



August 16, 2013

The Honorable Sharon J. Waters
Presiding Judge of the Superior Court
Riverside Superior Court, Department 1
4050 Main Street
Riverside, California 92501

Re: City of Indio Response to the Grand Jury Report Dated May 23, 2013

Dear Judge Waters:

This letter is in response to the 2012-2013 Grand Jury Report entitled "Animal Care Center of Indio" dated May 23, 2013 ("Report"). The Grand Jury has asked for a written response to the following Findings and Recommendations contained in the report pursuant to Penal Code Section §933.05.

By way of background, as of July 1, 2013, the Riverside County Department of Animal Services ("County") has assumed full animal control, sheltering and adoption services for the City of Indio ("City") pursuant to an agreement approved both by the City of Indio and the County of Riverside Board of Supervisors. Accordingly, on July 1 the City ceased handling all animal services except for a 60 day transition period wherein the City has and continues to work with various non-profit groups to find homes for the remaining animal population. A list of those non-profit groups is attached to the City's response. As of the date of this response, 18 animals remain at the Care Center. The City fully expects that all remaining animals will be adopted through the end of the transition period (September 1), however, should any animals remain, those animals will be transferred to the County. The City believes the Agreement with the County is a positive endeavor from a regional animal services standpoint, which will enhance the services provided to the human and animal community alike.

A. Findings

Finding 1:

The shelter does not have its own current policies and procedures manual. The manual being used by the shelter was adopted in 2006, using portions of policies and procedures from the Inland Valley Humane Society and the Society for Prevention of Cruelty to Animals (S.P.C.A.), much of which is outdated and does not address current accepted practices. A draft of a proposed policies and procedures manual for the shelter has been at the City Attorney's office for more than 6 months.

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Response to Finding 1:

City partially agrees and partially disagrees with the finding. The City recognized the need to update its current policies and procedures manual and agrees that it was based on policies and procedures from the manuals noted in the finding. The draft Animal Care Center of Indio Policy and Procedures Manual, however, was completed by the City Attorney with the next step being review and/or approval of the manual by a licensed veterinarian. This review would ensure compliance with certain provision of state law, as well as ensure that the Care Center was following current best practices. This last step, however, was not completed because the City entered into an agreement with the County for all of its animal services and the County maintains its own protocols.

Finding 2:

IPD has policies and procedures in Section 820, that establish guidelines for animal control. The police department has no written policy that establishes guidelines for supervision and operational responsibilities to run an animal shelter. The police department has not received any training on how to operate an animal shelter.

Response to Finding 2:

City partially agrees and partially disagrees with the finding. Policy 820 contains a "Purpose and Scope" section to define the scope of Policy 820. Finding 2 indicates that Policy 820 contains guidelines for animal control but failed to continue that statement and indicate that Policy 820 is limited in its purpose and scope. Accordingly, the City disagrees with this finding. Policy 820 provides guidance to on-duty police officers (not "animal control officers") with regard to specific situations that such on-duty police officers may encounter during the course of their duties. For example, the policy provides guidelines with regard to animal cruelty complaints, stray dogs, animal bite reports, public nuisance calls of which may be encountered by a police officer during his regular patrol. Policy 820 is not intended to be a policy for the supervision and/or operation of the animal shelter. Finally, while not recommended by the Report, the City has updated Policy 820 to reflect that the City no longer provides animal control as such services are now being provided by the County.

As for the supervision and operational responsibilities of employees, including those that work in the Care Center, there are various documents that govern such activities including but not limited to (i) the Indio Police Department Policy Manual; (ii) the memorandum of understandings for the various employee groups; and (iii) the job descriptions maintained by the City's Human Resources Department and which can be found on the City's website. While the City agrees that there is no written policy regarding guidelines for supervision and operational responsibilities specific to the animal shelter, there is no legal requirement to do so outside of the existing policies and protocol that govern the chain of command in the Police Department and the Policy and Procedures Manual regarding the Care Center's operation. The persons who are

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assigned to the Care Center have previously received training and participate in ongoing training regarding operation of the animal shelter.

Finding 3:

The shelter has failed to maintain accurate records for animals. Upon review of records provided to the Grand Jury, it became apparent that some information was inaccurate, missing, incomplete, or obviously fabricated. These included monthly impound reports, intake cards, and euthanasia records. The shelter has recently implemented a tracking system called "Chameleon". Not all employees have been trained on this new computer software. According to California Food and Agricultural Code Section 32003:

All public pounds and private shelters shall keep accurate records on each animal taken up, medically treated, or impounded. The records shall include all of the following information and any other information required by the California Veterinary Medical Board: (a) The date the animal was taken up, medically treated, euthanized, or impounded. (b) The circumstances under which the animal was taken up, medically treated, euthanized, or impounded. (c) The names of the personnel, who took up, medically treated, euthanized, or impounded the animal. (d) A description of any medical treatment provided to the animal and the name of the veterinarian of record. (e) The final disposition of the animal, including the name of the person who euthanized the animal [sic] of the name and address of the adopting party. These records shall be maintained for three years after the date the animal's impoundment ends.

