CITY OF COSTA MESA

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November 1, 2022

The Honorable Erick L. Larsh
Presiding Judge of the O.C. Superior Court Grand Jury
700 Civic Center Drive West
Santa Ana, California 92701

RE: **CITY OF COSTA MESA RESPONSE TO GRAND JURY REPORT**
"Where's the Fire? Stop Sending Fire Trucks To Medical Calls"

Honorable Judge Larsh:

The City of Costa Mesa and the Costa Mesa Fire & Rescue Department appreciate the time and effort the Orange County Grand Jury spent on their report titled "Where's The Fire? Stop Sending Fire Trucks to Medical Calls." In alignment with the original subpoena request dated March 16, 2022 and subsequent extension to respond that was formally approved on September 14, 2022, allow this document to serve as our formal response on behalf of the City of Costa Mesa and the Costa Mesa Fire Chief.

Thank you for the opportunity to respond and if you should you need any additional information or clarifications, please do not hesitate to contact Fire Chief Dan Stefano at (714) 754-5106 or by email at dan.stefano@costamesaca.gov.

Sincerely,

_____
Lori Ann Farrell Harrison
City Manager

_____
Daniel A. Stefano
Fire Chief

Cc: Honorable Mayor & City Council
City Attorney

GRAND JURY FINDING #F1

FINDING: ***"Despite fire departments throughout Orange County having evolved into emergency medical departments, most have not updated their emergency response protocols accordingly, but have simply absorbed emergency medical responses into their existing fire response models."***

RESPONSE: The City Disagrees Wholly with this Finding.

This finding is inconsistent with the historical facts of the California Fire Service generally and with the City of Costa Mesa specifically.

For over half a century, the California Fire Service, including Costa Mesa Fire & Rescue, has been the primary provider of prehospital EMS throughout the state, long before the existence of an organized statewide EMS system. Recognizing the obvious value—in terms of both operational and financial efficiency and effectiveness—of already-existing strategically located fire stations and emergency apparatus, staffed by highly trained and experienced firefighters who possess a vast array of rescue skills and capabilities, in 1969 the California Legislature enacted Health & Safety Code §219, which created minimum first aid training standards for all public safety personnel. During that same year, a pilot program was launched by three physicians in Los Angeles County to train 18 Firefighters as "Mobile Intensive Care Paramedics" (MICPs) who would provide Advanced Life Support (ALS) level care to the critically ill and injured in the prehospital setting. The success of this program led to passage of the Wedworth-Townsend Paramedic Act of 1970 for the purpose of expanding paramedic services throughout the state.

The California Fire Service-based model for the delivery of ALS/paramedic-level care was so overwhelmingly successful that the television series "Emergency" (1972-1977) was developed to bring national attention to the importance of prehospital EMS through the characters of Firefighter-Paramedics Johnny Gage and Roy DeSoto (actors Randolph Mantooth and Kevin Tighe). When "Emergency" first aired, there were only about six paramedic systems nationwide. However, the series was tremendously popular, and people all over the United States began to ask their local officials why they did not also have such a system.

In its efforts to better organize and coordinate the newly developing field of prehospital EMS, the California Legislature adopted the Emergency Medical Services System and Prehospital Medical Care Personnel Act of 1980 ("1980 EMS Act") that established Division 2.5 of the Health & Safety Code (HSC). Due to the fundamental and essential role of the Fire Service in developing the EMS infrastructure over preceding decades—that included an enormous commitment of time, staffing, training, and money from cities and citizen taxpayers—the Legislature wrote California Health & Safety Code §1797.201 to formally recognize and preserve the pre-existing authority of those local cities and fire agencies to continue in the provision, administration, and operational control of all prehospital EMS their jurisdiction, in compliance with, and subject to, state and local medical (i.e., patient care) standards and guidelines.

Section 1797.201 also reflects the Legislature's acknowledgement that the administrative and operational aspects of an EMS system are best determined at the local level, based on the specific needs and nuances of the community served, ultimately defined by local policy through jurisdictional governance and based on the subject-matter expertise of the public safety representatives (e.g., Fire Chief, EMS Division/Section, etc.) who best understand the particular needs of their community and who are directly accountable to the community served.

With that all said, the distinction between the *operational and administrative* control of an EMS system and the *medical* control of an EMS system need to be clearly acknowledged and clarified. Whereas the various local governments and fire agencies have the sovereign legal authority over the *administration and operational* control of prehospital EMS within their respective jurisdictions (HSC §1797.201), the Local Emergency Medical Services

Agency (LEMSA) maintains absolute legal authority over *medical* control. "Medical control" is statutorily defined as, and expressly limited to, "the *medical* management" and the "*medical* direction" of the EMS system. In other words, decisions and actions that directly impact patient care such as assessment, treatments/interventions, and transport destination decisions (HSC §§ 1797.90, 1797.220, 1798(a), 1798.8). Costa Mesa has not in our history challenged the medical control of our LEMSA. In fact, this acknowledgement and delineation is extremely important, combined with the significant value placed on local governmental agencies and the LEMSA working within a highly collaborative environment for the best interests of EMS system itself and the communities served.

