



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: September 12, 2011

IBA Report Number: 11-54

Rules Committee Meeting Date: September 14, 2011

Item Number: 2

Response to Grand Jury Report Titled “No ‘Cost’ for Alarm?”

OVERVIEW

On June 1, 2011, the San Diego County Grand Jury filed a report with the San Diego Police Department, Mayor, and City Council entitled “No ‘Cost’ for Alarm?”. The goal of the report was to address a number of issues related to complaints of financial accounting improprieties in the Permits and Licensing Unit of the Police Department, particularly relating to the alarm permits program.

The Grand Jury Report included seven findings and seven recommendations. Of the seven recommendations, four were directed to the Police Department and three were directed to the Mayor and the City Council. The San Diego Police Department, Mayor, and City Council are required to provide comments to the Presiding Judge of the San Diego Superior Court on each of the findings and recommendations relating to their respective agencies in the Grand Jury Report within ninety days. Due to the demands of the legislative calendar and the future release of an audit of the Permits and Licensing Unit of the Police Department, the Presiding Judge granted an extension to the date for the Mayoral and City Council response to November 1, 2011. This report presents the City Council’s response as recommended by the IBA.

The IBA has obtained a copy of the Mayor’s draft responses to each of the findings and recommendations. For each finding and recommendation directed to the City Council, the Council may 1) join the Mayor’s response; 2) respond with a modification to the Mayor’s response; or 3) respond independently of the Mayor.

In responding to each Grand Jury finding, the City is required to either 1) agree with the finding or 2) disagree wholly or partially with the finding. Responses to Grand Jury recommendations must indicate that the recommendation 1) has been implemented; 2) has not yet been implemented, but will be in the future; 3) requires further analysis; or 4) will not be implemented

because it is not warranted or is not reasonable. Explanations for responses are requested when applicable.

Of the ten items directed to the City Council included in the Mayor’s response, the IBA recommends that the City Council joins the Mayor’s response for two items and respond with a modification to the Mayor’s response for eight items.

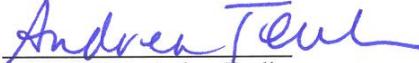
The table below provides a summary of the IBA’s recommendations.

Recommendations: Findings:	11-49, 11-50	<i>Join the Mayor’s Response</i>
Recommendations: Findings:	11-48, 01, 02, 03, 04, 05, 06, 07	<i>Respond with a Modification to the Mayor’s Response</i>

The full text of the Mayor’s responses, and the IBA’s recommended responses on behalf of the City Council, can be found in Attachment 1 to this report.

It should be noted that at the time this report was released, the Mayor’s responses were still in draft form. Should any further changes be made to the Mayor’s responses, the proposed Council responses will be reevaluated and amended accordingly.


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Fiscal & Policy Analyst


APPROVED: Andrea Tevlin
Independent Budget Analyst

Attachments:

1. Recommended City Council Responses to Findings and Recommendations in San Diego County Grand Jury Report entitled “No ‘Cost’ for Alarm?”
2. San Diego County Grand Jury Report entitled “No ‘Cost’ for Alarm?”

Recommended City Council Responses to Findings and Recommendations in San Diego County Grand Jury Report entitled “No ‘Cost’ for Alarm”

~~The City is in receipt of the May 24th, 2011 Grand Jury report concerning alarm permits and the associated fees. Unfortunately, the report contains some factual inaccuracies and provides misleading information.~~

~~The suggestion that the San Diego Police Department (Department) initially refused to cooperate with the Grand Jury is false. The Department complied with every lawful request made by the committee, including producing thousands of documents for their review. The Department did object to a request by the Grand Jury to have the San Diego County Auditors conduct an in-house audit because there is no legal authority for such. Additionally, the Grand Jury sought electronic documents not in the possession of the Department. The Grand Jury was notified that the information requested was not available and would require programming to obtain, which would have been at a cost to the city. The Grand Jury declined an offer by the City to share the expense.~~

GRAND JURY FINDINGS

Finding #01: The cost of processing the alarm permit application is to be borne by the applicant. An audit would clarify whether this is being accomplished.

Mayor’s Response: Agree with the finding. The Department holds the applicant responsible for all alarm permits application fees. This cost is built into the alarm permit fee.

IBA Recommendation: Respond with a modification to the Mayor’s response, replacing it with the following:

Agree with the finding. Per Section 33.0307 of the Municipal Code, the cost of processing an application for a police permit is to be borne by the applicant.

