
**CITY COUNCIL
REGULAR
MEETING**



**NOVEMBER 08, 2011
7:00 PM**

AGENDA

L. Allan Songstad, Jr., Mayor

**Melody Carruth, Mayor Pro Tempore
Randal Bressette, Council Member**

**Barbara Kogerman, Council Member
Joel Lautenschleger, Council Member**

Location: City Council Chamber, 24035 El Toro Road, Laguna Hills, California 92653

Any person wishing to address the City Council/Planning Agency on any matter, whether or not it appears on this Agenda, is asked to complete a pink "Request to Speak" form available on the table at the back of the Chamber. The completed form is to be submitted to the City Clerk prior to an individual being heard by the City Council/Planning Agency.

Members of the public wishing to address the City Council can do so during the Public Comments portion of the Agenda with a time limitation of three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes for Public Comments. If you are commenting on an Agenda item, your comments will be heard at the time that item is scheduled on the Agenda. If you are addressing the City Council on an item not listed on the Agenda, the City Council is prohibited by law from discussing or taking any action on that item.

CALL TO ORDER

Resolution No. 96-04-09-1 established rules of decorum for public meetings held by the City of Laguna Hills. Resolution No. 96-04-09-1 is available on the table at the back of the City Council Chamber.

PLEDGE OF ALLEGIANCE: MAYOR PRO TEMPORE CARRUTH

ROLL CALL OF CITY COUNCIL MEMBERS

- 1. PRESENTATIONS AND PROCLAMATIONS**
- 2. PUBLIC COMMENTS**

This is the time to address the City Council on any matter not listed on this Agenda that is within the subject matter jurisdiction of the City Council. Public Comments are

limited to three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes.

2.1 LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON

RECOMMENDATION: THAT THE CITY COUNCIL RECEIVE AN ORAL REPORT FROM LAGUNA HILLS HIGH SCHOOL LIAISON KYLIE WEST.

3. MINUTES

3.1 REGULAR MEETING, OCTOBER 25, 2011

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE MINUTES OF THE OCTOBER 25, 2011, REGULAR MEETING.

4. CONSENT CALENDAR

All matters listed under "CONSENT CALENDAR" are considered to be routine and will be enacted by one motion approving the recommendation listed on the Agenda. There will be no separate discussion unless Members of the City Council or Staff request specific items be removed from the Consent Calendar.

4.1 MOTION TO APPROVE THE READING BY TITLE OF ALL ORDINANCES AND RESOLUTIONS, SAID TITLES, WHICH APPEAR ON THE PUBLIC AGENDA, SHALL BE DETERMINED TO HAVE BEEN READ BY TITLE AND FURTHER READING WAIVED

RECOMMENDATION: THAT THE CITY COUNCIL WAIVE READING OF ORDINANCES AND RESOLUTIONS.

4.2 APPROVAL OF WARRANT REGISTER FOR PERIOD ENDED NOVEMBER 8, 2011

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE WARRANT REGISTER IN THE AMOUNT OF \$324,601.14.

4.3 FIRST QUARTER FINANCIAL AND TREASURER'S REPORT FOR FY 2011/12

RECOMMENDATION: THAT THE CITY COUNCIL RECEIVE AND FILE THE FIRST QUARTER FINANCIAL AND TREASURER'S REPORT FOR FY 2011/2012.

4.4 PROGRESS PAYMENT NO. 5, FINAL, FOR CITYWIDE WAYFINDING SIGN PROGRAM, CIP NO. 329

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE PROGRESS PAYMENT NO. 5, FINAL, IN THE NET AMOUNT OF \$18,210.60, TO GREEN GIANT LANDSCAPE, INC., FOR THE CITYWIDE WAYFINDING SIGN PROGRAM, CIP NO. 329, AND AUTHORIZE THE FILING OF THE NOTICE OF COMPLETION AND SUBSEQUENT RELEASE OF RETENTION IN 35 DAYS, IF NO LIENS HAVE BEEN FILED.

ITEMS REMOVED FROM THE CONSENT CALENDAR

5. PLANNING AGENCY

5.1 ROLL CALL OF PLANNING AGENCY MEMBERS

5.2 PUBLIC COMMENTS

This is the time to address the Planning Agency on any matter not listed on this Agenda that is within the subject matter jurisdiction of the Planning Agency. Public Comments are limited to three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes.

5.3 MINUTES

5.3.1 REGULAR MEETING, OCTOBER 25, 2011

RECOMMENDATION: THAT THE PLANNING AGENCY APPROVE THE MINUTES OF THE OCTOBER 25, 2011, REGULAR MEETING AS REFERENCED IN ITEM 3.1, BEGINNING ON PAGE 4.

5.4 ADMINISTRATIVE REPORTS

5.4.1 CHANGED PLAN APPLICATION NO. 06-11-1985, A REQUEST BY AT&T TO EXPAND THE EXISTING WIRELESS COMMUNICATIONS FACILITY LOCATED AT 25131 COSTEAU STREET IN THE (NMU) NEIGHBORHOOD MIXED USE ZONING DISTRICT

RECOMMENDATION: THAT THE PLANNING AGENCY:

1. CONDUCT A REVIEW OF CHANGED PLAN NO. 06-11-1985; AND
2. ADOPT A RESOLUTION ENTITLED:

A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING CHANGED PLAN NO. 06-11-1985, A REQUEST BY AT&T TO EXPAND THE EXISTING WIRELESS COMMUNICATIONS FACILITY LOCATED AT 25131 COSTEAU STREET IN THE (NMU) NEIGHBORHOOD MIXED USE ZONING DISTRICT.

- 5.4.2 SITE DEVELOPMENT PERMIT NO. 10-11-2100, A REQUEST TO RENOVATE THE DMV BUILDING AND ADD A PARKING LOT CANOPY IN MOULTON PLAZA SHOPPING CENTER AT 23535 MOULTON PARKWAY IN THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT

RECOMMENDATION: THAT THE PLANNING AGENCY:

1. RECEIVE A PRESENTATION; AND
2. ADOPT A RESOLUTION ENTITLED:

A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING SITE DEVELOPMENT PERMIT NO. 10-11-2100, A REQUEST TO RENOVATE THE DMV BUILDING AND ADD A PARKING LOT CANOPY IN MOULTON PLAZA SHOPPING CENTER AT 23535 MOULTON PARKWAY IN THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT.

- 5.5 PLANNING AGENCY PUBLIC HEARINGS

PLANNING AGENCY ADJOURNMENT

6. CITY COUNCIL PUBLIC HEARINGS

- 6.1 PUBLIC HEARING TO CONSIDER THE VACATION OF PUBLIC SERVICE EASEMENTS (SPECIFIED LANDSCAPE EASEMENTS COMMONLY KNOWN AS "TREE POCKETS") ALONG THE SOUTHWESTERLY SIDE OF PASEO DE VALENCIA BETWEEN ALICIA PARKWAY AND LA PAZ ROAD

RECOMMENDATION: THAT THE CITY COUNCIL OPEN THE PUBLIC HEARING AND CONSIDER ADOPTING A RESOLUTION ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ORDERING THE VACATION AND ABANDONMENT OF PUBLIC SERVICE EASEMENTS CONSISTING OF SPECIFIED TREE POCKET LANDSCAPE EASEMENTS DEDICATED WITHIN TRACT MAP NOS. 9035 AND 9403.

7. ADMINISTRATIVE REPORTS

- 7.1 City Manager

7.2 City Attorney

- 7.2.1 PROPOSED DRAFT ORDINANCE OF THE CITY OF LAGUNA HILLS ADDING CHAPTER 6-40 TO TITLE 6 OF THE LAGUNA HILLS MUNICIPAL CODE ESTABLISHING PARKS AS "CHILD SAFETY ZONES" WHERE REGISTERED SEX OFFENDERS ARE PROHIBITED FROM ENTERING WITHOUT WRITTEN PERMISSION FROM THE ORANGE COUNTY SHERIFF

RECOMMENDATION: THAT THE CITY COUNCIL:

1. REVIEW AND CONSIDER OPTIONS FOR ADOPTING A PROPOSED CHILD SAFETY ZONE ORDINANCE MODELED AFTER THE CHILD SAFETY ZONE SEX OFFENDER ORDINANCE ENACTED EARLIER THIS YEAR BY THE COUNTY OF ORANGE;
2. PROVIDE COMMENTS AND QUESTIONS OF THE CITY ATTORNEY AND CITY STAFF;
3. PROVIDE FURTHER DIRECTION; AND
4. CONTINUE THIS ITEM TO ALLOW CITY STAFF TIME TO CONDUCT PUBLIC OUTREACH WITH VARIOUS HOMEOWNERS' ASSOCIATIONS.

7.3 Deputy City Manager/Community Services

- 7.3.1 2012 LAGUNA HILLS HALF MARATHON, 10K & 5K EVENT

RECOMMENDATION: THAT THE CITY COUNCIL RECEIVE AND FILE THE REPORT.

8. MATTERS AGENDIZED AND PRESENTED BY COUNCIL MEMBERS

9. CITY COUNCIL MEMBER COMMENTS

10. CLOSED SESSION

The City Council shall convene in Closed Session, in the City Hall Conference Room, to consider the following matters:

10.1 CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Pursuant to Government Code Section 54956.8

Property: A portion of the open space parcel located at the corner of Moulton Parkway and La Paz Road in the City of Laguna Hills, identified more particularly as Parcel 1 of Parcel Map No. 2009-134 consisting of a subdivided portion (3.365 acres) of Lot "A" of Tract No. 11237; a portion of Assessor's Parcel No. 625-221-03

Agency Negotiators: Bruce E. Channing, City Manager, and Donald J. White, Assistant City Manager.

Negotiating Parties: City of Laguna Hills and Vintage Capital Real Estate Investment Partners, LLC, and its agents Fred C. Sands and Ken Hocker.

Under Negotiation: Price and terms of payment for purchase.

10.2 PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code Section 54957(b)(1)

Public Employee Title: City Manager - Annual Performance Evaluation

10.3 CONFERENCE WITH LABOR NEGOTIATOR

Pursuant to Government Code Section 54957.6

Agency Negotiator: Daniel C. Cassidy, Special Labor Counsel

Unrepresented Employee: City Manager

Under negotiation: Terms and Conditions of Employment

Reconvene in regular session in the City Council Chamber.

Report on whether any reportable action was taken on matters considered during Closed Session

11. CONSIDERATION OF COMPENSATION FOR CITY MANAGER

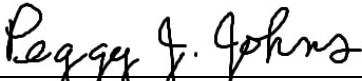
RECOMMENDATION: THAT THE CITY COUNCIL TAKE SUCH ACTION AS IT SO DETERMINES.

ADJOURNMENT

To Wednesday, November 16, 2011, at 6:30 PM, in the City Hall Conference Room, located at 24035 El Toro Road, Laguna Hills, California, for the purpose of conducting interviews and making appointment to the Parks and Recreation Commission. The next Regular Meeting of the City Council will be November 22, 2011, at 7 PM in the City Council Chamber.

CERTIFICATION

I, PEGGY J. JOHNS, City Clerk of the City of Laguna Hills, do hereby certify that a copy of the foregoing Agenda was posted at Laguna Hills City Hall, Laguna Hills Community Center, and La Paz Center by November 4, 2011, at 5:00PM.



PEGGY J. JOHNS, CITY CLERK

November 4, 2011**DATE**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the office of the City Clerk at (949) 707-2635. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Materials related to an item on this Agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 24035 El Toro Road, Laguna Hills, California, during normal business hours.

**CITY OF LAGUNA HILLS, CALIFORNIA
CITY COUNCIL/PLANNING AGENCY REGULAR MEETING
MINUTES
OCTOBER 25, 2011**

CALL TO ORDER

Mayor Songstad called the Regular Meeting of the City Council of the City of Laguna Hills, California, to order at 7:00 PM in the Laguna Hills City Council Chamber, 24035 El Toro Road, Laguna Hills.

PLEDGE OF ALLEGIANCE: Council Member Kogerman

ROLL CALL OF CITY COUNCIL MEMBERS

Present: Mayor Songstad, Mayor Pro Tempore Carruth, Council Member Bressette, Council Member Kogerman, and Council Member Lautenschleger

STAFF PRESENT: Bruce Channing, City Manager; Donald White, Assistant City Manager; Peggy Johns, City Clerk; Greg Simonian, City Attorney; Ken Rosenfield, Public Services Director/City Engineer; Vern Jones, Community Development Director; Steve Doan, Chief of Police Services; David Reynolds, Deputy City Manager; Roger James, Battalion Chief, Orange County Fire Authority; Dan Meehan, Community Services Superintendent; Sandi Mogan, Deputy City Clerk; and Arman Tarzi, Administrative Intern.

1. PRESENTATIONS AND PROCLAMATIONS

There were no Presentations and Proclamations.

2. PUBLIC COMMENTS

DARK HORSE COMMITTEE

Mike Bland, Laguna Hills, gave an update on the Dark Horse 3/5 Battalion Committee.

2.1 LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON

CITY COUNCIL RECEIVED AN ORAL REPORT FROM LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON KYLIE WEST.

3. MINUTES

3.1 REGULAR MEETING, OCTOBER 11, 2011

MOTION TO APPROVE THE MINUTES OF THE OCTOBER 11, 2011, REGULAR MEETING, BY M/MAYOR PRO TEMPORE CARRUTH, S/COUNCIL MEMBER BRESSETTE.

APPROVED BY A VOTE OF 5-0.

4. CONSENT CALENDAR

MOTION TO APPROVE THE CONSENT CALENDAR, BY M/COUNCIL MEMBER BRESSETTE, S/MAYOR PRO TEMPORE CARRUTH, WITH COUNCIL MEMBER KOGERMAN REMOVING ITEM NO. 4.8.

APPROVED BY A VOTE OF 5-0.

4.1 MOTION TO APPROVE THE READING BY TITLE OF ALL ORDINANCES AND RESOLUTIONS, SAID TITLES, WHICH APPEAR ON THE PUBLIC AGENDA, SHALL BE DETERMINED TO HAVE BEEN READ BY TITLE AND FURTHER READING WAIVED

WAIVED READING OF ORDINANCES AND RESOLUTIONS.

4.2 APPROVAL OF WARRANT REGISTER FOR PERIOD ENDED OCTOBER 25, 2011

APPROVED THE WARRANT REGISTER IN THE AMOUNT OF \$1,322,959.26.

4.3 TRAFFIC CONDITIONS ON MUSTANG DRIVE

APPROVED THE INSTALLATION OF YELLOW "SKIP" CENTERLINE STRIPING ALONG MUSTANG DRIVE FROM NELLIE GAIL ROAD TO APPALOOSA PLACE.

4.4 MEASURE M2 ENVIRONMENTAL CLEANUP ALLOCATION PROGRAM (ECP)

RECEIVED AND FILED THE REPORT.

4.5 PROGRESS PAYMENT NO. 2 FOR ENERGY EFFICIENCY PROJECT, CIP NO. 515

APPROVED CONTRACT CHANGE ORDER NO. 1 AND PROGRESS PAYMENT NO. 2, IN THE NET AMOUNT OF \$95,758.20, TO ROBERT D. GOSNEY CONSTRUCTION, FOR ENERGY EFFICIENCY PROJECT, CIP NO. 515.

4.6 PROGRESS PAYMENT NO. 7 FOR LA PAZ ROAD WIDENING AT I-5 IMPROVEMENT PROJECT, CIP NO. 159

APPROVED PROGRESS PAYMENT NO. 7, IN THE NET AMOUNT OF \$196,243.97, TO SEMA CONSTRUCTION, INC., FOR THE LA PAZ ROAD WIDENING AT I-5 IMPROVEMENT PROJECT, CIP NO. 159.

4.7 AGREEMENT WITH THE CITY OF LAKE FOREST FOR THE SHARED USE OF THE LAGUNA HILLS CENTRAL TRAFFIC CONTROL SERVER

APPROVED THE AGREEMENT FOR THE SHARED USE OF THE LAGUNA HILLS CENTRAL TRAFFIC CONTROL SERVER WITH THE CITY OF LAKE FOREST AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENT AND THE CITY CLERK TO ATTEST THERETO.

ITEMS REMOVED FROM THE CONSENT CALENDAR

4.8 DOG LICENSE CAMPAIGN UPDATE

Council Member Kogerman indicated she removed this item to ask several questions of staff with regard to the background provided to City Council in the report. Council Member Kogerman inquired if the City had documentation on the number of times officers in the field were able to find owners of lost dogs as opposed to taking them back to the shelter, if the Animal Services contract included canvassing, and of the 654 licenses sold for 2010-2011, how many were new licenses and how many were renewals.

Council Member Lautenschleger asked about the decrease in the net cost of the program and if this number was provided by Animal Control Services.

Assistant City Manager White responded to the questions from the City Council.

**MOTION TO RECEIVE AND FILE THE REPORT, BY M/MAYOR PRO TEMPORE CARRUTH, S/COUNCIL MEMBER LAUTENSCHLEGER.
APPROVED BY A VOTE OF 5-0.**

5. PLANNING AGENCY

Mayor Songstad recessed the City Council meeting and acting in the capacity of Chair, called the regular meeting of the Planning Agency of the City of Laguna Hills, California, to order at 7:17 PM.

5.1 ROLL CALL OF PLANNING AGENCY MEMBERS

Present: Chair Songstad, Vice Chair Carruth, Agency Member Bressette, Agency Member Kogerman, and Agency Member Lautenschleger

5.2 PUBLIC COMMENTS

There were no Public Comments.

5.3 MINUTES

5.3.1 REGULAR MEETING, OCTOBER 11, 2011

**MOTION TO APPROVE THE MINUTES OF THE OCTOBER 11, 2011, REGULAR MEETING AS REFERENCED IN ITEM 3.1 BEGINNING ON PAGE 3, BY M/VICE CHAIR CARRUTH, S/AGENCY MEMBER LAUTENSCHLEGER.
APPROVED BY A VOTE OF 5-0.**

5.4 ADMINISTRATIVE REPORTS

5.4.1 CHANGED PLAN APPLICATION NO. 06-11-1985, A REQUEST BY AT&T TO EXPAND THE EXISTING WIRELESS COMMUNICATIONS FACILITY LOCATED AT 25131 COSTEAU STREET IN THE (NMU) NEIGHBORHOOD MIXED USE ZONING DISTRICT

**MOTION TO CONTINUE THIS AGENDA ITEM TO ITS REGULAR MEETING OF NOVEMBER 8, 2011, MADE BY M/AGENCY MEMBER BRESSETTE, S/VICE CHAIR CARRUTH.
APPROVED BY A VOTE OF 5-0.**

5.5 PLANNING AGENCY PUBLIC HEARINGS

5.5.1 CHANGED PLAN NO. 9-11-2068, A REQUEST TO MODIFY THE EXISTING MASTER SIGN PROGRAM FOR LA PAZ VILLAGE AT 25260 LA PAZ ROAD IN THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT

Chair Songstad opened the Public Hearing.

Ron Bamberger, President of Boardwalk Development, Inc., and speaking on behalf of the applicant, indicated he had read and agreed to all of the Conditions of Approval.

Chair Songstad closed the Public Hearing.

MOTION TO ADOPT RESOLUTION NO. PA2011-10-25-1, A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING CHANGED PLAN NO. 9-11-2068, A REQUEST TO MODIFY THE EXISTING MASTER SIGN PROGRAM FOR LA PAZ VILLAGE AT 25260 LA PAZ ROAD IN THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT, BY M/AGENCY MEMBER LAUTENSCHLEGER, S/CHAIR SONGSTAD. APPROVED BY A VOTE OF 4-1 (VICE CHAIR CARRUTH VOTING NO).

5.5.2 SITE DEVELOPMENT PERMIT/CONDITIONAL USE PERMIT/PARKING USE PERMIT/MASTER SIGN PROGRAM NO. 07-11-2030, A REQUEST BY MOULDY, LLC., TO MAKE SITE AND BUILDING IMPROVEMENTS, INCLUDING A NEW MASTER SIGN PROGRAM AND JOINT USE OF PARKING FACILITIES, FOR THE BUILDINGS AT 25322, 25332 AND 25352 CABOT ROAD IN CABOT TOWN CENTER

Chair Songstad opened the Public Hearing.

Barney Michalchuk, representative of Greenberg Farrow, indicated he had read and agreed to all of the Conditions of Approval.

Chair Songstad closed the Public Hearing.

MOTION TO ADOPT RESOLUTION NO. PA2011-10-25-2, A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING SITE DEVELOPMENT PERMIT/CONDITIONAL USE PERMIT/PARKING USE PERMIT/MASTER SIGN PROGRAM NO. 07-11-2030, A REQUEST BY MOULDY, LLC., TO MAKE SITE AND BUILDING IMPROVEMENTS, INCLUDING A NEW MASTER SIGN PROGRAM AND JOINT USE OF PARKING FACILITIES, FOR THE BUILDINGS AT 25322, 25332, AND 25352 CABOT ROAD IN CABOT TOWN CENTER, BY M/VICE CHAIR CARRUTH, S/AGENCY MEMBER BRESSETTE. APPROVED BY A VOTE OF 5-0.

PLANNING AGENCY ADJOURNMENT

Mayor Songstad reconvened the City Council meeting at 8:23 PM. All Council Members were present.

6. CITY COUNCIL PUBLIC HEARINGS

There were no City Council Public Hearings.

7. ADMINISTRATIVE REPORTS

7.1 City Manager

The City Manager made no reports.

8. MATTERS AGENDIZED AND PRESENTED BY COUNCIL MEMBERS

8.1 COUNCIL MEMBER KOGERMAN

8.1.1 MEMBERSHIP IN THE ASSOCIATION OF CALIFORNIA CITIES -
ORANGE COUNTY (ACC-OC)

MOTION TO RESOLVE TO DISASSOCIATE ITSELF FROM AND REVOKE IMMEDIATELY THE CITY'S MEMBERSHIP IN THE ASSOCIATION OF CALIFORNIA CITIES - ORANGE COUNTY AND ITS AFFILIATES, TO INCLUDE VACATING ANY OFFICES HELD THEREIN AND NOT FINANCING ANY FURTHER ASSOCIATION ACTIVITIES OR EVENTS, BY M/COUNCIL MEMBER KOGERMAN, S/COUNCIL MEMBER BRESSETTE.

FAILED BY A VOTE OF 1-4 (COUNCIL MEMBERS BRESSETTE, LAUTENSCHLEGER, MAYOR PRO TEMPORE CARRUTH, AND MAYOR SONGSTAD VOTING NO).

9. CITY COUNCIL MEMBER COMMENTS

MAYOR PRO TEMPORE CARRUTH

Mayor Pro Tempore Carruth gave an update on the West Nile Virus season.

COUNCIL MEMBER BRESSETTE

Council Member Bressette thanked the Community Development staff for their hard work on tonight's Planning items.

10. CLOSED SESSION

There was no Closed Session.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Songstad declared the meeting adjourned at 8:50 PM.

PEGGY J. JOHNS, CITY CLERK

ATTEST:

L. ALLAN SONGSTAD, JR., MAYOR

APPROVED AT MEETING OF _____

CITY OF LAGUNA HILLS
AGENDA REPORT
ADMINISTRATIVE SERVICES DEPARTMENT

**ISSUE: APPROVAL OF WARRANT REGISTER FOR PERIOD ENDED
 NOVEMBER 08, 2011.**

SUMMARY:

In accordance with Government Code Section 37202, the Finance Manager prepares the attached warrant register, which reflects the disbursements of the City of Laguna Hills for the period reported thereon. The Assistant City Manager certifies that funds are available for the payment thereof. These warrants are hereby submitted to the City Council for approval of payment.

Prepared by:

JANICE MATEO REYES
Finance Manager

Certified:


DONALD J. WHITE
Assistant City Manager

10-31-11

DATE

FISCAL IMPACT:

The warrant register total is \$ 324,601.14

**RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE WARRANT REGISTER
IN THE AMOUNT OF \$ 324,601.14.**

ATTACHMENTS:

1. **Warrant Register**

**CITY OF LAGUNA HILLS
WARRANT REGISTER
November 8, 2011**

VENDOR	DESCRIPTION	CHECK NO.	AMOUNT
PREPAID WARRANTS:			
AT&T	Communication Expense, Administrative Services Fax Line, Oct '11	8802270	\$ 83.60
AT&T- CALNET 2	Communication Expense, Alarm System, 2-Way Line, Switchboard, Modem, T-1 Line and Traffic Control, Oct '11	8802272	2,017.66
CHANNING, BRUCE	Reimbursement, Travel and Meeting, Sep '11	8802278	216.00
CHEVRON	Vehicle Fuel, Oct '11	8802279	2,336.60
CYBERSOURCE CORPORATION	eCommerce Payment Gateway Service, Online Permits, Community Development, Sep '11	8802244	29.00
ECHEVARRIA, LUCY	Mileage Reimbursement, Community Services, Jul - Sep '11	8802281	87.72
EVERBANK COMMERCIAL FINANCE	Lease - Copier, City Hall, Oct '11	8802282	288.16
HOME DEPOT	Program Supplies, Community Services, Oct '11	8802287	99.68
IRVINE RANCH WATER DISTRICT	Water Usage, Parks, Sep '11	8802250	155.83
OC SHERIFF'S ADVISORY COUNCIL	Community Assistance Funding, Orange County Peace Officers' Memorial	8802255	7,500.00
OROS CONSULTING SERVICES, LLC	Professional Fees, Computer Consulting Services, Oct '11	8802296	4,517.50
RALPHS GROCERY COMPANY	Program Supplies, Community Services, Sep '11	8802260	16.30
REFUND, FACILITY RENTAL DEPOSIT	O. Bravo, V# 2002033.002	8802261	500.00
REFUND, FACILITY RENTAL DEPOSIT	K. Martin, V# 2002201.002	8802262	500.00
REYES, JANICE MATEO	Petty Cash Replenishment, Departmental Operating Expenditures, Oct '11	8802300	448.64
SAN DIEGO GAS & ELECTRIC	Electric Usage, Community Center, Traffic Control and Street Lights, Sep '11	8802263	22,944.17
SAN DIEGO GAS & ELECTRIC	Electric Usage, Street Lights, Sep '11	8802303	12,360.00
SKIBICKI, MARK	Refund, C&D Deposit, CR# 41139	8802305	410.80
SMART & FINAL	Program Supplies, Community Services and Office Supplies, City Hall, Sep '11	8802264	102.45
SONGSTAD, ALLAN	Reimbursement, Travel and Meeting Expense, LOCC, Sep '11	8802306	371.80
SOUTHERN CALIFORNIA EDISON	Electric Usage, Street Lights and Traffic Control, Sep '11	8802265	454.63
SOUTHERN CALIFORNIA EDISON	Electric Usage, Street Lights and Traffic Control, Sep '11	8802307	1,210.32
SPRINT	Communication Expense, Community Services, Sep '11	8802267	146.92
TARGET STORES	Program Supplies, Community Services, Sep - Oct '11	8802308	66.29

**CITY OF LAGUNA HILLS
WARRANT REGISTER
November 8, 2011**

VENDOR	DESCRIPTION	CHECK NO.	AMOUNT
THE GAS COMPANY	Gas Usage, Community Center, Sep '11	8802269	80.80
TOTALFUNDS BY HASLER	Postage, Meter Replenishment, Sep '11	8802309	1,000.00
	Total Prepaid Warrants:	\$	57,944.87
REGULAR WARRANTS:			
ALICEA, MIA	Contract Instructor Fee, Dancing Fall Session, Community Services	8802234	\$ 119.00
ALL CITY MANAGEMENT, INC.	Crossing Guard Services, 9/25/11 - 10/08/11	8802235	3,078.00
AMBIUS INC.	Facility Maintenance, Plant Service, Community Center, Oct - Dec '11	8802236	554.85
ATHALYE CONSULTING ENGINEERING	Professional Fees, La Paz Widening @ I-5 CIP # 159	8802273	41,070.37
BEE MAN, THE	Bee Removal, Parks, Oct '11	8802237	405.00
BILL'S SOUND & SECURITY	Facility Maintenance, Security and Alarm Systems, Community Center, Oct - Dec '11	8802238	285.00
BUREAU VERITAS NORTH AMERICA	Professional Fees, El Toro Rd @ Carlota Street Improvements CIP # 164 and On-Call Inspections, Sep '11	8802274	18,328.40
C&D ELECTRIC, INC.	Lighting Inspections, Parks, Sep '11	8802275	250.00
C2 REPROGRAPHICS	Printing Expense, El Toro Rd @ Carlota Street Improvements CIP # 164, Oct '11	8802276	46.44
CA DEPARTMENT OF TRANSPORTATION	Traffic Controller On Street Equipment, La Paz Widening @ I-5 CIP # 159	8802239	12,500.00
CALIF PARK & REC SOCIETY, INC.	Membership, Community Services, FY 11/12	8802277	135.00
CALIFORNIA OFFICE SYSTEMS	Usage - Copier, Community Center, Oct '11	8802240	217.65
CDW GOVERNMENT, INC.	Computer Software, Administrative Services, Oct '11	8802241	1,410.00
COMPLETE OFFICE OF CALIFORNIA	Office Supplies, Community Center, Oct '11	8802242	189.13
COUNTY CLERK-RECORDER	Recording Fee, Encroachment Agreement, Oct '11	8802243	27.00
CUSTOM QUICKPRINT & BUSINESS	Postcards, Printing & Mailing, Pet Vaccination Clinic & Adoption Event	8802280	666.46
DELL COMPUTER CORPORATION	Computer Supplies, Administration, Oct '11	8802245	140.06
ELKINS, CHRISTINA	Contract Instructor Fee, Dancing Fall Session, Community Services	8802246	202.30
FEDERAL EXPRESS CORPORATION	Delivery Expense, Oct '11	8802247	47.07
GORMAN, RON	Contract Instructor Fee, Guitar Fall Session, Community Services	8802283	504.00

CITY OF LAGUNA HILLS
WARRANT REGISTER
November 8, 2011

VENDOR	DESCRIPTION	CHECK NO.	AMOUNT
GOVPARTNER	Hosting Fees, Request Partner, Oct '11	8802248	500.00
GRAHAM COMPANY	Facility Maintenance, Emergency Lighting System, Community Center, Oct '11	8802284	410.00
GREEN GIANT LANDSCAPE INC.	Final Payment #5, North Laguna Hills Wayfinding Program CIP # 329	8802285	18,210.60
GREENSPAN, FRANCES	Contract Instructor Fee, How to Sell on eBay Fall Session, Community Services	8802286	371.70
IRON MOUNTAIN OFFSITE	Off Site Data Storage, Sep '11	8802249	198.34
JAMEY CLARK, INC.	Miscellaneous Park Repairs, Janitorial Services and Graffiti Removal, Sep - Oct '11	8802251	4,557.79
JAMEY CLARK, INC.	Graffiti Removal and Safety Inspections, Sep - Oct '11	8802288	920.64
JOE A. GONSALVES & SON	Professional Fees, Legislative Services, Nov '11	8802289	2,900.00
KNIGHT, LORNA ANGELA	Contract Instructor Fee, Yoga Fall Session, Community Services	8802290	1,565.20
LIEBERT CASSIDY WHITMORE	Professional Fees, Legal Services, Sep '11	8802291	2,070.00
LUCY, STEVEN	Program Expense, Community Services, Oct '11	8802252	650.00
MEDLOCK, GEORGE	Contract Instructor Fee, Drumming Fall Session, Community Services	8802253	84.00
MIGLIACCIO, JENNIFER	Contract Instructor Fee, Early Childhood Fall Session, Community Services	8802254	266.00
MOBILE MINI, INC.	Storage Rental Fee, Community Services, Nov '11	8802292	82.97
MYERS, JOHN	Contract Instructor Fee, Tennis Classes Fall Session, Community Services	8802293	260.00
NIEVES LANDSCAPE, INC.	Other Assorted Landscape Services, Jul - Aug '11	8802294	13,590.00
OFFICE SOLUTIONS	Office and Operating Supplies, Oct '11	8802256	170.46
OFFICE SOLUTIONS	Computer, Office and Operating Supplies, Oct '11	8802295	618.38
ORANGE COUNTY FIRE AUTHORITY	Remittance, Fire Fees Collected, Aug '11	8802257	1,255.00
ORANGE COUNTY REGISTER	Subscription, Community Center, 10/22/11 - 12/17/11	8802258	79.30
ORANGE COUNTY TREASURER	Road Maintenance, Sep '11	8802302	73,446.01
QUICK CRETE PRODUCTS CORP.	Facility Maintenance, Lighted Bollard Dome Caps, Community Center, Oct '11	8802259	251.06
QUIKSILVER COURIER	Delivery Service, Oct '11	8802297	29.64
RENEGADE RACING	Event Management Services, 2012 1/2 Marathon and 5K Event, May '12, Partial Payment	8802299	5,000.00
RICHARD FISHER ASSOCIATES	Professional Fees, Renovation Costeau & Stockport Park CIP # 239 and Engineering, Oct '11	8802301	5,630.55
SCHELDE NORTH AMERICA	Equipment Maintenance, Winch Replacement, Community Center, Oct '11	8802304	35.00

**CITY OF LAGUNA HILLS
WARRANT REGISTER
November 8, 2011**

VENDOR	DESCRIPTION	CHECK NO.	AMOUNT
SOUTHERN CALIFORNIA EDISON CO.	Electric Relocation, El Toro Rd @ Carlota Street Improvements C/P # 164	8802266	1,397.02
STANDARD TEL NETWORKS, LLC	Maintenance, Phone System, Community Center, Sep '11	8802268	750.00
WEST COAST ARBORISTS, INC.	Tree Trimming, Sep '11	8802310	15,641.00
WILLDAN	Professional Fees, Engineering, Sep '11	8802311	11,685.00
WOODRUFF, SPRADLIN & SMART	Professional Fees, Legal Services, Sep '11	8802312	23,369.37
XEROX CORPORATION	Lease - Copier, City Hall, Oct '11	8802313	485.51
		Total Regular Warrants:	
		\$	266,656.27
		**WARRANT REGISTER TOTAL **	
		\$	324,601.14

CITY OF LAGUNA HILLS

AGENDA REPORT ADMINISTRATIVE SERVICES DEPARTMENT

**ISSUE: FIRST QUARTER FINANCIAL AND TREASURER'S REPORT FOR
FY 2011/12**

SUMMARY:

Staff is submitting to the City Council the Quarterly Financial Highlights for the First Quarter of Fiscal Year 2011/12. The financial statements show the planned use of reserves for the first quarter. This is largely due to the number of revenues and expenditures that are unevenly received or expended over the course of the year. The City's total portfolio of \$8,350,670 as of September 30, 2011, is invested in authorized securities.

BACKGROUND

Attached to this report is a pamphlet entitled "City of Laguna Hills Quarterly Financial Highlights, First Quarter, Fiscal Year 2011/12." The information presented in the pamphlet provides the City Council and City management with the results of the City's financial operations for the quarter ended September 30, 2011, and its fund balance as of the same period. The pamphlet also contains a condensed Treasurer's Investment Report, as of September 30, 2011.

The Laguna Hills Civic Center section in the pamphlet includes an abridged balance sheet and income statement summary for the Laguna Hills Center leasing operation. Essex Realty, the management company for the property, reported a net income of \$11,471 for the three months of leasing activity from July 1 to September 30, 2011. After adding back contra rent revenue associated with the City's occupied spaces, the effective net income is \$161,611. The balance sheet shows equity of \$16,869,878 as of September 30, 2011.

**RECOMMENDATION: THAT THE CITY COUNCIL RECEIVE AND FILE THE FIRST
QUARTER FINANCIAL AND TREASURER'S REPORT FOR FY 2011/12.**

ATTACHMENTS:

Exhibit A: City of Laguna Hills Quarterly Financial Highlights
1st Quarter FY 2011/12

EXHIBIT A

City of Laguna Hills
Quarterly Financial Highlights
1st Quarter, FY 2011/12

CITY OF LAGUNA HILLS

Quarterly Financial Highlights



2nd Quarter, Fiscal Year 2011-12

September 30, 2011

Honorable Mayor and City Council Members:

The following unaudited financial information summarizes the City's overall financial position for the current fiscal year through September 30, 2011.

A Summary of Funding Sources and Uses for the first quarter ended September 30, 2011 is presented in the following table:

FY 2011/12 First Quarter Highlights

	YTD ACTUAL (million)	BUDGET (million)	YTD % OF BUDGET
Funding Sources	\$ 1.56	\$ 26.22	6%
Funding Uses	4.86	\$ 26.19	19%
Excess of Sources over Uses	(\$ 3.30)	\$.03	

REPORT VARIANCES

In compliance with Government Accounting Standards Board Statement No. 22, revenues from taxpayer-assessed taxes, such as property and sales tax, received in the first two months of this fiscal year were accrued in the prior fiscal year. As such, the first quarter revenues are typically lower than the other three quarters. There are also certain expenditures, such as annual insurance premiums, that are paid in full during the first quarter (see Comparative Statement of Operations on page 5). Therefore, when comparing the budget with actual data, one cannot expect that a quarter, or 25%, of the fiscal year's revenues and expenditures would have been received or expended during the first quarter of the fiscal year. Thus, the YTD as a percentage of budget shown in this report does not necessarily indicate material deviations or budget variances.

FUND BALANCE

Included in this pamphlet, on page 4, is a report on the City's Fund Balance as of September 30, 2011. City-managed short-term idle funds, as well as bond funds, are invested in approved securities. An abridged balance sheet, which itemizes the City's assets and liabilities, is included on page 3.

Continued on page 2

LAGUNA HILLS CIVIC CENTER

The abridged Balance Sheet and Income statement for the Laguna Hills Civic Center leasing operation is shown below:

Abridged Balance Sheet As of September 30, 2011

ASSETS	
Total Current Assets	\$ 201,404
Total Fixed Assets	16,664,828
Total Other Assets	3,646
TOTAL ASSETS	\$ 16,869,878
LIABILITY & EQUITY	
Total Current Liabilities	\$ 51,854
Total Equity	16,818,024
TOTAL LIABILITIES & EQUITY	\$ 16,869,878

Income Statement Summary For the 9 Months Ended September 30, 2011

TOTAL INCOME	\$ 147,873
TOTAL EXPENSES	136,402
NET INCOME/(LOSS)	\$ 11,471

Funding Sources

The City's total funding sources are made up of general fund revenues, special revenues, and debt financing. General Fund Revenues are utilized primarily to finance the City's general governmental activities. Special revenues and grants are earmarked for specific expenditures, typically capital projects.

General Fund Revenues

At quarter end, general fund revenues totaled \$1,059,603, or 6% of budget. Receipts of Property Tax, which are concurrent with the County's tax collection schedule, came in at \$207,757, or 2% of budget. Intergovernmental Revenues, which includes sales tax revenue, were \$334,842, or 6% of budget. The recording of these revenue sources comply with GASB 23 which addresses the timing of recognition of non-exchange transactions, e.g. taxes and fines. Franchise fees from utility companies and transient occupancy tax comprise Franchise Tax revenues, which came in at 4% of budget. These receipts lag at least a quarter and no accrual was made at quarter end. Revenues from Licenses & Permits and Charges for Services are dependent upon development activities and both sources of revenue came in at 19% of budget. Fines and Forfeitures, which includes parking and vehicle fines, ended the quarter at 12% of budget, or \$61,100.

Special Revenues and Grants

Many of the Special Revenue funding sources are tied in with the City's Capital Improvement Plan. The receipts of funding sources for certain capital projects typically lag behind the spending on the projects, as the claims are applied for during construction or after project-completion. At the end of the first quarter, special revenues receipts totaled \$496,721, or 7% of budget.

Funding Uses

The City's total funding uses consist of the City's Operating Expenditures, outlay for Capital Improvement projects, debt charges and expenditures for grant related programs. At the end of the first quarter, total funding uses were approximately \$4.9 million, which was 19% of the annual budget.

Operating Expenditures

At the end of the first quarter, operating expenditures totaled roughly \$3.9 million, which represents 23% of the total operating budget. The spending levels for all the functional areas were at or below 25%, with the exception of Administrative Services as payments for certain expenditures, such as annual insurance premiums, are paid in full at the beginning of the fiscal year.

Capital Improvement Plan

All budgeted capital improvement projects automatically re-appropriate each fiscal year

until the project is completed. The amended budget of approximately \$6.9 million includes roughly \$6.2 million in budget carry-overs from the re-appropriation of capital improvement projects, which includes the La Paz Widening at I-5 and the Avenida de la Carlota Widening projects. At the end of the first quarter, total capital expenditures were \$611,886, or 9% of budget.

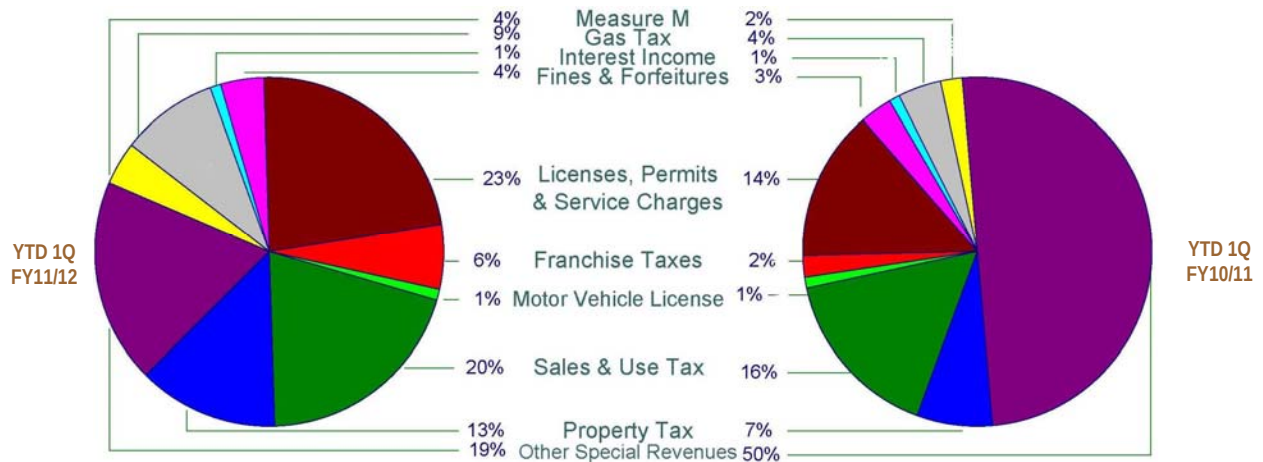
The following table lists the City's capital projects by major expenditure categories as of the end of this reporting period.

Capital Improvement Program	
For the 3 Months Ended, September 30, 2011	
Streets, Signals & Lighting	\$ 539,598
Flood Control & Water Quality	5,500
Public Facilities	66,787
Total	\$ 611,886

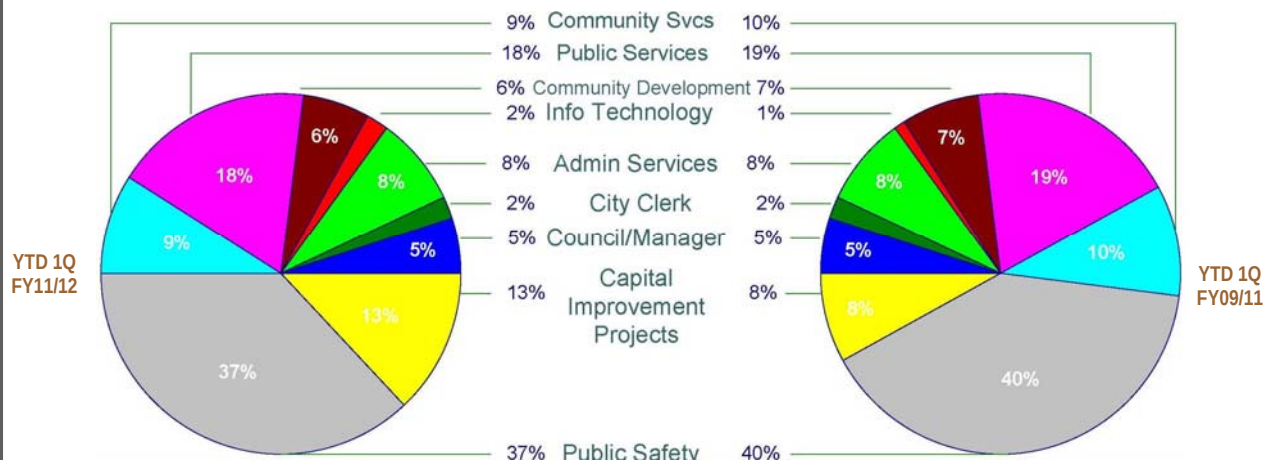
CITY OF LAGUNA HILLS
ABRIDGED BALANCE SHEET - GOVERNMENTAL FUNDS
SEPTEMBER 30, 2011

ASSETS	
Cash and investments	\$ 8,350,670
Receivables:	
Accounts	236,327
Interest	8,222
Prepaid items	32,731
Due from other governments	465,312
Total assets	\$ 9,093,263
LIABILITIES AND FUND BALANCES	
Liabilities:	
Accounts payable	\$ 1,175,444
Due to Other Governments	149,530
Payroll and benefits	63,583
Refundable deposits to contractors	322,715
Deferred revenue	133,297
Trust accounts	7,651
Total liabilities	1,852,221
Fund balances:	\$ 7,241,042
Total liabilities and fund balances	\$ 9,093,263

OPERATING & SPECIAL REVENUES— 1ST QUARTER COMPARISON



OPERATING & CIP EXPENDITURES— 1ST QUARTER COMPARISON



**CITY OF LAGUNA HILLS
STATEMENT OF WORKING FUNDS
FOR THE 3 MONTHS ENDED, SEPTEMBER 30, 2011**

Fund Balance	As of July 1, 2011	
General Fund		\$ 7,525,995
Proposition 1B		476,833
CARITS		804,331
Redevelopment Tax Increment		103,440
Beverage Recycling		45,153
CR&R Recycling		(6,976)
C&D Forfeited Deposits		10,529
AB 939 Surcharge Grant		10,558
Public Art Fund		(266,350)
Grants & Contributions		25,234
Capital Projects Fund		1,811,562
Total		<u>10,540,306</u>

Excess (Deficiency) of Funding Sources over Funding Uses (3,299,265)

Fund Balance **As of September 30, 2011** \$ **7,241,042**

Disposition of Working Funds	As of September 30, 2011	
Total Cash per General Ledger		\$ 2,405,475
Investments (Details of Portfolio are in Treasurer's Report)		<u>5,945,195</u>
Total Cash and Investments		8,350,670
Receivables Net of Liabilities		<u>(1,109,628)</u>

Working Funds **As of September 30, 2011** \$ **7,241,042**

The Financial Management Report for the 1st Quarter of Fiscal Year 2011-12 is hereby submitted. The accounts of the City are organized on the basis of funds, each of which is considered a separate accounting entity. To the best of our knowledge and belief, the above information are reported in a manner that presents fairly the financial position and results of operation of the governmental funds of the City of Laguna Hills.

Respectfully submitted,

original signed

Donald J. White
Assistant City Manager

November 2, 2011

Date

**CITY OF LAGUNA HILLS
COMPARATIVE STATEMENT OF OPERATION - ALL FUNDS
FOR THE 3 MONTHS ENDED, SEPTEMBER 30, 2011**

	FY 2011/12			FY 2010/11		
	Y-T-D ACTUAL	AMENDED BUDGET	YTD % of BUDGET	Y-T-D ACTUAL	AMENDED BUDGET	YTD % of BUDGET
FUNDING SOURCES						
Operating Revenues						
Property Taxes	\$ 207,757	\$ 8,443,720	2%	\$ 200,318	\$ 9,165,896	2%
Intergovernmental Revenues	334,842	5,615,936	6%	441,382	6,498,750	7%
Franchise Taxes	87,121	2,244,170	4%	50,966	2,368,281	2%
Licenses and Permits	154,694	805,600	19%	143,889	481,518	30%
Charges for Current Services	214,089	1,117,613	19%	228,818	1,024,872	22%
Fines & Forfeitures	61,100	500,000	12%	80,068	475,000	17%
Total General Fund Revenues	<u>1,059,603</u>	<u>18,727,039</u>	6%	<u>1,145,440</u>	<u>20,014,317</u>	6%
Special Revenue Funds						
Gas Tax Fund	137,653	912,629	15%	103,001	630,360	16%
Measure M - Turnback	67,312	468,290	14%	53,815	429,686	13%
Measure M - Discretionary	-	465,709	0%	-	2,877,381	0%
AB 2766 Fund	-	40,000	0%	-	38,000	0%
Prop 42 Traffic Congestion Relief	-	-	-	-	451,392	0%
CDBG	-	228,750	0%	-	373,725	0%
FCPP	-	-	-	1,275,000	1,275,000	100%
Redevelopment Tax Increment	62,302	70,000	89%	-	33,660	0%
Housing Set-aside	-	22,400	0%	-	-	-
Proposition 1B	-	-	-	-	646,027	-
Beverage Recycling Fund	-	8,826	0%	-	8,000	0%
CR&R Recycling Fees	20,000	20,000	100%	20,000	20,000	100%
C&D Forfeited Deposits	-	50,000	0%	-	-	-
Senior Mobility Program	5,918	34,226	17%	34,226	-	-
Public Art Fund	203,536	-	-	-	-	-
Grants and Contributions	-	4,990,000	0%	-	5,140,000	0%
Law Enforcement Grants	-	-	-	-	100,000	0%
Total Special Revenue Funding	<u>496,721</u>	<u>7,310,830</u>	7%	<u>1,486,042</u>	<u>12,023,231</u>	12%
Other Funding Sources						
Interest Income	7,781	80,000	10%	9,539	140,000	7%
Distribution from Enterprise Fund	-	100,000	0%	-	200,000	0%
Total Other Funding Sources	<u>7,781</u>	<u>180,000</u>	4%	<u>9,539</u>	<u>340,000</u>	3%
TOTAL FUNDING SOURCES	<u>\$ 1,564,104</u>	<u>\$ 26,217,869</u>	6%	<u>\$ 2,641,021</u>	<u>\$ 32,377,548</u>	8%
FUNDING USES						
Operating Expenditures						
City Council/Manager	\$ 226,943	1,056,981	21%	\$ 220,786	\$ 1,215,047	18%
City Clerk	88,517	380,523	23%	87,451	416,673	21%
Administrative Services	375,808	1,311,807	29%	319,866	1,357,090	24%
Information Technology	67,261	271,420	25%	40,269	203,001	20%
Community Development	255,938	1,363,286	19%	270,312	1,246,135	22%
Public Services	799,391	4,020,445	20%	750,769	4,034,907	19%
Community Services	418,267	1,758,347	24%	404,749	1,754,629	23%
Public Safety	1,647,644	6,760,343	24%	1,627,266	6,939,462	23%
Total Operating Expenditures	<u>3,879,769</u>	<u>16,923,152</u>	23%	<u>3,721,468</u>	<u>17,166,944</u>	22%
Capital Improvement Program	<u>611,886</u>	<u>6,943,434</u>	9%	<u>318,143</u>	<u>13,434,559</u>	2%
Other Funding Uses						
Debt Charges	334,194	1,798,387	19%	360,281	1,892,000	19%
Cost of Bond Issuance	-	-	-	-	-	-
Payment to Escrow Agent	-	-	-	-	-	-
General Plan Update	-	-	-	-	-	-
Claims	2,889	50,000	6%	16,129	-	-
Distribution to Enterprise Fund	-	-	-	-	-	-
Special Revenue Fund Expenditures						
Redevelopment Tax Increment Fund	2,608	47,515	5%	-	-	-
Housing Set-Aside	-	22,400	0%	-	-	-
CDBG Fund Expenditures	-	228,750	0%	1,192	373,725	0%
Senior Mobility Program	850	63,721	1%	2,676	-	-
Beverage Recycling	-	34,000	0%	692	20,000	3%
CR&R Recycling Fund	7,540	13,019	58%	12,976	20,000	65%
Forfeited C&D Deposits	-	58,981	0%	-	49,000	0%
AB 939 Surcharge Grant	1,146	7,468	15%	659	-	-
Grants & Contributions	16,415	-	-	-	-	-
Law Enforcement Fund Expenditures	6,073	-	-	772	-	-
Total Other Funding Uses	<u>371,714</u>	<u>2,324,241</u>	16%	<u>395,377</u>	<u>2,354,725</u>	17%
TOTAL FUNDING USES	<u>\$ 4,863,369</u>	<u>\$ 26,190,827</u>	19%	<u>\$ 4,434,988</u>	<u>\$ 32,956,228</u>	13%
NET CHANGE IN FUND BALANCE	<u>\$ (3,299,265)</u>	<u>\$ 27,042</u>		<u>\$ (1,793,967)</u>	<u>\$ (578,680)</u>	

TREASURER'S INVESTMENT REPORT (CONDENSED)
FOR THE FIRST QUARTER ENDED SEPTEMBER 30, 2011

Cash and Investments by Type	Beginning Book Value	Deposits	Withdrawals	Ending Book Value	1st Qtr Interest Income
State Treasurer's Investment Fund	\$ 5,561,022	\$ 5,922	\$ 2,000,000	\$ 3,566,944	\$ 4,681
Public Funds Certificates of Deposits	500,000	250,000	250,000	500,000	403
Multiple Maturity Certificates of Deposits	70,957	-	-	70,957	898
Funds Under Trust Indenture	1,809,483	336,340	338,529	1,807,294	1,732
Deposits in Escrow	153,330	-	153,330	-	-
Demand Deposit Accounts	2,757,143	4,718,222	5,069,889	2,405,475	-
TOTAL	\$ 10,851,934	\$ 5,310,483	\$ 7,811,748	\$ 8,350,670	\$ 7,714

CURRENT PORTFOLIO SUMMARY

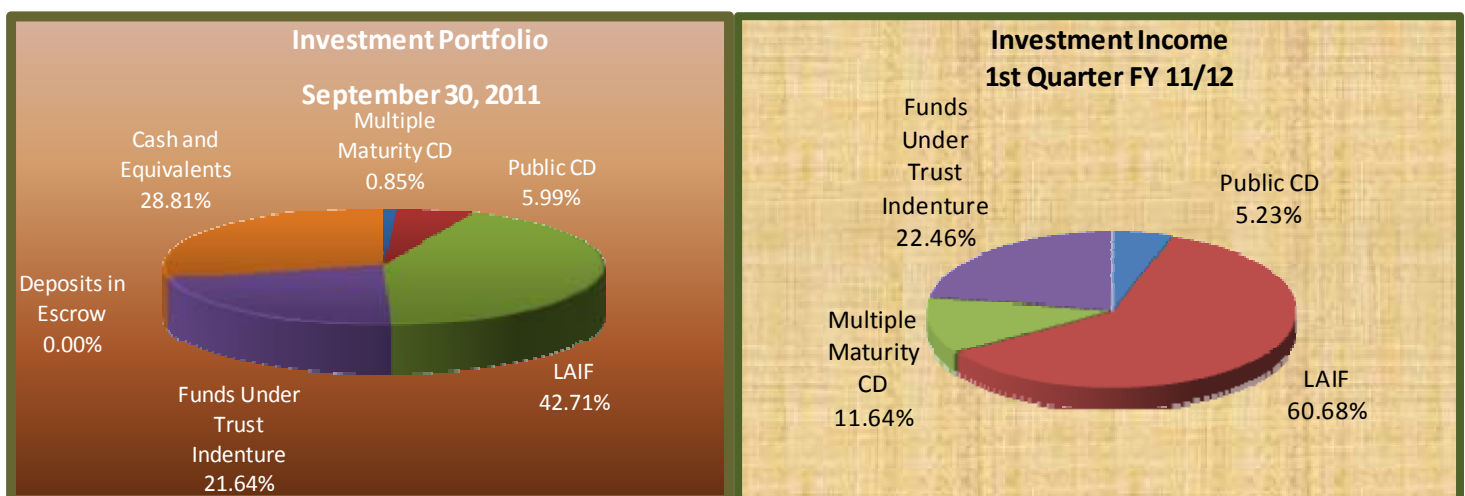
Short-term excess cash is currently invested primarily in the Local Agency Investment Fund (LAIF) administered by the State Treasurer. Held under trust indenture by The Bank of New York Mellon Trust Company, N.A, is a Reserve Fund established to secure the timely payment of principal and interest represented by the 2010 Refinancing Project bond issues. The City's investment policy approved by Council resolution is the prevailing guideline in managing investments.

CASH AND INVESTMENTS

The following is the summary of the cash and investments of the City-managed funds for the 1st quarter ended September 30, 2011, compared with the same period of the previous fiscal year:

	September 30, 2011	September 30, 2010
Cash	\$2,405,475	\$2,436,102
Investments	<u>4,137,900</u>	<u>4,614,258</u>
Cash & Investments - City Managed Funds	6,543,376	7,050,360
Restricted Cash and Investments	<u>1,807,294</u>	<u>1,913,570</u>
Total Cash & Investments - All Funds	<u><u>\$8,350,670</u></u>	<u><u>\$8,963,930</u></u>

We believe the City's portfolio provides sufficient cash flow liquidity to meet the next six months of the City's projected operating expenditures.



