

RESTAURANT INSPECTIONS – WHAT NO ONE IS TELLING YOU

SUMMARY

The 2007-2008 Orange County Grand Jury concluded that the procedure for notifying the public in Orange County about the cleanliness and safety of neighborhood restaurants is almost non-existent. While exceptionally thorough inspections are conducted by members of the Environmental Health Division of the Orange County Health Care Agency, the results of these inspections are not made directly available to the public. Only a relatively small number of people know of, would take the time to find out, or have the ability to find restaurant inspection results posted online by the Health Care Agency.¹

The dining public is almost universally unaware that a small placard at the entrance area to each Orange County restaurant or food-vending location states the restaurant is “in substantial compliance with California food safety and sanitation standards” or that “a re-inspection has been scheduled.” Even upon noting the placard, the diner does not know what the level of sanitation is at the restaurant, how many major or minor violations it has incurred, or whether it has been found to be in violation of any California health code sections, but is currently operating during the time between re-inspections.

While most Orange County residents are in the dark about the quality of their local restaurants, our neighbors to the north, south and east have all implemented an ABC grade-card inspection system informing customers about the cleanliness of the restaurant in which they dine. Residents of those counties get to choose whether to go to a C-grade restaurant, or an A or B-rated restaurant instead, where they may feel safer about what they are eating or drinking.

Studies of the 10-year-old system in Los Angeles County have concluded that the implementation of an ABC grading system has caused a significant reduction of food-borne-illnesses that cause hospitalization. Even better, the level of restaurant sanitation in Los Angeles has dramatically improved as restaurant owners seek to have cleaner restaurants to attract more patrons. Those restaurants with an A grade have increased their revenue, while C-grade restaurants have either cleaned up their establishments or closed – a win either way for the consumer.

Consumers in Los Angeles County, and in almost all other counties in southern California, in Las Vegas, North and South Carolina, Tennessee, Toronto and even those as far away as Singapore are protected by and have given overwhelming praise to on-site notification for diners through the use of a grade-card system.

Orange County Environmental Health inspectors already conduct thorough inspections of our restaurants. At only a nominal cost, Orange County could convert its present system into a model patterned after the one in Los Angeles. All that is lacking is the will of the Board of Supervisors to endorse and implement this new procedure. The Grand Jury and the public in Orange County await their willingness to do so.

¹ The Environmental Health Division for seven months in 2007 reports an average of fewer than 3,000 inquiries per month.

REASON FOR INVESTIGATION

It is the weekend. You want to take your family, a special someone, friends or business associates out for a celebratory dinner. For months you've wanted to try that interesting-looking neighborhood restaurant that you drive by on your way home from work. So, you go. The dining area looks clean and inviting. The menu includes lots of dishes that you have never tried before. Everyone has a satisfying meal and you head home for the night. Within hours you awaken with a terrible stomach ache, vomiting and diarrhea. You stay home from work. Your children, who are also suffering, miss a day of school. But with luck, in a day or two everyone is feeling better; the misery has subsided. You ask yourself, "What happened?" Then you find that your neighbors, who were your dinner guests, experienced the same symptoms. Conclusion: everyone was the victim of a food-borne illness transmitted through that delicious dinner.

Most incidents like this go unreported.² But the Orange County 2007-2008 Grand Jury wondered what is being done to ensure that the general public is being protected from health hazards in our local restaurants. Is the public being kept well informed about the cleanliness and safety of our eating establishments? If so, how?

METHOD OF STUDY

Members of the Grand Jury first interviewed executive personnel of the Environmental Health Division of the Orange County Health Care agency to learn how health inspections are being conducted. Later, a similar interview was conducted with the corresponding personnel of the Los Angeles County Environmental Health Division.

In addition a member of the Orange County Board of Supervisors was questioned regarding the issue of implementing a grading card system for Orange County restaurants and food providers.

Grand Jury members, in teams of two, observed health inspections conducted by Orange County health inspectors at a cross-section of restaurants in the county. The Grand Jury saw routine but thorough inspections of each restaurant with emphasis on the kitchen and food preparation areas. Two weeks later, several members also returned with health inspectors to the same restaurants where violations had been found to ascertain whether they had been corrected. Members also researched the Orange County Food Inspection website³ reviewing the previous inspection histories of the restaurants which had been visited.

A great deal of Internet research was conducted at websites of neighboring counties to learn about their restaurant inspection programs and grading systems. Additionally, newspaper articles about restaurant grading throughout the country were obtained. The

² The Grand Jury was unable to find any statistics as to the number of food-borne illnesses where no hospitalization was required. Many victims fail to realize the source of their illness.

³ <http://foodinspections.ocgov.com/foodinspections>

published 2003 Leslie/Jin study,⁴ which focused on the incidences of reported food-borne illnesses from 1998-2002 after the adoption of an ABC grading system for restaurants in Los Angeles County in 1998, was examined. Information found in a recent local newspaper article was also noted.

BACKGROUND AND FACTS

In September 2007, the Orange County Grand Jury decided to examine the procedure by which restaurant hygiene information is conveyed to the general dining public by the County's Environmental Health Division.

A member of the Board of Supervisors, queried about the existing procedures for public notification of restaurant cleanliness and safety, expressed an interest in examining the present system and exploring other possibilities.