Further, the California Fire Service, which includes Costa Mesa Fire & Rescue (CMFR), has continued to be the primary provider of prehospital EMS throughout the State, with Orange County being one of the best examples of a well-functioning and efficiently structured EMS system. This is primarily because of our long history as a highly unified fire service-based EMS system composed of fire agencies that are capable of providing "All-Hazards" Emergency Services (i.e., Fire, Rescue, Medical, Community Risk Reduction, etc.), including both BLS and ALS/paramedic level prehospital emergency care, in all types of hazardous environments and across all jurisdictional boundaries due to our emphasis on inter-agency coordination and standardization of training and procedures according to local, state, and national guidelines. In fact, inter-agency and cross-jurisdictional coordination and standardization is absolutely critical for operational effectiveness and firefighter safety, but it is also necessary to achieve the goals of *optimal quality* patient care, as well as *equality* of patient care, for all county residents and visitors regardless of their location or situation. Moreover, this is predicated on the reciprocity of like resources and services between fire service agencies, without a reduction in type, level, or quality of care. The Orange County Fire Chiefs Association (OCFCA)—which includes CMFR and represents all Orange County Fire Service-ALS-Level provider agencies—remains committed to all of these goals, as well as continuing its tradition of innovation and ongoing improvement in the rapidly changing world of healthcare and medicine, because the people who depend on us deserve nothing less.

In 1975, Costa Mesa initiated a three-platoon schedule for the fire department, resulting in a 56-hour workweek. Later that year, seven firefighters were trained as paramedics and the Mobile Intensive Care (MIC) program was initiated.

The first "Medic" unit was a 1975 Chevy ambulance. Later a Ford ambulance was purchased so that one could be kept in reserve. It is interesting to note that these ambulances were not utilized for patient transport; a private ambulance company was utilized to perform that function. Soon, the single paramedic unit for Costa Mesa's 70,000 people proved to be inadequate. In January of 1983, a second Medic unit, Medic Truck 3 was placed in service at the Park Avenue Fire Station.

Over the subsequent decades and up to the present time, Costa Mesa has made many positive improvements and enhancements in our EMS system and EMS system protocols. For example, in addition to strong BLS EMS education and training efforts, a nurse educator was added to our EMS education cadre. Similarly, we added the positions of *both* an EMS Manager *and* an EMS Coordinator due to the ever-expanding prehospital EMS needs of our community as well as evolving CQI (Continuous Quality Improvement) requirements, among other areas.

As the number of emergency medical responses increased, it became apparent that more than two paramedic units were necessary to achieve the goals of the MIC program. An aggressive purchasing program saw the replacement of nearly every front line apparatus in 1989-90, and within 5 years, the department had converted all of the five engine companies to Paramedic Engines, each staffed with four personnel and the continued utilization of a private ambulance company from an off-site location to assist with our emergency transportation.

From 2010-2013, during the city's initial recovery planning from the Great Recession of 2008-2009, the city and the department continued to analyze different options of deployment and delivery, including the formal evaluation of joining the Orange County Fire Authority. Ultimately, the decision was made to retain our city fire department and explore the most effective and efficient model of emergency service delivery moving forward. In 2013, the department initiated the purchase of six brand new rescue ambulances and began piloting an expanded

paramedic program. In 2014, the department initiated its first strategic planning process, which included updating the department's name from "Fire" Department to "Fire & Rescue" Department to reflect the robust "all-hazard" response approach and focus on continuous improvement and innovative evolution.

In 2018, the City Council approved the Fire Chief and City Manager recommendation to implement a city based ambulance operator emergency transportation program, which brought the emergency ambulance transportation in-house in an innovative public-private partnership model, that Costa Mesa continuously monitors and adapts "real-time" to the changing health and safety needs of the community.

Regarding specific technologies and procedures, prehospital EMS in 2022 is obviously substantially different than the prehospital EMS provided by fire departments 50 years ago when the Mobile Intensive Care Paramedic was first created. Indeed, the assessment and treatment interventions performed by the modern-day Firefighter-Paramedic, along with evidence-based system protocols governing patient triage and hospital destination, have dramatically improved survival and outcome for victims of sudden illness and injury. Moreover, technological advances in the field of medicine traditionally utilized exclusively in the hospital setting are more and more being adapted for use in the prehospital setting by fire department paramedics. The following are just some of the many examples of major improvements in prehospital assessment and treatment that demonstrates Costa Mesa is not only evolving, but always working diligently to be on the forefront of advancement and thoughtful innovation, for the benefit of our residents to prevent and minimize premature death and disability, while maximizing positive neurological outcomes.

A. Electronic Patient Care Reporting (E-PCR)

CMFR transitioned from a paper based patient care record to an electronic patient care record (ePCR) system in 2012, after being brought in as the first Orange County fire service agency to pilot and initiate the ePCR program. This happened in conjunction with the Orange County Emergency Medical Services Agency (OCEMSA) and allowed for significant improvements in the ability to operate a Continuous Quality Improvement (CQI) program. In 2016, again in conjunction with the OCEMSA, a transition was made to an upgraded ePCR program that continues to be used and refined today. CMFR participates in a multi-agency CQI committee which utilizes the ePCR format and its data to improve emergency medical service delivery.

