

**Santa Barbara**  
**Metropolitan Transit District**  
**550 Olive Street**  
**Santa Barbara, CA 93101**  
**(805) 963-3364 Fax (805) 962-4794**

Santa Barbara County Civil Grand Jury  
Attn: Foreman  
1100 Anacapa Street  
Santa Barbara, CA 93101  
*and*  
The Honorable Judge Rodney Melville  
Superior Court  
312-M East Cook Street  
Santa Maria, CA 93455-5165

Re: *MTD Responses to Grand Jury Report*

Dear Grand Jury Foreman:

This letter will provide you with the Santa Barbara Metropolitan Transit District's ("MTD's") responses to the 2005-2006 Santa Barbara County Civil Grand Jury's report entitled "Legal Services in Santa Barbara - Very High Prices for Comprehensive Representation."

## **GRAND JURY FINDINGS**

### **Finding 1**

MTD disagrees with the finding that budgeting is "a mere guess or a deliberate understatement of anticipated or known foreseeable costs." MTD uses historical data, anticipated/current claims, and consultation with counsel to determine budgets necessary for legal costs.

### **Finding 2**

MTD agrees that legal services and, especially, litigation can be costly. For this reason, MTD uses competent counsel to estimate costs and evaluate legal exposure to achieve prompt settlements of meritorious claims. On the other hand, MTD defends frivolous or inappropriate claims even when it may become costly to do so. In the long term, these MTD policies reduce both legal and claims settlement costs.

### **Finding 3**

MTD is unable to comment on the responses by other public agencies. However, MTD understands the need to protect its confidential communications and its attorney-client privilege.

### **Finding 4**

MTD does not understand this finding or its context and, therefore, cannot agree or disagree.

**Finding 5**

MTD has not historically used formal retainer agreements for legal services.

**Finding 6**

MTD agrees that all agreements should be carefully negotiated.

**Finding 7**

MTD partially disagrees. MTD does not use caps. However, each time a claim is filed and/or a settlement considered, the cost of litigation is evaluated. MTD believes it is important that claimants and/or their attorneys do not believe that the more aggressive they are, the more likely it will be that MTD will settle their claim, especially an unmeritorious claim.

**Finding 8**

MTD partially disagrees. MTD has selected its counsel based on qualifications, competence, ability and expertise, not on politics. These qualities engender confidence and trust.

**Finding 9**

MTD generally agrees. However, the attorneys who provide services to MTD do so at reasonable, stable rates (some have not been increased for over five (5) years). Also, because of long-term relationships, MTD's counsel generally have been able to efficiently provide services in a manner that saves time and, therefore, money.

**Finding 10**

MTD agrees that specialized areas of the law may add substantially to legal costs. MTD disagrees, however, that the cost of outside counsel is not included in the annual general fund budget. If MTD is aware of a pending legal need, this is considered in MTD's budget.

**Finding 11**

MTD is unable to comment on the practices of other public agencies. MTD, however, reviews all legal bills monthly.

## **GRAND JURY RECOMMENDATIONS**

### **Recommendation 1**

This recommendation has historically been followed and implemented by MTD. Legal needs are assessed and realistically budgeted for annually.

### **Recommendation 2**

This recommendation has historically been followed and implemented by MTD. MTD reviews all legal bills monthly.

### **Recommendation 3**

While MTD agrees with this recommendation, it cannot be implemented at MTD because there is very little in the nature of routine legal services provided to the District. MTD does define the legal services needed when it retains counsel.

### **Recommendation 4**

MTD agrees with and has implemented budgeting and other limitations in an attempt to control litigation expenses. However, MTD does not believe it prudent to impose caps, especially when defending litigation where caps could be counterproductive.

### **Recommendation 5**

MTD agrees with and has historically implemented this recommendation. Counsel is requested to attend MTD board meetings only when necessary and, then, only for the agenda items needing legal counsel.

### **Recommendation 6**

MTD agrees with and has historically implemented this recommendation. MTD's counsel do not utilize minimum charges/hours or monthly minimum fees.

### **Recommendation 7**

MTD agrees with and has historically implemented this recommendation. MTD reviews all legal bills monthly. Its counsel rarely incur travel time or travel expenses, and MTD does not pay for staff overtime or word processing charges.

### **Recommendation 8**

This recommendation has been implemented by MTD. All counsel have provided the District with evidence of professional liability insurance.

### **Recommendation 9**

MTD agrees with this recommendation. MTD understands that its counsel are ethically required to evaluate potential conflicts on all new matters and will forthwith confirm that understanding in writing with all counsel.

**Recommendation 10**

MTD has not historically used formal retainer agreements with its counsel. It agrees with the need for adequate time to evaluate billings and is under no contractual obligation to pay for legal services within 30 days. MTD reviews all billings for legal services monthly.

**Recommendation 11**

MTD agrees with this recommendation, but has not historically used formal retainer agreements.

**Recommendation 12**

MTD generally agrees with this recommendation, but it is not applicable to MTD's need for legal services. MTD has very little in the nature of routine legal needs.

**Recommendation 13**

MTD agrees with and has historically implemented this recommendation regardless of whether legal services do or do not exceed 1% of its budget. It is important to recognize that measuring legal services as a percent of budget can be misleading. For example, MTD carries a high self insurance retention for workers' compensation and liability claims, unlike some other public agencies. As a consequence, its insurance costs will be lower, but its legal costs may be a bit higher than other comparable public agencies. This method has saved the District significantly beginning with its inception in 1989. MTD monitors its legal expenses monthly.

**Recommendation 14**

Although MTD generally agrees with this recommendation, it appears to have little applicability to MTD. Consequently, this recommendation cannot be implemented because informed consent is rarely an issue regarding MTD's business.

**Recommendation 15**

MTD agrees with and will forthwith implement this recommendation should there be a request for public disclosure of non-confidential information concerning bills for legal services. MTD will protect and redact confidential information, including attorney-client privileged information, from any such disclosure, but will provide redacted bills reflecting legal charges for certain periods of time.

Best regards,



John Britton, Chair

Santa Barbara Metropolitan Transit District Board of Directors