Origins of the ABC system in Los Angeles

The Grand Jury learned that the Los Angeles County procedure for inspections and the use of an ABC grading system for restaurants originated in 1997 after an undercover television news reporter in Los Angeles found and reported unsanitary and unsafe restaurant conditions in the county, despite routine aggressive inspections. The reaction of the Los Angeles County Board of Supervisors was immediate. A crackdown on unclean restaurants was ordered. More importantly, the Los Angeles County Department of Health Services was ordered by its Board of Supervisors to devise a system whereby the dining public would be made immediately aware of the cleanliness and safety of the restaurant where they were eating, **even before they entered the door.** The new procedure was to emphasize inspection "transparency" to increase public safety and welfare. The purpose of the new system was to reduce food-borne illness outbreaks.

The Los Angeles grading system, adopted in 1998, has since become the model for many cities, counties and states. It requires restaurants to post their inspection grade in a window within five feet of the doorway entrance. The grades are as follows:

- A:** denotes that the restaurant has scored between 90 –100 with a beginning score of 100
- B:** the restaurant has scored between 80 to 89
- C:** the score is between 70-79

Grades below a **C** usually require an immediate closure of the restaurant. Restaurants with a score below **C** are also required to post their numeric score in the window.

After the adoption of this new system, the Board and health officials in Los Angeles County could only sit back and wait to see if things got better. They did.

⁴ Impact of Restaurant Hygiene Grade Cards on Foodborne-Disease Hospitalizations in Los Angeles County, Phillip Leslie, Ph.D. and Ginger Zhe Jin, Ph.D.

The Stanford Graduate School of Business, Leslie/Jin studies

In 2003, Phillip Leslie, Ph.D., an assistant professor of strategic management at the Stanford Graduate School of Business and his associate Ginger Jin, Ph.D., published a study that they had conducted using 1993-2000 data collected from Los Angeles hospitals. Leslie and his team also analyzed the information from each restaurant inspection in Los Angeles from 1996-1998 and compared it to similar inspections from 1998-2000. Records from all patients who had been discharged from California hospitals from 1993 to 2000 were obtained from the State Health Department. Using this information for Los Angeles County, the results were analyzed and compared to determine incidents of foodborne-illness hospitalizations before and after the implementation of the ABC grading system in 1998. The researchers used data on food-borne illnesses from the rest of the state as a control for their study.

A summary of some of the most relevant data follows:

- Foodborne-illnesses cause an estimated 325,000 hospitalizations and 5,000 deaths annually in the United States⁵.
- From 1993 to 2000 almost 3,000 food-borne illnesses causing hospitalizations were identified in Los Angeles. This number represents 31% of the total of food-borne hospitalizations for all of California.
- 50% of the food-borne disease outbreaks in the United States from 1993-1997 were associated with food consumed in restaurants and other commercial food establishments.
- 62% of the food-borne hospitalizations in Los Angeles were from either salmonella or campylobacter (the most commonly reported bacterial cause of food-borne infection in the United States).
- After the initiation of the ABC system in Los Angeles in 1998, food-borne hospitalizations for the first year dropped 18.6%. The rest of the state had a decline of 1.2%.
- For the three-year period from 1998-2000, food-borne hospitalizations in Los Angeles decreased by 28.8% while the rest of the state experienced only a 6.2% decline.

The authors of the study “found a significant decrease in food-borne-disease hospitalizations in Los Angeles County following the introduction of [ABC] grade-cards.” They also believe that “this improvement may be long lasting, with the measured decrease in illnesses lasting for at least three years. [S]everal other components may have also contributed to the decline in foodborne-disease hospitalizations. [T]his exposé may have served as additional incentive for restaurant owners to more aggressively monitor and improve conditions and practices in their establishments.”

The Leslie team believes, however, that the relatively brief period of media attention alone would not have had the effects on food handling practices demonstrated by their three-year data. They also note that after the initiation of the ABC system, there was an increase

⁵ U.S. Department of Health, Centers for Disease Control report 76 million cases of foodborne disease each year in the U.S., the majority causing symptoms for only a day or two.

in the frequency of inspections, inspectors received additional training, and enhanced efforts were made to better educate restaurant owners and their staffs. They further noted that other studies have shown that while increased inspection frequency and education may improve sanitary conditions in restaurants where no grade card system is used, no study has found a comparable reduction in the number of food-borne diseases. In 2003, further analysis of the data collected by the Leslie/Jin team, led to their publication of *The effect of information on product quality: Evidence from restaurant hygiene grade cards*.⁶ While this second lengthy study is also replete with complicated statistical tables and formulas, the basic findings and conclusions that are reached are clear.⁷

Prior to the introduction of the ABC grading system, inspectors who found problems could only offer advice on how to ameliorate them. While a specific score was given to each restaurant based on a 100 point system, deductions for violations such as food temperature (five point deduction), cockroach infestation (three point deduction), or other violations did not result in any sanctions. No fines were levied for violations and a restaurant could be closed only if it received two consecutive scores below 60. Even if closed, the restaurant could immediately reopen if the problems were fixed. Restaurants with consistent violations were not penalized. **Most importantly, the scores were not made available to the public.**

The Leslie/Jin findings and conclusions on Los Angeles restaurants present powerful arguments that should lead to the adoption of an ABC card grading system for Orange County:

- Prior to the introduction of the ABC grading system, restaurants in areas with an income below the median level had 4% lower inspection grades than those in areas with above the median income.
- After the introduction of the ABC system, the inspection scores for lower income areas actually were slightly higher than above-median level income areas, with both increasing by about 15%. The “grade cards appear to be particularly effective at improving restaurant hygiene in low-income areas.”
- In locations with many tourists, restaurants have poorer hygiene practices. The study shows that restaurants with repeat business (non-tourists) have significantly higher hygiene quality.
- The study concluded that prior to the ABC grading system, restaurant inspections without posted grade cards, using only free-market reputation mechanisms, provided only “some degree” of incentives, although weak, for good-quality hygiene. This is because many aspects of restaurant hygiene are not visible to consumers and there were no penalties for restaurants with scores above “60.”