Response to Finding 3:

City partially agrees and partially disagrees with the finding. The City conducted an internal audit of the Care Center's intake forms in the fall of 2011 and based on that audit agrees that the animal intake forms were not always properly completed and at times inadequate. In addition, there were instances when the intake forms were requested by members of the public and the City redacted the name and addresses of the adopting party out of concern for their privacy and as allowed by the California Public Records Act.

As for the process, all forms were being processed manually and there was no electronic record keeping and such a practice was not keeping in conformance with industry standards. Accordingly, the City invested public funds to purchase and install an effective animal information management system (Chameleon CMS) to provide a means to track all the data associated with the animals in the City's care. All appropriate staff were trained on the Chameleon system prior to the City's transition of animal services to the County and therefore the City disagrees with the finding that not all employees were trained to use the Chameleon system. The City also disagrees with the blanket finding that records were "obviously fabricated." Training was also provided

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by the City Attorney's office with respect to the requirements of the Hayden Act and the requirement for accurate recording keeping under California Food and Agriculture Section 32003.

Finding 4:

Sworn Testimony revealed the following:

- Some animals were deprived of food, water, and shelter from the elements.
- Some animals were placed in cages without being given food or water.
- During the hot summer months, the animals were not given fresh water on a consistent basis; when fresh water was given, it was placed in dirty bowls.
- The water bowls were too large for small animals to access.
- Small dogs were inappropriately being fed large size dog food that they were unable to chew.
- Food on the floor was observed to be mixed in with feces.
- Bedding was found to be wet and maggot-infested.
- During inclement conditions, outside kennels were not checked on a regular basis.
- Some cages in the quarantine area had ticks.
- A dog was observed with matted hair and sores on its hindquarters.
- There was not a proper cleaning procedure for the cages.
- When cages were cleaned with disinfectant, the solution was not properly diluted, which caused chemical burns to the animals paws.

As stated by Penal Code §597e:

Any person who impounds, or causes to be impounded in any pound, any domestic animal, shall supply it during such confinement with a sufficient quantity of good and wholesome food and water, and in default thereof is guilty of a misdemeanor. In case any domestic animal is at any time so impounded and continues to be without necessary food and water for more than 12 consecutive hours, it is lawful for any person, from time to

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time, as may be deemed necessary, to enter into and upon any pound in which the animal is confined, and supply it with necessary food and water so long as it remains so confined. Such person is not liable for the entry and may collect the reasonable cost of the food and water from the owner of the animal, and the animal is subject to enforcement of a money judgment for the reasonable cost of such food and water.

As stated by Civil Code §1834:

A depositary of living animals shall provide the animals with necessary and prompt veterinary care, nutrition, and shelter, and treat them kindly. Any depositary that fails to perform these duties may be liable for civil damages as provided by law.

Response to Finding 4:

The City responds to each statement stated in the report as "sworn testimony" as follows:

- Some animals were deprived of food, water, and shelter from the elements.

The City disagrees and denies such statements absent evidence to support the allegation that animals were deprived of food, water and shelter from the elements. Animals are provided food, water and shelter and exterior kennels are covered and are equipped with misting systems. The City takes such allegations seriously and finds the references to the criminal penalties and civil remedies objectionable in that it is unclear what their inclusion in the report is supposed to mean and/or imply with respect to the City.

- Some animals were placed in cages without being given food or water.

The City disagrees and denies such statements absent evidence to support the allegation that animals were placed in cages without being given food or water. Animals are provided food and water. The City takes such allegations seriously and finds the references to the criminal penalties and civil remedies objectionable in that it is unclear what their inclusion in the report is supposed to mean and/or imply with respect to the City.

- During the hot summer months, the animals were not given fresh water on a consistent basis; when fresh water was given, it was placed in dirty bowls.

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The City disagrees and denies such statement. The ACCOI is equipped with a dish washer and bowls are washed daily. Animals are provided with fresh water on a consistent basis during the day.

- The water bowls were too large for small animals to access.

The City agrees with the statement in that an observation and a statement was made to an Animal Control Officer that small animals were having a difficult time drinking water from bowls placed on the ground. The ACCOI had City facility maintenance staff consult with the ACCOI to brainstorm on various solutions with regard to dispensing water to the animals vis-à-vis hanging water bowls and/or buckets. Ultimately, some water bowls were hung on doors and in other areas; larger water bowls were placed in the kennels depending on the animal to suit their needs. In addition, a staff meeting was convened to discuss the proper procedure and placement of water bowls and/or buckets

- Small dogs were inappropriately being fed large size dog food that they were unable to chew.