B. Prehospital 12-Lead Electrocardiogram (EKG) & Cardiac Center Triage

Cardiovascular disease (CVD) is the number one cause of death for both men and women in the United States, killing over one million people each year. CVD kills more people than cancer, AIDs, and the other top five causes of death combined. One of the primary mechanisms of death from cardiovascular disease is heart attack, which kills over 450,000 people each year. A heart attack, known more accurately as myocardial infarction, is when a person's coronary artery suddenly becomes blocked. The heart muscle that was supplied by the blocked artery then begins to die as it is deprived of oxygen rich blood. According to American Heart Association (AHA) Emergency Cardiovascular Care (ECC) guidelines, in order to survive a myocardial infarction "it is imperative that healthcare providers evaluate, triage, and treat patients as quickly as possible," because "half of the patients who die of myocardial infarction do so before reaching the hospital" (2005 AHA ECC Guidelines, IV-89). Accordingly, AHA makes the performance of a 12-Lead EKG a Class I recommendation, which means it is deemed essential for survival. The sooner a myocardial infarction is identified by paramedics in the field, the sooner they can initiate the appropriate treatments and notify the nearest Cardiac Center hospital, so that when the patient arrives the coronary artery blockage can be rapidly removed. CMFR was one of the first EMS agencies in Orange County to implement at 12-Lead EKG and Cardiac Triage program and, along with Hoag Hospital (Newport Beach), set national records for the successful treatment of heart attack victims.

C. Public Access Defibrillation Program

Another primary mechanism of death from cardiovascular disease is Sudden Cardiac Arrest, which kills over

250,000 people each year. Unfortunately, the national survival rate for Sudden Cardiac Arrest is only 5%, which means that 95% of all Sudden Cardiac Arrest victims die. However, in places with strong Public Access Defibrillation (PAD) programs, the survival rates are substantially higher (~40-70%). This is because for every minute that goes by without defibrillation, a Sudden Cardiac Arrest victim has a 10% less chance of survival (if CPR is not performed, there is a 20% less chance of survival for each minute). Costa Mesa is one of the handful of cities in the nation that has taken a proactive approach to fighting premature death due to Sudden Cardiac Arrest. Back in the mid-2000s, CMFR implemented a City-wide PAD (Public Access Defibrillation) system making AEDs (Automated External Defibrillators) available in all City facilities accessible by the public. Further, CMFR assisted many public and private organizations, such as Orange Coast College and South Coast Plaza, implement their own PAD programs, thus making our community significantly safer for victims of sudden cardiac arrest. CMFR continues to partner and provide our local businesses, schools and broad range of community stakeholders and members with support, information and training with respect to all emergency and disaster preparedness matters.

D. Transcutaneous Pacing

Some people experience cardiac emergencies where their heart beats too slow due to an electrical problem in the heart's conduction system. When this happens, the brain and other vital organs are deprived of an adequate supply of oxygen rich blood, which can rapidly lead to cardiac arrest and brain death. An important treatment for these patients is a procedure called Transcutaneous Pacing (TCP), in which adhesive electrode pads are placed on the chest, and an electrical current is generated to override the patient's cardiac conduction system and achieve a heart rate sufficient for the patient's needs. Although this procedure has been standard in hospitals for decades, it was not introduced into the prehospital setting until the recent decade. CMFR was one of the first EMS agencies in Orange County to implement Transcutaneous Pacing, which has greatly improved our ability to care for victims of these heart problems.

E. Prehospital Stroke Assessment & Stroke Center Triage

Stroke is the third leading cause of death in the United States, and is a leading cause of disability in the United States (there are currently over 6,400,000 stroke survivors in the United States today). The key to reducing death and disability due to stroke is rapid recognition and rapid triage to a designated Stroke Center hospital. CMFR EMTs and Paramedics were among the first in the County, in conjunction with Hoag Hospital (Newport Beach), to initiate new stroke assessment protocols and triage procedures that continues to afford specialized physicians to remove the blockage in the cerebral blood vessel as soon as possible, thus minimizing the damage to brain tissue due to lack of oxygen, which results in substantially improved quality of life for stroke survivors.

F. Capnography

One of the most important interventions in the treatment of cardiac and respiratory arrest victims is endotracheal intubation, in which a breathing tube is inserted into the patient's trachea. Unfortunately, this procedure involves the potential complications of misplaced and displaced tubes, which may result in the death of the patient and resultant lawsuits. In fact, this is one of the most legally risky procedures performed by paramedics. CMFR paramedics were among the very first in the County to use the technology of Capnography/Capnometry, which allows us to confirm tube placement by measuring the patient's expired carbon dioxide levels: If the tube is properly placed in the patient's trachea, then the cardiac monitor will detect the presence of carbon dioxide, which will be represented by a visible waveform on the monitor screen. The confirmation afforded by the technology of capnography substantially increases intubation success rates while significantly decreasing the liability exposure of the City. CMFR paramedics were also among the first EMS professionals in Orange County to utilize capnography for conscious patients with breathing/respiratory problems to better and more precisely determine their actual pathophysiology and decide on the most appropriate treatment intervention.

G. Intra-Osseous Infusion

All life-threatening emergencies require the administration of medications and/or fluids into the patient's circulation. This is usually accomplished with an intravenous ("I.V.") catheter that is inserted through the patient's skin into a vein. However, sometimes it is not possible to insert an intravenous catheter due to the patient's condition or size. In the past, if paramedics were unable to insert an intravenous catheter, they would be unable to administer life-saving medications and fluids.

As of 2010, CMFR became one of the few EMS agencies in Orange County whose paramedics were trained and equipped to insert a catheter directly into a patient's tibia bone in a process called Intra-Osseous ("I.O.") Infusion, which is often easier to do than intravenous access on critical patients. Paramedics may then administer medications and fluids directly into the patient's bone marrow, from where they rapidly flow into the patient's circulation. Because of the addition of Intra-Osseous Infusion to the paramedic scope of practice, Costa Mesa residents have an exponentially greater chance of receiving life-saving medications and fluids than in the past, when this critical procedure was not allowed in the prehospital setting.