⁶ Quarterly Journal of Economics, 118(2), 409-51.

⁷ A summary of the findings is found in *Choices*, a publication of the American Agricultural Economics Association, 2nd Quarter 2005.

- Prior to the initiation of the ABC system in Los Angeles, an average of only 25% of the restaurants from 1993-1998 would have received an A grade. Statistics obtained from the Los Angeles Department of Health Environmental Health Division show that A grades in Los Angeles restaurants were at a 57% level in 1997, and rose to 83.5% in 2002, and 88% for 2006-2007.
- The 28% decrease in the number of hospitalizations reported after the initiation of the ABC system may have led to improved health because restaurants made improvements and consumers chose good-hygiene rated restaurants over poorer rated ones.
- Restaurant owners made efforts to improve hygiene after the introduction of grade cards. The authors of the study believe that this was because the use of the cards magnified economic incentives for good-quality hygiene. Using sales tax data from the California State Board of Equalization, no impact on restaurant revenue occurred before the use of grade cards. After the implementation of grade cards, it was found that restaurants with an A rating increased their revenue by 5.7%; those with a B by 0.7%, while those with a C showed revenues decreased by 1.0%.
- When an A or B rating is posted, grade cards have made consumers more confident in trying restaurants where they have not previously eaten. They become “less captive to restaurants where they have had good experiences previously, resulting in more and better competition for the dining dollar.”
- Restaurant grade-cards play a critical role in increasing consumer awareness of restaurant hygiene. The use of the Internet (online postings) and having restaurant inspection data available at the restaurant are two other methods of informing the public about hygiene. The study found no available information that Internet access alone was effective in notifying the public, but did find that information posted on grade cards reached more consumers and was more readily available than that found on an Internet database.
- The study also cited low levels of compliance as well as resistance from restaurants when asked to show inspection reports to interested customers.
- An argument often made against a grade-card system is that an inspection of a restaurant is only a “snapshot” for that day. The Leslie/Jin study found that before the implementation of the ABC grading system in Los Angeles, the average difference between inspection scores of two randomly chosen restaurants was 13.5%. The average difference between multiple inspection scores of a single randomly chosen restaurant was only 8.8%. Their conclusion was that there is a greater variation between any two restaurants than between two inspections at the same restaurant.

- A final factor contributing to the success of grade cards is in the assessment criteria used. In Los Angeles, inspectors follow rigid codes that match specific violations to carefully-defined numerical point deductions, thus minimizing the subjective component previously used in hygiene inspections. This method helped to increase consumer confidence in grade cards.

The 2003 Leslie/Jin study concludes that:

[T]he use of restaurant hygiene grade cards in Los Angeles has been a great success. By increasing the provision of information to consumers, powerful economic incentives are created for restaurants to improve hygiene, leading to a significant improvement in public health outcomes. Moreover, because the DHS⁸ [Department of Health Services] already performs inspections, the grade cards create negligible additional cost to the government.

Orange County restaurant inspections and grading

On its website, the Environmental Health Division of the Orange County Health Care Agency states:

Our VISION:

To be recognized as a World Class Organization

Our MISSION:

Environmental Health is dedicated to improving the quality of life for Orange County residents and visitors through the promotion of good environmental health practices and exceptional customer service.

The Environmental Health Division has created 58 inspection districts, one for each of its inspectors.⁹ Each district contains approximately 300 facilities where food is provided to the public. In 2007, there were 40,431 inspections of Orange County's 13,173 restaurants, supermarkets, stores and other food venues.^{10 11} Restaurants are inspected three times each year. Each inspection lasts from 90 minutes to a half day. Inspectors use a detailed inspection-sheet which has a check box for all major and minor violations of the California Health and Safety Code as found in the California Retail Food Code.

During the inspections observed by the members of the Grand Jury, inspectors entered the restaurants unannounced. They requested to speak to the owner or manager and explained that they were there to conduct an inspection of the restaurant. The inspectors usually

⁸ Los Angeles now has a separate Department of Public Health Services which includes its Environmental Health Services Division.

⁹ Each inspector is a State Registered Environmental Health Specialist with a four-year college degree, usually in the sciences. Inspectors are required to pass a state examination prior to being licensed.

¹⁰ The Orange County Register, February 24, 2008.