Currently, the City Auditor’s Office is concluding a performance audit of the San Diego Police Department Permits and Licensing Unit for release at the end of September of 2011. Among the objectives of the audit is to assess the extent to which the Police Department recovers all costs associated with the permits issued by the Unit. The audit will contain specific findings and recommendations pertaining to the alarm permits program. The findings from the audit will be heard at a future Audit Committee meeting in the fall.

Finding #02: A number of activated alarms do not have a valid permit.

Mayor’s Response: Agree with the finding. There are some installed alarms that the Department is not aware of until they have an activation AND the department responds. If this occurs the business or residence is brought into compliance or fined. Every applicable alarm that the Department is aware of, either has a valid permit or is fined and brought into compliance.

The Municipal Code contains exemption language for specific facilities such as banks and government buildings which do not require permits.

IBA Recommendation: Respond with the following modification of the Mayor's Response:

Agree with the finding. Every applicable alarm that the Department is aware of, either has a valid permit or is fined and brought into compliance. The Police Department estimates that there are approximately 64,000 permitted alarms within the City. There are some installed alarms that the Department is not aware of until they have an activation AND the department responds. In FY 2011, the department received 12,303 alarm calls from unpermitted alarm systems. -If When this occurs the business or residence was brought into compliance or fined. Every applicable alarm that the Department is aware of, either has a valid permit or is fined and brought into compliance. The Municipal Code contains exemption language for specific facilities such as banks and government buildings which do not require permits. The Department does not have information regarding all activated alarm systems within the City as alarm companies are not required to provide this information under the current Municipal Code. Due to this, the number of activated alarms that do not have a valid permit is unknown.

Finding #03: A number of fees for new alarms or renewal permits are not being collected.

Mayor's Response: Partially disagree with the finding. Every new alarm system the Department is aware of has either paid their permit fee or is being fined for not being in compliance. There may be cases in which an alarm permit is not renewed while still being active; however the Department makes every effort to minimize those occurrences.

IBA Recommendation: Respond with the following modification of the Mayor's Response:

Partially disagree with the finding. Given that the Police Department does not have information regarding all activated alarm systems within the City, the number of fees for new alarms that are not collected is unknown. Every new alarm system holder that the Department is aware of has either paid their permit fee or is being fined for not being in compliance. There may be cases in which an alarm permit is not renewed while still being active; however the Department ~~makes every effort~~ attempts to minimize those occurrences by sending a renewal notice via mail to permit holders noticing them of the expiration date of their permit thirty days prior to expiration. Beyond this, no further action is taken if a permit holder does not renew their permit.

Finding #04: Without the requested audit, the Grand Jury is unable to verify the number of licenses revoked due to false alarms.

Mayor's Response: Partially disagree with the finding. The Department cannot make a determination what the Grand Jury can or cannot verify based on the Audit, therefore we have to agree with the general statement of this finding. However, the Department disagrees with the implied lack of cooperation. The Department objected to a request by the Grand Jury to have the County of San Diego Auditors conduct an in-house audit because there is no legal authority for such audit. The Department offered all of the requested information to the Grand Jury, which

was to be produced by a third party. The Department notified the Grand Jury that some requested data was not available and would require programming at an expense to the Department. The Grand Jury gave no indication it was willing to pay for any material.

IBA Recommendation: Respond with a modification to the Mayor's response, replacing it with the following:

Partially disagree with the finding. According to the Police Department, the number of licenses revoked due to excessive false alarms totaled 1,256 in FY 2010 and 1,129 in FY 2011. Although the Grand Jury was unable to verify the number of licenses revoked due to false alarms with an audit conducted by the OAAS, the City of San Diego City Auditor's Office is currently concluding a performance audit of the San Diego Police Department Permits and Licensing Unit, including the alarm permit program. As a part of the audit, the City Auditor's Office was able to review information regarding alarm permit revocations. The findings and recommendations from this audit will not be released until late September 2011.

Finding #05: Without the requested audit, the Grand Jury is unable to verify the amount of money collected for revocation of permits and fines due to failure to have a valid permit.

Mayor's Response: Partially disagree with the finding. See response to Finding #04.

IBA Recommendation: Respond with a modification to the Mayor's response, replacing it with the following:

Partially disagree with the finding. According to the Police Department, the amount of money collected for revocation of permits and fines due to failure to have a valid permit totaled \$234,392 in FY 2010 and \$187,000 in FY 2011. Although the Grand Jury was unable to verify such information with an audit conducted by the OAAS, the City of San Diego City Auditor's Office is currently concluding a performance audit of the San Diego Police Department Permits and Licensing Unit, including the alarm permit program. As a part of the audit, the City Auditor's Office was able to review information regarding the amount of money collected for revocation of permits and fines. The findings and recommendations from this audit will not be released until late September 2011.