The City disagrees and denies such statement. ACCOI Staff, however, did determine that volunteers were smuggling in inappropriate food items in contradiction to the direction provided by the ACCOI staff to such volunteers with regard to feeding the animals.

Small animals were given soft can food to eat because of their inability to chew the dry food being given to larger dogs. During a short period of time in early 2012 ACCOI Staff observed animals were developing severe cases of diarrhea, which ACCOI Staff later discovered that this was being caused by volunteers feeding animals treats donated to the volunteers.

- Food on the floor was observed to be mixed in with feces.

The City partially agrees and partially denies this statement as follows: At times animals confined to a kennel would knock over their feeding bowls and thus food was in the areas where the animal may have just defecated or urinated. When this was observed by ACCOI staff, it was remedied immediately.

- Bedding was found to be wet and maggot-infested.

The City partially agrees and partially denies this statement as follows: The City agrees that the issue of bedding found to be wet was identified by a volunteer shortly after the misting system was installed at the ACCOI on or about August 2012. The City discovered that at times bedding did become dampened and/wet solely due to the misting system. When this issue was identified, ACCOI staff removed the bedding and the misting system vendor was contacted to adjust the misters to prevent continued

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dampening of bedding. Once the adjustments were made by the vendor, the dampened bedding issues were corrected and ACCOI staff never saw or was made aware of any maggot-infested bedding.

- During inclement conditions, outside kennels were not checked on a regular basis

The City disagrees and denies such statement. Outside kennels are monitored, checked and cleaned on a regular and daily basis.

- Some cages in the quarantine area had ticks.

The City partially agrees and partially denies this statement as follows: When stray animals were brought into the shelter and were found to have ticks, the animal as well as the kennel was sprayed with tick spray. Animals were also treated with "Frontline" tick guard. Accordingly there may have been cages that contained ticks but did so from the animal in that cage.

- A dog was observed with matted hair and sores on its hindquarters.

The City agrees with the statement as follows. In the summer of 2012, a dog was turned into the shelter which had been abandoned by its owner. This dog's hair was matted and had sores around its neck where some type of collar was used to restrain the animal. As indicated by ACCOI Staff, it was clear the animal's hair had been neglected by its owner as were the sores. An Animal Control Officer was approached by a volunteer who asked the Officer why the animal was not euthanized because it was suffering. The Animal Control Officer informed the volunteer that the animal was not suffering but needed to be groomed in order for the sores to heal. The dog was transported to Desert Dunes Veterinarian Hospital to be treated for the sores around the neck and to be groomed. Once the sores healed, the animal was adopted to a forever home. As with all animals brought into the shelter, any grooming issues are taken care of by the City's volunteer groomer or the animal is transported to Desert Dunes for grooming as appropriate.

- There was not a proper cleaning procedure for the cages.

The City disagrees and denies such statement. Cleaning procedures currently conducted at the shelter is the industry standard and staff from Inland Valley Humane Society instructed staff on the proper cleaning of kennels. Also, additional training concerning cleaning procedures were conducted in November of 2012 by the City's MEREK representative. Adjustments are made when any issues are raised with regard to the cleaning procedures.

- When cages were cleaned with disinfectant, the solution was not properly diluted, which caused chemical burns to the animals paws.

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The City partially agrees and partially disagrees with the statement as follows: In the summer of 2012, two volunteers notified ACCOI staff that they noticed what appeared to be a rash on the under bellies and paws of several small dogs. The small dogs were transported to Desert Dunes and with the assistance of the veterinarian and ACCOI staff, it was determined the rash was the result of improperly mixing the cleaning solution at the shelter. Further review revealed that one of the staff members had removed the spray nozzle which connected the cleaning solution bottle with the spray hose used during the cleaning process and this allowed solution to be sprayed at high concentrations than what is recommended. Once the employee was retrained and the nozzle replaced, no other issues with respect to rashes were detected in the animals. Accordingly, this has been corrected and at no time has the ACCOI used caustic or chemicals to clean the kennels and the City disagrees with the blanket statement that when cages were cleaned with disinfectant, the solution was not properly diluted which caused chemical burns to the animal paws. Moreover, staff has continually updated its training on proper and industry standard requirements for cleaning the kennels.

As stated by Penal Code §597e:

Any person who impounds, or causes to be impounded in any pound, any domestic animal, shall supply it during such confinement with a sufficient quantity of good and wholesome food and water, and in default thereof is guilty of a misdemeanor. In case any domestic animal is at any time so impounded and continues to be without necessary food and water for more than 12 consecutive hours, it is lawful for any person, from time to time, as may be deemed necessary, to enter into and upon any pound in which the animal is confined, and supply it with necessary food and water so long as it remains so confined. Such person is not liable for the entry and may collect the reasonable cost of the food and water from the owner of the animal, and the animal is subject to enforcement of a money judgment for the reasonable cost of such food and water.