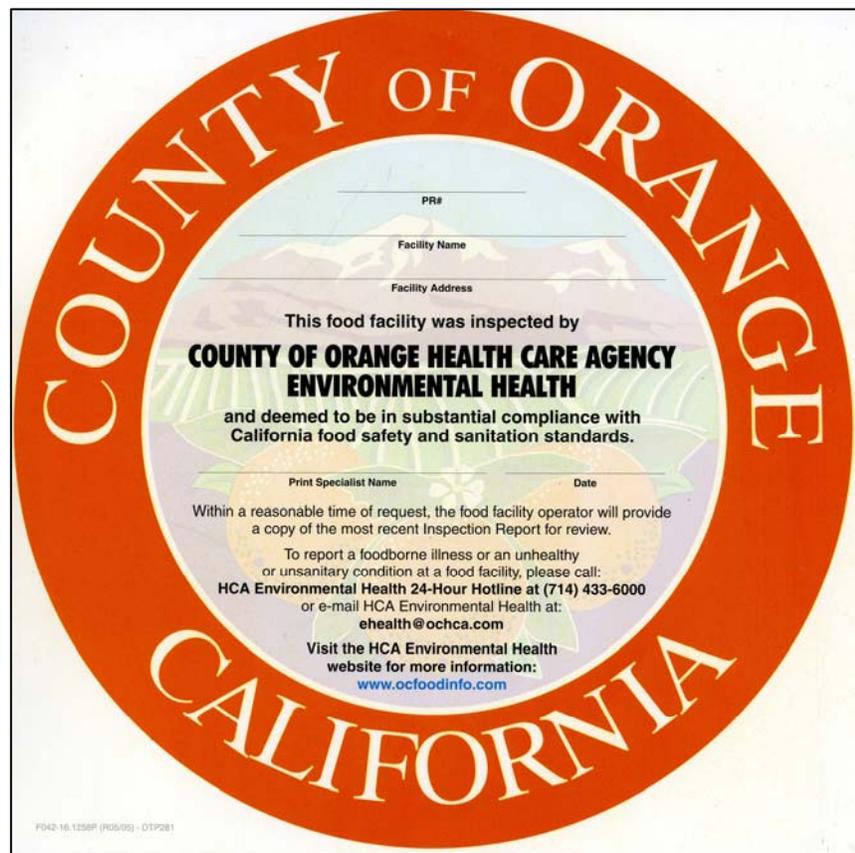
¹¹ Statistics furnished to the Grand Jury by the Environmental Health Division for the first 9 months of 2007 show 24,851 inspections for restaurants and markets; for 2006-2007, their statistics show 25,616 inspections of restaurants and markets

went first into the kitchen or food preparation area. After a visual inspection of the entire area, they tested temperatures of foods that were not refrigerated. Detailed notes were taken. In some cases, foods found unsafe were placed in trash receptacles and covered with bleach so that they could not be re-used. Refrigerated foods were also tested for temperature. Foods that were not covered properly or which had been cross-contaminated from other foods were removed or destroyed. Inspectors examined floors, behind and under refrigerators, stoves and ovens for cleanliness and evidence of rodent or cockroach infestation. Personal food items being consumed by employees, but found in food preparation areas, were destroyed. Storage of vegetables and other partially cooked foods in early stages of preparation were also examined. Mandated employee hygiene such as the use of hairnets and hand washing for food handlers was also evaluated.

After the inspection of the kitchen, dishwashing, dry food, and personnel changing areas were also inspected. Outside garbage receptacles were checked for tight lids and leaks. Bathrooms and areas behind the cash register were also checked.

During these inspections, managers or owners accompanied the inspector. Each violation found was carefully described and a detailed explanation was given as to how a correction must be made. All Grand Jury members commented upon how well-informed, patient and helpful the inspectors were to the managers, especially with those for whom English was their second language.

When the inspection was completed, the inspector transferred the information from notes to a handheld computerized device containing each possible health violation. A printed report was generated, a copy of which was given to the restaurant owner or manager. If there were no significant number of minor violations, no further action was taken. The inspector then gave the restaurant owner an updated orange and white eight-inch square placard, bearing an inspection number, the facility name, address, name of the inspector and the inspection date.



