

857

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM:** Executive Office

**SUBMITTAL DATE:**  
June 2, 2009

**SUBJECT: 2008-2009 Grand Jury Report: Riverside County District Attorney's Office**

**RECOMMENDED MOTION:** That the Board instructs the Riverside County Executive Office – within 30 days – to draft the Board's response to the findings and recommendations of the Grand Jury. The Executive Office will finalize the Board's response to items that are pertinent and submit a response to the Board within 60 days.

**BACKGROUND:** The attached report has been issued by the Grand Jury.

Section 933 (c) of the Penal Code requires that the Board of Supervisors comment on the Grand Jury's recommendations pertaining to matters under the control of the Board, and that a response be provided to the Presiding Judge of the Superior Court within 90 days.

Departmental Concurrence

Attachment

H:\GJURY\30dayDA6.09.doc

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget: Budget Adjustment: For Fiscal Year:
	Current F.Y. Net County Cost:	\$	
	Annual Net County Cost:	\$	

<b>SOURCE OF FUNDS:</b>	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:** APPROVE

By: *Bill Luna*  
Bill Luna

**County Executive Office Signature**

- Dep't Recomm.:  Consent  Policy
- Per Exec. Ofc.:  Consent  Policy

Prev. Agn. Ref.: | District: | Agenda Number: **3.13**



## RIVERSIDE COUNTY GRAND JURY

(951) 955-8990 OFFICE • (951) 955-8989 FAX

→ May 20, 2009

William G. Luna, Executive Officer  
County of Riverside  
4080 Lemon Street  
Riverside, CA 92501

Subject: 2008-09 Grand Jury Report: Riverside County District Attorney's Office

Dear Mr. Luna:

Please note that Penal Code Section 933 et seq., specifies that you respond within ninety days. Further, it specifies that this report be kept **confidential for a minimum of two working days** prior to public release. The contents of this report will be made public after the close of business April 22, 2009.

Sincerely,

Nikki L. Harris, Foreperson  
2008-09 Riverside County Grand Jury

NLH:gs  
Attach.

## 2008-2009 GRAND JURY REPORT

### Riverside County District Attorney's Office

#### Background

The Riverside County District Attorney's (DA's) office is responsible for prosecuting criminal cases in Riverside County.

Riverside County is the fourth largest county in the state. The DA's office is the third largest in the state. The DA's office *Fiscal Year (FY) 2008-09 Final Budget* as approved by the Board of Supervisors is \$106,633,605. This budget authorizes a total DA's office personnel strength for FY 08/09 of 896, of whom 278 are attorneys. It provides for a net increase of eight total personnel, five of whom are attorneys.

The current District Attorney (DA) was elected to a four-year term, which began on January 1, 2007. His first year in office was publicized as having a "tough on crime" policy. In pursuit of this policy, the DA launched a crackdown on sex offenders and obtained a court sanctioned gang injunction.

The DA's office has been the subject of extensive media coverage. The DA's management style is reportedly authoritarian, leaving no room for differences of opinion. The courts, prosecutors, public defenders, defense lawyers and the local news media have critically scrutinized the DA's managerial skills and abilities.

In 2007 the Chief Justice of the California Supreme Court appointed a Judicial Strike Force to address court congestion. The Strike Force issued *Report of the Criminal Backlog Reduction Task Force* dated August 1, 2008. The report concluded that court congestion has multiple causes. Among those causes are: "The Riverside County District Attorney established and diligently enforced a very vigorous charging policy and a very restrictive policy on plea bargaining..." and "The prosecutor has reluctantly participated in court-organized settlement processes and voices concern about such activities." Additionally, "The district attorney does not acknowledge his responsibility to limit the criminal cases filed or the criminal cases taken to trial..."

## Findings

1. Sworn witnesses testified, that although career Deputy District Attorneys have traditionally been given discretion to manage their assigned cases, in the current DA's office, discretion has been all but taken away. According to the sworn testimony of current and former prosecutors, they must get approval for everything. Supervisory personnel are reportedly unwilling to make decisions and every issue must go up the chain of command. This makes it more difficult and time-consuming to adjudicate a case. It removes the prosecutor who is most knowledgeable of case factors from decision-making regarding case settlement. Witnesses reported that one reason for case dismissals was delays in the decision making process.
2. It is the stated policy of the DA's office to settle cases: (a) consistent with the charges, and (b) the prosecutors' assessment of their ability to achieve a conviction. Although the DA's office Policy and Procedure Manual devotes an entire section to encouraging case settlement where appropriate, witnesses report that current DA's office practices discourage case settlements. Witnesses reported cases where a settlement offer was considered appropriate and acceptable to the accused, the defense attorney and the court, but was rejected by the prosecutor.

Witnesses' testimony, confirmed by data provided by the court, the DA's office, and Public Defender's office, indicates that the prosecutors' attitude toward case settlement has resulted in less favorable verdicts, than if settlement had been accepted.

Investigation revealed that the insistence of the DA's office to proceed to trial disregarding potential settlements contributes to the congestion of Riverside County Courts.

According to sworn witnesses the practice of taking a case to trial is highly valued in the DA's office. There is a widespread belief that promotions are based upon proceeding with a jury trial resulting in conviction.

3. Former and current prosecutors, as well as members of other County agencies, reported a pervasive climate of fear and intimidation within the DA's office. Based upon actual experiences, DA's office witnesses described a prevalent fear of being transferred or reassigned to less desirable positions and/or geographic locations as punitive measures for perceived lack of loyalty. Fear of retaliation was described as inhibiting initiative, particularly in negotiating case settlements.

4. In June 2007, the Board of Supervisors authorized the creation of an Executive Division, consisting of nine personnel, within the DA's office. Documentation disclosed that the Executive Division resulted in an increase of \$296,068 to the DA's office budget for FY 2007/2008 and \$492,190 in FY 2008/2009.

Review of the budget proposal reveals that the Executive Division's functions replicate duties previously performed by existing staff.

## **Recommendations**

**Riverside County Board of Supervisors  
Riverside County Executive Officer  
Riverside County District Attorney**

1. Allow trial deputies to have input in all phases of case decision-making.
2. Reduce court congestion by following established written policies and procedures regarding case settlement.
3. Promulgate and enforce written Policies and Procedures prohibiting the use of transfers and reassignments as disciplinary or punitive measures.
4. Eliminate the Executive Division, returning its functions to the personnel previously performing them. In view of current economic conditions return the unused funds to the County.

**Report Issued: 05/20/09  
Report Public: 05/22/09  
Response Due: 08/18/09**