CITY OF LAGUNA HILLS

AGENDA REPORT PUBLIC SERVICES DEPARTMENT

**ISSUE: PROGRESS PAYMENT NO. 5, FINAL, FOR CITYWIDE WAYFINDING
SIGN PROGRAM, CIP NO. 329**

SUMMARY:

In accordance with City Council authorization, Green Giant Landscape, Inc., began work on the Citywide Wayfinding Sign Program, CIP No. 329, on May 1, 2008. All of the contract work has been completed. Green Giant Landscape, Inc., has submitted the fifth payment request. Approval is recommended along with the filing of the Notice of Completion.

BACKGROUND:

Work on the Citywide Wayfinding Sign Program that began in May 2008, was substantially completed in July 2009. During the course of the project, four signs were damaged due to traffic collisions. Change Order No. 2 was approved by City Council in April 2011, for re-fabrication of damaged signage, removal and relocation of signage currently overhanging onto the street, sidewalk panel removal and replacement, and all necessary work related to the installation of posts.

A routine monthly action for capital improvement projects is the submission, review, and approval of the contractor's invoice. Procedurally, field staff verifies the contractor's quantities and matches them with the submitted invoice. The unit prices and total costs of the project are confirmed by the office staff and a progress payment is processed. A ten (10) percent retention is withheld from each payment to assure final performance of the work. The contractor for the project, Green Giant Landscape, Inc., has submitted the fifth and final progress payment for the subject project as follows:

**RECOMMENDATION: THAT THE CITY COUNCIL APPROVE PROGRESS
PAYMENT NO. 5, FINAL, IN THE NET AMOUNT OF \$18,210.60, TO GREEN GIANT
LANDSCAPE, INC., FOR THE CITYWIDE WAYFINDING SIGN PROGRAM,
CIP NO. 329, AND AUTHORIZE THE FILING OF THE NOTICE OF COMPLETION
AND SUBSEQUENT RELEASE OF RETENTION IN 35 DAYS, IF NO LIENS HAVE
BEEN FILED.**

Agenda Report
Progress Payment No. 5, Final
Citywide Wayfinding Sign Program
Page 2

CCO#2

ITEM	DESCRIPTION	QUANTITY	UNIT	\$	AMOUNT
1	Fabricate sign V03.20 & install	1	EA	\$2,488.00	\$2,488.00
2	R/R post & install sign V03.36	1	EA	\$1,745.00	\$1,745.00
3	Fabricate sign V03.21 & install	1	EA	\$2,488.00	\$2,488.00
4	Fabricate sign V03.35 & install	1	EA	\$2,488.00	\$2,488.00
5	Fabricate sign V05.02 & install	1	EA	\$2,300.00	\$2,300.00
6	Install new post & ex.sign V03.33	1	EA	\$1,745.00	\$1,745.00
7	Install new post & ex.sign V03.32	1	EA	\$1,745.00	\$1,745.00
8	Install new post & ex.sign V03.28	1	EA	\$1,745.00	\$1,745.00
9	Install new post & ex.sign V03.29	1	EA	\$1,745.00	\$1,745.00
10	Install new post & ex.sign V03.26	1	EA	\$1,745.00	\$1,745.00

Total To Date	\$192,820.00	
Less Prior Billing	<u>\$172,586.00</u>	
Total This Period	\$ 20,234.00	\$20,234.00
Less 10% Retention		<u>\$ (2,023.40)</u>
		\$18,210.60

FISCAL IMPACT:

The final progress payment is within the Capital Improvement Program Budget for the Citywide Wayfinding Sign Program, CIP No. 329.

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE PROGRESS PAYMENT NO. 5, FINAL, IN THE NET AMOUNT OF \$18,210.60, TO GREEN GIANT LANDSCAPE, INC., FOR THE CITYWIDE WAYFINDING SIGN PROGRAM, CIP NO. 329, AND AUTHORIZE THE FILING OF THE NOTICE OF COMPLETION AND SUBSEQUENT RELEASE OF RETENTION IN 35 DAYS, IF NO LIENS HAVE BEEN FILED.

ATTACHMENTS:

- Notice of Completion

Recording Requested by and
When Recorded Mail to:

Peggy J. Johns, City Clerk
City of Laguna Hills
24035 El Toro Road
Laguna Hills, CA 92653

No Fee Exempt per GC§27383

By: _____

NOTICE OF COMPLETION

Notice is hereby given that the following public improvements have been completed and accepted by the City Council of the City of Laguna Hills on November 8, 2011.

Description of Improvements

Citywide Wayfinding Sign Program, CIP No. 329: manufacture and installation of signs onto existing posts, new posts, and/or masonry constructed bases.

General Location

Citywide.

Owner of Property Address

City of Laguna Hills
24035 El Toro Road
Laguna Hills, CA 92653

Contractor

Green Giant Landscape, Inc.
Mr. Don Henderson, President
941-A Macy Street
La Habra, CA 90631

This Notice of Completion is executed under authority of a directive from the City Council of the City of Laguna Hills.

I, Kenneth H. Rosenfield, P.E., declare under penalty of perjury that I am the City Engineer of the City of Laguna Hills, that I am familiar with the facts stated in the foregoing Notice of Completion executed for and on its behalf, and that I have read the foregoing Notice of Completion and know the contents thereof to be true.

Dated: November 8, 2011

Kenneth H. Rosenfield, P.E., Director of Public Works/City Engineer
City of Laguna Hills

CITY OF LAGUNA HILLS

AGENDA REPORT COMMUNITY DEVELOPMENT

ISSUE: CHANGED PLAN APPLICATION NO. 06-11-1985, A REQUEST BY AT&T TO EXPAND THE EXISTING WIRELESS COMMUNICATIONS FACILITY LOCATED AT 25131 COSTEAU STREET IN THE (NMU) NEIGHBORHOOD MIXED USE ZONING DISTRICT

RECOMMENDATION: THAT THE PLANNING AGENCY: (1) CONDUCT A REVIEW OF CHANGED PLAN NO. 06-11-1985; AND (2) ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING CHANGED PLAN NO. 06-11-1985, A REQUEST BY AT&T TO EXPAND THE EXISTING WIRELESS COMMUNICATIONS FACILITY LOCATED AT 25131 COSTEAU STREET IN THE (NMU) NEIGHBORHOOD MIXED USE ZONING DISTRICT."

SUMMARY:

At the August 23, 2011, Planning Agency meeting, the Planning Agency reviewed a Changed Plan application submitted by Chris Voss ("Applicant") from Coastal Business Group on behalf of AT&T to alter the wireless communications facility on the Public Storage building rooftop at 25131 Costeau Street. This application requested approval to allow replacement of previously approved four (4) foot tall wireless antennas with eight (8) foot tall antennas, and expansion of the existing screening wall by three (3) feet in height to ensure the facility continues to be completely screened from view. In order to improve the facility's aesthetics and compatibility with the Public Storage building, the Applicant agreed to incorporate architectural trim and scoring lines on the screening wall, and to plant a minimum forty (40) foot tall Canary Island Pine tree in the landscaped area at the corner of Alicia Parkway and Costeau Street.

After discussion, the Planning Agency's direction for the Applicant was to evaluate the feasibility of incorporating additional landscaping in front of the Public Storage building along the Alicia Parkway frontage (between Costeau Street and Bentley Lane). Due to the complexity involved in working with large corporations such as AT&T and Public Storage, it has taken some time for the Applicant to complete this request and as a result, this item was continued three (3) times throughout September and October.

The Applicant has completed his research into incorporating additional landscaping and determined it to be cost prohibitive. Therefore, the Applicant is requesting approval of the project as originally proposed, including incorporation of architectural trim and scoring lines to the expanded equipment enclosure and addition of a mature Canary

Island Pine tree at the corner of Alicia Parkway and Costeau Street. Staff's recommendation is to approve the project as originally proposed with the attached twenty-five (25) conditions of approval.

PROJECT DESCRIPTION AND ANALYSIS:

The Applicant has completed his research into the cost of providing and installing additional landscaping along Alicia Parkway next to the Public Storage building, and projects the cost associated with this improvement to be approximately fifty thousand (50,000) dollars. Ongoing maintenance of the new landscaping is projected to cost approximately sixty (60) dollars per month. The Applicant believes that incorporating such landscaping is cost prohibitive for the scope of work being proposed for the Public Storage wireless facility. Therefore, the Applicant is requesting approval of his Changed Plan application as originally proposed. Please see **Attachment No. 2** for staff's analysis of this project as originally proposed at the August 23, 2011, Planning Agency meeting.

Staff recognizes that the General Plan designates this site as part of the Alicia Gateway opportunity area, which has a long-term vision of being redesigned "in a way that welcomes visitors and residents into the community." Additional landscaping incorporated along Alicia Parkway next to the Public Storage building would help create a more welcoming environment in this opportunity area; however, staff does not believe there is a reasonable nexus between the City's interest in furthering this vision and a condition of approval for a substantial landscaping project as part of a minor Changed Plan application to an existing wireless communications facility. Previous efforts to add landscaping to this site have resulted in AT&T providing and maintaining six (6) Canary Island Pine trees which serve a dual-purpose: 1) They soften the industrial look of the Public Storage building and contribute toward the General Plan's long-term vision of creating a more welcoming environment in the Alicia Gateway area; and 2) they help mitigate any negative visual impacts from the wireless facility when fully grown. As part of this project, the Applicant has agreed to add one (1) mature Canary Island Pine tree to the site which will serve the same dual-purpose as the previous six (6).

As future redevelopment occurs in this area, staff will remain cognizant of any opportunity to further implement the General Plan's vision for the Alicia Gateway opportunity area.

CONCLUSION:

Staff believes that this project, subject to the attached twenty-five (25) conditions of approval, meets the requirements and objectives of the City's General Plan and Development Code. With approval of this project, City residents will benefit from improved cellular service and improved aesthetics at the site due to the incorporation of a mature Canary Island Pine tree and inclusion of architectural trim and details on the

expanded screening wall. Therefore, staff believes that approval of Changed Plan No. 06-11-1985 is warranted.

CEQA FINDINGS:

Staff has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA). Upon completion of this review, it has been determined that this project is categorically exempt from CEQA, pursuant to Guideline Section No. 15301 (Class 1, Existing Facilities).

RECOMMENDATION: THAT THE PLANNING AGENCY: (1) CONDUCT A REVIEW OF CHANGED PLAN NO. 06-11-1985; AND (2) ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING CHANGED PLAN NO. 06-11-1985, A REQUEST BY AT&T TO EXPAND THE EXISTING WIRELESS COMMUNICATIONS FACILITY LOCATED AT 25131 COSTEAU STREET IN THE (NMU) NEIGHBORHOOD MIXED USE ZONING DISTRICT."

ATTACHMENTS:

1. Response letter submitted by the Applicant.
2. Agenda report from the August 23, 2011, Planning Agency meeting.
3. Resolution of approval.
4. Photo-simulations.
5. Site plan, antenna/equipment layout, and proposed elevations.



City of Laguna Hills
24035 El Toro Road
Laguna Hills, CA 92653
Attention: Chris Dominguez

Cell Site Modification at 25131 Costeau Street

AT&T has researched the cost for the requested landscaping, drip/sprinkler system, and the potential additional cost per month for maintenance and upkeep. The additional cost for all of the landscaping, labor and the drip/sprinkler system alone will be an additional \$50,000.00+/-, and monthly costs for upkeep and maintaining the landscaping will be roughly \$60.00+/- a month. This does not include additional costs for revised drawings, landscape plans, photo simulations or man hours to produce these items.

AT&T has already installed (6) Canary Island Pine trees in the past and the original proposed design would require AT&T to install a 7th Canary Island Pine tree, as well as add the scoring lines and the trim on the proposed extended screening. AT&T is currently taking up less than 2% of the building and does not feel the landscaping requests are fair, or in-line with the actual goals AT&T is proposing.

--Sincerely,

Chris Voss Coastal Business Group, Inc.

16460 Bake Parkway, Suite 100 Irvine, CA 92618

P: 949.336.1550

F: 949.336.6665

E: cvoss@coastalbusinessgroup.net

CITY OF LAGUNA HILLS

PLANNING AGENCY AGENDA REPORT COMMUNITY DEVELOPMENT DEPARTMENT

ISSUE: CHANGED PLAN APPLICATION NO. 06-11-1985, A REQUEST BY AT&T TO EXPAND THE EXISTING WIRELESS COMMUNICATIONS FACILITY LOCATED AT 25131 COSTEAU STREET IN THE (NMU) NEIGHBORHOOD MIXED USE ZONING DISTRICT.

SUMMARY:

Changed Plan No. 06-11-1985 is a revision to a previously approved minor site development permit that seeks to expand the existing wireless communications facility on the Public Storage building at 25131 Costeau Street. The applicant is Chris Voss ("Applicant") from Coastal Business Group on behalf of AT&T. This facility was originally approved through the minor site development permit process due to all antennas and associated equipment being entirely hidden behind a screening wall. Since its construction, this facility has been entirely hidden from view, and upon completion of the proposed revision, will continue to be entirely hidden from view.

The proposed revision consists of replacing (previously approved) four (4) foot tall antennas with eight (8) foot tall antennas, and increasing the height of the antenna screening wall from six (6) feet to nine (9) feet. Associated equipment will also be installed within an existing storage room on the first floor of the building. Once complete, the proposed project will allow AT&T to offer "4G" service to its current and future customers in the area.

Staff has reviewed the Development Code ("Code") requirements as well as General Plan issues, goals, and strategies, and has evaluated the project for potential significant environmental impacts in accordance with the California Environmental Quality Act (CEQA). Staff has determined that the proposed project, subject to conditions of

RECOMMENDATION: THAT THE PLANNING AGENCY: (1) CONDUCT A REVIEW OF CHANGED PLAN NO. 06-11-1985; AND (2) ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING CHANGED PLAN NO. 06-11-1985, A REQUEST BY AT&T TO EXPAND THE EXISTING WIRELESS COMMUNICATIONS FACILITY LOCATED AT 25131 COSTEAU STREET IN THE (NMU) NEIGHBORHOOD MIXED USE ZONING DISTRICT."

approval, will not result in any significant adverse impacts to the public health, safety and general welfare.

AUTHORITY:

In regards to the permitting of wireless communications facilities, Section 9-58.060 of the Code states that “all nonexempt installations shall require the approval of a conditional use permit, with the exception of those that will be entirely hidden by screening or are located entirely within an existing structure, and comply with all height and location requirements of the relevant zoning district. These facilities shall require the approval of a minor site development permit.” This facility was originally approved in 2005 through the minor site development permit process.

Section 9-92.080(G)(1) gives the Community Development Director the authority to review and approve changes to a previously approved plan or permit, provided that such change does not exceed ten (10) percent of the gross square footage of the original project.

Section 9-92.080(G)(2) gives the Community Development Director the authority to “forward any project over which he or she has authority or which he or she shall deem of sufficient interest on a broader land use policy scale to the Agency for their consideration.”

The application review criteria used to determine approval for a cellular antenna site is primarily based on aesthetic quality. Chapter 9-58 of the Code states that “communication facilities shall be designed to minimize the visual impact to the greatest extent feasible, considering technological requirements, by means of placement, screening, and camouflage, to be compatible with existing architectural elements and building elements, and other site characteristics. The smallest and least visible antennas possible shall be used to accomplish the coverage objectives.”

BACKGROUND:

This wireless facility was originally permitted in 2005 through approval of Site Development Permit No. 2004-050 for AT&T. This permitted installation of up to twelve (12) antennas on top of the Public Storage building, are completely concealed behind a six (6) foot high screening wall. In order to soften the appearance of the existing Public Storage building and, ultimately, the screening wall, AT&T planted six (6) Canary Island Pine trees along Alicia Parkway. Mechanical screening on rooftops of commercial buildings is typically four (4) to six (6) feet in height. Since the Applicant is now requesting approval for a screening wall nine (9) feet in height, the Community Development Director has deemed the proposal to be of sufficient interest to forward to the Planning Agency for review and approval.

To date, AT&T has installed six (6) antennas at this site and the current application is part of AT&T’s long-term goal of upgrading its wireless network to offer “4G” cellular service to its customers in the area.

PROJECT DESCRIPTION AND ANALYSIS:

The proposed project will replace the previously approved four (4) foot tall antennas with eight (8) foot tall antennas arranged in three (3) sectors with four (4) antennas per sector. In order to accommodate the taller antennas, the existing screening wall will be raised three (3) feet to a height of nine (9) feet and painted and textured to match the Public Storage building. Due to the increased height of the antenna enclosure, ensuring that this facility continues to be well-screened and aesthetically compatible with the Public Storage building is important.

Site visits show that this facility is well-screened when looking north on Alicia Parkway due to two large Canary Island Pine trees in the landscaped area. The facility is most visible when looking south along Alicia Parkway. The Canary Island Pine trees planted as part of Site Development Permit No. 2004-050 have not matured fully, but will continue to grow over time. In order to further screen the facility and to soften the industrial look of the Public Storage building, the Applicant has proposed to install one (1) mature Canary Island Pine tree between two existing mature Canary Island Pine trees in the landscaped area along Alicia Parkway near Costeau Street. **Condition of Approval No. 13** has been added to ensure that this new Canary Island Pine tree will be similar in height compared to the existing mature Canary Island Pine trees.

As seen on the provided photo-simulation images (**Attachment No. 3**), the most prominent design feature of the Public Storage building is a beige trim that runs along the roofline and two scoring lines that run directly beneath it. This is consistent with the design principles outlined for the NMU zoning district in Section 9-29.090(D) of the Code, which encourages “trim detail on rooflines, porches, windows, and doors on street-facing elevations.” The existing screening wall does not continue these design features, so the Applicant is proposing to implement them onto the screening wall to improve the overall aesthetics of the facility.

CONCLUSION:

Staff believes that this project, subject to the attached conditions of approval, meets the requirements and objectives of the City’s Development Code. The Development Code places a high priority on site design and compatibility, and the addition of a mature Canary Island Pine tree and architectural details on the screening wall will improve the overall aesthetics of the site while accommodating AT&T’s need for larger antennas and a taller screening wall. Therefore, staff believes that approval of Changed Plan No. 06-11-1985 is warranted.

CEQA FINDINGS:

Staff has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA). Upon completion of this review, it has been determined that this project is categorically exempt from CEQA, pursuant to Guideline Section No. 15301 (Class 1, Existing Facilities).

RECOMMENDATION: THAT THE PLANNING AGENCY: (1) CONDUCT A REVIEW OF CHANGED PLAN NO. 06-11-1985; AND (2) ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING CHANGED PLAN NO. 06-11-1985, A REQUEST BY AT&T TO EXPAND THE EXISTING WIRELESS COMMUNICATIONS FACILITY LOCATED AT 25131 COSTEAU STREET IN THE (NMU) NEIGHBORHOOD MIXED USE ZONING DISTRICT."

ATTACHMENTS:

1. Resolution of approval.
2. Letter of justification submitted by the Applicant.
3. Photo-simulations.
4. Site plan, antenna/equipment layout, and proposed elevations.

RESOLUTION NO. PA2011-11-08-

A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING CHANGED PLAN NO. 06-11-1985, A REQUEST BY AT&T TO EXPAND THE EXISTING WIRELESS COMMUNICATIONS FACILITY LOCATED AT 25131 COSTEAU STREET IN THE (NMU) NEIGHBORHOOD MIXED USE ZONING DISTRICT.

The Planning Agency of the City of Laguna Hills, California, hereby finds, determines, declares, and resolves as follows:

WHEREAS, an application (Changed Plan No. 06-11-1985) has been received by Chris Voss of Coastal Business Group representing AT&T ("Applicant") for the expansion of an existing wireless communications facility on the roof of the Public Storage building located at 25131 Costeau Street in the (NMU) Neighborhood Mixed Use Zoning District; and

WHEREAS, Changed Plan No. 06-11-1985 is hereby found to be Categorically Exempt from the requirements of the California Environmental Quality Act based upon a Class 1, existing facilities (CEQA Guidelines Section 15301) exemption; and

WHEREAS, the Planning Agency has considered evidence presented by the Community Development Department, the Applicant, and other interested parties with respect to the subject application presented at the Planning Agency hearing held on November 8, 2011.

NOW, THEREFORE, THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and are incorporated herein.

SECTION 2. That pursuant to Section 9-92.080(G)(2) of the Laguna Hills Development Code, the required findings by the City for approval of Changed Plan No. 06-11-1985 have been met and made as follows:

1. That the site design complies with standards of the Development Code:

The Communication Facilities chapter of the Development Code requires that wireless communication facilities be designed to minimize visual impact to the greatest extent

feasible. Visual impacts of this facility will be minimized by screening the antennas entirely behind a screening wall, by constructing the screening wall to aesthetically match the Public Storage building, and by the pine trees planted along Alicia Parkway.

2. That the site is suitable for the proposed development:

The wireless communication facility has been operating on the Public Storage building for approximately seven (7) years without incident. This site is ideal due to the height of the Public Storage building and its close proximity to both commercial and residential areas. This has allowed AT&T to provide continuous cellular coverage for its customers in the area.

3. That the proposed use is consistent with the General Plan and applicable design guidelines:

The General Plan is supportive of the collaboration with wireless communication providers to ensure "adequate communication services are available to the community." Approval of this application will help AT&T provide an enhanced wireless service (4G), thereby improving communication service for its customers in the community.

4. That the site design and structural components are appropriate for the site and function of the proposed uses:

Unlike many wireless communication facilities, the antennas at this site are completely hidden from view. With approval of this application, the antennas will continue to be hidden from view despite an increase in antenna height. Therefore, the site design and structural components of this wireless facility will continue to be appropriate for this Public Storage site.

NOW, THEREFORE, based upon the above findings, the Planning Agency of the City of Laguna Hills does hereby approve Changed Plan No. 06-11-1985 subject to the following conditions:

1. This approval constitutes approval of the proposed project only to the extent that it complies with the City Development Code and any other applicable zoning regulations. Approval does not include any action or findings as to compliance or approval of the project regarding any other applicable ordinance, regulation, or requirement.

2. Failure to abide by and faithfully comply with any and all conditions of approval shall constitute grounds for revocation of said Changed Plan by the Laguna Hills Planning Agency.
3. As a condition of issuance of this approval, the Applicant, AT&T, hereby agrees, at its sole cost and expense and to the fullest extent permitted by law, to defend, indemnify, and hold harmless the City, its officers, employees, agents, and consultants, from any claim, action, or proceeding brought by a third party against the City, its officers, employees, agents, and consultants, which seeks to attack, challenge, set aside, void, or annul an approval of the City Council, Planning Agency, or other decision-making body, or staff action concerning this project. The City agrees to promptly notify the Applicant/owner of any such claim filed against the City and to fully cooperate in the defense of any such action. The City may, but is not obligated to, at its sole cost and expense, elect to participate in the defense of any such action under this condition.
4. This Changed Plan may be modified or revoked by the Planning Agency should the Agency determine, after a duly noticed hearing held in compliance with all applicable laws, including without limitation, the Federal Telecommunications Act and FCC rules and regulations, that the proposed use or conditions under which it is being operated or maintained are detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
5. The Applicant shall agree in writing to these conditions of approval within 30 days of the Planning Agency's action.
6. The Applicant shall reimburse the City for any outstanding staff time spent on the processing of Changed Plan No. 06-11-1985 within 60 days of Planning Agency action.
7. This Changed Plan shall expire and be of no further force or effect if the permit is not established within two years from November 8, 2011.
8. Within 48 hours from project approval, the Applicant shall submit to the City a check in the amount of \$50, made out to the Orange County Clerk-Recorder, for filing the Notice of Exemption.
9. The Applicant is required to completely dismantle and remove its antennas and equipment, which are abandoned for a period of six months or more or upon expiration of the lease with the owner of record.
10. The Applicant shall cooperate with other communications companies in co-locating additional antennas on equipment structures or within the lease area, provided said co-applicants

have received the proper City and leasehold approvals. The Applicant shall exercise good faith in co-locating with other communication companies and sharing the permitted site, provided such shared use does not give rise to a substantial technical level or quality-of-service impairment of the permitted use (as opposed to a competitive conflict or financial burden). In the event a dispute arises as to whether permittee has exercised good faith in accommodating other users, the City may require a third party technical study at the expense of either or both the Applicant and complaining user. This condition in no way obligates the City to approve any co-location proposal if it is determined by the City not to be desirable in a specific case.

11. Within ninety (90) days of commencement of operations, the Applicant/owner of the wireless communications facility shall be required to provide a preliminary report and field report prepared by a qualified engineer that shows the operation of the facility is in conformance with all applicable FCC standards and regulations, including, where incorporated by the FCC, the standards established by the American National Standards Institute (ANSI) and Institute of Electrical and Electronics Engineers (IEEE) for safe human exposure to electromagnetic fields (EMF) and radio frequency radiation (RFR). Said report must be mailed or delivered to the Planning Division at 24035 El Toro Road, Laguna Hills, CA 92653.
12. The proposed facility shall comply with all applicable regulations outlined in Chapter 9-58 of the Laguna Hills Development Code regarding communication facilities.
13. One (1) mature Canary Island Pine tree shall be installed as shown on the submitted site plan and photo-simulations. This tree shall be similar in height (approximately 40-50 feet) compared to the existing mature Canary Island Pine trees on-site.
14. Architectural trim and two (2) scoring lines shall be incorporated onto the screening wall as shown on the submitted site plan and photo-simulations.
15. All construction and maintenance activities shall adhere to Chapter 5-24 of the Municipal Code regarding noise control.
16. Graffiti shall be removed from the subject site within 48 hours upon notification by City staff.
17. The Applicant/owner shall secure all applicable building permits, as required by Section 105 of the 2010 California Building Code (see also work exempt from permits).

18. Plans shall be accurately labeled and reflect all work, as required by Section 107 of the 2010 California Building Code regarding construction documents.
19. The Applicant shall secure approvals from the Orange County Fire Authority and Planning departments prior to issuance of a building permit.
20. The Applicant shall submit Construction and Demolition Waste Recycling Program paperwork, if applicable, as required by the City of Laguna Hills Ordinance No. 2003-9 and to comply with mandates by the California Integrated Waste Management Board (CIWMB).
21. The Applicant shall comply with all general construction water quality ordinances as required by the City of Laguna Hills Ordinance No. 2003-12.
22. The Applicant shall secure a separate building permit for the metering device.
23. The Applicant/owner shall comply with all California Energy requirements, as required by the California Energy Commission.
24. All construction shall comply with the 2010 California Building Code and California Electrical Codes in regards to U occupancies.
25. Prior to the issuance of a building permit, the Applicant/owner shall submit to the Orange County Fire Authority (OCFA) for review and approval a plan for any battery system containing an aggregate quantity of electrolyte with hazard classification(s) in excess of the permit issuance threshold amount listed in CFC Appendix Chapter 1, Section 105.

(The remainder of this page intentionally left blank)

PASSED, APPROVED, AND ADOPTED this 8th day of November 2011.

L. ALLAN SONGSTAD, JR., CHAIR

ATTEST:

PEGGY J. JOHNS, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Peggy J. Johns, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution
No. PA2011-11-08- by the Planning Agency of the City of Laguna Hills, California, at a
Regular Meeting thereof held on the 8th day of November 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

PEGGY J. JOHNS, CITY CLERK



LA3093
I-5 and Alicia Parkway
25131 Costeau Street
Laguna Hills, CA 92653

VIEW 1

APPLICANT
at&T Mobility
12900 Park Plaza Drive
Cerritos, CA 90703

CONTACT
Coastal Business Group
Jordon DiBiase
16460 Bake Parkway Suite 100
Irvine, CA 92618
p 949.336.1550



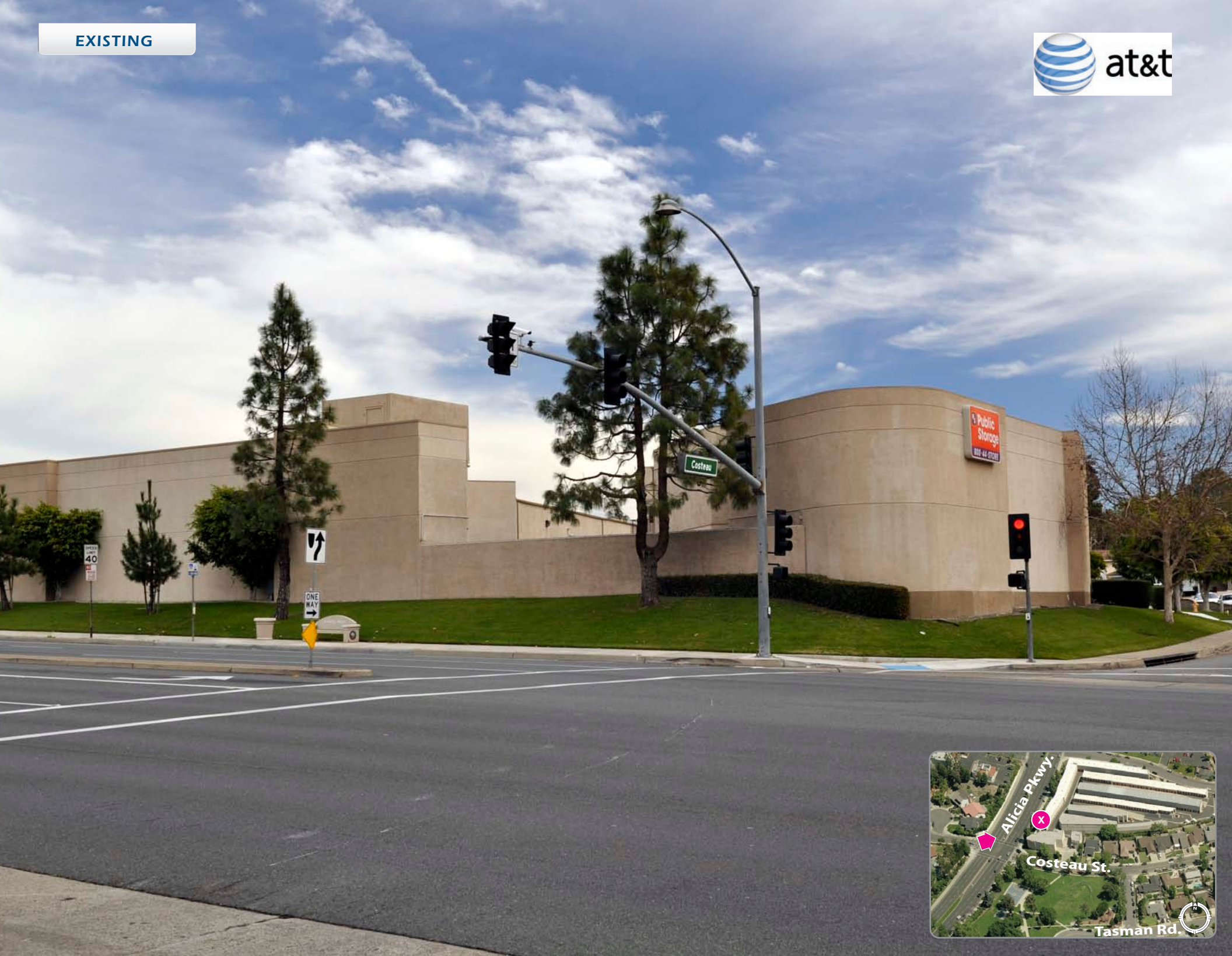
Completed August 03, 2011

BLUE WATER DESIGN
bluewater-design.net
michelle@bluewater-design.net
p 714.473.2942

11/8/2011 ITEM NO. 5.4.1

Photo simulation accuracy is based on information provided to Blue Water Design by the applicant.

EXISTING



PROPOSED



LA3093
I-5 and Alicia Parkway
25131 Costeau Street
Laguna Hills, CA 92653

APPLICANT
at&T Mobility
12900 Park Plaza Drive
Cerritos, CA 90703

CONTACT
Coastal Business Group
Jordan DiBiase
16460 Bake Parkway Suite 100
Irvine, CA 92618
p 949.336.1550



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p 714.473.2942

VIEW 3

11/8/2011 ITEM NO. 5.4.1

Photo simulation accuracy is based on information provided to Blue Water Design by the applicant.

11/8/2011 ITEM NO. 5.4.1



LTE PROJECT
SITE NUMBER: LA3093
SITE NAME: I-5 AND ALICIA PARKWAY

A/E DESIGN PACKAGE REVIEW STATUS			
1 ☒ ACCEPTED - NO COMMENTS, PROCEED			
2 ☐ COMMENTS			
A ☐ SAC INFO MISSING / INCOMPLETE		F ☐ DESIGN DEVIATION FROM STANDARD	
B ☐ A/E DID NOT FOLLOW DIRECTIONS PROVIDED		G ☐ OMISSIONS	
C ☐ SITE OWNER REQUESTED CHANGES		H ☐ A/E GENERATED CHANGE IN DESIGN	
D ☐ DESIGN INPUT CHANGES, ie., RF, ZONING REQUIRED		I ☐ CINGULAR CHANGED SITE DESIGN	
E ☐ REVISED SITE DESIGN		J ☐ OTHER	
PERMISSION TO PROCEED DOES NOT CONSTITUTE ACCEPTANCE OR APPROVAL OF DESIGN DETAILS, CALCULATIONS, ANALYSIS, BEST METHODS, OR MATERIALS DEVELOPED OR SELECTED BY THE SUPPLIER AND DOES NOT RELIEVE THE SUPPLIER FROM FULL COMPLIANCE WITH CONTRACTUAL OBLIGATIONS.			
REVIEWED BY: (RE/PE)			
RF ENGINEER	SA	MARKET LEAD	CONSTRUCTION

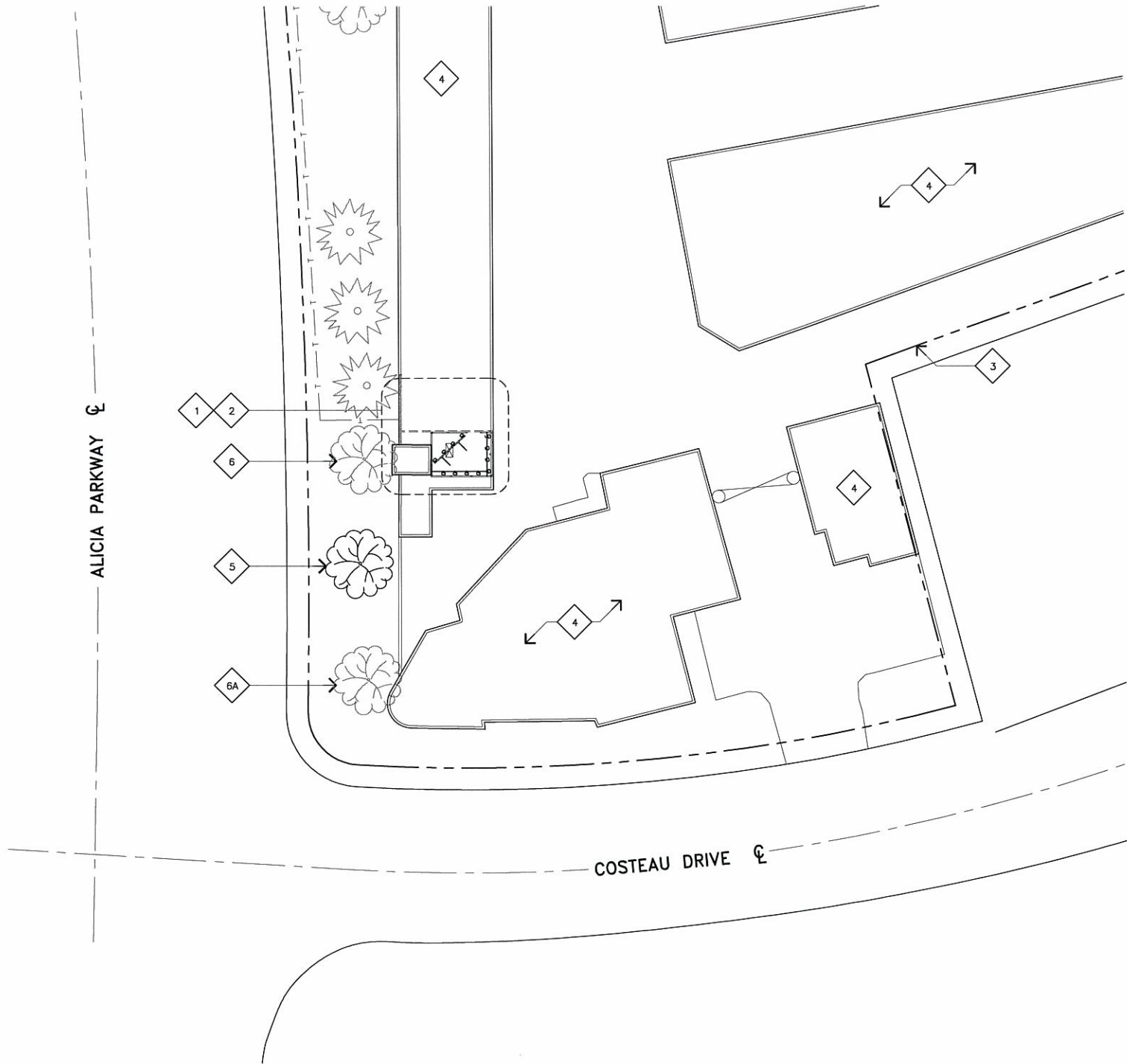
DRAWING INDEX		REV	DIRECTIONS	PROJECT INFORMATION
LA-LA3093-T01	TITLE SHEET	1	DRIVING DIRECTIONS FROM AT&T WIRELESS, CERRITOS FROM CINGULAR WIRELESS OFFICE, 12900 PARK PLAZA DRIVE, CERRITOS, CALIFORNIA 90703, TAKE CA 91 EAST, TAKE THE I-5 SOUTH EXIT TOWARD SANTA ANA, TAKE THE ALICIA PKWY EXIT, TURN RIGHT ON ALICIA PKWY, TURN LEFT ON COSTEAU ST, & PROCEED TO THE SITE ON THE LEFT. VICINITY MAP	SCOPE OF WORK: AT&T WIRELESS PROPOSES TO MODIFY AN EXISTING UNMANNED TELECOMMUNICATIONS FACILITY. THE SCOPE WILL CONSIST OF THE FOLLOWING: • REMOVE PORTIONS OF (E) PARAPET. • REPLACE WITH (N) FRP PARAPET. • EXPAND HEIGHT OF (E) FRP SCREEN 3'-0" • INSTALL (1) (N) AT&T INDOOR EQUIPMENT CABINET. • REMOVE (6) (E) 4'-0" ANTENNAS. • REPLACE WITH (12) (N) 8'-0" ANTENNAS. • INSTALL (1) (N) GPS ANTENNA. • INSTALL (12) (N) RRU'S. • INSTALL (6) (N) DC SURGE SUPPRESSORS. • INSTALL (N) FIBER RUNS. • INSTALL (N) DC RUNS. • PLANT (N) CANARY ISLAND PINE TREE. SITE ADDRESS: 25131 COSTEAU STREET LAGUNA HILLS, CALIFORNIA 92653 PROPERTY OWNER: SHURGARD STORAGE CENTER P.O. BOX 900933 SEATTLE, WASHINGTON CONTACT: WALLY SHIN (201) 776-6789 AGENT: BECHTEL TELECOMMUNICATIONS 6131 ORANGETHORPE AVENUE, 5TH FLOOR BUENA PARK, CALIFORNIA 90620 APPLICANT: AT&T WIRELESS 12900 PARK PLAZA DRIVE CERRITOS, CALIFORNIA 90703 LATITUDE: 33.59975° LONGITUDE: 117.691611° LAT/LONG TYPE: NAD 83 ELEVATION: 359.2' AMSL JURISDICTION: CITY OF LAGUNA HILLS A.P.N.: 620-391-01 CURRENT ZONING: COMMERCIAL STORAGE PROPOSED USE: TELECOMMUNICATION FACILITY
LA-LA3093-Z01	SITE PLAN	1		
LA-LA3093-Z02	EQUIPMENT AND ANTENNA LAYOUT PLANS	1		
LA-LA3093-Z03	NORTH AND SOUTH ELEVATIONS	1		
LA-LA3093-Z04	WEST AND EAST ELEVATIONS	1		

 12900 PARK PLAZA DRIVE CERRITOS, CALIFORNIA 90703	 BECHTEL CORPORATION 6131 ORANGETHORPE AVENUE, 5TH FL. BUENA PARK, CALIFORNIA 90620	 Jeffrey Rome & Associates, Inc. Architecture & Telecommunications 1 San Joaquin Plaza, Suite 250 Newport Beach, California 92660 Phone: (949) 760-3929 Fax: (949) 760-3931	I-5 AND ALICIA PARKWAY SITE NO. LA3093 USID: 47280 25131 COSTEAU STREET LAGUNA HILLS, CALIFORNIA 92653	<table><tr><td>1</td><td>07/27/11</td><td>REVISED PER CITY COMMENTS</td><td>MB</td><td>JR</td><td>JR</td></tr><tr><td>0</td><td>11/19/10</td><td>ISSUED FOR ZONING SUBMITTAL</td><td>MB</td><td>JR</td><td>JR</td></tr><tr><td>A</td><td>11/11/10</td><td>ISSUED FOR ZONING REVIEW</td><td>MB</td><td>JR</td><td>JR</td></tr><tr><td>NO.</td><td>DATE</td><td>REVISIONS</td><td>BY</td><td>CHK</td><td>APP'D</td></tr><tr><td colspan="2">SCALE: AS SHOWN</td><td>DESIGNED:</td><td colspan="3">DRAWN:</td></tr></table>	1	07/27/11	REVISED PER CITY COMMENTS	MB	JR	JR	0	11/19/10	ISSUED FOR ZONING SUBMITTAL	MB	JR	JR	A	11/11/10	ISSUED FOR ZONING REVIEW	MB	JR	JR	NO.	DATE	REVISIONS	BY	CHK	APP'D	SCALE: AS SHOWN		DESIGNED:	DRAWN:				 LTE PROJECT TITLE SHEET <table><tr><td colspan="2">DRAWING NUMBER</td><td>REV</td></tr><tr><td colspan="2">25471-610-TE</td><td>1</td></tr><tr><td colspan="2">LA-LA3093-T01</td><td></td></tr></table>	DRAWING NUMBER		REV	25471-610-TE		1	LA-LA3093-T01		
1	07/27/11	REVISED PER CITY COMMENTS	MB	JR	JR																																								
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LA-LA3093-T01																																													

11/8/2011 ITEM NO. 5.4.1

ENLARGED SITE PLAN KEYNOTES

- 1 (N) (12) 8'-0" AT&T ANTENNAS TO REPLACE (6)
- 2 (E) 4'-0" ANTENNAS MOUNTED TO (E) BUILDING BEHIND (E) & (N) FRP SCREENING.
- 3 (E) AT&T LEASE AREA
- 4 (E) PROPERTY LINE.
- 5 (E) BUILDING.
- 6 (N) CANARY ISLAND PINE TREE.
- 6 (E) 40'-0"± TALL CANARY ISLAND PINE TREE.
- 6A (E) 50'-0"± TALL CANARY ISLAND PINE TREE.



SITE PLAN

SCALE:
1"=20'



1



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12900 PARK PLAZA DRIVE
CERRITOS, CALIFORNIA 90703



BECHTEL CORPORATION
6131 ORANGETHORPE AVENUE, 5TH FL.
BUENA PARK, CALIFORNIA 90620

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Architecture & Telecommunications
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I-5 AND ALICIA PARKWAY
SITE NO. LA3093
USID: 47280

25131 COSTEAU STREET
LAGUNA HILLS, CALIFORNIA 92653

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SCALE: AS SHOWN		DESIGNED:	DRAWN:		



LTE PROJECT
SITE PLAN

25471-610-TE

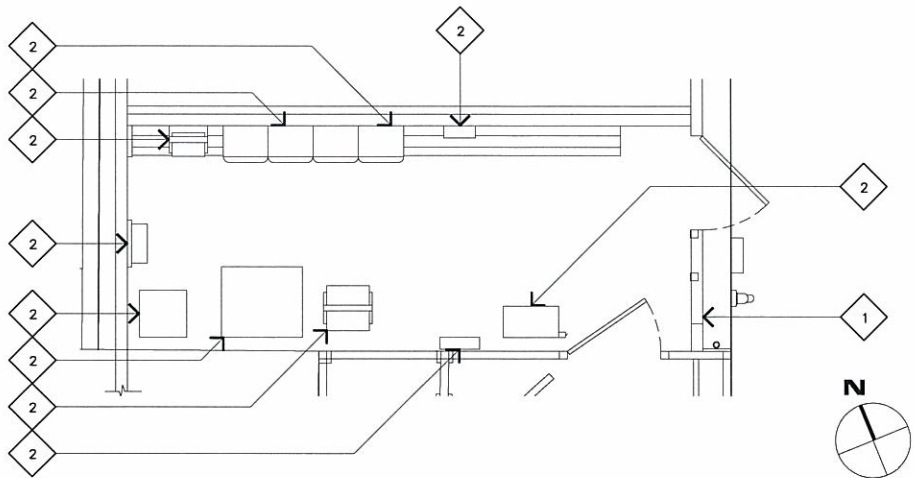
DRAWING NUMBER
LA-LA3093-Z01

REV
1

11/8/2011 ITEM NO. 5.4.1

(E) EQUIPMENT ROOM LAYOUT KEYNOTES

- 1 (E) AT&T EQUIPMENT ROOM.
- 2 (E) AT&T EQUIPMENT WITHIN (E) EQUIPMENT SHELTER.



(E) EQUIPMENT LAYOUT PLAN

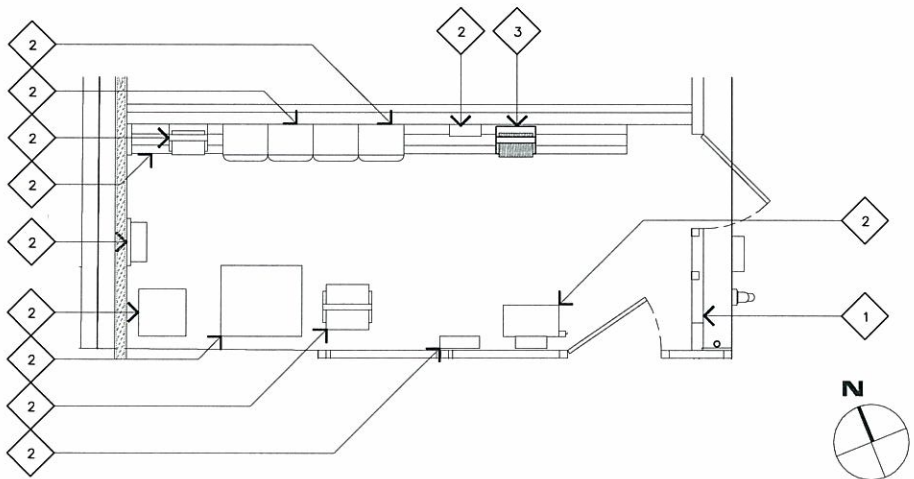
SCALE:
1/4"=1'-0"



4

(N) EQUIPMENT ROOM LAYOUT KEYNOTES

- 1 (E) AT&T EQUIPMENT ROOM.
- 2 (E) AT&T EQUIPMENT WITHIN (E) EQUIPMENT SHELTER.
- 3 (N) LTE INDOOR CABINET MOUNTED INSIDE (E) AT&T EQUIPMENT SHELTER.



(N) EQUIPMENT LAYOUT PLAN

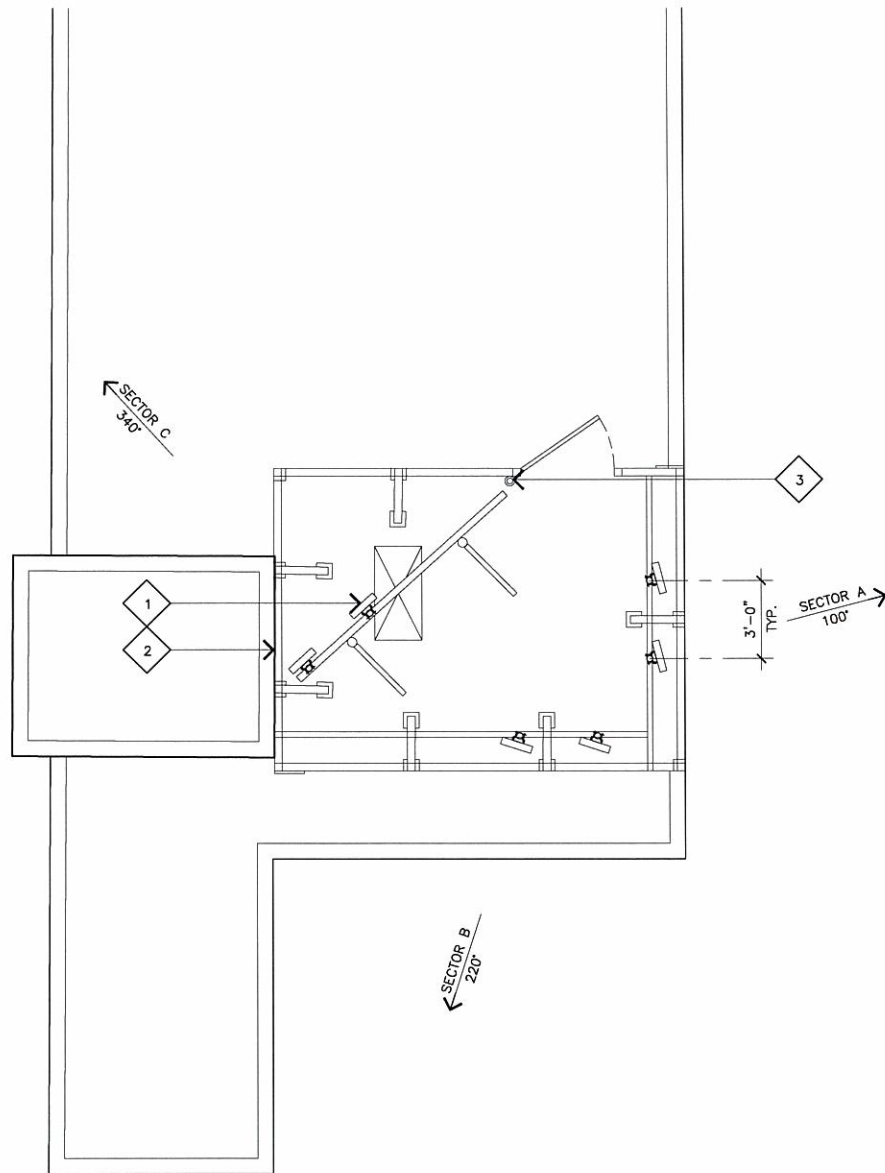
SCALE:
1/4"=1'-0"



3

(E) ENLARGED ANTENNA PLAN KEYNOTES

- 1 (E) (6) AT&T ANTENNAS, 2 PER SECTOR 6 TOTAL, MOUNTED TO (E) BUILDING BEHIND (E) FRP SCREENING.
- 2 (E) FRP SCREENING.
- 3 (E) AT&T GPS ANTENNA MOUNTED ON THE OUTSIDE OF (E) FRP SCREEN.



(E) ANTENNA LAYOUT PLAN

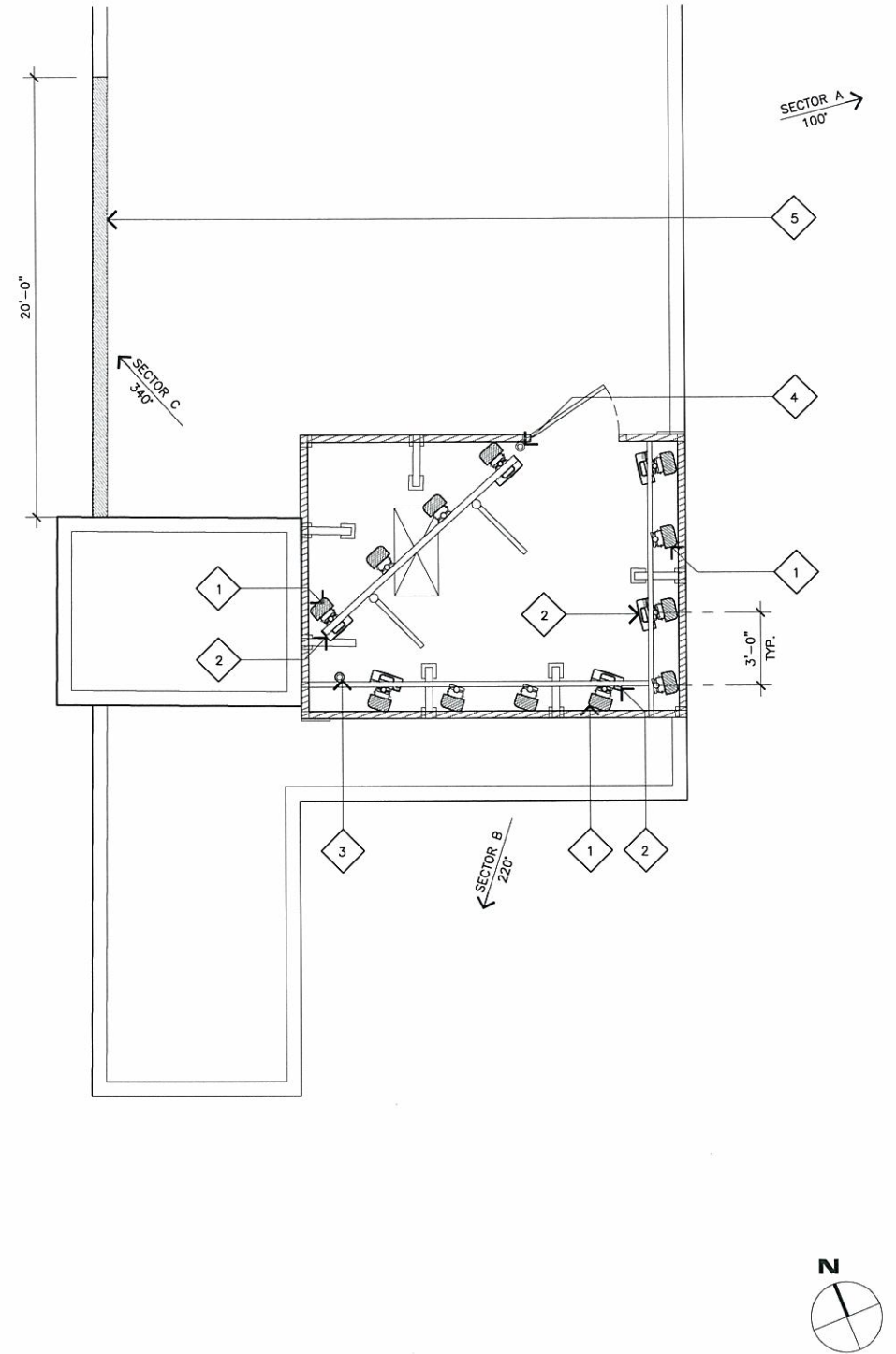
SCALE:
1/4"=1'-0"



2

(N) ENLARGED ANTENNA PLAN KEYNOTES

- 1 (N) (12) 8'-0" AT&T ANTENNAS, (4) PER SECTOR, MOUNTED TO (E) BUILDING BEHIND MODIFIED FRP SCREENING.
- 2 (N) (6) AT&T SURGE SUPPRESSORS, (2) PER SECTOR AND (N) (12) AT&T RRUS, (4) PER SECTOR.
- 3 (N) AT&T GPS ANTENNA MOUNTED ON THE OUTSIDE OF (E) FRP SCREEN, MIN 10'-0" CLEARANCE FROM EXISTING GPS.
- 4 (E) AT&T GPS ANTENNA MOUNTED ON THE OUTSIDE OF (E) FRP SCREEN.
- 5 (E) PARAPET WALL TO BE REMOVED AND REPLACED WITH (N) FRP PARAPET WALL.