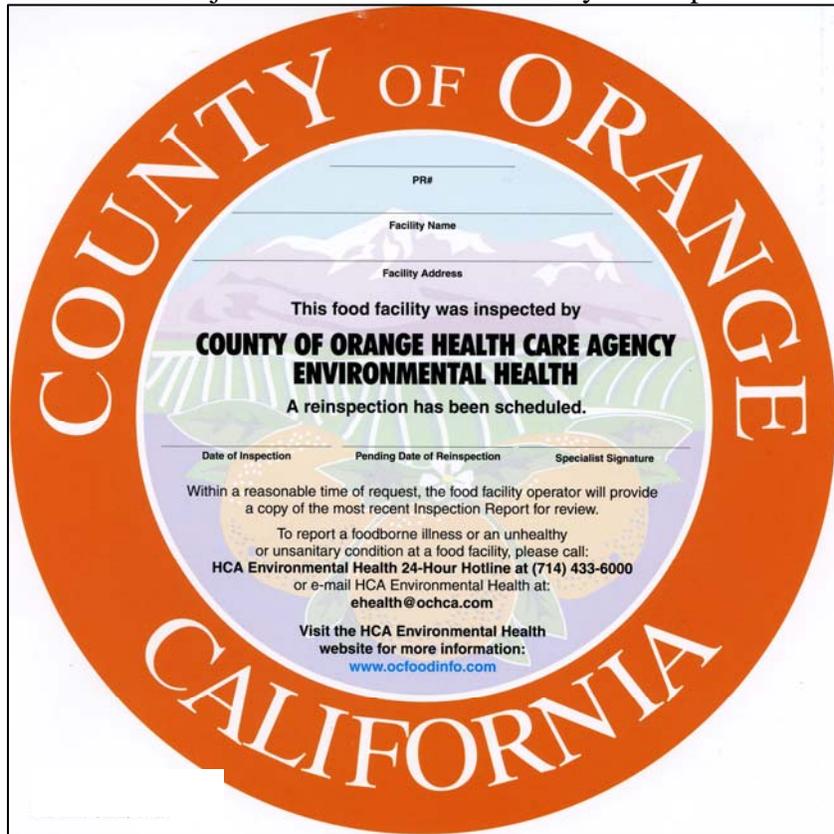
Sample: In Compliance

The placard states: “This food facility was inspected by COUNTY OF ORANGE HEALTH CARE AGENCY ENVIRONMENTAL HEALTH and deemed to be in substantial compliance with California food safety and sanitation standards.” The placard is to be placed in the restaurant window in plain sight for restaurant patrons. However, the information is difficult to read.

If the inspector determines there are major violations that present an immediate danger to the public’s health, the restaurant can be closed.¹² If the major violation may present a substantial risk to the public health, but if corrected at the time, the owner is informed that there will be a re-inspection in approximately two weeks.

All violations need to be corrected within the two weeks. The level of the health threat and the decision to close a restaurant is a subjective determination made by the inspector.

When a re-inspection is required, a different placard is given to the manager to be placed in the window informing patrons only that “A re-inspection has been scheduled.” It lists the pending date of re-inspection. If, after the second inspection, minor violations still exist, a third inspection is scheduled which could lead to the closure of the restaurant. A new re-inspection placard is again issued.



Sample: Re-inspection scheduled

¹² A **Major** violation is defined as any violation that presents an immediate danger to the public’s health and safety (such as but not limited to, improper food temperature control, lack of hot water, or vermin infestations). The criteria for a Major violation are based on Centers for Disease Control and Prevention (CDC) guidelines. A Major Violation may result in the suspension of the food facility’s health permit and consequently the closure of the food facility.

A **Minor** violation is defined as any violation that may present a substantial risk to the public’s health and safety (such as, but not limited to, improper food storage/display, signs of vermin, or utensils/equipment not maintained clean). A Minor violation is also defined as any violation that does not pose a significant risk to the public’s health and safety (such as but not limited to, equipment/utensils in disrepair, minor deterioration of the food facility, or truth in labeling).

During the restaurant inspections observed by the Grand Jurors, most of the restaurant owners were asked whether they would support the use of an ABC grading system in place of the present “substantial compliance” orange card. Several owners or managers supported the idea, some had no opinion, and one said he had worked under both systems and felt that a change would make no difference. Another manager said he would be against an ABC system, explaining that his restaurant was frequently in violation of health code standards and the system would not be good for him.¹³

The Environmental Health Division posts the history of every facility’s major and minor food safety violations during the past two years on their website,¹⁴ as well as all restaurant closures within the last 60 days.

Under the current procedure, a restaurant can receive an Award of Excellence certificate from the Environmental Health Division if it has not received a **major** violation on any routine inspection during the previous calendar year; has an average of no more than six **minor** violations for the previous calendar year; has at least one individual who has passed an approved food safety exam during the previous calendar year; and has had a minimum of two inspections within the previous calendar year.

Relevant food facts

- More than 54 billion meals are served at 844,000 commercial food establishments in the United States each year.¹⁵
- 46% of the money Americans spend on food is for restaurant meals.¹⁶
- On a typical day, 44% of adults in the United States eat at a restaurant.¹⁷
- Of 550 food-borne disease outbreaks reported to the Centers for Disease Control and Prevention each year from 1993 through 1997, more than 40% were attributed to commercial food establishments.¹⁸
- In California, 88,000 eating and drinking establishments currently operate with an estimated \$54 billion in sales in 2007.¹⁹
- 44.4 million domestic and international travelers came to Orange County for business and leisure in 2007.²⁰
- In Orange County, visitors spend \$8.3 billion in accommodations, dining, entertainment, recreation, shopping, sporting events and transportation.²¹
- 30%, or \$2.5 billion, of the \$8.3 billion is spent on meals and beverages.²²

¹³ The history of this particular restaurant was inspected online at the Orange County food inspection website. Repeated and numerous violations of the health code were found, but the restaurant was able to remain open by fixing them within the two-week period, only to lapse into a continued pattern of hygiene violations by the next inspection.

¹⁴ <http://foodinspections.ocgov.com/foodinspections/>

¹⁵ CDC (Centers for Disease Control), April 2004. Article by Timothy F. Jones, Boris I. Pavlin, Bonnie J. LaFleur, L. Amanda Ingram, and William Schaffner†, Tennessee Department of Health, Nashville, Tennessee, USA; and Vanderbilt University School of Medicine, Nashville, Tennessee, USA

¹⁶ *ibid*

¹⁷ *ibid*

¹⁸ *ibid*

¹⁹ 2008 California Restaurant Association

²⁰ Anaheim/Orange County Visitor & Convention Bureau

²¹ *ibid*

²² *ibid*

Cities, counties, states, and countries using an ABC grading card system

When the 1998 ABC grading system was put into effect in Los Angeles County, it was up to the individual cities within the county to adopt these new guidelines. Initially, 10-15 cities resisted adopting them. However, as of 2008 only Long Beach,²³ Pasadena, and Vernon do not use a form of the ABC grade cards. All other cities have successfully adopted this system.

