

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

349



FROM: Executive Office

SUBMITTAL DATE:
June 26, 2012

SUBJECT: 2011-12 Grand Jury Report: Riverside County Waste Management Department

RECOMMENDED MOTION: That the Board instruct Riverside County Waste Management Department to forward to the Executive Office – within 30 days – a draft of the Board’s response to the findings and recommendations of the Grand Jury that pertain to the Department’s operational areas; and direct the Executive Office to submit draft responses 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 Superior Court within 90 days.

Draft responses received from the affected department will be consolidated and presented for the Board’s consideration; the response ultimately approved by the Board will then be forwarded to the Grand Jury as required by statute.

Attachment
30dayWasteMgmt06.12

Departmental Concurrence

FINANCIAL DATA	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:	\$	

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

C.E.O. RECOMMENDATION: APPROVE

BY: *George A. Johnson*
George A. Johnson

County Executive Office Signature

Dep't Recomm.:
Per Exec. Ofc.:

Consent Policy

Consent Policy

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



RIVERSIDE COUNTY GRAND JURY

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

June 13, 2012

Jay Orr, Executive Officer
Riverside County Executive Office
4080 Lemon Street
Riverside, CA 92501

Subject: 2011-12 Grand Jury Report: Riverside County Waste Management Department

Dear Mr. Orr:

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 **June 15, 2012**.

Sincerely,

A handwritten signature in cursive script that reads "Nelson Fowlkes".

Nelson Fowlkes, Foreperson
2011-12 Riverside County Grand Jury

NF:gs
Attach.

2011-2012 GRAND JURY REPORT

Riverside County Waste Management Department

Background

The Riverside County (County) Waste Management Department (Department) was made a department by the Riverside County Board of Supervisors (Board) in 1986. The Board elected to account for Department activity as an enterprise fund, a business-type activity, responsible for funding operations from user fees. The operation became a special district in 1994 and remained so until 1998 when it again became a County department. Most of the individuals hired during this time continue to be County employees. As of this writing, there are more than 200 employees in the Department. Over half of them are in the field, working at the landfills or performing support activities of landfill operations. The Department has three divisions: Administration, Engineering/Operations, and Environmental. Each division has multiple branches. (See Attachment 1)

The focus of this investigation is on the work environment in the Riverside County Waste Management Department.

Findings

Hostile Work Environment

1. Grand Jury interviews of current and former employees, testifying under oath, indicated the management team claims to have a long memory. An employee labeled as “not a team player” is viewed less favorably for advancement opportunities while other, less qualified people, are hired and/or promoted because they are in the right “clique”. Grand Jury investigation revealed a lack of communication exists between senior management and line staff. It was further substantiated through interviews with current and former employees of the Department, as well as County Human Resources Department (HR) managers, that the work environment of the Department is hostile. Since Fiscal Year 2006, there have been 21 harassment and/or discrimination complaints filed against the Department. Thirteen resulted in an HR investigation for misconduct. According to sworn testimony, senior management, as well as some supervisors, are deemed unapproachable. Also, according to those interviewed, this atmosphere is pervasive in the field, i.e., the Badlands and the Lamb Canyon landfills.

The County of Riverside “Speak Out!” program has been developed to engage the participation of employees and the public to help meet the commitment to maintaining the highest level of ethics and integrity in all County operations. It is intended to be used to help the County eliminate fraud, waste, and abuse by using “Speak Out!” to report concerns.

Everyone has free, unlimited access to the anonymous and confidential third-party reporting system powered by "MySafeWorkplace." This service is available 24 hours a day, 7 days a week via the Internet. Examples of the types of incidents that can be reported through "Speak Out!" including the following:

- Fraud
- Waste
- Abuse
- Ethic Violations
- Retaliation
- Discrimination
- Safety Violations

The website further states: "Retaliation of any sort will not be tolerated by the County of Riverside in accordance with California Labor Code 1102.5 and 1106."

