RESPONDING TO THE GRAND JURY: THE LEGACY CONTINUES

"To state the facts frankly is not to despair the future nor indict the past. The prudent heir takes careful inventory of his legacies and gives a faithful accounting to those whom he owes an obligation of trust." –John F. Kennedy

INTRODUCTION

Each Grand Jury report may require responses to its findings and recommendations from government agencies. Only through consistent follow-up can the effective oversight role of the San Luis Obispo County Grand Jury be maintained. Subsequent Grand Juries diligently review the responses from the agencies for their adequacy. They also follow up with them to ensure agreed-upon actions are implemented. This follow-through ensures the Grand Jury's legacy of improved service to the public.

AUTHORITY

California Penal Code Sections 933 and *933.05* prescribe responses to findings and recommendations. Agencies are directed by the Penal Code to report if a recommendation has been implemented, will be implemented, requires further analysis or will not be implemented. If an agency rejects a recommendation, an explanation must be provided. The Grand Jury posts all of its reports and each agency's response(s) online each year.[1]

[1] http://slocourts.net/grand_jury

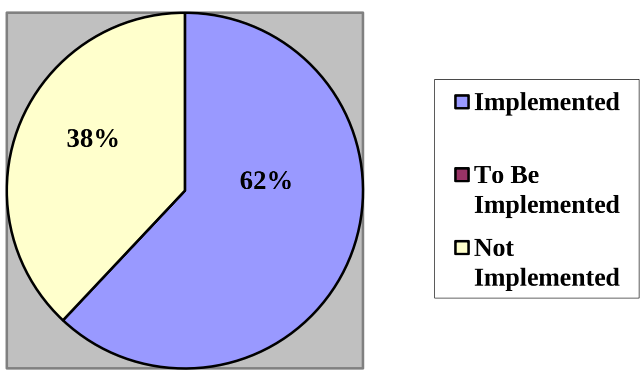
NARRATIVE

The 2013-2014 Grand Jury issued nine reports: four were investigative reports with recommendations requiring agency responses and five reports were informational with no recommendations or required responses. The 2014-2015 San Luis Obispo County Grand Jury (Grand Jury) collected and reviewed the follow-up data for the four response-required reports. A total of 13 responses from various governmental agencies were required and have been examined.

The Grand Jury also reviewed the three prior year's reports containing responses that anticipated future implementation. The Appendix lists recommendation reviews prior to 2013-2014 with notations on which items are still pending.

SUMMARY OF RESPONSES

The primary goal of any Civil Grand Jury's investigation is to call attention to the practices and procedures of local government and, if warranted, request issues be addressed and/or corrected. The responses to last year's 2013-2014 Grand Jury are summarized below.



1. FORENSIC INVESTIGATIONS IN SAN LUIS OBISPO COUNTY: THE SAN LUIS OBISPO COUNTY CRIME LABORATORY

Recommendation Status:			
Implemented	To Be Implemented	Not Implemented	Total
1	0	0	1

The 2013-2014 Grand Jury visited the San Luis Obispo County Sheriff's Office Crime Laboratory (Lab) in December 2013. The Lab provides an extensive range of forensic services in support of state, county and local agencies. The 2013-2014 Grand Jury found that work space within the Lab was limited and overcrowded. It found that both productivity and efficiency could be enhanced by expansion or moving to a bigger space. The 2013-2014 Grand Jury made one recommendation: the space for the Lab should be expanded or the Lab moved to a larger facility. The Sheriff's Office responded that it did not have an alternative site to which they could relocate the Lab nor the budget for a new building. However, it was able to add approximately 300 square feet to the Lab. As the Lab was expanded, the Grand Jury is satisfied the recommendation was implemented.

2. KITCHEN CONFIDENTIAL: DO YOU KNOW IF YOUR RESTAURANT MAKES THE GRADE?

Recommendation Status:			
Implemented	To Be Implemented	Not Implemented	Total
2	0	3	5

The 2013-2014 Grand Jury report asked the question, "Once a restaurant's inspection is completed, how does the Health Agency (Agency) inform and educate consumers, both local and tourist, about the restaurant's food safety conditions?" Recommendations #1, 3 and 5 were, respectively, to develop a visible restaurant rating sign system, create a separate San Luis Obispo County (County) restaurant website and to more effectively promote the Agency's Award of Excellence Program. These recommendations were not implemented. In each response the Agency stated that action was not warranted.

In Recommendation #1 the Agency believes that posting a rating sign or placard provides very little information to the consumer about the condition of the restaurant since it could change daily. The Grand Jury disagrees. Having some information (how the restaurant scored on a given day) is better than having no information. The Agency also was concerned the use of placards would increase its cost since it would result in more restaurant owners requesting reinspections. It projected the County would need to add a fee of $125 per reinspection to its fee schedule. This cost does not seem onerous to the Grand Jury considering the reinspection would be voluntary. The cost could be an incentive to a restaurant to promote better food safety conditions so it would not need a reinspection.

Recommendation #2, to improve the Agency's existing website for food safety inspection reports, was implemented.