H. Commercially Available Tourniquets

Although the treatment of a life-threatening extremity bleed with a tourniquet is actually a Boy Scout level skill, at the change of the millennium, OCEMS had no protocol dealing specifically with this issue. In fact, it was the CMFR EMS Coordinator who, after meeting with Special Operations personnel with extensive combat experience in the Middle East, added the "Combat Application Tourniquet – CAT" to the CMFR EMS inventory. In the next several years, CMFR was ultimately able to persuade the OCEMS DEAG (Drug & Equipment Advisory Group, which unfortunately no longer exists) to add OCEMS-approved commercially available tourniquets to the official OCEMS mandatory inventory pursuant to OCEMS Policy 325.00 ("ALS Unit Provider Inventory").

I. Emergency Transport Model

Most recently, over the course of the past several years, Costa Mesa has significantly enhanced our emergency ambulance transport system by adding six rescue ambulances and implementing a city (local government) based ambulance transport program, inclusive of both ALS and BLS configurations that are dynamically deployed in the same manner as all of our emergency response resources. This includes now being housed and staffed throughout our six strategically located city fire and rescue stations for optimum emergency response. Costa Mesa has continued to evolve into the most effective and efficient EMS ambulance transport model, incorporating the best advantages of a public-private partnership model for our community, utilizing a combination of EMT-level Ambulance Operators and our own cross-trained professional Firefighter/Paramedics who are completely and dynamically integrated into the Costa Mesa EMS system. The current deployment and transport model has resulted in increased paramedic availability in their designated areas of primary responsibility throughout the city because of the flexibility our model to adapt to the acuity of medical emergencies and treatment needs, as well as increased fire and rescue resource availability. Simply put, Costa Mesa's Emergency Transport Model a shining example of "updating emergency response protocols."

J. Definition of "Patient"

It is worth noting that it was the CMFR EMS Division and EMS Coordinator back in the early 2000s, who literally wrote the official definition of "patient" for our City EMS protocols (with some help from Anne Stratton, RN), that was ultimately formally adopted by OCEMS and is *still used as the official definition in OCEMS protocols for the entire County EMS system.*

There are a wide range of many other examples of CMFR evolving the structure, model, and corresponding protocols of our EMS system according to the changing needs of our city, however the aforementioned items serve to clearly substantiate our conclusion of this finding. Further, while a majority of our emergency responses are EMS-related, many of our EMS responses require additional specialized training and skills for situations such

as vehicle heavy rescue that only professionally cross-trained firefighters are qualified to handle. Consequently, every CMFR Firefighter, like all OCFCA Fire/ALS agencies, is cross-trained and certified as an EMT (Emergency Medical Technician), capable of providing BLS (Basic Life Support) emergency medical care. For those patients with more serious problems, the CMFR has 30+ Mobile Intensive Care Paramedics who have received additional training and are licensed to provide ALS (Advanced Life Support) emergency medical care.

One of core elements of CMFR's mission is focused on minimizing death, disability, and injury by optimizing patient outcomes with superior quality medical care by professionally cross-trained firefighters who conduct themselves with *Respect, Integrity and Compassion*. Because, like all branches of medicine, Prehospital EMS is a science that is constantly changing due to advances in concepts, technologies, and procedures, modern day "all-hazard" fire service agencies, such as CMFR, are also continuously adapting, adjusting, evaluating and improving the services we provide according to those changing standards, which includes the updating of all emergency response and related protocols when and where appropriate.

GRAND JURY FINDING #F3

FINDING: ***"ALS staffed ambulances or smaller squad vehicles are often the most appropriate response to medical aid calls and do not compromise the quality of medical care."***

RESPONSE: **The City Disagrees Wholly with this Finding.**

The goal of emergency medical aid (and any emergency) response is to send the appropriate resource(s) as expeditiously and safely as possible to most effectively manage the emergency, incident or situation identified. As such, we disagree wholly with a "one-size-fits-all" approach to define the most appropriate emergency response for a given emergency, incident or situation.

The deployment of emergency resources should be directly related to the unique community risks, needs and characteristics (e.g., demographics, topography, call history, type of incident reported vs. type of incident/situation found upon arrival, etc.) of each jurisdiction, while being integrated into the broader system of standardization and reciprocity between neighboring and regional jurisdictions. The intent of the Legislature with the creation of the 1980 EMS Act and its clear recognition of the importance of local control was memorialized with all possible clarity §1797.201.

A more appropriate and objective finding would be along the line of ***"ALS and BLS staffed ambulances or smaller squad vehicles are included as part of the many appropriate emergency response apparatus and vehicles (i.e., one of the many valued "tools in the tool box") to effectively manage medical aid calls and other emergencies when properly deployed. Thus, a "one-size-fits-all" approach is definitively not an appropriate approach, as the goal of emergency medical aid (and any emergency) response is to deploy the appropriate resource(s) as expeditiously and safely as possible to most effectively and efficiently manage the emergency, incident or situation identified and subsequently found.***

For example, a medical aid in the respective Fairview Park or Talbert Park areas would not be effective within Costa Mesa (and Orange County) without a combination response of appropriate resources (i.e., four wheel drive vehicles, fire apparatus with specialized rescue equipment and tools, and ambulance, etc.). Additionally, in Costa Mesa, and in the fire and emergency services in general, we frequently have emergency medical aids that are the secondary result of a primary incident, such as a vehicle or other technical rescue related accident, which requires specialized expertise of our professionally cross-trained and highly skilled "all-hazard response" firefighters. This is important to note because the value of professionally cross-trained firefighters have the knowledge, skills and abilities to safely and appropriately manage a high risk emergency scene, (i.e., inclusive of the incident

management, safety risk management, technical rescue and the medical aid itself, etc.).