Corrective and Disciplinary Action

2. Definitions of County HR's first steps of corrective action per County of Riverside Managers and Supervisors Disciplinary Process Manual include:

- Directive Memorandum informs employee or group of employees how to complete a task or what the rules are and directs employee to perform correctly in the future.
- Corrective Memorandum is a warning memorandum, which informs an employee that, even after previous direction, a task is still being completed incorrectly or improper behaviors are still occurring.
- Corrective Counseling Confirmation Memorandum is a warning summary memo from a formal counseling interview which includes dialogue between supervisor and employees.
- Written Reprimand is the first, formal disciplinary step.

Waste Management Department Policy A-10 (1e) states:

Supervisors shall maintain files on direct reports to document items related to behavior, discipline, and attendance. These documents/notes shall not be kept longer than twelve (12) months.

Sworn testimony given to this Grand Jury indicated those interviewed fear incidents, documented in Directive Memorandums, Corrective Memorandums, and Corrective Counseling Confirmation memorandums, which are not formal

disciplinary action, may be brought up beyond one year and used as a springboard into disciplinary action. Copies of these written notices are kept in the supervisor's file.

Ongoing Training

3. Board Policy C-23 (1) "Disciplinary Process Policy" states:

Agency/department heads, managers, and supervisors shall attend a disciplinary process training program administered by Human Resources prior to or within 90 days of appointment.

As attested by HR, Department managers and supervisors attend mandatory refresher training every two years on Discipline Process, Sexual Harassment, Family Medical Leave Act, Workplace Violence, and Management Harassment Prevention. Based on testimony received, this biennial training fails to address sufficiently the skills requisite to perform the complex supervisory and managerial responsibilities of the position.

Department management has been advised by HR that "employees need to be appreciated" and the Department environment needs "to be about promoting motivation and improving culture."

The Center for Government Excellence is a County-wide resource for performance solutions, providing quality programs that anticipate and meet the changing needs of Riverside County. These programs strive to build a sustainable culture of continuous learning and excellence in Riverside County. According to sworn testimony given to the Grand Jury about the Center for Government Excellence, this center is underutilized.

Annual Performance Evaluation Report

4. Board Policy C-21 (2) "Annual Performance Evaluation Reports" states:

Agency/department managers shall prepare, or cause to be prepared, a written, confidential evaluation of the performance of each regular employee assigned to their management responsibility. Evaluations shall be in a form prescribed by the agency/department, as reviewed by Human Resources, but shall comply with the principles encompassed in this policy.

To substantiate sworn testimony, this Grand Jury requested and received access to the Employee Performance Management System. Investigation of information retrieved from this system revealed annual performance evaluations are not performed in a timely manner throughout the County, and at times, not at all. Board Policy C-21 (3) states:

*The frequency of evaluations prescribed by this policy shall be as follows:
(b) All...regular employees of Riverside County shall be evaluated on an annual basis, approximately on the anniversary of their initial employment with county or on the anniversary of promotion or entry into their current job classification.*

Department Policy B-12 states, in part: "...on or near the anniversary date of current job classification entry." Interviews conducted by the Grand Jury, coupled with random checks of Department employee personnel files, revealed that the Department is in violation of these policies.

Board Policy C-21 (5, d)

5. Board Policy C-21 (5, d) "Employee Performance Evaluation Reports" states:

Anytime an agency/department anticipates giving an employee an overall rating of unacceptable or improvement needed, the agency/department should notify Human Resources and seek its review and support of the evaluation.

