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August 31, 2009

Honorable Kim Dunning,
Presiding Judge
Orange County Superior Court
700 Civic Center Drive
Santa Ana, CA 92702

Subject: Orange County Grand Jury supplemental report, formal response:
"The Guardian of Last Resort"

Dear Judge Dunning:

While this office respects both the members of the Grand Jury and the process in which it engages, both the initial 2008-2009 Grand Jury Report and their Supplemental Report contain misstatements and misrepresentations which unfortunately form the basis for recommendations and conclusions either previously implemented or procedurally impractical. In that the previous report has been responded to, this response will deal primarily with the observations and recommendations contained in the supplemental report. This response, however, will, like the supplemental report published by the Grand Jury Human Services Subcommittee, refers to prior observations, recommendations and responses when necessary and appropriate.

Of initial concern, both in the original and supplemental reports, is the methodology utilized by the Grand Jury in reaching its conclusions and recommendations.

In its supplemental report, the Grand Jury Human Services Subcommittee indicates that it held a fact finding interview with the Public Administrator – Public Guardian (PA/PG) Department management on April 9, 2009. On April 9, 2009, senior management within the PA/PG office was allowed to review the already completed report. This review was conducted at the offices of the Grand Jury and no member of the PA/PG staff was allowed to ask questions or discuss incorrect statements contained in the report. There was no interaction between members of the Grand Jury and the PA/PG management. There was no discussion of the issues raised or, the source of the information relied upon by the Grand Jury. There was no indication whatsoever of the use of some methodology that would ensure the appearance of fairness or due process before making such damaging charges.

According to the supplemental report, the Grand Jury reviewed new documents and information but never provided those documents or information to the PA/PG for response or comment. Furthermore, PA/PG staff was never provided with or consulted about the self-described new documents and information.

Interviews were allegedly conducted with several senior County officials, none of whom were identified and none of whom were credited with any of the information reportedly relied upon by the Grand Jury. The Grand Jury also allegedly contacted various agencies to confirm financial data and other substantive information. PA/PG was not made privy to this information nor given the opportunity to respond to the data provided.

Additionally, the Grand Jury took the unprecedented step of holding a press conference to disclose its alleged findings prior to the PA/PG having an opportunity to provide a response to the first or second report. By prematurely prejudicing the perception of the office, the Grand Jury made rational and reasonable discussion about the issues nearly impossible.

More importantly, and fundamentally critical to this entire process, is what was not done and who was not talked to by the Grand Jury. A review of both the report and the supplemental report clearly indicate that a majority of the issues the Grand Jury has identified are personnel or human resources issues. As such, would it not make sense to conduct an extensive interview with the head of Human Resources at the PA/PG? Incomprehensibly, this was never done. The 2008 – 09 Grand Jury Human Services Subcommittee members never spoke to the head of Human Resources at the PA/PG, never asked her what the basis for certain actions were and never discussed with her the processes and procedures undertaken by the office in regard to their issues of concern prior to publishing their report.

The inaction on the part of the Grand Jury to discuss Human Resources issues with the Head of Human Resources for the PA/PG is a failure of applying an appropriate and fair methodology to their investigative process.

Turning to the substantive findings of the Grand Jury, it becomes apparent that had a more comprehensive methodology been utilized, the Grand Jury would have been forced to rethink both its observations and its conclusions.

In discussing annualized hourly wages for individuals classified as administrative managers, the Grand Jury again fails to provide the basis for its methodology and subsequent results. Ascribing a figure of \$529,796 (which cannot be verified) as the base line for annual hourly wages at the time the

PA/PG separated from Health Care does not take into consideration costs incurred by the Health Care and Community Services Agencies, and charged to those agencies, that assisted or subsidized the activities of the PA/PG. It was the non-inclusion by the Grand Jury of costs such as payroll administration, planning, procurement and other support services previously absorbed by these agencies and now line items in the PA/PG operational budget, allowing the Grand Jury to post a misleading base line cost for management.

In other words, management costs once absorbed by the Health Care and Community Services Agencies were now carried on the books of the PA/PG. By ignoring the contributions of the previous overarching agencies under whom PA/PG operated, and now attributing those costs to PA/PG, not based upon the separation of the agencies but due to alleged inefficient or inadequate management, is fiscally disingenuous and does not take into consideration the fiscal reality of the split.

