

**A REPORT ON SYSTEMIC MISMANAGEMENT OF PROGRAMS  
AND CONFLICT OF INTEREST PRACTICES WITHIN THE  
CITY OF OXNARD AND ITS “GANG SUPPRESSION”  
OPERATION**

*Prepared by the League of United Latin American Citizens  
Ventura County, California*



August 3, 2011

*This document, as dated, supersedes all previous drafts that may be in circulation*

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## **LULAC National Mission Statement**

This report was researched and completed by the League of United Latin American Citizens (LULAC) of Ventura County. “The Mission of the League of United Latin American Citizens is to advance the economic condition, educational attainment, political influence, housing, health and civil rights of the Hispanic population of the United States.”

## **BACKGROUND AND INTRODUCTION**

From the outset, our organization would like to make it clear that it is our position that the concerns investigated and expressed in this report were inherited by Chief Jeri Williams and her current command staff and therefore we do not consider these individuals responsible in any way for initiating the events that led up to the conditions presented in this document. In the respect to the City Council and its involvement in the issues researched, when we make reference to the council we are not implying that every council member supported the decisions that contributed to a given activity or project.

Over the course of the past several years, the League of United Latin American Citizens (LULAC) has received complaints from various community members and members of our organization regarding perceived mismanagement of gang reduction and youth diversion programs and funding connected to the City of Oxnard and its gang suppression/gang prevention initiatives. This report does not directly link the governance of those initiatives to the Oxnard Police Department because it is our perception that the decision-making process on use of related resources is outside the realm of that department. In essence, community stakeholders and members of our organization have expressed a major concern that funding intended to reduce gang-involvement is not serving the best interests of our community. Foundationally, there is a perception that this situation is attributed to an inherent form of systemic mismanagement and malgovernance of public funds by certain members of City Council and/or still connected retired senior officials of the Oxnard Police Department. LULAC is particularly concerned about what may be the monopolizing of youth diversion grants for the sole purpose of “spiking” the retirement income of former law enforcement personnel, as opposed to using those funds for their genuine and intended purpose. In addition, it is also the perception of LULAC that primary stakeholders from the community who are genuinely concerned with the condition of helping youth to avoid pathways to gang involvement conduct have been prevented from contributing expertise and resources to the situation.

## **PROCEDURES USED TO COMPLETE THIS REPORT**

1. LULAC formed a research team composed of experts in research, youth services, criminology, parole and probation services, secondary and higher education, youth counseling, and workforce education. This research team recently completed other in-depth studies focusing on the governance of the Oxnard Union High School District, the Oxnard Elementary School District, the Rio School District, and the County of Ventura. The results of those studies have been reported to the public by the local Ventura

County Star and other media outlets. The team utilized standard research methodology designed to produce results within a culture of evidence, (i.e. documentation).

2. A review and analysis of select demographic data was conducted for the purpose of casting light on the social and economic conditions of special populations that are primary and entitled stakeholders within the youth and community scene.
3. Several Public Records Act requests made to the City of Oxnard and the County of Ventura, totaling over 1,500 pages of documents, were read and analyzed by the LULAC research team.
4. The Action Plan for the City's Alliance consortium was also read and analyzed.
5. The participant composition of the Alliance was carefully analyzed to determine the level of relevant genuine community input.
6. The Project Evaluation Report for the City's Oxnard Community Peace Project of March 2011 was read and analyzed to determine partial consequential validity of the Alliance initiative, (i.e. return on investment).
7. An internal scan of current and former employees (i.e. confidential interviews) from the City of Oxnard and the County of Ventura was conducted in order to better understand the internal operation of the City (and the County) to provide employees with an opportunity to express their own personal concerns regarding matters of governance. In particular, LULAC conducted a link analysis between the inquiry at hand and its findings regarding a previous investigation it conducted into the perceived systemic mismanagement of relevant County of Ventura programs, (i.e. WIB Youth Projects). It is the practice of LULAC to protect the identify of individuals who contribute information to its inquiries in order to minimize any possibility of retaliation from people in a position to do political or workplace related harm. Therefore, this report did not list by name all of the individuals who were interviewed.
8. An inquiry was made into the fiscal relationship between the City, the Oxnard Police Department, and the Sheriff's Reserve Academy, a program belonging to the Ventura County Community College District.
9. The findings were analyzed and served as the basis for the conclusions and recommendations that were issued in this report.

#### **TARGETED POLUATION/PRIMARY STAKEHOLDER – GENERAL DEMOGRAPHICS**

The following data was compiled to provide readers with an accurate description of pertinent demographics for the Oxnard plain where the alleged 2,045 gang affiliated youth reside. According to the most current posting of population characteristics for Ventura County, the ethnic distribution of the area population is as follows:

Table A: County Population by Percentage of Ethnicity		
Description	Ventura County	California
Population, 2009	802,983	36,961, 664
African American persons	2.2%	6.6%
American Indian and Alaska Native persons	1.3%	1.2%
Asian persons	6.7%	12.7%
Native Hawaiian and Other Pacific Islander	0.3%	0.4%
Persons of Hispanic or Latino origin	38.6%	37%
White person not Hispanic	50.9%	41.7%

<http://quickfacts.census.gov>

The following table includes the distribution of ethnicity by percentages across the city of Oxnard. It is important to note that the following table from the census bureau includes "White Hispanics" in the column "1." In column "8" Latinos "of any race" are counted as a whole.

Table B: City of Oxnard Population by Percentage of Ethnicity									
	1	2	3	4	5	6	7	8	9
City	*White	African American	American Indian & Alaskan	Asian	Native Hawaiian & Pacific Islander	Some Other Race	Two or more races	Hispanic or Latino (of any race)	Total Population
Oxnard	53.1%	4.3%	2.7%	8.1%	0.3%	27.6%	3.7%	69.3%	<b>183,765</b>

<http://factfinder.census.gov>

The following table provides the student enrollment statistics for the public high schools located within the greater portion of the Oxnard plain, including the El Rio area

Students by Race/Ethnicity Oxnard Union High School District, 2009-10			
	Enrollment	Percent of total District	Percent of total for all students in County
<b>American Indian or Alaska Native</b>	81	0.5%	0.5%
<b>Asian</b>	473	2.8%	4.3%
<b>Native Hawaiian/ Pacific Islander</b>	86	0.5%	0.3%
<b>Filipino</b>	698	4.1%	2.1%
<b>Hispanic or Latino</b>	12,080	71.7%	51.7%
<b>Black or African American</b>	451	2.7%	1.9%
<b>White</b>	2,887	17.1%	37.9%
<b>Two or More Races</b>	94	0.6%	1.2%
<b>None Reported</b>	6	0.0%	0.1%
<b>Total (includes Adolfo Camarillo HS)</b>	<b>*16,856</b>	<b>100%</b>	<b>100%</b>
The Net total high school student enrollment attending high schools located within core Oxnard City area is 14,455. The approximate total Latina/o students within the district is 9,974			

## Drop Out Rate – Local high schools

According to the Department of Education’s K-12 data base, over the course of the past four years, 2,023 students dropped out of the Oxnard Union High School District. The following section includes data designed to provide a descriptive overview of the youth population on the Oxnard plain in terms of economic and language proficiency status. The source of the data was the Department of Education’s K-12 data base and the United States Census Factfinder website.

### Relevant descriptors of youth population – Oxnard area

1. 86.2% of children attending the Oxnard Elementary School District are Latino.
2. 78.8% of children attending the Oxnard Elementary School District qualify for the free and/or reduced lunch program which speaks to the economic condition of this population.
3. 50% of children attending the Oxnard Elementary School District are English Learners, meaning that English is/was not their primary language.
4. 83% of children attending the Rio School District are Latino.
5. 69.5% of children attending the Rio School District qualify for the free and/or reduced school lunch which speaks to the economic condition of this population.
6. 43.1% of children attending the Rio School District are English Learners, meaning that English is not their primary language.
7. Of the 16,856 youth attending a public high school within the Oxnard Union High School District, 8,338 or 49.5% qualify for the free and reduced lunch program which, again, speaks to the economic condition of this population.
8. Of the 16,856 youth attending a public high school within the union high school district, 3,790 are categorized by the district as “English Learners,” meaning that their primary language is not English.
9. According to the U.S. Census, of the total population in the Oxnard area, an estimated 111,600 (or 68.8%) “Speak a language other than English at home, population 5 years and over.”

#### **National School Lunch Program as an indicator of poverty**

In 1946, the National School Lunch Program (NSLP) was created by Congress in the National School Lunch Act. In the Act, Congress declared the program a "measure of National Security to safeguard the health and well-being of the Nation’s children." Originally, the program provided surplus farm commodities and a small, general assistance cash grant to all schools operating a lunch program based on the size of the program, regardless of the economic need of the children the school served.

In 1970, however, Congress authorized a new cash subsidy for schools based on the number of low-income children served by the school. In return, schools had to provide their low-income students with free or reduced-price meals, depending on the income status of the child’s family. The federal lunch program has always required that schools follow national nutrition guidelines so that each meal contains an adequate level of key nutrients. These guidelines were updated to reflect the recommendations in the Dietary Guidelines for Americans and the Food Guide Pyramid, and as of July 1997, all California schools must be working toward meeting these new dietary goals. Source: California Food Policy Advocates: <http://www/cfpa.net>

Oxnard is well known as a community with a significant farm worker population which also speaks to the socio-economic profile of the targeted population (i.e. Mexican youth), since nearly all farm workers are of Mexican or Oaxacan descent. According to the Employment Development Departments (EDD) on-line LMI data base, the farm worker population for the county fluctuates between 12,000 and 24,000 per year, depending on the season and the migratory patterns of the industry. The majority of this workforce resides within the Oxnard area.