Zero Tolerance Standard

6. The Board has the following policy regarding behavior "...implied...indirect...that subjects another individual to emotional distress." Board Policy C-27 "Workplace

Violence, Threats and Securities" states:

The County of Riverside does not tolerate any type of workplace violence committed by or against employees. Employees are prohibited from making threats or engaging in violent activities. The list of zero tolerance behaviors with regard to threats and/or violence shall include, but not be limited to, the following proactive measures and/or prohibited behaviors:

1. *Engaging or allowing engagement in violent conduct or making threats of violence, implied, actual, direct, or indirect, or causing actual physical injury to another person at a county workplace or in connection with the conduct of county business.*

2. *Any aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress.*

During the Grand Jury interview process with current and former Department employees and other County employees, this Grand Jury was advised of several incidents in which derogatory, racially-inflammatory remarks and/or behavior have been reported and/or documented. Instances cited:

- During sworn testimony from separate sources and independent Grand Jury investigation, it was found there is a history in the Department regarding racial discrimination. In 1989 an African-American equipment operator filed a grievance with his union against a supervisor at the Badlands landfill. After that filing, this supervisor's son-in-law, a Department employee since 1982 and a current Lamb Canyon project supervisor, followed the equipment operator to a gas station and called him a derogatory racial term. There is also reference to a restraining order against the father-in-law by this same equipment operator. On May 21, 1990, a lawsuit (Case Number 2052431) was filed by the equipment operator against the County of Riverside "for damages for discrimination on the basis of race."
- A review of Department personnel files by this Grand Jury revealed a reprimand of a former Department employee. This reprimand, issued September 20, 2004, followed an eight-day investigation conducted by HR, which found the employee guilty of making stereotypical racial comments about African-Americans to an African-American who took offense. At that time, the employee's direct supervisor, a current Lamb Canyon supervisor, refused to sign the reprimand.
- According to three sworn sources, an operations and maintenance supervisor at Lamb Canyon is known for using racial slurs regarding Department employees of African-American descent.
- Two of these independent sources claim an additional operations and maintenance supervisor is known for using racial slurs against African-Americans working in the Department.
- One of these sources, a former Department employee who is African-American, testified under oath he was told, "You get your black ass out there and eat in that trailer." This former equipment operator said, "The trailer is crawling with rats and cats and their droppings, as well as insects." He further testified he was "called a nigger" and "was treated like a nigger" during his eight years with the Department, up through November 2011.

Recommendations

**Riverside County Board of Supervisors
Riverside County Human Resources
Riverside County Executive Office
Riverside County Waste Management Department**

1. The County must publicize the existence of “Speak Out!” to all Waste Management Department employees, as well as provide frequent information about this program to County employees and County residents.
2. The County HR Department must receive a copy of all written memorandums, i.e., Directive Memorandums, Corrective Memorandums, and Corrective Counseling Confirmation Memorandums. HR must dispose of these copies after one year. Department supervisors must adhere to Waste Management Department Policy A-10, “Records Retention.”
3. Agency/department heads, managers, and supervisors must receive mandatory training by the Center for Government Excellence, focusing on the areas provided in the “*Better Riverside County Supervisor Competency Clusters*”:
 - Communicating Effectively
 - Inspiring Others
 - Managing Diverse Relationships
 - Being Open and Receptive

HR will document and ensure there is frequent and ongoing training of supervisors and managers, which is provided by the Center for Government Excellence in its Management and Supervisory Excellence Academies.

4. Board Policy C-21 and Department Policy B-12 must be enforced, holding managers and supervisors accountable for failure to comply. The Riverside County Executive Office must require HR to devise, or cause to be devised, a tracking system to identify upcoming annual employee evaluations. This procedure must provide a specific completion date. Failure on the part of department management to adhere to the completion date will result in formal disciplinary action.
5. Board Policy C-21 (5, d) “Employee Performance Evaluation Reports” must be reworded to say “will” instead of “should.”
6. In accordance with Board Policy C-27, managers and/or supervisors, as well as other employees who are guilty of using derogatory, racially-inflammatory

remarks and/or behavior must be subject to appropriate corrective action and follow-up disciplinary action per the Zero Tolerance policy.