(N) ANTENNA LAYOUT PLAN

SCALE:
1/4"=1'-0"



1



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12900 PARK PLAZA DRIVE
CERRITOS, CALIFORNIA 90703



BECHTEL CORPORATION
6131 ORANGETHORPE AVENUE, 5TH FL.
BUENA PARK, CALIFORNIA 90620

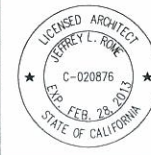
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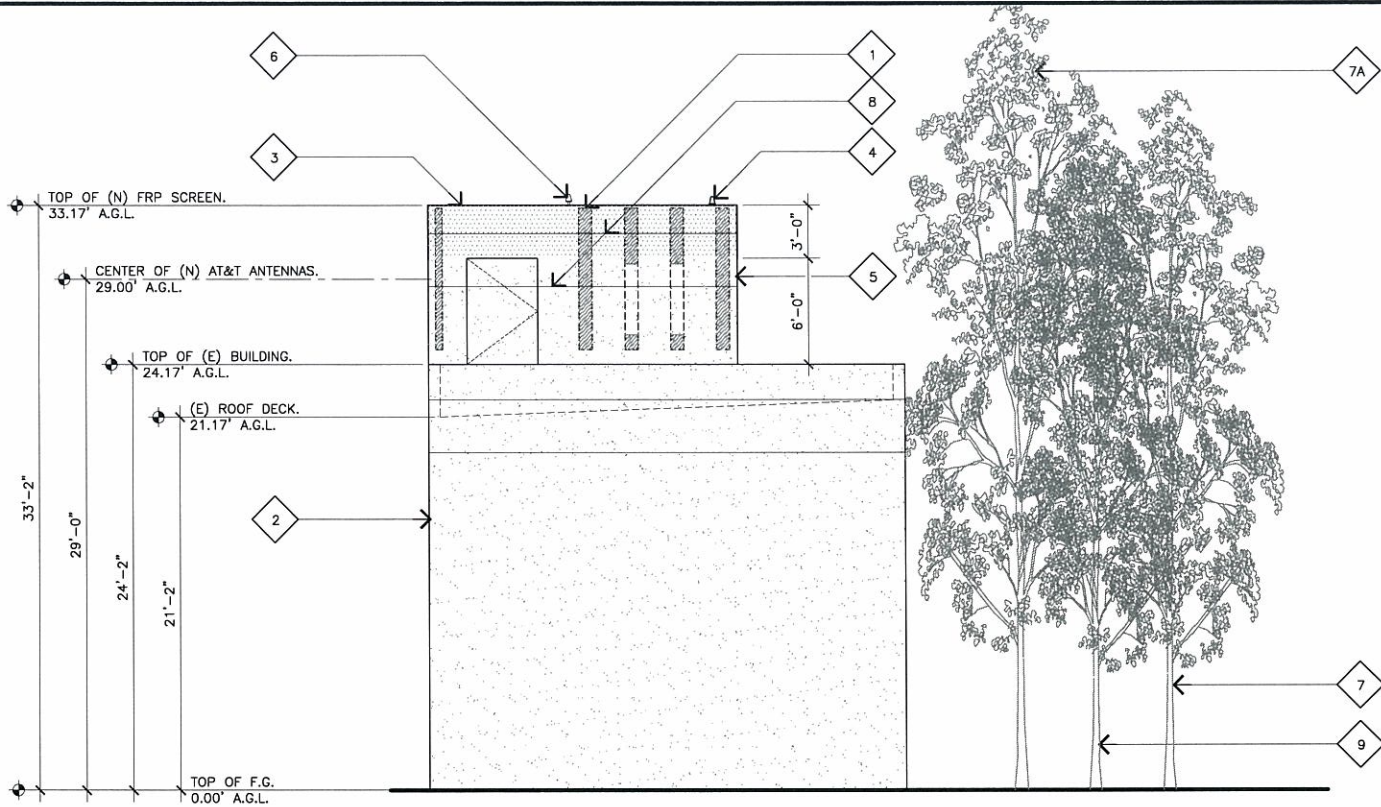
**LTE PROJECT
EQUIPMENT / ANTENNA LAYOUT PLANS**

DRAWING NUMBER	REV
25471-610-TE	1
LA-LA3093-Z02	

11/8/2011 ITEM NO. 5.4.1

ELEVATION KEYNOTES

- 1 (N) (12) 8'-0" AT&T ANTENNAS TO REPLACE (E) (6) 4'-0" ANTENNAS.
- 2 (E) BUILDING.
- 3 (N) 3'-0" FRP SCREEN WALL EXTENSION PAINT TO MATCH (E) BUILDING AND TRIM.
- 4 (N) AT&T GPS ANTENNA.
- 5 (E) FRP SCREEN WALL.
- 6 (E) GPS ANTENNA.
- 7 (E) 40'-0"± TALL CANARY ISLAND PINE TREE.
- 7A (E) 50'-0"± TALL CANARY ISLAND PINE TREE.
- 8 (N) SCORE LINES TO MATCH (E) BUILDING SCORE LINES.
- 9 (N) CANARY ISLAND PINE TREE.



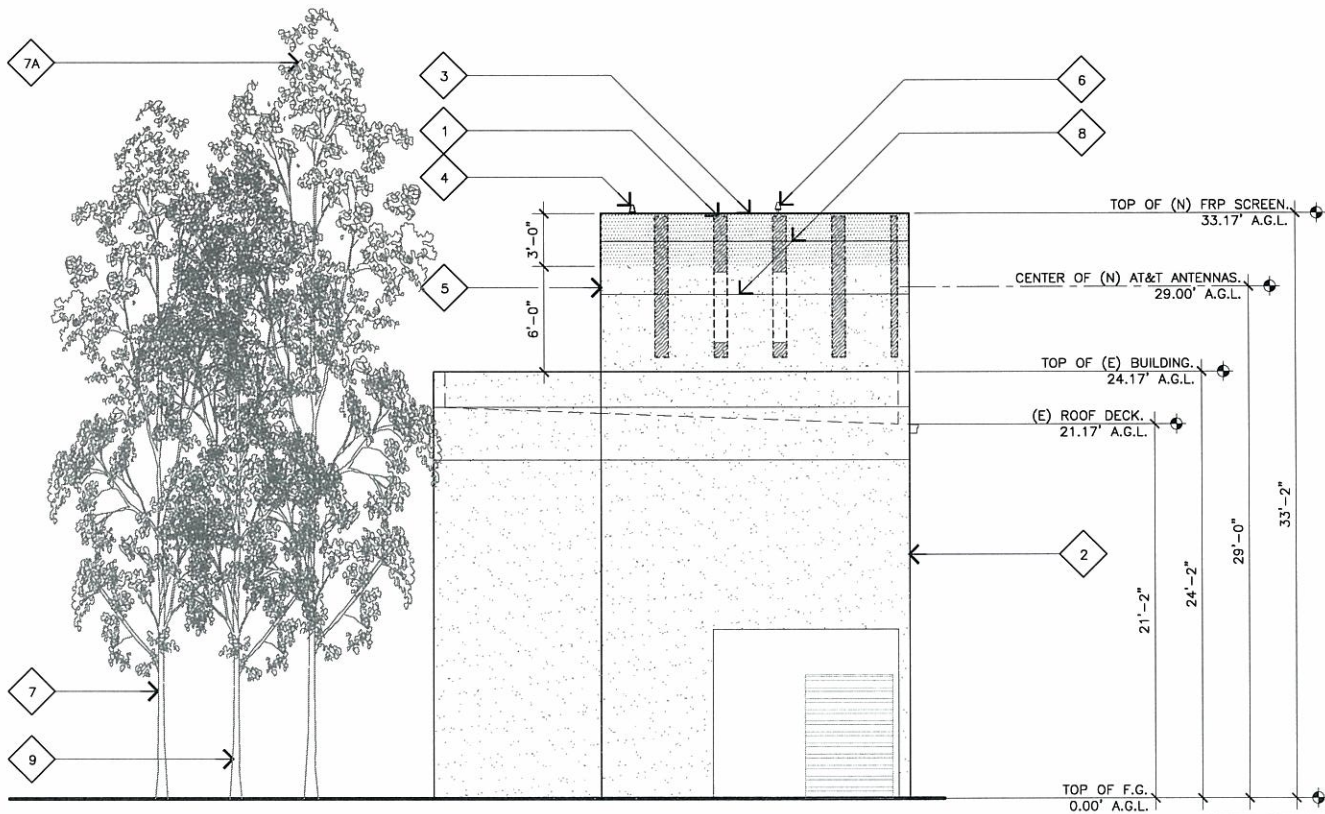
NORTH ELEVATION

SCALE: 3/16"=1'-0" 0 3' 6'

2

ELEVATION KEYNOTES

- 1 (N) (12) 8'-0" AT&T ANTENNAS TO REPLACE (E) (6) 4'-0" ANTENNAS.
- 2 (E) BUILDING.
- 3 (N) 3'-0" FRP SCREEN WALL EXTENSION PAINT TO MATCH (E) BUILDING AND TRIM.
- 4 (N) AT&T GPS ANTENNA.
- 5 (E) FRP SCREEN WALL.
- 6 (E) GPS ANTENNA.
- 7 (E) 40'-0"± TALL CANARY ISLAND PINE TREE.
- 7A (E) 50'-0"± TALL CANARY ISLAND PINE TREE.
- 8 (N) SCORE LINES TO MATCH (E) BUILDING SCORE LINES.
- 9 (N) CANARY ISLAND PINE TREE.



SOUTH ELEVATION

SCALE: 3/16"=1'-0" 0 3' 6'

1



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SCALE: AS SHOWN		DESIGNED:	DRAWN:		



LTE PROJECT
NORTH AND SOUTH ELEVATIONS

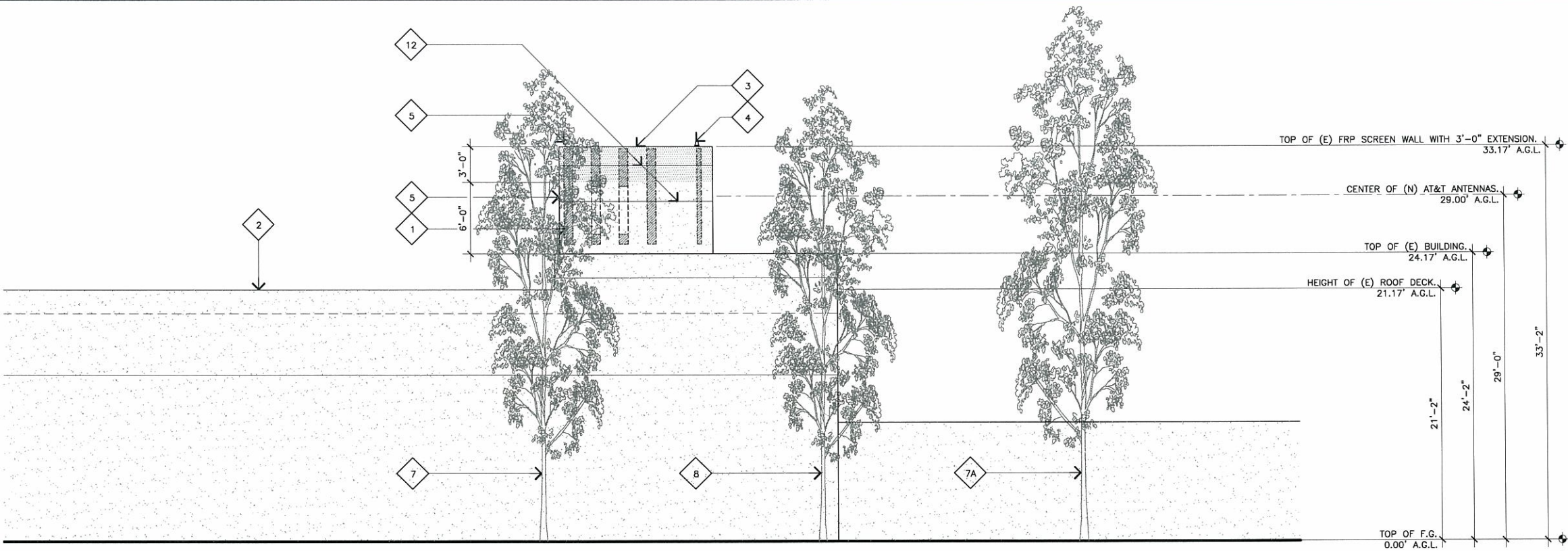
DRAWING NUMBER
25471-610-TE
LA-LA3093-Z03

1

11/8/2011 ITEM NO. 5.4.1

ELEVATION KEYNOTES

- 1 (N) (12) 8'-0" AT&T ANTENNAS TO REPLACE (E) (6) 4'-0" ANTENNAS.
- 2 (E) BUILDING.
- 3 (N) 3'-0" FRP SCREEN WALL EXTENSION PAINT TO MATCH (E) BUILDING AND TRIM.
- 4 (N) AT&T GPS ANTENNA.
- 5 (E) FRP SCREEN WALL.
- 6 (E) GPS ANTENNA.
- 7 (E) 40'-0"± TALL CANARY ISLAND PINE TREE.
- 7A (E) 50'-0"± TALL CANARY ISLAND PINE TREE.
- 8 (N) CANARY ISLAND PINE TREE.
- 9 (N) SCORE LINES TO MATCH (E) BUILDING SCORE LINES.



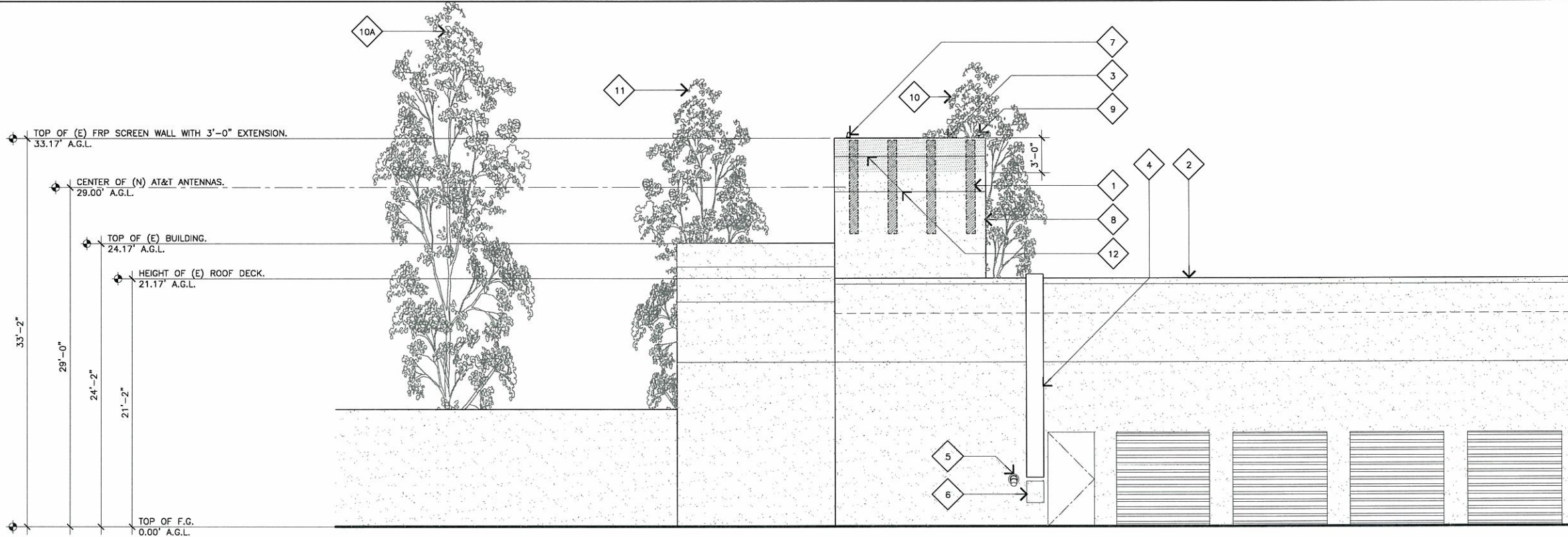
WEST ELEVATION

SCALE: 3/16"=1'-0" 0 3' 6'

2

ELEVATION KEYNOTES

- 1 (N) (12) 8'-0" AT&T ANTENNAS TO REPLACE (E) (6) 4'-0" ANTENNAS.
- 2 (E) BUILDING.
- 3 (N) 3'-0" FRP SCREEN WALL EXTENSION PAINT TO MATCH (E) BUILDING AND TRIM.
- 4 (E) VERTICAL CABLE TRAY.
- 5 (E) APPLETON.
- 6 (E) AT&T TELCO BOX.
- 7 (N) AT&T GPS ANTENNA.
- 8 (E) FRP SCREEN WALL.
- 9 (E) GPS ANTENNA.
- 10 (E) 40'-0"± TALL CANARY ISLAND PINE TREE.
- 10A (E) 50'-0"± TALL CANARY ISLAND PINE TREE.
- 11 (N) CANARY ISLAND PINE TREE.
- 12 (N) SCORE LINES TO MATCH (E) BUILDING SCORE LINES.



EAST ELEVATION

SCALE: 3/16"=1'-0" 0 3' 6'

1



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Mobility

12900 PARK PLAZA DRIVE
CERRITOS, CALIFORNIA 90703



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SCALE: AS SHOWN		DESIGNED:	DRAWN:		



LTE PROJECT
NORTH AND SOUTH ELEVATIONS

DRAWING NUMBER
25471-610-TE
LA-LA3093-Z04

CITY OF LAGUNA HILLS

PLANNING AGENCY AGENDA REPORT COMMUNITY DEVELOPMENT

ISSUE: SITE DEVELOPMENT PERMIT NO. 10-11-2100, A REQUEST TO RENOVATE THE DMV BUILDING AND ADD A PARKING LOT CANOPY IN MOULTON PLAZA SHOPPING CENTER AT 23535 MOULTON PARKWAY IN THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT

RECOMMENDATION: THAT THE PLANNING AGENCY: (1) RECEIVE A PRESENTATION; AND (2) ADOPT A RESOLUTION ENTITLED: “A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING SITE DEVELOPMENT PERMIT NO. 10-11-2100, A REQUEST TO RENOVATE THE DMV BUILDING AND ADD A PARKING LOT CANOPY IN MOULTON PLAZA SHOPPING CENTER AT 23535 MOULTON PARKWAY IN THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT.”

SUMMARY:

Dan Adams, on behalf of Moulton Plaza, LLC, the owner of the shopping center (collectively hereafter, “Applicant”) is proposing: to remodel the DMV building façade, upgrades to ADA (Americans with Disabilities Act) access in the parking lot, new landscaping, and a new canopy in the parking lot.

The building façade remodel will reflect the other building exteriors on the site, which have been more recently updated. ADA access will be significantly improved in the parking lot and at the front of the DMV. The landscaping proposed will provide a more inviting look to the front of the building and a more pleasant space for patrons. The new canopy proposed in the parking lot in front of the DMV is a standard feature for most DMV’s in California. It provides an all-weather location for conducting inspections and beginning drivers’ tests.

Staff has reviewed the Development Code requirements as well as General Plan issues, goals, and strategies, and has evaluated the potential for environmental impacts in accordance with the California Environmental Quality Act (CEQA), and has determined that the proposed project, subject to conditions of approval, will not result in any significant impacts to the environment and will not be detrimental to the public health, safety, or general welfare.

AUTHORITY:

Laguna Hills Municipal Code (LHMC) §9-92.080(G)(1) grants the Community Development Director authority to review and approve Site Development Permits for development of nonresidential uses and/or buildings not exceeding 20,000 square feet on a single parcel, such

as the improvements proposed in this project. However, LHMC §9-92.080(G)(2), provides that the Director may forward any project to the Planning Agency which he deems may have a sufficient broader interest in the Community such as the changes proposed in this project.

PROJECT DESCRIPTION AND ANALYSIS:

Façade Updates

The façade will be updated with smooth stucco and repainted to match the rest of the building. The parapet will also be extended along the front and a portion of the side of the building to match the parapet on the rest of the building. The rear of the extended parapet (like the existing parapet on the rest of the building) will be finished with stucco as well to provide a finished look, should it be visible from the residents to the rear of the building. The top of the parapet wall will include clay ridge tile detail consistent with the existing parapet wall. The existing tile roof awnings over each door will be removed and replaced with new, fabric awnings. The awning color will complement the color of the clay tile roof detail.

Canopy Addition

A 32' x 58' canopy will be constructed in the parking lot directly across the main drive-aisle from the DMV. It will provide two drive aisles and several parking spaces for exclusive use of the DMV and their customers. It will be used as a place to conduct inspections and the pretest portion of behind-the-wheel drivers' tests. This type of all-weather canopy is a feature provided at most DMV locations throughout the state.

The canopy will be supported with four poles placed where they will not interfere with using the drive lanes or parking spaces. **Condition 15** requires that the canopy, while made of metal, have a matte finish and match the appearance of the smooth stucco of the buildings in the center.

The addition of the DMV service areas necessitates the removal of 13 existing parking spaces. Thirteen other remaining spaces will be for the exclusive use of the DMV and their patrons. The new aisle for exclusive DMV use will be well marked with directional signage. Additionally, the exterior drive-aisle around the perimeter of the parking lot will remain unchanged to allow the flow of traffic around the center to function normally.

Parking and ADA Access

Eight parking spaces will be removed to make way for six new handicapped accessible parking stalls. The stalls will have a direct path of travel with new ADA compliant ramps so each door of the DMV is accessible.

Taking into consideration all of the changes in the parking lot, the center as a whole will have 836 parking spaces. This is well above the number of parking spaces required by the parking study done for this center in 2007, which showed a maximum parking demand of 740 parking spaces.

Landscaping

In addition to the parking lot improvements and the façade remodel, the Applicant is proposing a new landscape planter between the walkway in front of the DMV and the curb. The planter will contain four new trees to shade the walkway and provide more visual interest at the front of the building.

CONCLUSION:

The façade remodel will update this portion of the center to match the balance of the buildings, updated last year. The updates will provide a more cohesive and attractive look for the center and provide this popular DMV location similar amenities provided at other locations throughout the area. Additionally, the parking lot improvements solve issues of ADA access for patrons of the DMV and the center as a whole. Therefore, staff recommends approval of SDPA-10-11-2100, subject to the Conditions of Approval.

PUBLIC COMMENT:

This item is a Minor Site Development Permit application, which can be reviewed by the Community Development Director. In this case, the Director chose to forward the case to the Planning Agency for their review and determination; however, no public hearing or public hearing notice is required for these types of applications.

CEQA FINDINGS:

Staff has reviewed the proposed project for compliance with CEQA. Upon completion of this review, it has been determined that the proposed project is categorically exempt from CEQA, pursuant to CEQA Guideline Section No. 15301 (Class 1, Existing Facilities) and Guideline Section No. 15303 (Class 3, New Construction or Conversion of Small Structures. Categorical Exemptions are projects which have been determined not to have a significant effect on the environment and which have been exempted from the requirements of CEQA. Class 1 consists of repair, maintenance, or minor alterations to existing structures involving negligible or no expansion beyond that which is existing such as the façade remodel and minor landscape and parking improvements proposed in this project. Class 3 consists of construction of new small structures, including accessory structures such as the carport proposed in this project. Based on the foregoing, it is hereby determined that the project is exempt from CEQA.

RECOMMENDATION: THAT THE PLANNING AGENCY: (1) RECEIVE A PRESENTATION; AND (2) ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING SITE DEVELOPMENT PERMIT NO. 10-11-2100, A REQUEST TO RENOVATE THE DMV BUILDING AND ADD A PARKING LOT CANOPY IN MOULTON PLAZA SHOPPING CENTER AT 23535 MOULTON PARKWAY IN THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT."

ATTACHMENTS:

- (1) Resolution of Approval
- (2) Letter of Justification
- (3) Photo sims
- (4) Plans

RESOLUTION NO. PA2011-

A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING SITE DEVELOPMENT PERMIT NO. 10-11-2100, A REQUEST TO RENOVATE THE DMV BUILDING AND ADD A PARKING LOT CANOPY IN MOULTON PLAZA SHOPPING CENTER AT 23535 MOULTON PARKWAY IN THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT

The Planning Agency of the City of Laguna Hills, California, hereby finds, determines, declares, and resolves as follows:

WHEREAS, an application for Site Development Permit (SDPA) No. 10-11-2100 has been received to remodel the DMV building façade and add a parking lot canopy in Moulton Plaza shopping center, located at 23535 Moulton Parkway in the Community Commercial (CC) Zoning District; and

WHEREAS, SDPA No. 10-11-2100 is hereby found to be Categorically Exempt from the California Environmental Quality Act (CEQA) based upon the following: Class 1 (CEQA Guidelines Section 15301, Existing Structures) and Class 3 (CEQA Guidelines Section 15303, New Construction or Conversion of Small Structures) exemptions; and

WHEREAS, the Planning Agency has considered evidence presented by the Community Development Department, the applicant, and other interested parties with respect to the subject application at a public meeting held on November 8, 2011.

NOW, THEREFORE, THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and are incorporated herein by reference.

SECTION 2. That the required findings by the City for approval of SDPA No. 10-11-2100 have been met and made as follows:

1. The site design complies with standards of the development code in that:

The proposed canopy and parking lot modifications do not obstruct vehicles from using required drive-aisles or required parking spaces. The new handicapped accessible parking spaces, ramps and path of travel are all ADA compliant and update the subject site to be in compliance with current codes. Therefore the site design complies with the standards of the development code.

2. The site is suitable for the proposed development in that:

The site is already the location of a DMV office. The proposed improvements make the site more functional as a DMV location and make the site more accessible for patrons with disabilities. Therefore the site is suitable for the proposed development.

3. The project is consistent with the General Plan and applicable design guidelines in that:

According to the General Plan, the purpose of the Community Commercial land use designation is to provide areas for general shopping and commercial service needs. The new canopy will help provide a better DMV experience for customers and bring the DMV use up to par with others in the area. The update of the façade will provide a cohesive look with the rest of the center. The new canopy will also match the look of the buildings in the center, using materials that have a similar look and painting the canopy to match the other buildings. Therefore the project is consistent with the General Plan and applicable design guidelines.

4. The site design and structural components are appropriate for the site and function of the proposed uses in that:

A canopy is a standard feature of most DMV locations and provides additional functionality for the existing use of the site. The canopy will be constructed in a manner that is durable to withstand the traffic, yet can be removed should the DMV cease to occupy this location.

NOW, THEREFORE, based upon the above findings, the Planning Agency of the City of Laguna Hills does hereby approve SDPA No. 10-11-2100 subject to the following conditions:

1. This approval constitutes approval of the proposed project only to the extent that it complies with the City's Development Code and any other applicable zoning regulations. Approval does not include any action or findings as to compliance or approval of the project regarding any other applicable ordinance, regulation, or requirement.
2. Failure to abide by and faithfully comply with any and all conditions of approval shall constitute grounds for revocation of said Site Development Permit by the Laguna Hills Planning Agency.
3. As a condition of issuance of this approval, the applicant/owner, hereby agrees, at its sole cost and expense and to the fullest extent permitted by law, to defend, indemnify, and hold harmless the City, its officers, employees, agents, and consultants, from any claim, action, or proceeding brought by a third party against the City, its officers, employees, agents, and consultants, which seeks to attack, challenge, set aside, void, or annul an approval of the City Council, Planning Agency, or other decision-making body, or staff action concerning this project. The City agrees to promptly notify the

applicant of any such claim filed against the City and to fully cooperate in the defense of any such action. The City may, but is not obligated to, at its sole cost and expense, elect to participate in the defense of any such action under this condition.

4. The applicant/owner shall agree in writing to these conditions of approval within 30 days of the Planning Agency's approval.
5. The applicant/owner shall reimburse the City for any outstanding staff time spent on the processing of CPMA No. 9-11-2068 within 60 days of the Planning Agency's approval.
6. The Site Development Permit and associated entitlements shall expire and be of no further force or effect if the permit is not implemented within two years from November 8, 2011.
7. Within 48 hours from project approval, the applicant/owner shall submit to the City a check in the amount of \$50.00, made payable to the Orange County Clerk-Recorder, for filing the Notice of Exemption.
8. The applicant/owner shall secure applicable building permits, as required by Section 105 of the 2010 California Building Code (see work exempt from permits).
9. Any required plans shall be accurately labeled and reflect all work, as required by Section 107 of the 2010 California Building Code (construction documents).
10. The applicant/owner shall submit Construction and Demolition Waste Recycling Program paperwork, if applicable, as required by the City of Laguna Hills Ordinance No. 2003-9 and to comply with mandates of the California Integrated Waste Management Board (CIWMB).
11. The applicant/owner shall comply with California Disabled Accessibility requirements, as required by Chapter 11 of the California Building Code.
12. The applicant/owner shall comply with all California Energy requirements, as required by the California Energy Commission.
13. All construction shall comply with the 2010 California Building, Plumbing, Mechanical, and Electrical Codes in regards to B occupancies.
14. The applicant/owner shall maintain the existing required fire lane adjacent to the existing structure. The proposed canopy shall be located in the parking spaces, as indicated on the site plan. At no time shall the canopy be moved to the emergency access road/fire lane, which would obstruct access for emergency responders.

15. The new canopy shall have a matte finish and painted to match the finish and color of the DMV building.
16. Prior to issuance of building permits the applicant/owner shall submit to the City a final landscape plan. There shall be no fewer than four trees included in the final landscape plan. The trees shall be a minimum 24-inch box size.
17. Should the DMV cease to occupy the subject site, the applicant/owner shall be required to remove the awing and return the parking lot to its normal function within 60 days of the DMV vacating the property, unless a new tenant can make functional use of the canopy space. Such exceptions shall be reviewed and approved in writing by the Community Development Director.

PASSED, APPROVED, AND ADOPTED this 8th day of November, 2011.

L. ALLAN SONGSTAD, JR., CHAIR

ATTEST:

PEGGY J. JOHNS, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Peggy J. Johns, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. PA2011- adopted by the Planning Agency of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 8th day of November, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

PEGGY J. JOHNS, CITY CLERK

October 19, 2011

City of Laguna Hills
Planning Division
24035 El Toro Rd.
Laguna Hills, CA 92653

RE: Moulton Plaza DMV Remodel

Letter of Justification

As the final step in the renaissance of the Moulton Plaza shopping center, this is a proposal to remodel the exterior façade of the existing DMV building and add a canopy over a portion of the parking lot to allow the DMV to conduct their inspections and pretesting.

The canopy will be located across the drive aisle from the DMV space, and will update this facility to the state-wide DMV standard of having an all weather place to conduct their vehicle inspections and the set up of the behind-the-wheel drivers tests. The canopy is one aisle over from the outside aisle closest to Ridge Route Drive to allow for parking lot circulation to the Ridge Route driveway to flow unencumbered as it currently exists. The aisle way for the canopy towards Moulton is the queuing area for the cars that will be inspected or tested, again designed to allow a line up of cars without interfering with the parking lot. Although the queuing area for cars will take the place of 13 parking spaces, if recognition is made that cars cued up in the drive test and vehicle inspection lanes, occupy parking spaces under the current parking lot configuration, the net difference in parking spaces is de minimis. In any case, the remaining number of parking spaces would still be within the parking study required limits.

Along with the canopy, the parking area is being reconfigured to have legal accessible parking spaces and path of travel across the drive aisle to enter the building. Once across the aisle, a conforming path of travel (ramps and walkways) to both doors will be established. Along with the hardscape work, four trees will be added between the walkway and the curb to shade the walkway and soften the views of the building walls.

Aesthetically, the existing building walls facing Moulton and around the corner to the top of the stairs, which are an very rough, unattractive, undulating concrete finish, will be reworked to be a smooth stucco to match the balance of the building done last year. The DMV parapet will be raised to match the height of the existing parapet to the south, which screens the existing mechanical equipment. The top of the new parapet will include a clay ridge tile detail like the existing parapet to the south. The two existing small tile roofs over

the DMV doors are going to be removed. Their aged wood construction is in need of repair as well as the existing posts interfere with the path of travel and required clear spaces at the entries. In their place, we are adding awnings over the doors that will provide weather cover as well as detail and color. The awning fabric will match the color of the tile roofs. Both sets of doors will be replaced with new storefront doors that are ADA compliant. The entire DMV building will then be painted Dunn Edwards Swiss Coffee to match the balance of the buildings in the center.

The canopy structure has been designed to match the aesthetic of the DMV façade. The columns will have a 4-foot tall base of concrete for traffic protection, and then an architectural column cover over the structural posts. The exposed concrete will be a natural finish, lightly sandblasted so that it will survive the bumps and scratches of the vehicle traffic. The column covers will have a stucco like finish (smooth) and be painted to match the building. The canopy itself will be of metal construction, similar to a gas station canopy. The architectural reveals and steps will also be metal, but mimic the dimensions and look of the parapet on the building. The tile cap detail will not be on the canopy, as the scale of the canopy is so much smaller than the wall parapet. The metal will be a smooth finish, just like the stucco, and painted to match the building.





The Attachments referenced in
the Agenda Report:

4. Plans

are available for review in the
City Clerk's Department.

CITY OF LAGUNA HILLS

AGENDA REPORT PUBLIC SERVICES DEPARTMENT

ISSUE: PUBLIC HEARING TO CONSIDER THE VACATION OF PUBLIC SERVICE EASEMENTS (SPECIFIED LANDSCAPE EASEMENTS COMMONLY KNOWN AS "TREE POCKETS") ALONG THE SOUTHWESTERLY SIDE OF PASEO DE VALENCIA BETWEEN ALICIA PARKWAY AND LA PAZ ROAD

SUMMARY:

In accordance with the Resolution of Intention, Resolution No. 2011-10-11-2, passed by the City Council on October 11, 2011, this is the time and place of the Public Hearing and posted Notice of the Public Hearing to consider the subject action. There exist five-foot deep by six-foot wide public landscape easements, commonly known as tree pocket landscape easements, adjacent to variable width City open space and landscape maintenance lots and public right-of-way sidewalk areas along the southwesterly side of Paseo de Valencia between Alicia Parkway and La Paz Road. More particularly, a total of thirty-four (34) tree pocket landscape easements, which were originally dedicated to the County of Orange, are located on specific private residential lots within Tract Map Nos. 9035 and 9403 (hereinafter referred to as the "Tree Pocket Landscape Easements"). Upon review, staff determined the Tree Pocket Landscape Easements are no longer of present or prospective public use due to changed conditions and can be vacated and abandoned by the City Council following the general Public Streets, Highways, and Service Easements Vacation Law. It is recommended that the City Council take testimony and consider adoption of a Resolution to Vacate the Tree Pocket Landscape Easements.

BACKGROUND:

A resident of the community with the address of 25181 Linda Vista Drive, Laguna Hills, also known as Lot 1 of Tract Map No. 9403, previously requested that the City consider

RECOMMENDATION: THAT THE CITY COUNCIL OPEN THE PUBLIC HEARING AND CONSIDER ADOPTING A RESOLUTION ENTITLED: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ORDERING THE VACATION AND ABANDONMENT OF PUBLIC SERVICE EASEMENTS CONSISTING OF SPECIFIED TREE POCKET LANDSCAPE EASEMENTS DEDICATED WITHIN TRACT MAP NOS. 9035 AND 9403."

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the vacation and abandonment of a five-foot wide by six-foot deep Tree Pocket Landscape Easement that protrudes into the backyard and burdens the residential property. Upon review of this singular request, the City Council, by action on September 13, 2011, authorized staff to expand the evaluation of the potential vacation and abandonment of the Tree Pocket Landscape Easement affecting Lot 1 of Tract Map No. 9403 to all thirty-four (34) of the subject Tree Pocket Landscape Easements in the immediate vicinity, please see the attached vicinity aerial map.

The Tree Pocket Landscape Easements originated, by dedication, with the residential development of two subdivisions (i.e., Tract Map Nos. 9035 and 9403) located along the southwesterly side of Paseo de Valencia between Alicia Parkway and La Paz Road, please see the attached vicinity map. There are a total of thirty-four (34) Tree Pocket Landscape Easement sites protruding into the perimeter walls of the residential lots and facing Paseo de Valencia. The Tree Pocket Landscape Easements are located on either side of the subdivision's entry points of Sunburst Avenue and Alisal Avenue, as well as adjacent to City open space and landscape easement lots, and further easterly along the public right-of-way sidewalk areas of Paseo de Valencia. Both subdivisions originally dedicated the five-foot by six-foot Tree Pocket Landscape Easements to the County of Orange on different dates in 1977.

Tract Map No. 9035 was recorded in Book 398, pages 3 – 8 inclusive, of Miscellaneous Maps in the office of the Orange County Recorder, on February 24, 1977. The owner/subdivider provided offers of dedication on the map including: "We also hereby dedicate to the County of Orange: ... The Easements for Landscape Purposes as shown on said map." The original intended purpose of the dedication was to create limited space for the planting of trees. The five-foot wide by six-foot deep Tree Pocket Landscape Easements for Map No. 9035 are graphically shown and called out upon the map on Sheet 5 of 6 as, "(Typical) 5' x 6' Easements for Landscape purposes dedicated to the County of Orange." There are twelve (12) Tree Pocket Landscape Easements, upon lots numbered 122 through 134, inclusive, within Tract Map No. 9035 (referred to as the "Map No. 9035 Tree Pocket Landscape Easements.") The County of Orange did accept the offer of dedication of these landscape easements at the time of the recordation of Tract Map No. 9035.

Likewise, Tract Map No. 9403 was recorded in Book 393, pages 41 – 46 inclusive, of Miscellaneous Maps in the office of the Orange County Recorder, on January 6, 1977. The owner/subdivider provided offers of dedication on the map including: "We also hereby dedicate to the County of Orange: ... The Easements for Landscape Maintenance Purposes as shown on said map." The original intended purpose of the

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dedication was to create limited space for the planting of trees. The five-foot wide by six-foot deep Tree Pocket Landscape Easements are graphically shown and called out upon the map on sheets 3 and 5 of 6 as, "(Typical) 5' x 6' Easements for Landscape maintenance purposes dedicated to the County of Orange". There are nine (9) Tree Pocket Landscape Easements upon lots numbered 1 through 9, inclusive, twelve (12) additional Tree Pocket Landscape Easements upon lots numbered 16 through 23, inclusive, and one (1) Tree Pocket Landscape Easement shared upon Lots 29 and 30 within Tract Map No. 9403 (referred to as "Map No. 9403 Tree Pocket Landscape Easements.") The County of Orange did accept the offer of dedication of these landscape easements at the time of the recordation of Tract Map No. 9403.

It should be noted that Tract Map No. 9035 is contiguous to Tract Map No. 9403, and, therefore, Map No. 9035 Tree Pocket Landscape Easements and Map No. 9403 Tree Pocket Landscape Easements are hereinafter referred to in the staff report, as well as in the attached proposed "Resolution to Vacate," collectively, as the thirty-four (34) subject "Tree Pocket Landscape Easements."

The County of Orange subsequently quitclaimed all of their interests in the Tree Pocket Landscape Easements to the City of Laguna Hills by the "Quitclaim Deed and Assignment," recorded as Instrument No. 19960529568, on October 18, 1996, in the office of the Orange County Recorder.

Upon review of the Tree Pocket Landscape Easements, staff concludes they are no longer of practical use, nor do they serve their original intended dedicated use, as most all of the trees planted at the time of development (i.e., 1977) outgrew the very limited space provided and ultimately had to be removed. Given the space restrictions, replanting trees in the tree pocket areas is not feasible as the previous tree stumps cannot be efficiently or cost effectively removed. There is a sufficient stand of existing ground covers, shrubs, and trees along the City's landscape space facing Paseo de Valencia to present an attractive appearance of this landscape area without regard to the Tree Pocket Landscape Easements. Therefore, it is concluded the Tree Pocket Landscape Easements are no longer functional for their original intended use due to changed conditions, and therefore are no longer of present or prospective public use. The City Council has the authority to order the vacation of public service easements, in this case the subject Tree Pocket Landscape Easements, in accordance with the general Public Streets, Highways, and Service Easements Vacation Law (Government Code §8300, *et seq.*)

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The vacation process requires the City Council to adopt a Resolution of Intention to Vacate as was adopted on October 11, 2011, and set a public hearing set for today to consider the proposed vacation action. The posting of the landscape easement areas proposed for vacation and the publishing and posting of the notice of the proposed public hearing was completed as required by the Government Code. In addition, staff has sent letters to each property owner potentially affected by the proposed vacation action to provide them with information about the Tree Pocket Landscape Easements being considered for vacation and abandonment and inviting them to participate in this process.

The property owner with a lot upon which there exists a Tree Pocket Landscape Easement is the underlying fee owner of the land occupied by the Tree Pocket Landscape Easement. If the public interest in a Tree Pocket Landscape Easement is vacated, the area occupied by the former Tree Pocket Landscape Easement will revert to the ownership of underlying fee owner. The Tree Pocket Landscape Easements being considered for vacation would be abandoned in an “as is” condition. The City would not remove the tree stumps and would not be responsible for modifying the existing private block walls that surround the perimeter of the Tree Pocket Landscape Easements. Each individual property owner would be responsible for their own property which, overtime, could result in a patchwork of different wall modifications. It is reasonable to expect that some of the homeowners will not remove and replace the walls surrounding the former Tree Pocket Landscape Easements (if vacated by action of the City Council) and this could result in property maintenance issues for the City to address in the future.

CEQA:

By action on October 11, 2011, the City Council did find that this vacation action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical changes to the environment, directly or indirectly.

GENERAL PLAN CONSISTENCY DETERMINATION:

By action on October 11, 2011, the City Council, which also serves as the Planning Agency for the City, did find that the proposed Public Service Easement Vacation action

is in conformance with the Laguna Hills General Plan, pursuant to Government Code §65402, as follows: “The proposed vacation of thirty-four (34) Tree Pocket Landscape Easements, each one isolated and measuring approximately five-feet by six-feet, does not constitute a significant quantity of City landscape easement area, does not represent a part of a continuous riparian corridor, does not constitute locations of significant resources, and does not represent a part of a contiguous open space per the General Plan Conservation and Open Spaces Element.

FISCAL IMPACT:

The processing of a public service easement vacation is estimated to incur approximately \$1,500 of staff time costs and funds are available for this work in the Fiscal Year 2011/2012 Public Services Department Operating Budget.

RECOMMENDATION: THAT THE CITY COUNCIL OPEN THE PUBLIC HEARING AND CONSIDER ADOPTING A RESOLUTION ENTITLED: “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ORDERING THE VACATION AND ABANDONMENT OF PUBLIC SERVICE EASEMENTS CONSISTING OF SPECIFIED TREE POCKET LANDSCAPE EASEMENTS DEDICATED WITHIN TRACT MAP NOS. 9035 AND 9403.”

ATTACHMENTS:

- Proposed Resolution
- Vicinity Map

RESOLUTION NO. 2011-11-08-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ORDERING THE VACATION AND ABANDONMENT OF PUBLIC SERVICE EASEMENTS CONSISTING OF SPECIFIED TREE POCKET LANDSCAPE EASEMENTS DEDICATED WITHIN TRACT MAP NOS. 9035 AND 9403

The City Council of the City of Laguna Hills, California, which also serves as the Planning Agency of the City of Laguna Hills, hereby finds, determines, declares, and resolves as follows:

WHEREAS, Tract Map No. 9035 was recorded in Book 398, pages 3 – 8 inclusive, of Miscellaneous Maps in the office of the Orange County Recorder, on February 24, 1977; and

WHEREAS, Tract Map No. 9035 offered a dedication on said map to wit: “We also hereby dedicate to the County of Orange: ... The Easements for Landscape Purposes as shown on said map”; and

WHEREAS, the aforementioned easements for landscape purposes consist of five-foot wide by six-foot deep landscape easements graphically shown, depicted, and called out upon said map on sheet 5 of 6 as, “(Typical) 5’ x 6’ Easements for Landscape purposes dedicated to the County of Orange,” (hereinafter referred to as Map No. 9035 Tree Pocket Landscape Easements); and

WHEREAS, said Map No. 9035 Tree Pocket Landscape Easements are located upon lots numbered 122 through 134, inclusive; and

WHEREAS, the County of Orange did accept the offer of dedication of the Map No. 9035 Tree Pocket Landscape Easements at the time of recordation of Final Tract Map No. 9035; and

WHEREAS, the County of Orange subsequently quitclaimed all of their interests in the Map No. 9035 Tree Pocket Landscape Easements to the City of Laguna Hills by the “Quitclaim Deed and Assignment”, recorded as Instrument No. 19960529568, on October 18, 1996, in the office of the Orange County Recorder; and

WHEREAS, likewise, Tract Map No. 9403 was recorded in Book 393, pages 41 – 46 inclusive, of Miscellaneous Maps in the office of the Orange County Recorder, on January 6, 1977; and

WHEREAS, Tract Map No. 9403 offered a dedication on said map to wit: “We also hereby dedicate to the County of Orange: ... The Easements for Landscape Maintenance Purposes as shown on said map”; and

WHEREAS, the aforementioned easements for landscape maintenance purposes also consist of five-foot wide by six-foot deep landscape easements graphically shown, depicted, and called out upon said map on sheet 3 and 5 of 6 as, "(Typical) 5' x 6' Easements for Landscape Maintenance purposes dedicated to the County of Orange," (hereinafter referred to as Map No. 9403 Tree Pocket Landscape Easements); and

WHEREAS, said Map No. 9403 Tree Pocket Landscape Easements are located upon lots numbered 1 through 9, inclusive, lots numbered 16 through 23, inclusive, and lots 29 and 30 within Tract Map No. 9403; and

WHEREAS, the County of Orange did accept the offer of dedication of the Map No. 9403 Tree Pocket Landscape Easements at the time of the recordation of Tract Map No. 9403; and

WHEREAS, the County of Orange subsequently quitclaimed all of their interests in the Map No. 9403 Tree Pocket Landscape Easements to the City of Laguna Hills by the "Quitclaim Deed and Assignment," recorded as Instrument No. 19960529568, on October 18, 1996, in the office of the Orange County Recorder; and

WHEREAS, Tract Map No. 9035 is contiguous to Tract Map No. 9403, and, therefore, the Map No. 9035 Tree Pocket Landscape Easements and the Map No. 9403 Tree Pocket Landscape Easements shall hereinafter be referred to, collectively, as the thirty-four (34) subject "Tree Pocket Landscape Easements;" and

WHEREAS, the Tree Pocket Landscape Easements exist within both of said Tract Maps, and the Tree Pocket Landscape Easements are generally located adjacent to Paseo de Valencia, a public street, between Alicia Parkway and La Paz Road; and

WHEREAS, the Tree Pocket Landscape Easements protrude into the aforementioned residential lots, thereby reducing the backyard space and functionality of the affected residential properties; and

WHEREAS, a property owner, on whose property one of the subject Tree Pocket Landscape Easements exist, requested that the City consider the vacation and abandonment of the Tree Pocket Landscape Easement that currently burdens the property; and

WHEREAS, upon City review and research of the aforesaid property concerning the owner request for vacation and abandonment of the Tree Pocket Landscape Easement, the City determined that it was appropriate to expand the research and review to all of the subject Tree Pocket Landscape Easements within Tract Map Nos. 9035 and 9403; and

WHEREAS, it has been determined by City staff that the Tree Pocket Landscape Easements are no longer functional for their original intended use due to changed conditions, as the original trees planted outgrew the limited space provided, the trees were removed but the stumps could not be efficiently or cost effectively removed, and replacement trees cannot be planted due to the existing tree stumps and space limitations; and

WHEREAS, there exists adequate landscaping within open space and landscape easement lots that are maintained by the City to present an attractive landscape streetscape and area adjacent to the residential developments within Tract Map Nos. 9035 and 9403; and

WHEREAS, the Tree Pocket Landscape Easements are no longer of present or prospective public use and are not useful as a non-motorized transportation facility, and the subject landscape easements have not been maintained for the purpose for which they were originally dedicated due to changed conditions; and

WHEREAS, pursuant to Streets and Highways Code Section 8300 *et seq.*, the City Council is authorized on its own initiation to vacate and abandon a public service easement that no longer serves the purpose for which it was originally dedicated; and

WHEREAS, pursuant to Streets and Highways Code Section 8312 *et seq.*, the City Council is authorized on its own initiation to vacate and abandon all or a portion of a public service easement within the City that no longer serves the purpose for which it was originally dedicated based on changed conditions; and

WHEREAS, California Government Section 7050 provides for the vacation and abandonment of public service easements pursuant to Streets and Highways Code Section 8300, *et seq.*, and the Council proceeds under the provisions of Chapter 3, Part 3, Division 9 (Section 8320 *et seq.*) of the Streets and Highways Code relative to this vacation action.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. Recitals. The foregoing recitals are true and correct and are incorporated by reference herein.

SECTION 2. Order of Vacation and Abandonment. Pursuant to the findings and determinations set forth herein, the City Council hereby orders the vacation and abandonment of all of the Tree Pocket Landscape Easements as more particularly described as follows:

1. “(Typical) 5’ x 6’ Easements for Landscape Purposes dedicated to the County of Orange” located upon lots 122 through 134, inclusive, as shown on sheet 5 of 6 of Tract Map No. 9035, as recorded on February 24, 1977, in Book 398, Pages 3 – 8 inclusive, of Miscellaneous Maps of Official Records of the County of Orange; and,
2. “(Typical) 5’ X 6’ Easement for Landscape Maintenance Purposes dedicated to the County of Orange” located upon lots 1 through 9, inclusive, 16 through 23, inclusive, 29 and 30 as shown on Sheet 3 and 5 of 6 of Tract Map No. 9403 as recorded on January 6, 1977, in Book 393, Pages 41 – 46 inclusive, of Miscellaneous Maps of Official Records of the County of Orange.

SECTION 3. Changed Conditions. The City Council hereby finds and determines that the Tree Pocket Landscape Easements are unnecessary for present or prospective public use and are not useful as a non-motorized transportation facility, as the subject landscape easements have not been maintained for the purpose for which they were originally dedicated due to changed conditions, and no public facilities are contained thereon.

SECTION 4. General Plan Conformity. The City Council, which also serves as the City’s Planning Agency, finds in accordance with Section 65402 of the Government Code that vacating and abandoning the Tree Pocket Landscape Easements is consistent with the Laguna Hills General Plan, as the Tree Pocket Landscape Easements, each one isolated and measuring approximately five-feet by six-feet, does not constitute a significant quantity of City landscape easement area, does not represent a part of a continuous riparian corridor, does not constitute locations of significant resources, and does not represent a part of a contiguous open space pursuant to the General Plan Conservation and Open Spaces Element, and therefore the proposed vacation action is consistent with the General Plan.

SECTION 5. Public Hearing. In accordance with State law, a public hearing was previously noticed for and conducted on November 8, 2011, at 7:00 p.m., or as soon thereafter as the matter could be heard, in the City Council Chamber of the City of Laguna Hills, located at 24035 El Toro Road, Laguna Hills, California, which allowed for the submission of evidence and a hearing of all persons interested in, or objecting to, the proposed public service easement for open space purposes vacation and abandonment action.

SECTION 6. Notice. The City Clerk and the Director of Public Services/City Engineer caused the publication and posting of the Notice of Public Hearing in accordance with the requirements of Streets and Highways Code Sections 8320, *et seq.*

SECTION 7. Election to Vacate and Abandon Public Services Easements. The City Council elects to proceed under the provisions of Chapter 3, Part 3, Division 9

(Section 8320 *et seq.*) of the Streets and Highways and Code.

SECTION 8. CEQA Clearance. The City Council makes the determination that this vacation action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical changes to the environment, directly or indirectly.

PASSED, APPROVED, AND ADOPTED this 8th day of November 2011.

L. ALLAN SONGSTAD, JR., MAYOR

ATTEST:

PEGGY J. JOHNS, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Peggy J. Johns, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2011-11-08- adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 8TH day of November 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

PEGGY J. JOHNS, CITY CLERK



TRACT MAP NOS. 9035 AND 9403

VICINITY MAP



0 650 Feet

VICINITY MAP

CITY OF LAGUNA HILLS

AGENDA REPORT CITY ATTORNEY DEPARTMENT

ISSUE: PROPOSED DRAFT ORDINANCE OF THE CITY OF LAGUNA HILLS ADDING CHAPTER 6-40 TO TITLE 6 OF THE LAGUNA HILLS MUNICIPAL CODE ESTABLISHING PARKS AS "CHILD SAFETY ZONES" WHERE REGISTERED SEX OFFENDERS ARE PROHIBITED FROM ENTERING WITHOUT WRITTEN PERMISSION FROM THE ORANGE COUNTY SHERIFF

SUMMARY:

This item was previously introduced and brought forward at the request of Council Member Kogerman. On September 27, 2011, by a unanimous vote of the City Council, the Council directed that the city attorney's office research and prepare a report and prepare draft ordinance options for consideration and possible future adoption of a local child safety zone ordinance modeled after the County of Orange Child Safety Zone Ordinance, which operates to prohibit registered sex offenders from entering County parks without written permission from the Orange County Sheriff. The city attorney's office has researched this issue and has prepared the following report, along with two proposed draft ordinance options, and has researched and assembled the information previously requested by the Council, which are attached hereto as Attachments A – O.

As discussed more thoroughly below, two proposed draft ordinance options have been prepared for Council review and consideration. Proposed draft ordinance Option 1 is modeled directly after the County's Child Safety Zone Ordinance and has been simply adapted for use by the City. Proposed draft ordinance Option 2 is a modified and more narrowly tailored version of the County's Child Safety Zone Ordinance. The differences between the two draft ordinance options are discussed below. It should be emphasized that both draft ordinance options are modeled after the County's child safety zone sex offender ordinance approach, as directed by the City Council.

RECOMMENDATION: THAT THE CITY COUNCIL: (1) REVIEW AND CONSIDER OPTIONS FOR ADOPTING A PROPOSED CHILD SAFETY ZONE ORDINANCE MODELED AFTER THE CHILD SAFETY ZONE SEX OFFENDER ORDINANCE ENACTED EARLIER THIS YEAR BY THE COUNTY OF ORANGE; (2) PROVIDE COMMENTS AND QUESTIONS OF THE CITY ATTORNEY AND CITY STAFF; (3) PROVIDE FURTHER DIRECTION; AND (4) CONTINUE THIS ITEM TO ALLOW CITY STAFF TIME TO CONDUCT PUBLIC OUTREACH WITH VARIOUS HOMEOWNERS' ASSOCIATIONS.

BACKGROUND:

Sex offenders present a risk to public safety. California Penal Code sections 290 *et seq.*, require individuals convicted of certain crimes to register as sex offenders. The registration process is used to ensure that such offenders are readily available for police surveillance at all times because such offenders are deemed likely to commit similar offenses in the future.

On April 5, 2011, the Orange County Board of Supervisors unanimously voted to adopt a new County ordinance to create child safety zones ("County Child Safety Zone Ordinance") (O.C.C.O No. 03-18-1 to 6) to further protect children from registered sex offenders by restricting sex offenders' access to County parks, as defined, which are locations where children regularly gather (**Attachment "A"**). The County Child Safety Zone Ordinance was developed and proposed by Orange County District Attorney Tony Rackauckas and Supervisor Shawn Nelson (Fourth District) with the intent of reducing the risk of harm to children by making it a misdemeanor for registered sex offenders to enter County recreational areas where children regularly gather without written permission from the Orange County Sheriff. On April 19, 2011, the City received letters from Orange County District Attorney Tony Rackauckas and Orange County Supervisor Patricia Bates urging the City Council to enact a local law similar to the County Child Safety Zone Ordinance in an effort to protect children in local City parks from sexual predators (**Attachment "B" and Attachment "C,"** respectively). On May 5, 2011, in response to the adoption of the County Child Safety Zone Ordinance, Orange County Sheriff Sandra Hutchens issued a memorandum to the Orange County Board of Supervisors indicating, generally, her overall support of the ordinance but commented on the lack of waiver criteria in the ordinance (**Attachment "D"**).

On September 27, 2011, the City Council discussed the possible adoption of an ordinance substantially similar to the County Child Safety Zone Ordinance. The Council directed the city attorney's office to research and to prepare a proposed child safety zone ordinance modeled after the County Child Safety Zone Ordinance and to return on November 8, 2011, with a report and proposed ordinance options for further review and consideration. The Council also requested copies of the local sex offender ordinances adopted by the cities of Orange, Fullerton, and Tustin (**Attachments "E", "F", and "G,"** respectively). Additionally, on September 27, 2011, and October 5, 2011, the City received correspondence from members of the public concerning the proposed adoption of a local child safety zone ordinance (**Attachment "H" and Attachment "I,"** respectively).

On October 26, 2011, District Attorney Tony Rackauckas sent a subsequent 11-page letter to the City encouraging the City of Laguna Hills to enact a local ordinance substantially similar to the County Child Safety Zone Ordinance to prohibit all registered sex offenders from entering City parks where children regularly gather without written

permission from the Orange County Sheriff (**Attachment "J"**).

DISCUSSION:

The City of Laguna Hills is home to approximately 30,344 residents, with approximately 22.3% of the City's population under 18 years old.¹ The City attracts families with children because of the housing, schools, churches, recreational amenities, sports facilities, community parks, and family oriented environment within the City. Within the City, there are currently 15 City parks and 14 privately owned HOA community parks and recreational areas (**Attachment "K"**). Accordingly, these City parks and privately owned HOA community parks have been identified as areas within the City where children and families regularly gather.

It is the purpose and intent of the proposed draft ordinance options to protect children from registered sex offenders by restricting sex offenders' access to locations where children regularly gather, such as City and community parks. In the City of Laguna Hills, there are currently 8 registered sex offenders that reside within the City, 6 of which have been convicted of sexual offenses against minors under 18 years old.²

Two proposed draft sample sex offender ordinances have been prepared for Council consideration, one is modeled directly after the County Child Safety Zone Ordinance and has simply been adapted for use by the City, and the other is a modified, more narrowly tailored version of the County's ordinance. The following is a brief summary of both draft ordinance options, as well as a brief explanation regarding the differences between the two draft ordinance options.

Option 1 Proposed Draft Child Safety Zone Ordinance Modeled Directly After the County Child Safety Zone Ordinance.

Option 1 is a proposed draft ordinance modeled directly after the County Child Safety Zone Ordinance and simply adapted for local adoption by the City (**Attachment "L"**). Under draft ordinance Option 1, any person required to register as a sex offender pursuant to California Penal Code sections 290 *et seq.*, who enters into or upon any City park without written permission from the Orange County Sheriff is guilty of a misdemeanor. As defined, a park includes any City owned, operated, leased, or maintained park. City parks have been identified as areas where children and families regularly gather.

The penalties for violating the ordinance are consistent with the County Child Safety Zone Ordinance by a fine not exceeding \$500 and/or imprisonment in a county jail for a period of not more than six months for the first violation; a minimum of ten days in jail and not more than six months in jail, or by both imprisonment and a fine up to \$500 for a

¹ Statistics based on 2010 Census Data.