Finding #06: The permit applicant must go to different locations for different types of permits, such as building, cigarette, entertainment, and burglar or fire alarm permits.

Mayor's Response: Partially disagree with the finding. All Police Regulated industry permits, renewals and fines (including alarms) are issued at a single location. Alarm renewal fees and fines can be also paid through the mail and on-line. The Department does not have the ability or authority to regulate or collect revenue for other entities. Permits required by other agencies or City departments are typically processed at those respective locations.

The Mayor's Business office has conducted an efficiency study regarding this issue and may be recommending some adjustments on the payment of permits although the SDPD will still continue to oversee the application, investigation and enforcement of the police regulated industries.

IBA Recommendation: Respond with the following modification of the Mayor's Response:

Partially disagree with the finding. All *Police Regulated* industry permits, renewals and fines (including alarms) are issued at the San Diego Police Department Headquarters Building within the Vice Permits & Licensing Office a single location. Alarm renewal fees and fines can be also paid through the mail and on-line. The majority of alarm permit holders attain an alarm permit and pay renewal fees and fines through the mail. The Department does not have the ability or authority to regulate or collect revenue for other entities. Permits required by other agencies or City departments are typically processed at those respective locations.

The Mayor's Business office has conducted an efficiency study regarding this issue and may be recommending some adjustments on the payment of permits although the SDPD will still continue to oversee the application, investigation and enforcement of the police regulated industries.

Finding #07: The time required to track down expired alarm permits, six to nine months, is inefficient and deprives the City of significant revenue.

Mayor's Response: Disagree with the finding. The Department does not take six to nine months to track down expired permits. Letters are sent at the beginning of each month to all permit holders who have a permit that will expire the following month. Included with the letter is a permit application and request for payment. Permits do not have to be renewed if an alarm is not being monitored. Therefore, many permits expire and are never renewed because a system is no longer monitored. If there are any calls for service after an alarm has expired, that permit is brought into compliance or fined appropriately.

IBA Recommendation: Respond with the following modification of the Mayor's Response:

Disagree with the finding. The Police Department does not have access to information from alarm companies on activated alarm systems in the City. Without this information, the Department is limited in its ability to identify and track down expired permits for alarms that are still being monitored. The Department has a permit renewal procedure in place to promote permit renewal, albeit it is limited due to this. The Department does not take six to nine months to track down expired permits. Letters are sent at the beginning of each month to all permit holders who have a permit that will expire the following month. Included with the letter is a permit application and request for payment. Permits do not have to be renewed if an alarm is not being monitored. ~~Therefore, many permits expire and are never renewed because a system is no longer monitored.~~ If there are any calls for service after an alarm has expired, that permit is brought into compliance or fined appropriately.

RECOMMENDATIONS

Recommendation 11-48: Revise Municipal Code Sec. 33.3700 through 33.3713 to levy a substantial fine against both the alarm owner and the alarm company for activating an alarm without a permit.

Mayor's Response: This recommendation requires further analysis. The San Diego Municipal Code already contains provisions for fines against the alarm owner for activating an alarm without a permit. The City will request by October 31, 2011 an opinion from the City Attorney's office to determine if levying a fine against alarm companies is legal under the California constitution.

IBA Recommendation: Respond with the following modification of the Mayor's Response:

This recommendation requires further analysis. The San Diego Municipal Code ~~already~~ contains provisions for ~~a penalty fee~~ fines against the alarm owner for activating an alarm without a permit when the alarm system generates a police call for service. The fee is only assessed if the alarm owner does not attain a permit within fifteen days of notification of the false alarm. No penalty exists for alarm companies for activating an alarm without a permit. The City will request by October 31, 2011 an opinion from the City Attorney's office to determine if levying a fine against alarm companies is legal under the California constitution.

Currently, the City Auditor's Office is concluding a performance audit of the San Diego Police Department Permits and Licensing Unit for release at the end of September of 2011. The audit will contain specific findings and recommendations pertaining to the alarm permits program and will address how the Municipal Code can be amended to enhance the effectiveness of the alarm permit program in promoting permit activation compliance on the behalf of the both the alarm owner and the alarm company. The findings from the audit will be heard at a future Audit Committee meeting in the fall. The report can inform any future Council action in revising Sections 33.3700 through 33.3713 of the Municipal Code to impose fines on both the alarm owner and the alarm company for activating an alarm without a permit.