<b>Farm Worker Study Findings – County Ventura</b>	
1.	Most farm workers surveyed (92%) live within existing cities.
2.	70% of responding farm workers have personal median incomes within the HUD “extremely low-income” category (less than 30% of median County income for a household of one person).
3.	57% of responding farm workers who reside with related persons only live in households with median incomes within the HUD “extremely low income” category (less than 30% of median County income for a household of 5 persons).
4.	14% of farm workers surveyed live in dwellings that lack adequate bathroom facilities.
5.	14% of farm workers surveyed live in dwellings that lack adequate kitchen facilities.
6.	22% of farm workers surveyed live in dwellings that lack adequate heating.
7.	A sizable number of farm workers surveyed (5 to 10%) reported problems with housing dilapidation, noise, vermin, and inadequate sanitation.
8.	41% of farm workers surveyed live in dwellings where there is reported overcrowding, which appears to be validated by the fact that, on average, the farm workers surveyed lived in housing where the household size is substantially larger than the county-wide population.
9.	30% of farm workers surveyed report the cost of housing is a problem. This is validated by the fact that 55% of surveyed farm workers personally paid more than 30% of their income for housing and/or 52% lived in households with related persons where more than 30% of the household income was paid toward housing.

On the following page is a table profiling the participants who were selected to serve on the initial 2008 Alliance SAFETY planning initiative which led up to the current City of Oxnard’s Action Plan to address gang involvement reduction and prevention. LULAC was particularly interested in assessing the validity of the membership to determine if the group truly constituted a representative and genuine body of people with the interest of the community in mind. The details illustrated in the table speak for themselves. As indicated, the membership was made up of the noted individuals:

*Note: Please be reminded that the status of various Alliance members in 2008 has changed since that time but, for the purpose of this report, the titles and affiliations were left as they were during that time.*

<b>Stakeholder Profile of SAFETY Planning Committee Participants 2008</b>			
	<b>PINK =</b>	<b>Employee or other financial interests</b>	
	<b>BLUE =</b>	<b>External advisors, non-stakeholders</b>	
	<b>YELLOW =</b>	<b>*Non Oxnard residents</b>	
	<b>GREY</b>	<b>Possible community stakeholders</b>	
	<b>Name and Affiliation</b>	<b>Stakeholder Status</b>	<b>Personal Residency</b>
1	Mayor Tom Holden	Elected Official	Oxnard resident
2	Supervisor Kathy Long	Elected Official	Non-Oxnard
3	Councilmember Andres Herrera	Elected Official	Oxnard resident
4	Supervisor John Flynn	Elected Official	Oxnard Resident
5	Al Escoto, John Flynn's Office	Paid County Staff	Santa Paula
6	Alan Hammerand, County Probation	Paid County Staff	Non-Oxnard
7	Asencion Olea, Pacific Clinics, Youth CBO	Possible volunteer	Oxnard
8	Barbara Bonsignori, County Public Health	Paid County Staff	Ojai
9	Barbara Marquez-O'Neill, CAP	Paid City Consultant	Ventura
10	Bryan Wilson, County Probation	Paid County Staff	Non-Oxnard
11	Carla Castilla, per Congresswoman L. Capps	Paid Federal Staff	Oxnard
12	Charlotte Torres, First Five	CBO/Grants	Non-Oxnard
13	Dr. Gary Dritz, VC Office of Education	K-12 public education	Non-Oxnard
14	Dr. Jerry Dannenberg, Hueneme ESD	K-8 public education	Non-Oxnard
15	Dr. Kathy Green, Oxnard ESD	K-8 public education	Non-Oxnard
16	Dr. Nancy Carroll, Ocean View District	K-8 public education	Non-Oxnard
17	Edmund Sotelo, City Manager, Oxnard	Paid City Staff	Oxnard
18	Efren Gore, City Corps, Oxnard	Paid City Staff	Oxnard
19	Gil Ramirez, City of Oxnard	Paid City Staff	Oxnard
20	Grace Magistrate Hoffman	Paid City Staff	Oxnard
21	Gustavo Deharo, City of Oxnard City Corps	Paid City Staff	Oxnard
22	Karen Burnham, Assistant City Manager	Paid City Staff	Oxnard
23	Kathleen Black, County Probation	Paid County Staff	Non-Oxnard
24	Kerryann Schuette, Oxnard ESD	K-8 public education	Non-Oxnard
25	Lucianne Ranni, Behavioral health	Paid County Staff	Oxnard
26	Maria Garcia, City Corps, City of Oxnard	Paid City Staff	Oxnard
27	Marisa Martinez, Parents of Murdered Childn.	Possible Volunteer	Oxnard
28	Martin Hernandez, Supervisor Long's Office	Paid County Staff	Oxnard
29	Melissa Cansino, City Corps, City of Oxnard	Paid City Staff	Oxnard
30	Michael Kanter, VC Partnership for Safe. .	CBO/Agency	Non-Oxnard
31	Mike Matlock, OPD	Paid OPD Staff	Oxnard
32	Patricia Zarate, Behavioral Health	Paid County Staff	Oxnard
33	Rev. Edgar Mohorko, Clergy	Paid City Consultant	Oxnard
34	Rev. Greg Runyon, Clergy	Paid City Consultant	Non-Oxnard
35	Rico Ramirez, Clergy	OPD Clergy Council	Undetermined
36	Sandra Lozano, HSA Westside JCC	Paid County Staff	Oxnard
37	Sonia Kroth, VC HSA	Paid County Staff	Non-Oxnard
38	Tim Blaylock, Boys and Girls Club	CBO	Oxnard
39	Uriah Glynn, Boys and Girls Club	CBO	Oxnard
40	Jack Calhoun, Nat'; League of Cities	Advisor/Facilitator	Non-Oxnard
41	Andrew Moore, Institute for Youth, etc.	Advisor/Facilitator	Non-Oxnard
42	Karen Escalante, California Endowment	Advisor/Facilitator	Non-Oxnard
43	Rachel Davis, Prevention Institute	Advisor/Facilitator	Non-Oxnard
44	Sonia Lee, Prevention Institute	Advisor/Facilitator	Non-Oxnard
45	Greta Tubbesing	Advisor/Facilitator	Non-Oxnard

**Affiliation of the Alliance Membership**

The membership of Alliance was apparently made up mainly of paid staff from the City, the County, school districts, hired facilitators from outside the area, and aspiring consultants. Of the total 45 participants connected with the Alliance -

- 4 were elected officials
- 32 were paid city, county, and/or public employees
- 1 was a paid consultant and/or OPD clergy
- 2 were possibly volunteers – not sure
- 3 were CBO’s
- 3 were other
- 19 (nearly 42%) of the total participants resided outside of Oxnard
- About 16 were Spanish surnamed, out of which 14 appeared to have participated at the direction of their employer

In the process of interviewing educators and human services experts who are not connected to Alliance and its affiliates, the research team asked the following question: “What type of people and/or service areas do you believe a Best Practices model would have included in forming a group to address the youth diversion programs? The following table represents the results of the responses that our research team received. There appeared to be very little representation on the Alliance group of experts or programs that specialize in helping youth with social, economic, and educational success. In effect, our research team focused on identifying individuals empowered or trained to provide youth with viable alternatives to gang involvement: relevant counseling, cultural compatibility with service providers (i.e. street smart role models), education, gainful employment, and a human services ideology.

Prospective Stakeholders/Contributors that were Excluded from Alliance Planning Process	
Adult Education Practitioners	They specifically serve youth 18+. Provide GED, counseling, workforce training, job placement. It is in their prescribed DOE mission to serve this population.
Community College EOPS	This special unit provides intense counseling, educational planning, financial aid, tutoring, and forms of special support designed to reach and serve at-risk youth, as well as the economically and educationally disadvantaged. Oxnard College alone serves over 1,200 such individuals each semester.
Clinicas del Camino Real	This independent health care provider serves tens of thousands of families each year, including medical care, behavioral health services, and referral to other agencies.
El Concilio	This organization has a history of playing a direct role in providing youth with after school diversionary programs and is a primary stakeholder in serving the Latino community with an array of family services.
Job Service	EDD reps, Job and Career Center universal services centers
Volunteers, parents, youth, employers	Culturally competent community volunteers (i.e. people with the congruency to relate to the targeted population and their families), as well as employers who may have positive alternatives for at-risk youth.

## LA MESA PROJECT – SHORT LIVED BUT WORTHWHILE INITIATIVE

In 2004, concerned community members established a consortium of educators, community-minded volunteers, and representation from faith-based groups, employers, youth, parents, City and OPD personnel, and human services workers. The project received no public funding from the City and amounted to a volunteer effort. The initiative was initially launched by operators of the Café on A, a cultural center and youth diversion non-profit organization located in the downtown area of Oxnard. Specifically, the initial group included participation from the former OPD chief and other members of his staff, along with elected officials from the City Council. According to the group's written charge, "The mission of LA MESA is to prevent gangs and gang violence in Ventura County by drawing from the community to build a collaborative network of individuals and organizations dedicated to supporting and developing opportunities that meet the needs of all community members." In operational terms, La Mesa adopted a highly "grass-roots" approach to providing supportive intervention for gang involved and/or at-risk youth. Following is a listing of abbreviated features and strategies used by the group for the approximate 12 months that it functioned:

1. The group met weekly.
2. Initially City staff and elected officials (i.e. Mayor) attended the meetings, including OPD personnel (i.e. former Chief of Police).
3. Each week five gang involved and/or at risk youth were brought to the meeting to receive for "on the spot" feedback and access to positive alternatives, including employment opportunities if available.
4. Employers were also invited to attend for the purpose of linking them to the invited youth.
5. A roundtable method of dialog was used to facilitate a process that allowed all participants to make valuable contributions to the youth and their parents.
6. At its peak, the weekly meetings group grew to about 42 participants.

One of the founding members of La Mesa stated to the research team "If you talk to some people, they will tell you that La Mesa faded away because some of the members could not get along and everything became very political. Others will tell you the City had hidden motives. The one thing about La Mesa that was definitely a best practices model was the idea of having the community and the youth directly involved in their own destiny and losing that was definitely a loss to the community. The Alliance group is completely cut-off from the community."