² See Megan's Law Website at <http://www.meganslaw.ca.gov>.

second violation; and a minimum of 90 days in jail and not more than six months in jail, or by both imprisonment and fine of up to \$500 dollars for a third or subsequent violation.³

Option 2 **Proposed Draft Modified Version of the County Child Safety Zone Ordinance.**

Option 2 is a proposed draft ordinance that is a modified and more narrowly tailored version of the County Child Safety Zone Ordinance. In general, proposed draft ordinance Option 2 contains the following additional features, which differ from draft ordinance Option 1:

- (1) Additional findings in support of locally adopting the ordinance;
- (2) Restricting the scope of the ordinance prohibition to apply only to those registered sex offenders that have been convicted of offenses against minors, as well as convictions for other related offenses;
- (3) An additional provision requiring that any waiver request be date, time, and location specific;
- (4) An additional provision requiring the posting of park signage;
- (5) Expanding the prohibition to include not only City parks, but also all community parks owned, operated, leased or maintained by a Homeowners' Association, where the Homeowners' Association has provided written notice to the City requesting enforcement of the ordinance on private property; and,
- (6) An additional provision inserting criteria for the issuance of a waiver.

Under draft ordinance Option 2, only specified sex offenders required to register pursuant to California Penal Code sections 290 *et seq.*, who have been convicted of: (i) an offense against a minor; (ii) violation of Penal Code section 314 (indecent exposure); or (iii) violation of any of Penal Code Sections 311.1, 311.2, 311.3, 311.4, 311.10 or 311.11 (child pornography), are prohibited from entering into or upon the premises of a park without written permission from the Orange County Sheriff (**Attachment "M"**).

The penalties for violating the prohibition is consistent with the County Child Safety

³ The County Child Safety Zone Ordinance penalties are derived from Penal Code Section 626.81, which provides that a registered sex offender "who comes into any school building or upon any school ground without lawful business thereon and written permission from the chief administrative official of that school" is guilty of a misdemeanor.

Zone Ordinance by a fine not exceeding \$500 and/or imprisonment in a county jail for a period of not more than six months for the first violation; a minimum of ten days in jail and not more than six months in jail, or by both imprisonment and a fine up to \$500 for a second violation; and a minimum of 90 days in jail and not more than six months in jail, or by both imprisonment and fine of up to \$500 dollars for a third or subsequent violation.

In addition, the proposed Option 2 modified version of the County Child Safety Zone Ordinance allows the Orange County Sheriff to grant date, time, and location specific written permission for individual registered sex offenders based on objective criteria incorporated into the ordinance itself. Reasons that *may* justify a request to enter into the parks include:

- (1) Accompanying a minor for whom the Registrant is a parent or legal guardian and where the Registrant is not otherwise prohibited under any condition of parole or probation;
- (2) Accessing the Park for the purposes of exercising the rights of free speech or assembly;
- (3) Accessing the Park for purposes of lawful employment;
- (4) Accessing the Park for the purposes of voting in any local, state, or federal election; or
- (5) Accessing the Park for purposes of attending a religious service.

Also, under proposed draft ordinance Option 2, the City and Homeowners' Associations that request enforcement on private property would be required to post park signage providing notice of the ordinance.

Notice to Penal Code Section 290 Sex Offender Registrants

If the City Council decides to adopt either of the proposed draft ordinance options, it is recommended that Police Services staff be directed to notify all registered sex offenders residing in the City and issue a written notification to inform registrants of the newly adopted child safety zone ordinance.

Legality of Local Park Sex Offender Restrictions

At this time, there is no clear and definitive judicial determination in California state or federal courts concerning the legality and validity of locally-imposed "presence" restrictions on the rights of registered sex offenders to enter into and/or upon parks. The City Attorney is of the opinion that fair arguments can be made in support of such

restrictions; however, no assurances can be provided that such arguments will be adopted by state and/or federal courts. Local sex offender park restrictions are an untested and undeveloped area of the law. In order to aid in the defense of a challenge to the proposed local sex offender park ordinance, the city attorney's office recommends that such an ordinance be narrowly tailored to achieve a compelling governmental purpose, and that there should be the incorporation of criteria for issuance of the written permission, as proposed in draft ordinance Option 2.

City's Obligation to Indemnify and Defend the County of Orange

In the event the City's locally adopted child safety zone ordinance is challenged, pursuant to the City's current law enforcement services agreement with the County of Orange to provide police services to the City, the City is contractually required to indemnify and hold harmless the County from any claim, demand, or liability based or asserted upon the illegality or unconstitutionality of any municipal ordinance of the City that the Sheriff has enforced. The City is required to defend, at its sole cost and expense, including attorneys' fees, any legal action or claim of any kind based or asserted upon the illegality or unconstitutionality of a municipal ordinance. An excerpt from the City's current law enforcement services agreement with the County of Orange is attached hereto as **Attachment "N"**.

OPTIONS:

- (1.) ORDINANCE NO. ____ - AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADDING CHAPTER 6-40 TO TITLE 6 OF THE LAGUNA HILLS MUNICIPAL CODE PROHIBITING REGISTERED SEX OFFENDERS FROM ENTERING CITY PARKS WITHOUT WRITTEN PERMISSION FROM THE ORANGE COUNTY SHERIFF. (**Attachment "L"**.)

OR

- (2.) ORDINANCE NO. ____ - AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADDING CHAPTER 6-40 TO TITLE 6 OF THE LAGUNA HILLS MUNICIPAL CODE RESTRICTING SPECIFIED SEX OFFENDERS FROM ENTERING CITY AND COMMUNITY PARKS WITHOUT WRITTEN PERMISSION FROM THE ORANGE COUNTY SHERIFF BASED ON SPECIFIED WAIVER CRITERIA. (**Attachment "M"**.)

OR

- (3.) Defer consideration of the adoption of a local child safety zone ordinance pending further review and monitoring of similar regulations in Orange County and elsewhere to evaluate the effectiveness of such regulations and any legal developments concerning their validity.

FISCAL IMPACT:

Other than City staff and City Attorney time spent in researching and preparing the report, consulting with staff, and preparing the proposed draft ordinance options, there are no anticipated fiscal impacts associated with ordinance adoption.

CONCLUSION:

Staff requests that the City Council consider the alternatives provided herein and provide staff with any comments and/or direction concerning the future introduction and adoption of one of the sample draft ordinances proposed, or defer consideration of the adoption of a local child safety zone ordinance pending further study and evaluation.

At this time, however, City staff recommends that this item be continued in order to allow staff more time to conduct public outreach with the various Homeowners' Associations.

RECOMMENDATION: THAT THE CITY COUNCIL: (1) REVIEW AND CONSIDER OPTIONS FOR ADOPTING A PROPOSED CHILD SAFETY ZONE ORDINANCE MODELED AFTER THE CHILD SAFETY ZONE SEX OFFENDER ORDINANCE ENACTED EARLIER THIS YEAR BY THE COUNTY OF ORANGE; (2) PROVIDE COMMENTS AND QUESTIONS OF THE CITY ATTORNEY AND CITY STAFF; (3) PROVIDE FURTHER DIRECTION; AND (4) CONTINUE THIS ITEM TO ALLOW CITY STAFF TIME TO CONDUCT PUBLIC OUTREACH WITH VARIOUS HOMEOWNERS' ASSOCIATIONS.

ATTACHMENTS:

- A. County Child Safety Zone Ordinance (O.C.C.O. No. 03-18-1 to 6).
- B. April 19, 2011 Letter from Orange County District Attorney Tony Rackauckas.
- C. April 19, 2011 Letter from Orange County Supervisor Patricia Bates.
- D. May 5, 2011 Memorandum from Orange County Sheriff Sandra Hutchens.
- E. City of Fullerton Sex Offender Ordinance.
- F. City of Orange Sex Offender Ordinance.
- G. City of Tustin Sex Offender Ordinance.
- H. September 27, 2011 Letter from Erin D. Runnion.
- I. October 5, 2011 Letter from Jeffrey A. Lowry.
- J. October 26, 2011 Letter from Orange County District Attorney Tony Rackauckas
- K. List of City parks and HOA community parks.

- L. Option 1 -- Proposed Draft Child Safety Zone Ordinance Modeled Directly After the County Child Safety Zone Ordinance.
- M. Option 2 -- Proposed Modified Version of the County Child Safety Zone Ordinance.
- N. Indemnification Language from the City's Current Law Enforcement Services Agreement with the County of Orange.
- O. *Recidivism of Sex Offenders Released from Prison in 1994*, Bureau of Justice Statistics, U.S. department of Justice, Office of Justice Programs.

ORDINANCE NO. 03-18-1 to 6

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA
ADDING DIVISION 18, ARTICLE 1 TO TITLE 3
OF THE CODIFIED ORDINANCES OF THE COUNTY OF ORANGE
PROHIBITING REGISTERED SEX OFFENDERS FROM ENTERING COUNTY PARKS

The Board of Supervisors of the County of Orange, California ordains as follows:

SECTION 1. Division 18, Article 1 is hereby added to Title 3 of the Codified Ordinances of the County of Orange, to read as follows:

ARTICLE 1. PROHIBITION OF REGISTERED SEX OFFENDERS FROM
ENTERING COUNTY PARKS

Sec. 3-18-1. Purpose and intent.

It is the purpose and intent of this ordinance to protect children from registered sex offenders by restricting sex offenders' access to locations where children regularly gather. It is intended to reduce the risk of harm to children by impacting the ability of sex offenders to be in contact with children. It is further the intent of this ordinance to provide additional restrictions beyond those provided for in state law by restricting sex offenders from certain limited locations, and by allowing for criminal penalties for violations of this ordinance. It is not the intent of this ordinance to allow conduct otherwise prohibited by state law, or to contradict state law. Orange County Parks are recognized by the County of Orange Board of Supervisors as locations where children regularly gather.

Sec. 3-18-2. Definitions.

Orange County Park. For purposes of this ordinance, an Orange County Park is defined as any county-owned, leased, operated or maintained land before or after the effective date of this ordinance by the County of Orange held as a harbor, beach, park or recreation area, including but not limited to, Arroyo Trabuco Park, Carbon Canyon Regional Park, Clark Regional Park, Craig Regional Park, Featherly Regional Park, Irvine Regional Park, Laguna Niguel Regional Park, Mason Regional Park, Mile Square Regional Park, O'Neill Regional Park, Orange County Zoo, Peters Canyon Regional Park, Santiago Regional Park, Harriett M. Wieder Regional Park, Yorba Park, Aliso and Wood Canyons Wilderness Park, Caspers Wilderness Park, Laguna Coast Wilderness Park, Thomas F. Riley Wilderness Park, Talbert Nature Preserve, Aliso Beach Park, Capistrano Beach Park, Newport Harbor, Salt Creek Beach Park, Sunset Beach Park, Dana Point Harbor, and Sunset Harbour.

Sec. Sec. 3-18-3. Prohibitions.

Any person required to register pursuant to California Penal Code sections 290, *et seq.* who enters into or upon any Orange County Park where children regularly gather without written permission from the Orange County Sheriff or Sheriff's designee is guilty of a misdemeanor. Each entry into any such area, regardless of the time period between entries, shall constitute a separate offense under this ordinance.

Sec. 3-18-4. Penalties for violation.

Punishment for a violation of this section shall be as follows:

(1) Upon a first conviction, by imprisonment in a county jail for a period of not more than six months, or by a fine not exceeding five hundred dollars (\$500), or by both imprisonment and a fine.

(2) Upon a second conviction, by imprisonment in a county jail for a period of not less than ten (10) days and not more than six months, or by both imprisonment and a fine not exceeding five hundred dollars (\$500). Upon a second conviction, however, the person shall not be released on probation, parole, or any other basis until he or she has served not less than ten (10) days.

(3) Upon a third or subsequent conviction, by imprisonment in a county jail for a period of not less than ninety (90) days and not more than six months, or by both imprisonment and a fine not exceeding five hundred dollars (\$500). Upon a third or subsequent conviction, however, the person shall not be released on probation, parole, or any other basis until he or she has served not less than ninety (90) days.

Sec. 3-18-5. Other prosecution authorized.

Nothing in this ordinance shall preclude or prohibit prosecution under any other provision of law.

Sec. 3-18-6. Severability.

If any section, paragraph, sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof. The Board of Supervisors hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

**Orange County
District Attorney**

ony Rackauckas
401 Civic Center Drive W.
Santa Ana, CA 92701



**Orange County
Board of Supervisors** *Greg*

Bill Campbell, Chairman
John M.W. Moorlach, Vice Chairman
Janet Nguyen, First District
Shawn Nelson, Fourth District
Patricia C. Bates, Fifth District
333 W. Santa Ana Blvd., Santa Ana, CA 92701

April 19, 2011

*Discuss w/
Allen*

Bruce E. Channing
City of Laguna Hills - City Hall
24035 El Toro Road
Laguna Hills, CA 92653

Dear City Manager Bruce Channing:

Protecting the public from dangerous sex offenders is one of the highest duties of government. Now Orange County has become a leader by passing a law creating safety zones for children in parks, beaches and harbors, because public areas belong to children and families, not to registered sex offenders.

On April 5, 2011, the Orange County Board of Supervisors unanimously passed an Ordinance (3-18-1 to 6) creating a child safety zone prohibiting registered sex offenders from entering County parks without written permission from the Orange County Sheriff. Violators could be punished with up to six months in jail and/or a \$500 fine.

The law's purpose and intent is clear -- to protect children from registered sex offenders by restricting sex offenders' access to locations where children regularly gather and to reduce the risk of harm to children by restricting the ability of sex offenders' to have contact with children. The Ordinance specifically names 26 County parks. This Ordinance does not apply to any city parks.

We urge your city council to enact similar laws to protect the parks in your city. The Office of the District Attorney and the Board of Supervisors will provide the legislative and technical support you may need to pass a city ordinance.

Thank you for your commitment to fight for the protection of children and public safety.

Sincerely yours,

Tony Rackauckas
Tony Rackauckas
Orange County District Attorney

RECEIVED

APR 20 2011

CITY OF LAGUNA HILLS

11/8/2011 ITEM NO. 7.2.1
9/27/2011 ITEM NO. 8.1.1

Council



PATRICIA C. BATES
SUPERVISOR, FIFTH DISTRICT

ORANGE COUNTY HALL OF ADMINISTRATION
10 CIVIC CENTER PLAZA, 5TH FLOOR
333. W. SANTA ANA BLVD., SANTA ANA, CALIFORNIA 92702-0687
PHONE (714) 834-3550 FAX (714) 834-2670
<http://bos.ocgov.com/fifth/>

April 19, 2011

The Honorable Alan Songstad
City of Laguna Hills
24035 El Toro Road
Laguna Hills, CA 92653

Dear Mayor *Alan* Songstad,

One of the more challenging tasks faced by local government is protecting the public from 290 sex offender registrants that live amidst our community.

On April 5th the Board of Supervisors unanimously passed an ordinance prohibiting registered sex offenders from entering County parks without written permission from the Orange County Sheriff. Violators could be punished with up to six months in jail and/or a \$500 fine.

The goal of the new law is to restrict sex offenders' access to locations where children regularly gather. The ordinance specifically names 26 County parks. City parks, however, are not covered by the ordinance.

This solution for protecting the public from sex offenders serves as a model for other jurisdictions to follow and will provide law enforcement with an important tool for keeping our children safe. Please know that my office is happy to provide you with legislative and technical support if you determine the need for a similar city ordinance for your local parks.

If you have any questions please do not hesitate to contact me on this or any other issue of mutual concern.

Sincerely yours,

P.C.B.
Patricia C. Bates
Supervisor, Fifth District

RECEIVED

APR 21 2011

CITY OF LAGUNA HILLS

ORANGE COUNTY SHERIFF'S DEPARTMENT
Santa Ana, California



TO: Board of Supervisors
FROM: *Sandra Hutchens*
Sheriff Sandra Hutchens
DATE: May 5, 2011
RE: Waivers for Sex Offenders in County Parks

As the Sheriff, I recognize the importance of protecting all citizens of Orange County, especially our children. As such, I fully support Orange County Ordinance 3-18-1, et seq., "to protect children from registered sex offenders by restricting sex offenders' access to location where children regularly gather." Additionally, I recognize, as does the Board of Supervisors, that Orange County Parks are locations where children regularly gather.

Also, as the Sheriff of Orange County, I have pledged to uphold the law without favor. The ordinance does not provide any specifics as to permissions, exceptions or waivers that would be appropriate. Accordingly, my duty as Sheriff is to provide public safety and apply all laws without prejudice.

As such, I will support this ordinance and its intent to protect children who frequent our parks, harbors, beaches and recreational areas. To support this ordinance, and its intent, I do not foresee any circumstance under which I would grant permission for registered sex offenders to enter county parks.



NO. 9
10-5-10

CITY COUNCIL AGENDA

MEETING DATE: OCTOBER 5, 2010

TO: CITY COUNCIL/CITY MANAGER

604
R=10/12
P=10/12

FROM: OFFICE OF THE CITY CLERK

SUBJECT: ADOPT ORDINANCE NO. 3149 – REGISTERED SEX
OFFENDERS

Approved for Agenda.

City Manager's Office

SUMMARY

Ordinance No. 3149 amends the Fullerton Municipal Code regarding registered sex offenders who have offended against children.

RECOMMENDATION

Adopt the following Ordinance No. 3149:

ORDINANCE NO. 3149 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, ADDING CHAPTER 7.150 OF TITLE 7 (PUBLIC SAFETY AND MORALS) OF THE FULLERTON MUNICIPAL CODE REGARDING REGISTERED SEX OFFENDERS WHO HAVE OFFENDED AGAINST CHILDREN

PROPOSED COSTS

None.

DISCUSSION

At the September 21, 2010 meeting, the City Council approved to have first reading by title only, introduction, and waived further reading of Ordinance No. 3149 regarding registered sex offenders who have offended against children.

A handwritten signature in cursive script, appearing to read "Beverley White", is written over a horizontal line.

Beverley White
City Clerk

Attachment

ORDINANCE NO. 3149

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, ADDING CHAPTER 7.150 OF TITLE 7 (PUBLIC SAFETY AND MORALS) OF THE FULLERTON MUNICIPAL CODE REGARDING REGISTERED SEX OFFENDERS WHO HAVE OFFENDED AGAINST CHILDREN

THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS WITH RESPECT TO THE ADOPTION OF THE FOLLOWING ORDINANCE:

WHEREAS, the City Council of the City of Fullerton finds that sex offenders who have offended against children pose a continuing and clear threat to the children residing in, or visiting our community; and

WHEREAS, the City Council finds that convicted sex offenders are likely to re-offend for another sexual assault; and

WHEREAS, the City Council desires to impose safety precautions in furtherance of the goal of protecting our children; and

WHEREAS, the purpose of this regulation is assist with the management of sex offenders, to reduce the potential risk of harm to children of our community by impacting the ability for sex offenders who have offended against children to be in contact with unsuspecting children in locations that are designed for use by, or are used by children, namely, the grounds of a school, a center or facility that provides day care or children's services, and a park; and

WHEREAS, Section 3003.5 confers authority on the City of Fullerton to enact a residency restrictions on sex offenders.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FULLERTON DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 7.150 Title 7 (Public Safety and Morals) of the Fullerton Municipal Code is hereby added as follows:

Chapter 7.150 Registered Sex Offender Restrictions

Sec. 7.150.010 Purpose

It is the purpose and intent of this ordinance to assist with the management of sex offenders, and to protect children from registered sex offenders who have offended against children by limiting their access to locations where children may gather. This ordinance is intended to reduce the risk of harm to children by impacting the ability of sex offenders to be in contact with children.

This ordinance imposes additional restrictions beyond those provided for in Proposition 83, Jessica's Law (effective November 8, 2006) by adding locations to the residence restrictions of Jessica's Law, by restricting sex offenders from certain limited locations, and by allowing for both criminal and civil remedies. It is not the intent of this ordinance to allow conduct otherwise prohibited by state law, or to contradict state law.

Sec. 7.150.020 Definitions.

For purposes of this chapter, the following definitions shall apply:

- A. "Adult" means a person eighteen years and older.
- B. "Child" means a person under the age of eighteen years.
- C. "Day care center" means a licensed facility that provides nonmedical care on a less than twenty-four-hour basis to children in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual. "Day care center" does not include a "family day care home" as that term is defined in California Health and Safety Code Section 1596.78.
- D. "Park" means an open space intended for recreational use where children gather, including, but not limited to, playground areas. The City of Fullerton finds that all parks within the City are places where children gather.
- E. "Reside" means a temporary or permanent dwelling place, which one keeps and to which one intends to return, as opposed to a place where one rests or shelters during a trip or visit. Depending upon the circumstances, one may have a single place of residence or more than one place of residence.
- F. "Registerable offense" means a public offense which, upon conviction, requires the person who committed the offense to register as a sex offender pursuant to Section 290 of the Penal Code.
- G. "School" means the buildings and grounds of any public or private school used for the education of children in kindergarten or in grades 1 through 12, inclusive.
- H. "Sex offender" means any person required by law to register with a governmental entity as a sex offender for an offense against or involving a child or children, including, but not limited to, the California Sex Offender Registration Act, Penal Code section 290, et seq.

7.150.030 Residency restriction.

A. Any registered sex offender is prohibited from residing within 2000 (two thousand) feet of any school, park or day care center.

B. Any registered sex offender who established residency within the City of Fullerton prior to the effective date of this ordinance is prohibited from changing residence if the new residence would be in violation of subsection (A), above.

C. Any person who is convicted of a registerable offense against a child subsequent to the effective date of this ordinance is prohibited from residing within 2000 (two thousand feet) of any school, park or day care center, irrespective of whether the residence was established prior to the effective date of the ordinance.

7.150.040 Residency restriction -- Exceptions.

Section 7.150.030 shall not apply in any of the following circumstances:

A. The sex offender established the residency prior to the effective date of the ordinance codified in this chapter.

B. The sex offender established the residency prior to the initial operation of the child day care center, park, or school.

7.150.050 Proximity restrictions; Exceptions.

A. It is unlawful for any registered sex offender to be within 300 (three hundred) feet of any park, day care center or park.

B. Exceptions:

1. Any registered sex offender is prohibited from being located within 300 (three hundred) feet of a school, or day care center unless the registered sex offender is a parent or guardian of a child for whom the individual is legally responsible and the child attends the school or is a student at the school. Presence at the school or day care is permitted only for the limited time and purpose of picking up or dropping off the child, or to attend special events, and with the written permission of the school administrator who is responsible for child safety.

2. Any registered sex offender is prohibited from being located within 300 (three hundred) feet of a park, unless the registered sex offender is a parent or guardian of a child for whom the individual is legally responsible and the child is present at the park.

3. Any registered sex offender who lives within 300 (three hundred) feet of any school, park or day care center as of the effective date of this ordinance is not required to move. However the sex offender must proceed directly to and from his or her residence, and not loiter or remain within the 300 (three hundred) foot zone.

7.150.060 Measure of distance.

The 300 (three hundred) foot buffer zone and the 2000 (two thousand) foot buffer zone are measured in a straight line, in all directions, without regard to intervening structures, from any property line of any park, school or day care center.

7.150.070 Penalties.

A. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished as set forth in Chapter 1.08 of the Fullerton Municipal Code.

B. Any person who violates any provision of this chapter shall also be subject to the enforcement remedies of Chapter 1.10 of the Fullerton Municipal Code. Peace officers of the Fullerton Police Department or such other police agency under contract to provide police services to the city shall be authorized to issue citations or take such enforcement action pursuant to Chapters 1.08 and 1.10.

7.150.080 Declaration of nuisance.

A. Any violation of the requirements of this Chapter by any sex offender is hereby declared to be a nuisance.

B. Any single family or multi-family residential structure, mobile home, mobile home park, hotel, or motel operated or maintained in a manner inconsistent with the residency restrictions of this Chapter, in violation of any applicable provision of the Penal Code, or in violation of any sex offender's conditions of parole is hereby declared a public nuisance.

7.150.090 Other legal and equitable remedies.

The city, at its discretion, may pursue any and all legal and equitable remedies to enforce the provisions of this Chapter. Pursuit of one remedy does not preclude the pursuit of any other remedies.

Section 2. Inconsistencies. Any provision of the Fullerton Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the

extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 3. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 4. This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof. This Ordinance shall be posted at the following city of Fullerton locations within fifteen (15) days after adoption: City Hall Public Notice Display Case, 303 W. Commonwealth; Maintenance Services, 1580 W. Commonwealth; Museum Plaza, 301 N. Pomona; and Main Library, 353 W. Commonwealth.

ADOPTED BY THE FULLERTON CITY COUNCIL on _____, 2010.

Don Bankhead, Mayor

ATTEST:

Beverley White, City Clerk

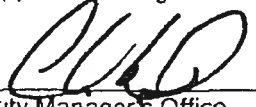


CITY COUNCIL AGENDA

604
R=9/12
P=9/12

MEETING DATE: SEPTEMBER 21, 2010
TO: CITY COUNCIL/CITY MANAGER
FROM: POLICE DEPARTMENT
SUBJECT: SEX REGISTRANT RESIDENCY RESTRICTION,
ORDINANCE #3149

Approved for Agenda.


City Manager's Office

SUMMARY

Sex Registrants in California are defined under California Penal Code (CPC) section 290. California sex registrant's are commonly referred to in the law enforcement community as 290's. On average, the city of Fullerton has between 160 to 170 290's residing in the city. The Police Department currently manages 290's through the work of detectives in the "Family Crimes Unit". Based upon the authority granted to municipalities in the CPC, and in an effort to enhance public safety in our community the Police Department wishes to adopt Ordinance No. 3149. The adoption of Ordinance No. 3149 will allow the Police Department to further manage 290's by restricting the residency requirements of 290's moving into or within the city of Fullerton near schools, parks, and day care centers.

RECOMMENDATION

Have first reading by title only, introduce, and waive further reading of Ordinance No. 3149.

PROPOSED COSTS

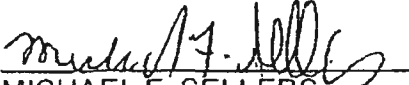
None

DISCUSSION

In California individuals convicted of certain crimes are required to register with local law enforcement as sex offenders, also known as a "290's". The California crimes requiring registration are defined under California Penal Code (CPC) section 290. The majority of 290's residing in Fullerton have been convicted of sex crimes against victims who were under 18 years of age at the time of the crime. To manage 290's in the City, Family Crimes Detectives at the Police Department will conduct interviews during 290 registration, conduct sex registrant home checks/visits, invoke search and seizure conditions on 290 probationers and parolees, and investigate new cases on 290's as they are discovered or reported to the Police Department.

Currently, section 3003.5(b) CPC prohibits any 290 from residing within 2000' of any public or private school, or park where children regularly gather. In a legal opinion from the Orange County District Attorney's Office (OCDA) we have learned that section 3003.5(b) CPC is a regulatory provision and it not enforceable as a criminal law. It is used as a regulatory provision by California State Parole in the management of 290's who are on parole. This renders 3003.5(b) CPC virtually useless in the way of application and enforcement by police once a 290 is off of parole and released into the community.

Section 3003.5(c) CPC however, grants the authority to municipalities to adopt local ordinances to further restrict the residency of 290's in California. Therefore, in an effort to further manage 290's, and to enhance public safety throughout our community the police department along with the City Attorney's Office have drafted Ordinance No. 3149. The Ordinance will limit access to children by sexual offenders by prohibiting 290's from living within 2000' of our schools, parks, and day care centers.


MICHAEL F. SELLERS
Chief of Police

Attachment: Ordinance No. 3149

ORDINANCE NO. 3149

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON ADDING CHAPTER 7.150 OF TITLE 7 (PUBLIC SAFETY AND MORALS) OF THE FULLERTON MUNICIPAL CODE REGARDING REGISTERED SEX OFFENDERS WHO HAVE OFFENDED AGAINST CHILDREN

THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS WITH RESPECT TO THE ADOPTION OF THE FOLLOWING ORDINANCE:

WHEREAS, the City Council of the City of Fullerton finds that sex offenders who have offended against children pose a continuing and clear threat to the children residing in, or visiting our community; and

WHEREAS, the City Council finds that convicted sex offenders are likely to re-offend for another sexual assault; and

WHEREAS, the City Council desires to impose safety precautions in furtherance of the goal of protecting our children; and

WHEREAS, the purpose of this regulation is assist with the management of sex offenders, to reduce the potential risk of harm to children of our community by impacting the ability for sex offenders who have offended against children to be in contact with unsuspecting children in locations that are designed for use by, or are used by children, namely, the grounds of a school, a center or facility that provides day care or children's services, and a park; and

WHEREAS, Section 3003.5 confers authority on the City of Fullerton to enact a residency restrictions on sex offenders.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FULLERTON DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 7.150 Title 7 (Public Safety and Morals) of the Fullerton Municipal Code is hereby added as follows:

Chapter 7.150 Registered Sex Offender Restrictions

Sec. 7.150.010 Purpose

It is the purpose and intent of this ordinance to assist with the management of sex offenders, and to protect children from registered sex offenders who have offended against children by limiting their access to locations where children may gather. This ordinance is intended to reduce the

risk of harm to children by impacting the ability of sex offenders to be in contact with children. This ordinance imposes additional restrictions beyond those provided for in Proposition 83, Jessica's Law (effective November 8, 2006) by adding locations to the residence restrictions of Jessica's Law, by restricting sex offenders from certain limited locations, and by allowing for both criminal and civil remedies. It is not the intent of this ordinance to allow conduct otherwise prohibited by state law, or to contradict state law.

Sec. 7.150.020 Definitions.

For purposes of this chapter, the following definitions shall apply:

- A. "Adult" means a person eighteen years and older.
- B. "Child" means a person under the age of eighteen years.
- C. "Day care center" means a licensed facility that provides nonmedical care on a less than twenty-four-hour basis to children in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual. "Day care center" does not include a "family day care home" as that term is defined in California Health and Safety Code Section 1596.78.
- D. "Park" means an open space intended for recreational use where children gather, including, but not limited to, playground areas. The City of Fullerton finds that all parks within the City are places where children gather.
- E. "Reside" means a temporary or permanent dwelling place, which one keeps and to which one intends to return, as opposed to a place where one rests or shelters during a trip or visit. Depending upon the circumstances, one may have a single place of residence or more than one place of residence.
- F. "Registerable offense" means a public offense which, upon conviction, requires the person who committed the offense to register as a sex offender pursuant to Section 290 of the Penal Code.
- G. "School" means the buildings and grounds of any public or private school used for the education of children in kindergarten or in grades 1 through 12, inclusive.
- H. "Sex offender" means any person required by law to register with a governmental entity as a sex offender for an offense against or involving a child or children, including, but not limited to, the California Sex Offender Registration Act, Penal Code section 290, et seq.

7.150.030 Residency restriction.

- A. Any registered sex offender is prohibited from residing within 2000 (two thousand) feet of any school, park or day care center.
- B. Any registered sex offender who established residency within the City of Fullerton prior to the effective date of this ordinance is prohibited from changing residence if the new residence would be in violation of subsection (A), above.
- C. Any person who is convicted of a registerable offense against a child subsequent to the effective date of this ordinance is prohibited from residing within 2000 (two thousand feet) of any school, park or day care center, irrespective of whether the residence was established prior to the effective date of the ordinance.

7.150.040 Residency restriction -- Exceptions.

Section 7.150.030 shall not apply in any of the following circumstances:

- A. The sex offender established the residency prior to the effective date of the ordinance codified in this chapter.
- B. The sex offender established the residency prior to the initial operation of the child day care center, park, or school.

7.150.050 Proximity restrictions; Exceptions.

A. It is unlawful for any registered sex offender to be within 300 (three hundred) feet of any park, day care center or park.

B. Exceptions:

1. Any registered sex offender is prohibited from being located within 300 (three hundred) feet of a school, unless the registered sex offender is a parent or guardian of a child for whom the individual is legally responsible and the child attends the school or is a student at the school. Presence at the school or day care is permitted only for the limited time and purpose of picking up or dropping off the child, or to attend special events, and with the written permission of the school administrator who is responsible for child safety.

2. Any registered sex offender is prohibited from being located within 300 (three hundred) feet of a park, unless the registered sex offender is a parent or guardian of a child for whom the individual is legally responsible and the child is present at the park.

3. Any registered sex offender who lives within 300 (three hundred) feet of any school, park or day care center as of the effective date of this ordinance is not required to move. However the sex offender must proceed directly to and from his or her residence, and not loiter or remain within the 300 (three hundred) foot zone.

7.150.060 Measure of distance.

The 300 (three hundred) foot buffer zone and the 2000 (two thousand) foot buffer zone are measured in a straight line, in all directions, without regard to intervening structures, from any property line of any park, school or day care center.

7.150.070 Penalties.

A. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished as set forth in Chapter 1.08 of the Fullerton Municipal Code.

B. Any person who violates any provision of this chapter shall also be subject to the enforcement remedies of Chapter 1.10 of the Fullerton Municipal Code. Peace officers of the Fullerton Police Department or such other police agency under contract to provide police services to the city shall be authorized to issue citations or take such enforcement action pursuant to Chapters 1.08 and 1.10.

7.150.080 Declaration of nuisance.

A. Any violation of the requirements of this Chapter by any sex offender is hereby declared to be a nuisance.

B. Any single family or multi-family residential structure, mobile home, mobile home park, hotel, or motel operated or maintained in a manner inconsistent with the residency restrictions of this Chapter, in violation of any applicable provision of the Penal Code, or in violation of any sex offender's conditions of parole is hereby declared a public nuisance.

7.150.090 Other legal and equitable remedies.

The city, at its discretion, may pursue any and all legal and equitable remedies to enforce the provisions of this Chapter. Pursuit of one remedy does not preclude the pursuit of any other remedies.

Section 2. Inconsistencies. Any provision of the Fullerton Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 3. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 4. This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof. This Ordinance shall be posted at the following city of Fullerton locations within fifteen (15) days after adoption: City Hall Public Notice Display Case, 303 W. Commonwealth; Maintenance Services, 1580 W. Commonwealth; Museum Plaza, 301 N. Pomona; and Main Library, 353 W. Commonwealth.

ADOPTED BY THE FULLERTON CITY COUNCIL on _____, 2010.

Don Bankhead, Mayor

ATTEST:

Beverley White, City Clerk



AGENDA ITEM

February 9, 2010

TO: Honorable Mayor and
Members of the City Council

THRU: John W. Sibley
City Manager

FROM: David De Berry
City Attorney

Reviewed/Verified By:

City Manager
Finance Director

To Be Presented By:

☐ Cons Calendar	☐ City Mgr Rpts
☐ Council Reports	☐ Legal Affairs
☐ Boards/Cmtes	☒ Public Hrgs
☐ Admin Reports	☐ Plan/Environ

1. SUBJECT

Ordinance No. 3-10. An ordinance of the City Council of the City of Orange amending chapter 9.10 of the Orange Municipal Code by adding section 9.10.045 regulating registered sex offenders conduct on Halloween.

2. SUMMARY

The City Council directed the City Attorney to explore the possibility of amending the current ordinance regarding restrictions on registered sex offenders to include additional restrictions during Halloween. The attached ordinance amendment further restricts the activities of sex registrants by limiting contact with children engaged in Halloween related activities.

3. RECOMMENDED ACTION

Adopt Ordinance No. 3-10.

4. FISCAL IMPACT

The cost of monitoring and enforcing Ordinance No. 3-10 are not expected to result in significant costs to the Police Department.

5. STRATEGIC PLAN GOAL(S)

Provide for a safe community

Strategies:

- e) Develop and implement effective community outreach services and programs to promote public safety.

6. DISCUSSION and BACKGROUND

Several months ago the City Council requested that the City Attorney explore the possibility of amending the current Registered Sex Offender Restrictions Ordinance ("ordinance") to include

ITEM 9.1

2/9/10

11/8/2011 ITEM NO. 7.2.1

additional restrictions during Halloween. The request was based on the desire to protect children from having contact with sex offenders who by law are required to both register as sex offenders and whose names must be listed in accordance with Megan's Law ("sex-offenders") while engaged in Halloween activities. It was also requested to help parents who are unfamiliar with a neighborhood protect their children while trick-or-treating.

The fact that children are most often the victims of sex offenders has been well documented to the City Council. Statistical data from the California Office of the Attorney General at www.ag.ca.gov will not be repeated here, but is incorporated herein by reference.

Currently, the City of Orange has 81 sex offenders reported living in the City. Anecdotal information from the Orange Police Department places this number higher due to the transient nature of sex offenders and due to the fact that not all sex offenders are required to be listed under Megan's Law. Nevertheless, 66 of the reported 81 sex offenders have convictions involving minors. And, while a standard condition of probation or parole prohibits sex offenders from having contact with minors, particularly at times such as Halloween, upon successful completion of probation, the terms and conditions which once regulated the probationer's activities are no longer applicable.

Based on information and feedback from City Council, Ordinance No. 3-10 accomplishes four things: first, it requires sex offenders to post a sign on their residence stating no candy or treats are available at that residence; second, it requires sex offenders to leave all exterior lights off at their residence during evening hours on Halloween; third, sex offenders are prohibited from decorating their residence with Halloween decorations; and finally, sex offenders are prohibited from answering their door to children who are trick or treating. The ordinance is designed to create an unwelcomed atmosphere for children trick or treating at or near the residence of a sex offender.

Any person violating the provisions of this ordinance amendment would be guilty of a misdemeanor. Upon conviction, the penalty would be up to \$1,000 in fines and/or up to one year in jail. It should also be noted that in those instances where the person convicted is also on probation, the conviction may be used as grounds to revoke their probation.

The provisions of this ordinance are similar to those imposed by the California Department of Corrections and Rehabilitation ("CDCR") on sex offenders who are on parole through an annual program called "Operation Boo". It should be noted that the CDCR program also imposes a 5 p.m. to 5 a.m. curfew on all parolees. The CDCR is able to impose the curfew as one of the additional terms and conditions of parole. After research and review of the law, including decisions offering guidance from other jurisdictions, the City Attorney's Office does not recommend including a curfew requirement in the City's proposed ordinance amendment due to at least one court case that held such a curfew violates an individual's constitutional right to travel.

7. ATTACHMENTS

- Ordinance No. 3-10.
- Redline Ordinance No. 3-10.

ORDINANCE NO. 3-10

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF ORANGE AMENDING CHAPTER 9.10 OF
THE ORANGE MUNICIPAL CODE BY ADDING
SECTION 9.10.045 REGULATING REGISTERED
SEX OFFENDERS CONDUCT ON HALLOWEEN.**

WHEREAS, statistical information indicates that the supervised release of sex offenders has only been marginally effective from keeping them from committing another sex offense; and

WHEREAS, Studies have found the following:

- Reported recidivism rates for sex offenders are as high as 45%, with the Department of Justice reporting that sex offenders are the least likely to be cured and the most likely to re-offend.
- It is widely accepted in the medical community that many sex offenders can only be controlled with medication.
- Of released sex offenders who committed another sex crime, 40% perpetrated the new offense within a year or less from their prison discharge, a fact which led the Legislature to adopt legislation for increase supervision of sex offenders in the period immediately following release from incarceration.
- An estimated 24% of those serving time for rape and 19% of those serving time for sexual assault were on probation or parole at the time of their offense.
- On a given day in the U.S. there are approximately 234,000 offenders convicted of rape or sexual assault that are under the care, custody, or control of corrections agencies. Of this number, nearly 60% or 140,400 of these sex offenders are under conditional supervision in the community.
- Sex offenders are about four times more likely than non-sex offenders to be arrested for another sex crime after their discharge from prison; and

WHEREAS, information provided by the Department of Justice cites that children are most often the victims of sex crimes; and

WHEREAS, Department of Justice statistics report nationally that the median age of the victims of imprisoned sexual assaulters was less than 13 years old; and

WHEREAS, information obtained from the California Office of the Attorney General for the City of Orange reports 81 known sex offenders living in the City; and

WHEREAS, 81% of those sex offenders have convictions involving minors; and

WHEREAS, staff obtained a copy of the standard terms and conditions of probation for sex offenders from the Orange County Probation Department, and one of the standard terms and conditions is that the probationer stays away from children during the period of probation.

However, upon successful completion of probation, the terms and conditions which once regulated the probationer's activities are no longer applicable; and

WHEREAS, in effort to further protect children from 290 registrants who may no longer be on probation, but may still pose a danger to children, the proposed ordinance prohibits 290 registrants convicted of offenses against minors from participating in specific Halloween activities that involve contact with children; and

WHEREAS, cities are free to enact laws to protect the health and safety of its residents as long as the laws do not conflict with state laws or do not regulate in an area in which the state has legislated so extensively that it evidences intent by the state to occupy the field of regulation.

NOW THEREFORE, the City Council of the City of Orange does ordain as follows:

SECTION I:

Chapter 9.10 of the Orange Municipal Code shall hereby be amended to add Section 9.10.045, which shall read as follows:

“Chapter 9.10
REGISTERED SEX OFFENDER RESTRICTIONS

Sections:

- | | |
|-----------------|---|
| 9.10.010 | Purpose of Chapter. |
| 9.10.020 | Definitions. |
| 9.10.030 | Prohibition. |
| 9.10.040 | Hotel and Motel Regulations. |
| 9.10.045 | Halloween Restrictions on Conduct. |
| 9.10.050 | Penalty. |

9.10.010 Purpose of Chapter.

Of the known number of registered sex offenders residing in the City, a large portion of them have convictions involving minors. Uncontroverted statistical data shows that a majority of the victims of sexual offenses are under the age of 18. It also shows that the recidivism rate of convicted sex offenders is nearly half. In addition, City hotels and motels have been known to become over-concentrated with registered sex offenders. This situation may have a deleterious effect on adjacent properties and create a trap for unwary travelers who do not have access to information provided under Megan's Law. It is the intent of this Chapter to further protect children from the dangers posed by registered sex offenders convicted of offenses against minors, to prevent the over-concentration of sex offenders occupying hotels and motels and to provide current and prospective guests with notice regarding the presence of a registered sex offender staying at the hotel or motel. The following regulations impose reasonable time, place and manner regulations on loitering and are rationally related to advance the City's interest in protecting children and the general public.

9.10.020 Definitions.

For purposes of this Chapter the following definitions shall apply:

- A. "Child" or "children" means any person(s) under the age of eighteen (18) years of age.
- B. "Child care center" means any state of California, Department of Social Services licensed facility that provides nonmedical care to children in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty-four (24) hour basis, including but not limited to a family day care home, infant center, preschool, extended-day care facility, or school-age child care center.
- C. "Child safety zone" means and includes those areas located within five hundred feet (500') from the nearest property line of a child care center, public or private school grades K through 12, park, public library, designated school bus stop, swimming or wading pool, commercial establishment that provides any area in or adjacent to such establishment as a children's playground, or any facility whose primary purpose is to provide classes or group activities for children.
- D. "Hotel or motel" means a commercial or residential building containing six or more guest rooms or suites, designed or used to be rented for primarily temporary or transient occupancy by guests for dwelling, lodging or sleeping purposes, for a period of not more than thirty (30) consecutive days.
- E. "Loiter" means to delay, linger, or idle about a child safety zone without lawful business or purpose for being present.
- F. "Owner, operator or authorized agent" means any natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, corporation, business trust or the manager, lessee, agent, servant, officer or employee authorized to act for the owner of a property
- G. "Park" means and includes any areas publicly owned, leased, controlled, maintained or managed by a city or county which are open to public use for recreational, cultural and community service activities, and include, but are not limited to, tot-lots, playgrounds, playfields, athletic courts, and dog park recreation areas.
- H. "Permanent resident" means any person who occupies a hotel or motel for more than thirty (30) consecutive days.
- I. "Sex offender" means any person for whom registration is required pursuant to Section 290 of the California Penal Code, regardless of whether that person is on parole or probation, and has been convicted of an offense against a child.
- J. "Temporary resident" means any person who occupies a hotel or motel for a period of thirty (30) days or less.

9.10.030 Prohibition.

- A. No sex offender shall loiter in a child safety zone.

9.10.040 Hotel and Motel Regulations.

- A. No sex offender shall be a permanent or temporary resident in any guest room of a hotel or motel already occupied by a sex offender, unless those persons are legally related by blood, marriage or adoption.
- B. No sex offender shall be a permanent or temporary resident in any guest room of a hotel or motel where two separate and distinct guest rooms are already occupied by sex offenders as permanent or temporary residents.
- C. No owner, operator or authorized agent thereof shall knowingly rent a guest room in a hotel or motel to more than one sex offender, unless those persons are legally related by blood, marriage or adoption.
- D. No owner, operator or authorized agent thereof shall knowingly rent a guest room in a hotel or motel to a sex offender when two separate and distinct guest rooms are already occupied by sex offenders.
- E. Within 24 hours of written notification by the City of Orange Police Department, any hotel or motel owner, operator or authorized agent thereof, must post a conspicuous notice at the registration desk which notifies current and or potential guests that a sex offender is currently occupying a guest room as a permanent or temporary resident.

9.10.45 Halloween, Restrictions on Conduct.

- A. Any sex offender, as defined herein, shall be required between midnight on October 31st and midnight on November 1st of each year to do the following:
 - 1. Post a sign, no smaller than 12" by 24", on the front door at his residence stating, "No candy or treats at this residence"; and
 - 2. Leave all exterior residential, decorative and ornamental lighting off during the evening hours starting at 5 p.m. until midnight, the next day; and
 - 3. Refrain from decorating his residence with Halloween decorations; and
 - 4. Refrain from answering the door to children who are trick or treating.

9.10.050 Penalty.

Any person violating the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of \$1,000 and/or imprisonment in the Orange County Jail for a term not exceeding one year."

SECTION II:

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION III:

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. A summary of this Ordinance shall also be published once within fifteen (15) days after this Ordinance's passage in a newspaper of general circulation, published, and circulated in the City of Orange. The City Clerk shall post in the Office of the City Clerk a certified copy of the full text of such adopted Ordinance along with the names of those City Council members voting for and against the Ordinance in accordance with Government Code Section 36933. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this ____ day of _____, 2010.

Carolyn V. Cavecche, Mayor, City of Orange

ATTEST:

Mary E. Murphy, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, MARY E. MURPHY, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the ____ day of _____, 2010, and thereafter at the regular meeting of said City Council duly held on the ____ day of _____, 2010, was duly passed and adopted by the following vote, to wit:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

Mary E. Murphy, City Clerk, City of Orange

ORDINANCE NO. 3-10

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF ORANGE AMENDING CHAPTER 9.10 OF
THE ORANGE MUNICIPAL CODE BY ADDING
SECTION 9.10.045 REGULATING REGISTERED
SEX OFFENDERS CONDUCT ON HALLOWEEN.**

WHEREAS, statistical information indicates that the supervised release of sex offenders has only been marginally effective from keeping them from committing another sex offense; and

WHEREAS, Studies have found the following:

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- On a given day in the U.S. there are approximately 234,000 offenders convicted of rape or sexual assault that are under the care, custody, or control of corrections agencies. Of this number, nearly 60% or 140,400 of these sex offenders are under conditional supervision in the community.
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WHEREAS, information provided by the Department of Justice cites that children are most often the victims of sex crimes; and

WHEREAS, Department of Justice statistics report nationally that the median age of the victims of imprisoned sexual assaulters was less than 13 years old; and

WHEREAS, information obtained from the California Office of the Attorney General for the City of Orange reports 81 known sex offenders living in the City; and

WHEREAS, 81% of those sex offenders have convictions involving minors; and

WHEREAS, staff obtained a copy of the standard terms and conditions of probation for sex offenders from the Orange County Probation Department, and one of the standard terms and conditions is that the probationer stays away from children during the period of probation.

However, upon successful completion of probation, the terms and conditions which once regulated the probationer's activities are no longer applicable; and

WHEREAS, in effort to further protect children from 290 registrants who may no longer be on probation, but may still pose a danger to children, the proposed ordinance prohibits 290 registrants convicted of offenses against minors from participating in specific Halloween activities that involve contact with children; and

WHEREAS, cities are free to enact laws to protect the health and safety of its residents as long as the laws do not conflict with state laws or do not regulate in an area in which the state has legislated so extensively that it evidences intent by the state to occupy the field of regulation.

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9.10.020	Definitions.
9.10.030	Prohibition.
9.10.040	Hotel and Motel Regulations.
<u>9.10.045</u>	<u>Halloween Restrictions on Conduct.</u>
9.10.050	Penalty.

9.10.010 Purpose of Chapter.

Of the known number of registered sex offenders residing in the City, a large portion of them have convictions involving minors. Uncontroverted statistical data shows that a majority of the victims of sexual offenses are under the age of 18. It also shows that the recidivism rate of convicted sex offenders is nearly half. In addition, City hotels and motels have been known to become over-concentrated with registered sex offenders. This situation may have a deleterious effect on adjacent properties and create a trap for unwary travelers who do not have access to information provided under Megan's Law. It is the intent of this Chapter to further protect children from the dangers posed by registered sex offenders convicted of offenses against minors, to prevent the over-concentration of sex offenders occupying hotels and motels and to provide current and prospective guests with notice regarding the presence of a registered sex offender staying at the hotel or motel. The following regulations impose reasonable time, place and manner regulations on loitering and are rationally related to advance the City's interest in protecting children and the general public.

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- B. "Child care center" means any state of California, Department of Social Services licensed facility that provides nonmedical care to children in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty-four (24) hour basis, including but not limited to a family day care home, infant center, preschool, extended-day care facility, or school-age child care center.
- C. "Child safety zone" means and includes those areas located within five hundred feet (500') from the nearest property line of a child care center, public or private school grades K through 12, park, public library, designated school bus stop, swimming or wading pool, commercial establishment that provides any area in or adjacent to such establishment as a children's playground, or any facility whose primary purpose is to provide classes or group activities for children.
- D. "Hotel or motel" means a commercial or residential building containing six or more guest rooms or suites, designed or used to be rented for primarily temporary or transient occupancy by guests for dwelling, lodging or sleeping purposes, for a period of not more than thirty (30) consecutive days.
- E. "Loiter" means to delay, linger, or idle about a child safety zone without lawful business or purpose for being present.
- F. "Owner, operator or authorized agent" means any natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, corporation, business trust or the manager, lessee, agent, servant, officer or employee authorized to act for the owner of a property
- G. "Park" means and includes any areas publicly owned, leased, controlled, maintained or managed by a city or county which are open to public use for recreational, cultural and community service activities, and include, but are not limited to, tot-lots, playgrounds, playfields, athletic courts, and dog park recreation areas.
- H. "Permanent resident" means any person who occupies a hotel or motel for more than thirty (30) consecutive days.
- I. "Sex offender" means any person for whom registration is required pursuant to Section 290 of the California Penal Code, regardless of whether that person is on parole or probation, and has been convicted of an offense against a child.
- J. "Temporary resident" means any person who occupies a hotel or motel for a period of thirty (30) days or less.

9.10.030 Prohibition.

- A. No sex offender shall loiter in a child safety zone.

9.10.040 Hotel and Motel Regulations.

- A. No sex offender shall be a permanent or temporary resident in any guest room of a hotel or motel already occupied by a sex offender, unless those persons are legally related by blood, marriage or adoption.
- B. No sex offender shall be a permanent or temporary resident in any guest room of a hotel or motel where two separate and distinct guest rooms are already occupied by sex offenders as permanent or temporary residents.
- C. No owner, operator or authorized agent thereof shall knowingly rent a guest room in a hotel or motel to more than one sex offender, unless those persons are legally related by blood, marriage or adoption.
- D. No owner, operator or authorized agent thereof shall knowingly rent a guest room in a hotel or motel to a sex offender when two separate and distinct guest rooms are already occupied by sex offenders.
- E. Within 24 hours of written notification by the City of Orange Police Department, any hotel or motel owner, operator or authorized agent thereof, must post a conspicuous notice at the registration desk which notifies current and or potential guests that a sex offender is currently occupying a guest room as a permanent or temporary resident.

9.10.45 Halloween, Restrictions on Conduct.

A. Any sex offender, as defined herein, shall be required between midnight on October 31st and midnight on November 1st of each year to do the following:

- 1. Post a sign, no smaller than 12" by 24", on the front door at his residence stating, "No candy or treats at this residence"; and
- 2. Leave all exterior residential, decorative and ornamental lighting off during the evening hours starting at 5 p.m. until midnight, the next day; and
- 3. Refrain from decorating his residence with Halloween decorations; and
- 4. Refrain from answering the door to children who are trick or treating.

9.10.050 Penalty.

Any person violating the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of \$1,000 and/or imprisonment in the Orange County Jail for a term not exceeding one year."

SECTION II:

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION III:

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. A summary of this Ordinance shall also be published once within fifteen (15) days after this Ordinance's passage in a newspaper of general circulation, published, and circulated in the City of Orange. The City Clerk shall post in the Office of the City Clerk a certified copy of the full text of such adopted Ordinance along with the names of those City Council members voting for and against the Ordinance in accordance with Government Code Section 36933. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this ____ day of _____, 2010.

Carolyn V. Cavecche, Mayor, City of Orange

ATTEST:

Mary E. Murphy, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, MARY E. MURPHY, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the ____ day of _____, 2010, and thereafter at the regular meeting of said City Council duly held on the ____ day of _____, 2010, was duly passed and adopted by the following vote, to wit:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

Mary E. Murphy, City Clerk, City of Orange

STATE OF CALIFORNIA,)
) ss.
County of Orange)

February 18, 2010

Executed at Santa Ana, Orange County,
California, on

Signature

Orange City News
625 N. Grand Ave.

Orange City News
625 N. Grand Ave.
Santa Ana, CA 92701
(714) 796-2209

ORDINANCE NO. 3-10

SYNOPSIS: Registered Sex Offenders Conduct on Halloween.

Phone: (714) 744-5500

Orange City News

MARY E. MURPHY
CITY CLERK OF THE CITY OF ORANGE

February 18, 2010

9206362

AFFIDAVIT OF PUBLICATION

STATE OF CALIFORNIA,)
) ss.
County of Orange)

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the **Orange City News**, a newspaper that has been adjudged to be a newspaper of general circulation by the Superior Court of the County of Orange, State of California, on August 17, 1970, Case No. A-66522 in and for the City of Orange, County of Orange, State of California; that the notice, of which the annexed is a true printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

March 4, 2010

"I certify (or declare) under the penalty of perjury under the laws of the State of California that the foregoing is true and correct":

Executed at Santa Ana, Orange County,
California, on

Date **March 4, 2010**

Signature

Orange City News
625 N. Grand Ave.

Orange City News
625 N. Grand Ave.
Santa Ana, CA 92701
(714) 796-2209

PROOF OF PUBLICATION

Proof of Publication of

ORDINANCE NO. 3-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING CHAPTER 9.10 OF THE ORANGE MUNICIPAL CODE BY ADDING SECTION 9.10.045 REGULATING REGISTERED SEX OFFENDERS CONDUCT ON HALLOWEEN.

SYNOPSIS: Registered Sex Offenders Conduct on Halloween.

This Ordinance was adopted at the February 23, 2010 City Council Meeting. The full text of the Ordinance has been posted in the City Clerk's Office as of February 24, 2010.

MAHY E. MORPHY
CITY CLERK OF THE CITY OF ORANGE
Phone: (714) 744-5500

— **Chlorophyll *a*** —

Orange City News

March 4, 2010.

92010757

7. ADMINISTRATIVE REPORTS (Continued)**7.2 Report on Zoning Alternatives for Massage Establishments as requested by the City Council. (A2500.0)**

MOTION - Smith

SECOND - Bilodeau

AYES - Smith, Murphy, Cavecche, Dumitru, Bilodeau

Moved to direct staff to zone massage establishments as personal service businesses; to be taken through the approval process and return to Council for final approval.

7.3 Report on Support for Orange County Sanitation District Federal Funding Request. (OC1300.G.5)

Councilmember Dumitru reported the Orange County Sanitation District had asked individual Board Members to send letters of support; but as the City's representative to the Board, he thought it was important enough to ask the entire Council to sign the letters of support.

MOTION - Dumitru

SECOND - Murphy

AYES - Smith, Murphy, Cavecche, Dumitru, Bilodeau

Moved to: 1) approve support for two Orange County Sanitation District projects; and 2) authorize preparation of letters of support.

8. REPORTS FROM CITY MANAGER - None**9. LEGAL AFFAIRS****9.1 ORDINANCE NO. 3-10 (FIRST READING) (A2500.0 Ord-03-10)**

An Ordinance of the City Council of the City of Orange Amending Chapter 9.10 of the Orange Municipal Code by adding Section 9.10.045 Regulating Registered Sex Offenders Conduct on Halloween.

Discussion – Councilmember Dumitru brought this forward to strengthen the existing Sex Offender Ordinance and make Orange one of the strongest cities in the State in dealing with registered sex offenders.

MOTION - Dumitru

SECOND - Cavecche

AYES - Smith, Murphy, Cavecche, Dumitru, Bilodeau

Moved that Ordinance No. 3-10 be read by title only and same was set for second reading by the preceding vote.

