiction Budget \$		\$2.8 billion	\$20 billion	\$6.7 billion	
Jurisdiction no. of employees		19,500.00	42,000		
How appointed		By Mayor on nomination of Council and City Att'y, approved by majority of Council	Appointed by the Mayor, City Council President, CC Pres Pro Tem, City Attorney, and Controller	One ea. appointed by Mayor, BoS, City Attorney, DA, Assessor	
Term		Four years	Five years	Six years	
Pay		None	\$50 per meeting/waived by all	No compensation except for "City benefits"	
Paid staff		5 (attorneys would be an asset)	21 -not covered by civil service procedures!	18 includes a full-time educator & 2 investigators but need more.	
Commission Budget \$		\$781K FY 2012 / \$977K FY 2013	\$2.4 million FY'12-13	\$4.2 million '12-13 (\$2.3 non-grant)	
Collect fines & fees?		Y -\$25,000 collected in 2013	Y -\$220,200 collected in 2013	Y - + Lobbyists, campaign consultants (\$82,000 2013)	
Products		Annual report, training, audits, info website, formal & informal advice letters, stipulations	Campaign finance audits	Annual report, training, audits, campaign info website	

APPENDIX: Ethics Commission Survey Results (cont'd)

(Figures are for FY 2012-2013 unless otherwise noted)

	COUNTY OF VENTURA	KERN COUNTY	CITY OF OAKLAND	CITY OF SAN JOSE	CITY OF SEATTLE
Population	834,398	855,498	399,699	983,574	
Total appropriations	\$1.6 billion		\$1 billion	\$2.9 billion	
Total employees			3,898	5,655	
Agency name	Ventura County Campaign Finance Ethics Commission	Campaign Finance Hearing Panel	Public Ethics Commission	San Jose Ethics Commission	Seattle Ethics and Elections Commission
Authority	County Ordinance	Voter approved ordinance	City Charter	Municiple Code	Budget set by City Council
Date established	2003 or 2004	2003	1996		1992
Mission	Consider formal complaints of and possible Ethics Ordinance violations		Ensure fairness, openness, honesty and integrity in city government.	Monitors compliance w/ all ethics and campaign ordinances	Administer, interpret and enforce the Seattle Ethics Code
Governance /Budget	Board of Supervisors	County Board of Supervisors	City Council	City Council	Mayor and City Council
Purview (elections, elected, staff, cities, county)	Campaign Finance for candidates -County only, <u>no</u> lobbyists, no training or education, no audits. County	Campaign finance violations under Kern County ordinance (campaign contributions)	Campaign finance, conflicts of interest, city council code of conduct, transparency, public financing, lobbyist	Campaign and ethics regulations of elected officials	Interpreting and applying the Seattle Ethics, elections, Election Pamphlet, and Whistleblower Codes.
Actions		Hears administrative actions re: alleged ordinaance violations	Set the salaries of city council members; investigations, audits, public hearings, subpoenas, fines, penalties.	of violations of the Code and makes recommendations for enforcement action where appropriate	Complaint driven investigations, includes whistle-blowers, has subpoena power -handles NO Sexual Harrassment
Whistleblower hotline (Y, N)		None listed			Yes
Body size	3	5	7	5	7
How appointed	By Board of Supervisors	Board of Supervisors	3 - by mayor and city council. 4 - recruited and selected by commission.	City Council	Mayor and city council - 3 each and 7th by Commission
Term	Four years	3 years	Three years	4 years	3 years / staggered -may be reappointed
Pay	None	\$200 per day for hearings	None		0
Paid staff	1/2 person (from the CEO's staff)	0	5	none	6.2 paid (some are part-time)
Commission appropriation		0	\$186,000		\$782,000
Collect fines & fees?		Collects fines and penalties.			\$3,000 - \$5,000 in a normal year
Products	Annual Report, revise ordinance prior to each election (every 2 years), letters		Annual report	Annual Report	Hearings / Public Notices & Reports

Commission Cost Discussion

Note that an estimated yearly cost of \$500,000 for an Orange County ethics body would be less than 0.01 of one percent of Orange County's total yearly budget. With comparable functions to those proposed for Orange County, the City of San Diego Ethics Commission's budget is more than double the percentage of the City's total budget compared to the Orange County cost estimate.

Note also that the Los Angeles Ethics Commission budget is 0.01 of one percent of the total City budget, with a total City budget and City staff more than three times the size of Orange County's. Note also that the City and County of San Francisco Ethics commission budget is whopping 0.06 of one percent of that jurisdiction's total budget for a much smaller jurisdiction. However, Los Angeles and San Francisco may not be as relevant since they collect and administer campaign matching funds as one of their main functions, a function not proposed for Orange County.