Orange County is surrounded by counties that use the ABC grade-card system. Orange County continues to fail to provide sufficient on-site restaurant food safety information to the public. The counties of Los Angeles, Kern, Riverside, San Bernardino, and San Diego have all adopted the ABC grading system. Only Imperial County in Southern California joins Orange County in resisting this important change.

North Carolina touts its “Know the Score” program for informing the public about restaurant hygiene. This system, similar to the ones used in South Carolina and Tennessee, has incorporated a statewide ABC grading card system. Even the distant Republic of Singapore has adopted a similar system.²⁴

California Restaurant Association

Members of the Grand Jury’s Continuity and Special Issues Committee attempted to contact the California Restaurant Association to learn what its experiences had been with the grade-card system for restaurant inspections. The Grand Jury also wished to know whether the association had an official position on the implementation of the grade-card system. A California Restaurant Association executive in Sacramento refused to answer any of the Grand Jury’s questions but promised to refer the matter to the Association’s counsel. Thus far, the Grand Jury has not received the requested response.

Reasons for implementing an ABC grading-card system in Orange County

- 1) The U.S. Department of Health, Centers for Disease Control and Prevention recognizes the benefit of an on-site grading system:

What can consumers do when they eat in restaurants? – You can protect yourself first by choosing which restaurant to patronize. Restaurants are inspected by the local health department to make sure they are clean and have adequate kitchen facilities. Find out how restaurants did on their most recent inspections, and use that score to help guide your choice. **In many jurisdictions, the latest inspection score is posted in the restaurant.**

²³ Long Beach uses a number grading system. The overall grade along with the descriptions of the violations, such as cockroach infestation or unsanitary food preparation area, must be posted in a window near the entrance to the restaurant.

²⁴ The Ottawa-Carleton Health Department, OLR Research Report, April 28, 2005. Wikipedia, The Free Encyclopedia, March 3, 2008.

2) Restaurant grades are higher in Los Angeles County than in Orange County:²⁵

Restaurant Grades	Orange County	Los Angeles County
A (90-100)	57.0%	82.5%
B (80-89)	33.0%	15.5%
C (70-79)	8.4%	1.8%
less than (70)	1.5%	0.2%

- 3) Health conditions in restaurants improve with the use of an ABC grading system that is visible to the public. From 1997-1998 to 2006-2007, the number of restaurants in Los Angeles that received an A grade went from 39.9% to 82.5%; the number of B grade restaurants decreased from 30.9% to 15.5%; those with C grades decreased from 17.6% to 1.8%; those below C decreased from 11.7% to 0.2%.²⁶
- 4) A 2001 survey in Los Angeles County found that 91% of the public liked the grading system; 88% of those surveyed said they would eat at an A-graded restaurant; 25% would eat at a B-graded restaurant; while only 3% would eat at a C-graded restaurant. In 2005, 89% of people surveyed thought that the grading system has been effective in assuring food safety.²⁷
- 5) Restaurants with A grades show an increase in revenue, while those with a C rating lose customers. The *National Restaurant News*, in a November 2002 article summed up the ABC grading system as follows:

The public grading system illustrates both Darwin's theory of evolution - that is, natural selection or survival of the fittest - and capitalism at its finest. Every operator has the opportunity to win A's with copious and consistent attention to detail. And every consumer has the opportunity to collect grade information and act on it. Those operators who do not rise to the occasion lose customers.

²⁵ Statistics from Los Angeles County Public Health report, Ten Year Anniversary of Restaurant Grading Program, January 28, 2008. Orange County figures are from a simulated report using Los Angeles County 100 point scale, Orange County Register, February 24, 2008.

²⁶ *ibid*

²⁷ *ibid*

- 6) Several periodicals have stated that the arguments against grade posting are without merit and are used primarily to intimidate politicians - from Napa and San Francisco to places as far away as Scotland.²⁸ Even the tiny town of Vidor, Texas recently wrestled with this issue. An editorial²⁹ of Health Inspections.com, a watchdog site for restaurant inspections reported on January 29, 2007:

The town of Vidor, Texas recently made a decision to put the health of its citizens on the back burner. The city council decided that restaurants don't have to display health inspection scores for customers to see.

Many politicians around the country are simply uninformed when it comes to the importance of this issue. They assume, incorrectly, that restaurants will be victimized when scores are posted, so they cave in to political pressure from restaurant associations.

Never mind that just one instance of poor food handling in a restaurant can make hundreds sick -- or even kill people.

Never mind that a study by health professionals found that posting grade-cards in restaurants actually reduced the number of food borne illness hospitalizations.

And never mind that the public has a right to see what's going on in restaurant kitchens.

Apparently, for many politicians, the restaurant lobby is more important than the average restaurant consumer.

...when an inspector finds a manager who doesn't know basic sanitation, or finds serious violations that can cause illness -- is it fair to the public to keep the report card hidden from view?

In general, restaurant associations don't like inspections being readily available. A spokesman for Delaware restaurant owners -- another state where inspections are difficult to access -- recently told a reporter, 'if a restaurant is open, it's clean.'

That may qualify as one of the dumbest quotes of all time, when you consider the number of food borne illnesses traced to restaurants almost every day.