As stated by Civil Code §1834:

A depositary of living animals shall provide the animals with necessary and prompt veterinary care, nutrition, and shelter, and treat them kindly. Any depositary that fails to perform these duties may be liable for civil damages as provided by law.

The City has no comments with regard to the restatement of the Penal Code and Civil Code other than to agree that this is language of the Penal Code and Civil Code.

Finding 5:

Upon review of the shelter's incomplete intake cards, the Grand Jury discovered some animals were sent for euthanasia prior to the legal holding time expiration date. Also,

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the shelter has sent adoptable animals for euthanasia without reasonable efforts to find them suitable homes prior to expiration of the holding period. According to California Food and Agriculture Code §31108(a):

The required holding period for a stray dog impounded pursuant to this division shall be six business days, not including the day of impoundment, except as follows: (1) If the public or private shelter has made the dog available for owner redemption on one weekday evening until at least 7 p.m. or one weekend day, the holding period shall be four business days, not including the day of impoundment.

Response to Finding 5:

The City partially agrees and partially disagrees with the finding. The City agrees and understands from its own review that some animals were euthanized prior to the legal holding time. However, since new administration took oversight of the ACCOI in October 2011, animals that exhibited signs of illness or disease were taken to Desert Dunes Hospital and the determination of whether any animal should be euthanized was made by hospital personnel. Since October 2011, no euthanization of animals has occurred within the ACCOI or by ACCOI staff.

Finding 6:

The shelter does not have a Premises Permit issued by the Department of Consumer Affairs Veterinary Medical Board. Shelter employees are diagnosing, prescribing and administering medications or medical treatment without veterinary supervision. Some animals were given medications that were not prescribed for that particular animal by a veterinarian. Some animals, which appeared to be sick, were given unused medication previously prescribed by the veterinarian for another animal. California Business and Professions Code §4825 reads:

It is unlawful for any person to practice veterinary medicine or any branch thereof in this State unless at the time of so doing, such person holds a valid, unexpired, and unrevoked license as provided in this chapter.

California Business and Professions Code §4826 reads:

A person practices veterinary medicine, surgery, and dentistry, and the various branches thereof, when he or she does any one of the following:

(b) Diagnoses or prescribes a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals.

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(c) Administers a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals, except where the medicine, appliance, application, or treatment is administered by a registered veterinary technician or a veterinary assistant at the direction of and under the direct supervision of a licensed veterinarian subject to Article 2.5 (commencing with Section 4832) or where the drug, including, but not limited to, a drug that is a controlled substance, is administered by a registered veterinary technician or a veterinary assistant pursuant to Section 4836.1. However, no person, other than a licensed veterinarian, may induce anesthesia unless authorized, by regulation of the board.

California Business and Professions Code §4853 reads:

(a) All premises where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof is being practiced shall be registered with the board. The certificate of registration shall be on a form prescribed in accordance with Section 164. (b) "Premises" for the purpose of this chapter shall include a building, kennel, mobile unit, or vehicle. Mobile units and vehicles shall be exempted from independent registration with the board when they are operated from a building or facility which is the licensee manager's principal place of business and the building is registered with the board, and the registration identifies and declares the use of the mobile unit or vehicle. (a) Every application for registration of veterinary premises shall set forth in the application the name of the responsible licensee manager who is to act for and on behalf of the licensed premises. Substitution of the responsible licensee manager may be accomplished by application to the board if the following conditions are met: (1) The person substituted qualifies by presenting satisfactory evidence that he or she possesses a valid, unexpired, and unrevoked license as provided by this chapter and that the license is not currently under suspension (2) No circumvention of the law is contemplated by the substitution.

Response to Finding 6:

The City partially agrees and partially disagrees with the finding. The City agrees that it does not have a premises permit and that in the past the City is under the

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impression and belief that ACCOI staff members that are no longer employed by the City may have administered medication to animals in possible contravention of the Food and Agricultural Code. However, since new administration took oversight of the ACCOI in October 2011, no medications have been administered to animals by ACCOI personnel.

According to the Veterinary Medical Board of the State of California, the Medical Board has stated that animal control shelters are mandated to provide "necessary and prompt veterinary medical care to animals housed in an animal control shelter" to care for adoptable animals and protect the public good." The Medical Board further states that "necessary and prompt" veterinary medical care provided by public shelters to protect the public good without a California licensed veterinarian present is limited to basic care to prevent the spread of disease and to protect the public and the animals, such as vaccinations and prophylactic treatment of parasites within protocols developed in conjunction with a veterinarian. Accordingly, the ACCOI has continued to provide vaccinations which do not require the issuance of a premises permit, is considered to be within the scope of the City's mandate to provide necessary and prompt" medical care and is not considered to be an activity that falls under the practice of veterinarian medicine. See, http://www.vmb.ca.gov/licensees/shelter_faqs.shtml. Accordingly, the City disagrees that current employees are diagnosing, prescribing and administering medications or medical treatment without veterinary supervision.