Furthermore, the unpredictable nature of calls for emergency medical services (and many emergencies) include the reality that what is initially reported to an emergency dispatch center and/or responding crews is not always the situation found when emergency resources arrive on scene. Some of our most labor-intensive calls for service, such as sudden cardiac arrest, are often reported as falls, syncope, or other well intended, but not clearly accurate descriptions of the emergency. Our deployment model allows us to adapt and provide the appropriate level of emergency service truly needed, with the least amount of emergency response delay.

GRAND JURY FINDING #F4

FINDING: ***"There has been a breakdown of communication and trust between OCEMS and Orange County Fire Chiefs."***

RESPONSE: **The City Agrees Wholly with this Finding.**

We agree that there has been a breakdown of communication and trust between OCEMS and Orange County Fire Chiefs. Specifically, the breakdown of communication and trust began following the transition of the new OCEMS leadership change in 2019, and to be clear, the breakdown in communication and trust appeared to primarily reside with the two lead managers from OCEMS, not the entire organization.

Prior to that, the OCEMS and the OCFCA had a long established and strong relationship, grounded in mutual respect, trust and collaboration. When EMS matters came up that were disagreed upon and/or needed additional clarification, OCEMSA and OCFCA always worked to find a way to come together and meet to professionally resolve the issue at hand. While each party may have mutually not agreed on a policy, order or decision that was ultimately issued, OCFCA respected the end result, because we were all substantively part of the process.

From the inception of the Mobile Intensive Care Paramedic (MICP) by Article 3 of the California Wedworth-Townsend Paramedic Act of 1970, Orange County residents have received the highest quality pre-hospital emergency medical care through the fire service-based EMS system, that is widely acknowledged as the most effective and efficient utilization of professionally cross-trained emergency resources. Although the fire service-based EMS model demonstrates a wide array of benefits to Orange County residents, CMFR recognizes that the quality of our EMS system is not effective if it is not a comprehensive team effort that depends on <u>all</u> EMS system members and stakeholders who each contribute in different ways that are equally important to the overall success of the system. Accordingly, CMFR's guiding principle continues to be good communication and meaningful collaboration with all of our EMS system partners in the spirit of cooperation and mutual respect, never losing sight or focus on our joint and solemn purpose to humbly and compassionately care for the people of Costa Mesa who we serve.

The Costa Mesa Fire Chief served as the President of the Orange County Fire Chiefs Association prior to, during and following the leadership transition of 2019 and it became abundantly clear that the transition of leadership in OCEMS became adversarial and autocratic in nature, lacking collaboration. The rationale that was provided by the new leadership of OCEMS to the Orange County Fire Chiefs was that OCEMS did not have the staff or the time to regularly meet with the OCFCA on these issues, nor did they need to have the approval of the OCFCA for policy changes. The latter assertion was not one the OCFCA was seeking, the OCFCA was merely seeking collaboration.

Understandably, any leadership transition will have some growing pains, with some grace and space a welcomed component to provide the organization and partnerships time to grow. Unfortunately, in this case, the escalating lack of desire for interpersonal communications, collaboration, and building trust from the new OCEMSA

leadership began to get worse instead of improving. One example of this included the OCEMS Medical Director unilaterally putting out policies and orders without meeting to informally or formally confer with the Orange County Fire Chiefs and/or the OCFCA's EMS subject matter experts, affording the opportunity to provide thoughtful collaborative input in advance of policies being implemented. Instead of viewing and utilizing the OCFCA and OCFCA's EMS subject matters experts as valuable resources and professional partners, the new OCEMS leadership team treated the OCFCA and the EMS SME's as adversaries, inclusive of demonstrating a dismissive demeanor that did not serve anyone well in building mutual professional respect. This exclusionary approach and change in disposition of the OCEMS toward the OCFCA was not something that was previously observed and/or noted as a point of historical reference. Moreover, it has been broadly communicated that this same approach was indicative of the tone received by other stakeholders, including, but not limited to the Orange County Chiefs of Police and Sheriffs Association as well as the Hospital Administrators, among others. That said, our goal is resolution and one recommendation would be for the OCHCA to reach out to other stakeholders who regularly work with OCEMS (i.e., inclusive a 360 degree evaluation) to determine the breadth and depth of the breakdowns of trust and communication with all partners to help guide a formal memorialized pathway to help rebuild two-way professional relationships with OCEMSA and all of their related stakeholders. Despite all of this, the OCFCA has and will continue to resiliently look for opportunities to build bridges of trust and collaboration where ever possible.

As another example, during the fall of 2020, during the initial peak of the COVID Pandemic and during the engagement of active wildland fire seasons, OCEMS leadership attempted to push through an update to the Orange County Ambulance Ordinance without effectively notifying the OCFCA or the 34 cities within the County. Again, this was at the peak of the Pandemic and during historic wildfire seasons that this ordinance change became a sudden urgency for OCEMS to bring forward, arguably under the radar. As soon as the OCFCA identified that this was happening, the OCFCA actively advocated to collaboratively work through the issue on behalf of the Orange County Fire Chiefs and the California Fire Chiefs.