A PROVEN BENEFIT TO SAFETY

When Los Angeles County began requiring grades to be displayed in restaurants in 1998, the results were dramatic.

²⁸ Napa Valley Register, February 13, 2005; San Francisco Chronicle, Jan 31, 2007; Scottish Consumer Council, 2005.

²⁹ The full text of this article is found in the appendix.

A comprehensive study found that in just one year, hospitalizations for foodborne illness dropped 13%, and the following two years saw the trend continue.

And, yes, the study found that restaurants with poor grades will do less business. But, shouldn't it be that way?

Politicians who block inspections from being displayed are giving us a "snapshot" of their true priorities: they care more about business than they do the public's health and safety.

- 7) The existing Orange County grading system does not adequately motivate restaurants to maintain sanitary health conditions. It cannot impose monetary sanctions against restaurants, nor does it convey relevant information regarding violations of the health code to the public on-site, which could allow marketplace pressure on restaurants to have a cleaner environment or to be shut down.
- 8) The present system allows an amnesty period during which a restaurant can remain open while the public is unaware of existing minor violations. At least a two-week delay usually occurs between the first and second restaurant inspection. If additional violations are found on the second inspection, an additional two weeks are allowed before a third inspection occurs. Even then, the restaurant may be allowed to remain open. No information is provided to patrons that the restaurant was found to be unsanitary. The decision to close the restaurant is left to the subjective discretion of the restaurant inspector.
- 9) There may be potential County liability for withholding information about sanitary conditions of a restaurant.
- 10) After an inspection and closure, the restaurant need only fix the violation for the day to get the permit reinstated. Two days later, the same violations could occur again, all without notice to the public. The Orange County Register, February 24, 2008, reported a senior manager with the Environmental Health Division as stating,

In practice, a suspension may last only as long as it takes the owner to fix the problem. ...some 'suspended' permits are reinstated on the same day they are yanked, leaving the owner free to operate – and potentially violate – again. If they come back and they comply with everything we said, legally we have to give them another permit.

With an ABC grading system, the restaurant would have its rating for a four-month period before it could be changed³⁰. During that time, the public could decide whether to eat there or not. Public pressure and a drop in business would

³⁰ In Los Angeles an owner may request a reinspection after receiving a B or C grade. The request must be made within three days of the inspection and will be conducted within 10 days. The owner must pay \$243 and only one re-inspection is allowed within any 12 month period.

either force the owner to clean up the restaurant and keep it clean, or close down. Both options are advantageous for the public.

Toronto, Canada, uses a green, yellow or red card system to notify the public about the condition of a restaurant. However, if a yellow or red card is issued, its health department is staffed to allow a follow-up inspection within 24 to 48 hours. Failure to remedy the violations results in fines from \$40 to \$370 for each minor violation as well as possible court appearances.³¹ Subsequent violations result in a closure. After winning a legal challenge, made by local hotel and restaurant associations to its DineSafe grade card inspection system, the city of Toronto conducted a survey and found that 98% of residents said it was important to maintain the rating and disclosure program. Over 70% of food premises operators surveyed also supported the program.

- 11) There would be minimal cost in implementing an ABC grade card system in Orange County despite some estimates made by the Environmental Health Division in a February 27, 2008, letter to the Board of Supervisors.

In their letter, the Environmental Health Division estimated that it would cost \$150,000 to \$300,000 for training, County Ordinance Adoption, and Database/IT adjustments.³²

It also claimed that there would be an “ongoing cost” of \$650,000 - \$800,000 a year for a 10-minute increase in inspection time per facility, an increase in inspection frequencies for prepackaged food facilities such as markets, additional staff to cover increases in restaurant inspection time and frequency, and costs to purchase decal materials.

The Grand Jury believes that the figures for “ongoing cost” are not realistic. No additional time for restaurant inspections is required. An ABC grading system inspection would be no different from the present inspection system. The inspections would continue to follow the state-required guidelines. The only difference would be that the restaurant will not display a letter grade instead of the “in compliance” orange placard. The computer program will make all necessary grading calculations.

Why should prepackaged facilities need more frequent inspections now? If they will be necessary under the new system, then why were they not required under the old one? If they are not required, then there is no additional cost.

The Environmental Health Division has provided no reasonable justification for additional staffing.

Since the number of inspection sites will not increase, there should be no

³¹ City of Toronto, Food Premises Inspection and Disclosure System, app.toronto.ca/food2/overview

³² Using their \$300,000 figure, this represents a one-time cost of 2.6% of the Food Protection Program budget of \$11.5 million.

additional cost for producing similar sized decals (placards) with different wording.

CONCLUSION

Anyone reviewing even a small number of articles posted on the Internet in 2008 would become readily aware that there is an ongoing battle raging nationwide regarding the most effective way to ensure the general public's right to know how safe their local restaurants are. Some restaurants in our community are unsanitary and are the direct cause of food-borne illnesses, some so severe as to require hospitalization, while others cause only discomfort, loss of work or school time. Recently a growing number of governing bodies, such as boards of supervisors and city councils have taken a stand to protect the public. Here in Southern California, nearly all county governing boards have made a commitment on behalf of consumers to follow their constitutional mandate **to promote the general welfare**.³³ In the 1990s, there was considerable resistance to implementing an ABC grading system, according to a former member of the Orange County Board of Supervisors. That Board member is now calling for a re-examination of this issue.³⁴ It is time for our Board to stand up on the side of the public. The blueprint for success and the experience to implement such a new ABC grading program lies just to the north. Hopefully, the Board of Supervisors has the wisdom and courage to follow the example of Los Angeles County and protect our citizens.