According to our sources, towards the end of its short-lived run La Mesa became a catalyst for grant writing initiatives under the oversight of the City and the retired members of the OPD. According to former members of La Mesa, "as the money started to stream in, the staff from the City and police department disappeared from the scene and they went on to start the Alliance organization. None of the volunteers that had served on La Mesa were invited to the Alliance. They basically separated themselves from the community people that we had brought together." One observer stated "I think that the City and police department realized that with a

group like La Mesa, they weren't going to be able to control the funding which, in my opinion, was never intended for the community. It seems to be going to a bunch of retired cops."

**NUMBER OF GANG INVOLVED YOUTH IN OXNARD**

The City of Oxnard/Oxnard Police Department's statistical claims regarding the alleged number of gang involved youth in Oxnard has been a point of controversy since the inception of the Oxnard Gang Injunction several years ago. These statistical claims were particularly embraced by the County's District Attorney who clearly helped to champion the cause for a Gang injunction. According to statistical claims made by the City of Oxnard's SAFETY Committee, in 2008 there were 1,500 active gang members in Oxnard and another 545 gang affiliated youth (aka "associates"), culminating with a total of 2,045.

Below is a listing of the 13 criteria used by officers on patrol or at the high schools to assess and identify youth as active or affiliate gang members. LULAC's interpretation of the information it received regarding the definition of an "associate" was an individual who might be commonly referred to as a "wannabe," casual friend and/or some other vague relationship, making the allowed assessment to be highly subjective on the part of an officer.

According to sources who were interviewed by the research team, in 2008, the OPD senior officer liaison assigned to the City's Alliance initiative was an assistant chief of police who went on to retire and who was immediately re-hired as a paid consultant for the same project. Reportedly, this same individual was the Alliance source for the gang related statistics for related grant application.

The fact that a high ranking OPD officer helped to guide the statistical features of the Alliance initiative and subsequent grant development raises some rather valid concerns about potential for conflict of interest in how these statistics were constructed and possibly artificially inflated to serve grant writing purposes.

<b>Standard Criteria Used to Label Youth as Gang Affiliated</b>	
<b>Is this reasonable criteria or a "blank check" to inflate crime statistics?</b>	
1	Self-Admission
2	Gang Tattoos
3	Gang clothing
4	Gang graffiti
5	Possession of gang writings
6	Gang involved arrests
7	At gang gatherings/area
8	Family reports subject is gang member
9	Displayed gang hand signs
10	Observed with gang members
11	Assists in gang crime
12	Reliable informant
13	Outside agency gang information

From a resource development standpoint (i.e. grants), the quantity of crime statistics that a City/Police Department generates determines the amount of money that can be generated from crime reduction grant sources.

A frequent complaint that our research team received from individuals interviewed, including high school counselors, volunteer youth workers, parents, and “labeled” gang members was that often times youth are labeled as “self-admitted” members of gangs simply because they tell police officers that they live in the vicinity of Oxnard known as “La Colonia.” La Colonia is a longstanding Latino residential district located east of Oxnard Boulevard, generally between Third Street and Gonzalez Road. The community is mostly populated by people of Mexican descent and is known as a lower-income working class community. It is not a gang. It is a community. Our team heard over and over again from informants that police officers will ask a targeted youth “Where are you from?” In some cases, if the youth responds “Colonia,” providing the officer with a geographically correct answer, the officer will label the youth a member of the “Colonia Chiquez Gang.”

In effect, the noted element of criteria referred to in the above table as “**self-admission**” provides police officers with an open-ended, carte blanche opportunity to label youth “a gang member” at will. This particular matter was of great interest to the research team because it may help to explain the huge discrepancy between the Alliance and the City Manager’s statistical claims about thousands of “gang members” roving the streets of Oxnard and the fact that according to Public Records Act documents released to LULAC by the City, only about 277 youth have actually been formally deemed subject as being subject to the “gang injunction.”

In an April 1, 2010 issue of la “Vida” newspaper, Chief John Crombach was quoted as stating that between 1992 and 2009, serious crime dropped by more than 50% across the city. On the other hand, we have the Alliance and the Mayor’s Office (along with the District Attorney) claiming in 2008 that gang involved youth on the Oxnard plain had grown to a staggering figure of over 2,000 members. A far reaching argument can be made that the reduction in crime is due to the enforcement of the gang injunction during the latter period addressed by Chief Crombach (2007-2009). However, left unanswered are the following questions:

- In 2008, the Alliance group, under the leadership of the Mayor Tom Holden, clearly stated in its Action Plan that the City was being over-run by 2,000 gang members and that the Oxnard Police Department was now having to expend 20% of its resources to addressing this tidal wave of gang generated crime. How do the Mayor’s statistical claims, under the umbrella of the Alliance, explain Chief Crombach’s statistical claims that crime was down over 50%?
- According to City Manager’s response to LULAC, only six gang involved youth have successfully completed the Alliance’s diversion program. Therefore, where are the remaining 2,039 alleged “gang members.”

Put bluntly, the more crime a City can report, the more money it can generate through grants. According to documents released to LULAC by the City, these grants often times subsidize the income of retired police officers who are able to retain their connection to the City as paid consultants or reclassified/rehired employees. In the case of Oxnard, there is seemingly a direct connection between these grants and what some individuals might refer to as a form of “pension spiking” for retired OPD officers. For example, as previously noted and reported to our research team by informants, one of the OPD assistant chiefs that worked on the Alliance Action Plan was immediately hired back by the department once he retired. The State of California’s Conflict of Interest doctrine specifically referred to as “**Limitations on Post-Governmental Employment,**” **Government Code 1090**, [prohibits] “a former official from benefitting from a contract were the official participated in the making of the contract prior to leaving government service.” Our team’s interpretation of this enactment is that it is the desire of the state that employees not use their current position to engineer secondary income for themselves once they retire – from their former place of employment. There is a possibility that the City Manager’s Office satisfied this requirement by actually hiring the former assistant chief as a “project coordinator” and not a consultant. However, the public perception of conflict of interest nonetheless remains salient. According to Public Records Act documents released to LULAC by the City of Oxnard, the retired assistant chief received \$250,000 in contracting fees. As one community member and critic of the overall process stated to the research team, “The 13 reasons that a police officer can use to label you a gang member is just a blank check. If you take a close look at the list, just about any of us can be branded a gang member.” In effect, there appears to be a clear motive on the part of the Alliance to push for the branding of youth because it allows for inflating of statistics and more grants for the consultants.

## **PENSION SPIKING – A NATIONAL PROBLEM**

A basic internet search revealed that “retirement or pension spiking” has become one of the most controversial topics among tax-payer advocacy groups. It has particularly drawn a lot of attention within the police and fire fighter industry. Simply defined, pension spiking “is the process whereby public sector employees grant themselves large raises or otherwise artificially inflate their compensation in the years immediately preceding retirement in order to receive larger pensions than they otherwise would be entitled to receive. Several states, including Illinois, have passed laws making it more difficult for employees to spike their pensions” (Wikipedia).

During the course of its Public Records Act inquiry into City operations, LULAC did not specifically look into the matter of conventional forms of “pension spiking” as defined above. However, our organization did focus on the matter of consultant contracting to retired OPD personnel as an alternative or neo-form of artificial pension spiking, particular in cases where the retired officer was directly involved in the preliminary building of the grants that are now paying their consultant fees and/or new found position of employment. The response that we received to our Public Records Act request by the City, led our research team to perceive that the City operates under the notion that former law enforcement personnel are some kind of omnipotent “gang” diversion and reduction experts, that they are experts in youth counseling, rehabilitation, workforce education, conjoint family counseling, behavioral health issues, and

human services in general – the type of interventions that are usually required to have any success with gang involved youth. In addition, popular theory on the subject of gang involvement reduction clearly shows a strong correlation between cultural competence in reaching the targeted youth population but there was no evidence of that condition in any of the documents that we reviewed or from information that we received from informants interviewed. A review of the alliance membership and lead consultants presently seeking to engage our street youth revealed a great divide between these “experts” and the targeted youth population.

#### City Manager’s Office

At the time this report was about to be released, LULAC was informed that the City Manager allegedly rehired his secretary who had recently retired through the Public Employment Retirement System (PERS). Though yet unconfirmed, we were informed that the individual was hired back at a much larger salary. Given that under PERS, the highest year of earnings determines the monthly retirement income of the individual once they actually leave the system permanently, these types of scenarios are often times orchestrated so that a given individual can “spike” their retirement income above what it would have been if they had exited the system in the normal fashion. Recent stories by the Star have revealed that these types of scenarios are under major attack by such groups as the American Tax Payers Association which has been instrumental in helping to stop approval of such actions within the County of Ventura as an agency.

#### **PERCEIVED ROLE OF SHERIFF’S RESERVE ACADEMY - INCOME “SPIKING” FOR CURRENT AND FORMER OPD OFFICERS AND POTENTIAL CONFLICT OF INTEREST**

In the course of its inquiry into forms of artificial pension and/or income “spiking,” LULAC examined the relationship between the City of Oxnard/OPD and the Ventura College Sheriff’s Reserve Academy (SRA). While this program is not directly tied to the gang suppression initiative of the City, LULAC’s interest in this program was motivated by its interest in identifying major examples of systemic mismanagement across the City.