Unfortunately, the OCFCA was met with immediate and continued pushback from the OCEMS Administrator and OCEMS Medical Director, re-stating the urgency to get the updated ambulance ordinance put in place immediately. After continued unsuccessful efforts to resolve this issue directly with OCEMS Leadership, the Orange County Fire Chiefs engaged their respective City Managers and/or legal counsels, among others, including the Orange County CEO, Frank Kim and the OCHCA Director Dr. Clayton Chau. After key leadership representing all of the referenced groups came together in a number of different meetings with CEO Kim, OCHCA Director Chau, and members of the OCEMS leadership team, it became clear that the Fire Chiefs and the respective cities intent all centered around that of collaboration and resolution from start to finish, of which was acknowledged by the outcome of the final meeting and the facilitation by CEO Kim. The Orange County Fire Chiefs and the City of Costa Mesa acknowledged and appreciated the collaborative leadership approach demonstrated by CEO Kim and Dr. Chau, as well as the valued engagement of the City Managers and legal counsels. Subsequently, after all of the stakeholders spent some time working together, including the Orange County Fire Chiefs in direct collaboration with OCEMS, a final draft product was created that was tentatively acceptable to all parties involved. This final draft product now remains in the possession of OCEMS for a final group review before being formally being brought to the Orange County Board of Supervisors for formal approval. Interestingly enough, as of the date of this Grand Jury response, November 2022, the Orange County Fire Chiefs have yet to see any final closure to the ambulance ordinance update. This example is provided to illustrate that the Orange County Fire Chiefs have committed to and will continue to be unwavering in our efforts to build trust, collaboration and partnerships with all stakeholders, including OCEMS. That said, this commitment needs to be reciprocated by OCEMS and clearly needs to have vesting and accountability going both ways, including transparency.

To that end, and as another example in the spirit of working to rebuild trust and communication, the OCFCA initiated an EMS advisory group established to rebuild that line of communication. The Costa Mesa Fire Chief, on behalf of and under unanimous direction from the Orange County Fire Chiefs, directly reached out to the OCEMS Medical Director with the request and it was ultimately mutually agreed and established.

Lastly, throughout the entirety of the Pandemic, when the OCEMSA and OCHCA were significantly challenged with managing the impacts of COVID and the Pandemic, the Orange County Fire Chiefs and the Orange County Fire Service took the initiative and stepped up to take a lead role in managing a number of areas, including, but not limited to establishing the first vaccination point of dispensing (POD) sites, and thereafter, the super POD vaccination sites, all from the tip of the spear and all while still serving their respective communities throughout the duration of the Pandemic, infused with thoughtful communication, trust, collaboration, compassion and partnership.

Lastly, here are a few narrative summaries that are of importance to acknowledge and highlight:

A. **Medical Control** – Whereas the various Fire Service agencies have the sovereign legal authority over the *administration and operational* control of prehospital EMS within their respective jurisdictions (HSC §1797.201), the LEMSA maintains absolute legal authority over *medical* control. "Medical control" is statutorily defined as, and expressly limited to, "the *medical* management" and the "*medical* direction" of the EMS system, in other words, decisions and actions that directly impact patient care such as assessment, treatments/interventions, and transport destination decisions (HSC §§ 1797.90, 1797.220, 1798(a), 1798.8). NOTE: *Costa Mesa and/or CMFR has not ever challenged the Medical Control authority of our LEMSA.*

B. **EMS Protocols** – The main statutory mechanism for a LEMSA to exercise its medical control authority is through written EMS protocols (i.e., polices, procedures, guidelines, standing orders, etc.) that are the basis for all field patient care-related decisions and actions and, therefore, represent the standard of care against which prehospital personnel will be judged in any administrative or civil legal action, and in any disciplinary action initiated by the LEMSA, Base Hospital, or employing agency. Consequently, for EMS protocols to be valid, effective, practical, and equitable, they must:

1. Comply with the letter, intent, and spirit of federal and state law, in addition to accepted medical principles and standards; and

2. Be written with sufficient clarity and in a logical format so that the average prehospital professional can reasonably understand what is expected and how to comply; and

3. Provide the minimal direction necessary to guide/achieve the desired decisions and actions, while affording the maximal reasonable flexibility to account for the volatile and unpredictable nature of the prehospital environment, as well as to avoid unnecessarily exposing the EMT/Paramedic and employing agency to undue or excess legal liability.

C. **Fire Service Compliance** – The Orange County Fire Service (and the California Fire Service), including CMFR, has a consistent history of respecting the authority of the LEMSA Medical Director and abiding by the medical guidance of the LEMSA and Base Hospital physicians and nurses who represent the Medical Director, including following all LEMSA protocols in good faith to the best of our ability. This is especially true in the Orange County EMS System, where the Fire Service and OCEMSA, in conjunction with the various Base Hospitals, have always worked very closely together with an open and constructive dialogue for the benefit of our patients. We are not aware of any time in the past decades where an Orange County Fire Service agency challenged the actual Medical Control of our LEMSA, though state history is replete with examples of many LEMSAs—and even the state EMS Authority (EMSA) itself—that had to be addressed with legal action.