FINDINGS

In accordance with California Penal Code sections 933 and 933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 Orange County Grand Jury has arrived at the following findings:

F-1 The present procedure of posting eight inch square cards at local restaurants, stating that they are in substantial compliance with California food safety and sanitation standards, is inadequate to inform the general public of the true sanitary condition of a restaurant.

F-2 Neighboring counties in Southern California and elsewhere have adopted a grading system that is superior in informing the public about the safety of their local restaurants.

Responses to Findings F-1 and F-2 are requested from the Health Care Agency.

Responses to Findings F-1 and F-2 are required from the Orange County Board of Supervisors.

³³ Preamble to the United States Constitution

³⁴ Orange County Register, February 24, 2008.

RECOMMENDATIONS

In accordance with California Penal Code sections 933 and 933.05, each recommendation will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. Based on the findings of this report, the 2007-2008 Orange County Grand Jury makes the following recommendations:

R-1 Adopt a new grading procedure for restaurant inspections that provides accurate and easily understood on-site health information for all restaurant and food vending locations.

R-2 Implement an ABC grading system similar to the one presently in use in Los Angeles and neighboring counties.

Responses to recommendations R-1 and R-2 are requested from the Health Care Agency.

Responses to recommendations R-1 and R-2 are required from the Orange County Board of Supervisors.

REQUIRED RESPONSES:

The California Penal Code specifies the required permissible responses to the findings and recommendations contained in this report. The specific sections are quoted below:

§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:

- (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) For purposes of subdivision (b) of Section 933, 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 timeframe for implementation
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe 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 timeframe 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.

Appendix

An editorial of HealthInspections.com, a watchdog site for restaurant inspections reported on January 29, 2007, quoted verbatim:

The town of Vidor, Texas recently made a decision to put the health of its citizens on the back burner. The city council decided that restaurants don't have to display health inspection scores for customers to see.

One council member, Dale Madeley owns a restaurant, so it's not surprising he would vote against the idea. But the mayor, and even the local health director, expressed concern that posting the scores could drive customers away from restaurants with poor grades.

Many politicians around the country are simply uninformed when it comes to the importance of this issue. They assume, incorrectly, that restaurants will be victimized when scores are posted, so they cave in to political pressure from restaurant associations.

Never mind that just one instance of poor food handling in a restaurant can make hundreds sick ~ or even kill people.

Never mind that a study by health professionals found that posting grade-cards in restaurants actually reduced the number of foodborne illness hospitalizations.

And never mind that the public has a right to see what's going on in restaurant kitchens.

Apparently, for many politicians, the restaurant lobby is more important than the average restaurant consumer.

A "snapshot in time?"

Sadly, the health director in Vidor, Texas was quoted using the same worn out logic that restaurant associations often throw around when they try to stop inspections from being posted.

He said that an inspection is just a "snapshot in time," and that a restaurant could get a bad name for simply having one bad day.

Nonsense.

What if your child came home with an "F" on a math test and said, "Oh, don't worry. This is just a snapshot of one bad day at school. Trust me, I know the material."

You wouldn't fall for that.

If you read a few inspection reports, you quickly see that the "snapshot in time" for many restaurants is not a pretty picture.

There are stories on the front page that detail temperature violations that can make people sick. It is particularly alarming that many "certified food managers" can't answer simple questions about cooking temperatures or proper dishwashing techniques when asked by inspectors.

So, when an inspector finds a manager who doesn't know basic sanitation, or finds serious violations that can cause illness ~ is it fair to the *public* to keep the report card hidden from

view?

Local health codes are very fair to restaurants. Whenever a low score is given, restaurants can request a re-inspection. If it's true that they simply had "one bad day," they're not doomed to a bad reputation. They just have to clean up and invite the inspector back.

Public Record

By law, inspection results are public record. But in many cities and counties, it's difficult to actually get your hands on a report – and that's how many restaurants want it.

In general, restaurant associations don't like inspections being readily available. A spokesman for Delaware restaurant owners ~ another state where inspections are difficult to access ~ recently told a reporter, "if a restaurant is open, it's clean."

That may qualify as one of the dumbest quotes of all time, when you consider the number of foodborne illnesses traced to restaurants almost every day.

A PROVEN BENEFIT TO SAFETY

When Los Angeles County began requiring grades to be displayed in restaurants in 1998, the results were dramatic.

A comprehensive study found that in just one year, hospitalizations for foodborne illness dropped 13%, and the following two years saw the trend continue.

The authors of the study concluded, "public posting of (inspection) results is effective for reducing the burden of foodborne disease."

And, yes, the study found that restaurants with poor grades will do less business. But, shouldn't it be that way?

Many restaurant operators welcome inspections and they strive for high scores. One burrito shop in North Carolina, for example, gives each employee a \$100 bonus whenever they score 100 on an inspection. The owner says that having a score of 100 posted in his shop is "great for business."

There is no doubt that posting inspection results in restaurants is a positive benefit for consumers and it provides a real incentive for restaurant operators to make sure their kitchens are clean.

Politicians who block inspections from being displayed are giving us a "snapshot" of their true priorities: they care more about business than they do the public's health and safety.