***Recommendation 11-49:** Audit the San Diego Police Department's Permits and Licensing Division annually to ensure accountability and adherence to municipal codes.*

Mayor's Response: This recommendation requires further analysis. The Department's Vice Permits and Licensing Unit is currently being audited. In addition, quarterly reports are completed for the Chief of Police to ensure that the Permits and Licensing Unit is maintaining accountability and meeting established expectations. The current audit completed by the City will likely provide an opportunity to appraise the effectiveness of the unit and help determine the need and/or frequency of future audits.

IBA Recommendation: Join the Mayor's Response.

***Recommendation 11-50:** Direct the City's Chief Operating Officer to acquire a location/office where all permits required by the City, including alarm permits, could be obtained. The Grand Jury believes this would encourage people to comply with permit laws, and reduce redundancy in permit processing and staffing. This "one-stop shop" could also simplify monitoring activities for City departments.*

Mayor's Response: This recommendation has not yet been implemented, however, the City of San Diego is currently finalizing the development of a one-stop shop approach for most City

permits with implementation scheduled to be completed in mid 2012. Alarm permits were not included in the one-stop shop because they don't require review and approval like most other City permits. All alarm permit transactions can be handled through the mail and renewals can be handled on-line. The one-stop shop is tied to City permits with corresponding business license requirements. A large percentage of alarm permits are residential and do not have business license requirements. The Police Department is continuing to explore systems that will increase convenience to the alarm permittees and maximize compliance.

IBA Recommendation: Join the Mayor's Response.

NO 'COST' FOR ALARM?

INTRODUCTION

In 1981, the San Diego City Council adopted an ordinance regarding the use of alarm systems. The ordinance requires alarm users to have an "Alarm User Permit" issued by the City of San Diego (City) before activating the alarm. This ordinance also directs the San Diego Police Department (SDPD) to recover the costs of functions associated with police-regulated businesses. The 2010/2011 San Diego County Grand Jury (Grand Jury) received several complaints alleging improprieties in the financial accounting practices used by the SDPD's Permits and Licensing Division.

INVESTIGATION

It was alleged that serious accounting problems exist within the SDPD Permits and Licensing Division regarding fees assessed and collected. An investigation was conducted to determine if problems truly exist. To properly assess financial records and accounting procedures, the Grand Jury attempted to conduct an audit of the SDPD Permits and Licensing Division.

The audit would address the following issues:

- The number of alarm permits issued each year to a contractor or alarm owner.
- The number of alarm permits revoked.
- The number of false alarms reported.
- The number of activated alarms installed without permits.
- The number of unpermitted, active alarms and owners cited and paid a fine.
- The amount of money the City would collect in all unpaid fines.
- The amount of money owed for unpermitted alarms and false alarms but not collected.
- Determine if the fees assessed and collected are sufficient to cover the cost of issuing permits and enforcing the regulations.

The Grand Jury learned that several million dollars might have been lost due to lack of municipal code enforcement regarding collection of fines and fees for failure to possess an alarm permit and for false alarms. The Grand Jury also learned that a large number of permits for police alarms are not being issued as required by law. Few alarm owners are fined for not having the required permits when false alarms are reported. About 95% or more of all police alarm calls are false. It generally takes six to nine months for the SDPD Permits and Licensing Division to track down expired permits.

Initially, the SDPD refused to cooperate with the Grand Jury's request for an audit of its permits/licensing financial records by the OAAS. However, a court-issued subpoena was obtained requiring release of the records. As of this writing, the SDPD submitted some but not all of the materials requested. The SDPD requested payment for data fields containing key information needed for the audit. The Grand Jury's auditors were unable to complete an audit without all the data. The Grand Jury expects the SDPD to provide this data without cost or further delay.

DISCUSSION

The SDPD states its primary goal is to protect the safety and security of residents and visitors. Having to respond to a large number of false alarms is expensive, a waste of staff time and a drain on the equipment of the SDPD.

Any alarm user without a valid alarm permit whose system generates a police call for service should be assessed a fine if a permit is not obtained within the 15-day grace period allowed by law.

The SDFD initiated a proposal to charge for fire alarm permits similar to the SDPD's burglar alarm permits. Representatives from both SDFD and SDPD determined that a combined fee could be initiated for burglar and fire alarms. However, after analyzing both departments' procedures for responding to alarm calls, they determined combining fees for permits would not be in the best interest of the applicants.