Recommendation #3, to create a separate website dedicated to county restaurants, will not be implemented. The Agency stated this is not warranted. It believes the current website which includes all food facilities is sufficient. The Grand Jury noted that including food facilities other than restaurants makes searches less user-friendly.

Recommendation #4 was to link the Agency's website to social media (Twitter, Facebook, et al). The Agency now has links to social media on their main webpage and has therefore implemented the recommendation.

The Agency's response to Recommendation #5 was that it is not warranted. Its explanation is that the Award of Excellence Program provides incentives for practicing good food safety habits, and a list of recipients is included on the Environmental Health Services webpage. Additionally, the recipients can advertise receipt of the award on their websites, in their marketing and in their establishments if desired. However, the Grand Jury disagrees. It believes it would serve as an incentive for other restaurants and increase business if the recipient was recognized for the award by being more prominently featured on the County restaurant website.

3. DEVELOPER FEES: A SCHOOL LESSON IN JUSTIFICATION

Recommendation Status:			
Implemented	To Be Implemented	Not Implemented	Total
3	0	2	5

The 2013-2014 Grand Jury found the assessment of, accounting for and expenditures made with developer fees collected in Cayucos were neither in compliance with *California Government Code* sections nor with the policies and regulations of the school districts involved. The 2013-2014 Grand Jury report made several recommendations to the Cayucos Elementary School District (Cayucos Elementary), the Coast Unified School District (Coast Unified) in Cambria and the San Luis Obispo County Superintendent of Schools (County Superintendent).

Recommendation #1 dealt with the need for Cayucos Elementary and Coast Unified to negotiate terms and sign an agreement on fee splitting. State law requires such an agreement. The previous agreement expired in 2010. The parties agreed to implement this recommendation as of April 1, 2015.

Recommendation #2 was that Cayucos Elementary, Coast Unified and the County Superintendent work together to agree on one location for fee collection so developers would not need to travel to two places to pay the fees. The parties have implemented this recommendation. The fees for Cayucos development are now collected by the administrative office of the County Superintendent.

Recommendation #3 was the fees Coast Unified collects from Cayucos development should be used only at Coast Union High School for legally permissible purposes. *California Education Code* requires there be a reasonable relationship between the fee's use and the development project on which the fee is imposed. While Coast Unified believes its use of developer fees has been within the law and therefore will not implement this recommendation, the 2013-2014 Grand Jury found no such "reasonable relationship" for many of the past expenditures of Cayucos development fees by Coast Unified. The Grand Jury strongly urges Coast Unified to comply with the *California Education Code* and its intent and not obfuscate by stating there may be case-by-case instances of exceptions. Without verifiable examples to back them up, there should be no exceptions.

Recommendation #4 has been implemented. Cayucos Elementary and Coast Unified have each completed the required five-year audits of their developer fee collections and expenditures.

Recommendation #5, which will not be implemented, was that the County Superintendent lobby the state legislature for oversight authority of the developer fee program. The County Superintendent stated that current requirements are sufficient. The Grand Jury disagrees with the County Superintendent's response. The 2013-2014 Grand Jury's report clearly states "The broad interpretation of the code, combined with a lack of oversight, has allowed for…the use of the fees to expand beyond their original intent with a nearly limitless threshold of what is permitted." Thus, the current oversight is not sufficient.

4. COUNTY EMPLOYMENT RETIREMENT PLAN: "LET'S MAKE IT CLEAR"

Recommendation Status:			
Implemented	To Be Implemented	Not Implemented	Total
2	0	0	2

The 2013-2014 Grand Jury was aware of the financial stress some government agencies have due to their unfunded pension liabilities. Its report was on how well the County informed its residents of its pension liabilities. In Recommendation #1, the 2013-2014 Grand Jury asked the Pension Trust administrator and the Office of the Auditor-Controller-Treasurer (Office) to provide the Board of Supervisors and County residents with an additional simplified and transparent reporting of the totality of the County's pension obligations.

In Recommendation #2, the Grand Jury suggested the Office provide a balance sheet showing year-to-year changes in the actuarial assets and liabilities to assist in tracking the progress of the plan. In response, the Office has taken several steps to provide the public with simpler access and more informative reporting of the County's future pension obligations. The Office changed the pension obligation table in the Fiscal Year 2013-2014 Comprehensive Annual Financial Report (CAFR) to show ten years of pension history rather than the previously reported three years. In addition, the Office included the 30-year annual actuarial projection of the pension funds actuarial valuation in the CAFR.

These changes are helpful; however, they only partially address the issues of transparency and simplicity of information provided to the public. The 2013-2014 Grand Jury suggested the public interest would be better served by a brief separate document summarizing the end-of-year liability and how it relates to progress, or lack thereof, in eliminating the unfunded portion of the County's pension liability.