Finding 7:

The Grand Jury investigation included examination of intake cards, which indicated that animals were sent to a veterinarian for euthanasia for medical reasons. Some animals sent to the veterinary center for euthanasia could have been treated medically; however, in sworn testimony, it was indicated to the Grand Jury that the City does not currently have funding to medically treat sick animals. In these cases, the veterinarian either returned the animals to the shelter or placed them with animal rescue groups for medical treatment. Penal Code §599d states:

(a) It is the policy of the state that no treatable animal should be euthanized. A treatable animal shall include any animal that is not adoptable but that could become adoptable with reasonable efforts. This subdivision, by itself, shall not be the basis of liability for damages regarding euthanasia.

Response to Finding 7:

The City partially disagrees with the finding. First, the City has funding and did pay for the medical treatment of animals through Desert Dunes Hospital. Second, if an animal was taken to Desert Dunes it was because the animal was exhibiting signs of illness or disease and not because the animal was sent for euthanasia. The final

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determination to euthanize an animal was made by the veterinarian. If an animal was not treatable, the animal was humanly euthanized. The City does agree that animals that had a contagious virus and/or disease were also taken to Desert Dunes for a final determination with regard to their illness because the ACCOI does and did not have a sick ward to house such animals.

Finding 8:

Shelter management has no formal training, education, or experience in animal shelter management. The shelter supervisor does not supervise the staff. Sworn testimony indicates that employees, other than the supervisor, are supervising the staff. Evidence obtained indicates that employees' work hours are not being accurately recorded. Timesheets are completed by employees prior to hours being worked and approved by management prior to the end of the pay period.

Response to Finding 8:

The City disagrees with the finding. There is no requirement under state law that persons who are employed in a supervisory or managerial capacity in an animal shelter are required to have experience in animal shelter management. Supervisors and managers require different skill sets than those who serve as animal technicians or other similar positions. Supervisors and managers meet the criteria established by the City to serve in those positions. Shelter supervisors do supervise shelter staff. As the finding that work hours are not recorded or timesheets not completed, the City also disagrees with this finding. The City is a public entity and like other public entities has a system in place for the accurate tracking of employee time and attendance that meets public entity best practices and also adheres to the provisions of the various bargaining memorandums that govern such matters.

Finding 9:

The shelter is not always open during the hours posted on the website or on the door of the shelter. The shelter is often closed during lunch. Grand Jury phone calls to the shelter were not always answered and messages were not returned. Sworn testimony and Grand Jury observations have shown that some employees are rude to customers.

Response to Finding 9:

The City partially agrees and partially disagrees with the finding. The City agrees that the ACCOI was not always open during the hours posted on the website and that there were times when the facility was not open during the lunch hour because of minimum staffing levels. However, every effort is made by ACCOI to keep the doors to the facility opened as advertised and on many occasions the facility either opened earlier or stayed open later due to demand. If the ACCOI was closed, a notice was posted on the door and it would not have been practical to change the times on the

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department's webpage. The doors were and are routinely closed during lunch if staffing levels fall below the requisite two staff members at the ACCOI. A minimum staffing level is maintained for safety reasons for the public and staff. For example, if there was only one staff member there would be no one to assist the public in an emergency in the kennels or maintain security of the cash register or equipment in the office.

Finding 10:

Sworn testimony indicated:

- A shelter employee was observed dragging a dog across the parking lot with a choke leash.
- Sick animals were neglected.

Animals were left in trucks for long periods of time.

- Misting systems failed to function during the hot summer months in the outside kennels.

Response to Finding 10:

- A shelter employee was observed dragging a dog across the parking lot with a choke leash.

The City disagrees with the statement. No staff member, volunteer or public ever brought this allegation to the attention of the City.

- Sick animals were neglected.

The City disagrees with the statement. Assessments of the animals are done on a daily basis. Sick animals are quickly identified and transported to the veterinarian because of the potential of spreading infection or disease to other animals.

- Animals were left in trucks for long periods of time.

The City disagrees with the statement and the implication the statement alludes to. All the trucks used by the ACCOI have air conditioned chassis' that provided cool air to the animals that are maintained in the truck. Animals are routinely left in these cool conditions while staff identifies kennels for housing and completes the necessary paperwork to track the animal, prior to unloading the animal.

- Misting systems failed to function during the hot summer months in the outside kennels.