The SRA is a long-standing training program that is funded and maintained by the Ventura County Community College District. It is not a City of Oxnard/OPD program. A review of the college instructor roster for the program over the past ten years revealed that many of the lead instructors at the program are current or former OPD personnel. For example, one of the highest ranking (seniority) instructors at the SRA is a retired Oxnard PD and a current member of the Oxnard City Council. An inquiry into the college district’s contracting status revealed that the City of Oxnard/OPD has never had any type of fiscal contract agreement with the college district, yet we were informed by City insiders that the City/OPD routinely diverts money and resources to the program. Our inquiry found that while it is not uncommon for city agencies to provide in-kind support to various programs, it is not common for a municipality to directly divert hard assets to programs unless a contract of some sort is processed and approved by both parties – in this case it would be the college district and the City of Oxnard. According to

informants interviewed, the City of Oxnard's OPD actually employs retired officers to work at the college training center, a fact that we believe may be unknown to the college district or the faculty union which maintains collective bargaining rights over those types of positions – not the OPD. It was also the perception of informants interviewed that the City Council, over the years, has been misled into believing that the SRA is some form of “life line” to the compelling safety needs of the City and therefore the Council routinely supports the requests from certain individuals to continue diverting funds to this operation, even though some of these same individuals receive secondary incomes from the SRA. According to a Ventura College administrator interviewed, one of the current City Council members teaches at the SRA and during the 2010-2011 fiscal year earned about \$19,000 from that program. Our team was also informed by the same administrator that a second, retired and fully vested OPD officer, earned about \$25,000 at the college's SRA during the same period. In addition, our research team was told by informants within the City that this same individual is presently being paid additional income by the City of Oxnard to do the same type of work that he is already paid to do by the college district. In summary, this individual (1) collects a full pension as a retired police officer, (2) collects a hefty second income from the college, and (3) collects a third income from the City of Oxnard - - all to do the same type of work. According to the perception of informants who spoke to our team, the current OPD administration is not the initiator of this funding arrangement. This arrangement appears to be initiated and protected at the City Council level by certain Council members. In respect to the college district and based on interviews that LULAC conducted, it is highly doubtful that the college district is aware of the fiscal arrangement within the City pertaining to the SRA.

A major concern to LULAC is the perceived conflict of interest. It appears that the City has been using City funding to subsidize a program that serves as a form of secondary income for certain former OPD officers. The administration of the SRA, to a great extent, seems to be exclusively dominated by retired OPD officers who still have close ties to certain members of the City Council. The research team found no evidence to support the notion that the current Chief of Police and members of her current command are directly connected in any way to the City and the arrangement with the SRA.

It is the contention of LULAC that a thorough audit of the City of Oxnard's OPD fiscal expenditures over the course of the past 15 years will show that significant monetary resources (tax dollars) have been diverted from the City budget to the Sheriff's Reserve Academy without the knowledge of the college district's contracting office or their Board of Trustees, amounting to a highly irregular method of maintaining general accounting principles, not to mention a perceived disregard for standard conflict of interests doctrines for public agencies.

LULAC also uncovered rather specific information that gives credence to the perceived notion that alternative forms of pension spiking are definitely at work within certain circles of City governance and management. The following details were extrapolated from Public Records Act documents released to LULAC by the City. Here is the scenario:

1. In 2008 an assistant chief served on the Alliance group as an active member and he assisted with development of a grant.

2. Upon approval of the grant application, the individual immediately retired and was quickly hired back by the City of Oxnard and the Alliance group as a highly paid consultant. The Mayor is the chair of this group and the former assistant chief in focus consultant reports directly to the City Manager, according to the signed contract.
3. The OPD vacancy left behind by the assistant chief has remained vacant because, according to informants, those funds are needed to support the Alliance operation. In effect, the resources previously used by the City to maintain an assistant chief were seemingly diverted to the same individual who retired from the position and the OPD now has two assistant chiefs instead of three.
4. The State's conflict of interest policy, which prohibits hiring back an individual who was instrumental in the development or oversight of a funded project for at least 12 months, (California Government Code 1090), was seemingly violated.
5. The former assistant chief, in effect, almost doubled his income now that he is "retired" and meanwhile the City is unable to restore the position he left vacant.
6. The statistical claims made by the Alliance group to justify applying for grants definitely fall into suspicion when analyzed within a context addressing conflict of interest.
7. This same retired assistant chief was recently awarded a contract from the City of Oxnard for \$250,000. See attached listing of contracts issued to consultants.
8. According to Public Records Act documents, the above noted activities took place under the supervision of former Chief John Crombach, with the apparent support of the Mayor and the City Manager.

**Question:** if the former assistant chief is now doing work similar to what he was doing when fully employed with the City, why did he retire and why is his presence impacting the ability of the City to restore the position he left vacant? The perception informants and City insiders who were interviewed by the research team is that this whole scenario plays out as a straightforward method of artificial pension spiking, a process that was championed by the Mayor of the City who chairs the Alliance group and the City Manager who is the chief officer overseeing all contracts for the City.

### **Other Perceived Artificial Neo-Forms of Pension spiking**

Before continuing, the LULAC research team would like to again make it clear that our definition of "pension spiking" embodies two distinctly different methods of operation. **Conventional pension** spiking is synonymous to what the media has recently reported regarding certain County of Ventura employees who appear to be retiring at an applied rate of 130% of their annual salary when employed. This type of provision, though possibly legal, is allowed by virtue of provisions and perceived "loopholes" within the public retirement system. This situation has clearly become the target of such groups as the **American Taxpayers Association** and still employed workers who will eventually bear the brunt of this perceived overpayment. The second mechanism and one that LULAC has applied to its analysis of the current condition with the City of Oxnard and certain retired officers is a form of **artificial pension spiking** as described over the course of the previous two pages. As one inside critic put it, "It's kind of like saying, I'm gonna pretend to retire but not leave and double my income."

## Other Incidents

In its review of recent contracts issued by the City of Oxnard to former OPD officials, we found the following:

1. One retired OPD assistant chief was issued a contract to assist individuals exiting prison with their re-entry into society. See attachment, Agreement # A-7397.
2. According to informants from within the City, a former Public Information Office was hired back on a part-time basis immediately upon his retirement – with the part-time income being supplemental to his retirement income.
3. A long-time retired OPD detective is presently employed by the City of Oxnard/OPD to help coordinate operations at the Sheriff's Reserve Academy, a training school that is not connected to the City of Oxnard and is actually under the full administration and full funding of Ventura College. It is possible that this retired OPD is also being paid by the college to do similar work.

*For a complete listing of all contracts issued by the City of Oxnard to "consultants" in affiliation with its gang activity reduction initiatives, see the attached table in this report. Several of these individuals were direct participants in the Alliance planning activities to obtain the funding that they are now seemingly receiving as consultants, including retired Assistant Chief Matt Matlock.*

## PERFORMANCE OUTCOMES OF GRANT FUNDED YOUTH DIVERSION INITIATIVES MAINTAINED BY CITY OF OXNARD/OPD

In the course of its Public Records Act request to the City of Oxnard, our organization specifically asked for a clarification as to how many gang involved youth had actually been engaged and served through the grant funded efforts of the Alliance, the OPD, and the City as a whole. The following data was provided to LULAC directly by the City manager, Mr. Ed Solelo who signed a letter that included all of the noted data. Our organization then compared the performance outcomes with the estimated amount of funding that the Alliance and the City has spent thus far to implement the City's gang involvement prevention and reduction initiative. The findings, as noted below, were startling and raise some serious questions as to return on investment in terms of the amount of money expended versus the outcomes.

City Manager's Response to questions posed by LULAC	Total Number
How many "documented gang members" are there in Oxnard?	1,500
How many of the total has been defined as subject to the injunction?	277
How many overall were invited to 245 invited to "in-calls?"	245
How many of those invited actually attended the "in-call"	138
How many additional individuals attended the in-call by virtue of secondary referral sources?	18
Of the total in-call invitees, how many were actually connected to the injunction in terms of being served?	43
How many of the individuals who were engaged followed-up and met with Operation Peace Works or City Corps?	33
How many of the overall total completed "the program?"	6
<b>Total amount of grant funding expended to serve the 6 program completers? \$399,690 (+) coordinator @ \$50,000 = \$449,690</b>	<b>\$399,690</b>
<b>Return on investment (ROI): Cost per program completer: 449,690/6 =</b>	<b>\$74,948</b>

It is important to note that the return on investment calculations were not detailed by the City Manager and are, in fact, the assessment and conclusion of LULAC. We simply took the amount of money expended in one grant and divided it by the number of individuals who successfully completed the program. In actuality, as noted in the attached listing of all contracts, the total amount of expenditures for the City exceeds \$1.2 million and therefore the probability that our estimate is much lower than actual cost is very high.

The data provided by City Manager Ed Sotelo raises a major concern. The most rudimentary deductive reasoning poses the question: If we have 2,045 gang involved youth, how is it that the City has such low statistical outcomes? At best, the City physically engaged 138 youth of which only 43 were allegedly gang affiliated and, in terms of performance outcomes, only six alleged gang members completed a program. There are several ways to interpret the data:

- Either the project managers are ineffective in reaching the hundreds of alleged gang involved youth, or
- The actual number of gang involved youth claimed by the Alliance and the City actually amounts to a small fraction of the statistical claims made, or
- The statistics were possibly artificially inflated in order to position the City and their special interest consultants to qualify for large grants that this City would otherwise not be entitled to receive and
- The intent may have been to create a pension spiking “slush fund” for retiring and/retired OPD personnel.

More startling is the statistic reported in the SAFETY Blueprint report (page 5), an extension of the Alliance initiative, which states that “Furthermore, **20%** of the Oxnard Police Department field resources is dedicated to gang suppression, and further costs have been identified, including resources directed towards incarceration, prosecution, and supervision for probation and parole. There is clearly a huge discrepancy between the documented number of engaged gang-involved youth and the amount of funding and resources that the City of Oxnard and the Alliance group is spending on alleged “gang suppression.” At a minimum, this finding merits further investigation.

The annual budget for the OPD is approximately \$50 million. We are assuming that grant based funding is a separate and additional income stream to the City. Our most liberal interpretation of the findings regarding use of resources to address “gang suppression” amounted to a designated 28 officers (x) \$93,000 w/fbs = \$2,604,000 (+) @ 40% \$1,041,000 overhead = \$3,645,000, culminating with a total of about **7%** of the OPD’s total annual budget.