This legal action was taken due to their attempts to expand the definition of "medical" control with the utilization of illegal "underground regulations" to undermine the authority of local jurisdictions and the communities they represent. Specifically, the Sacramento Superior Court entered judgment on behalf of the California Fire Chiefs Association (CalChiefs) and issued a peremptory writ of mandate against the

California Emergency Medical Services Authority ("EMSA"), in *California Fire Chiefs Association Inc. v. California Emergency Medical Services Authority*, No. 34-2019-80003163. CalChiefs, a professional association for more than 800 fire service agencies across the state, alleged that EMSA, the State of California's regulatory agency for EMS had been operating in violation of mandatory state law for at least 30 years. CalChiefs' verified petition for writ of mandate and complaint for declaratory and injunction relief alleged, among other things, that EMSA's rules implementing two key statutes regarding local governments' provision and administration of EMS and ambulance services were void "underground regulations" because they had not been lawfully adopted pursuant to California's Administrative Procedures Act ("APA"). The Hon. Laurie M. Earl, Judge of the Superior Court agreed, declaring that EMSA's rules were void "underground regulations" and commanding EMSA to cease enforcing its invalid rules until and unless the state agency properly adopts the rules in compliance with the APA. Judge Earl also concluded that CalChiefs should be allowed to petition for an award of its attorneys' fees for bringing an action to vindicate important public rights (Schouten, 2020).

The good news is that the relationship between the California fire service and the state EMSA has begun the transition to a more collaborative partnership, much credited to both sides working closely together since the arrival and formal appointment of Elizabeth "Liz" Basnett to the position of Acting Director of the state EMSA in November of 2021. Since her arrival, EMSA and the California fire service have been working closely together with all of the statewide EMS stakeholders to rebuild the professional relationships and trust, including the development of an inclusive strategic planning process. It is our hope that this model and approach can be embraced and integrated in the same manner with OCEMSA.

D. **Fire Service Input** – While it is a true statement that the LEMSA Medical Director has no legal obligation to seek advice or approval from any EMS provider agency when modifying (i.e., creating, revising, deleting) EMS protocols, even though such a change may have a substantial impact on the administrative and operational planning of EMS provider agencies and their cities, including significant financial burdens on the citizen taxpayers who fund those agencies. Nonetheless, due to the many and diverse ramifications of protocol modification, and to ensure that the patient care goals of the Medical Director are accurately conveyed to, and understood by, field personnel, input and feedback from the EMS provider agencies that must comply with the protocols is highly recommended. CMFR is grateful for the fact that the OCEMSA has historically been very collaborative with the fire service and all other EMS system members by not only allowing, but actively seeking meaningful input whenever protocol modification or system improvement decisions were being considered. This commitment to strong teamwork and professional partnership is clearly evidenced by our county EMS history in terms of collaborative and effective protocol modification. From the early 2000s under Dr. Bruce Haynes' OCEMS administration, through Dr. Samuel Stratton's OCEMS administration, and well before that, Orange County was literally known as one of the most effective and synergistic amongst the many other counties and LEMSAs in California. This is because the OCFCA, OCEMSA, and other EMS provider agencies have traditionally worked together in a manner of great cooperation, collaboration, teamwork, support, and in good faith, even when there was disagreement. However, with the exit of the Dr. Stratton administration, this dynamic of strong teamwork and highly productive collaboration changed dramatically for reasons still unknown to us.

E. **OCFCA EMS Section** – To further ensure that the Orange County Fire Service continues to meet the goals and expectations of the OCEMS Medical Director, as well as to provide the OCEMS Agency practical input to help ensure that those goals and expectations are effectively translated to the field, decades ago OCFCA established a sub-committee called the "EMS Section," which is composed of all the EMS Coordinators from the various Fire-Rescue 911 ALS Provider agencies, as well as other Fire agency members in EMS-related positions. EMS Section meetings are routinely attended by Fire agency members, OCEMSA officials, Base Hospital Coordinators, and other EMS system representatives for the purpose of maintaining good communication and strong collaboration in our joint efforts to maintain and improve our high quality of patient care. In the post-Stratton era, amidst the challenges with OCEMSA and the

OCFCA, the OCFCA EMS Advisory Group (EMSAG) was created after being initiated by the OCFCA. Although EMSAG and OCEMS has had limited success in its meetings and making progress, it is our desire and hope that EMSAG and OCEMSA continue to foster and build a valuable foundation to work from in the future, per the intent of the group's formation.

In closing, while we agree with this finding, CMFR and the OCFCA will continue to resiliently look for opportunities to build bridges of trust and collaboration in every way possible including, but not limited to:

1. Re-establishing and re-building the decades-long collaborative relationship between the OCEMSA and the Orange County Fire Service agencies that comprise the County EMS system in furtherance of our joint mission to provide optimal patient care and outcomes for the people who we serve.

2. Facilitate open lines of collaborative communication between OCEMSA and the Orange County Fire Service on all matters that impact the County EMS System.

GRAND JURY FINDING #F5

FINDING: ***"Over-deployment of firefighters for medical calls contributes to the current climate of forced hiring and firefighter fatigue."***

RESPONSE: The City Disagrees Wholly with this Finding.

Costa Mesa Fire & Rescue does not engage in an "over-deployment" of firefighters for medical calls. Costa Mesa Fire & Rescue has a robust and dynamic deployment model that is continually being monitored to make any necessary adjustments. Most importantly, Costa Mesa always places the health and safety of our professional firefighters as a highest priority.

Appropriate staffing is a necessary aspect of every public safety staffing model, in some way, shape or form. Simply put, we need to have sworn and trained public safety professionals on duty at all times, based on the community needs and risks of each jurisdiction served. Therein, different variables impact the need for forced hiring, including, but not limited to no firefighter voluntarily signed up to work the overtime; rank specific or department-wide staffing gaps; lack of budgeted and approved sworn and trained public safety positions consistent with the needs of the community; local, regional, statewide or national emergencies, or special circumstances. At this time, Costa Mesa does not have any staffing gaps and the city is currently in the midst of evaluating our Standards of Coverage for the City, as well as entering into the final stage of implementing a new five year strategic plan.