Similarly, in discussing the PA/PG "give back" of taxpayer dollars to the general fund, the Grand Jury, again, misinterprets the facts. The 2005 – 06 Net County Cost (NCC), general fund allocations savings (under – run) is \$685, 386. FY 2006 -07 ended with a \$160,000 NCC under - run primarily due to a retirement payout, additional staff for the Public Administrator program, and reduction in intergovernmental revenue. As a stand alone department, PA/PG's NCC under - run has been, on average, in the \$68,000 range, an example of a fiscally sound County of Orange department. Again, a failure on the part of the 2008 – 09 Grand Jury Human Services Subcommittee to fully investigate and understand the nature of an event has lead to an invalid and disparaging conclusion, based upon assumptions and not facts.

Responding specifically to the First Supplemental Finding, it is apparent that the inaccuracies and inconsistencies of the Grand Jury's calculations have led to erroneous assumptions and the manifestation of unsubstantiated conclusions and recommendations. As we have seen, by taking a random figure and using that figure as an operational baseline, without any discussion as to how that number was reached, and then comparing it with a number made up of different components reflecting a different set of necessities and circumstances, the Grand Jury is creating a false matrix and an improper methodology by which to judge the PA/PG.

The Second Supplemental Finding is simply a restatement of county history and requires no comment.

The Third Supplemental Finding again demonstrates the inconsistency with which the Grand Jury conducted its investigation. Had they had a serious, comprehensive discussion with the Orange County Human Resources Department (OCHRD) or any conversation with PA/PG's HR director, they would have discovered that the action to make a temporary promotion a permanent one was done at the recommendation of OCHRD. OCHRD recommended that all temporary promotions be made permanent for a variety of internal reasons. The restructure was done at the behest of OCHRD and no new positions were created.

Supplemental Finding Four continues the process of incomplete representations of the facts. Recruitment for the position discussed was done from existing promotional lists, which is in compliance with existing OCHRD policy.

Supplemental Finding Five is a broad, generic accusation without any substance or sustainability. The Grand Jury cannot identify one instance of the office using temporary promotions and rapid advancements to circumvent standard hiring procedures. The allegations, and resulting conclusions, are based upon nothing more than hearsay and innuendo, a majority of which has been perpetuated by a few disgruntled current and former employees. Had the Grand Jury discussed this concern with the PA/PG department HR director, they would have discovered that there is nothing to this allegation.

The staffing changes identified by the Grand Jury in Supplemental Finding Six occurred in November 2008 and February 2009, not, as alleged, sometime after the release of the original Grand Jury report in May, 2009. This mischaracterization of staffing changes and modifications again intentionally infers that the office of the PA/PG is somehow defiantly disregarding the original recommendations of the Grand Jury, the dictates of OCHRD and the financial circumstances of the County of Orange. Nothing could be further from the truth and nothing presented by the Grand Jury substantiates their claim.

Turning briefly to the issue of the new software system identified in Supplemental Finding Seven that is being developed for the PA/PG, a more comprehensive review of the issue would have allowed the Grand Jury Subcommittee to realize that this project is being supervised by the County Executive Office's (CEO) IT Department (PA/PG's IT service provider), overseen by the Chief Information Officer (CIO) staff who serve as the Project Manager. The Board of Supervisors allocated \$1,000,000 to CEO IT for this project; however, funding was subsequently reduced to \$750,000. PA/PG has been working closely with the CIO's office to develop and implement the software program in an economical fashion and will continue to do so. The project has become a joint venture between the CEO IT and PA/PG departments. Both the CIO and PA/PG sit on the project steering committee and meet on a regular

basis. A more comprehensive response to this issue is contained in the PA/PG's initial response.

Finally, it should be noted that in June, 2009 a meeting was held between the PA/PG and senior County staff where it was acknowledged by the heads of the departments represented that no human resources or budget protocols were violated.

As discussed below, the PA/PG is very much aware of and concerned with the financial difficulties facing the County of Orange. As such, both prior to and independent of, the reports issued by the Grand Jury, the PA/PG is taking the following steps in regard to achieving economic efficiency and proposes additional recommendations of its own to further consolidate and coordinate the activities of the office, thus allowing it to run even more efficiently and economically.