## **SYSTEMIC MISMANAGEMENT OF COUNTY PROGRAMS AND RELATIONSHIP TO CITY OF OXNARD/OPD**

In the course of a recent exposé conducted by LULAC regarding what it considered to be systemic mismanagement of funding and programs by the County of Ventura, it took a hard look at the County’s Workforce Investment Board (WIB). This agency receives millions of dollars each year, including funding that is earmarked to help youth find a pathway to the labor

market. It is the position of LULAC that virtually none of those funds ever reach the most disadvantaged and misguided youth of our community, in particular our gang involved youth. Most of the millions of dollars that are dispensed to the Oxnard area are monopolized by one organization that is seemingly disjointed and not interested in working with street youth. It is furthermore our position that the City of Oxnard and the OPD have played a direct role in condoning the exclusion of street youth or the programs that would serve them from participating in access to those funds. A review of the Alliance membership led our organization to conclude that the WIB, City, and affiliates of the Alliance are all one and the same cohort of operators. For a complete review of LULAC's report on the County, please obtain a pdf copy from the *Ventura County Star*.

## **QUESTIONABLE PRACTICES IN HIRING OF CONSULTANTS/STAFF**

One of the greatest concerns expressed to our research team by individuals that we interviewed had to do with the perception that the City, in particular the Mayor's Office, hires favored personnel "at will," meaning that the equal employment opportunity process expected of all public agencies is not followed. According to informants interviewed, there is a perception that in the case of former OPD officers who have been hired back as consultants or as non-police personnel, they are usually pre-selected for certain positions "before they even leave the department." As previously noted in this report, in the case of one now retired assistant police chief, it appeared that the individual was closely involved in the development and planning for youth diversion grants (i.e. Alliance) and was immediately hired to administer the grant upon retirement. As noted, such action is categorically prohibited pursuant to state conflict of interest policies within the public sector, (California Government Code 1090, see attachment in this report).

Another major concern expressed by individuals and community leaders interviewed for this study had to do with the perception that the "at will" hiring process is, to a great extent, a major indicator of a system of cronyism that does not allow the City to hire individuals with the type of qualifications needed to genuinely and effectively reach and serve the targeted youth. The perception is that many of the Alliance related initiatives are preconceived and preselected for certain retired OPD officers. As one community leader stated to the team, "it is my perception that former police officers are not social workers or educators and they are not equipped to help these hard-to-serve youth with the type of support they need to become responsible citizens. These so called experts are now part of the problem, not the solution." Another community leader complained to our team that "the people in charge of the anti-gang programs are still using outdated 'scared straight' tactics. What we need for these young people are jobs and education, not insults."

## **INDICATOR OF SYSTEMIC CONDITION – Police Athletic League (PAL)**

In the process of conducting this inquiry, the LULAC research team was approached by other members of the organization and community members who are highly concerned about what they described as a growing monopoly of City-wide functions by certain units of the City's Police Athletic League (PAL). It was interesting to note that these individuals do not view the new

Chief of Police and her lead staff as responsible for the perceived over-run of the community by a “law enforcement” perspective regarding community governance. The majority of the current condition appeared to be attributed to the Mayor’s Office, the City Manager, and what some termed the “old guard” from the Oxnard Police Department (i.e. retirees).

Reportedly, PAL administers a grant that supports a youth soccer league that includes about 4,000 participants. A second, non-PAL soccer organization operating in the area, the Ventura County United Soccer League (VCUSL) with 275 youth teams and 90 adult teams also totals about 4,000 members. Leaders of this non-profit organization have informed LULAC that they are virtually excluded from having any access to public “green fields,” because “our players are not members of PAL, a police organization.” In addition, LULAC obtained several signed declarations attesting to some rather serious verbal abuse at the hands of the City staff member assigned by the City to oversee the playing fields. At this point in time LULAC has made reference to this matter for the sole purpose of highlighting what it considers to be an indicator of what has become a major systemic problem on the Oxnard plain whereby public fear of crime has seemingly empowered certain units of law enforcement to take over public parks and recreation and human services related to youth.

### **THE “BRANDING” OF A CITY – STIGMA AND PUBLIC FEAR OF VICITIMIZATION**

In 1975, Thomas J. Scheff (UCSB) released his seminal work on labeling theory as an ideology. He titled his book, Labeling Madness, which amounted to an analysis and a critique of diagnosis and misdiagnosis of individuals deemed, often times incorrectly, to be mentally ill. Obviously, the report at hand is not focused on mental illness and issues of related diagnosis. We looked at Scheff’s work for the sole purpose of understanding how labeling and related social stigma works. We also reviewed popular theory on the subject of “inventing” public fear of crime.

There is a distinct parallel between Scheff’s explanation of labeling theory “as an ideology,” and what has occurred over the past several decades (1965-present) within the community of Oxnard and its perceived image across the region. Scheff is one of the first scholars to tie ideology to the notion of labeling theory. In effect, labeling is not a precise science.

Ideology amounts to a person or a group’s view of the world in terms of ideas, goals, expectations, and consequently the actions they take to enforce their belief system. It is a political philosophy that drives the agenda of an individual or an organization. In an organized society, it amounts to a set of ideas embraced by the people in charge. Philosophically, it is the ideology of the dominant class that drives the socialization of a populace within a given society, (Mullins, W. 1972, “On the Concept of Ideology in Political Science”). It is LULAC’s position and many of the individuals we interviewed that the ideology of in-charge individuals within the City of Oxnard has played a direct role in contributing to the creation of widespread and undue fear that people have of being victimized by crime. This culture of fear has seeded the conditions that have allowed this town to be painted as an unsafe, crime infested community in need of excessive policing.

We looked at other cities with demographic profiles similar to that of Oxnard. For example, Salinas, California has often times been used by some researchers and agencies (i.e. Department of Education) as a city with a semi-comparable demographic profile to that of Oxnard. In a May 6, 2010 news story, the Californian reported a “call in” activity that brought in about 30 targeted gang youth, a technique also used in Oxnard. In a recent call-in for the Oxnard area, 43 gang-injunction connected youth participated in a call-in project. The population of Salinas is 142,880, as compared to the population of Oxnard which is about 183,765. In proportionate terms, our team concluded that Oxnard’s condition, statistically speaking, falls within the realm of what is happening in Salinas. Though more research is needed regarding this particular matter, it is the position of our research team that Oxnard is not outside the norm, as compared to other towns with so-called “gang” problems.

According to the perception of many of the individuals interviewed, operationally the Mayor’s Office and the Alliance, as well as the District Attorney, feed alarming crime statistics to the media and to grant funding agencies; in turn, the media feeds its interpretation of crime statistics and/or sensationalized incidents its subscribers; we then have the makings of a socialization process whereby many people across the region have been indoctrinated to believe that Oxnard is dangerous beyond the norm. In actuality, as stated by one scholar on the subject “The fear of crime refers to the fear of being a victim of crime, as opposed to the actual probability of being a victim of crime,” (Lee, M, 2007, “Inventing Fear of Crime: Criminology and the Politics of Anxiety”). As noted in other parts of the report, it is the perception of many observers that there are special interests motivating the actions of the opinion makers, amounting to personal and political agendas and/or the monetary interest of current and former City employees. The cost of exploiting and embellishing crime statistics may be of service to certain politicians and money motivated individuals but the damage to the image of the City is immeasurable.

Indeed, the community of Oxnard is viewed by many outsiders (as well as some insiders) as a crime infested community that should be avoided as much as possible. This perception is widespread across the county and is driven, to a great extent, by media and the data that special interest groups, such as the Alliance, impart to the public.

Following are abbreviated statements from concerned Oxnard educators and business people that help to illustrate the widespread stigma that exists regarding Oxnard:

“Students from outside Oxnard are terrified to come to our campus because of what their parents have told them or because of what they read in the newspaper. About 2,000 of the students attending Ventura College are from Oxnard.” Of the three colleges in our county, Oxnard has the lowest incidents of crime as a college but we are the ones that have the stigma of being dangerous.” (College counselor)

“I think it’s horrible that our town continues to be painted as such a violent and unwelcome place. The only people benefitting from all the bad press are the individuals who have turned this situation into a business. There is a lot of money that comes into our town to fight crime but nothing changes.” (Retired educator)

We don't have the problems people perceive we have. The biggest, toughest part at changing the downtown and keeping it clean is, until the perception is changed, it doesn't make any difference if there's a gang injunction," (Vince Behrens, chairperson, Downtown Oxnard Business Management District Board of Directors, August, 2008, "The Star.")

### **Poverty Pimping Defined**

Poverty pimp or "professional poverty pimp" is a pejorative label used to convey that an individual or group is benefiting unduly by acting as an intermediary on behalf of the poor, the disadvantaged, or some other "victimized" groups. Those who use this appellation suggest that those so labeled profit unduly from the misfortune of others, and therefore do not really wish the societal problems that they appear to work on to be eliminated permanently, as it is not in their own interest for this to happen.

The most frequent targets of this accusation are those receiving government funding or that solicit private charity to work on issues on behalf of various disadvantaged individuals or groups, but who never seem to be able to show any amelioration of the problems experienced by their target population. Some even suggest that that if profit were eliminated as a factor, greater steps in the alleviation of the oppressive situations could begin to truly occur. The poor are a commodity to these people, who include not only local politicians, community activists and small-time hustlers, but also people with impressive titles and academic credentials, who likewise milk the larger society, in the name of the poor.

*Source: Excerpt from [Wikipedia](#), retrieved July 1, 2011*

"Anyone who believes there is no crime or gang activity in Oxnard should have their head examined but it's really exaggerated. The problem is that it doesn't matter what the facts are, people have been brainwashed into believing this town has thousands of gang members. It's just not true," (retired parole officer).

"I don't think the City and the police realize the damage that all of this hype does to our economy. It's devastating to our business community and to everybody. I have a nice home that I have been trying to sell for a long time. Because of the disclosure law, we have to tell buyers that we live right next to the gang injunction zone. Once they hear that, they're gone. (Resident, south Oxnard).

## **FINDINGS AND CONCLUSIONS**

1. Based on our interpretation of all of the information gathered and analyzed, it was LULAC's conclusion that the conditions and events that led up to our expressed concerns were inherited by the current Chief of Police and her command staff. Furthermore, it was our conclusion that these conditions can be traced back to previous

administrations within the department, as well as to continuing collusion by certain members of the City Council.