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The City partially agrees and partially disagrees with the statement as follows: The misting system initially installed at the ACCOI in 2006 was grossly inadequate and poorly maintained. During the early part of 2012, funds were raised through donations from the community to pay for a commercial grade misting system that could provide the adequate pressure using two pumps. The system is adjusted and maintained by the installation company to ensure the equipment is in good working order and at all times. In fact, the company was at the ACCOI in June 2013 as part of its annual maintenance. With respect to the failure of the misting system, the City did encounter issues with wet bedding and it was determined that this was caused by the misting system. When this issue was identified, the bedding was removed and the misting system vendor was contacted to adjust the misters to prevent continued dampening of bedding.

Finding 11:

Sworn testimony indicated that volunteers have been under-utilized. Management discouraged input from volunteers such as suggestions for improvement for shelter operations. Volunteers who expressed concerns were terminated.

Response to Finding 11:

The City disagrees with the finding. The City has coordinated a number of activities in relation to volunteers at the ACCOI and has utilized volunteers as appropriate. For example, numerous meetings were held with volunteers, the number of volunteers increased exponentially over the past 18 months, the processing of volunteer applicants was enhanced and a volunteer manual was drafted and implemented including job descriptions and training for volunteers. Volunteers actively participated in adoption and fund raising events and the City even recruited a well respected member of the local press as a volunteer. The volunteers that were separated from the program during the past 18 months were released for failing to comply with the program requirements, which all volunteers voluntarily agree to abide such requirements. It should be noted that volunteers are not employees and as such do not have any of the rights of public employees with regard to their service.

Finding 12:

The City has received a request for proposal (RFP) to have shelter services contracted to the Department of Animal Services of Riverside County. By acceptance of the RFP, there could be a potential savings to the City of approximately \$200,000 per year. Testimony from City Officials stated that the City can no longer continue to pay for an outdated shelter that needs renovation, nor can they afford to build a new facility. The current facility is approximately fifty years old. Due to the size and age of the building, it cannot safely or humanely accommodate the animals in their care. The estimated cost to replace the facility is approximately \$9,000,000.

Response to Finding 12:

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The City partially agrees and partially disagrees with the finding. The City agrees that it received an RFP for shelter services from the County and that by contracting with the County there would be a small savings per year. The City also agrees that shelter facility is approximately 50 years old and needs to be renovated and there is no identified funding stream for a new facility. The City agrees that estimated costs to replace the facility can be between \$4 million and \$9 million. This estimate is based on a comparison to the recently constructed animal shelter in the City of Palm Springs as well as input from the County of Riverside, Department of Animal Services. There is a range because the amount depends on the purpose of the facility—that is whether the facility will be an adoption center only or will be an intake center and shelter facility. The City disagrees that due to the size and age of the building that it could not safely or humanely accommodate the animals in its care. The shelter could be utilized but requires to be enhanced to maintain the animals in the manner the City desires.

B. Recommendations

In response to the recommendations from the Grand Jury, as of July 1, 2013 the Riverside County Department of Animal Services ("County") has assumed full animal control, sheltering and adopting services for the City. This means that the City no longer responds to calls for animal control services, no longer takes any stray or injured animals to the ACCOI, etc. As previously stated, the City is winding down its ACCOI operations and at the present time is adopting out the remaining 18 animals in the shelter.

With that in mind, the City is cognizant of its responsibility under Penal Code Section 933 and Penal Code Section 933.05(b) to respond on the findings and recommendations of the Grand Jury. However, as stated by Penal Code Section 933, the public agency is to "comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body . . ." (emphasis added). Accordingly, because all animal services within the jurisdiction of the City have now been transferred to the County pursuant to a binding contract between the parties, the City no longer has "control" of animal services. Therefore all of the recommendations of the Grand Jury, with the exception of recommendation 12, are not within the City's purview to implement because the City has transferred the responsibility of animal control services in its jurisdiction to the County. Accordingly, with that background, the recommendations 1 through 11 will not be implemented because it is not reasonable to do so (or practical) given the City's current contract with the County. The City further provides its explanation to each recommendation below.

Recommendation 1.

The City Attorney and Chief of Police shall work together to finalize the policies and procedures manual. A policies and procedures manual shall be implemented without delay.

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Response to Recommendation 1.

As stated above in response to Finding 1, the draft manual was completed however the need to take the next step in finalizing the manual by seeking its review and/or approval by a licensed veterinarian was negated because of the Agreement with the County. Accordingly, because animal control services are no longer within the control of the City and because the responsibility of providing animal services is now with the County, the City is in the position where it must disagree with this recommendation.

Recommendation 2.

The IPD shall develop and implement a policy that establishes guidelines for supervision and operational responsibilities for the animal shelter. Formal training shall be provided to managers and supervisors who have operational and supervisory responsibilities for the shelter.