ORDINANCE NO. 1395

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUSTIN, CALIFORNIA, ADOPTING THE TUSTIN CITY CODE ARTICLE 5, CHAPTER 12 RE SEX OFFENDER RESIDENCY AND LOITERING RESTRICTIONS

The City Council of the City of Tustin, California, hereby ordains:

SECTION I: ADOPTION OF CHAPTER

Article 5, Chapter 12 of the Tustin City Code is hereby adopted to read as follows:

CHAPTER 12 – SEX OFFENDER RESIDENCY AND LOITERING RESTRICTIONS

- 5950 - PURPOSE
- 5952 - DEFINITIONS
- 5953 - SEX OFFENDER LOITERING PROHIBITION, CHILD SAFETY ZONE AND
MAP, NOTICE RE COMMUNITY EVENTS
- 5954 - SEX OFFENDER RESIDENCE PROHIBITION, RESIDENTIAL
EXCLUSION ZONE AND MAP
- 5955 - SEX OFFENDER RESIDENCE PROHIBITION, SINGLE-FAMILY AND
MULTI-FAMILY DWELLINGS
- 5956 - SEX OFFENDER OCCUPANCY PROHIBITION, HOTELS
- 5957 - EVICTION REQUIREMENTS
- 5958 - VIOLATION CONSTITUTES NUISANCE
- 5959 - CRIMINAL PENALTY, OTHER REMEDIES, ENFORCEMENT
- 5960 - APPLICABILITY OF RESIDENCY RESTRICTIONS
- 5961 - APPLICABILITY OF LOITERING PROHIBITION

5950 - PURPOSE

The purpose of this chapter is to address the following City Council findings and determinations:

- (A) On November 7, 2006, the voters of the State of California overwhelmingly approved Proposition 83, the Sexual Predator Punishment and Control Act, commonly known as "Jessica's Law", to protect Californians, and in particular, to protect the State's children from sex offenders.
- (B) Proposition 83, as codified at subsection (b) of California Penal Code section 3003.5, prohibits any person who is required to register as a sex offender per California Penal Code section 290 *et seq.* (a "sex offender") from residing within two thousand feet (2,000') of any public or private school, or any park where children regularly gather.

- (C) Proposition 83, as codified at subsection (c) of California Penal Code section 3003.5, authorizes local governments to enact ordinances that further restrict the residency of sex offenders.
- (D) Subsection (a) of California Penal Code section 3003.5, enacted in 1998 prior to Proposition 83, prohibits a sex offender who is on parole from residing in a "single-family dwelling" with another sex offender during his/her parole period, unless the multiple sex offenders are legally related by blood, marriage, or adoption. For purposes of this state statute, "single-family dwelling" does not include a residential facility such as a group home that serves six (6) or fewer persons.
- (E) Tustin is an attractive place for families and children because of the City's largely residential character.
- (F) There are many places in the City where children frequently gather such as schools, commercial establishments focused upon providing goods or services to children, parks, libraries, day care centers, youth activity centers and other locations that host classes and/or group activities for children.
- (G) The City is concerned with the prospect of multiple sex offenders residing together in violation of California Penal Code section 3003.5.
- (H) By enacting this Article 5, Chapter 12, Tustin intends to: *(i)* reduce the potential dangers associated with sex offenders living near families with children, and/or in places where children frequently gather, *(ii)* regulate the number of sex offenders permitted to reside together in dwellings and/or hotels, *(iii)* protect children who use and enjoy child-oriented locations throughout the City from the dangers presented by any sex offender who might choose to reside and/or loiter near such locations, *(iv)* establish regulations for property owners who rent residential facilities to sex offenders.
- (I) Article XI, Section 7 of the California Constitution authorizes the City to enact and enforce ordinances that regulate conditions that may be public nuisances or health hazards, or that promote social, economic or aesthetic considerations.
- (J) California Government Code section 38773.5 authorizes cities to pass ordinances that provide for the recovery of attorneys' fees in any action, administrative proceeding or special proceeding to abate a nuisance.
- (K) Sex offenders have high recidivism rates that exceed those exhibited by other convicted criminals. The City must therefore take all necessary action to protect children and potential victims from these dangerous predators.

- (L) The City is concerned about the high rate of recidivism among sex offenders and their dangerousness as a class. The City Council takes legislative notice of the November 2003 report issued by the U.S. Department of Justice, Bureau of Justice Statistics entitled, "Recidivism of Sex Offenders Released From Prison in 1994," published in 2003. A fifteen (15) state study of prisoners released in 1994 showed that when compared to non-sex offenders released from state prison, released sex offenders were four times (4x) more likely to be rearrested for a new sex crime. A copy of this report has been available for City Council and public review at the City Clerk's Office as a public record since the date when the agenda including this ordinance's consideration was posted, and will remain as such.
- (M) The City Council agrees with the U.S. Department of Justice statements in its brief to the Supreme Court that convicted sexual offenders are much more likely to repeat the offense of conviction than any other type of felon," and (ii) "clinical rehabilitative programs can enable sexual offenders to manage their criminal sexual impulses and thereby reduce the risk of sexual recidivism, [but a] vital component of those programs is for participants to come to terms with their sexual misconduct."
- (N) The City Council finds that since sex offender recidivism rates are empirical data, but sex offender rehabilitation depends upon an individual sex offender's personal efforts and acceptance of responsibility, factors that cannot be predicted, the danger presented by sex offenders is an unacceptable risk to the health, safety and welfare of the community that requires the City's regulatory intervention.
- (O) In enacting this chapter, the City does not intend to punish sex offenders for their prior illegal conduct. Rather, the purpose of this chapter is to create a regulatory and non-punitive scheme to protect children and the public health, safety and welfare for the City's residents and visitors.
- (P) Nothing in this chapter shall be deemed to modify or in any way limit restrictions placed upon a sex offender by terms and conditions of parole or probation.

5952 - DEFINITIONS

As used in this chapter, the following terms shall have meanings as set forth below.

"Child" or "children" shall mean any person(s) under the age of eighteen years of age.

"Child safety zone" shall mean any indoor or outdoor area located within three hundred feet (300') from the nearest property line of a day care center, public or private school, park, commercial establishment specifically focused upon providing goods or services to children, including but not limited to any establishment that provides a child's playground or ride either in

or adjacent to said establishment, tutoring center, youth activity center or other location that hosts classes and/or group activities for children, and/or any school bus stop. For purposes of this chapter's prohibition against loitering in section 5953 only, child safety zone shall also temporarily include any indoor or outdoor area located within three hundred feet (300') from the nearest property line of a defined venue for a community event during the community event in question. Distance from a child safety zone shall be measured in a straight line, without regard to intervening structures, from the outer boundaries of the properties on which the child safety zone is situated.

"Community event" shall mean an event of civic or recreational interest taking place within the City limits, open to the general public and incorporating the presence of children. City community events shall include but not be limited to Tustin Tiller Days, the Tustin Street Fair & Chili Cook-Off, and the Tustin Public Schools Foundation Dinosaur Dash.

"Day care center" shall mean any facility licensed by the State of California, Department of Social Services that provides non-medical care, on a less than twenty-four-hour basis, to children in need of personal services, supervision or assistance that is essential for sustaining the daily living activities, or protecting any such child. "Day care center" does not include any "family day care home" as that term is defined in California Health and Safety Code Section 1596.78.

"Defined venue" shall mean the location of a community event that creates a child safety zone per this chapter.

"Dwelling" shall mean a single family dwelling or a multi-family dwelling. For purposes of this chapter, dwelling shall not include any state-licensed residential facility which serves six (6) or fewer persons and is exempted under California Penal Code § 3003.5.

"Hotel" shall mean a commercial establishment that rents guest rooms or suites to the public on a nightly, weekly, or monthly basis, and shall include a motel, a bed and breakfast and an inn that operates in such capacity.

"Lawful purpose," as used in the definition of loiter, shall mean a reason, consistent with all applicable law and stated upon inquiry, for a person's presence at or moving through a particular location. Applicable law, for purposes of City evaluation of any purportedly lawful purpose, shall include this chapter.

"Loiter" shall mean to delay, linger, or idle, for a period in excess of five (5) minutes, in or about a child safety zone without a lawful purpose. Loitering shall not include patronage of a commercial establishment that does not qualify as a child safety zone except insofar as it takes place during a community event.

"Multi-family dwelling" shall mean a residential structure designed for the permanent residency of two or more individuals, groups of individuals, or families living independently. This definition

shall include a duplex, apartment complex, mobile home park, and a condominium complex, but shall not include a hotel.

"Owner's authorized agent" shall mean any natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, limited liability company, corporation, business trust, manager, lessee, servant, officer, or employee, authorized to act for the property owner.

"Park" shall include any indoor or outdoor area owned, leased, controlled, maintained, or managed by a public entity, or open to the public, where children regularly gather, and which provides recreational, cultural, and/or community service activities including, but not limited to, playgrounds, playfields, and athletic courts.

"Permanent resident" shall mean any person who, on a given date, has obtained a legal right to occupy or reside in, or has already, as of that date, occupied or resided in, a single-family or multi-family dwelling or a hotel, for more than thirty (30) consecutive days.

"Property owner" shall include the owner of record of real property, as recorded in the office of the county registrar-recorder/county clerk, as well as any partial owner, joint owner, tenant, tenant-in-common, or joint tenant, of such real property.

"Residential exclusion zone" shall mean any area located within two thousand feet (2,000') from the nearest property line of the subject property to the nearest property line of a day care center, public or private school, or park. A residential exclusion zone may geographically overlap or be coextensive with a child safety zone, but the two types of zones are addressed separately by this chapter. No residential exclusion zone or portion thereof shall be created or exist with respect to the defined area of a community event solely by virtue of the occurrence of the community event in question and/or the prohibition of loitering within the child safety zone corresponding to said community event. Distance from a residential exclusion zone shall be measured in a straight line, without regard to intervening structures, from the outer boundaries of the properties on which the residential exclusion zone is situated.

"Responsible party" shall mean a property owner and/or a property owner's authorized agent.

"Public or private school" shall mean any place of learning including the following: institutions of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the State Board of Education; nursery schools, kindergartens, Sunday schools, elementary schools, middle or junior high schools, and senior high schools.

"Sex offender" shall mean any person who must register in accord with California's "Sex Offender Registration Act," codified at California Penal Code section 290 *et seq.* as a result of a conviction, whether upon trial or by plea of guilty or *nolo contendere*, regardless of whether or not that person is on parole or probation.

"Single-family dwelling" shall mean one permanent residential dwelling located on a single lot.

"Temporary resident" shall mean any person who, on a given date, has obtained a legal right to occupy or reside in, or has already, as of that date, occupied or resided in, a single-family or multi-family dwelling or a hotel, for a period of thirty (30) consecutive days or less.

"Youth activity center" shall include but not be limited to the Clifton C. Miller Community Center, the Columbus Tustin Activity Center, and the Tustin Family & Youth Center.

5953 - SEX OFFENDER LOITERING PROHIBITION, CHILD SAFETY ZONE; NOTICE RE COMMUNITY EVENTS

- A. Except as provided by this chapter, a sex offender shall be prohibited from loitering in a child safety zone. The exceptions to this section are stated in section 5961.
- B. The City Clerk shall maintain as a public record a map that graphically identifies each child safety zone in the City. The child safety zone map shall be prepared and annually updated by the Director of Community Development and the Police Chief, and shall be administratively approved on or before March 1 each year by the City Manager or his/her designee. Additional updates to the child safety zone map shall be within the discretion of the City Manager, or his/her designee, as warranted by City approvals of new, modified and terminated land uses. A true and correct copy of each child safety zone map shall be posted on the City's website, <http://www.tustinca.org>.
- C. The Tustin Police Department shall prominently post clear notice of the defined venue of any community event and the boundaries of the corresponding child safety zone on its website, <http://www.tustinpdpd.org>, and in its lobby, for a period commencing not less than one week prior to the date of the community event in question. Concurrent with its posting of said notice, the police department shall transmit a copy of same to the California Department of Corrections and Rehabilitation, and the Orange County Probation Department. Furthermore, each such notice shall be a public record maintained by the City Clerk and posted on the City's website, <http://www.tustinca.org> through the same period of posting on the police department's website.

5954 - SEX OFFENDER RESIDENCE PROHIBITION, RESIDENTIAL EXCLUSION ZONE

- A. Except as provided by this chapter, a sex offender is prohibited from becoming a permanent or temporary resident in any residential exclusion zone. The exceptions to this section are stated in section 5960.
- B. The City Clerk shall maintain as a public record a map that graphically identifies each residential exclusion zone in the City. The residential exclusion zone map shall be prepared and annually updated by the Director of Community Development and the

Police Chief, and shall be administratively approved on or before March 1 of each year by the City Manager or his/her designee. Additional updates to the residential exclusion zone map shall be within the discretion of the City Manager, or his/her designee, as warranted by City approvals of new, modified and terminated land uses. A true and correct copy of each residential exclusion zone map shall be posted on the City's website, <http://www.tustinca.org>.

5955 - SEX OFFENDER RESIDENCE PROHIBITION, SINGLE-FAMILY AND MULTI-FAMILY DWELLINGS

- A. Same Dwelling. Except as provided by this chapter, a sex offender shall be prohibited from renting or otherwise occupying a single-family dwelling or a unit in a multi-family dwelling with another sex offender, regardless of the permanent or temporary residential status of either sex offender, unless those persons are legally related by blood, marriage, or adoption.
- B. Multiple Dwellings. Except as provided by this chapter, a sex offender shall be prohibited from renting or otherwise occupying a unit in a multi-family dwelling as a permanent resident if there is another unit in that multi-family dwelling that is already rented or otherwise occupied by a sex offender as a permanent resident, unless those persons are legally related by blood, marriage, or adoption.
- C. Temporary Residency. Except as provided by this chapter, a sex offender shall be prohibited from renting or otherwise occupying any single-family dwelling or any unit in a multi-family dwelling as a temporary resident.
- D. The exceptions to this section are stated in section 5960.

5956 - SEX OFFENDER OCCUPANCY PROHIBITION, HOTELS

- A. Same Hotel Room. Except as provided by this chapter, a sex offender shall be prohibited from renting or otherwise occupying the same guest room in a hotel with another sex offender, regardless of the residential status of any particular sex offender, unless those persons are legally related by blood, marriage, or adoption.
- B. Separate Hotel Rooms. Except as provided by this chapter, a sex offender shall be prohibited from renting or otherwise occupying a guest room in a hotel if there is another guest room in that same hotel that is already rented or otherwise occupied by a sex offender, regardless of the residential status of any particular sex offender, unless those persons are legally related by blood, marriage, or adoption.
- C. The exceptions to this section are stated in section 5960.

5957 - EVICTION REQUIREMENTS

If, in order to abate a nuisance identified in Section 5958, a responsible party is required to terminate a sex offender's tenancy or other occupancy, the responsible party shall comply with all applicable state law procedures and requirements governing the eviction of tenants of real property. If, in accord with these procedures and requirements, a court determines that such termination is improper, the responsible party shall not be in violation of this Chapter 12 by allowing the sex offender to remain as a tenant or other occupant.

5958 - VIOLATION CONSTITUTES NUISANCE

Any single-family dwelling, multi-family dwelling or hotel operated or maintained in a manner inconsistent with the occupancy requirements of this chapter or the restrictions of California Penal Code section 3003.5 is declared to be unlawful and is defined as and declared to be a public nuisance, injurious to the public health, safety and welfare and subject to abatement and recovery of abatement costs and expenses in accord with Article 5, Chapter 5 of the Tustin City Code.

5959 – CRIMINAL PENALTY, OTHER REMEDIES, ENFORCEMENT

- A. Notwithstanding any other penalty provided by the Tustin City Code or otherwise by law, any person who violates this chapter shall, in accord with an exercise of discretion by the City Attorney, be guilty of a misdemeanor or an infraction. Any person who violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.
- B. The City's remedies with respect to violations of this chapter, including the criminal penalty specified herein, are cumulative. Nothing in this chapter shall limit the authority of the City Council to direct that the City Attorney commence a civil enforcement proceeding, e.g., seek a restraining order, preliminary or permanent injunction. Furthermore, nothing in this chapter shall limit the authority of the Director of Community Development, Police Chief, City Manager, or any enforcement officer, as that term is defined in Tustin City Code section 5501, from initiating administrative enforcement action, or a related administrative proceeding to abate a public nuisance as identified section 5958. Any civil or administrative proceeding so commenced or initiated may be an alternative to, or in addition to, a criminal proceeding initiated per this section 5959.
- C. The Chief of Police shall establish and maintain administrative rules and procedures stating the City's enforcement protocol with respect to this chapter.

5960 – APPLICABILITY OF RESIDENCY RESTRICTIONS

The provisions of this chapter that restrict residency shall not apply to:

- A. A sex offender's otherwise lawful tenancy or other occupancy of a dwelling that commenced prior to the effective date of this chapter, or a renewal thereof; or
- B. A sex offender's otherwise lawful tenancy or other occupancy of that commenced prior to the initial operation of a day care center, public or private school, or park, that would otherwise create a residential exclusion zone prohibiting said tenancy or occupancy.
- C. A sex offender's otherwise lawful tenancy or other occupancy of a dwelling located on property within a child safety zone that is not located in a residential exclusion zone.

5961 – APPLICABILITY OF LOITERING PROHIBITION

The provisions of this chapter that prohibit loitering shall not apply to:

- A. A sex offender loitering within the walls or curtilage of a dwelling where he/she is a resident and lawful tenant or occupant, and such dwelling is located within a child safety zone, but not within a residential exclusion zone; or
- B. A sex offender loitering in a child safety zone, but also within the walls or curtilage of a dwelling where he/she is a resident and lawful tenant or occupant per section 5960; or
- C. A sex offender's access to a public park for the purpose of exercising the right of free expression or assembly; or
- D. A sex offender's access to a child safety zone for purposes limited to the education or care of a child for whom the sex offender is a parent or legal guardian; or
- E. A sex offender's otherwise lawful presence at within the walls or curtilage of a structure or other location that is his/her place of lawful employment, provided that he/she commenced said employment prior to the effective date of this chapter.

SECTION II: EFFECTIVE DATE

This Ordinance shall take effect on the thirty-first (31st) day after it is adopted upon its second reading.

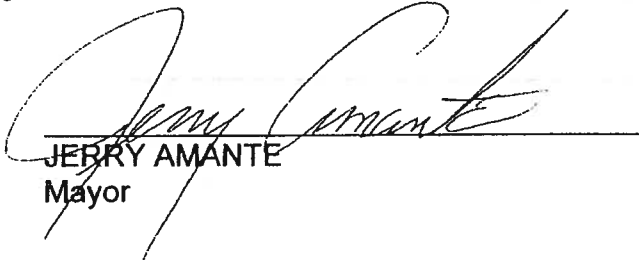
SECTION III: CERTIFICATION AND NOTICE TO SEX OFFENDERS

- A. Before the 15th day after its adoption on second reading, the City Clerk shall certify to the passage and adoption of this Ordinance, and shall cause a summary of same to be published once in a newspaper of general circulation, printed and published in the County of Orange, and circulated within the City of Tustin.
- B. Not later than the 5th day after this Ordinance's adoption on second reading, the City Clerk shall transmit an executed and certified copy of this Ordinance to the California Department of Corrections and Rehabilitation, and the Orange County Probation Department. In addition, the City Clerk shall transmit an executed and certified copy of this Ordinance to other agencies that interact with sex offenders as directed by the City Manager.

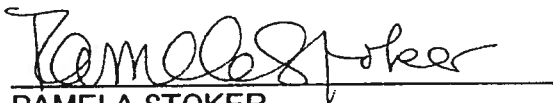
SECTION IV: SEVERABILITY

If any section, subsection, subdivision, sentence, clause, phrase, word or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Tustin held on the 1st day of March 2011.


JERRY AMANTE
Mayor

ATTEST:


PAMELA STOKER
City Clerk

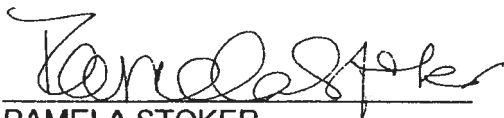
APPROVED AS TO FORM:


DOUGLAS HOLLAND
City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF TUSTIN)

I, Pamela Stoker, City Clerk and ex-officio Clerk of the City Council of the City of Tustin, California, do hereby certify that the whole number of the members of the City Council of the City of Tustin is five; that the above and foregoing Ordinance No. 1395 was duly passed and adopted at a regular meeting of the Tustin City Council, held on the 1st day of March 2011, by the following vote:

COUNCILMEMBER AYES:	<u>Amante, Nielsen, Gavello, Gomez, Murray</u>	<u>(5)</u>
COUNCILMEMBER NOES:	<u>None</u>	<u>(0)</u>
COUNCILMEMBER ABSTAINED:	<u>None</u>	<u>(0)</u>
COUNCILMEMBER ABSENT:	<u>None</u>	<u>(0)</u>



PAMELA STOKER
City Clerk

Erin D. Runnion
Surviving Parents Coalition
Founding Member
Orange County, CA

Surviving Parents Coalition



Stop Predatory Crimes

Erin D. Runnion
Surviving Parents Coalition
Founding Member
Orange County, CA

September 27, 2011

Dear Honorable Mayor and Members of the City Council of Laguna Hills,

My name is Erin Runnion and my daughter, Samantha Runnion, was kidnapped from outside of our Orange County home, sexually assaulted, and murdered in 2002. In her memory, I established The Joyful Child Foundation to support prevention education in schools and communities. In 2007, I co-founded The Surviving Parents Coalition (SPC) to ensure our laws continue to improve to better protect our most vulnerable citizens. The SPC is a 501(c)(4) non-profit organization dedicated to honoring the legacies of victims of child sexual assault, abduction, exploitation, and murder by ensuring social and legislative progress toward real child safety in America. I am writing to ask you to pass a city ordinance that will prohibit released sex offenders from utilizing publicly funded parks and recreational facilities.

As you are aware, The Orange County Board of Supervisors passed an ordinance unanimously in April to create child safety zones to protect children from sexual predators in county parks, playgrounds and beaches, which will close a significant loophole in current state law and fulfill the intent of Chelsea's Law, passed in honor of 16-year-old, Chelsea King who was murdered by a registered sex offender in her local park. The ordinance does not apply to any city-owned parks that are located in our county. I am asking that you pass a measure that will mirror the county's effort to keep our parks safe from known offenders. Although Westminster, Tustin, Orange and other cities have passed this exact ordinance, it should be noted that the Irvine City Council chose to only ban offenders convicted of hands-on offenses against children; which in effect allowed 37 of their 44 registered offenders, including those convicted of producing, possessing and/or distributing child pornography, to continue to join children and families at the Great Park and other popular Irvine public facilities. I share this with you because I beg you not to repeat this terrible mistake.

I have received several calls over the years from parents outraged that there was nothing the police could do to stop someone from taking pictures of their child in public places. One such parent shared that she had seen the same man get off a bus nearly everyday and walk into their neighborhood park where he sat with his newspapers and camera. She caught him taking pictures of the children on the playground, but he insisted he was taking pictures of the birds. Law enforcement informed this woman and others who have called that unless the person is CURRENTLY on probation or parole, there is no law that stops them from being allowed to take photos of children or anything else in public places. Currently,

" BE BRAVE "

counties are bracing themselves for the impact of AB109 which, beginning October 1, will transfer any sex offenders assessed as a "low risk" (as was the captor of Jaycee Dugard) from state parole to county probation supervision and any subsequent released offenders will only be on supervision for 6 months. Again, once these people are no longer under legal supervision, there is no law that prohibits offenders from loitering at city parks or recreational facilities and indeed, they are even allowed to take pictures of anyone they like.

This Ordinance, if enacted, will provide law enforcement with a needed tool to make your parks and public recreational facilities safer for children. Given that it is estimated that less than twenty percent of child sexual assault or molestation is ever reported to law enforcement and of those, less than thirty percent lead to an arrest, much less a conviction, reducing exposure to the few we have caught is the least we can do for our children. Furthermore, providing law enforcement with this simple option will enable them to address the concerns of citizens who report suspicious persons loitering around parks and other places with children. It takes a community to keep our children safe and empowering citizens to be part of the solution is critical to effective sex offender management.

Thank you for your time, consideration and support for pro-active measures to protect children from sexual abuse and abduction. Please feel free to contact me directly at 714-642-3301 or by email at erunnion@tjcf.org.

Respectfully yours,

Erin D. Runnion
Founder

The Joyful Child Foundation – In Memory of Samantha Runnion
www.thejoyfulchild.org
The Surviving Parents Coalition

"BE BRAVE"

Council
Greg

The Lowry Family

12552 Charloma Dr.
Tustin, CA 92780
(714) 731-6768

October 5, 2011

Greg Simonian
City Attorney
CITY OF LAGUNA HILLS
24035 El Toro Road
Laguna Hills, CA 92653

Re: Proposed sex offender ordinance

Dear Mr. Simonian:

I was flipping thru today's Orange County Register (I guess I am a dying breed who still prefers newsprint) when I came across the article entitled 'City to weigh ban on sex offenders at parks'. The article discussed the Tuesday City Council meeting and the proposed sex offender ordinance. I finally decided to write a short note regarding the proposed action of your city.

Obviously, I have no ties to Laguna Hills and whether the city passes the ordinance or not doesn't really matter to me. But I just felt compelled to write. I live in Tustin and work for the San Bernardino County Public Defender's office and for the last 11 years I have defended petitions filed by the district attorney to civilly commit sex offenders at the end of their prison sentences.

No, I am not a bleeding heart liberal nor do I feel that sex offenders are mistreated in the criminal system. But my job requires that I be extremely familiar with all the studies and literature regarding sex offenders, including registration, residency restrictions and limitations imposed by public entities.

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OCT 13 2011

CITY OF LAGUNA HILLS

11/8/2011 ITEM NO. 7.2.1

Greg Simonian
Laguna Hills City Attorney
October 5, 2011
Page Two

There has been a mountain of studies in the last 3-4 years regarding the efficacy of registration and residency restrictions conducted by very esteemed researchers as well as various state agencies, including the Calif. Sex Offender Management Board. The Register article makes clear that the council is either unfamiliar with this mountain of research or has chosen to ignore it. I prefer to think it is the former.

But in light of the overwhelming research that is virtually uncontradicted, you can't help but wonder why Laguna Hills is considering this ordinance. I know Orange County District Attorney Rackaukas has been pushing cities to adopt these laws; he was instrumental in getting it passed by the Orange County Board of Supervisors. He and his office choose repeatedly to ignore the overwhelming research and analysis showing the complete lack of efficacy of these restrictions.

No question these laws make people feel good and are great political fodder for a politician; after all you can't go wrong implementing legislation relating to sex offenders and most constituents will support it regardless of efficacy or cost. But if the goal is to make your city, parks and children safer, research and objective analysis has shown the restrictions the Council is contemplating do not further that goal but in fact can create their own safety problems.

Putting aside the issue of how the Laguna Hills law may be drafted, (ie.does it include sex offenders who are required to register because of so-called Romeo and Juliet behavior? Adults whose offenses were decades earlier? incest offenders who assaulted family members? The questions go on and on) what problem in the city is the law trying to rectify? Is there a problem needing legislative attention? The article implies there is nothing occurring in the city needing to be addressed by this law. Moreover, is there a fiscal impact by enactment of the law? I have not read the proposed ordinance so I do not know. But if there is and the city enacts the law, the mountain of evidence on the impact of these laws show the city would be getting no true

Greg Simonian
Laguna Hills City Attorney
September 30, 2011
Page Three

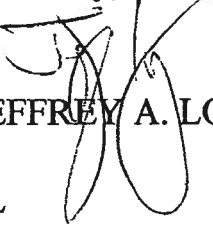
benefit for whatever economic price it would pay by having the law on the books.

Of course, the argument is always made that if we can prevent the creation of just one victim by having this law on the books, any price is worth it. That is a philosophical and political question all the research and analysis in the world can't answer. But it seems to me that laws should be enacted based on reason, analysis and research, not politics and emotion. And that is really what this letter is about; it is one thing if the research and literature is reviewed and analyzed and the law is then enacted but it is a whole different matter if it is done solely for political ease and emotional reaction without analysis of whether the ordinance will do what it is enacted to do.

I wrote a whole lot more than I intended. And I don't even live in Laguna Hills. But in the off chance the council has not read the piles of research and studies on the lack of effectiveness of this type of law, and cares enough to do so, I have it all and would be happy to send copies. I know you will not get it from the DA's office.

Thank you for taking the time to read this letter. If you have any questions or wish copies of any of the research in the field, feel free to contact me at home (number above) or at work (909) 383-2402.

Sincerely,


JEFFREY A. LOWRY

JL



TONY RACKAUCKAS
ORANGE COUNTY DISTRICT ATTORNEY

ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE
401 CIVIC CENTER DRIVE WEST • SANTA ANA, CA 92701 (714) 834-3636

RECEIVED

OCT 27 2011

October 26, 2011

CITY OF LAGUNA HILLS

Mayor L. Allan Songstad, Jr.
City Council
City Hall
24035 El Toro Road
Laguna Hills, CA 92653

Re: Orange County Sex Offender Ordinance

Dear Mayor Songstad, Jr.:

Thank you for taking a large step toward increasing public safety by considering enacting an ordinance in your city to prohibit registered sex offenders from entering parks where children regularly gather. As I previously wrote to you, the Board of Supervisors unanimously passed a County ordinance on April 5, 2011, to create child safety zones to protect children from sexual predators in parks, playgrounds and beaches. Many other cities have either enacted or are in the process of enacting their own ordinance to protect children from sexual predators.

RECENT DEVELOPMENTS

As you may be aware, the Eldorado District Attorney recently released a disturbing videotape of child predators Philip and Nancy Garrido. The married couple was sentenced in April 2011 to 431 years and 36 years to life in prison, respectively, for abducting former-Orange County resident, 11-year-old Jaycee Lee Dugard, from a school bus stop and sexually assaulting her for 20 years. In one of the video clips, Phillip Garrido is singing in a park while directing his wife Nancy Garrido how to shoot the video. He asks her, "Got me good?" "I can see you really good," she answers. She then films a little girl on playground equipment behind him, the child's legs splayed. There are also other children playing on swings and on the playground. The Garridos are sexual predators, watching and filming children in parks. You can view the chilling video on the Internet at <http://documents.latimes.com/garrido-dugard-evidence/>.

In July of this year, a 33-year-old man was arrested after putting his hand down the pants of a 6-year-old girl and touching her vagina while at a movie night at the Grand Park in Aliso Viejo. She was standing just 10 feet from her father. This case is pending.

In April of this year, a Lake Forest mom called the police when she saw a registered sex offender/child pornographer with a video camera near her children while they were playing at a park. The Orange County Sheriff's Department (OCSD) deputies who responded told her that the man could not be arrested because he was not on probation or parole and there is no such law in the City of Lake Forest.

This month, the City of Westminster became the first Orange County city to convict a sex offender for violating the Child Safety Zone Ordinance. Steve James Dietrich is a registered sex offender stemming from convictions for rape by force and oral copulation with a minor under 14 years of age by force or fear. On July 16, 2011, and Aug. 6, 2011, Dietrich was cited by the same police officer for entering a park where children regularly gather. He was convicted on Oct. 17, 2011, Dietrich was sentenced to probation and 60 days in jail.

There are several cities undertaking this issue and considering enacting an ordinance modeled after that of the County. Others are considering "residence restriction" types of ordinances or "loitering" types of statutes. Some cities are considering limiting the ban to those who have prior convictions with child victims. Although a ban against those individuals with convictions against child victims would be a good start, I would appreciate it if you would consider some of the points contained in this letter. You may find that we considered many of the same issues you are tackling and may come to similar conclusions.

BASED ON THE LEGAL RESEARCH AND ALL OF THE FACTS AND CIRCUMSTANCE, WE BELIEVE THE BEST APPROACH WOULD BE THE LANGUAGE AS WRITTEN IN THE COUNTY ORDINANCE.

NARROWING THE BAN TO SIMPLY PROHIBIT "LOITERING"

Limiting the ban to prohibit sex offenders from "loitering" in parks would not be effective. State law already prohibits sex offenders from loitering "about any school or public place at or near which children attend or normally congregate . . ." (Penal Code § 653b.) This would presumably apply to parks. Penal Code 653b, however, is not very effective because it requires the sex offender to remain at the location or re-enter the location after being asked to leave. So long as the sex offender has not been asked to leave, he is not in violation of Penal Code 653b. In addition, it is difficult to prove loitering. "Loitering" means "to delay, to linger, or to idle about a school or public place without lawful business for being present." (Penal Code § 653b, subd. (d).) It would be difficult to prove a sex offender was "loitering" in a park when that person was simply sitting on a park bench or on the grass or strolling through the park. Even videotaping or photographing may not be considered "loitering," as those are common activities of lawful citizens. Yet, these are some of the very activities the proposed Ordinance seeks to preclude with respect to sex offenders. Their presence in parks allows them to identify, observe, and possibly interact with potential victims whom they seek to groom and eventually exploit. Finally, any loitering prohibition may be preempted by Penal Code 653b. (See *O'Connell v. City of Stockton* (2007) 41 Cal.4th 1061, 1067 [a local ordinance may be preempted where it enters an area expressly or impliedly fully occupied by state law].) For these reasons, limiting the ban to "loitering" in parks would not provide an effective tool to protect children from sex offenders' activities in parks.

GENESIS AND PROCESS IN DEVELOPING THE COUNTY SEX OFFENDER ORDINANCE

In 2010, registered sex offender Eric Hinnenkamp moved 155 feet from a Fullerton park where children regularly gather. He was a Los Angeles County parolee who was released from prison to an apartment in Huntington Beach. Hinnenkamp had inherited a house from his parents in Fullerton and was intending to live at the residence. According to Megan's Law website, his prior convictions included felony lewd conduct on child victims, indecent exposure, and restrained sexual battery. Understandably, local citizens became alarmed and asked law enforcement for a solution. The Orange County District Attorney (OCDA) began researching legal solutions and coming up with practical applications in response. Meanwhile, the OCDA also monitored the development of Chelsea's Law in the State legislature. The result was the

development and enactment of the County Child Safety Ordinance, which closed a loophole in the existing law.

RESIDENCY RESTRICTIONS V. CHILD SAFETY ZONES

The OCDA initially considered enacting both sex offender restrictions, which generally fall into two categories: (1) Residency restrictions; and (2) Child safety zones. Residency restrictions restrict an offender from residing within a specified distance of certain locations, such as schools and parks. Child safety zones restrict offenders' movement within and/or around areas where children congregate, such as schools, parks, libraries, etc.

Residency Restrictions

The available research found by the OCDA suggests that residency restrictions have little impact on sex offender recidivism and may even compromise public safety. Generally, researchers have been unable to correlate any meaningful relationship between residential proximity to schools, parks, etc. and sexual recidivism. Research indicates that residency restrictions diminish housing options in urban areas, which forces offenders to move to more rural locations. This limits offenders' access to social services and community resources that may help them avoid reoffending by transitioning into the community. Residency restrictions also decrease employment opportunities for offenders and increase their transience and homelessness. These unintended consequences reduce the number of offenders accurately tracked by local law enforcement agencies. The research findings were anecdotally supported by conversations with local and State law enforcement officials.

For more detailed discussions of this topic, please see the articles and the sources cited in the quarterly bulletin *Geography and Public Safety*, Vol. 2, Issue 1, May 2009, and listed at: <http://www.ojp.usdoj.gov/nij/maps/gps-bulletin-v2i1.pdf>.

Residency restrictions also face several constitutional challenges relating to the right to privacy, the right to intrastate travel, substantive due process and other rights. The outcome of such challenges is uncertain in California. In *In re E.J.* (2010) 47 Cal.4th 1258, the California Supreme Court suggested a residency restriction must be narrowly tailored to further the government interest of protecting children from sex offenders. The Court remanded the petitioners' constitutional claims to the trial court for evidentiary hearings concerning, among other things, the supply of available housing for each sex offender in their respective community. If a residency restriction makes a substantial portion of a community off-limits to sex offenders, it may be difficult to sustain its constitutionality.

Meanwhile, the OCDA was waiting for the enactment of Chelsea's Law, which would have contained the language of the County Ordinance.

Chelsea's Law - Amended

The language in the drafted sex offender ordinance is adapted from proposed language in Chelsea's Law and from Penal Code 626.81, which prohibits sex registrants from entering school grounds without written permission. Until recently, Chelsea's Law (AB 1844) would have added as Penal Code 647.9 much of the language set forth in the County Ordinance.

On July 15, 2010, Chelsea's Law was amended to delete the originally proposed language as Penal Code 647.9. The bill was signed into Law on Sept. 8, 2010. Instead, the bill added section 3053.8 to the Penal Code. That section precludes Penal Code 290 registrants from entering parks where children gather without express permission, but only applies the restriction to parolees who served prison time for certain sexual offenses in which one or more of the victims

was under 14 years of age. Thus, the "park restriction" in Chelsea's Law does not apply to sex registrants who have been discharged from parole. Some of these sex registrants are subject to lifetime parole and some are be subject to parole for 20 years, depending upon the particular crime committed.

LEGAL ISSUES EXPLORED:

Child Safety Zones - Constitutionality

A court will examine each law to determine whether it is narrowly tailored to the government interest. Child safety zone laws appear easier to defend than residency restrictions. Safety zone laws are more narrowly tailored to furthering the interest of protecting children by keeping sex offenders away from areas in which children congregate.

The more broadly a restriction sweeps, the more likely a court will find it is not narrowly tailored. The more a law appears tailored to protecting children from crimes by sex offenders, while still permitting legitimate activities by the sex offenders, the more likely it will survive a constitutional challenge.

There are two types of constitutional challenges: (1) a facial challenge, which considers only the text of the law and seeks to void the law as a whole; and (2) an as-applied challenge, which considers the law's application to a particular challenger's facts. (*Tobe v. City of Santa Ana* (1995) 9 Cal.4th 1069, 1084.) To defeat the entire law in a facial challenge, the challenger must show it "inevitably pose[s] a present total and fatal conflict with applicable constitutional prohibitions." (*Ibid.*) For example, a particular offender may argue a law aimed at all sex offenders - as opposed to a law tailored to sex offenders whose victims were children - is not narrowly tailored. It seems unlikely, however, that a court would find the law totally conflicts with constitutional principles, since many of the registered sex offenders committed crimes against children. Furthermore, many offenders have both victim groups (e.g. Rodney Alcala as further explained later) while others commit crimes which may lead to future victims (e.g. indecent exposure defendants commit offenses in public places with children). Thus, the law would not be constitutionally overbroad when applied to those offenders.

A particular offender could bring an as-applied constitutional challenge. As mentioned, such a challenge considers whether, in the challenger's particular case, the law is being applied in a constitutionally impermissible manner. (*Tobe v. City of Santa Ana, supra*, 9 Cal.4th 1069, 1084.) The court evaluates the propriety of the application on a case-by-case basis to determine whether to relieve the defendant of the sanction. (*Ibid.*) This would potentially preclude application of the relevant law to a particular sex offender, but would not render the law constitutionally infirm as to others.

Retroactivity

In general, application of a law is retroactive only if it attaches new legal consequences to, or increases a party's liability for, an event, transaction, or conduct that was *completed* before the law's effective date. (*In re E.J., supra*, 47 Cal.4th 1258, 1273.) Therefore, the critical question for determining retroactivity usually is whether the last act or event necessary to trigger application of the statute occurred before or after the statute's effective date. (*Ibid.*)

In *In re E.J., supra*, 47 Cal.4th 1258, the court indicated it may be impermissible to apply the 2,000-foot residency restriction to a sex offender who acquired housing before the law's effective date. (*Id.* at pp. 1275-1276.) The offender would not have had notice of the restriction before the conduct to which the law speaks occurred. (*Id.* at p. 1276, citing *Doe v.*

Schwarzenegger (E.D. Cal. 2007) 476 F.Supp.2d 1178, 1179, fn. 1 [residency restriction could not be applied retroactively to persons paroled and released from prison prior to the law's effective date].)

For our purposes, the last act necessary to trigger application of child safety zone laws would seem to be the offender's unlawful entry and/or loitering upon property within a protected zone. Thus, application to all offenders would not seem to be impermissibly retroactive.

Ex Post Facto

An impermissible ex post facto law is one which makes more burdensome the punishment for a crime after its commission. (*In re E.J.*, *supra*, 47 Cal.4th 1258, 1279.) Because the child safety zone laws would not be applied retroactively, they would not raise ex post facto issues. (*In re E.J.*, *supra*, 47 Cal.4th 1258, 1279-1280 [ex post facto only applies to laws applied retroactively].)

Will enactment of such an ordinance create a cause of action if a registered sex offender does harm a child at a park where there is such an ordinance?

Government Code section 845 - Failure to provide any or adequate police protection; Responding to alarm states as follow:

Neither a public entity nor a public employee is liable for failure to establish a police department or otherwise to provide police protection service or, if police protection service is provided, for failure to provide sufficient police protection service.

A police department shall not fail to respond to a request for service via a burglar alarm system or an alarm company referral service solely on the basis that a permit from the city has not been obtained.

PRACTICAL ISSUE CONSIDERED

What resources will the enactment of this ordinance take away from police? The OCDA believes the enactment of this ordinance will cause a minimal shift in resources. A typical scenario would be a parent calling the police when they see a person acting suspiciously in a park around children. This law is an additional tool for law enforcement to contact and arrest registered sex offenders in parks where children regularly gather. In the 60 days following the passage of the County Ordinance, the OCSD had four requests by sex offenders.

ORANGE COUNTY ORDINANCE

Sec. 3-18-1. - Purpose and intent.

It is the purpose and intent of this article to protect children from registered sex offenders by restricting sex offenders' access to locations where children regularly gather. It is intended to reduce the risk of harm to children by impacting the ability of sex offenders to be in contact with children. It is further the intent of this article to provide additional restrictions beyond those provided for in state law by restricting sex offenders from certain limited locations, and by allowing for criminal penalties for violations of this article. It is not the intent of this article to allow conduct otherwise prohibited by state law, or to contradict state law. Orange County Parks are recognized by the County of Orange Board of Supervisors as locations where children regularly gather.

(Ord. No. 11-012, § 1, 4-5-11)

Sec. 3-18-3. - Prohibitions.

Any person required to register pursuant to California Penal Code sections 290, et seq. who enters into or upon any Orange County Park where children regularly gather without written permission from the Orange County Sheriff or Sheriff's designee is guilty of a misdemeanor. Each entry into any such area, regardless of the time period between entries, shall constitute a separate offense under this article.

(Ord. No. 11-012, § 1, 4-5-11)

Sec. 3-18-4. - Penalties for violation.

Punishment for a violation of this article shall be as follows:

- (1) Upon a first conviction, by imprisonment in a county jail for a period of not more than six (6) months, or by a fine not exceeding five hundred dollars (\$500.00), or by both imprisonment and a fine.
- (2) Upon a second conviction, by imprisonment in a county jail for a period of not less than ten (10) days and not more than six (6) months, or by both imprisonment and a fine not exceeding five hundred dollars (\$500.00). Upon a second conviction, however, the person shall not be released on probation, parole, or any other basis until he or she has served not less than ten (10) days.
- (3) Upon a third or subsequent conviction, by imprisonment in a county jail for a period of not less than ninety (90) days and not more than six (6) months, or by both imprisonment and a fine not exceeding five hundred dollars (\$500.00). Upon a third or subsequent conviction, however, the person shall not be released on probation, parole, or any other basis until he or she has served not less than ninety (90) days.

(Ord. No. 11-012, § 1, 4-5-11)

Definitions

There are two main terms to define: 1) park; and 2) the administrative official from whom written permission must be obtained.

Some local jurisdictions may choose to leave the term as drafted without further definition. Relevant State law provisions do not define the term "park." (Penal Code § 3003.5 [precludes sex registrants from residing within 2000 feet of a "park where children regularly gather"]; Chelsea's Law (Penal Code § 647.9) [would preclude certain parolees from entering "any park where children regularly gather"].)

Some local jurisdictions may want to further define the term. Some cities have local ordinances defining the term "park." For example, Grover Beach defines a "park" as "any city, county, school district, state or federal public park or playground where children are likely to be." Santa Clarita states a "[p]ark" shall include any areas owned, leased controlled, maintained, or managed by a public entity which are open to the public where children regularly gather and which provide recreational, cultural, and/or community service activities including, but not limited to, playgrounds, playfields, athletic courts, trails, paseos, and open space." Huntington Beach states a "[p]ark" includes every park, recreation center, lake, pond or other body of water, riding and hiking trail, parking lot and every other recreation facility owned, managed and/or controlled by the City and under jurisdiction of the Director." Each local jurisdiction should decide whether it wishes to further define the term "park" depending upon its particular circumstances. Orange County chose to define the area as places where "children regularly gather" and specifically named certain places.

Similarly, each local jurisdiction should consider the appropriate entity from whom permission must be obtained before a sex registrant can enter a park. The appropriate person may vary depending upon how the local jurisdiction is organized. In Orange County, the Board of Supervisors believed that the Orange County Sheriff, who has investigative and authority and patrol responsibility in the defined areas, would be in the best position to give exemptions.

The court may imply knowledge (scienter) element to the crime. A court would require evidence showing the defendant knew or reasonably should have known the "park" was a place where children regularly gather.

Some cities are contemplating whether to limit the ban to sex offenders who have been convicted of a crime against a child under the age of 18.

LIMITING THE BAN TO REGISTERED SEX OFFENDERS "WHO HAVE BEEN CONVICTED OF A CRIME AGAINST A CHILD UNDER THE AGE OF 18"

While drafting the County Ordinance, Supervisor Shawn Nelson and Orange County District Attorney Tony Rackauckas actively contemplated whether to exclude a certain class of offender in the proposed sex-offender statute. Of concern were those who, while a teenager, were convicted of engaging in consensual sex with a younger teenager and now must register as a sex offender for life, although he has subsequently grown up with no further violations. Since then, others have voiced their concern of former "fraternity boys" who they believe now have the requirement to register as sex offenders after being arrested for urinating in public.

There seem to be many myths as to the persons who are required to register as sex offenders.

PENAL CODE SECTION 290 (c) states:

The following persons shall be required to register: Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 187 (murder) committed in the perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286 (sodomy), 288 (lewd acts upon a child), 288a (oral copulation of a minor), or 289 (forcible sexual penetration), Section 207 (forcible kidnapping) or 209 (forcible kidnapping for ransom) committed with intent to violate Section 261(rape), 286 (sodomy), 288 (lewd acts upon a child), 288a (oral copulations of a minor), or 289 (forcible sexual penetration), Section 220 (forcible and or in concert or assault with intent to commit rape, sodomy, oral copulation, lewd acts upon a child or penetration, Section 243.4 (sexual battery), paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 (rape of a mentally incapacitated victim, forcible rape, rape of a victim who in unable to resist due to intoxication, rape of an unconscious victim and rape using threat to retaliate, paragraph (1) of subdivision (a) of Section 262 spousal rape) involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1 (forcible rape, spousal rape, sexual penetration acting on concert of another), 266 (enticing a minor into prostitution or procurement of sex with another man by fraud), or 266c (sexual intercourse or penetration, oral copulation or sodomy using fraud or force), subdivision (b) of Section 266h (pimping a minor for prostitution), subdivision (b) of Section 266i (pandering a minor for prostitution), Section 266j (making available or transporting a minor for lewd acts), 267 (taking a minor from parents or guardian for prostitution), 269 (aggravated sexual assault of a child under 14 where the perpetrator is more than 7 years older involving forcible rape, oral copulation, sexual penetration or sodomy), 285 (incest), 286 (sodomy), 288 (lewd acts upon a child), 288a (oral copulation of a minor), 288.3 (contacting of a minor to commit forcible kidnapping or kidnapping for ransom, rape, child endangerment, sodomy, lewd acts upon a child, oral copulation of a minor, forcible sexual penetration, possession of child pornography, 288.4, contact with a minor with sexual intent), 288.5 (continuous sexual abuse of a child), 288.7 (sexual intercourse, sodomy, penetration of a

child under the age of 10), 289 (forcible sexual penetration), or 311.1 (distributing child pornography), subdivision (b), (c), or (d) of Section 311.2 (production of child pornography), Section 311.3 (developing or exchanging child pornography), 311.4 (employing minor to assist in distribution of child pornography), 311.10 (advertising or distributing child pornography), 311.11 (possession of child pornography), or 647.6 (child annoyance) former Section 647a, subdivision (c) of Section 653f (solicitation of forcible and or acting in concert, rape, sodomy, oral copulation, lewd acts upon a child, and sexual penetration, subdivision 1 or 2 of Section 314, indecent exposure, any offense involving lewd or lascivious conduct under Section 272, contributing to a delinquency of a minor, or any felony violation of Section 288.2, sending harmful material to a minor with sexual intent; any statutory predecessor that includes all elements of one of the above-mentioned offenses; or any person who since that date has been or is hereafter convicted of the attempt or conspiracy to commit any of the above- mentioned offense.

As to the issues of statutory rape cases, Penal Code 261.5, 290 and 290.006, do not require registration for the offense. Penal Code 261.5 prohibits sexual intercourse with persons under 18 years old. (Penal Code § 261.5(a).) In general, the penalties for violating the statute vary depending upon whether there is an age difference of more than two years, more than three years, or whether the perpetrator is over age 21 and the victim is under age 16. (Penal Code § 261.5.) None of the offenses carries mandatory registration.

Penal Code 290.006 gives the court discretion to impose registration in any offense where the person committed the offense as a result of "sexual compulsion or for purposes of sexual gratification." This statute provides a good mechanism to distinguish between young offenders who may be sexual predators and/or dangerous and young offenders who fall into the facts as described above. The offenders described above are not likely to be required to register.

On the other hand, some individuals who violate Penal Code 261.5 - even at a young age - were identified and found to be sexual predators and/or dangerous by the court. If those are the facts, then it would not be wise to exclude all registrants who violate Penal Code 261.5 from the proposed park-restriction law.

Another statute pertaining to unlawful sex with minors is Penal Code section 288. Among other things, that section punishes those who sexually molest a child under 14, or molest a child who is 14 or 15 years old where the perpetrator is more than 10 years older than the child. (Penal Code §288(c)(1).) Individuals who violate Penal Code 288 are required to register under Penal Code section 290 should not be excluded from the proposed park-restriction statute.

Obviously, there is no requirement for registration for urinating in public, usually municipal code violations.

The OCDA consulted its prosecutors in the Sexual Assault Unit, including the supervisor of the Unit, Assistant District Attorney Rosanne Froeberg. They all strenuously advised against narrowing the application of the ordinance stating that law enforcement cannot classify 290 registrants based upon the particular type of sex offense they commit and predict the type of future sex offense based upon past sex offenses. Just because a 290 registrant's prior sex offense did not involve a child does not mean his future offenses will not involve children.

SEX OFFENDERS VIOLATE AGAINST BOTH ADULTS AND CHILDREN

A case in point is one of Orange County's most notorious and dangerous serial killers, Rodney Alcala. Alcala's first known victim was an adult female. He sexually assaulted her in an alley

while he was serving in the U.S. Army. His future victims included both children and adults. In 1968, he violently kidnapped and brutally sexually assaulted an 8-year-old girl he had never met. In 1971 and 1977, he brutally sexually assaulted and murdered two women in New York, both 23 years old. After returning to California, he raped, sodomized and murdered 18-year-old Jill Barcomb by smashing her face with a rock and strangling her in November 1977. In December 1977, Alcalá raped, sodomized and murdered 27-year-old Georgia Wixted by beating her face with a claw hammer and strangling her. In June 1979, Alcalá raped and murdered 33-year-old Charlotte Lamb by beating her and strangling her with shoe laces. In June 1979, Alcalá raped and murdered Jill Parenteau by strangling her with a cord. On June 20, 1979, Alcalá kidnapped 12-year-old Robin Samsoe, Huntington Beach, murdered her, and dumped her body in the San Gabriel Mountains. Although her body was badly decomposed, her remains showed that Alcalá had knocked out her front teeth. Her earring was later found in his sick victim "souvenir" trove in his locker. He was sentenced to the death penalty in Orange County for the California murders in 2010. New York charged Alcalá with the two murders in January 2011, and he is awaiting trial. Alcalá not only had both adult and child victims, he moved back and forth between the victims' age groups.

INDECENT EXPOSURE

Some defendants are required to register because they are convicted of indecent exposure. Our Court of Appeal, 4th District, recently upheld the sex offender registration requirement for indecent exposure in *People v. Donald Honan* (2010) 186 Cal. App. 4th 175. The Court held that a person who exposes his private parts with the intent "to direct public attention to his genitals" is necessarily engaged in a purposeful and aggressive sexual display designed to provoke others.

Although violators of this section are misdemeanants, their conduct is one that should be prohibited from parks. In many cases, these registrants engage in 314 (indecent exposure) in view of children in parks and park restrooms where children regularly gather. In other cases, many defendants who have 314 (indecent exposure) convictions are also child molesters. It makes little sense not to include this class of registrants when deciding who to ban from parks in creating safety zones.

CHILD PORNOGRAPHY

Another class of registrants who would not be included in the limited version of the ordinance is those who must register after a conviction for possessing child pornography. Shockingly, a lot of the child pornography being circulated today depicts very young children, sometimes even babies, engaged in various sex acts with inanimate and live objects, sometimes with other children and adult subjects. Some child pornography includes depictions of forcible encounters. Although child pornography shows the result of a violation of children, it would not technically be a violation with a child victim. There is no reason why any adult would possess child pornography, except by those who have abnormal sexual desire towards children.

In the case of Alejandro Avila, the man who abducted, sexually assaulted and murdered 5-year-old Samantha Runnion in 2002, Avila spent days prior to committing his heinous act against the little girl he had never met looking at child pornography of a girl about the same age as Samantha and fantasizing about molesting children.

As mentioned above, an Orange County mother was at a park enjoying the playground with her children. She saw a man holding a video camera near her children. She recognized the man from the Megan's Law website. She called the Orange County Sheriff to report the incident. The deputy sheriff could not arrest the sex offender because he was not on probation or parole.

A proposed ordinance limiting the ban to those who offended against children would not cover this defendant because his registration was based on a possession of child pornography conviction.

ANALYSIS OF LAGUNA HILLS SEX OFFENDERS ON MEGAN'S LAW

An examination of available public records shows that there are many sex offenders who have violated both child and adult victims in the surrounding areas near Laguna Hills, including at least 1,859 in Orange County.

A review of the public information listed on the Megan's Law website for Laguna Hills shows the following (There are other registered sex offenders in Laguna Hills that are not listed on the public website but are known to law enforcement):

Out of eight sex offenders who appear on the Megan's Law website who reside in Laguna Hills, there are three registered sex offenders who were required to register after being convicted of lewd acts upon a child under the age of 14. One of these sex offenders was also convicted of lewd acts with a child 14 or 15 and continuous sexual abuse of a child. There are two registered sex offenders who were required to register after being convicted of lewd acts upon a child age of 14 or 15. One of those registrants was also convicted of being 10 or more years older than the victim. The other was also convicted of sex penetration with foreign object of victim under 16 years of age. Another registrant was also convicted of sex penetration with foreign object of victim under 16 years of age and oral copulation with a minor under 16 years of age and offender is 21 or more years of age. One sex registrant was convicted of rape by force and fear and oral copulation by force and fear. Another sex offender was required to register based on non-California sex offense.

In the surrounding cities near Laguna Hills, there are at least 114 sex offenders (Lake Forest 24; Rancho Santa Margarita 11; Mission Viejo 22; Aliso Viejo 11; Laguna Woods 11; Laguna Niguel 12; and Laguna Beach 22) who appear on the Megan's Law website. Many offenders on the Megan's Law website have registered for committing sex offenses against both children and adults, possessing child pornography and flashing.

It should be noted that there are 85,000 sex offenders who reside in California that currently have access to Laguna Hills. They are on the registry for a variety of reasons required under Penal Code 290.

Would it make a parent feel safer to have their children in a park where there is a violent rapist versus a child molester? Can you distinguish the threat to children by those offenders who sexually assaulted an 18-year-old woman from those who pose a danger to minors? Should a person who possesses child pornography be allowed in parks so he can either fulfill his fantasies or escalate his acts?

Our society has deemed sex offenders and their specific acts so reprehensible and dangerous that they are required to register annually, within five working days of his or her birthday and/or five working days of their move to a new address. Transients must update their registration every 30 days and sexually violent predators must update their registration every 90 days. Other sex offenders must be electronically tethered to law enforcement through the Global Positioning System.

Shouldn't these people be kept away from places where children regularly gather?

REMEDIES FOR SEX OFFENDERS WHO WISH TO GO INTO PARKS

There are ways to balance protection of children and allowing room to give relief to registrants who have unusual circumstances. There are three ways a registered sex offender can be granted permission to enter parks.

Certificate of Rehabilitation

Under Penal Code 290.5, which in concert with Penal Code 4852.01, certain 290 registrants can apply to a court for a certificate of rehabilitation. Upon a court finding, a registrant may be relieved of the duty to register under section 290. This would alleviate the concern that the park ordinance might affect a 290 registrant whose offense was relatively "minor" and who claims he no longer poses a threat to society. The court is in a better position to determine if a certain individual no longer poses a threat to the community, rather than a legislative body giving a general exemption to a class of offenders without knowing their individual threat assessment.