2. Based on our study and the data that was provided to our research team by the City, it was the position of LULAC that Oxnard does have about 250-277 gang involved youth residing within the city. However, it is the position of LULAC that statistics connected with youth and gangs are seemingly inflated to help position the City/Alliance to compete for grants. The wide, *carte blanche* latitude that is allowed to street officers by virtue of the 13 criteria provides for a high probability that youth are routinely mislabeled as being gang involved. Confidential interviews of high school personnel amounted to complaints about on-site OPD “Resource Officers” who routinely label high school students as being “gang affiliated” with virtually no evidence to support the conclusion other than their place of residence (i.e. Colonia). High school personnel said that it is not uncommon for students and parents to complain to them about their child being branded a gang member. In further conclusion, the “13 criteria” local police officers are allowed to use to screen-in “gang members,” particularly the ‘self-admission’ label,” allows for a highly subjective interpretation on the part of officers. There seemed to be no process in place to verify the content validity of the conclusions made by officers (i.e. quality control to verify officer conclusions). The criteria, though accepted and used in other cities, provides officers with incredibly wide latitude to label any youth as a gang member, regardless of what the real situation may be. Much of the criteria are based on second-hand sources of information, interpretation of body language, dress, hearsay, and incorrectly profiling youth based on geography and residence. It was also the conclusion of our research team, based on interviews of various stakeholders, that there is not always a connection between what an officer does on the street and what the command staff of a department want done. In effect, we are not concluding that current command staff of the OPD is directing street officers to mislabel youth.
3. Based on the research and analysis of numerous interviews (i.e. inside City informants) it was our conclusion that the presence and empowerment of former OPD personnel within the management and governance of the City is a major hindrance to the official and legitimate operation of the police department. The “life line” to this persistent condition is made up of (A) retired high-ranking OPD officials being rehired as consultants or re-classified employees and reporting to units outside of the police department; (B) in most cases these contracts and re-hires are initiated by the Mayor’s Office, outside the scope of the police department, with the support of at least two or more other Council members, thereby creating a power dynamic that completely overrides the authority of the actual police department relevant to the issues being addressed in this report, and (C) the perceived motivating factor for the retired officers appears to be self-interest in pursuing alternative forms of pension spiking.
4. It is furthermore our perception that the standard, normal protocol used to govern and manage a city, in terms of “checks and balances” does not presently exist in Oxnard.:

- We have the Mayor and his Alliance group applying for grants to oversee the youth diversion initiatives of the City – major micromanaging of City operations
  - We have the Mayor’s office taking a direct role in the hiring of consultants
  - The lead administration for the Oxnard Police Department is seemingly being circumvented and kept out of the loop by the Mayor, the City Manager, and retired police officers who are paid by entities outside the police department (i.e. Alliance). This, of course, is LULAC’s interpretation.
  - We have gang suppression consultants reporting directly to the City Manager.
  - We have the City Manager responding directly to Public Records Act requests regarding performance outcomes for gang suppression grant projects.
  - We have the Police Athletic League (PAL) overseeing much of the City’s youth and adult athletic activities (i.e. soccer) as opposed to Parks and Recreation.
  - Several years back, we had Chief Art Lopez attempting to establish a Charter School under the umbrella of the police department because that unit presumably knew more about education than the numerous school districts across the City. Fortunately the public outrage to this arrogant plan stopped the initiative from ever being launched in our community.
5. As noted in the narrative of our report, our research found that there is a widespread perception among observers that we interviewed that there are at least two forms of pervasive pension spiking, one being the conventional form which is engineered by virtue of loopholes and longevity perks within existent systems (i.e. PERS), and the second is the alternative method whereby individuals (i.e. OPD) retire fully vested and then immediately return to the department as consultants and/or reclassified employees, often times to do the same type of work they were doing before, thereby almost doubling their monthly income. It is our position that the City is plagued with the alternative form of pension spiking. In the case at hand, our organization has a secondary concern regarding the consultant’s qualifications to deliver on the scope of work.
  6. The illustration of performance outcomes versus consumption of tax dollars, as noted on page 17, led our research team to conclude that the current overall condition is reminiscent of the 1960’s saying known as “Poverty Pimping.” This saying, which was coined by critics and advocates of the War on Poverty (circa 1968), amounts to a situation whereby funding intended for a targeted population or cause never really makes it to its intended benefactor(s). It winds up being consumed by a secondary or un-entitled benefactor(s). It is our conclusion, based on the perceived condition by the numerous individuals interviewed for this study, that the bulk of the funding entering this City for the purpose of preventing, suppressing or reducing perceived youth violence is being squandered to appease the self-interest of misguided City officials and/or the alternative pension spiking interests of former OPD personnel.
  7. A review and analysis of the grant narratives developed by the Alliance group (i.e. Oxnard Community Peace Project) led the research team to conclude that significant attention may have been paid to the notion of preventing the evolution of gang activity,

which could allow for a rationale as to where the grant funding is actually being spent. It was the finding of the research team that evaluation documents released to our organization per the Public Records Act were devoid of any data or reporting that clearly showed how funding is legitimately used to support prevention measures.

8. It was furthermore the perception of the research team that the Project Evaluation Report of July 2008, titled "Preventing Violence in the City of Oxnard," and completed by an economist at California Lutheran University amounted to a rather vague analysis of a community awareness project that possibly served and/or provided about 44 individuals (page 42 of evaluation report) with some "soft skills" training. The four topics addressed at the April 3<sup>rd</sup>, April 23<sup>rd</sup>, March 19<sup>th</sup>, and March 27<sup>th</sup> were highly abstract, meaning they were almost impossible to measure and amounted to the opinions of participants. The report was quite vague in terms of clarifying the background of the people trained which, on page 49 of the evaluation report, were described as members of various agencies and organizations. The May 29<sup>th</sup> meeting noted 31 participants who, again, were described as staff members from various agencies and organizations. We did not assume the members were from the Alliance but it's probable they were. Of the 229 page evaluation report, 170 pages were dedicated to tables illustrating the outcomes of opinion surveys that were apparently extrapolated from participating staff from various organizations. It was assumed by the research team that these participants were directed to participate in this awareness training project by City and/or County administrators. The intended stakeholders, such as parents of at-risk youth or the youth themselves, were not evident within the language of the report. It is therefore the conclusion of our research team that the evaluation report is an unintended but very graphic example of how the City is squandering grant funds to benefit individuals who are not the targeted population. It is expected that significant funding was expended on this "evaluation report."
9. It was also concluded that the membership and governance structure of the City's 2008 Alliance planning group was not representative of the primary stakeholders (i.e. parents, youth) for the local community and was instead populated with several elected officials, mostly paid City and County employees, aspiring consultants, program facilitators hired to oversee the planning, and possibly two volunteers from the community, (page 8). Missing were parents, youth, and genuine volunteers without an employment driven agenda.
10. With 69.3% (or 127,349 residents) of the Oxnard population being people of Latino descent, it was LULAC's position that this sector of the community is a primary stakeholder in the matter of youth diversion initiatives. However, the net result of the tabulation of Alliance membership amounted to possibly two volunteers of with the noted background – all others were seemingly compelled to participate per work related directives.
11. With 71.7% (or 10,364) of our high school students being of Latino descent, clearly the Latino community is the primary stakeholder in the matter of youth diversion initiatives.

It was found finding that the targeted youth population for youth diversion services is not represented in a measurable and legitimate manner.

12. The statistical description (page 5 and 6) of the youth population in Oxnard was one of severe potential economic and academic barriers to success, (i.e. poverty level), thereby more than justifying the need for qualified human services and educators to be invited into this arena.
13. It was found that primary service providers with the mission of serving the targeted population with human and educational services were completely excluded from the Alliance forum, (page 9).
14. It was also found that the nature and organization of the Alliance and SAFETY initiatives are seemingly personally directed and controlled by the Mayor of the City who co-chairs the committee(s) with an elected official from the County of Ventura.
15. There was considerable information uncovered to strongly suggest that there is validity to the perceived “pension spiking” among former OPD officials connected to the “gang suppression” initiatives of the City and directly condoned by the City Manager and the Mayor who has been highly active in presenting himself to the community as some type of anti-gang expert. The documents uncovered through our Public Records Act request clearly described an ongoing exchange of funding between the City and the noted consultants, (see attached). As previously noted in the narrative of this report, according to insiders from the City, it was found that a retired assistant chief was literally hired before he left the department to return as a consultant to a program that he helped construct, a direct violation of state conflict of interest policies. According to our sources, a former Public Information Officer was also immediately hired back as a part-time employee and a former OPD official was hired back to oversee a re-entry program for exiting inmates from prison. It is our position that these actions appear to be a form of artificial pension spiking. See State Attorney General’s Conflict of Interest policy in attachments to this report.
16. It was also found that there is clearly a perceived conflict of interest between the City’s involvement in the Ventura College Sheriff’s Academy where current and former OPD officers are earning secondary incomes while at the same time relying on the City to help fund the operation with set-aside funding. Of particular concern is the potential conflict of interest between one current Council member who teaches at the reserve academy (at about \$19K per year) and who, in the past, may have voted as a Council member to approve City funding for the program. Again, a review of Attachment B (from the Attorney General) suggests that our City may be in direct violation of this policy. It was also found that the college district’s contracting department had no knowledge of the OPD’s diversion of resources to a college program - - bringing into light yet another potential violation of general accounting principles for two public agencies that are governed by elected boards and that cannot engage in fiscal agreements without approval from their governing bodies. It is the position of our organization that the City of Oxnard should not pursue a Memorandum of

Understanding and/or fiscal contract with Ventura College unless the agreement(s) is free of any perceived conflict of interest pursuant to government code 1090. We are concerned because a current council member is listed on the employment roster of the SRA. Pursuant to the 1090 guideline, Boards should not entertain the proposed contract or agreement unless certain exemptions were pursued – though it is our position that such an action would still not prevent the perceived conflict of interest. It is our belief that neither the public nor most tax-payer associations would condone such actions.