Response to Recommendation 2.

Recommendation 2 requires the City to have operational responsibility for the animal shelter. Because animal control services are no longer within the control of the City and because the responsibility of providing animal services is now with the County, the City is in the position where it must disagree with this recommendation.

Recommendation 3.

Shelter management shall be responsible for accurate records in accordance with California Food and Agricultural Code Section 32003. "Chameleon" training shall be implemented for all employees immediately to ensure that records and reports are done in a timely and accurate manner. There shall be policies and procedures established and implemented to ensure correct information is entered into the computer system.

Response to Recommendation 3.

Recommendation 3 seeks that the implementation of Food and Agricultural Code Section 32003 wherein "public pounds and private shelters are required to keep accurate records on each animal taken up, medically treated or impounded." However, as stated previously, beginning July 1, 2013, the City no longer has the operational responsibility for the animal shelter and as such is not receiving any animals into its care. Because animal control services are no longer within the control of the City and because the responsibility of providing animal services is now with the County, the City is in the position where it must disagree with this recommendation. The City, however, will continue to maintain its existing records for the time period specified and required by Food and Agricultural Code Section 32003.

Recommendation 4.

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IPD shall be responsible to immediately establish and implement a training program for employees and volunteers for the feeding, watering of animals, and cleaning of the shelter, to be in compliance with Penal Code §597e and Civil Code §1834.

Response to Recommendation 4.

Recommendation 4 seeks the training of employees to ensure compliance with Penal Code Section 597e and Civil Code Section 1834. Penal Code section 597e states in part that "[a]ny person who impounds, or causes to be impounded in any pound, any domestic animal, shall supply it during such confinement with a sufficient quantity of good and wholesome food and water." Similarly, Civil Code Section 1834 provides in part that "[a] depository of living animals shall provide the animals with necessary and prompt veterinary care, nutrition, and shelter, and treat them kindly. The City agrees that all persons that fall within the purview of these sections should be in compliance with those provisions. However, with respect to the City's current position in that beginning July 1, 2013 the City no longer has the operational responsibility for the animal shelter and as such is not receiving any new animals into its care, these provisions are inapplicable. Accordingly, because animal control services are no longer within the control of the City and because the responsibility of providing animal services is now with the County, the City is in the position where it must disagree with this recommendation.

The City, however, is towards the end of its 60 day transition period whereby the City is sheltering animals that were received into the ACCOI as of June 30, 2013. As to those animals, the City is reducing the animal population at the ACCOI through adoptions working diligently with non-profit groups to find these animals homes. With respect to this animal population, the City is following and ensuring that the animals currently housed at the ACCOI are being provided with "a sufficient quantity of good and wholesome food and water" and that the animals are being provided with shelter, necessary and prompt veterinary care by Desert Dunes Animal Hospital, and are being treated kindly.

Recommendation 5

Shelter management shall strictly adhere to the California Food and Agriculture Code §31108(a) regarding the required holding period.

Response to Recommendation 5.

Recommendation 5 seeks that the City adhere to California Food and Agricultural Code Section 31108(a) which pertains to the holding periods for stray dogs that are impounded in public or private shelters. As stated previously, beginning July 1, 2013, the City no longer has the operational responsibility for the animal shelter and as such is not receiving any animals into its care. Because animal control services are no longer within the control of the City and because the responsibility of providing animal services

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is now with the County, the City is in the position where it must disagree with this recommendation.

Recommendation 6

Shelter management shall immediately follow the guidelines as set forth in the California Business and Professions Codes §4825 and §4826, regarding employees diagnosing, prescribing and administering medications or medical treatment. Any on-site diagnosis, prescribing and administering medications or medical treatment shall be overseen by a licensed veterinarian that has a current Premises Permit for that facility as cited in California Business and Professions Code §4853.

Response to Recommendation 6

Recommendation 6 relates to the practice of veterinary medicine and the requirement for a permit where veterinary medicine is practiced and seeks that the City adhere to Section 4825, 4826 and 4854 of the California Business and Professions if employees are engaged in medical treatment or distributing medicine. As stated previously, beginning July 1, 2013, the City no longer has the operational responsibility for the animal shelter and as such is not receiving any animals into its care. Because animal control services are no longer within the control of the City and because the responsibility of providing animal services is now with the County, the City is in the position where it must disagree with this recommendation.

Moreover, as it relates to the animals that are currently being sheltered during the 60 day transition period that ends on September 1, 2013, the City disagrees with the recommendation. Employees of the shelter are not engaged in the practice of veterinary medicine as defined in Business and Professions Code Sections 4825, 4825.1 and 4826. Accordingly, no premises permit is required under Business and Professions Code Section 4853. Should there be any medical issues or treatment with respect to the existing animal population, the diagnosis and treatment of such matters shall be made by a licensed veterinarian.