Exemption from Law Enforcement

Second, law enforcement, who has the ability to investigate and has the knowledge and experience to better gauge a sex offender's threat assessment, could give permission to enter a park on a case-by-case basis. An example of such an individual could be a gardener who works on a maintenance crew at a park every Tuesday from 9 to 10 a.m., and could get permission from the city's police chief to be at the park during the specified time. The sex offender need not be a resident of the city and local law enforcement would be informed of the presence of a sex offender.

More Inclusive Ordinance

Third, the OCDA does not see any rationale to limit the ordinance to those whose offense was against a child victim.

If Laguna Hills feels the need to limit the sex offender ordinance, however, the OCDA feels that more 290 registrants should be included than is currently proposed. At a minimum, the ordinance should include:

- (1) 290 registrants whose offense was a felony;
- (2) 290 registrants whose offense involved someone under the age of 18;
- (2) 290 registrants who violated the following Penal Code sections, whether a misdemeanor or a felony and regardless of the victim's age:
 - (a) Any section listed in Chapter 7.5 (crimes involving obscene matter, including child pornography); and
 - (b) Sections 207 (kidnapping), 220 (forcible and/or in concert or assault with intent to commit rape, sodomy, oral copulation, lewd acts upon a child or penetration), 261 (rape), 264 (rape), 286 (sodomy), 288 (lewd acts upon a child), 288a (oral copulation of a minor), 288.2 (sending harmful material to a minor with sexual intent), 288.3 (contacting a minor to commit forcible kidnapping or kidnapping for ransom, rape, child endangerment, sodomy, lewd acts upon a child, oral copulation of a minor, forcible sexual penetration, possession of child pornography), 288.5 (continuous sexual abuse of a child), 289 (forcible sexual penetration), 314 (indecent exposure), and 647.6 (child annoyance).

Thank you for your time and patience. I know we all share the desire to protect our children in every possible way from sex offenders. I hope you consider passing a similar ordinance to that of the County Ordinance for all of the above reasons.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Rackauckas".

Tony Rackauckas
District Attorney
County of Orange

TR:ss/ru

cc: Steve Doan, OCSD
Gregory E. Simonian, City Attorney
Bruce E. Channing, City Manager

CITY PARKS										
Site Information										
Street Number	Street Name	Street Suffix	Zip	Cross Street	TRACT	LOT	APN	RECORDED BOOK AND PAGE	COUNTY QUITCLAIM	ACREAGE
24701	Clarington Park	Drive	92653	Clarington/Ashland	9881	2	620-461-05	413/42-47	19960529568 - 10/18/96	3.49
25000	Beckenham Park	Street	92653	Beckenham St/Wilkes Pl	7864	2	620-361-02	338/13-18	19960529568 - 10/18/96	2.75
25130	Stockport Park	Street	92653	Stockport St/Wilkes Pl	8103	60	620-261-01	325/40-43	19960529568 - 10/18/96	3.99
24821	Mendocino Park	Drive	92653	Mendocino Ct.	9044	206	625-141-29	417/1-9	19960529568 - 10/18/96	3.93
25842	Aliso Hills Park	Parkway	92653	Aliso Hills Dr/Alicia Pkwy	9044	207	625-162-01	417/1-9	19960529568 - 10/18/96	2.1
24742	Mandeville Park	Avenue	92653	Mandeville Dr.	11235	22	625-251-03	493/22-27	19960529568 - 10/18/96	3.34
25081	Costeau Park	Road	92653	Costeau Dr./Alicia Pkwy	7186	71	620-392-01/02	358/42-45	19960529568 - 10/18/96	3.67
25222	Mackenzie Park	Street	92653	Mackenzie St/Pike Rd	7080	39	620-202-34	282/10-12	19960529568 - 10/18/96	2.85
25772	Knotty Pine Park	Road	92653	Knotty Pine/Mackenzie	8225	98	620-272-01	324/24-26	19960529568 - 10/18/96	3.85
25601	El Conejo Park	Lane	92653	El Conejo Ln/Calero Av	9403	119	625-053-18	393/41-46	19960529568 - 10/18/96	2
23612	San Remo Park	Drive	92653	San Remo Dr/Taranto	7311	222	616-252-01	280/39-43	19980127953 - 03/06/98	1.6
22181	Santa Victoria Park	Avenue	92653	Marsala/Barbera	7371	247	616-281-32	284/26-35	19980127953 - 03/06/98	2.87
22330	Veeh Ranch Park	Drive	92653	Santa Victoria Dr.	8333	6	588-071-04	342/12-18	19980127953 - 03/06/98	11
27355	Cabot Park	Road	92653	Cabot Rd/Rapid Falls Rd	9293	195	636-081-01	460/18-31	19960529568 - 10/18/96	8.6
25555	Community Center & Sports Park	Parkway	92653	Alicia/Paseo DE Valencia			625-021-21		19960529568 - 10/18/96	30.6

HOA PARKS										
Street Number	Street Name	Street Suffix	Zip	Cross Street	TRACT	LOT	APN	RECORDED BOOK AND PAGE	COUNTY QUITCLAIM	ACREAGE
	Casa De Laguna ¹		92653	La Paz Rd/Moulton Pkwy	11557	2	634-221-02	584/37-41		5.25
26682	Dapple Grey	Drive	92653	Dapple Grey Dr/Nellie Gail Rd	9295	210	627-221-01	419/29-44		3.47
	Fossil Park ²		92653	Via Lomas mid block	10885	4	625-212-05	479/21-25		1
25542	Gallup Park ³	Circle	92653	Gallup Cir/Nellie Gail Rd	9296	273	627-521-01	466/5-18		5.17
27251	Hidden Trail ⁴	Road	92653	Hidden Trail/Stageline Dr	12550	50	636-341-45	566/38-42		2.44
	Laguna Village ⁴		92653	Ridge Route/Santa Vittoria Dr	8333	7	588-042-15	342/12-18		4.57
24732	Moulton Park ⁵	Road	92653	Nellie Gail Rd/Lost Colt Dr	9292	143	627-032-01	384/38-50		2.77
	Moulton Ranch ⁵		92653	Bridlewood Dr/Meadow Crest Dr	9863	2	627-592-20	642/11-16		8.22
25202	Nellie Gail Equestrian Center ²	Road	92653	Empty Saddle Dr/Nellie Gail Rd	9292	1	627-071-05	384/38-50		20.11
	Sheep Hills ⁵		92653	Laguna Hills Dr/Moulton Pkwy	11493	2	625-281-03	502/24-25		8
	Quail Creek ⁷		92653	La Paz Rd/L-73 off ramp	9945	1*	937-89-001	463/38-39		2
26451	Bella Vista ⁸	Road	92653	Bridlewood Dr/Laurel Crest Dr	9863	1*	937-89-368	642/11-16		0.5
	Lomas Laguna ⁹		92653	Alicia Pkwy/Laguna Ct.	12091	4	634-131-17	526/25-28		2
25014	Sunset Place ¹⁰	Place	92653	Sunset Place west/east	8855	69	620-343-21	389/12-14		0.5
	Aliso Meadows ³		92653	Via Lomas adjacent to bike trail	10885	2*	625-211-04	479/21-25		1

LEGEND

* Recreation facility is a part of HOA common area and not a separate designated lot.

- ¹ Brosa HOA
- ² Nellie Gail Ranch HOA
- ³ Aliso Meadows HOA
- ⁴ Laguna Village HOA
- ⁵ Moulton Ranch HOA
- ⁶ Aliso Viejo Community Association
- ⁷ Quail Creek HOA
- ⁸ Bella Vista HOA
- ⁹ Lomas Laguna HOA
- ¹⁰ Sunset Place HOA

**DRAFT OPTION -1-
ORDINANCE NO.**

AN ORDINANCE OF THE CITY OF LAGUNA HILLS,
CALIFORNIA, ADDING CHAPTER 6-40 TO TITLE 6 OF THE
LAGUNA HILLS MUNICIPAL CODE PROHIBITING REGISTERED
SEX OFFENDERS FROM ENTERING CITY PARKS WITHOUT
WRITTEN PERMISSION FROM THE ORANGE COUNTY
SHERIFF

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA,
DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 6-40 is hereby added to Title 6 of the Laguna Hills Municipal Code as follows:

Chapter 6-40 PROHIBITION OF REGISTERED SEX OFFENDERS FROM ENTERING CITY PARKS

Sections:

- 6-40.010 Purpose and Intent.
- 6-40.020 Definitions.
- 6-40.030 Prohibitions.
- 6-40.040 Penalties for Violations.
- 6-40.050 Other Prosecution Authorized.

6-40.010 Purpose and Intent.

It is the purpose and intent of this ordinance to protect children from registered sex offenders by restricting sex offenders' access to locations where children regularly gather. It is also the purpose and intent of this ordinance to reduce the risk of harm to children by impacting the ability of sex offenders to be in contact with children. It is further the intent of this ordinance to provide additional restrictions beyond those provided for in state law by restricting sex offenders from certain limited locations, and by allowing for criminal penalties for violations of this ordinance. It is not the intent of this ordinance to allow conduct otherwise prohibited by state law or to contradict state law. City parks in the City of Laguna Hills are recognized by the City Council as locations where children regularly gather.

6-40.020 Definitions.

For purposes of this Chapter, the following term is defined as follows:

Park means any City owned, operated, leased, or maintained park, including, but not limited to: [LIST OF CITY PARKS TO BE INSERTED]

6-40.030 Prohibitions.

Any person required to register pursuant to California Penal Code sections 290, *et seq.*, who enters into or upon any park within the City where children regularly gather, without written permission from the Orange County Sheriff or Sheriff's designee is guilty of a misdemeanor. Each entry into any such area, regardless of the time period between entries, shall constitute a separate offense under this ordinance.

6-40.040 Penalties for Violation.

Punishment for a violation of this Chapter shall be as follows:

(1) Upon a first conviction, by imprisonment in a county jail for a period of not more than six months, or by a fine not exceeding five hundred dollars (\$500), or by both imprisonment and a fine.

(2) Upon a second conviction, by imprisonment in a county jail for a period of not less than ten (10) days and not more than six months, or by both imprisonment and a fine not exceeding five hundred dollars (\$500). Upon a second conviction, however, the person shall not be released on probation, parole, or any other basis until he or she has served not less than ten (10) days.

(3) Upon a third or subsequent conviction, by imprisonment in a county jail for a period of not less than ninety (90) days and not more than six months, or by both imprisonment and a fine not exceeding five hundred dollars (\$500). Upon a third or subsequent conviction, however, the person shall not be released on probation, parole, or any other basis until he or she has served not less than ninety (90) days.

6-40.050 Other Prosecution Authorized.

Nothing in this Chapter shall preclude or prohibit prosecution under any other provision of law.

SECTION 2. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 3. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office

of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED, AND ADOPTED this _____, 2011.

L. ALLAN SONGSTAD, JR., MAYOR

ATTEST:

PEGGY J. JOHNS, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Peggy J. Johns, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. _____ was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the _____, 2011, and that thereafter, said Ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the _____, 2011, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

PEGGY J. JOHNS, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

AFFIDAVIT OF POSTING
AND PUBLICATION

PEGGY J. JOHNS, being first duly sworn, deposes and says:

That she is the duly appointed and qualified City Clerk of the City of Laguna Hills;

That in compliance with State Laws of the State of California, ORDINANCE NO. _____, being:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADDING CHAPTER 6-40 TO TITLE 6 OF THE LAGUNA HILLS MUNICIPAL CODE PROHIBITING REGISTERED SEX OFFENDERS FROM ENTERING CITY PARKS WITHOUT WRITTEN PERMISSION FROM THE ORANGE COUNTY SHERIFF

on the x day of x 2011, was published in the Saddleback Valley News; and was, in compliance with City Resolution No. 2004-05-25-2, on the x day of x 2011, caused to be posted in three places in the City of Laguna Hills, to wit:

Laguna Hills City Hall
Laguna Hills Community Center
Courtyard at La Paz Center

PEGGY J. JOHNS, CITY CLERK
Laguna Hills, California

**DRAFT OPTION -2-
ORDINANCE NO.**

AN ORDINANCE OF THE CITY OF LAGUNA HILLS,
CALIFORNIA, ADDING CHAPTER 6-40 TO TITLE 6 OF THE
LAGUNA HILLS MUNICIPAL CODE RESTRICTING SPECIFIED
SEX OFFENDERS FROM ENTERING CITY AND COMMUNITY
PARKS WITHOUT WRITTEN PERMISSION FROM THE ORANGE
COUNTY SHERIFF BASED ON SPECIFIED WAIVER CRITERIA

WHEREAS, the California Sex Registration Act, codified in California Penal Code sections 290 *et seq.*, requires persons convicted of specific sex offenses to register with "the chief of police of the city in which he or she is residing, or the sheriff of the county if he or she is residing in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing upon the campus or in any of its facilities, within five working days of coming into, or changing his or her residence within, any city, county, or city and county, or campus in which he or she temporarily resides"; and

WHEREAS, Proposition 83, codified in California Penal Code section 3003.5, prohibits any person on parole or probation required to register as a sex offender pursuant to the California Penal Code section 290 *et seq.*, from residing within two thousand (2,000) feet of any public or private school, or any park where children regularly gather; and

WHEREAS, pursuant to Penal Code section 626.81, registered sex offenders are restricted from entering upon school premises without lawful business thereon and written permission from the chief administrative official of that school; and

WHEREAS, on April 5, 2011, the Orange County Board of Supervisors unanimously adopted a new County Child Safety Zone Ordinance to create a child safety zone in County owned parks to further protect children from registered sex offenders, and on April 19, 2011, Orange County District Attorney Tony Rackauckas and Orange County Supervisor Patricia Bates sent a letter to the City urging the City Council to enact laws similar to the County Child Safety Zone Ordinance to protect children in parks in the City; and

WHEREAS, the City of Laguna Hills is an attractive place for families and children because of the City's family-oriented environment, numerous recreational facilities, and community character; and

WHEREAS, according to the 2010 Census Data, approximately 22.3% of the City's population is under 18 years of age; and

WHEREAS, parks within the City of Laguna Hills are a place where children and families frequently gather and visit; and

WHEREAS, sex offenders have high recidivism rates that exceed those exhibited by other convicted criminals as indicated in a report published in 2003 issued by the U.S. Department of Justice, Bureau of Justice Statistics entitled "Recidivism of Sex Offenders Released From Prison in 1994", which showed, from a study of prisoners released in 1994 from fifteen (15) states, that released sex offenders were four times (4x) more likely to be rearrested for a new sex crime as compared to non-sex offenders released (a copy of this report is available for review at the City Clerk's Office); and

WHEREAS, according to the Megan's Law website maintained by the California Department of Justice, of the current eight (8) registered sex offenders residing in the City of Laguna Hills, six (6) of those registered sex offenders were convicted of offenses involving minors under the age of 18 years old; and

WHEREAS, in an effort to protect the health, safety and welfare of minors within the City, the City Council desires to take additional action to further protect children and potential victims from dangerous sex offender predators by establishing child safety zones that prohibit specified sex offenders from entering into or upon the premises of parks located within the City, which are places where children and families regularly gather; and

WHEREAS, the City Council hereby finds that the City has a compelling interest in protecting minors and families in places where they regularly gather, such as City and community parks, from sexual predators.

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 6-40 is hereby added to Title 6 of the Laguna Hills Municipal Code as follows:

Chapter 6-40 Child Safety Zones

Sections:

Sec. 6-40.010	Purpose and Intent.
Sec. 6-40.020	Definitions.
Sec. 6-40.030	Prohibitions.
Sec. 6-40.040	Signage Posting Requirement.
Sec. 6-40.050	Penalties for Violations.
Sec. 6-40.060	Other Prosecution Authorized.
Sec. 6-40.070	Waiver Criteria.

Sec. 6-40.010 Purpose and Intent.

It is the purpose and intent of this Chapter to protect children from registered sex offenders by restricting sex offenders' access to locations where children regularly gather. It is also the purpose and intent of this Chapter to reduce the risk of harm to children by impacting the ability of sex offenders to be in contact with children. It is further the intent of this Chapter to provide additional restrictions beyond those provided

for in state law by restricting sex offenders from certain limited locations, and by allowing for criminal penalties for violations of this Chapter. It is not the intent of this Chapter to allow conduct otherwise prohibited by state law or to contradict state law. City and community parks in the City of Laguna Hills are recognized by the City Council as locations where children regularly gather.

Sec. 6-40.020 Definitions.

For purposes of this Chapter, the following terms are defined as follows:

Child, children or *minor(s)* means any person(s) under eighteen (18) years of age.

Park means any City owned, operated, leased, or maintained park, including, but not limited to:

[LIST OF CITY PARKS TO BE INSERTED]

Park shall also include any community park owned, operated, leased, or maintained by a Homeowners' Association, where the Homeowners' Association has provided written notice to the City requesting enforcement, before or after the effective date of this Chapter, including, but not limited to:

[LIST OF HOA COMMUNITY PARKS TO BE INSERTED]

Orange County Sheriff shall mean the Orange County Sheriff or the Sheriff's designee

"Sex Offender" or *"Registrant"* means any person who must register in accordance with California's "Sex Offender Registration Act," codified at California Penal Code section 290 *et seq.*, as a result of a conviction, whether upon trial or by plea of guilty or *nolo contendere*, for: (i) an offense against a minor; (ii) violation of Penal Code section 314 (indecent exposure); or (iii) violation of any of Penal Code sections 311.1, 311.2, 311.3, 311.4, 311.10 or 311.11 (child pornography).

Sec. 6-40.030 Prohibitions.

Any Registrant, who enters into or upon any Park within the City without written permission from the Orange County Sheriff, is guilty of a misdemeanor. Each entry into any such area, regardless of the time period between entries, shall constitute a separate offense under this ordinance.

Sec. 6-40.040 Signage Posting Requirement.

For all Parks, a notice in substantially the following form shall be posted:

"Specified Penal Code §290 Registrants are prohibited from entering this park without written authorization from the Orange County Sheriff's Department. (LHMC Chapter 6-40)"

Sec. 6-40.050 Penalties for Violation.

Punishment for a violation of this Chapter shall be as follows:

(1) Upon a first conviction, by imprisonment in a county jail for a period of not more than six months, or by a fine not exceeding five hundred dollars (\$500), or by both imprisonment and a fine.

(2) Upon a second conviction, by imprisonment in a county jail for a period of not less than ten (10) days and not more than six months, or by both imprisonment and a fine not exceeding five hundred dollars (\$500). Upon a second conviction, however, the person shall not be released on probation, parole, or any other basis until he or she has served not less than ten (10) days.

(3) Upon a third or subsequent conviction, by imprisonment in a county jail for a period of not less than ninety (90) days and not more than six months, or by both imprisonment and a fine not exceeding five hundred dollars (\$500). Upon a third or subsequent conviction, however, the person shall not be released on probation, parole, or any other basis until he or she has served not less than ninety (90) days.

Sec. 6-40.060 Other Prosecution Authorized.

Nothing in this Chapter shall preclude or prohibit prosecution under any other provision of law. This Chapter shall not apply to persons already restricted from parks pursuant to California Penal Code section 3053.8.

Sec. 6-40.070 Waiver Criteria.

Notwithstanding the foregoing, a Registrant may, by written request made to the Orange County Sheriff, which request shall be date, time, and location specific, seek written authorization to enter into or upon a Park. The Orange County Sheriff shall evaluate each written request to determine whether to grant, conditionally grant, or deny the request. Reasons that may justify the request include:

(1) Accompanying a minor for whom the Registrant is a parent or legal guardian and where the registrant is not otherwise prohibited under any condition of parole or probation;

(2) Accessing the Park for the purposes of exercising the rights of free speech or assembly;

(3) Accessing the Park for purposes of lawful employment;

(4) Accessing the Park for the purposes of voting in any local, state, or federal election; or

(5) Accessing the Park for the purposes of attending a religious service.

SECTION 2. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 3. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED, AND ADOPTED this _____, 2011.

L. ALLAN SONGSTAD, JR., MAYOR

ATTEST:

PEGGY J. JOHNS, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Peggy J. Johns, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. _____ was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the _____, 2011, and that thereafter, said Ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the _____, 2011, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

PEGGY J. JOHNS, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

AFFIDAVIT OF POSTING
AND PUBLICATION

PEGGY J. JOHNS, being first duly sworn, deposes and says:

That she is the duly appointed and qualified City Clerk of the City of Laguna Hills;

That in compliance with State Laws of the State of California, ORDINANCE NO. _____, being:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADDING CHAPTER 6-40 TO TITLE 6 OF THE LAGUNA HILLS MUNICIPAL CODE RESTRICTING SPECIFIED SEX OFFENDERS FROM ENTERING CITY AND COMMUNITY PARKS WITHOUT WRITTEN PERMISSION FROM THE ORANGE COUNTY SHERIFF BASED ON SPECIFIED WRITTEN CRITERIA

on the _____, 2011, was published in summary in The Register and on the _____, 2011, was published in summary in the Saddleback Valley News; and was, in compliance with City Resolution No. _____, on the _____, 2011 and the _____, 2011, caused to be posted in summary in three places in the City of Laguna Hills, to wit:

Laguna Hills City Hall
Laguna Hills Community Center
Courtyard at La Paz Center

PEGGY J. JOHNS, CITY CLERK
Laguna Hills, California

1 **L. INDEMNIFICATION:**

2 1. COUNTY, its officers, agents, employees, subcontractors and independent
3 contractors shall not be deemed to have assumed any liability for the
4 negligence or any other act or omission of CITY or any of its officers,
5 agents, employees, subcontractors or independent contractors, or for any
6 dangerous or defective condition of any public street or work or property of
7 CITY, or for any illegality or unconstitutionality of CITY's municipal
8 ordinances. CITY shall indemnify and hold harmless COUNTY and its
9 elected and appointed officials, officers, agents, employees, subcontractors
10 and independent contractors from any claim, demand or liability whatsoever
11 based or asserted upon the condition of any public street or work or
12 property of CITY, or upon the illegality or unconstitutionality of any municipal
13 ordinance of CITY that SHERIFF has enforced, or upon any act or omission
14 of CITY, or its elected and appointed officials, officers, agents, employees,
15 subcontractors or independent contractors related to this Agreement,
16 including, but not limited to, any act or omission related to the maintenance
17 or condition of any vehicle or motorcycle that is owned or possessed by
18 CITY and used by COUNTY personnel in the performance of this
19 Agreement, for property damage, bodily injury or death or any other element
20 of damage of any kind or nature, and CITY shall defend, at its expense
21 including attorney fees, and with counsel approved in writing by COUNTY,
22 COUNTY and its elected and appointed officials, officers, agents,
23 employees, subcontractors and independent contractors in any legal action
24 or claim of any kind based or asserted upon such condition of public street
25 or work or property, or illegality or unconstitutionality of a municipal
26 ordinance, or alleged acts or omissions. If judgment is entered against
27 CITY and COUNTY by a court of competent jurisdiction because of the
28 concurrent active negligence of either party, CITY and COUNTY agree that

1 **L. INDEMNIFICATION: (Continued)**

2 liability will be apportioned as determined by the court. Neither party shall
3 request a jury apportionment.

- 4 2. COUNTY shall indemnify and hold harmless CITY and its elected and
5 appointed officials, officers, agents, employees, subcontractors and
6 independent contractors from any claim, demand or liability whatsoever
7 based or asserted upon any act or omission of COUNTY or its elected and
8 appointed officials, officers, agents, employees, subcontractors or
9 independent contractors related to this Agreement, for property damage,
10 bodily injury or death or any other element of damage of any kind or nature,
11 and COUNTY shall defend, at its expense, including attorney fees, and with
12 counsel approved in writing by CITY, CITY and its elected and appointed
13 officials, officers, agents, employees, subcontractors and independent
14 contractors in any legal action or claim of any kind based or asserted upon
15 such alleged acts or omissions.

16 **M. TRAFFIC VIOLATOR APPREHENSION PROGRAM:**

- 17 1. COUNTY has established a Traffic Violator Apprehension Program ["the
18 Program"], which is operated by SHERIFF, and is designed to reduce
19 vehicle accidents caused by unlicensed drivers and drivers whose licenses
20 are suspended and to educate the public about the requirements of the
21 Vehicle Code and related safety issues with regard to driver licensing,
22 vehicle registration, vehicle operation, and vehicle parking. The Program
23 operates throughout the unincorporated areas of the COUNTY and in the
24 cities that contract with COUNTY for SHERIFF's law enforcement services,
25 without regard to jurisdictional boundaries, because an area-wide approach
26 to reduction of traffic accidents and driver education is most effective in
27 preventing traffic accidents. In order for CITY to participate in the Program,
28 CITY has adopted a fee pursuant to Vehicle Code section 22850.5, in the



Bureau of Justice Statistics

Recidivism of Sex Offenders Released from Prison in 1994

Offender characteristics

Sentences and criminal records

Comparisons to other offenders

Rearrests and reconvictions

Rearrests for sex crimes against children

U.S. Department of Justice
Office of Justice Programs
810 Seventh Street, N.W.
Washington, D.C. 20531

John Ashcroft
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Office of Justice Programs

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Assistant Attorney General

World Wide Web site:
<http://www.ojp.usdoj.gov>

Bureau of Justice Statistics

Lawrence A. Greenfeld
Director

World Wide Web site:
<http://www.ojp.usdoj.gov/bjs>

For information contact:
National Criminal Justice Reference Service
1-800-851-3420



Recidivism of Sex Offenders Released from Prison in 1994

**By Patrick A. Langan, Ph.D.
Erica L. Schmitt
and Matthew R. Durose**

Statisticians, Bureau of Justice Statistics

November 2003, NCJ 198281

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Statistics

Lawrence A. Greenfeld, Director

Patrick A. Langan, Erica L. Schmitt,
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ticians, wrote this report. Carolyn
Williams and Tom Hester edited and
produced it.

November 2003, NCJ 198281

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Introduction

In 1994, prisons in 15 States released 9,691 male sex offenders. The 9,691 men are two-thirds of all the male sex offenders released from State prisons in the United States in 1994. This report summarizes findings from a survey that tracked the 9,691 for 3 full years after their release. The report documents their "recidivism," as measured by rates of rearrest, reconviction, and reimprisonment during the 3-year followup period.

This report gives recidivism rates for the 9,691 combined total. It also separates the 9,691 into four overlapping categories and gives recidivism rates for each category:

- 3,115 released rapists
- 6,576 released sexual assaulters
- 4,295 released child molesters
- 443 released statutory rapists.

The 9,691 sex offenders were released from State prisons in these 15 States: Arizona, Maryland, North Carolina, California, Michigan, Ohio, Delaware, Minnesota, Oregon, Florida, New Jersey, Texas, Illinois, New York, and Virginia.

Highlights

The 15 States in the study released 272,111 prisoners altogether in 1994. Among the 272,111 were 9,691 men whose crime was a sex offense (3.6% of releases).

On average the 9,691 sex offenders served 3½ years of their 8-year sentence (45% of the prison sentence) before being released in 1994.

Rearrest for a new sex crime

Compared to non-sex offenders released from State prisons, released sex offenders were 4 times more likely to be rearrested for a sex crime. Within the first 3 years following their release from prison in 1994, 5.3% (517 of the 9,691) of released sex offenders were rearrested for a sex crime. The rate for the 262,420 released non-sex offenders was lower, 1.3% (3,328 of 262,420).

The first 12 months following their release from a State prison was the period when 40% of sex crimes were allegedly committed by the released sex offenders.

Recidivism studies typically find that, the older the prisoner when released, the lower the rate of recidivism. Results reported here on released sex offenders did not follow the familiar pattern. While the lowest rate of rearrest for a sex crime (3.3%) did belong to the oldest sex offenders (those age 45 or older), other comparisons between older and younger prisoners did not consistently show older prisoners' having the lower rearrest rate.

The study compared recidivism rates among prisoners who served different lengths of time before being released from prison in 1994. No clear association was found between how long they were in prison and their recidivism rate.

Before being released from prison in 1994, most of the sex offenders had been arrested several times for different types of crimes. The more prior arrests they had, the greater their likelihood of being rearrested for another sex crime after leaving prison. Released sex offenders with 1 prior arrest (the arrest for the sex crime for which they were imprisoned) had the lowest rearrest rate for a sex crime, about 3%; those with 2 or 3 prior arrests for some type of crime, 4%; 4 to 6 prior arrests, 6%; 7 to 10 prior arrests, 7%; and 11 to 15 prior arrests, 8%.

Rearrest for a sex crime against a child

The 9,691 released sex offenders included 4,295 men who were in prison for child molesting.

Of the children these 4,295 men were imprisoned for molesting, 60% were age 13 or younger.

Half of the 4,295 child molesters were 20 or more years older than the child they were imprisoned for molesting.

On average, the 4,295 child molesters were released after serving about 3 years of their 7-year sentence (43% of the prison sentence).

Compared to the 9,691 sex offenders and to the 262,420 non-sex offenders, released child molesters were more likely to be rearrested for child molesting. Within the first 3 years following release from prison in 1994, 3.3% (141 of 4,295) of released child molesters were rearrested for another sex crime against a child. The rate for all 9,691 sex offenders (a category that includes the 4,295 child molesters) was 2.2% (209 of 9,691). The rate for all 262,420 non-sex offenders was less than half of 1% (1,042 of the 262,420).

Of the approximately 141 children allegedly molested by the child molesters after their release from prison in 1994, 79% were age 13 or younger.

Released child molesters with more than 1 prior arrest for child molesting were more likely to be rearrested for child molesting (7.3%) than released child molesters with no more than 1 such prior arrest (2.4%).

Rearrest for any type of crime

Compared to non-sex offenders released from State prison, sex offenders had a lower overall rearrest rate. When rearrests for any type of crime (not just sex crimes) were counted, the study found that 43% (4,163 of 9,691) of the 9,691 released sex offenders were rearrested. The overall rearrest rate for the 262,420 released non-sex offenders was higher, 68% (179,391 of 262,420).

The rearrest offense was a felony for about 75% of the 4,163 rearrested sex offenders. By comparison, 84% of the 179,391 rearrested non-sex offenders were charged by police with a felony.

Reconviction for a new sex crime

Of the 9,691 released sex offenders, 3.5% (339 of the 9,691) were reconvicted for a sex crime within the 3-year followup period.

Reconviction for any type of crime

Of the 9,691 released sex offenders, 24% (2,326 of the 9,691) were reconvicted for a new offense. The reconviction offense included all types of crimes.

Returned to prison for any reason

Within 3 years following their release, 38.6% (3,741) of the 9,691 released sex offenders were returned to prison. They were returned either because they received another prison sentence for a new crime, or because of a technical violation of their parole, such as failing a drug test, missing an appointment with their parole officer, or being arrested for another crime.

Imprisonment offense The 9,691 prisoners were men released from State prisons in 1994 after serving some portion of the sentence they received for committing a sex crime. The sex crime they committed is referred to throughout the report as their "imprisonment offense." Their imprisonment offense should not be confused with any new offense they may have committed after release.

Sex offender The 9,691 released men were all violent sex offenders. They are called "violent" because the crimes they were imprisoned for are widely defined in State statutes as "violent" sex offenses. "Violent" means the offender used or threatened force in the commission of the crime or, while not actually using force, the offender did not have the victim's "factual" or "legal" consent. Factual consent means that, for physical reasons, the victim did not give consent, such as when the offender had intercourse with a sedated hospital patient or with a woman who had fallen unconscious from excessive drug taking. "Legal" consent means that the victim willingly participated but, in the eyes of the law, the victim was not old enough or not sufficiently mentally capable (perhaps due to mental illness or mental retardation) to give his or her "legal" consent.

State statutes give many different names to violent sex offenses: "forcible rape," "statutory rape," "object rape," "sexual assault," "sexual abuse," "forcible sodomy," "sexual misconduct," "criminal sexual conduct," "lascivious conduct," "carnal abuse," "sexual contact," "unlawful sexual intercourse," "sexual battery," "unlawful sexual activity," "lewd act with minor," "indecent liberties with a child," "carnal knowledge of a child," "incest with a minor," and "child molesting."

"Violent" sex offenses are distinguished from "nonviolent" sex offenses and from "commercialized sex offenses." Nonviolent sex offenses include morals and decency offenses (for example,

indecent exposure and peeping tom), bestiality and other unnatural acts, adultery, incest between adults, and bigamy. Commercialized sexual offenses include prostitution, pimping, and pornography. As used throughout this report, the terms "sex crimes" and "sex offenders" refer exclusively to violent sex offenses.

Each of the 9,691 sex offenders in this report is classified as either a rapist or a sexual assaulter. Classification was based on information about the imprisonment offense contained in prison records supplied for each sex offender released from prison in 1994. Also based on imprisonment offense information, an inmate could be categorized as a child molester and/or a statutory rapist. Classification to either of these two categories is in addition to, not separate from, classification as a rapist or sexual assaulter. For example, of the 3,115 sex offenders classified as rapists, 338 were child molesters. Or, to put it another way, the imprisonment offense for 338 of the 4,295 child molesters identified in this report was rape. Similarly, 3,957 of the 4,295 child molesters were also sexual assaulters.

	Total	Rapists	Sexual assaulters
Child molesters	4,295	338	3,957
Statutory rapists	443	21	422

The report gives statistics for all sex offenders and each of the four types — rapists, sexual assaulters, child molesters, and statutory rapists. (See *Methodology* on page 37 for details on how sex offenders were separated into categories.)

Rapist "Violent sex crimes" are separated into two categories: "rape" (short for "forcible rape") and "other sexual assault." As used throughout this report the term "rapist" refers to a released sex offender whose imprisonment offense was defined by State law as forcible intercourse (vaginal, anal, or oral) with a female or male. Rape includes "forcible sodomy" and "penetration with a foreign object." Rape excludes statutory rape or any

other nonforcible sexual act with a minor or with someone unable to give legal or factual consent. As used throughout this report, "rape" always means "forcible rape." "Statutory rape" is not a type of forcible rape.

A total of 3,115 sex offenders are identified in the report as released rapists — about a third (32%) of the 9,691 released sex offenders. However, enough information to clearly distinguish rapists from other sexual assaulters was not always available in the prison records used to categorize sex offenders into different types. Consequently, the number of rapists among the 9,691 was almost certainly greater than 3,115; how much greater is unknown.

An obstacle to identifying rapists from penal code information is that the label "rape" is not used in about half the 50 States. However, released sex offenders whose imprisonment offense was rape could still be identified. To illustrate, in one State, the term criminal sexual conduct refers to all types of sex crimes. The statutory language was consulted to determine if an offender's imprisonment offense involved "intercourse" that was "forcible," in accordance with the definition of rape used in this report. If the offense was not found to involve intercourse (or penetration), then the inmate was not classified as a rapist. The same was true of force; if the statutory language did not include a reference to force (or coercion), the offense was not categorized as rape.

Sexual assaulter By definition in the report, all sex offenders are either "rapists" or "sexual assaulters." Sex offenders whose imprisonment offense could not be positively identified as "rape" were placed in the "sexual assault" category. To the extent that rapists were reliably distinguished from sexual assaulters, "sexual assaulters" identified in this report were released sex offenders whose imprisonment

offense was "sexual assault," defined as one of the following:

1. forcible sexual acts, not amounting to intercourse, with a victim of any age,
2. nonforcible sexual acts with a minor (such as statutory rape or incest with a minor or fondling), or
3. nonforcible sexual acts with someone unable to give legal or factual consent because of mental or physical reasons (for example, a mentally ill or retarded person or a sedated hospital patient).

A total of 6,576 sex offenders are identified in this report as released sexual assaulters. The 6,576 sexual assaulters made up about two-thirds (68%) of the 9,691 released sex offenders.

Child molester Many of the 9,691 sex offenders were released prisoners whose imprisonment offense was the rape or sexual assault of a child. Throughout the report, released sex offenders whose forcible or nonforcible sex crime was against a child are referred to as "child molesters." The sex crime did not have to involve intercourse to fit the definition of child molestation.

Of the 9,691 sex offenders, 4,295 were identified as child molesters based on prison records made available for the study. However, because complete information was not always supplied, not every child molester could be identified. Of the 9,691 released sex offenders, undoubtedly more than 4,295 were child molesters, but 4,295 represent all who could be identified from the information available. One reason child molesters were not easily identified from penal code information is that most States do not use the term "child molester" in their penal code. Nevertheless, all States have laws against sexual activity with children, which does facilitate identification. As a result of the uncertainty regarding the number of child molesters among the 9,691 sex offenders, the study cannot say what percentage of the victims of

the 9,691 sex offenders' offenses were children, and what percentage were adults.

In short, the 4,295 released child molesters in this report were men who —

- a. had forcible intercourse with a child or
- b. committed "statutory rape" (meaning nonforcible intercourse with a child) or
- c. with or without force, engaged in any other type of sexual contact with a child.

Of the 4,295, at least 338 (about 8%) had forcible intercourse, and at least 443 (10%) committed statutory rape.

Statutory rapist State laws define various circumstances in which intercourse between consenting partners is illegal: for example, when one of the partners is married or when the two are blood relatives or when one is a "child." Laws that criminalize consensual intercourse based solely on the marital status of the partners are called "adultery laws." Those that criminalize it based solely on blood relationship are "incest laws." Laws that prohibit consensual sexual intercourse based solely on the ages of the partners are called "statutory rape laws."

Statutory rape pertains exclusively to consensual intercourse, as opposed to other types of sexual contact with a child, such as forcible intercourse, forcible fondling, or consensual fondling. Statutory rape is one specific form of what this study calls "child molestation." The child victim of statutory rape can be male or female, and the offender can be male or female. The offender can be almost any relative ("statutory rape" includes incest with a child), an unrelated person well known to the child (such as a school teacher, neighbor, or minister), someone the child hardly knows, or a stranger.

Statutory rape laws define a "child" as a person who is below the "age of

consent," meaning below the minimum age at which a person can legally consent to having intercourse. Age of consent in the 50 States ranges from 14 to 18. Most States set age of consent at 16. In those States, consensual intercourse with someone age 16 or older is usually not a criminal offense, but intercourse with someone below 16 generally is. However, all States make exceptions to their age rules. Consequently, consensual intercourse with children below the age of consent is not always a crime, and consensual intercourse with children who are old enough to give consent is not always legally permissible.

Exceptions for children below age of consent Certain statutory exceptions exist to legal prohibitions against nonforcible intercourse with children who are below the age of consent. One way exceptions are made in statutes is by specifying the minimum age the offender must be (for example, at least age 18, at least age 20) for intercourse to be unlawful. Persons below this minimum age generally cannot be prosecuted. Another common way exceptions are made (virtually every State has these provisions in its laws) is by specifying how much older than the victim the perpetrator must be for criminal prosecution to occur. For example, by law in one State where age of consent is 16, no prosecution can occur unless the age difference is at least 3 years. In that State it is legal for a 17-year-old to have consensual intercourse with a 15-year-old, even though 15 is below the age of consent; but the same act with a 15-year-old is illegal when the other is 18. That is because the 17-year-old is not 3 years older than the 15-year-old, whereas the 18-year-old is. The aim of such exceptions is to distinguish teen behavior from exploitative relationships between adults and children. Another exception is consensual intercourse between husband and wife; no prosecution can occur if one spouse is below the age of consent.

Exceptions for children old enough to give consent Certain adults can be prosecuted for having consensual intercourse with a child who has reached the age of consent. For example, in one State it is a third degree felony for a psychotherapist to have intercourse with a 17-year-old client even though 17 is over the minimum age of consent in that State. In another State, where an adult generally cannot be prosecuted for having consensual intercourse with a 16-year-old, an exception is made when the adult is the child's school teacher. In that case the teacher can be prosecuted for a "class A" misdemeanor. Exceptions are made for other professions as well (clergy, for example).

In this report, 443 of the 9,691 released sex offenders are identified as statutory rapists based on information supplied by the prisons that released them. There were more than 443 statutory rapists among the 9,691 released male sex offenders, but the 443 are all that could be positively identified with the limited information available. One reason statutory rapists are not easily identified from penal code information available on the released sex offenders is that most States do not use the term "statutory rape" in their laws.

First release Though all 9,691 sex offenders in the study were released in 1994, for a fourth of the offenders 1994 was not the first year of release since receiving their prison sentence. This group had previously served a portion of the sentence and were released, then violated parole and were returned to prison to continue serving time still left on that sentence. For the remaining 75% of sex offenders released, the 1994 release was their "first release," meaning their first discharge from prison since being convicted and sentenced to prison.

"First release" should not be confused with first ever release from a prison. "First release" pertains solely to the sentence for the imprisonment offense

(as defined above). It does not pertain to any earlier prison sentences offenders may have served for some other offense.

Attention is drawn to first releases because certain statistics in the report — for example, "average time served," "percent of sentence served," "child molester's age when he committed the sex crime for which he was imprisoned" — could only be computed for those prisoners classified as first releases. For such statistics, date first admitted to prison for their imprisonment offense was needed. Since prison records made available for the study only provided this admission date on first releases, first releases necessarily formed the basis for the statistics.

Prior arrest Statistics on prior arrests were calculated using arrest dates from the official criminal records of the 9,691 released sex offenders. Only dates of arrest were counted, not the number of arrest charges associated with that arrest date. To illustrate, one man was arrested on March 5, 1970, and that one arrest resulted in 3 separate arrest charges being filed against him. In this study, that March 5 arrest is considered one prior arrest.

Prior arrests were measured two different ways in this report. The first way did not include the imprisonment offense for which the sex offender was in prison in 1994. Prior arrest statistics that did not include the imprisonment offense are found in sections of the report that describe the criminal records of the 9,691 sex offenders at the time of release from prison. In this case, any arrest that had occurred on a date prior to the sex offender's arrest for his imprisonment offense was considered a prior arrest. For example, one released sex offender was found to have four different dates of arrest prior to the date of arrest for his imprisonment offense. Those four arrests resulted in 17 different charges being brought against him. When describing

this released prisoner's criminal record, he is considered to have four prior arrests.

The second way of measuring prior arrests did include the imprisonment offense of the released sex offender. Prior arrest statistics that did include the imprisonment offense are found in sections of the report that describe the recidivism rates of the 9,691 sex offenders following their release from prison. In this case, any arrest that had occurred on a date prior to the sex offender's release from prison was considered a prior arrest. By definition, all 9,691 sex offenders had at least one arrest prior to their release, which was the sex crime arrest responsible for their being in prison in 1994. This means that the sex offender who was arrested on four different dates prior to the arrest for his imprisonment offense under the first definition of prior arrest was, under this second definition, classified as having five prior arrests, once his imprisonment offense is included.

Thirteen tables in the report provide statistics on prior arrests (and, in 2 of the 13, prior convictions and prior imprisonments). In tables 15, 16, 17, 18, 27, 28, 29, 30, 31, 36, and 37, "prior arrests" includes the sex crime arrest for the imprisonment offense; these tables have the heading "prior to 1994 release." In tables 5 and 6, "prior arrests" excludes that arrest; these tables have the heading "prior to the sex crime for which imprisoned."

In all tables, the same counting rule was used: arrest dates, not arrest charges, were counted to obtain the number of prior arrests.

Rearrest Unless stated otherwise, this recidivism measure is defined as the number or percentage of released prisoners who, within the first three years following their 1994 release, were arrested either in the same State that released them (in this report those arrests are called "in-State" arrests) or in a different State (those arrests are

referred to as "out-of-State" arrests). Data on arrests came from State RAP sheets and FBI RAP sheets. RAP sheets (Records of Arrest and Prosecution) are law enforcement records intended to document a person's entire adult criminal history, including every arrest, prosecution and adjudication for a felony or serious misdemeanor offense. Arrests, prosecutions and adjudications for minor traffic offenses, public drunkenness, and other petty crimes are not as fully recorded as those for serious crimes. The "percent rearrested" is calculated by dividing the number rearrested by the number released from prison in 1994.

All measures of recidivism based on criminal records are subject to two types of errors. Type 1 errors arise when the arrest or the conviction in the released prisoner's record is for a crime that person did not commit. Type 2 errors arise when the released prisoner commits a crime but he is not arrested for it, or, even if he is, the arrest does not result in his conviction.

Some amount of type 1 and type 2 error is inevitable, however recidivism is measured. But that does not mean that all recidivism measures are equally suitable, no matter the purpose they are intended to serve. The main purpose of this recidivism study was to document the percentage of sex offenders who continued their involvement in various types of crime after their release from prison in 1994. The more suitable measure for that is the one with the fewest type 2 errors: the one, in other words, less prone to saying someone is not committing crimes when he actually is. Between rearrest and reconviction as the recidivism measure, the one less likely to make that type of error is rearrest. One reason is that the rigorous standard used to convict someone — "proof beyond a reasonable doubt" — makes it certain that guilty persons will sometimes go free. Another reason is record keeping: the justice system does better at recording arrests than

convictions in RAP sheets. For such reasons, this study uses rearrest more often than reconviction as the measure of recidivism.

Rearrest forms a conservative measure of reoffending because many crimes do not result in arrest. Not all types of crime are alike in this regard. Crimes committed in nonpublic places (such as in the victim's home) by one family member against another (such as by the husband against his wife, or by the father against his own child) are a type that is less likely than many other types to be reported to police and, consequently, less likely to result in arrest. Sex crimes, particularly those against children, are a specific example of this type. While some sex offenders in this study probably committed a new sex crime after their release and were not arrested or convicted, the study cannot say how many.

As mentioned above, one reason why sex offenders are not arrested is that no one calls the police. Results from the National Crime Victimization Survey indicate that the offenses of rape/sexual assault are the least likely crimes to be reported to the police. (See *Reporting Crime to the Police, 1993-2000*, March 2003, <<http://www.ojp.usdoj/bjs/abstract/rcp00.htm>>.)

Reconviction Except where stated otherwise, this recidivism measure pertains to State and Federal convictions in any State (not just convictions in the State that released them) in the three years following release. Information on convictions came from State and FBI RAP sheets. RAP sheets are intended to document every conviction for a felony or serious misdemeanor, but not every conviction for a minor offense. "Percent reconvicted" is calculated by dividing the number reconvicted by the number released from prison in 1994. (It is not calculated by dividing the number reconvicted by the number rearrested.)

Return to prison Two recidivism measures are returned to prison — with a new sentence — with or without a new sentence.

Recidivism defined as *Returned to prison with a new sentence* pertains exclusively to sex offenders who, within 3 years following release, were reconvicted for any new crime in any State following their release and received a new prison sentence for the new crime.

Recidivism defined as *Returned to prison with or without a new sentence* includes resentenced offenders plus any who were returned to prison within 3 years because they had violated a technical condition of their release. Technical violations include things such as failing a drug test, missing an appointment with their parole officer, or being arrested for a new crime. Offenders returning to prison for such violations are sometimes referred to as "technical violators."

Prisons should not be confused with jails. A prison is a State or Federal correctional facility reserved for convicted persons with relatively long sentences (generally over a year). A jail is a local correctional facility for convicted persons with short sentences or for persons awaiting trial. Returns to prison refer to any prison, not necessarily the same prison that released the offender in 1994.

The "percent returned to prison with a new sentence" is calculated by dividing the number returned to prison with a new sentence by the number released from prison in 1994. The "percent returned to prison with or without a new sentence" is calculated by dividing the number returned to prison with or without a new sentence by the number released from prison in 1994.

Data on returns with a new sentence are based on State and FBI RAP sheets. Data on returns with or without a new sentence are based on State and FBI RAP sheets plus prison records.

Demographic characteristics

All sex offenders

Of the 9,691 released sex offenders, approximately —

- 6,503 (67.1% of the 9,691) were white males (table 1)
- 3,053 (31.5%) were black males
- 136 (1.4%) were males of other races (Asian, Pacific Islander, American Indian, and Alaska Native).

The vast majority of sex offenders were non-Hispanic males (80.1%). Half were over the age of 35 when released.

Rapists and sexual assaulters

As defined in this report, all sex offenders are either "rapists" or "sexual assaulters." Of the 9,691 released sex offenders, 3,115 were rapists and the remaining 6,576 were sexual assaulters.

Of the 3,115 rapists, 1,735 (55.7% of 3,115) were white males and 1,327 (42.6%) were black males. Of the 6,576 sexual assaulters, 4,768 (72.5% of 6,576) were white males and 1,723 (26.2%) were black males.

Rapists and sexual assaulters were close in age at time of release: over 70% were age 30 or older. Median age at time of release was about 35 years for both rapists and sexual assaulters.

Table 1. Demographic characteristics of sex offenders released from prison in 1994, by type of sex offender

Prisoner characteristic	Percent of released prisoners		
	All	Rapists	Sexual assaulters
Total	100%	100%	100%
Race			
White	67.1%	55.7%	72.5%
Black	31.5	42.6	26.2
Other	1.4	1.7	1.3
Hispanic origin			
Hispanic	19.9%	22.6%	18.9%
Non-Hispanic	80.1	77.4	81.1
Age at release			
18-24*	12.2%	10.6%	13.0%
25-29	16.4	17.3	16.0
30-34	20.0	22.4	18.8
35-39	19.1	20.9	18.3
40-44	13.3	13.3	13.3
45 or older	19.0	15.5	20.6
Age at release			
Average	36.8 yrs	36.1 yrs	37.1 yrs
Median	35.3	34.9	35.5
Total released	9,691	3,115	6,576

Note: The 9,691 sex offenders were released in 15 States. Data identifying race were reported for 98.5% of 9,691 released sex offenders; Hispanic origin for 82.5%; age for virtually 100%.

*Age at release 18-24 includes the few who were under age 18 when released from prison in 1994.

Child molesters and statutory rapists

Some of the 9,691 sex offenders were men whose imprisonment offense was a sex offense against a child. Precisely how many is unknown. In this report, the 4,295 who could be identified are called "child molesters" (table 2). The 4,295 identified child molesters included some (443 out of the 4,295) whose specific sex offense against a child was non-forcible intercourse. These 443 are called "statutory rapists." There were more than 443 among the 4,295, but 443 were all that could be identified from the limited information obtained for the study.

Both the 4,295 child molesters and the 443 statutory rapists were predominantly non-Hispanic white males. Nearly three-fourths of the child molesters (73.2%) were age 30 or older. Just over half the statutory rapists (54%) were 30 or older at the time they were released from prison.

Among the released child molesters there were 3,333 white men (77.6% of 4,295) and 889 black men (20.7%). The 443 statutory rapists included 324 white men (73.2% of 443) and 110 black men (24.8%).

Table 2. Demographic characteristics of child molesters and statutory rapists released from prison in 1994

Prisoner characteristic	Percent of released prisoners	
	Child molesters	Statutory rapists
Total	100%	100%
Race		
White	77.6%	73.2%
Black	20.7	24.8
Other	1.7	2.0
Hispanic origin		
Hispanic	23.5%	15.9%
Non-Hispanic	76.5	84.1
Age at release		
18-24*	11.4%	24.8%
25-29	15.4	21.2
30-34	17.7	14.7
35-39	18.6	14.9
40-44	14.3	10.2
45 or older	22.6	14.2
Age at release		
Average	37.8 yrs	33.6 yrs
Median	36.5	31.0
Total released	4,295	443

Note: The 4,295 child molesters were released in 15 States; the 443 statutory rapists in 11 States. Because of overlapping definitions, all statutory rapists also appear under the column "child molesters." Data identifying race were reported for 99.5% of 4,295 released child molesters; Hispanic origin for 87.8%; and age for 100%.
*Age at release 18-24 includes the few who were under age 18 when released from prison in 1994.

Sentence length and time served

All sex offenders

All 9,691 sex offenders selected to be in this study had a prison sentence greater than 1 year. The shortest terms were a day over 1 year; the longest were life sentences. The fact that sex offenders with a life sentence (18 offenders in the study) were among the 9,691 released in 1994 should not be surprising because only rarely do life sentences in the United States literally mean imprisonment for the remainder of a person's life. Most felons receiving a life sentence are eventually paroled (unpublished tabulation of data from the 1997 BJS Survey of Inmates in State Correctional Facilities).

On average, a sex offender released from prison in 1994 had an 8-year term and served 3½ years of that sentence (45%) before being released (table 3). Half of the released sex offenders had a sentence length of 6 years or less. Half had served no more than a third of their sentence before being released. When released, the majority (54.5%) had more than 3 years of their sentence remaining to be served.

Rapists and sexual assaulters

Rape always involves forcible intercourse, whereas sexual assault (as the term is used here) never does, although it can involve other types of forcible sexual assault. Because forcible intercourse is considered to be a more serious offense than other forms of forcible sexual assault, penalties for rape are generally more severe than those for sexual assault.

Consistent with the more serious nature of rape —

- on average a released rapist had a longer sentence (just over 11 years) than a sexual assaulter (just under 7 years)

- on average a rapist spent more time in confinement before being released (5¼ years) than a sexual assaulter (just under 3 years)
- median sentence length was longer for rapists (half of the rapists had a sentence of 9 years or more, while half of the sexual assaulters had a sentence of 5½ years or more)
- 39.2% of the 3,115 rapists were in prison for over 5 years prior to release, while 12.5% of the 6,576 sexual assaulters served 61 months or more
- rapists served 49% of their sentence before being released, compared to 43% for sexual assaulters.

Depending on the length of their sentence and the amount of time they had served before being released, some of the released sex offenders would have been on parole (or some other type of conditional release) throughout the full 3 years they were tracked in this study. For example, when released, 63.3% of rapists had more than 3 years left to serve on their sentence. In their case, any new crimes they committed during this 3-year followup period were offenses committed while still on parole. By comparison, just over half of released sexual assaulters had more than 3 years left to serve.

Table 3. Sentence length and time served for sex offenders released from prison in 1994, by type of sex offender

Characteristic	All	Rapists	Sexual assaulters
Sentence length (in months)			
Mean	97.3 mo	134.0 mo	82.5 mo
Median	72.0	108.0	66.0
Time served (in months)			
Mean	42.3 mo	62.6 mo	34.1 mo
Median	32.3	48.2	26.5
Percent of sentence served	44.9%	49.3%	43.1%
Upon release in 1994, percent who had served —			
6 months or less	4.5%	3.1%	5.0%
7-12	9.5	3.0	12.1
13-18	16.5	10.5	19.0
19-24	9.7	5.1	11.5
25-30	8.1	6.1	8.9
31-36	9.9	8.0	10.7
37-60	21.6	24.9	20.2
61 months or more	20.2	39.2	12.5
Upon release in 1994, percent with time still remaining to be served			
6 months or less	2.8%	2.4%	2.9%
7-12	5.0	5.7	4.7
13-18	8.4	6.2	9.2
19-24	12.8	9.3	14.2
25-30	8.1	6.2	8.8
31-36	8.5	6.9	9.1
37-60	25.1	22.8	26.0
61 months or more	29.4	40.5	24.9
Total first releases	6,470	1,859	5,860

Note: The 6,470 sex offenders were released in 13 States. Figures are based on first releases only. First releases include only those offenders leaving prison for the first time since beginning their sentence. First releases exclude those who left prison in 1994 but who had previously been released under the same sentence and had returned to prison for violating the conditions of release.

Child molesters and sexual assaulters

On average, child molesters were released after serving nearly 3 years (33.7 months) of their nearly 7-year sentence (81.1 months) (table 4). Statutory rapists were released after serving a little over 2 years of their approximately 4-year sentence. Upon release, almost half of the child molesters still had at least 3 years of their sentence remaining to be served, compared to 15% of statutory rapists.

Table 4. Sentence length and time served for child molesters and statutory rapists released from prison in 1994

Characteristic	Child molesters	Statutory rapists
Sentence length (in months)		
Mean	81.1 mo	49.5 mo
Median	66.0	36.0
Time served (in months)		
Mean	33.7 mo	27.6 mo
Median	25.8	19.4
Percent of sentence served	43.3%	52.8%
Upon release in 1994, percent who had served —		
6 months or less	5.7%	9.6%
7-12	12.6	20.4
13-18	20.8	18.2
19-24	10.1	14.3
25-30	7.2	8.6
31-36	11.2	7.0
37-60	19.7	13.4
61 months or more	12.8	8.6
Upon release in 1994, percent with time still remaining to be served		
6 months or less	2.5%	10.8%
7-12	5.4	17.4
13-18	10.2	26.9
19-24	16.1	13.1
25-30	7.9	8.5
31-36	8.9	8.5
37-60	24.9	9.2
61 months or more	24.1	5.6
Total first releases	3,104	317

Note: The 3,104 child molesters were released in 13 States; the 317 statutory rapists in 10 States. Because of overlapping definitions, all statutory rapists also appear under the column "child molesters." Figures are based on first releases only. First releases include only those offenders leaving prison for the first time since beginning their sentence. First releases exclude those who left prison in 1994 but who had previously been released under the same sentence and had returned to prison for violating the conditions of release.

Prior criminal record

All sex offenders

Arrests and convictions for minor traffic offenses, public drunkenness, and other petty crimes are often not entered into official criminal records. Since official records formed the basis for this study's statistics on arrests and convictions, these statistics understate levels of contact with the justice system. Statistics shown throughout this report on arrests and convictions pertain mostly to arrests and convictions for felonies and serious misdemeanors.

Statistics on prior arrests in this section of the report do not include the imprisonment offense for which the sex offender was in prison in 1994.

At the time the 9,691 male sex offenders were arrested for the sex crime that resulted in their imprisonment —

- 78.5% (7,607 of the 9,691 men) had been arrested at least one earlier time (table 5)
- half had 3 or more prior arrests for some type of crime
- 58.4% (5,660 men) had at least one prior criminal conviction
- 13.9% (1,347 men) had a prior conviction for a violent sex offense
- 4.6% (446 men) had been convicted for a sex crime against a child
- nearly a quarter had served time in a State or Federal prison at least once before for some type of crime.