Lastly, firefighter fatigue has been a noted discussion point over the past few years, regionally, statewide and nationwide, primarily due to the extraordinary role that professional firefighters take on every day in answering the call for any and every emergency, from historic wildfires to the COVID Pandemic to the day to day emergencies and operations on all fronts. As an example, from the onset of the COVID Pandemic throughout its peak and wind down phase, professional firefighters, emergency responders and healthcare workers remained on the front lines, start to finish, without pause or hesitation. With that in mind, mental and behavioral health for firefighters, all public safety personnel and healthcare workers needs to remain a highest priority for all levels of government.

GRAND JURY FINDING #F9

FINDING: ***"OCEMS has the authority and responsibility to inspect all for-profit ambulances operating in Orange County; however, publicly owned ambulances are not automatically subject to OCEMS oversight."***

RESPONSE: The City Agrees Partially with this Finding.

Costa Mesa agrees that "OCEMS has the authority and responsibility to inspect all for-profit ambulances operating in Orange County." However, the second part of the finding that "…publicly owned ambulances are not automatically subject to OCEMS oversight" would read more appropriately as follows: "…publicly owned ambulances are not automatically subject to OCEMS oversight *as it relates to areas exclusive of medical control*." To that end, all other responsibilities, risks and rights are held with and through the City of Costa Mesa, as legally and lawfully memorialized by state, county, and local statute (HSC §1797.201). We agree that OCEMS does not currently inspect publicly owned ambulances.

For further clarification purposes, Costa Mesa agrees that all EMS entities, public and private, including CMFR, are statutorily required to comply with all LEMSA *medical control* protocols, including, but not limited to the mandatory medical inventory, medications, supplies and equipment of ambulances (i.e., OCEMS Policy 300 – Medical Control; specifically Policy #325.00 – Advanced Life Support (ALS) Provider Unit Minimum Inventory). However, it is not under the authority and responsibility of the OCEMSA to determine other areas outside of that statutory and regulatory purview, including, but not limited to our emergency response deployment model or determine vehicle related requirements with no defined nexus to medical control (e.g., apparatus/vehicle type, apparatus/vehicle permitting, wheel size/brand, fuel used, etc.).

The City of Costa Mesa welcomes and encourages OCEMS to inspect our ambulances, stations, or EMS system, in alignment with the aforementioned response and in alignment as evidenced by the efforts of collaboration outlined in the City's response to the Grand Jury Finding 4, detailing the Orange County Ambulance Ordinance meetings with OC CEO Frank Kim and OCHCA Director Dr. Clayton Chau. As an interesting side note, specific to this finding and given the time and effort the Grand Jury placed on preparing this comprehensive report, it was surprising that there was no inclusion of information or discussion on the significant issues related to OCEMSA's Orange County Ambulance Ordinance update.

GRAND JURY RECOMMENDATION #R1

RECOMMENDATION: ***"By 2024, all Orange County fire agencies utilize criteria-based dispatch protocols and send a single response to those incidents triaged as non-life-threatening (BLS)."***

RESPONSE: The recommendation of utilizing criteria-based dispatch protocols has already been implemented.

Costa Mesa's dispatch center (CMCC/Costa Mesa Communications Center) is a joint Police/Fire Emergency Communications Center. We have historically mirrored, and continue to use, the King County Washington Criteria Based Dispatch (CBD) Guidelines as adapted by and modified for the Orange County Fire Authority. Thus, Costa Mesa continues to use CBD dispatching, inclusive of determining the most effective, efficient and viable deployment of emergency resources, based on the community risks and needs and all established through local policy (HSC §1797.201) of the City Council, under approved recommendations of the City Manager and Fire Chief. NOTE: Please review the response summaries to F1 & F3 for further detail.

GRAND JURY RECOMMENDATION #R4

RECOMMENDATION: ***"While OCEMS should recognize how certain policy changes may pose operational challenges to emergency responders in the field, fire leadership should recognize and respect the independent oversight authority and expertise of OCEMS."***

RESPONSE: **This Recommendation Has Already Been Implemented**

Costa Mesa Fire Leadership recognizes and respects the expertise and authority of OCEMSA as our standard operating practice, highlighted by the acknowledgement of OCEMSA's authority as it pertains to *medical control*. NOTE: Please review the response summaries to F4 & F9 for further detail.

GRAND JURY RECOMMENDATION #R5

RECOMMENDATION: ***"Departments with public owned ambulances should allow OCEMS to inspect their ambulances for compliance with State EMS guidelines and adopt OCEMS recommendations."***

RESPONSE: **This Recommendation Has Never Been Denied.**

As previously shared, Costa Mesa remains committed to meet and exceed all State and OCEMS guidelines, policies and statutory requirements related to our public owned ambulances, in alignment with OCEMS authority of medical control and the City's legal, statutory, and regulatory rights, including, but not limited to the California Health & Safety Code, Section 1797.201 and the City of Costa Mesa's Municipal Code. Moreover, this recommendation was addressed through a number of meetings related to resolving the updates to the Orange County Ambulance Ordinance, including a final summary meeting with clear consensus on how we would proceed with a mutual agreement of understanding. The final meeting included representatives from the Orange County Fire Chiefs, including the Costa Mesa Fire Chief, representatives from the Orange County City Managers, OCEMSA Leadership, OCHCA Director Dr. Clayton Chau and Orange County CEO Frank Kim. NOTE: Please review the response summaries to F4 & F9 for further detail.