REPORT STATUS TO 2013 – 2014 GRAND JURY RECOMMENDATIONS:

Recommendation Status:				
Report	**Implemented**	**To Be Implemented**	**Not Implemented**	**Total**
1. Forensic Investigations in San Luis Obispo County: The San Luis Obispo County Crime Laboratory; The San Luis Obispo County Coroner's Office	1	0	0	1
2. Kitchen Confidential: Do You Know if Your Restaurant Makes the Grade?	2	0	3	5
3. Developer Fees: A School Lesson in Justification	3	0	2	5
4. County Employment Retirement Plan: "Let's Make it Clear"	2	0	0	2
Total **Percent of Total**	**8** **62%**	**0** **0%**	**5** **38%**	**13** **100%**

APPENDIX

PRIOR-YEARS REPORT RECOMMENDATIONS FOLLOW-UP

A VITAL FUNCTION OF THE JUDICIAL SYSTEM: LAW ENFORCEMENT PROPERTY AND EVIDENCE ROOMS

The 2011-2012 Grand Jury recommended police departments in the seven incorporated cities as well as the Sheriff's Department conduct and submit to the 2011-2012 Grand Jury a full property room/evidence room audit. Six of the seven cities and the Sheriff's Department complied. Arroyo Grande was only able to conduct a limited audit and plans to do a full audit when the police department returns to their remodeled station. Implementation is still pending for Arroyo Grande.

The 2011-2012 Grand Jury also recommended the Sheriff's Department use the services of either Police Officer Standards Training (POST) for management assistance or a qualified consultant specializing in property/evidence room management. The Sheriff's Department did use the services of POST and others during the design and move of its evidence room. Implementation completed.

PAY ME NOW OR PAY ME LATER, CITY EMPLOYEE VACATION AND SICK LEAVE ACCUMULATION

The 2011-2012 Grand Jury studied the actual employee vacation and sick leave accumulation in the County's seven cities, the rules and regulations governing these accumulations and the potential unfunded liability of these cities. They made a number of recommendations to the cities. Since some of these recommendations involved matters subject to bargaining unit negotiations, it took some time to implement them. The City of Paso Robles negotiated Memoranda of Understanding with all of its bargaining units and the city council then adopted them as policy. This completed the actions it agreed to take. The City of Arroyo Grande finished updating its personnel regulations in 2014. Arroyo Grande's regulations now refer to the appropriate bargaining unit's Memorandum of Understanding. One response is still outstanding; the City of Grover Beach has not yet completed updating its regulations. Once that update is completed, the city says it will consult with its labor unions and will forward the completed document to the city council for approval. They anticipate the process will be complete by the end of June 2015. <u>Implementation is still pending for Grover Beach.</u>

AN EVENT IS AN EVENT – AN IMPACT IS AN IMPACT

The 2012-2013 Grand Jury reviewed County policies and practices regarding processing and use of permits for outdoor events. The existing land use ordinance for temporary events was adopted in 1980. Although the ordinance has been revised slightly, it has not been overhauled for 35 years. During this time the variety of outdoor events, the number of venues and attendees has significantly increased.

The 2012-2013 Grand Jury concluded the present event ordinance is brief, vague and inadequate as it does not address the impacts of events on the surrounding neighborhoods. In addition, nonprofit and grandfathered events are allowed to operate without the same oversight as permitted events. The 2012-2013 Grand Jury recommended the Board of Supervisors (Board) adopt the proposed Event Ordinance Amendment (Amendment) drafted by the Department of Planning and Building. The 2012-2013 Grand Jury also recommended the Board adopt proposed rules outlined in two sections of the Amendment. Recommendation #4 dealt with the importance of defining specific guidelines to mitigate event impacts such as noise, dust, traffic and parking. Recommendation #5 advocated regulations in the Amendment regarding environmental impacts, public safety and community relations apply equally to all events.

The Board rejected these 2012-2013 Grand Jury recommendations stating they were unwarranted and unreasonable because they infringed on the Board's legislative authority. Both the 2013-2014 Grand Jury and the 2014-2015 Grand Jury disagree with the Board. The Board always retains the power to act or not act on recommendations. In this case, the Board chose not to act both on the Grand Jury's recommendations and on the proposed Amendment. No explanation other than "not warranted" was provided. Thus, the current ordinance, although ineffective and obsolete, remains in effect.

Only Recommendation #2, “The Planning Department needs to streamline the permit process” is still pending. This recommendation was based on the assumption the proposed Amendment would be approved. Without the Amendment’s specific standards, the Grand Jury cannot continue to advocate that the Planning Department streamline the permitting process. Thus, the Grand Jury finds no further action is warranted on this recommendation. No further action needed.

TROUBLE IN TEMPLETON’S COMMUNITY SERVICES DISTRICT

The 2012-2013 Grand Jury investigated citizen complaints, employee concerns and news articles concerning alleged behavior of some Templeton Community Services District (TCSD) board members and the TCSD General Manager. The 2012-2013 Grand Jury found a number of problems and made nine recommendations to the TCSD Board and General Manager. Three of these recommendations (the need for comprehensive personnel rules and regulations, ensuring all employees have a yearly performance evaluation and timely posting of budget information and the minutes of the TCSD Board meetings) had not been fully put in place in 2014. All have now been implemented. Implementation completed.