All 9,691 were in prison in 1994 because they had been arrested and convicted for a sex offense. For 71.5% of the 9,691 men (6,929), that arrest was their first ever for a violent sex crime. In other words, these 6,929 men had no previous arrest for a sex offense. For the remaining 28.5% (2,762 men), that arrest was not their first sex offense arrest. Some had been arrested once before for a sex crime and some two or more times before.

To illustrate, one of the 9,691 sex offenders in this study had his first arrest for a sex crime in 1966, when he was age 19; he was also arrested for sex crimes in the 1970's and 1980's, in three different States. The arrest for his

imprisonment offense was in 1982. In the early part of 1983, 4 months after his arrest, he was convicted of sexual assault and began serving a 25-year prison term. Eleven years later, in 1994 at age 47, he was released.

For 75% of the 9,691 sex offenders, their 1994 release represents their first release since being sentenced for their sex offense. The remaining 25% had previously served time under the same sentence, had been released, had violated one or more conditions of their parole and, consequently, were returned to prison to continue serving time still remaining on their sentence.

Table 5. Prior criminal record of sex offenders released from prison in 1994, by type of sex offender

Prior to the sex crime for which imprisoned	All	Rapists	Sexual assaulters
Percent with at least 1 prior arrest for — *			
Any crime	78.5%	83.1%	76.3%
Any sex offense	28.5	28.7	28.4
Sex offense against a child	10.3	5.7	12.5
Prior arrests for any crime*			
Mean	4.5	5.0	4.2
Median	3	3	2
Percent with at least 1 prior conviction for — *			
Any crime	58.4%	62.9%	56.2%
Any sex offense	13.9	14.6	13.5
Sex offense against a child	4.6	3.4	5.2
Prior convictions for any crime*			
Mean	1.8	2.0	1.7
Median	1	1	1
Percent with prior prison sentence for any crime*	23.7%	28%	21.6%
Percent who were first releases^b	74.9%	66.9%	78.7%
Total released	9,691	3,115	6,576

Note: The 9,691 sex offenders were released in 15 States.

*"Prior" does not include the arrest, conviction, or prison sentence that was the reason the sex offenders were in prison in 1994. Persons with no prior arrest or prior convictions were coded zero and were included in the calculations of mean and median priors. Calculation of prior convictions excluded Ohio, and calculation of prior prison sentences excluded Ohio and Virginia.

^bData on first releases are based on releases from 13 States. First releases include only those offenders leaving prison for the first time since beginning their sentence. First releases exclude those who left prison in 1994 but who had previously been released under the same sentence and had returned to prison for violating the conditions of release.

Sex offenders compared to non-sex offenders

A total of 262,420 non-sex offenders were released from State prisons in 1994 in the 15 States. Of the 262,420 non-sex offenders, 94% had at least 1 prior arrest and 82% had at least 1 prior conviction (not in a table). Overall, the 9,691 sex offenders had a shorter criminal history than the 262,420 non-sex offenders. Before the arrest that resulted in their prison sentence, sex offenders had been arrested 4.5 times, on average. This prior arrest record was about half that of non-sex offenders (8.9 prior arrests). In addition, among the 1994 prison releases, 23.7% of the sex offenders (2,297), compared to 44.3% of non-sex offenders (116,252), had served prior prison sentences.

Sex offenders were more likely to have been arrested (28.5%) or convicted (13.9%) for a sexual offense than non-sex offenders (6.5% with a prior arrest for a sex crime; 0.2% with a prior conviction for a sex crime). The same is true for child molesting — about 1 in 10 sex offenders had a prior arrest for a sex offense against a child, compared to about 1 in 100 non-sex offenders.

Rapists and sexual assaulters

For approximately 71% of the 3,115 rapists, the arrest for rape that resulted in their imprisonment was their first for a sex crime. The remaining 29% had one or more prior sex crime arrests. Likewise, for sexual assaulters, the sexual assault arrest that led to their imprisonment was the first arrest for a sex crime for 72% of the 6,576 sexual assaulters. The remaining 28% had been arrested at least once before for some type of sex crime.

Table 6. Prior criminal record of child molesters and statutory rapists released from prison in 1994

Prior to the sex crime for which imprisoned	Child molesters	Statutory rapists
Percent with at least 1 prior arrest for — *		
Any crime	76.8%	80.6%
Any sex offense	29.0	38.4
Sex offense against a child	18.3	19.6
Prior arrests for any crime*		
Mean	4.1	4.8
Median	2	3
Percent with at least 1 prior conviction for — *		
Any crime	54.6%	64.6%
Any sex offense	11.9	21.2
Sex offense against a child	7.3	11.5
Prior convictions for any crime*		
Mean	1.6	2.2
Median	1	1
Percent with prior prison sentence for any crime*	19.3%	23.4%
Percent who were first releases^b	74.5%	73.7%
Total released	4,295	443

Note: The 4,295 child molesters were released in 15 States; the 443 statutory rapists in 11 States. Because of overlapping definitions, all statutory rapists also appear under the column "child molesters."

*"Prior" does not include the arrest, conviction, or prison sentence that was the reason the sex offenders were in prison in 1994. Persons with no prior arrest or prior convictions were coded zero and were included in the calculations of mean and median priors. Calculation of prior convictions excluded Ohio, and calculation of prior prison sentences excluded Ohio and Virginia.

^bData on first releases are based on releases from 13 States. First releases include only those offenders leaving prison for the first time since beginning their sentence. First releases exclude those who left prison in 1994 but who had previously been released under the same sentence and had returned to prison for violating the conditions of release.

Child molesters and sexual assaulters

The 4,295 child molesters had at least 1 arrest for child molesting (the arrest that led to their imprisonment). For 3,509 (81.7%) of them, that arrest was their first ever arrest for child molesting (table 6). For the other 786 men (18.3% of the 4,295), that was not their first. Some had one prior arrest for a sex offense against a child, some had two, and others had three or more.

Among those with three or more priors was a man whose first arrest for child molesting was in 1966, when he was age 20. When released in 1994, he was serving an 11-year sentence for molesting a child under age 14. The prior criminal record of this serial pedophile spanned three decades, with arrests for child molesting in the 1970's, the 1980's, and the 1990's.

Four measures of recidivism

This section measures recidivism four ways:

- percent rearrested for any type of crime
- percent reconvicted for any type of crime
- percent returned to prison with a new prison sentence for any type of crime
- percent returned to prison with or without a new prison sentence.

"Percent rearrested" is calculated by dividing "the number rearrested" by "the number released from prison in 1994."

"Percent reconvicted" is obtained by dividing "the number reconvicted" by "the number released from prison in 1994." (It is *not* calculated by dividing "the number reconvicted" by "the number rearrested.")

"Percent returned to prison with a new sentence" is calculated by dividing "the number returned to prison with a new sentence" by "the number released from prison in 1994." (It is *not* calculated by dividing "the number returned to prison with a new sentence" by "the number reconvicted.")

Except where stated otherwise, all four recidivism measures —

- refer to the full 3-year period following the prisoner's release in 1994
- include both "in-State" and "out-of-State" recidivism.

"In-State" recidivism refers to new offenses committed within the State that released the prisoner in 1994. "Out-of-State" recidivism is any new offenses in States other than the one that released him in 1994.

Not all 4 of the recidivism measures are based on data from 15 States —

- "Percent rearrested" is based on 15 States

• "Percent reconvicted" is based on 14 of the 15 States participating in the study

• "Percent returned to prison with a new sentence" is based on 13 of the 15 States

• "Percent returned to prison with or without a new sentence" is based on 9 of the 15.

Three of the four recidivism measures were calculated from data on fewer than 15 States because the information needed to perform the calculations was not available (or not readily available) from each of the 15 participating States. Notes at the bottom of the tables alert readers to such missing data.

Four measures

All sex offenders

The 9,691 sex offenders in this study were all released from prison in 1994.

Within the first 3 years following their release —

- 43% (4,163 of the 9,691) were rearrested for at least 1 new crime (table 7)
- 24% (2,326 of the 9,691) were reconvicted for any type of crime
- 11.2% (1,085 of the 9,691) were returned to prison with another sentence
- 38.6% (3,741 of the 9,691) were returned to prison with or without a new sentence.

For approximately three-fourths of the 4,163 men who were rearrested for some new crime, their most serious rearrest offense was a felony; for the remaining fourth, the most serious was a misdemeanor (not shown in table).

Of the 4,163 men rearrested for some new offense, nearly 9 in 10 (87%) were still on parole when taken into custody (not shown in table).

Table 7. Recidivism rate of sex offenders released from prison in 1994, by recidivism measure and type of sex offender

Recidivism measure	Percent of released prisoners		
	All	Rapists	Sexual assaulters
Within 3 years following release:			
Rearrested for any type of crime	43.0%	46.0%	41.5%
Reconvicted for any type of crime ^a	24.0%	27.3%	22.4%
Returned to prison with a new sentence for any type of crime ^b	11.2%	12.6%	10.5%
Returned to prison with or without a new sentence ^c	38.6%	43.6%	36.1%
Total released	9,691	3,115	6,576

Note: The 9,691 sex offenders were released in 15 States.

^aBecause of missing data, prisoners released in Ohio were excluded from the calculation of percent reconvicted.

^b"New prison sentence" includes new sentences to State or Federal prisons but not to local jails. Because of missing data, prisoners released in Ohio and Virginia were excluded from the calculation of percent returned to prison with a new sentence.

^c"With or without a new sentence" includes prisoners with new sentences to State or Federal prisons plus prisoners returned for technical violations. Because of missing data, prisoners released in 6 States (Arizona, Delaware, Maryland, New Jersey, Ohio, and Virginia) were excluded from the calculation of percent returned to prison with or without a new sentence. New York State custody records did not always distinguish prison returns from jail returns. Consequently, some persons received in New York jails were probably mistakenly classified as prison returns. Also, California with a relatively high return-to-prison rate affects the overall rate of 38.6%. When California is excluded, the return-to-prison rate falls to 27.9%.

The 2,326 reconvicted for a new crime consisted of 1,672 (71.9%) whose most serious conviction offense was a felony, and 654 (28.1%) whose most serious offense was a misdemeanor (not shown in table).

Of the 2,326 reconvicted for any new crime after their release, 1,085 were resentenced to prison, and the remaining 1,241 were placed on probation or ordered to pay a fine or sentenced to short-term confinement in a local jail. The 1,241 not resentenced to prison made up a little over half (53%) of the total 2,326 reconvicted. One reason why over half were not resentenced to prison was that the new conviction offense for about 650 of the 2,326 newly convicted men (approximately 30%) was a misdemeanor rather than a felony, and State laws usually do not permit State prison sentences for misdemeanors.

Altogether, 3,741 (38.6%) of the 9,691 released sex offenders were returned to prison either because of a new sentence or a technical violation. Of the 3,741, 2,656 (71%) were returned for a technical violation, such as failing a drug test, missing an appointment with the parole officer, or being arrested for another crime; and 1,085 were returned with a new prison sentence. The 2,656 consisted of 664 who were reconvicted but not resentenced to prison, plus 1,992 not reconvicted.

As previously explained, a total of 1,241 released sex offenders were reconvicted but not resentenced to prison for their new crime. The 1,241 included 664 (described immediately above) who were returned to prison for a technical violation. The 664 were 54% of the 1,241, indicating that most of those who were reconvicted but not given a new prison sentence were, nevertheless, returned to prison.

Sex offenders compared to non-sex offenders

The 15 States in this study released 272,111 prisoners altogether in 1994. The 9,691 released sex offenders made up 3.6% of that total. The remaining 262,420 released prisoners were non-sex offenders. Of the 262,420 non-sex offenders, 68% (179,391 men and women out of the 262,420) were rearrested for a new crime within 3 years (not shown in table). The 43% overall rearrest rate of the 9,691 released sex offenders (4,163 out of 9,691) was low by comparison.

Another difference was the rearrest charge. The rearrest offense was a felony for about 3 out of 4 (75%) of the 4,163 rearrested sex offenders (not shown in table). By comparison, about 84% of the 179,391 non-sex offenders were charged by police with a felony (not shown in table).

Of the 4,163 sex offenders rearrested for a new crime, nearly 9 in 10 (87%) were on parole when taken into custody; of the 179,391 rearrested non-sex offenders, also about 9 in 10 (85%) were on parole (not shown in table).

There was a difference in reconvictions. The reconviction rate for the 9,691 released sex offenders was 24.0%, compared to 47.8% for 262,420 non-sex offenders released in 1994 (not shown in table). The 2,326 sex offenders reconvicted for any new crime included 1,672 (71.9%) whose most serious conviction offense was a felony (not shown in table). Of the 262,420 non-sex offenders, 125,437 (47.8%) were reconvicted, which included 94,078 (75.0%) whose most serious reconviction offense was a felony (not shown in table).

Rapists and sexual assaulters

Within the first 3 years following release —

- 46.0% of the 3,115 rapists (1,432 men) and 41.5% of the 6,576 sexual assaulters (2,731 men) were rearrested for all types of crimes (table 7)
- 27.3% of the 3,115 rapists (850 men) were reconvicted, compared to 22.4% of the 6,576 sexual assaulters (1,473 men) for all types of crimes
- 12.6% of the 3,115 rapists (392 men) and 10.5% of the 6,576 sexual assaulters (690 men) were resentenced to prison for their reconviction offense
- 43.6% of the 3,115 rapists (1,358 men) and 36.1% of the 6,576 sexual assaulters (2,374 men) were returned to prison either because of a new sentence or because of a technical violation of their parole.

For approximately three-fourths of the 1,432 rapists who were rearrested for a new crime, the crime was a felony; for the remainder, the most serious was a misdemeanor (not shown in table). As indicated earlier, 2,731 sexual assaulters were rearrested for a new offense after their release, and for about three-fourths, their most serious rearrest offense was a felony; for the remainder, the most serious crime was a misdemeanor (not shown in table).

The 850 rapists reconvicted for any new crime included 617 (72.6%) whose most serious reconviction offense was a felony; the 1,473 reconvicted sexual assaulters included 1,052 (71.4%) who were reconvicted for a felony (not shown in table).

Child molesters and statutory rapists

Of the child molesters and statutory rapists released from prison in 1994 —

- 1,693 of the 4,295 child molesters (39.4%) and 221 of the 443 statutory rapists (49.9%) were rearrested for a new crime (not necessarily a new sex crime) (table 8)

- 876 of the 4,295 child molesters (20.4%) and 145 of the 443 statutory rapists (32.7%) were reconvicted for any type of crime

- 9% of the 4,295 child molesters and 13% of the 443 statutory rapists

were resentenced to prison for their new conviction offense

- 38% of the 4,295 child molesters and 46% of the 443 statutory rapists were back in prison within 3 years as a result of either a new prison sentence or a technical violation of their parole.

The most serious offense for three-fourths of the 1,693 child molesters who were rearrested was a felony, and a misdemeanor for the remainder (not shown in table). Following their release in 1994, 221 statutory rapists were rearrested for a new crime. The most serious offense that approximately

three-fourths were charged with was a felony (not shown in table).

The 876 child molesters reconvicted for any type of crime included 643 (73.4%) whose most serious reconviction offense was a felony; the 145 reconvicted statutory rapists included 97 (66.7%) whose most serious was a felony (not shown in table).

Table 8. Recidivism rate of child molesters and statutory rapists released from prison in 1994, by recidivism measure

Recidivism measure	Percent of released prisoners	
	Child molesters	Statutory rapists
Within 3 years following release:		
Rearrested for any type of crime	39.4%	49.9%
Reconvicted for any type of crime ^a	20.4%	32.7%
Returned to prison with a new sentence for any type of crime ^b	9.1%	13.2%
Returned to prison with or without a new sentence ^c	38.2%	45.7%
Total released	4,295	443

Note: The 4,295 child molesters were released in 15 States; the 443 statutory rapists in 11 States. Because of overlapping definitions, all statutory rapists also appear under the column "child molesters."

^aBecause of missing data, prisoners released in Ohio were excluded from the calculation of percent reconvicted.

^b"New prison sentence" includes new sentences to State or Federal prisons but not to local jails. Because of missing data, prisoners released in Ohio and Virginia were excluded from the calculation of percent returned to prison with a new sentence.

^c"With or without a new sentence" includes prisoners with new sentences to State or Federal prisons plus prisoners returned for technical violations. Because of missing data, prisoners released in 6 States (Arizona, Delaware, Maryland, New Jersey, Ohio, and Virginia) were excluded from the calculation of percent returned to prison with or without a new sentence. New York State custody records did not always distinguish prison returns from jail returns. Consequently, some persons received in New York jails were probably mistakenly classified as prison returns. Also, California with a relatively high return-to-prison rate affects the overall rate of 39.4%. When California is excluded, the return-to-prison rate falls to 23.4%.

Time to recidivism

All sex offenders

Within 6 months following their release, 16% of the 9,691 men were rearrested for a new crime (not necessarily another sex offense) (table 9). Within 1 year, altogether 24.2% were rearrested. Within 2 years the cumulative total reached 35.5%. By the end of the 3-year followup period, 43% (4,163 of the 9,691) were rearrested for some type of crime.

These statistics indicate that most recidivism within the first 3 years following release occurred in the first year (56%, since $24.2\% / 43\% = 56\%$).

While the bulk of rearrests occurred in the first year, that period did not account for the bulk of reconvictions or reimprisonments. This is largely because a sizable number of those rearrested in the first year were not reconvicted and reimprisoned until sometime in the second year, due to the additional time needed to prosecute, convict, and sentence a criminal defendant. For example, by the end of the first year, 8.6% of the 9,691 released sex offenders were reconvicted, and by the end of the third year, a cumulative total of 24% were reconvicted, indicating that the first year accounted for a relatively small percentage of all the reconvictions in the 3 years (36%, since $8.6\% / 24\% = 36\%$).

Rapists and sexual assaulters

Forty-six percent of released rapists were rearrested within 3 years, and over half of those rearrests (56%) occurred in the first year (since $25.8\% /$

$46.0\% = 56\%$). Similarly, 41.5% of released sexual assaulters were rearrested within the first 3 years following their 1994 release, and over half of those rearrests (56%) occurred in the first year (since $23.4\% / 41.5\% = 56\%$).

Table 9. Recidivism rate of sex offenders released from prison in 1994, by type of recidivism measure, type of sex offender, and time after release

Time after 1994 release	Cumulative percent of sex offenders released from prison in 1994		
	All	Rapists	Sexual assaulters
Rearrested for any type of crime within —			
6 months	16.0%	16.3%	15.8%
1 year	24.2	25.8	23.4
2 years	35.5	38.6	34.0
3 years	43.0	46.0	41.5
Reconvicted for any type of crime within —^a			
6 months	3.6%	4.3%	3.3%
1 year	8.6	10.0	8.0
2 years	17.2	19.9	15.9
3 years	24.0	27.3	22.4
Returned to prison with a new sentence for any type of crime within —^b			
6 months	1.8%	1.9%	1.8%
1 year	4.0	4.1	3.9
2 years	8.0	9.0	7.5
3 years	11.2	12.6	10.5
Total released	9,691	3,115	6,576

Note: The 9,691 sex offenders were released in 15 States.

^aBecause of missing data, prisoners released in Ohio were excluded from the calculation of percent reconvicted.

^b"New sentence" includes new sentences to State or Federal prisons but not to local jails. Because of missing data, prisoners released in Ohio and Virginia were excluded from the calculation of percentage returned to prison with a new sentence.

Table 10. Recidivism rate of child molesters and statutory rapists released from prison in 1994, by type of recidivism measure and time after release

Time after 1994 release	Cumulative percent of sex offenders released from prison in 1994	
	Child molesters	Statutory rapists
Rearrested for any type of crime within —		
6 months	16.0%	18.5%
1 year	22.9	29.8
2 years	32.9	42.4
3 years	39.4	49.9
Reconvicted for any type of crime within —^a		
6 months	3.0%	4.5%
1 year	7.1	13.6
2 years	14.5	24.4
3 years	20.4	32.7
Returned to prison with a new sentence for any type of crime within —^b		
6 months	1.5%	0.9%
1 year	3.1	4.0
2 years	6.5	9.3
3 years	9.1	13.2
Total released	4,295	443

Note: The 4,295 child molesters were released in 15 States; the 443 statutory rapists in 11 States. Because of overlapping definitions, all statutory rapists also appear under the column "child molesters."

^aBecause of missing data, prisoners released in Ohio were excluded from the calculation of percent reconvicted.

^b"New sentence" includes new sentences to State or Federal prisons but not to local jails. Because of missing data, prisoners released in Ohio and Virginia were excluded from the calculation of percentage returned to prison with a new sentence.

Child molesters and statutory rapists

Of the 4,295 released child molesters, 1,693 (39.4%) were rearrested during the 3-year followup period (table 10). The majority of those charged (approximately 982 of the 1,693, or 58%) were charged in the first 12 months. While 49.9% of released statutory rapists were rearrested within 3 years, nearly three-fifths of those rearrests occurred within the first year following release (29.8% / 49.9% = 60%).

Rearrest for any type of crime

Table 11. Rearrest rate of sex offenders released from prison in 1994, by type of sex offender and demographic characteristics of released prisoners

Prisoner characteristic	Percent rearrested for any type of crime within 3 years		
	All	Rapists	Sexual assaulters
Race			
White	36.7%	39.1%	35.8%
Black	56.1	55.0	57.0
Other	40.4	38.5	41.7
Hispanic origin			
Hispanic	42.2%	47.7%	39.6%
Non-Hispanic	45.9	50.2	44.3
Age at release			
18-24	59.8%	58.6%	60.2%
25-29	54.2	53.8	54.3
30-34	48.8	52.6	46.7
35-39	41.4	46.1	38.9
40-44	34.7	41.2	31.6
45 or older	23.5	23.0	23.7
Total released	9,691	3,115	6,576

Note: The 9,691 sex offenders were released in 15 States. Data identifying race were reported for 98.5%; Hispanic origin for 82.5%; age for virtually 100%.

Demographic characteristics

All sex offenders

Race Black men (56.1%) released in 1994 were more likely than white men (36.7%) to be rearrested for a new crime (not limited to just a new sex crime) within the first 3 years following their release (table 11).

Hispanic origin Among released sex offenders, non-Hispanics (45.9%) were more likely than Hispanics (42.2%) to have a new arrest within the 3-year followup period.

Age The younger the prisoner when released, the higher the rate of recidivism. For example, of all the sex offenders under age 25 at the time of discharge from prison, 59.8% were

Table 12. Rearrest rate of child molesters and statutory rapists released from prison in 1994, by demographic characteristics of released prisoners

Prisoner characteristic	Percent rearrested for any type of crime within 3 years	
	Child molesters	Statutory rapists
Race		
White	36.2%	46.0%
Black	51.7	61.5
Other	37.8	55.6
Hispanic origin		
Hispanic	37.1%	56.9%
Non-Hispanic	41.9	48.8
Age at release		
18-24	59.6%	70.0%
25-29	51.4	56.4
30-34	46.5	47.7
35-39	38.0	37.9
40-44	28.0	44.4
45 or older	23.8	23.8
Total released	4,295	443

Note: The 4,295 child molesters were released in 15 States; the 443 statutory rapists in 11 States. Data identifying race were reported for 98.5%; Hispanic origin for 82.5%; age for virtually 100%.

rearrested for some type of crime within 3 years, or more than double the 23.5% of those age 45 or older.

Rapists and sexual assaulters

Race Among releasees whose imprisonment offense was sexual assault, 57% of black men and 35.8% of white men were rearrested for all types of crimes. A higher rearrest rate for blacks was also found among released rapists.

Hispanic origin Among released rapists, non-Hispanics (50.2%) were more likely than Hispanics (47.7%) to be rearrested within the 3-year followup period. The same was true among released prisoners whose imprisonment offense was sexual assault.

Age For both rapists and sexual assaulters, younger releasees had higher rearrest rates than older releasees.

Table 13. Rearrest rate of sex offenders released from prison in 1994, by type of sex offender and time served before release

Time served in prison before 1994 release	Percent rearrested for any type of crime within 3 years		
	All	Rapists	Sexual assaulters
6 months or less	45.7%	48.3%	45.0%
7-12	42.1	32.1	43.1
13-18	38.9	37.6	39.2
19-24	46.7	51.1	45.9
25-30	44.6	42.9	45.1
31-36	35.7	42.6	33.7
37-60	38.9	43.2	36.7
61 months or more	39.9	43.4	35.5
Total first releases	6,470	1,859	5,860

Note: The 6,470 sex offenders were released in 13 States. Figures are based on first releases only. First releases include only those offenders leaving prison for the first time since beginning their sentence. First releases exclude those who left prison in 1994 but who had previously been released under the same sentence and had returned to prison for violating the conditions of release.

Child molesters and statutory rapists

Race The rearrest rate among released child molesters was 51.7% for black men and 36.2% for white men (table 12). Among statutory rapists, black men (61.5%) had a higher rearrest rate than white men (46.0%).

Hispanic origin Among released prisoners whose imprisonment offense was statutory rape, Hispanics (56.9%) were more likely than non-Hispanics (48.8%) to be rearrested within the 3-year followup period. The opposite was true of child molesters, as Hispanics had a lower rearrest rate (37.1%) than non-Hispanics (41.9%).

Age The younger the sex offender was when released, the higher was his likelihood of being rearrested. For example, the rearrest percent for statutory rapists younger than 25 was higher (70.0%) than the rearrest percent for statutory rapists ages 25 to 30 (56.4%). The same was true among child molesters.

Time served before 1994 release

All sex offenders

Sex offenders who served the shortest amount of time in prison before being released (6 months or less) had a higher rearrest rate (45.7%) than those who served the longest (over 5 years, 39.9% rate) (table 13). Similarly, prisoners who served 6 months or less had a higher rearrest rate (45.7%) than those who served 7 months to 1 year (42.1%). However, other comparisons did not indicate a connection between serving more time and lower recidivism. For example, among sex offenders who served 1 to 1½ years in prison before being released, 38.9% were rearrested for all types of crimes, compared to 46.7% of sex offenders who served a bit longer — 1½ to 2 years. Similarly, released prisoners

Table 14. Rearrest rate of child molesters and statutory rapists released from prison in 1994, by time served before being released

Time served in prison before 1994 release	Percent rearrested for any type of crime within 3 years	
	Child molesters	Statutory rapists
6 months or less	42.9%	56.7%
7-12	39.7	45.3
13-18	34.5	43.9
19-24	45.5	48.9
25-30	39.4	25.9
31-36	27.2	59.1
37-60	31.5	21.4
61 months or more	29.9	33.3
Total first releases	3,104	317

Note: The 3,104 child molesters were released in 13 States; the 317 statutory rapists in 10 States. Because of overlapping definitions, all statutory rapists also appear under the column "child molesters." Figures are based on first releases only. First releases include only those offenders leaving prison for the first time since beginning their sentence. First releases exclude those who left prison in 1994 but who had previously been released under the same sentence and had returned to prison for violating the conditions of release.

who served between 3 and 5 years in prison had a higher rate of rearrest (38.9%) than released prisoners who served 2½ to 3 years (35.7%). Because of these mixed results, and others illustrated below, the data do not warrant any general conclusion about an association between the level of recidivism and the amount of time served.

Rapists and sexual assaulters

Among sexual assaulters who served no more than 6 months, 45.0% were rearrested for all types of crimes. Those who served a little longer — from about 6 months to 1 year — had a lower rearrest rate, 43.1%. Those released after serving even more time — 1 to 1½ years — had an even lower rate, 39.2%. However, there are numerous instances where serving more time was not linked to lower recidivism. For example, rapists released after about 1 to 1½ years in prison had a 37.6% rearrest rate, while those imprisoned a little longer — from about 1½ to 2 years — had a higher rate, 51.1%.

Child molesters and statutory rapists

Among released statutory rapists and child molesters, the results continued to be mixed regarding an association between the rate of recidivism and the amount of time served (table 14). For example, child molesters released after serving about 2 to 2½ years had a higher rate of rearrest for all types of crimes (39.4%) than those who served somewhat longer — about 2½ to 3 years (27.2%). However, the rearrest rate rose (31.5%) among molesters who served more time — 3 to 5 years.

Table 15. Rearrest rate of sex offenders released from prison in 1994, by type of sex offender and prior arrest for any type of crime

Arrest prior to 1994 release	All	Rapists	Sexual assaulters
Percent rearrested for any type of crime within 3 years			
Total	43.0%	46.0%	41.5%
The arrest responsible for their being in prison in 1994 was —*			
Their first arrest for any type of crime	24.8	28.3	23.6
Not their first arrest for any type of crime	47.9	49.6	47.1
Percent of released prisoners			
Total	100%	100%	100%
The arrest responsible for their being in prison in 1994 was —*			
Their first arrest for any type of crime	21.5	16.9	23.7
Not their first arrest for any type of crime	78.5	83.1	76.3
Total released	9,691	3,115	6,576

Note: The 9,691 sex offenders were released in 15 States.

*By definition, all sex offenders had at least 1 arrest prior to their release: namely, the sex crime arrest responsible for their being in prison in 1994.

Prior arrest for any type of crime

Rapists and sexual assaulters

All sex offenders

Of the 3,115 released rapists, 83.1% (2,589 rapists) had more than 1 arrest

For 2,084 sex offenders (21.5% of the 9,691 total), their only arrest prior to being released in 1994 was the arrest for their imprisonment offense (a sex offense) (table 15). Among these 2,084 released sex offenders with just 1 prior arrest, 24.8% were rearrested for a new crime (not necessarily a new sex crime). For the remaining 7,607 (78.5% of 9,691), their prior record showed an arrest for the sex offense responsible for their current imprisonment plus at least 1 earlier arrest for some type of crime. Of these 7,607 prisoners, 47.9% were rearrested, or about double the rate of their counterparts with 1 prior arrest (24.8%).

for some type of crime prior to their release from prison in 1994, and 16.9% (526 rapists) had just 1 prior arrest, the arrest for the sex crime that resulted in their being in prison in 1994. The multiple prior arrests for the 2,589 rapists included the arrest for their imprisonment offense plus at least 1 other arrest for any type of crime. The 2,589 with more than 1 prior arrest had a rearrest rate (49.6%) nearly double that of the 526 with just 1 prior (28.3%).

Child molesters and statutory rapists

Of the 4,295 child molesters, 76.8% (3,299 men) had more than 1 prior arrest (table 16). These 3,299 child molesters had a rearrest rate (44.3%) nearly double the 23.3% rate of the 996 molesters with just 1 prior arrest (996 is 23.2% of 4,295). The 357 statutory rapists with more than 1 prior arrest (357 is 80.6% of 443) had a rearrest rate (55.7%) more than double the 25.6% rate of the 86 statutory rapists with 1 prior arrest (86 is 19.4% of 443).

Table 16. Rearrest rate of child molesters and statutory rapists released from prison in 1994, by prior arrest for any type of crime

Arrest prior to 1994 release	Child molesters	Statutory rapists
Percent rearrested for any type of crime within 3 years		
Total	39.4%	49.9%
The arrest responsible for their being in prison in 1994 was —*		
Their first arrest for any type of crime	23.3	25.6
Not their first arrest for any type of crime	44.3	55.7
Percent of released prisoners		
Total	100%	100%
The arrest responsible for their being in prison in 1994 was —*		
Their first arrest for any type of crime	23.2	19.4
Not their first arrest for any type of crime	76.8	80.6
Total released	4,295	443

Note: The 4,295 child molesters were released in 15 States; the 443 statutory rapists in 11 States. Because of overlapping definitions, all statutory rapists also appear under the column "child molesters."

*By definition, all sex offenders had at least 1 arrest prior to their release: namely, the sex crime arrest responsible for their being in prison in 1994.

Number of prior arrests for any type of crime

Statistics on prior arrests in this section of the report do include the imprisonment offense of the released sex offender.

All sex offenders

The number of times a prisoner was arrested in the past was a relatively good predictor of whether that prisoner would continue his criminality after release (table 17). Prisoners with just one prior arrest for any type of crime had a 24.8% rearrest rate for all types of crimes. With two priors, the percentage rearrested rose to 31.9%. With three, it increased to 36.9%. With four, it went up to 42.6%. With additional priors, there were further increases, ultimately reaching a rearrest rate of 67.0% for released prisoners with the longest criminal record (more than 15 prior arrests).

Rapists and sexual assaulters

Both rapists and sexual assaulters followed the pattern described immediately above: the more prior arrests they had, the more likely they were to have a new arrest for some type of crime after their release in 1994.

Table 17. Rearrest rate of sex offenders released from prison in 1994, by type of sex offender and number of prior arrests for any type of crime

Number of adult arrests prior to 1994 release*	All	Rapists	Sexual assaulters
Percent rearrested for any type of crime within 3 years			
1 prior arrest for any type of crime	24.8%	28.3%	23.6%
2	31.9	36.4	29.9
3	36.9	36.3	37.1
4	42.6	47.2	40.4
5	50.5	48.6	51.6
6	49.7	47.3	50.9
7-10	59.0	59.6	58.6
11-15	65.1	63.7	66.0
16 or more	67.0	66.1	67.5
Percent of released prisoners			
All sex offenders	100%	100%	100%
1 prior arrest for any type of crime	21.5	16.9	23.7
2	16.0	15.2	16.3
3	11.9	12.1	11.8
4	9.0	9.2	8.9
5	7.2	8.0	6.8
6	6.3	6.6	6.1
7-10	14.4	15.8	13.8
11-15	7.9	8.9	7.4
16 or more	5.8	7.2	5.2
Total released	9,691	3,115	6,576

Note: The 9,691 sex offenders were released in 15 States.

*By definition, all sex offenders had at least 1 arrest prior to their release: namely, the arrest responsible for their being in prison in 1994. In this table, that arrest is counted as 1 prior arrest.

Child molesters and statutory rapists

Among released prisoners with the smallest number of prior arrests (1 prior arrest), 23.3% of child molesters and 25.6% of statutory rapists were rearrested for all types of crimes within 3 years (table 18). Rearrest rates generally rose with each increase in the number of prior arrests. Among released prisoners with the largest number of prior arrests (more than 15), 62.0% of child molesters and 76.2% of statutory rapists had at least 1 new arrest after being released in 1994.

State where rearrested for any type of crime

The State where the rearrest occurred was not always the State that released the prisoner. In some cases, the released sex offender left the State where he was imprisoned and was rearrested for a new crime in a different State. For example, a sex offender released from prison in California may have traveled to Nevada, where he was arrested for committing another crime.

Sex offenders

A total of 4,163 sex offenders were rearrested for some type of new crime after their 1994 release. Of the 4,163 arrests, 16.0% — or 1 in 6 — were outside the State where the prisoner was released (table 19). The rest (84.0%) were made in the State that released them.

Sex offenders compared to non-sex offenders

The 15 States in this study released 262,420 non-sex offenders in 1994, of whom 179,391 were rearrested for a new crime within 3 years (not shown in table). Of the 179,391 arrests for any type of crime, 11.2%, or 20,092 arrests, were arrests that occurred outside the State that released them.

Table 18. Rearrest rate of child molesters and statutory rapists released from prison in 1994, by number of prior arrests for any type of crime

Number of adult arrests prior to 1994 release*	Child molesters	Statutory rapists
Percent rearrested for any type of crime within 3 years		
1 prior arrest for any type of crime	23.3%	25.6%
2	28.0	29.3
3	32.4	46.9
4	39.2	41.0
5	47.4	60.6
6	50.2	53.8
7-10	58.1	65.1
11-15	62.9	81.3
16 or more	62.0	76.2
Percent of released prisoners		
All sex offenders	100%	100%
1 prior arrest for any type of crime	23.2	19.4
2	17.2	13.1
3	12.1	11.1
4	8.5	8.8
5	7.0	7.4
6	6.4	5.9
7-10	13.6	18.7
11-15	7.3	10.8
16 or more	4.8	4.7
Total released	4,295	443
Note: The 4,295 child molesters were released in 15 States; the 443 statutory rapists in 11 States. Because of overlapping definitions, all statutory rapists also appear under the column "child molesters."		
*By definition, all sex offenders had at least one arrest prior to their release: namely, the arrest responsible for their being in prison in 1994. In this table, that arrest is counted as 1 prior arrest.		

Rearrested sex offenders had a higher percentage: 1 in 6 of their rearrests for any type of crime were in a State other than the one that released them.

Rapists and sexual assaulters

Following their 1994 release, 1,432 rapists and 2,731 sexual assaulters

were rearrested for any new crime (table 19). For 17.4% of the 1,432 rearrested rapists, and 15.2% of the 2,731 rearrested sexual assaulters, the place where the arrest occurred was in a different State than the one that released them.

Table 19. Where sex offenders were rearrested for any new crime following release from prison in 1994, by type of sex offender

State where rearrested within 3 years	Percent of rearrested prisoners		
	All	Rapists	Sexual assaulters
Total	100%	100%	100%
Same State where released	84.0	82.6	84.8
Another State	16.0	17.4	15.2
Total rearrested for any new crime	4,163	1,432	2,731

Note: The 4,163 rearrested sex offenders were released in 15 States, but table percentages are based on 14 States.

Child molesters and statutory rapists

Out of the 4,295 child molesters, 1,693 were rearrested for any new crime after being released from prison in 1994 (table 20). The 1,693 recidivists consisted of 84.8% whose new arrest was in the same State that released them in 1994, and 15.2% whose alleged violation occurred in a different State.

About half of all statutory rapists were not rearrested for any type of crime after their release. Of the 221 who were, 16.6% were rearrested outside the State where they were released.

Table 20. Where child molesters and statutory rapists were rearrested for any new crime following release from prison in 1994

State where rearrested within 3 years	Percent of rearrested prisoners	
	Child molesters	Statutory rapists
Total	100%	100%
Same State where released	84.8	83.4
Another State	15.2	16.6
Total rearrested for any new crime	1,693	221

Note: The 1,693 rearrested child molesters were released in 15 States, but table percentages are based on 14 States. The 221 rearrested statutory rapists were released in 11 States, but table percentages are based on 10 States.

Rearrest and reconviction for a new sex crime

Rearrest and reconviction

All sex offenders

Based on official arrest records, 517 of the 9,691 released sex offenders (5.3%) were rearrested for a new sex crime within the first 3 years following their release (table 21). The new sex crimes for which these 517 men were arrested were forcible rapes and sexual assaults. For virtually all of the 517, the most serious sex crime for which they were rearrested was a felony. Their victims were children and adults. The study cannot say what percentage were children and what percentage were adults because arrest files did not record the victim's age.

Of the total 9,691 released sex, 3.5% (339 of the 9,691) were reconvicted for a sex crime (a forcible rape or a sexual assault) within 3 years.

Sex offenders compared to non-sex offenders

The 15 States in this study released a total of 272,111 prisoners in 1994. The 9,691 released sex offenders made up less than 4% of that total. Of the remaining 262,420 non-sex offenders, 3,328 (1.3%) were rearrested for a new sex crime within 3 years (not shown in table). By comparison, the 5.3% rearrest rate for the 9,691 released sex offenders was 4 times higher.

Assuming that the 517 sex offenders who were rearrested for another sex crime each victimized no more than one victim, the number of sex crimes they committed after their prison release totaled 517. Assuming that the 3,328 non-sex offenders rearrested for a sex crime after their release also victimized one victim each, the number of sex crimes they committed was 3,328. The combined total number of sex crimes is 3,845 (517 plus 3,328 = 3,845). Released sex offenders accounted for 13% and released non-sex offenders accounted for 87% of the 3,845 sex crimes committed by

all the prisoners released in 1994 (517 / 3,845 = 13% and 3,328 / 3,845 = 87%).

Rapists and sexual assaulters

Of the 3,115 rapists, 5.0% (155 men) had a new arrest for a sex crime (either a sexual assault or another forcible rape) after being released. Of the 6,576 released sexual assaulters, 5.5% (362 men) were rearrested for a new sex crime (either a forcible rape or another sexual assault).

A total of 100 released rapists were reconvicted for a sex crime. The 100 men were 3.2% of the 3,115 rapists released in 1994. Among the 6,576 released sexual assaulters, 3.7% (243 men) were reconvicted for a sex crime.

Child molesters and statutory rapists

After their release, 5.1% (221 men) of the child molesters and 5.0% (22 men) of the statutory rapists were rearrested for a new sex crime (table 22). Not all of the new sex crimes were against children. The new sex crimes were forcible rapes and various types of sexual assaults.

Following their release, 3.5% (150 men) of the 4,295 released child molesters were convicted for a new sex crime against a child or an adult. The sex crime reconviction rate for the 443 statutory rapists was 3.6% (16 reconvicted men).

Table 21. Of sex offenders released from prison in 1994, percent rearrested and percent reconvicted for any new sex crime, by type of sex offender

	All	Rapists	Sexual assaulters
Percent rearrested for any new sex crime within 3 years	5.3%	5.0%	5.5%
Percent reconvicted for any new sex crime within 3 years*	3.5%	3.2%	3.7%
Total released	9,691	3,115	6,576

Note: The 9,691 sex offenders were released in 15 States.

*Because of missing data, prisoners released in Ohio were excluded from the calculation of percent reconvicted. Due to data quality concerns, calculation of percent reconvicted excluded Texas prisoners classified as "other type of release."

Table 22. Of child molesters and statutory rapists released from prison in 1994, percent rearrested and percent reconvicted for any new sex crime

	Child molesters	Statutory rapists
Percent rearrested for any new sex crime within 3 years	5.1%	5.0%
Percent reconvicted for any new sex crime within 3 years*	3.5%	3.6%
Total released	4,295	443

Note: The 4,295 child molesters were released in 15 States; the 443 statutory rapists in 11 States. Because of overlapping definitions, all statutory rapists also appear under the column "child molesters."

*Because of missing data, prisoners released in Ohio were excluded from the calculation of percent reconvicted. Due to data quality concerns, calculation of percent reconvicted excluded Texas prisoners classified as "other type of release."

Time to rearrest

All sex offenders

Within 6 months following their release, 1.4% of the 9,691 men were rearrested for a new sex crime (table 23). Within 1 year the cumulative total grew to 2.1% rearrested. By the end of the 3-year followup period, altogether 5.3% had been rearrested for another sex crime. The first year was the period when 40% of the new sex crimes were committed (since 2.1% / 5.3% = 40%).

Rapists and sexual assaulters

The first year following release accounted for 40% of the new sex crimes committed by both released rapists (since 2.0% / 5.0% = 40%) and released sexual assaulters (since 2.2% / 5.5% = 40%).

Child molesters and statutory rapists

For child molesters and statutory rapists, the first year following their release was the period when the largest number of recidivists were rearrested. Similar to rapists and sexual assaulters, about 40% of the arrests for new sex crimes committed by child molesters and statutory rapists occurred during the first year (table 24).

Demographic characteristics

All sex offenders

Race Among sex offenders released from prison in 1994, black men (5.6%) and white men (5.3%) were about equally likely to be rearrested for another sex crime (table 25).

Hispanic origin Among released sex offenders, non-Hispanics were more likely to be rearrested for a new sex offense (6.4%) than Hispanics (4.1%). One reason for the lower rearrest rate for Hispanics may be that some were deported immediately following their release.

Age Recidivism studies typically find that, the older the prisoner when released, the lower the rate of recidivism. Results reported here on released sex offenders did not follow the familiar pattern. While the lowest rate of rearrest for a sex crime (3.3%) did belong to the oldest sex offenders (those age 45 or older), other comparisons between older and younger prisoners did not consistently show older prisoners' having the lower rearrest rate.

Table 23. Of sex offenders released from prison in 1994, percent rearrested for any new sex crime, by type of sex offender and time after release

Time after 1994 release	Cumulative percent rearrested for any new sex crime within specified time		
	All	Rapists	Sexual assaulters
6 months	1.4%	1.3%	1.4%
1 year	2.1	2.0	2.2
2 years	3.9	3.7	4.1
3 years	5.3	5.0	5.5
Total released	9,691	3,115	6,576

Note: The 9,691 sex offenders were released in 15 States.

Table 24. Of child molesters and statutory rapists released from prison in 1994, percent rearrested for any new sex crime, by time after release

Time after 1994 release	Cumulative percent rearrested for any new sex crime within specified time	
	Child molesters	Statutory rapists
6 months	1.3%	1.4%
1 year	2.2	2.0
2 years	3.9	3.2
3 years	5.1	5.0
Total released	4,295	443

Note: The 4,295 child molesters were released in 15 States; the 443 statutory rapists in 11 States. Because of overlapping definitions, all statutory rapists also appear under the column "child molesters."

Table 25. Of sex offenders released from prison in 1994, percent rearrested for any new sex crime, by demographic characteristics of released prisoners

Prisoner characteristic	Percent of released sex offenders rearrested for any new sex crime within 3 years
Total released	5.3%
Race	
White	5.3%
Black	5.6
Other	4.4
Hispanic origin	
Hispanic	4.1%
Non-Hispanic	6.4
Age at release	
18-24	6.1%
25-29	5.5
30-34	5.8
35-39	6.1
40-44	5.6
45 or older	3.3
Total released	9,691

Note: The 9,691 sex offenders were released in 15 States. Data identifying race were reported for 98.5% of 9,691 released sex offenders; Hispanic origin for 82.5%; age for virtually 100%.

Time served before 1994 release

All sex offenders

The study compared recidivism rates among prisoners who served different lengths of time before being released from prison in 1994. No clear association was found between how long they were in prison and their recidivism rate (table 26). For example, those sex offenders who served from 7 to 12 months were rearrested for a new sex crime at a higher rate (5.2%) than those who served slightly less time (3.8%), which seemed to suggest that serving more time raised the recidivism rate. But other comparisons suggested the opposite. Compared to men who were confined for 7 to 12 months (5.2% rearrest rate), those who served more time (13 to 18 months) were less likely to be rearrested for any new sex crime (4.1%).

Prior arrest for any type of crime

All sex offenders

Of the 9,691 released sex offenders, 21.5% (2,084 of the 9,691) had only 1 arrest in their criminal record up to the time they were released (table 27). That one arrest was the arrest for the sex crime that resulted in a prison term. The remaining 78.5% (7,607 men) had the arrest for their imprisonment offense in their record, and they also had at least 1 earlier arrest for some type of crime. For example, some had an earlier arrest for theft or a drug offense. Most of them did not have an earlier arrest for a sex crime.

Compared to the 2,084 sex offenders with the 1 arrest in their criminal record, the 7,607 with a longer prior arrest record were more likely to be

rearrested for another sex crime (5.9% compared to 3.3%).

Rapists and sexual assaulters

Of the 3,115 released rapists, the majority (83.1% of the 3,115, or 2,589 men) had more than 1 arrest (for any type of crime) prior to release from prison in 1994. Of these 2,589 released rapists, 5.4% (140) had a new arrest for a sex crime. The rate was lower (3.0%) for the 526 released rapists with no prior arrest.

Results for sexual assaulters followed the same pattern: the 5,017 sexual assaulters with more than 1 prior arrest (76.3% of 6,576 is 5,017) were more likely to be rearrested for a new sex crime (6.2%) than the 1,559 with just the 1 prior arrest (23.7% of 6,576 is 1,559).

Table 26. Of sex offenders released from prison in 1994, percent rearrested for any new sex crime, by time served before being released

Time served in prison before 1994 release	Percent of released sex offenders rearrested for any new sex crime within 3 years
6 months or less	3.8%
7-12	5.2
13-18	4.1
19-24	6.4
25-30	5.2
31-36	3.3
37-60	5.2
61 months or more	4.9
Total first releases	6,470

Note: The 6,470 sex offenders were released in 13 States. Figures are based on first releases only. First releases include only those offenders leaving prison for the first time since beginning their sentence. First releases exclude those who left prison in 1994 but who had previously been released under the same sentence and had returned to prison for violating the conditions of release.

Table 27. Of sex offenders released from prison in 1994, percent rearrested for any new sex crime, by type of sex offender and prior arrest for any type of crime

Arrest prior to 1994 release	All	Rapists	Sexual assaulters
Percent rearrested for any new sex crime within 3 years			
Total	5.3%	5.0%	5.5%
The arrest responsible for their being in prison in 1994 was —*			
Their first arrest for any type of crime	3.3	3.0	3.4
Not their first arrest for any type of crime	5.9	5.4	6.2
Percent of released prisoners			
Total	100%	100%	100%
The arrest responsible for their being in prison in 1994 was —*			
Their first arrest for any type of crime	21.5	16.9	23.7
Not their first arrest for any type of crime	78.5	83.1	76.3
Total released	9,691	3,115	6,576

Note: The 9,691 sex offenders were released in 15 States.

*By definition, all sex offenders had at least 1 arrest prior to their release: namely, the arrest responsible for their being in prison in 1994. "First arrest for any type of crime" pertains exclusively to those released prisoners whose first arrest was the sex offense arrest responsible for their being in prison in 1994.

Child molesters and statutory rapists

Released child molesters with more than one prior arrest were more likely than those with only one arrest in their criminal record to be rearrested for a new sex crime (5.7% compared to 3.2%) (table 28). The same was true of statutory rapists (5.3% compared to 3.5%).

Number of prior arrests for any type of crime

All sex offenders

The more arrests (for any type of crime) the sex offender had in his criminal record, the more likely he was to be rearrested for another sex crime after his release from prison (table 29). Sex offenders with one prior arrest (the arrest for the sex crime for which they had been imprisoned) had the lowest rate, about 3%; those with 2 or 3 prior arrests for some type of crime, 4%; 4 to 6 prior arrests, 6%; 7 to 10 prior arrests, 7%; and 11 to 15 prior arrests, 8%.

Table 28. Of child molesters and statutory rapists released from prison in 1994, percent rearrested for any new sex crime, by prior arrest for any type of crime

Arrest prior to 1994 release	Child molesters	Statutory rapists
Percent rearrested for any new sex crime within 3 years		
Total	5.1%	5.0%
The arrest responsible for their being in prison in 1994 was — *		
Their first arrest for any type of crime	3.2	3.5
Not their first arrest for any type of crime	5.7	5.3
Percent of released prisoners		
Total	100%	100%
The arrest responsible for their being in prison in 1994 was — *		
Their first arrest for any type of crime	23.2	19.4
Not their first arrest for any type of crime	76.8	80.6
Total released	4,295	443

Note: The 4,295 child molesters were released in 15 States; the 443 statutory rapists in 11 States. Because of overlapping definitions, all statutory rapists also appear under the column "child molesters."

*By definition, all sex offenders had at least 1 arrest prior to their release: namely, the arrest responsible for their being in prison in 1994. "First arrest for any type of crime" pertains exclusively to those released prisoners whose first arrest was the sex offense arrest responsible for their being in prison in 1994.

Table 29. Of sex offenders released from prison in 1994, percent rearrested for any new sex crime, by number of prior arrests for any type of crime

Number of adult arrests prior to 1994 release	Percent rearrested for any new sex crime within 3 years
All sex offenders	5.3%
1 prior arrest for any type of crime	3.3
2	4.3
3	4.4
4	5.8
5	6.3
6	6.1
7-10	6.9
11-15	7.8
16 or more	7.4
Percent of released prisoners	
All sex offenders	100%
1 prior arrest for any type of crime	21.5
2	16.0
3	11.9
4	9.0
5	7.2
6	6.3
7-10	14.4
11-15	7.9
16 or more	5.8
Total released	9,691

Note: The 9,691 sex offenders were released in 15 States. By definition, all sex offenders had at least 1 arrest prior to their release: namely, the arrest responsible for their being in prison in 1994. In this table, that arrest is counted as one prior arrest.

Prior arrest for a sex crime

All sex offenders

Prior to their release in 1994, 2,762 of the sex offenders (28.5% of the total 9,691) had 2 or more arrests for a sex offense in their criminal record: the arrest for the sex offense that resulted in their imprisonment, plus at least 1 earlier arrest for a sex crime (table 30). For the remaining 6,929 (71.5% of the total 9,691), their only prior arrest for a sex crime was the arrest that brought them into prison. (Any other prior arrests the 6,929 may have had were for non-sex crimes.) Following their release, the 2,762 with more than 1 sex crime in their criminal background were about twice as likely to be rearrested for another sex crime (8.3%) as the 6,929 with a single prior arrest (4.2%).

Rapists and sexual assaulters

Rapists (4.0%) and sexual assaulters (4.2%) with one prior arrest for a sex crime were less likely to be rearrested for another sex crime than rapists (7.4%) and sexual assaulters (8.7%) who had been arrested two or more times for a sex crime prior to release from prison in 1994.

Child molesters and statutory rapists

By definition, all 4,295 child molesters had been arrested for a sex offense at least once prior to their release in 1994 — the sex offense that landed them in prison. For 3,049 of them (71% of 4,295), that arrest was their only prior arrest for a sex offense (table 31). The remaining 1,246 child molesters (29% of 4,295) had at least 2 prior arrests for a sex crime: the arrest for their imprisonment offense plus at least 1 other prior arrest for a sex offense (not necessarily one against a child). Of the 1,246 child molesters with multiple sex crimes in their past, 8.4% (105 of the 1,246) were rearrested for another sex crime (not necessarily another sex crime against a child), or more than double the 3.8% rate for the 3,049

released child molesters with just 1 prior arrest for a sex crime.

Similar results were found for released statutory rapists. Those with a more

extensive record of prior arrests for sex crimes were more likely to be rearrested for another sex crime (8.8%) than those with just one past arrest (2.6%).

Table 30. Of sex offenders released from prison in 1994, percent rearrested for any new sex crime, by type of sex offender and prior arrest for any sex crime

Arrest prior to 1994 release	All	Rapists	Sexual assaulters
Percent rearrested for any new sex crime within 3 years			
Total	5.3%	5.0%	5.5%
The arrest responsible for their being in prison in 1994 was —*			
Their first arrest for any sex crime	4.2	4.0	4.2
Not their first arrest for any sex crime	8.3	7.4	8.7
Percent of released prisoners			
Total	100%	100%	100%
The arrest responsible for their being in prison in 1994 was —*			
Their first arrest for any sex crime	71.5	71.3	71.6
Not their first arrest for any sex crime	28.5	28.7	28.4
Total released	9,691	3,115	6,576

Note: The 9,691 sex offenders were released in 15 States.

*By definition, all sex offenders had at least 1 arrest prior to their release: namely, the arrest responsible for their being in prison in 1994. "First arrest for any sex crime" pertains exclusively to those released prisoners whose first arrest was the sex offense arrest responsible for their being in prison in 1994.

Table 31. Of child molesters and statutory rapists released from prison in 1994, percent rearrested for any new sex crime, by prior arrest for any sex crime

Arrest prior to 1994 release	Child molesters	Statutory rapists
Percent rearrested for any new sex crime within 3 years		
Total	5.1%	5.0%
The arrest responsible for their being in prison in 1994 was —*		
Their first arrest for any sex crime	3.8	2.6
Not their first arrest for any sex crime	8.4	8.8
Percent of released prisoners		
Total	100%	100%
The arrest responsible for their being in prison in 1994 was —*		
Their first arrest for any sex crime	71.0	61.6
Not their first arrest for any sex crime	29.0	38.4
Total released	4,295	443

Note: The 4,295 child molesters were released in 15 States; the 443 statutory rapists, 11 States. Because of overlapping definitions, all statutory rapists also appear under the column "child molesters."

*By definition, all sex offenders had at least 1 arrest prior to their release: namely, the arrest responsible for their being in prison in 1994. "First arrest for any sex crime" pertains exclusively to those released prisoners whose first arrest was the sex offense arrest responsible for their being in prison in 1994.

State where rearrested for a sex crime

When sex offenders were arrested for new sex crimes after their release, the new arrest typically occurred in the same State that released them. Those arrests are referred to as "in-State" arrests. When released sex offenders left the State where they were incarcerated and were charged by police with new sex crimes, those arrests are referred to as "out-of-State" arrests.

All sex offenders

Of the 9,691 released sex offenders, 517 were rearrested for a new sex crime within 3 years. Most of those sex crime arrests (85.2% of the 517, or 440 men) were in the same State that released them (table 32). Seventy-seven of them (14.8% of the 517) were arrested in a different State.

Sex offenders compared to non-sex offenders

The 15 States in this study released 262,420 non-sex offenders in 1994, of whom 3,328 were rearrested for a new sex crime within 3 years (not shown in table). Of the 3,328 non-sex offenders arrested for a new sex crime, an estimated 10% were men rearrested outside the State that released them. The 15% figure for released sex offenders was high by comparison (table 32).

Rapists and sexual assaulters

A total of 155 released rapists and 362 released sexual assaulters were rearrested for a new sex crime within the 3-year followup period. In-State arrests for new sex crimes accounted for 85% of the rearrested rapists and 85% of the rearrested sexual assaulters. Out-of-State arrests accounted for the rest.

Child molesters and statutory rapists

A total of 221 child molesters were rearrested for a new sex crime (not necessarily against a child) after their release (table 33). Among the 221 were 191 (86.6%) whose new sex crime arrest was in the same State that

released them in 1994. For the remaining 13.4%, the arrest was elsewhere.

Of all statutory rapists, 5% (22) were rearrested for a new sex crime after their release. Of these 22, none had the new arrest outside the State that released them.