Recommendation 7

The City shall provide funding for medically treatable animals. The shelter shall work closely with rescue groups that are able to assist in the medical treatment of animals. Shelter management shall be in compliance with Penal Code §599d (b).

Response to Recommendation 7

Recommendation 7, among other items, seeks that the City be in compliance with Penal Code Section 599d (b), which is not a mandate but a "policy of the state that no treatable animal should be euthanized." As stated previously, beginning July 1, 2013, the City no longer has the operational responsibility for the animal shelter and as such is not receiving any animals into its care. Because animal control services are no longer

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within the control of the City and because the responsibility of providing animal services is now with the County, the City is in the position where it must disagree with this recommendation. As to the recommendation that the City provide funding for medically treatable animals, the City disagrees with the implication that it has not provided funding for the medical treatment of animals, including those animals that are not adoptable but could be adoptable with reasonable efforts. As set forth above in the City's response to Finding 7, the City has and does provide funding for the medical treatment of animals including treatable animals. As of the writing of the City's response, only 18 are currently being sheltered at the ACCOI and the City is working diligently with recognized non-profits to ensure that all these animals are adopted. If during the transition period any animal needs medical care, the City will ensure that medical care is provided.

Recommendation 8

Employees hired shall meet the qualifications as listed on the job descriptions posted on the City's website. Only designated management shall be involved in supervising shelter staff. A system of tracking employees' time and attendance shall be developed and implemented. Timesheets shall be filled out on a daily basis.

Response to Recommendation 8

The City assumes that Recommendation 8 pertains to employees that are assigned to the ACCOI. Based on this assumption, because animal control services are no longer within the control of the City and because the responsibility of providing animal services is now with the County, the City is in the position where it must disagree with this recommendation. That said, the City's Human Resources Department evaluations all applications submitted to ensure that the person hired meets the job description as well as any other requirements. In addition, only those personnel designated in the supervisory level classification supervises employees. Last, the City is a public entity and like other public entities has a system in place for the accurate tracking of employee time and attendance that meets public entity best practices and also adheres to the provisions of the various bargaining memorandums that govern such matters.

Recommendation 9

Shelter management shall ensure there will always be two people at the shelter to guarantee continuous staff coverage during posted hours of operation. Employees shall return phone messages within twenty-four hours. In order to increase adoptions and reunite lost animals with families, customer service and courtesy shall be a priority. Policies and procedures dealing with these issues shall be developed and implemented immediately.

Response to Recommendation 9

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Recommendation 9 requires the City to have operational responsibility for the animal shelter. Because animal control services are no longer within the control of the City and because the responsibility of providing animal services is now with the County, the City is in the position where it must disagree with this recommendation.

Recommendation 10

Shelter management shall ensure that employees treat all animals humanely and kindly in accordance with Civil Code §1834, which states: "A depository of living animals shall provide the animals with necessary and prompt veterinary care, nutrition, and shelter, and treat them kindly. Any depository that fails to perform these duties may be liable for civil damages as provided by law."

Response to Recommendation 10.

Recommendation 10 is the same or substantially similar to Recommendation 4. Accordingly, the City's Response to Recommendation 4 also applies to Recommendation 10.

Recommendation 11.

Volunteers shall be used for adoption events, cleaning, feeding, watering, and walking animals at the shelter. They shall be utilized for fostering animals, fundraising, greeting customers, and counseling adoptive families. A shelter employee shall be appointed as a volunteer coordinator to schedule, train, and work with volunteers as well as management. Volunteers shall be permitted to express concerns/opinions without fear of reprisal.

Response to Recommendation 11.

Recommendation 11 requires the City to have operational responsibility for the animal shelter. Because animal control services are no longer within the control of the City and because the responsibility of providing animal services is now with the County, the City is in the position where it must disagree with this recommendation as it pertains to volunteers for the ACCOI.

Recommendation 12.

The City Council shall contract out shelter services to a facility that can safely and humanely take care of the animals.

Response to Recommendation 12.

The recommendation has been implemented and the City has contracted out shelter services. Accordingly, animal control services are no longer within the control of the City and the responsibility is now addressed through a contract between the City and

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the County of Riverside Department of Animal Services. To ensure that services are being provided in a manner consistent with the City's contract with the County as well as to ensure the overall well being of the animal population in the Coachella Valley, the City has a primary and alternate representative on the Riverside County Coachella Valley Animal Commission. This Commission is an appointed body of elected representatives from each municipality that contracts with the County to monitor and advise on animal issues as they relate to their individual cities and regionally.

In conclusion, this completes the response of the City of Indio.

Sincerely,

THE CITY OF INDIO



Dan Martinez, City Manager

Attachments:

Grand Jury Report Dated May 23, 2013
List of Non-Profits Organizations