17. The research team was also informed by inside City sources that that a retired OPD officer is presently employed by the City of Oxnard to help “coordinate” services for the SRA. This same retired officer may also be employed by Ventura College to conduct similar work for the same program. Our team is concerned about possible what may be a form of “double-dipping” in this situation and the fact that the college district is apparently unaware of this matching fund resource being provided to the SRA. Again, the matter of possible artificial pension spiking comes into play.
  
18. Beginning in early July, the research team made several direct attempts to connect with **Edgar A. Mohorko** for the purpose of requesting an interview of him to better understand the types of specific services provided to the City by his firm. He would not return calls. Given that Mr. Mohorko is consuming about \$100,000 per year in public funding (see attached listing of contracts), we were quite surprised that he would not meet with us to educate the team regarding his operation. Because of his official affiliation to the OPD, we then contacted the Oxnard Police Department to request their assistance in persuading Mr. Mohorko to meet. Despite being asked to do so by high ranking OPD personnel, as of July 30<sup>th</sup>, we have not been contacted by Mr. Mohorko. It is our conclusion that Mr. Mahorko’s non-response serves as an indicator of the current network’s (i.e. Alliance) disdain for genuine community accountability.
  
19. Regarding the perceived “at-will” (or “at-will” contracting) hiring of former OPD personnel and/or affiliates of former police chiefs, the City Manager, and the Mayor, it was is the perception of the research team that the City, as an agency, has seemingly embraced a hiring and/or contracting process for certain positions that is completely devoid of the standard open-access and equal employment opportunity standards that are required of public institutions. In some cases, as reported to LULAC by informants from within the City, it appeared to the team that OPD officials were hired as consultants before they even retired, with apparently very little attention being paid to background and qualifications that would have been established by a bias-free hiring panel and rigorous hiring process. In addition, we were informed by City insiders that in most cases the consultants who are hired by the City also write the grants that fund their positions. If this is correct, our conclusion is that these consultants are afforded the opportunity to customize the grant deliverables in a way that guarantees they will be hired to implement the grant. It is our position that this type of conduct would amount to a major conflict of interest.

20. In the matter of the City's PAL program, the nature and structure of this operation was perceived by the research team, based on interviews of concerned community members and informants within the City, that this operation is a strong indicator of how the City has promoted and allowed for the creation of a "police state" mentality to address its invention of fear of crime. Seemingly, the PAL program has established a monopoly over most of the City's youth soccer leagues and possibly other operations. Reportedly, there are about 4,000 other soccer involved youth and adults who are not allowed equitable access to playing fields because they have not opted to join PAL as the overseer of their teams. Further research into this matter is merited and, as noted in the narrative of this report, LULAC will be pursuing mediation with the City on behalf of the community members that brought this matter to our attention.
21. In its link analysis between the inquiry at hand and a recent major investigation in operations at the County of Ventura, it was the conclusion of LULAC that malgovernance and mismanagement of public programs and services is seemingly endemic across the Oxnard plain, extending to the county government center. *The full County report (pdf) is posted at the Ventura County Star.* LULAC, in particular, conducted an in-depth analysis of the County's management of its Workforce Investment Board funding for youth programs in the Oxnard area. It was the conclusion of the research team that the City has been a part in helping the Boys and Girls Club and City Corp to monopolize WIB funds earmarked for the Oxnard area in a manner similar to how it has handled the gang grant funding. Essentially, the major concern that we have with this situation has to do with the finding that the most challenged and disadvantaged youth of our city are not extended an opportunity to receive workforce education services from the WIB. They are excluded by virtue of the condition we previously described as a "poverty pimping" situation, whereby entitled funding never seems to reach the intended population.
22. A summary view of all the documents that our team read, coupled with the interviews of various community leaders and stakeholders, led us to conclude that in operational terms the City's action plan to address "gang suppression," "gang violence," alternative pathways for youth, community empowerment to address the matter, amounts to the following observations:
- We found little in the way of external validity to the City's Action Plan, meaning we saw very little connection to the community at the grass roots level or a genuine connection between the current Alliance program operators and the targeted youth.
  - There was considerable internal validity to the action plan, meaning that everything looks good on paper and a lot of unfounded claims (i.e. statistics) were made to support the internal perception, but we found very little in the way of tangible outcomes to support the City's overall initiative. There was no validated evidence to support the Alliance's statistical claims about "thousands of gang members."

- It is furthermore our position that the City’s “war on gang violence” has been exploited by the Mayor’s Office for personal and political purposes, and not for the benefit of the community.
- It was also our conclusion and prediction that the City will no doubt attempt to rebuttal this report by claiming that it has indeed made a significant impact by virtue of its success in the area of “prevention” and notable “reduction” in violence. It is our position that the City cannot and has not made a correlative connection between these two conditions. In the final analysis, the we believe our concerns can be validated through a simple audit of how the funding is actually being spent - to benefit the income of certain individuals. A review of Attachment A provides a rather bleak picture of what has been happening.
- It was also the finding of this research team that the stigma imposed on Oxnard as being a crime infested community has been in the making for several decades. However, to a large extent it is our position that in the current environment crime statistics are highly exaggerated and the product of political agendas and the monetary interests of certain individuals.

23. It was the final conclusion of the research team that the aforementioned conditions amount to a systemic condition whereby the taxpayers of the community are seemingly disenfranchised in regard to how funding is being used (or not used) to address the youth diversion interests of the community.

<b>RECOMMENDATIONS</b>	
1	That the City Council and the City Manager’s Office designate appropriate representatives to meet with the LULAC Board to discuss and address the concerns expressed in this report.
2	That the City Council direct the City Manager to immediately initiate a <u>moratorium</u> on approval of any further consultant contracts involving the “gang suppression” and/or youth diversion initiatives and that he engage the services of an external auditor to examine the perceived conflicts of interest involving the continuing employment (and consultant contracts) of former OPD officials within the gang suppression arena of the City and the Sheriff’s Reserve Academy (SRA) where the City continues to employ retired OPD officers (apparently without the knowledge of the college district). And, that the findings of the audit are used to guide the correction of the matter at hand.
3	That the City Council direct the City Manager to engage the services of an independent and reputable institutional researcher to assist the City in evaluating and validating its performance outcomes relevant to the “gang” diversion initiatives.

4	That the City Council initiate actions to re-direct the operation of the Alliance and SAFETY committee to recompose its membership to include more genuine and relevant input from community stakeholders who (A) possess relevant expertise in the noted subject matter, and (B) are responsible and resourceful individuals with a relevant mission to help youth better their lives (i.e. CBOs, community colleges).
5	That the City Council take action to ensure that sitting Council members who earn secondary incomes from the Ventura College reserve academy are not being allowed to vote on related matters and that government code 1090 regarding conflict of interest restrictions be fully observed by the City Council.
6	That the City Council take action to direct the City Manager and other appropriate city departments to aggressively research other communities to identify alternative, culturally competent, relevant, and more effective youth diversion models to ensure that our community is being properly served, (ULCA model).
7	That the City Council form a representative Task Force to address the matter of City image in respect to fear of crime, with specific objectives being that of improving the public's self-esteem and increasing the capacity of the local business community to thrive in economic development terms: A City Pride Project

**SUMMARY**

It is the position of LULAC that the various issues raised in this report all link together to comprise what has become a systemic and endemic condition of cronyism and mismanagement that has served to deprive legitimate community stakeholders of services and resources and to also injure the image of Oxnard, as a municipality. Funds and resources intended to help our community provide positive alternatives for our youth are not reaching the intended population(s). Nowhere in the proposed solutions of the City, under the current administration (i.e. Alliance) did we see anything that resembled workforce education possibilities, adult education for adolescents, valid performance outcomes, and/or relevant and culturally competent human services personnel.

In addition, it is our position that the current condition whereby retired OPD personnel are allowed to maintain authority by virtue of City Council micromanaging has also resulted in what may be a debilitating effect on the ability of the current police department to conduct its operation without interference from long-retired OPD personnel who are clearly motivated by personal gain and not the best interest of the department or the community.

**Attachment A**

*League of United Latin American Citizens – Ventura County*

<p align="center"><b>Listing of Consultant Contracts and other Relevant documents and Notes acquired through the California Public Records Act June 8, 2011</b></p>			
<b>Date</b>	<b>Agreement #</b>	<b>Description of Consulting Services</b>	<b>Amount</b>
4-13-11	A-7397	TKC Enterprises – <b>Tom Cady: Retired OPD</b> – inmate re-entry services program. In collaboration with the Alliance. \$85 per hour.	\$44,400
3-12-11	5028-10-CS	<b>Barbara Marquez-O’Neill</b> – To further the work of the Alliance – violence prevention efforts of the community – Core responsibility seems to be the facilitation of the Alliance’s interests and objectives – community needs assessment is key function – the activities of this consultant is the centermost focus of attention for the Alliance. The source of income for this contract was divided three ways, including HSA, City of Oxnard, and County Probation.	\$50,500
3-18-09	4755-09-CS	(Similar to above) <b>Barbara Marquez-O’Neill</b> – To further the work of the Alliance – violence prevention efforts of the community – Core responsibility seems to be the facilitation of the Alliance’s interests and objectives – community needs assessment is key function – the activities of this consultant is the centermost focus of attention for the Alliance. The source of income for this contract was divided three ways, including HSA, City of Oxnard, and County Probation. “To improve neighborhood social cohesion and organization, alternative outlets for healthy child and youth development, and environments that provide a safety net where children, youth, families and communities feel safer and thrive.” Significant planning responsibilities were included in this assignment.	\$50,500
3-20-08	4074-07CS	(Similar to above). <b>Barbara Marquez-O’Neill</b> - Community Action Partnership (CAP) is referenced. The “Si se Puede” project is also are referenced. Capacity building is the focus for the CAP project.	\$49,400
12-14-10	4932-09-CM	<b>Matlock Professional Services. Retired OPD.</b> Focus is gang prevention. This was a regional grant project known as the California Law Enforcement Mutual Aid (LEMA) Region 1A, which includes a focus of service to Ventura, Santa Barbara, and SLO counties. “California Emergency Management Agency’s ‘Regional Anti-Gang Intelligence-Led Policing Program’ Grant. Supposedly a comprehensive program that included supervision of coordinators and one office assistant. Develop and implement action plan. Direct connection to <b>Ed Sotelo</b> ,	\$250,000