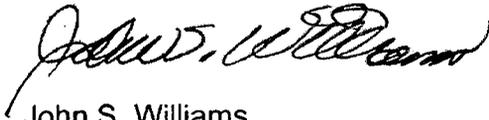
As of August 15, 2009, the PA/PG has vacated and proposed elimination of two positions, an Administrative Manager I and an Administrative Manager II within the next quarterly budget adjustment process.

Senior management is also looking at other areas where positions can either be reclassified or consolidated. As these areas are identified, the consolidation and modification defined, and OCHRD consulted, we will advise the Board of Supervisors of these suggestions and recommendations. It is our hope to have this process completed in time to include these recommendations in the budget analysis anticipated for November, 2009. It is estimated that the proposed elimination and reclassification of these positions alone will save the Agency approximately \$400,000 per year.

Had the Grand Jury Human Services Subcommittee done a comprehensive audit of the office of the PA/PG and talked to the people directly involved in the operation and administration of the office, they would have gotten a distinctly different impression and understanding of what PA/PG does including how the agency operates by providing other services for the benefit of the public, including fighting financial and physical abuse of the elderly.

I look forward to meeting with the members of the 2009 – 10 Grand Jury and having the opportunity to discuss with them the vital services the men and women of the Public Administrator – Public Guardian Department provide for the citizens of Orange County.

Sincerely,

A handwritten signature in black ink, appearing to read "John S. Williams". The signature is fluid and cursive, with a large initial "J" and "W".

John S. Williams,
Public Administrator – Public Guardian

cc: 2009 – 2010 Orange County Grand Jury Foreman
Members of the Orange County Board of Supervisors
County CEO
County Counsel, County of Orange

2008 – 2009 Orange County Grand Jury Supplemental Report

The Guardian of Last Resort

Responses to Findings SF.1, SF.3, SF.4, SF.5, SF.6 and SF.7

SF.1 *"The annualized hourly wages for individuals classified as managers in the office of the PA/PG amounted to \$529,796 in 2005. As of May, 2009, the annualized hourly wages for those in the management category is \$1,156,002, an increase of 118.2% over the last four years. In the past six months, PA/PG management salaries have increased by \$133,174 on an annualized basis."*

PA/PG's Response

The PA/PG wholly disagrees with this finding. The \$529,796 figure is unsubstantiated and cannot be verified. Please see the comprehensive response hereinabove.

SF.3 *"Since the April, 9, 2009 interview the PA/PG has continued to create permanent Administrative Manager III positions over the objections of OCHR, which indicated these positions were not warranted by the small size and the degree of complexity of the department."*

PA/PG's Response

The PA/PG wholly disagrees with this finding. There have been no disapprovals by OCHRD as to the staffing modifications engaged in by the department. Please see the comprehensive response hereinabove.

SF.4 *"Since the April 9, 2009 interview, the PA/PG has continued to limit recruitment for a non-technical permanent manager position to only current department employees, who otherwise may not have been selected."*

PA/PG's Response

The PA/PG wholly disagrees with this finding. The Grand Jury Human Services Subcommittee did not interview the PA/PG department Human Resources Manager. Please see the comprehensive response hereinabove.

SF.5 *"Since the April 9, 2009 interview, the PA/PG has continued the pattern of using temporary promotions and rapid advancement to circumvent standard hiring procedures."*

PA/PG's Response

The PA/PG wholly disagrees with this finding. The Grand Jury Human Services Subcommittee did not interview the PA/PG Department Human Resources Manager. Please see the comprehensive response hereinabove.

SF.6 *"Since the prior Grand Jury report was released, one additional person had been added to management ranks and one Chief Deputy position has been created."*

PA/PG's Response

The PA/PG wholly disagrees with this finding. The Grand Jury Human Services Subcommittee did not interview the PA/PG Department Human Resources Manager. Please see the comprehensive response hereinabove.

SF.7 *"In 2005, the County Internal Auditor recommended a new software system for the PA/PG. It missed several self imposed implementation deadlines including June, 2008, and will miss the deadline of July, 2009. The current management staff has been unable to implement a new computer software system in a timely reasonable period."*

PA/PG's Response

The PA/PG wholly disagrees with this finding. The IT project is moving forward under the supervision of CEO IT with the full and complete cooperation of PA/PG. Please see the comprehensive response hereinabove.