Table 32. Where sex offenders were rearrested for a new sex crime following their release from prison in 1994, by type of sex offender

State where rearrested within 3 years	Percent of rearrested prisoners		
	All	Rapists	Sexual assaulters
Total	100%	100%	100%
Same State where released	85.2	85.2	85.2
Another State	14.8	14.8	14.8
Total rearrested for a new sex crime	517	155	362

Note: The 517 rearrested sex offenders were released in 15 States, but table percentages are based on 14 States.

Table 33. Where child molesters and statutory rapists were rearrested for a new sex crime following their release from prison in 1994

State where rearrested within 3 years	Percent of rearrested prisoners	
	Child molesters	Statutory rapists
Total	100%	100%
Same State where released	86.6	100
Another State	13.4	0
Total rearrested for a new sex crime	221	22

Note: The 221 rearrested child molesters were released in 14 States, but table percentages are based on 13 States. The 22 rearrested statutory rapists were released in 6 States, but table percentages are based on 5 States.

Undercounts of sex crimes against children

This section documents percentages of men who were arrested for a sex crime against a child after their release from prison in 1994. To some unknown extent, these recidivism rates undercount actual rearrest rates. That is because the arrest records that the study used to document sex crime arrests did not always contain enough information to identify those sex crime arrests in which the victim of the crime was a child. Some sense of the potential size of the undercount can be gained by comparing rearrests for any sex crime and rearrests for any sex crime against a child. Rates of rearrest for a sex crime (tables 21 and 22) are from 2 to 3½ percentage points higher than rates of rearrest for a sex crime against a child (tables 34 and 35), suggesting that rates of rearrest for a sex crime against a child could be, at most, a few percentage points below actual rates.

No data on precise ages of molested children

This section also documents the ages of the children that the men were alleged to have molested after their release from prison. Sex crime statutes contained in the arrest records of the released prisoners were used to obtain ages. The first step was to identify those sex crime statutes that were applicable just to children. Among those that were, some were found to apply just to children whose age fell within a certain range (for example, under 12, or 13 to 15, or 16 to 17). Those statutes applicable to children within specified age ranges became the source of information on the approximate ages of the allegedly molested children. Information on precise ages could not be determined because statutes applicable just to children of a specific age (for example, just to 12-year-olds, or just to age 15-year-olds) do not exist.

Rearrest*All sex offenders*

Following their release in 1994, 209 of the total 9,691 released sex offenders (2.2%) were rearrested for a sex offense against a child (table 34). For virtually all 209, the rearrest offense was a felony. For the reason given earlier, the 2.2% figure undercounts the percentage rearrested for a sex offense against a child. It seems unlikely that the correct figure could be as high as 5.3% (table 21), which is the percentage rearrested for a sex crime against a person of any age. The only way it could be that high is if none of the sex crime arrests after release were crimes in which the victim was an adult, an unlikely possibility. The more likely possibility is that the 2.2% figure undercounts the rate by a maximum of 1 or 2 percentage points.

An estimated 76% of the children allegedly molested by the 209 men after their prison release were age 13 or younger, 12% were 14- or 15-years-old, and the remaining 12% were 16- or 17-years-old.

Sex offenders compared to non-sex offenders

Prisons in the 15 States in the study released 272,111 prisoners altogether in 1994, 9,691 of whom were the sex offenders in this report. As previously stated, 2.2% of the 9,691 sex offenders were rearrested for a child sex crime after their release. That rate is high compared to the rate for the remaining 262,420 non-sex offenders. Of the 262,420 non-sex offenders, less than half of 1 percent (1,042 of the 262,420) were rearrested for a sex offense against a child within the 3-year followup period (not shown in table).

Since each of the 1,042 was charged at arrest with molesting at least 1 child, the total number they allegedly molested was conservatively estimated at 1,042. Of the conservatively estimated 1,042 children, 65% were age 13 or younger, 11% were 14- or 15-years-old, and 24% were 16- or 17-years-old (not shown in table). (These percentages were based on the 554 cases out of the 1,042 in which the approximate age of the child could be determined.)

Table 34. Of sex offenders released from prison in 1994, percent rearrested for a sex crime against a child, and percent of their alleged victims, by age of victim and type of sex offender

	Percent rearrested for a sex crime against a child within 3 years		
	All	Rapists	Sexual assaulters
Total	2.2%	1.4%	2.5%
Number released	9,691	3,115	6,576
Age of child that sex offender was charged with molesting after release	Percent of allegedly molested children		
13 or younger	76.2%	89.3%	72.3%
14-15	11.5	0.0*	14.9
16-17	12.3	10.7*	12.8
Number of molested children	209	44	165

Note: The 9,691 sex offenders were released in 15 States. The approximate ages of the children allegedly molested by the 209 prisoners after their release were available for 58.4% of the 209. "Number of molested children" was set to equal the number of released sex offenders rearrested for child molesting.

*Percentage based on 10 or fewer cases.

Assuming that the 209 sex offenders who were rearrested for a sex crime against a child each victimized no more than one child, the number of sex crimes they committed against children after their prison release totaled 209. Assuming that the 1,042 non-sex offenders rearrested for a sex crime against a child after their release also victimized only one child, the number of sex crimes against a child that they committed was 1,042. The combined total number of sex crimes is 1,251 (209 plus 1,042 = 1,251). Released sex offenders accounted for 17% and released non-sex offenders accounted for 83% of the 1,251 sex crimes against children committed by all the prisoners released in 1994 (209 / 1,251 = 17% and 1,042 / 1,251 = 83%).

Rapists and sexual assaulters

Following their 1994 release, 1.4% of the 3,115 rapists (44 men) and 2.5% of the 6,576 sexual assaulters (165 men) were rearrested for molesting a child (table 34).

Child molesters and statutory rapists

Within 3 years following their release from prison in 1994, 141 (3.3%) of the released 4,295 child molesters and 11 (2.5%) of the 443 released statutory rapists were rearrested for molesting another child (table 35). For the reasons outlined earlier, these percentages undercount actual rearrest rates by a few percentage points at most.

Each of the 141 released molesters rearrested for repeating their crime represented at least 1 child victim. Of the conservatively estimated 141 children allegedly molested by released child molesters, 79% were age 13 or younger, 9% were 14 or 15 years of age, and 12% were ages 16 or 17.

Table 35. Of child molesters and statutory rapists released from prison in 1994, percent rearrested for a sex crime against a child, and percent of their alleged victims, by age of victim

	Percent rearrested for a sex crime against a child within 3 years	
	Child molesters	Statutory rapists
Total	3.3%	2.5%
Number released	4,295	443
Age of child that sex offender was charged with molesting after release	Percent of allegedly molested children	
13 or younger	79.2%	30.0**
14-15	9.1	10.0*
16-17	11.7	60.0*
Number of molested children	141	11

Note: The 4,295 child molesters were released in 15 States; the 443 statutory rapists in 11 States. Because of overlapping definitions, all statutory rapists also appear under the column "child molesters." The approximate ages of the children allegedly molested by the 141 prisoners after their release were available for 54.6% of the 141. "Number of molested children" was set to equal the number of released sex offenders rearrested for child molesting.

*Percentage based on 10 or fewer cases.

Prior arrest for a sex crime against a child

All sex offenders

After their 1994 release from prison, sex offenders with a prior arrest for

child molesting were more likely to be arrested for child molesting (6.4%) than those who had no arrest record for sex with a child (1.7%) (table 36).

Table 36. Of sex offenders released from prison in 1994, percent rearrested for a sex crime against a child, by prior arrest for a sex crime against a child and type of sex offender

Arrest prior to 1994 release	All	Rapists	Sexual assaulters
Percent rearrested for a sex crime against a child within 3 years			
Total	2.2%	1.4%	2.5%
The arrest responsible for their being in prison in 1994 was —*			
Their first arrest for a sex crime against a child	1.7	1.3	1.9
Not their first arrest for a sex crime against a child	6.4	4.0	6.9
Percent of released prisoners			
Total	100%	100%	100%
The arrest responsible for their being in prison in 1994 was —*			
Their first arrest for a sex crime against a child	89.7	94.3	87.5
Not their first arrest for a sex crime against a child	10.3	5.7	12.5
Total released	9,691	3,115	6,576

Note: The 9,691 sex offenders were released in 15 States.

*By definition, all sex offenders had at least 1 arrest prior to their release: namely, the arrest responsible for their being in prison in 1994. "First arrest for a sex crime against a child" pertains exclusively to those released prisoners whose first arrest was the sex offense arrest responsible for their being in prison in 1994.

Rapists and sexual assaulters

After being released in 1994, 4.0% of rapists with a prior arrest record for child molesting and 1.3% of those without were arrested for child molesting. The same pattern — having a history of alleged child molesting was associated with a greater likelihood of arrest for child molesting — was found for sexual assaulters. Those with a prior arrest had a 6.9% rate; those without, 1.9%.

Child molesters and statutory rapists

The 4,295 released child molesters fell into 2 categories: 1) 3,509 (81.7% of the 4,295) whose criminal record prior to their 1994 release contained no more than 1 arrest for a sex offense against a child (this was the offense for which they were imprisoned); and 2) 786 (18.3%) whose record showed the arrest for their imprisonment offense plus at least one earlier arrest for a sex offense against a child (table 37). After release, 7.3% of the 786 and 2.4% of the 3,509 were rearrested for molesting another child, indicating that child molesters with multiple arrests for child molesting in their record posed a greater risk of repeating their crime than their counterparts.

Similarly, the 443 statutory rapists consisted of —

- 356 (80.4%) whose first arrest for a sex offense against a child was the arrest that resulted in their current imprisonment
- 87 (19.6%) with more than 1 prior arrest for a sex offense against a child.

The 87 were more likely to be rearrested for child molesting (6.9%) than the 356 (1.4%).

Molester's and child's ages at time of imprisonment offense

Child molesters

The released child molesters were all men who were arrested, convicted, and

Table 37. Of child molesters and statutory rapists released from prison in 1994, percent rearrested for a sex crime against a child, by prior arrest for a sex crime against a child

Arrest prior to 1994 release	Child molesters	Statutory rapists
Percent rearrested for a sex crime against a child within 3 years	3.3%	2.5%
The arrest responsible for their being in prison in 1994 was —*		
Their first arrest for a sex crime against a child	2.4	1.4
Not their first arrest for a sex crime against a child	7.3	6.9
Percent of released prisoners	100%	100%
The arrest responsible for their being in prison in 1994 was —*		
Their first arrest for a sex crime against a child	81.7	80.4
Not their first arrest for a sex crime against a child	18.3	19.6
Total released	4,295	443

Note: The 4,295 child molesters were released in 15 States; the 443 statutory rapists in 11 States. Because of overlapping definitions, all statutory rapists also appear under the column "child molesters."

*By definition, all sex offenders had at least 1 arrest prior to their release the arrest responsible for their being in prison in 1994. "First arrest for a sex crime against a child" pertains exclusively to those released prisoners whose first arrest was responsible for their being in prison in 1994.

Table 38. Among child molesters released from prison in 1994, the molester's age when he committed the crime that resulted in his imprisonment, the child's age, and percent rearrested for a sex crime against a child

Age characteristic	Percent of total	Percent of released child molesters rearrested for a sex crime against a child within 3 years
Child molester's age when he committed the sex crime for which imprisoned^a		
18-24	19.7%	4.1%
25-29	17.4	3.1
30-34	18.7	3.3
35-39	16.3	1.2
40-44	11.5	2.8
45 or older	16.4	3.0
Age of child he was imprisoned for molesting^b		
13 or younger	60.3%	2.8%
14-15	30.5	3.7
16-17	9.2	1.2
How much older he was than the child he was imprisoned for molesting		
Up to 5 years older	3.9%	4.9*%
5 to 9 years older	13.6	3.6
10 to 19 years older	34.1	3.2
20 or more years older	48.4	2.5
Total first releases	3,104	3,104

Note: The 3,104 child molesters were released in 13 States. Figures are based on first releases only, those offenders leaving prison for the first time since beginning their sentence. First releases exclude those who left prison in 1994 but who had previously been released under the same sentence and had returned to prison for violating the conditions of release. Data identifying the child molester's age were reported for 100% of the released child molesters. Data identifying the approximate age of the child were reported for 88.1%.

^aThe molester's age at the time of the crime for which imprisoned was estimated by subtracting 6 months (the approximate average time from arrest to sentencing) from his age at admission.

^bThe approximate age of the child "he was imprisoned for molesting" was usually obtained from the State statute the molester was convicted of violating.

*Percentage based on 10 or fewer cases.

sentenced to prison for a sex crime against a child. At the time they committed their imprisonment offense, most (62.9%) were age 30 and older, and most (60.3%) molested a child who was age 13 or younger (table 38). Some of the victims were below age 7. Nearly half of the men (48.4%) were 20 years or more older than the child they were imprisoned for molesting.

Among the men who were in prison for molesting a child age 13 or younger and who were released in 1994 for that crime, 2.8% were subsequently arrested for molesting another child. Of those whose imprisonment offense was against a 14- or 15-year-old, 3.7% had a new arrest for child molesting after their release. Of the men who were in prison for molesting a 16- or 17-year-old, 1.2% were arrested by police for molesting another child after leaving prison in 1994.

Among the men who were 20 years or more older than the child they were imprisoned for molesting, 2.5% were rearrested for another sex offense against a child within the first 3 years following their release. That is a lower rate than the 3.2% rate for men who were 10 to 19 years older than the child victim in their imprisonment offense, and compared to the 3.6% for those 5 to 9 years older than the victim in their imprisonment offense.

State where rearrested for a sex crime against a child

When sex offenders were arrested for new sex crimes against children after their release, the new arrest typically occurred in the same State that released them. Those arrests are referred to as "in-State" arrests. When arrests occurred in a different State, they are referred to as "out-of-State."

All sex offenders

Of the 9,691 sex offenders, 209 were rearrested for child molesting after their

release from prison in 1994 (table 39). In 180 cases (86.3%), the alleged crime took place in the State that released him. In the 29 others (13.7%), it occurred elsewhere.

Sex offenders compared to non-sex offenders

The 15 States in this study released 262,420 non-sex offenders in 1994, of whom 1,042 were rearrested for a sex crime against a child (not shown in table). Of the 1,042 arrests, 11% were out-of-State rearrests. The comparable figure for released sex offenders was higher: 14% (table 39).

Rapists and sexual assaulters

Forty-four released rapists and 165 released sexual assaulters were rearrested for a sex crime against a

child within 3 years. Out-of-State arrests for child molesting accounted for 13.5% of the 44 rearrested rapists and 13.7% of the 165 rearrested sexual assaulters.

Child molesters and statutory rapists

Police arrested 141 of the 4,295 released child molesters for repeating their crime (table 40). For 126 of them (89.2%), the new arrest for child molesting was in the same State that released them. For 15 (10.8%), the new charges for child molesting were filed in a different State.

Of the 443 statutory rapists released from prison in 1994, 11 were rearrested for child molesting. All 11 of the arrests were in the same State that released the men.

Table 39. Where sex offenders were rearrested for a sex crime against a child following their release from prison in 1994, by type of sex offender

State where rearrested within 3 years	Percent of rearrested prisoners		
	All	Rapists	Sexual assaulters
Total	100%	100%	100%
Same State where released	86.3	86.5	86.3
Another State	13.7	13.5	13.7
Total rearrested for a new sex crime against a child	209	44	165

Note: The 209 rearrested sex offenders were released in 10 States, but table percentages are based on 9 States.

Table 40. Where child molesters and statutory rapists were rearrested for a sex crime against a child following their release from prison in 1994

State where rearrested within 3 years	Percent of rearrested prisoners	
	Child molesters	Statutory rapists
Total	100%	100%
Same State where released	89.2	100
Another State	10.8	0
Total rearrested for a new sex crime against a child	141	11

Note: The 141 rearrested child molesters were released in 9 States, but table percentages are based on 8 States. The 11 rearrested statutory rapists were released in 3 States, but table percentages are based on 2 States.

Rearrest for other types of crime

All sex offenders

Of the 9,691 male sex offenders released from prison in 1994 —

- 43% (4,163 men) were rearrested for a crime of any kind (table 41)
- 5.3% (517 men) were rearrested for a sex offense
- 17.1% (1,658 men) were rearrested for a violent crime
- 13.3% (1,285 men) were rearrested for a property crime of some kind.

Of the 9,691 released men, 168 (1.7%) were rearrested for rape and 396 (4.1%) were rearrested for sexual assault. The 168 rearrested for rape plus the 396 rearrested for sexual assault totals 564, which is 47 greater than the total 517 who were rearrested for a sex crime. The reason is that 47 men were rearrested for both rape and sexual assault.

The category of violent crime for which a prisoner was most likely to be rearrested was assault (8.8%, or 848 of the 9,691); the category least likely was homicide (0.5%, or 45 of the 9,691 men).

Just over 1 in 5 sex offenders (2,045 out of 9,691) were rearrested for a public-order offense, such as a parole violation or traffic offense.

Rapists and sexual assaulters

Among the 3,115 released rapists —

- 46% (1,432) were rearrested for a crime of any kind
- 18.7% (582) were rearrested for a violent crime
- 0.7% (22) were rearrested for homicide
- 14.7% (459) were rearrested for a property offense.

A relatively small percentage of rapists (2.5%, or 78 of the 3,115) were charged with repeating the crime for which they were imprisoned.

Among the 6,576 released sexual assaulters —

- 41.5% (2,731) were rearrested for a crime of any kind
- 16.4% (1,076) were rearrested for a violent crime
- 0.3% (23) were rearrested for killing someone

- 12.6% (826) were rearrested for a property offense.

Nearly 1 in 20 released sexual assaulters (4.7%, or 308 of the 6,576) were charged with committing the same type of crime for which had just served time in prison.

Table 41. Rearrest rate of sex offenders released from prison in 1994, by type of sex offender and charge at rearrest

Rearrest charge	Percent rearrested for specified offense within 3 years		
	All	Rapists	Sexual assaulters
All charges ^a	43.0%	46.0%	41.5%
Violent offenses ^b	17.1%	18.7%	16.4%
Homicide ^c	0.5	0.7	0.3
Sex offense ^d	5.3	5.0	5.5
Rape	1.7	2.5	1.4
Sexual assault	4.1	2.8	4.7
Robbery	2.7	3.9	2.1
Assault	8.8	8.7	8.8
Property offenses ^e	13.3%	14.7%	12.6%
Burglary	3.8	4.4	3.5
Larceny/theft	5.7	6.1	5.6
Motor vehicle theft	1.7	2.3	1.4
Fraud	2.1	1.8	2.2
Drug offenses ^f	10.0%	11.2%	9.4%
Public-order offenses ^g	21.1%	20.4%	21.4%
Other offenses	5.9%	5.0%	6.3%
Total released	9,691	3,115	6,576

Note: The 9,691 sex offenders were released in 15 States. Detail may not add to totals because persons may be rearrested for more than one type of charge.

^aAll offenses include any offense type listed in footnotes *b* through *f* plus "other" and "unknown" offenses.

^bTotal violent offenses include homicide, kidnaping, rape, other sexual assault, robbery, assaults, and other violence.

^cHomicide includes murder, voluntary manslaughter, vehicular manslaughter, negligent manslaughter, nonnegligent manslaughter, unspecified manslaughter, and unspecified homicide.

^dIncludes both rape and sexual assault.

^eTotal property offenses include burglary, larceny, motor vehicle theft, fraud, forgery, embezzlement, arson, stolen property, and other forms of property offenses.

^fDrug offenses include drug trafficking, drug possession, and other forms of drug offenses.

^gPublic-order offenses include traffic offenses, weapon offenses, probation and parole violations, court-related offenses, disorderly conduct, and other such offenses.

Child molesters and statutory rapists

Of the 4,295 child molesters released from prison in 1994 —

- 39.4% (1,693) were rearrested for a crime of any kind (table 42)
- 0.4% (17) were rearrested for intentionally or negligently killing someone.

Child molesters were less likely to be rearrested for a property crime (10.6%, 456 of 4,295) than a violent crime (14.1%, 607 of 4,295).

Of the 443 statutory rapists released in 1994 —

- 49.9% (221) were rearrested for some new crime
- 0.7% (3) were rearrested for homicide
- 22.6% (100) were rearrested for a property crime
- 21.2% (94) were rearrested for a violent crime.

Table 42. Rearrest rate of child molesters and statutory rapists released from prison in 1994, by charge at rearrest

Rearrest charge	Percent rearrested for specified offense within 3 years	
	Child molesters	Statutory rapists
All charges ^a	39.4%	49.9%
Violent offenses ^b	14.1%	21.2%
Homicide ^c	0.4	0.7
Sex offense ^d	5.1	5.0
Rape	1.3	1.6
Sexual assault	4.4	3.6
Robbery	1.7	4.3
Assault	7.1	12.6
Property offenses ^e	10.6%	22.6%
Burglary	2.8	4.3
Larceny/theft	4.6	10.8
Motor vehicle theft	1.5	3.8
Fraud	1.9	3.6
Drug offenses ^f	8.6%	12.0%
Public-order offenses ^g	20.0%	27.1%
Other offenses	7.8%	4.3%
Total released	4,295	443

Note: The 4,295 child molesters were released in 15 States; the 443 statutory rapists in 11 States. Because of overlapping definitions, all statutory rapists also appear under the column "child molesters." Detail may not add to totals because of rounding.

^aAll offenses include any offense type listed in footnotes *b* through *f* plus "other" and "unknown" offenses.

^bTotal violent offenses include homicide, kidnaping, rape, other sexual assault, robbery, assaults, and other violence.

^cHomicide includes murder, voluntary manslaughter, vehicular manslaughter, negligent manslaughter, nonnegligent manslaughter, unspecified manslaughter, and unspecified homicide.

^dIncludes both rape and sexual assault.

^eTotal property offenses include burglary, larceny, motor vehicle theft, fraud, forgery, embezzlement, arson, stolen property, and other forms of property offenses.

^fDrug offenses include drug trafficking, drug possession, and other forms of drug offenses.

^gPublic-order offenses include traffic offenses, weapon offenses, probation and parole violations, court-related offenses, disorderly conduct, and other such offenses.

Survey of State inmates

The 9,691 prisoners in this study were all men sentenced to prison for sex crimes. Characteristics of the victims of these sex crimes were largely unavailable for the study. For information on imprisoned sex offenders and their victims, data were drawn from a survey covering the approximately 73,000 male sex offenders in State prisons nationwide in 1997.

Of the 73,000 victims of their sex crimes —

- about 90% were female
- nearly 75% were white
- 89% were non-Hispanic
- 36% were below age 13
- altogether, 70% were under age 18.

Child victims of sex crimes were more likely than adult victims to be male (11% versus 3%). Whites made up 76% of child victims and 66% of adult victims.

The biggest difference between child victims and adult victims was their relationship to the man who committed the sex crime:

Among cases where the victim was under 18, the boy or girl was the prisoner's own child (16%), stepchild (16%), sibling or stepsibling (2%), or other relative (13%) in nearly half of all child victim cases (46%). Among cases where the victim was an adult, the victim was a relative less often (11%).

Among inmates who were in prison for a sex crime against a child, the child was the prisoner's own child or step-child in a third of the cases. Seven

percent of the inmates reported their child victims to have been strangers. Among adult victims, 34% were strangers to their attacker.

Characteristics of victims of rape or sexual assault, for which male inmates were serving a sentence in State prisons, 1997

Victim characteristic	Percent of victims of rape or sexual assault		
	All	Victim age	
		18 years or older	Under 18 years
Total	100%	100%	100%
Gender			
Male	8.8%	2.8%	11.1%
Female	91.2	97.2	88.9
Race			
White	73.2%	66.0%	76.4%
Black	22.8	30.2	19.4
Other	4.0	3.8	4.2
Hispanic origin			
Hispanic	11.3%	9.9%	12.1%
Non-Hispanic	88.7	90.1	87.9
Age			
12 or under	36.4%	—	51.6%
13-17	34.1	—	48.4
18-24	10.8	36.7%	—
25-34	11.2	37.9	—
35-34	7.0	23.8	—
55 or over	0.5	1.6	—
Victim was the prisoner's —			
Spouse	1.1%	3.8%	0%
Ex-spouse	0.6	2.0	0
Parent/stepparent	0.6	0.4	0.6
Own child	11.5	1.4	15.7
Stepchild	11.2	0.4	15.8
Sibling/stepsibling	1.3	0.4	1.7
Other relative	9.4	2.1	12.7
Boy/girlfriend	5.5	8.2	4.4
Ex-boy/girlfriend	1.1	2.0	0.8
Friend/ex-friend	22.7	24.8	22.0
Acquaintance/other	19.4	20.1	19.6
Stranger	15.6	34.4	6.7
Total estimated number	73,116	20,958	50,027

Note: Data are from the BJS Survey of Inmates in State Correctional Facilities, 1997. This table is based on 73,116 prisoners who reported having one victim in the crime for which they were sentenced to prison. (They accounted for approximately 84% of all incarcerated male sex offenders in 1997.) Data identifying victim's sex were reported for 99.8% of the 73,116 males incarcerated for sex crimes; victim's race were reported for 98.9%; Hispanic origin for 98.2%; victim's age for 97.1%; victim's relationship to prisoner for 98.3%. Detail may not sum to total due to missing data for age of victim.

—Not applicable.

3-year followup period

For analytic purposes, "3 years" was defined as 1,096 days from the day of release from prison. Any rearrest, reconviction, or re-imprisonment occurring after 1,096 days from the 1994 release was not included. A conviction after 1,096 days was not counted even if it resulted from an arrest within the period.

Separating sex offenders into four types

The report gives statistics for four types of sex offenders. Separating sex offenders into the four types was done using information — in particular, the statute number for the imprisonment offense, the literal version of the statute, a numeric FBI code (called the "NCIC" code, short for "National Crime Information Center") indicating what the imprisonment offense was, and miscellaneous other information — available in the prison records on the 9,691 men. However, the prison records obtained for the study did not always contain all four pieces of information on the imprisonment offense. Moreover, the available offense information was not always detailed enough to reliably distinguish different types of sex offenders.

The process of sorting sex offenders into different types involved first creating the study's definitions of the four types, and then determining which State statute numbers, which literal versions of those statutes, and which NCIC codes conformed to the definitions. Each inmate was next classified into one of the types (or possibly into more than one type, since the four are not mutually exclusive) depending on whether the imprisonment offense information available on him fit the study's definition.

An obstacle to classifying sex offenders into types was that the labels "rape," "sexual assault," "child molestation," "statutory rape" were not widely used in

State statutes, and when they were used they did not always conform to the study's definitions of them. In deciding which type of sex offender to classify the prisoner as, importance was attached not to the label the law gave to his conviction offense, but to how well the law's definition of the offense fit the study's definition of the type.

Sex offenders compared to non-sex offenders

In 1994, prisons in 15 States released 272,111 prisoners, representing two-thirds of all prisoners released in the United States that year. Among the 272,111 were 262,420 released prisoners whose imprisonment offense was not a sex offense. Non-sex offenders include inmates, both male and female, who were in prison for violent crimes (such as murder or robbery), property crimes (such as burglary or motor vehicle theft), drug crimes, and public order offenses. Like the 9,691 male sex offenders examined in this report, all non-sex offenders were serving prison terms of one year or more in State prison when they were released in 1994.

At various places, this report compares 9,691 released male sex offenders to 262,420 released non-sex offenders. While labeled "non-sex offenders," the 262,420 actually includes a small number- 87- who are sex offenders. The 87 are all the female sex offenders released from prisons in the 15 States in 1994.

Ages of molested and allegedly molested children

Information on the ages of molested children was needed for two calculations: 1) age of the child the released sex offender was sent to prison for molesting, and 2) age of the child allegedly molested by the released sex offender during the 3-year follow-up period. The most frequent source of both was a sex statute: either the sex

statute the offender was imprisoned for violating, or the statute the released prisoner was charged with violating when he was rearrested for a sex crime. The former was obtained from the prison records assembled for the study; the latter, from the assembled arrest records.

None of the sex statutes was found to apply to a victim of a specific age; for example, just to 12-year-olds. But some were found to apply just to children in a certain age range; for example, under 12, or 13 to 15, or 16 to 17. While specific ages of children could not be obtained from statutes, the availability of information on age ranges at least made it possible to obtain approximate ages. The rule that was adopted was to record the victim's (or alleged victim's) age as the upper limit of a statute's age range. To illustrate, a statute might indicate that the complainant/victim be "at least 13 but less than 16 years of age." In that case, the age of the child was recorded as 15, since the statute indicated the upper limit of the age range as any age "less than 16." As another example, if a statute indicated the complainant/victim be "under 12 years of age," the child's age was recorded as 11, as the phrasing of the age range did not include 12-year-olds, only those "under 12." Because the victim (or alleged victim) was always assigned the age of the oldest person in the age range, the study made the victims (or alleged victims) appear older than they actually were.

How missing data were handled in the report

In many instances, the data needed to calculate a statistic were not available for all 9,691 released sex offenders. For example, the 9,691 were released in 15 States, but data needed to determine the number reconvicted were only available for the 9,085 released in 14 of the 15. Of the 9,085, 2,180 (24%) were reconvicted. When data were missing, the statistic was computed on those

cases in which the data were available, but treated both in the tables and in the text as though it were based on the total population. For example, "24%" is the statistic that appears in all tables and text that give the percent reconvicted; and since 24% of 9,691 is 2,326, the text says that "2,326 of the 9,691 were reconvicted," despite the fact that the "24%" was actually obtained by dividing 2,180 by 9,085. The text could have been written to say "2,180 of the 9,085 were reconvicted," but that wasn't done because introducing a new denominator (9,085) into the text would have created confusion for the reader.

Missing data on out-of-State rearrests

Because of missing information, the study was unable to determine how many inmates released from New York prisons were rearrested outside of New York. The study was able to document how many prisoners released in the other 14 States were rearrested outside the State that released them. Because of incomplete New York data, the report's recidivism rates are somewhat deflated.

Missing data on rearrest for a sex crime

According to arrest records compiled in the study, 4,163 of the 9,691 released sex offenders were rearrested for a new crime of some kind. It was not always possible to determine from these records whether the new crime was a sex crime. For 202 rearrested prisoners, the arrest record did not identify the type of crime. For the rest the record did identify the type but the offense label was not always specific enough to distinguish sex crimes from other crimes. For example, if the label said "contributing to the delinquency of a minor," "indecenty," "morals offense," "family offense," or "child abuse," the offense was coded as a non-sex crime even though, in some unknown number of cases, it was actually a sex crime.

According to arrest records, 5.3% of the 9,691 (517 out of 9,691) released sex offenders were rearrested for another sex crime. For the two reasons described immediately above, 5.3% was probably an undercount of how many were rearrested for a sex crime. How much of an undercount could not be firmly determined from the data assembled for the study. However, a conservative measure of the size of the undercount was obtained from the data. The study database included 121 rearrested sex offenders whose arrest record did not indicate they were rearrested for a sex crime (the rearrest was either for a non-sex crime or for an unknown type of crime) but whose court record did indicate they were charged with a sex crime. When the study calculated the percentage rearrested for a sex crime, the 121 were not included among the 517 with a rearrest for a sex crime. Had the 121 been included in the calculation of the rearrest rate, the total number rearrested for a sex crime would have been 638 rather than 517, and the percentage rearrested for a sex crime would have been 6.6% rather than 5.3%. This suggests an undercount of about 1 percentage point.

Texas prisoners classified as "other type of release"

Texas released 692 male sex offenders in 1994, of which 129 were classified as release category "17", defined as "other type of release." Numerous data quality checks were run on the 129 and the 64 of them who were rearrested. The rearrest rate for the 129 was about average for Texas releases. But numerous anomalies were found for the 64 who were rearrested:

1. The rearrest offense for the 64 was always missing from their arrest record
2. The date of rearrest for the 64 was always the same as their release date
3. Virtually all 64 were reconvicted for a sex crime
4. The sentence length imposed for their new sex crime was identical to the

sentence they were serving when released in 1994.

Because of these anomalies, the 129 were excluded from the calculation of "percent reconvicted for a sex crime."

Counting rules

In this report, rearrest was measured by counting the number of different persons who were rearrested at least once. A released prisoner who was rearrested several times or had multiple rearrest charges filed against him was counted as only one rearrested person. The same counting rule applied to reconviction and the other recidivism measures.

If a released prisoner was rearrested several times, his earliest rearrest was used to calculate his time-to-rearrest. The same counting rule applied to reconviction and recidivism defined as a new prison sentence.

If a released prisoner had both in-State and out-of-State rearrests, he was counted as having an out-of-State rearrest regardless of whether the out-of-State rearrest was his earliest rearrest. The same rule applied in cases where the released prisoner had both felony and misdemeanor rearrests, or both sex crime and non-sex crime rearrests. The person was counted as having a felony rearrest or a sex crime rearrest regardless of temporal sequence.

The aim of these rules was to count people, not events. The only tables in the report that do not follow the rule are tables 41 and 42.

First release

All 15 States had first releases, but they could not be identified in 1 State (Ohio). They could be identified in Michigan, but Michigan data on sentence length did not fit the study's definition. Since sentence length was critical to several statistics calculated

from data on first releases (for example, percent of sentence served), Michigan was excluded from all tables based on first releases.

Analysis of statutory rape laws

The publication's analysis of statutory rape laws in the United States benefited greatly from the report "Sexual Relationships Between Adult Males and Young Teen Girls: Exploring the Legal and Social Responses," by Sharon G. Elstein and Noy Davis, American Bar Association, Center on Children and the Law, October 1997.

Sampling error

In 1994 State prisons in 15 States released 302,309 prisoners altogether. A total of 38,624 were sampled for a recidivism study. Results of that study and information regarding sampling and other methodological details are available in the BJS publication *Recidivism of Prisoners Released in 1994*, NCJ 193427, June 2002.

The 302,309 total released consisted of 10,546 released sex offenders plus 291,763 released non-sex offenders. The 38,624 sample consisted of 10,546 released sex offenders plus 28,078 released non-sex offenders. The number of sex offenders in the sample was the same as the number in the 302,309 total because all sex offenders released in 1994 in the 15 States were selected for the study, not a sample of them.

Because no sampling was used to select sex offenders, numbers and percentages in this report for sex offenders were not subject to sampling error. However, comparisons in the report between sex offenders and non-sex offenders were subject to sampling error because sampling was used to select non-sex offenders. Where sex offenders were compared to all non-sex offenders released in 1994, sampling error was taken into account. All differences discussed were statistically significant at the .05 level.

Not all 10,546 sex offenders in the sample were used in the report. To be in the report, the sex offender had to be male and meet all 4 of the following criteria:

1. A RAP sheet on the prisoner was found in the State criminal history repository.
2. The released prisoner was alive throughout the entire 3-year followup period. (This requirement resulted in 21 sex offenders' being excluded.)
3. The prisoner's sentence was greater than 1 year (missing sentences were treated as greater than 1 year).
4. The State department of corrections that released the prisoner in 1994 did not designate him as any of the following release types: release to custody/detainer/warrant, absent without leave, escape, transfer, administrative release, or release on appeal.

A total of 9,691 released male sex offenders met the selection criteria. The number of them released in each State is shown in the appendix table.

Other methodological details

To help the reader understand the percentages provided in the report, both the numerator and denominator were often given. In most cases, the reader could then reproduce the percentages. For example, the report indicates 38.6% (3,741) of the 9,691 sex offenders were returned to prison.

Appendix table. Number of sex offenders released from State prisons in 1994 and number selected for this report, by State

State	Sex offenders released from prison in 1994	
	Total	Selected to be in this report
Total	10,546	9,691
Arizona	156	122
California	3,503	3,395
Delaware	53	45
Florida	1,053	965
Illinois	775	710
Maryland	277	243
Michigan	477	444
Minnesota	249	239
New Jersey	449	429
New York	799	692
North Carolina	508	441
Ohio	824	606
Oregon	452	408
Texas	708	692
Virginia	263	260

Note: "Total released" includes both male and female sex offenders; "Total selected to be in this report" includes only male sex offenders.

Using the 3,741 and the 9,691, the reader could exactly reproduce the results. However, the reader should be aware that in a few places, the calculated percentages will differ slightly from the percentages found in the report. This is due to rounding. For example, 43.0%, or 4,163, of the 9,691 sex offenders were rearrested; however, 4,163 / 9,691 is 42.96%, which was rounded to 43.0%.

Offense definitions and other methodological details are available in the BJS publication *Recidivism of Prisoners Released in 1994*, NCJ 193427, June 2002.

CITY OF LAGUNA HILLS

CITY COUNCIL AGENDA REPORT COMMUNITY SERVICES DEPARTMENT

ISSUE: 2012 LAGUNA HILLS HALF MARATHON, 10K & 5K EVENT

SUMMARY:

The City of Laguna Hills Half Marathon, 10K and 5K will take place on Monday, May 28, 2012. Registration is scheduled to open on December 1, 2011. A Community Services Department work program for FY 2011/12 is to "Implement a 10K race as part of the City's Half Marathon Memorial Day Event." The 10K will be added to the 2012 event, and will utilize a portion of the half marathon course. Each race course map is attached to this report. As the City Council will recall, for the 2011 event a custom question was added to both the online registration and the hard copy form which allowed race participants to donate \$5 to the 3rd Battalion, 5th Marine Regiment, of the 1st Marine Division (3/5 Battalion), adopted by the City of Laguna Hills in 2007. A total of \$1,405 in donations was provided to the 3/5 Support Committee at the conclusion of the event. In addition, \$850 of beer garden ticket sale proceeds was provided to South County Outreach, who also received 115 pounds of donated food items this year. Staff believes that the opportunity to make voluntary donations to both the 3/5 Battalion and South County Outreach, in the aforesaid manner, proved effective and successful. Therefore, staff proposes to continue this approach next year.

BACKGROUND:

The City of Laguna Hills Memorial Day Half Marathon, 10K and 5K is scheduled for Monday, May 28, 2012. A Community Services Department work program for FY 2011/12 is to "Implement a 10K race as part of the City's Half Marathon Memorial Day Event." The 10K will be added to the 2012 event, and will utilize a portion of the half marathon course. For the 2011 event, a custom question was added to the online registration and hard copy form which allowed race participants to donate \$5 to the 3/5 Battalion. At the time, the 3/5 Battalion was seeking assistance from the 3/5 Support Committee in raising funds for its annual Marine Ball. A total of \$1,405 in proceeds were provided to the 3/5 Support Committee to benefit the 3/5 Battalion at the conclusion of

RECOMMENDATION: THAT THE CITY COUNCIL RECEIVE AND FILE THE REPORT.

the event. Staff intends to again provide race participants the option of donating to the 3/5 Support Committee by providing the online custom question and check box on the hard copy registration form.

The City of Laguna Hills and South County Outreach have partnered in a Food Drive over the Memorial Day Weekend for the last two years. In addition, proceeds from the sale of beer garden tickets were donated to South County Outreach which was \$850 for the 2011 event. For the 2012 event, staff is proposing that race participants and spectators will again be encouraged to bring canned goods and non-perishable food items which will benefit those served by South County Outreach. Collection stations will be available at the race start line, the pre-race packet pick-up location, and the community expo on Monday, May 28, 2012.

The pre-race packet pick up is scheduled to take place at Road Runner Sports in Laguna Hills on both Saturday May 26, 2012, and Sunday May 27, 2012, from noon – 4:00 p.m. Road Runner Sports informed staff that this year's in-store packet pick-up was very successful, because it generated a large amount of sales and exposure for the store. Road Runner Sports has agreed to increase its event sponsorship to \$3,500 for both the 2012 and 2013 events, for a total of \$7,000 in the hopes of hosting the pre-race packet pick-up.

The proposed budget for the 2012 event (direct expense and revenue) is attached to this staff report. It should be noted that the indirect expenses of staff time is not included in the event expenditures, which include full-time Community Services and Finance staff, along with the compliment of part-time staff that work on the day of the event. Staff estimates that direct event expenditures will be lower than event revenue and sponsorship by \$5,398. The estimated direct expenditures are \$156,317 and the revenue/sponsorship is estimated at \$161,715 for the 2012 event.

Total 2011 event direct expenditures were \$142,435 and event revenues were \$151,086.

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ATTACHMENTS:

- Attachment 1 – Proposed 2012 Event Budget
- Attachment 2 – Course Maps

Event Budget for 2012 Half Marathon, 10K & 5k

Direct Expenses

	Estimated
Total Expenses	\$156,317.00

	Estimated		Estimated
Pemits		Race Expenses	
Laguna Hills High School	\$50.00	Food/Water/Cups	\$600.00
Aliso Viejo	\$0.00	Course Cert.	\$1,200.00
Mission Viejo	\$0.00	Awards Div/Kids Medals	\$1,600.00
ABC Permit	\$25.00	Medals or Drinking Glasses	\$8,000.00
Laguna Niguel	\$0.00	Busses	\$1,500.00
OC Permits	\$571.00	T-Shirts	\$17,975.00
OCFA	\$210.00	Walkie Talkies	\$600.00
Police-OCSD	\$8,500.00	Bibs	\$1,797.50
Totals	\$9,356.00	Totals	\$31,475.00

Advertising		Services	
Competitor	\$4,000.00	Timing Services base	\$800.00
Facebook	\$900.00	Timing Services \$3 per registered	\$10,785.00
Race Place	\$850.00	Electrical & sound	\$1,000.00
OC Register	\$0.00	Ambulance Service	\$500.00
Postage	\$2,000.00	Portable Restrooms	\$2,400.00
Booth w/PCRf	\$500.00	Announcer	\$400.00
Misc event reimb.	\$1,200.00	American Barr./Traffic Plan	\$15,000.00
Runners Image	\$800.00	Renegade Racing	\$46,000.00
Active.com web/e-news	\$1,700.00	RR over 3500 part. Bonus \$2	\$0.00
Totals	\$11,950.00	Totals	\$76,885.00

Graphics		Expo	
Website	\$800.00	Bounce Houses	\$950.00
Post card printing 20K	\$1,000.00	Balloons	\$600.00
Postcard printing 5K	\$568.00	tents, tables, chairs	\$5,250.00
Postcar printing 7,500	\$400.00		
Race Posters	\$200.00		
Flyer Distribution	\$1,400.00		
Domain Fees	\$65.00		
Web Hosting	\$103.00		
Mail Fee-Custom Quick	\$2,300.00		
Sponsor materials	\$250.00		
Totals	\$7,086.00	Totals	\$6,800.00

Miscellaneous	
Insurance	\$1,420.00
Ritz Day Porter	\$300.00
Mail Scantrons	\$50.00
Trucks	\$1,500.00
Labor Ready	\$500.00
Lost Chip Fee	\$0.00
CC Machines/Shipping	\$0.00
Traffic Control	\$500.00
Ads (Kirk Fitzek)	\$2,000.00
Goodie Bags SLDC	\$0.00
EMT Services	\$600.00
Linda Weuste	\$250.00
Security-Expo	\$500.00
Security-Beer Garden	\$145.00
Comm./sponsors 20%	\$5,000.00
Totals	\$ 12,765.00

Event Budget for 2012 Half Marathon, 10K and 5k

Revenue/Sponsorships

	Estimated
Total Revenue/Sponsorships	\$161,715.00

Admissions	Estimated	Actual	Fee	Fee late	Estimated
1/2 marathon	1400		55	60	77000
5K	1300		25	30	32500
10K	500		35	40	18500
Kids Run	350		15	20	5250
Diaper Dash	45		12	15	540
Total	3595				
Total race registration, including early-bird, team discounts, and race day registration:					133,790

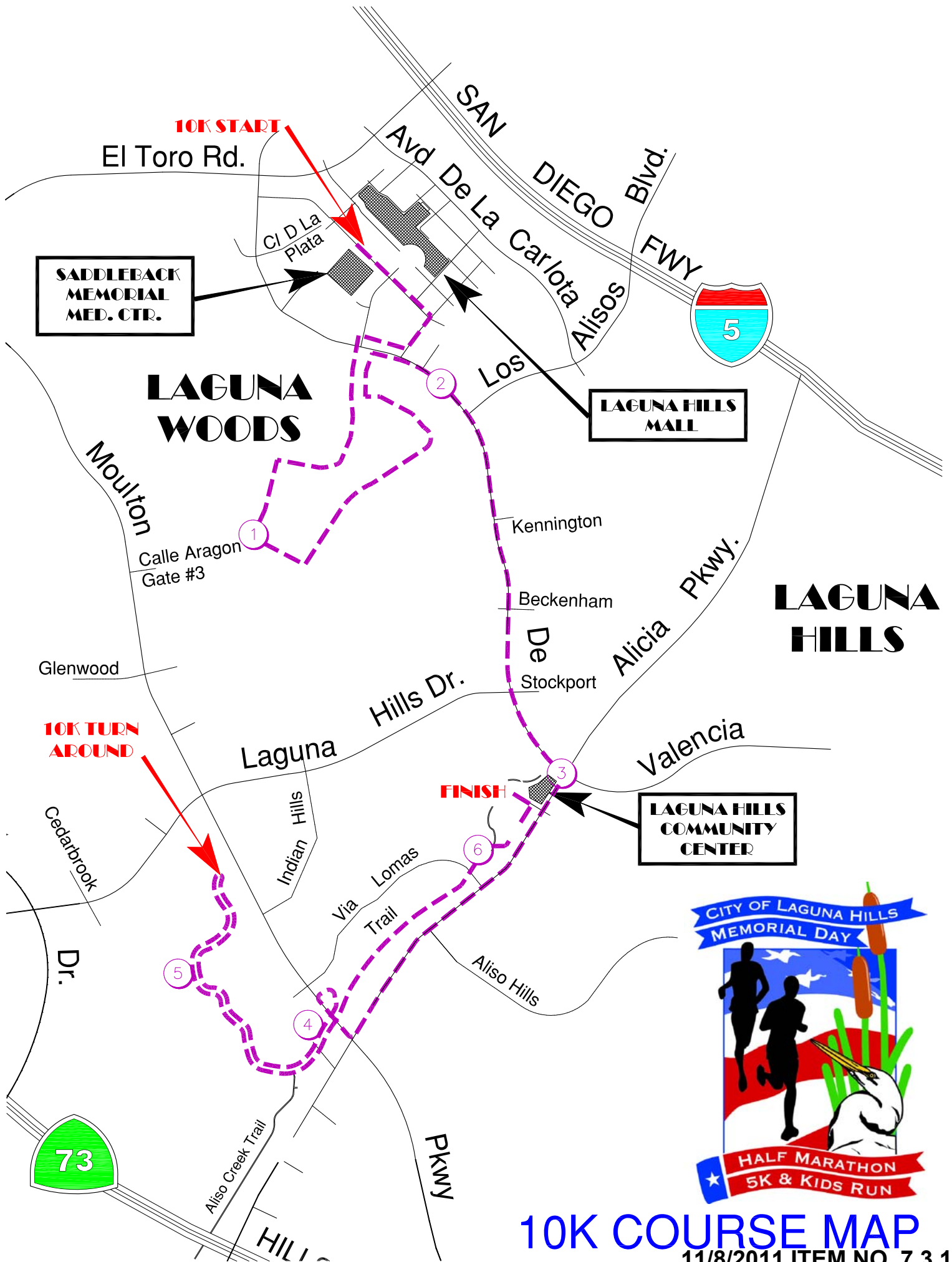
Sponsors	Amount	Number of	Totals	Estimated
SMMC/Presenting*	\$1,500.00	1	\$15,000.00	\$15,000.00
Road Runner	\$2,500.00	1	\$2,500.00	\$2,500.00
Newton Shoes	\$2,000.00	1	\$2,000.00	\$2,000.00
Bib	\$1,500.00	1	\$1,500.00	\$1,500.00
Red	\$7,500.00	1	\$7,500.00	
White	\$5,000.00	1	\$5,000.00	
Blue	\$2,500.00	2	\$5,000.00	
Stars and Strips	\$1,500.00	2	\$3,000.00	
Total			\$41,500.00	\$21,000.00

Exhibitors/vendors				
Digestive Disease Ctr.*		Large booths @	\$425.00	\$425.00
Wyndham Vacation*		Large booths @	\$350.00	\$350.00
Vesalus*		Large booths @	\$350.00	\$350.00
Power Balance*		Large booths @	\$350.00	\$350.00
Irvine Chiropractic*		Large booths @	\$350.00	\$350.00
Rundle Chiropractic*		Large booths @	\$350.00	\$350.00
Pac. Monarch Resorts*		Large booths @	\$350.00	\$350.00
Classic Engravers*		Large booths @	\$350.00	\$350.00
Core Chiropractic*		Large booths @	\$350.00	\$350.00
Gypsy Runner*		Large booths @	\$350.00	\$350.00
Back to Basics Chiro*		Large booths @	\$350.00	\$350.00
Hands for Africa*		Large booths @	\$150.00	\$150.00
Mix 1*		Booth @	\$150.00	\$150.00
Borgardt Chiro*		Booth & Goodie Bag	\$500.00	\$500.00
Power Balance*		Booth Only @	\$350.00	\$350.00
Dippin Dots*		Booth Only @	\$350.00	\$350.00
Sassy Girls Running Club*		Booth Only @	\$200.00	\$250.00
NuVision FCU*		Booth & Goodie Bag	\$500.00	\$500.00
Souplantation*		Canopy @	\$75.00	\$75.00
3/5 Support Committee*		goodie bags@	\$200.00	\$200.00
Strong Tower Ministries*		goodie bags@	\$200.00	\$200.00
Run Racing*		goodie bags@	\$200.00	\$200.00
Ignited*		Canopy @	\$150.00	\$75.00
Courtyard Marriott		Hotel Sponsor @	\$0.00	\$0.00
				\$6,925.00

Event Budget for 2012/2013 Half Marathon, 10K & 5k

Profit - (Loss) Summary

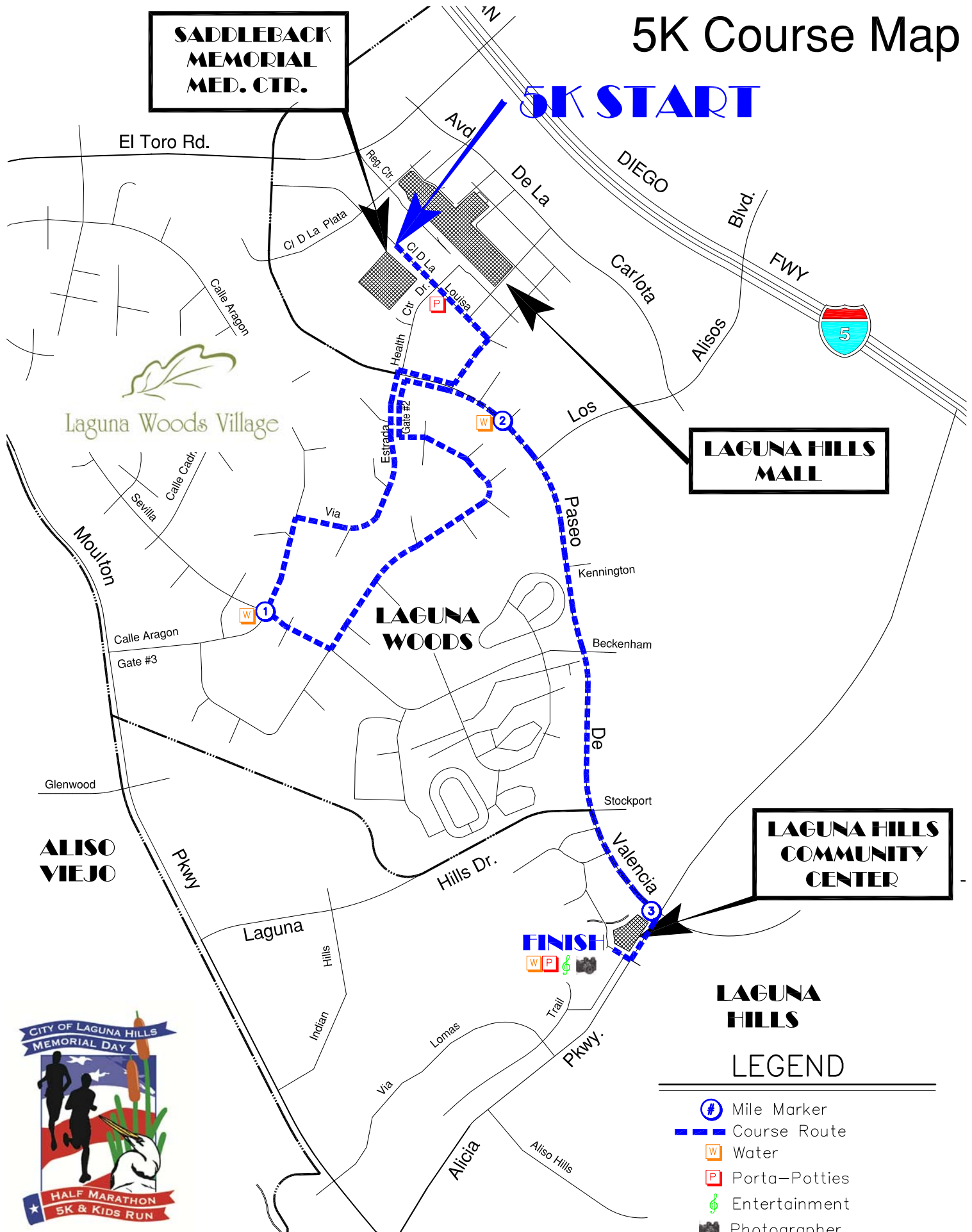
	Estimated
Total income	\$161,715.00
Total expenses	\$156,317.00
Total profit (or loss)	\$5,398.00

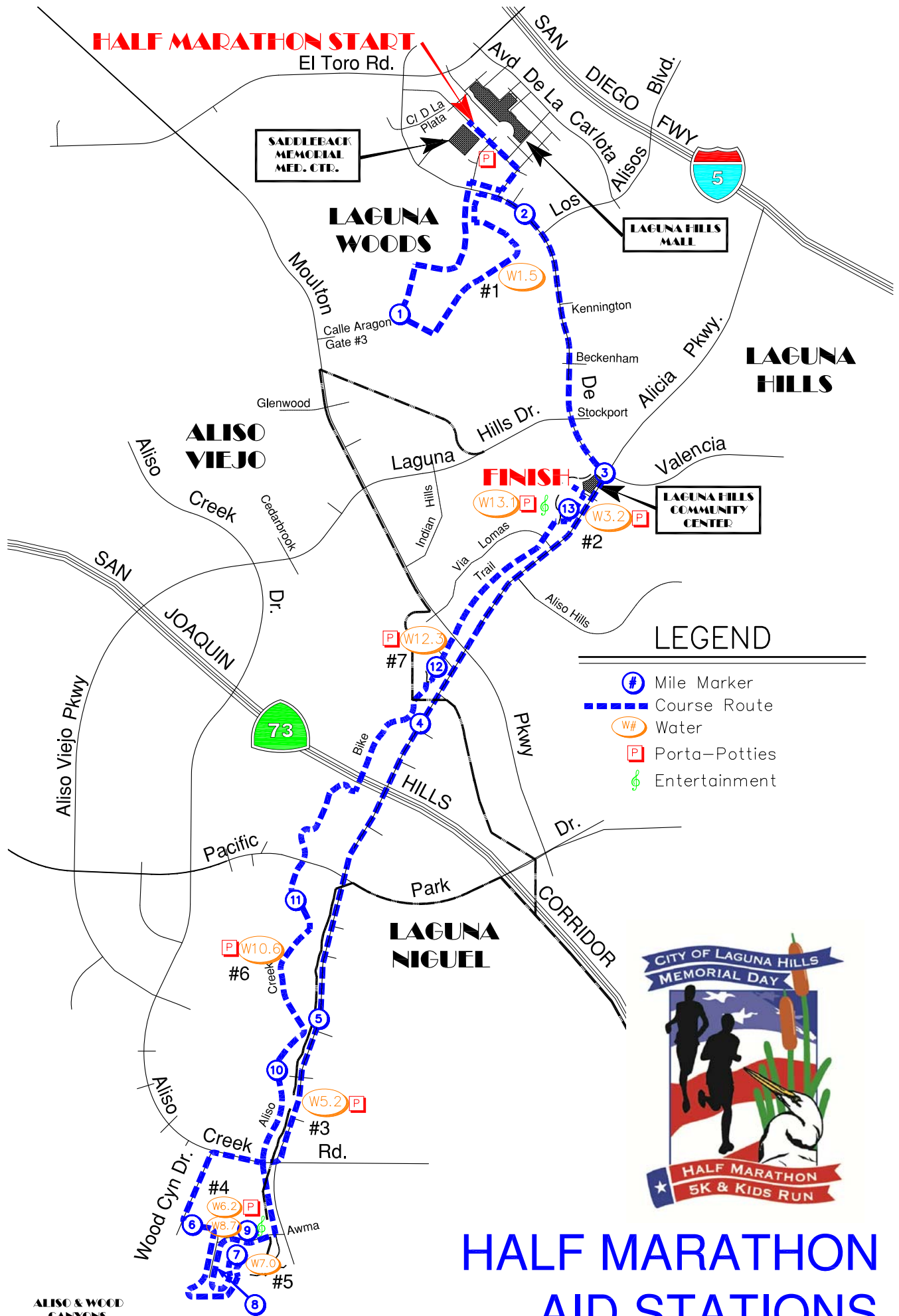


10K COURSE MAP

11/8/2011 ITEM NO. 7.3.1

5K Course Map





HALF MARATHON AID STATIONS

11/8/2011 ITEM NO. 7.3.1