It was revealed that a serious loss of income to the City occurred when only about one-third of potential fees were collected. Alarm fees collected typically bring in more than \$2 million a year, suggesting lack of enforcement is costing the City over \$600,000 per year.

FACTS AND FINDINGS

Fact: Complying with a recently issued court order, the San Diego Police Department has acceded to the Grand Jury's request for an audit by the San Diego County Office of Audits and Advisory Services to examine the financial records and accounting practices of the Department's Permits and Licensing Division on behalf of the Grand Jury. However, the department has failed to submit complete data and has requested a substantial fee for the remaining data before they will fully comply.

Fact: The City of San Diego municipal code requires the cost of applying for an alarm permit be borne by the applicant.

Fact: The City of San Diego Municipal Code 33.3702(c) provides that any business within the City that sells alarm systems must obtain an alarm user permit on behalf of the alarm user, collect the application and permit fee from the alarm user, and mail or deliver them to San Diego Police Department before activating the alarm system. It's noted that with the passage of Proposition 26, a legal question exists as to whether or not the City can legally charge the alarm permit fees to the Alarm Company.

Fact: The San Diego Police Department has the authority to revoke an alarm permit if the number of false alarms exceeds the stated limits: one false alarm within 30 days, two within 90 days, three within 180 days and four within one year. The revocation fee to reinstate a permit is \$110 for the first offense and \$220, \$440 and \$2,200, respectively, for subsequent offenses within a year.

Fact: A large number of monitored police alarms do not have permits, which is discovered only when police officers respond to an alarm. Of these, approximately 95% or more are false alarms.

Fact: There is an average of 100 false alarms per day in the City.

Fact: Permit applicants must mail applications to, or go to different locations, to obtain different permits, such as building, cigarettes, entertainment, etc.

Fact: Alarm permit fees collected bring in approximately \$2 million a year to the City. The Grand Jury was unable to determine how much is uncollected.

Fact: The alarm permit record-keeping system is antiquated.

Fact: It takes the San Diego Police Department Permits and Licensing Division six to nine months to track down expired permits.

Finding 01: The cost of processing the alarm permit application is to be borne by the applicant. An audit would clarify whether this is being accomplished.

Finding 02: A number of activated alarms do not have a valid permit.

Finding 03: A number of fees for new alarms or renewal permits are not being collected.

Finding 04: Without the requested audit, the Grand Jury is unable to verify the number of licenses revoked due to false alarms.

Finding 05: Without the requested audit, the Grand Jury is unable to verify the amount of money collected for revocation of permits and fines due to failure to have a valid permit.

Finding 06: The permit applicant must go to different locations for different types of permits, such as building, cigarette, entertainment, and burglar or fire alarm permits.

Finding 07: The time required to track down expired alarm permits, six to nine months, is inefficient and deprives the City of significant revenue.

RECOMMENDATIONS

The 2010/2011 San Diego County Grand Jury recommends that the San Diego Police Department:

- 11-44:** **Enforce the law requiring alarm companies installing such alarms to obtain and provide an alarm permit to the owner before the alarm is activated.**
- 11-45:** **Establish a program to ensure that the Permits and Licensing Division collects all required fees and fines, and reports annually to the Chief on the status of the permit fee collections.**
- 11-46:** **Modernize the alarm permit tracking system to monitor permits and citations issued and produce a summary report.**

11-47: Comply with existing departmental policies and procedures and municipal codes regarding alarm permits and fees associated with their installation.

The 2010/2011 San Diego County Grand Jury recommends the Mayor and San Diego City Council:

11-48: Revise Municipal Code Sec. 33.3700 through 33.3713 to levy a substantial fine against both the alarm owner and the alarm company for activating an alarm without a permit.

11-49: Audit the San Diego Police Department's Permits and Licensing Division annually to ensure accountability and adherence to municipal codes.

11-50: Direct the City's Chief Operating Officer to acquire a location/office where all permits required by the City, including alarm permits, could be obtained. The Grand Jury believes this would encourage people to comply with permit laws, and reduce redundancy in permit processing and staffing. This "one-stop shop" could also simplify monitoring activities for City departments.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame

for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.

- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

Responding Agency	Recommendations	Date
San Diego Police Department	11-44 through 11-47	8/29/11
Mayor, City of San Diego	11-48 through 11-50	8/29/11
City Council, City of San Diego	11-48 through 11-50	8/29/11