		City Manager, who provides senior management and leadership support to the project (see Section B of contract).	
12-3-10	Document Mayor Holden	This amendment, dated 12-3-10, from Ed Sotelo, describes the City Council's action to approve Mayor Tom Holden's request to execute an amendment to increase the amount of a consulting contract to Matlock from \$125,000 to \$250,000.	
7-24-10	4789-09- CM	<b>Edgar A. Mohorko, (clergy)</b> . 2010-2011 fiscal year. Name of firm is <b>Social Outreach Service (SOS)</b> , Youth Outreach and Gang Intervention Consulting Firm. <b>Ed Sotelo</b> was cited in the contract as the individual overseeing and approving all of the SOS activities contracted in this project. Deliverables included "coordinating all ongoing gang prevention/intervention activities with City Manager." Direct intervention in prospective violence aka "Volunteer Gang-Intervention and Peacemakers requests." Network with local clergy. Collaborate with individuals and community groups across the area. Oversee clergy representation for Police Department Clergy Council. A two-page, 1 year plan, was developed by SOS.	\$100,000 or \$83.33 per hour
7-24-08	4480-08- CM	Edgar A. Mohorko, (clergy). Same as above for the 2008-2009 fiscal year.	\$100,000 or \$83.33 per hour
4-11-11	5044-10- CM	<b>Gregory L. Runyon</b> . Consultant. April to April contract. Assist with development of re-entry program for the City of Oxnard. Possibly linked to Cady contract and/or Mohorko. Coordinate with "Operation Peaceworks" and "Transformation Works." "Call-ins" was referenced as a required activity. Direct link to "Parole and Community Team" (PACT).	\$50,000
4-1-09	4793-09- PO and 4795-09- PO	Social Outreach Services (Mohorko) – <u>Operation Peaceworks</u> . Funded by the CaLEMA project. For gang reduction, intervention, and prevention. The following description of the noted letter complements this project – direct relation.	\$104,291
5-19-09	Letter	This cover letter, initiated at the desk of John Crombach, describes the individuals who directly participated in the grant writing and development of the California Emergency Management Agency (CaLEMA) in May of 2009. The title of the project was California Grant Reduction, Intervention, and Prevention (CalGRIP). Participants included <b>Matt Matlock</b> who went on to retire only to be immediately reengaged by the city as one of the paid individuals on this project – possible gross conflict of interest in respect to general accounting principles, aka as "retirement spiking." Scott Hebert was	n/a

		the oversight OPD commander on the project but Chief John Crombach and Ed Sotelo were the senior overseers. City Corps was cited, bringing into light the perception about the high tendency of the City to monopolize external funding to support internal operations versus genuine community-based interests.	
7-1-2009	4870-09-PO and 4871-09-PO	<b>Contract with County of Ventura Probation Department (also included MOU language)</b> . 7-1-09 thru 6-30-10. Gang Violence Suppression Project. This appeared to be a subcontract to the County by the City, as part of a grant project. Principal participants included the D.A., City Impact, OUHSD, OESD. Focus of contract was to establish stronger collaborative ties between various institutions. The overall focus was on a heavy handed response to youth perceived to be involved in gang activity. A lot of focus was put on coordinating activities. Staff assigned to the project was OPD personnel.	\$44,000
7-1-09	4869-09-PO	District Attorney's Office. 7-1-09 thru 6-30-10. Gang Violence Suppression Project. This was a subcontract from the City to the D.A. from the California Office of Emergency Services (OES) grant.	\$60,000
7-1-08	4558-08-PO	Initiated by John Crombach, former Chief of Police. Gang Violence Suppression Project. Issued to <b>District Attorney's Office</b> . Deliverables expected of D.A. included attending coordinating meetings with OPD, City Impact, and OUHSD. Assign one FT deputy district attorney to the project specializing in prosecution of "gang members." Provide assistance to "victims." Collaborate with OPD in prosecution of cases. Assist with public relations. The total of the subcontracts are detailed as follows:  City of Oxnard \$83,000 D.A. \$77,400 VC Probation \$79,200 OESD 56,700 City Impact 56,700	\$353,250
4-13-11	Letter	Copy of statement declaring that the City Manager's authority to approve contracts is not to exceed \$250,000.	
		Total expenditures for the noted activities, minus indirect costs from City and other partner agencies and/or general fund apportionment to the projects by City Council. A minimum of standard indirect cost for maintaining these grant projects, per indirect general funding, amounts to about a 40% markup, actually making the total cost of these initiatives to be an additional \$502,536 or a grand total of <b>\$1,758,877</b>	<b>\$1,256,341</b>

## **Attachment B**

California Attorney General's Office 2010

### **VII. CONFLICTS OF INTEREST IN CONTRACTS**

Government Code Section 1090 et seq.13

(Excerpt)

#### **A. Overview**

The common law prohibition against “self-dealing” has long been established in California law. (*City of Oakland v. California Const. Co.* (1940) 15 Cal.2d 573, 576.) The present Government Code section 1090, which codifies the common law prohibition as to contracts, can be traced back to an act passed in 1851. (Stats. 1851, ch. 136, § 1, p. 522.) Frequently amended in its details, the basic prohibition has remained unchanged. And, this office and the courts often refer to very early cases when discussing this fundamental precept of conflict-of-interest law. (See, e.g. ,*Berka v. Woodward* (1899) 125 Cal. 119.) Section 1090 essentially prohibits a public official from being financially interested in a contract in both the official’s public and private capacities. (*Lexin v. Superior Court* (2010) 47Cal.4th 1050, 1073.) As the California Supreme Court has stated, the purpose of section 1090 is to make certain that “every public officer be guided solely by the public interest, rather than by personal interest, when dealing with contracts in an official capacity. Resulting in a substantial forfeiture, this remedy provides public officials with a strong incentive to avoid conflict-of-interest situations scrupulously.” (*Thomson v. Call* (1985) 38 Cal.3d 633, 650.) Eliminating temptation for public officials, avoiding the perception of impropriety, and obtaining their undivided loyalty have been deemed as extremely important public policy goals in California. (*Id.* at p. 648.) Because these goals are of the utmost importance, it is of no import whether actual fraud or dishonesty is involved in the contract process, whether the contract is fair to the public agency, or whether the public agency loses money from the contract. Importantly, the Political Reform Act (Gov. Code section 81000 et seq.) enacted by initiative in 1974, did not repeal section 1090. Rather, in analyzing whether a conflict of interest exists, one must consider both the Political Reform Act and section 1090. Even if a contract is permissible under section 1090, it may be prohibited by the Political Reform Act. (See *Lexin v. Superior Court* (2010) 47 Cal.4th 1050, 1090-1092 [discussing relationship between Section 1090 and the Political Reform Act]; 59 Ops. Cal. Atty. Gen. 604 (1976); see also Chapter I of this Guide for a discussion of the conflict-of-interest provisions in the Political Reform Act.)

**B. The Basic Analysis** Section 1090 provides that an officer or employee may not make a contract in which he or she is financially interested. Following is a brief outline of the analysis one should undertake to determine whether section 1090 is implicated in a particular governmental decision.<sup>13</sup>All further statutory references in this Chapter are to the Government Code unless otherwise indicated. VII. Conflicts of Interest in Contracts Page 56.

1. *Who is the individual with the potential conflict of interest? (See Section C of this Chapter)* Section 1090 applies to virtually all state and local officers, employees, and

multi-member bodies, whether elected or appointed, at both the state and local level. It also applies to certain consultants and independent contractors. Board members are conclusively presumed to have made any contract executed by the board or an agency under its jurisdiction, even if the board member has disqualified himself or herself from any and all participation in the making of the contract. Therefore, if a board member is financially interested in the contract and no exception applies, section 1090 prohibits the contract from being made. However, when an employee, as opposed to a board member, is financially interested in a contract, the employee's agency may still enter into the contract, as long as the employee plays no role whatsoever in the contracting process.

2. *2. Does the decision at issue involve a contract and is that contract ultimately executed? (See Section D of this Chapter)* If no contract is involved, or if a contract in which an officer or employee has a financial interest is not ultimately executed, no violation exists.
3. *Is the individual making or participating in making the contract? (See Section E of this Chapter)* Any participation by a financially interested officer or employee in the process by which such a contract is developed, negotiated, and executed is a violation of section 1090.
4. *Does the official have a financial interest in the contract? (See Section F of this Chapter)* Section 1090 does not define when an official is financially interested in a contract. However, the courts have applied the prohibition to include a broad range of interests.
5. *If the official is a board member, does a remote interest exception apply? (See Section H of this Chapter)* The remote interest exceptions in section 1091 enumerate specific interests that trigger abstention for board members, but that do not prevent the board from making a contract.
6. *For all officials, does a non-interest exception apply? (See Section I of this Chapter)* The interests in section 1091.5 are deemed "non-interests" in that, once disclosed, they do not prevent an officer, employee, or board member from participating in a contract. *VII. Conflicts of Interest in Contracts Page 57*
7. *Can the limited "rule of necessity" be applied? (See Section K of this Chapter)* There is a limited "rule of necessity" to the application of section 1090 where the contract is for essential services and no other source is available or where the official or board is the only one authorized to act. *8. If a contract has been made in violation of section 1090, what are the consequences? (See Section M of this Chapter)* Generally, any contract made in violation of section 1090 is void and cannot be enforced. In addition, an official who willfully commits a violation may be subject to criminal sanctions.