The Board will enforce Policy C-27 II "Zero Tolerance Standard" Enforcement:

*b. All reports of threats and violent behavior, **implied**, actual, direct, or **indirect**, will be documented and investigated. Such documentation shall include a narrative of the incident including names and other appropriate identification of the parties involved, verbal comments made or a description of the violent behavior, witness names, and witness statements.*

The Board will enforce Policy C-27 III "Responsibilities" D (see Attachment 2).
(Also see Recommendations 1 & 4)

Report Issued: 06/13/12
Report Public: 06/15/12
Response Due: 09/11/12

Administrative Division

The Administrative Division provides support services for the daily push, pack, and cover operations of the landfill. This includes:

- Administrative Services (transfer station and contract oversight)
- Administrative Support (Legislative Analysis, Training, Recruitments, Personnel, Document Management)
- Information Technology (Network Administration, Database Administration, Web Development, Software Development)
- Planning
- Safety
- Fleet (Fleet Administration, Equipment Procurement, Store Warehouse, Equipment and Vehicle Maintenance)
- Gate Fee
- Accounting, (General Accounting and Reporting, Accounts Payable, Accounts Receivable, Asset Management, Purchasing, Budget and Financial Analysis)
- Payroll

Engineering/Operations Division

The Department oversees many active, inactive and closed landfill sites that the Engineering/Operations Division must design, permit, construct, operate and maintain. When one thinks about the work performed, thoughts immediately go to the Badlands and Lamb Canyon Landfills, (the) major active sites. However, there are still many inactive and officially closed landfill sites that require equal or even greater amounts of time in permitting and maintenance than (the) major active landfill sites do. Most activities are performed in-house, with little use of consultants. Activities include:

- Design (preparing grading plans, hydrology studies, soil loss analysis, seismic and stability studies, hydraulic calculations, traffic plans, designing state of the art liner systems, etc.)
- Permitting (preparing necessary documents to obtain permits and operating the site in compliance with federal and state landfill regulations)

Attachment 1

- Construction Management (preparing contract documents, performing construction oversight of public works contracts, etc.)
- Operations (overseeing the daily “push, pack, and cover” operation of burying refuse)
- Refuse Control (litter control, illegal Dumping Cleanup Program, Post Closure Maintenance)

Environmental Division

The Environmental Division oversees a variety of support activities to the daily push, pack, and cover operations at the site. This includes:

- Environmental monitoring
 - To control landfill gas, the Department’s Air/Gas Section designs, permits, operates, and maintains landfill gas collection and flare stations, and performs air quality monitoring.
 - To protect ground and surface water from contamination, the Department’s Water Section designs, permits, operates, and maintains groundwater monitoring and remediation systems and performs groundwater and surface water sampling.
 - Leachate management.
- Load Check Program
- Traffic Direction Program
- Recycling at the Landfills
- Household Hazardous Waste Collection Program
- Recycling (AB 939 Compliance, Business Recycling and Household Recycling Public Education)
- Composting Program

Attachment 1

Workplace Violence, Threats and Securities C-27

III. RESPONSIBILITIES

- D. Agency/district/department heads must:
1. Ensure this policy is fully implemented in all work locations within their area of responsibility.
 2. Ensure that managers and supervisors are fully informed of the zero tolerance standards.
 3. Ensure that incident documentation is completed accurately and prepared in a timely manner.
 4. Ensure that all managers and supervisors attend the county Human Resources/Safety Office Workplace Violence Training Program.
 5. Ensure that all threats and violent behavior, direct, indirect, actual or implied, are reported to appropriate law enforcement agencies, Human Resources Employee Relations and the Safety Division.
 6. Ensure investigation materials and disciplinary letters are sent to Employee Relations for review and approval in a prompt and timely manner.
 7. Ensure that all work sites and work practices within the agency/district/department areas of responsibility are reviewed for the purpose of providing employee security and protection from the potential of reasonably foreseeable violent action.
 8. Undertake appropriate discipline as determined by Human Resources.

Attachment 2