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Continuity

Responses to the 2017 – 2018 Calaveras County Grand Jury Final Report



SUMMARY

The power of the Grand Jury lies in its ability to publish fact-based reports that inform and educate citizens as well as local government officials. Although the Grand Jury has no authority to enforce the recommendations included in such reports, it can determine whether local government agencies and officials have provided reasonable responses. These responses must follow a format and timeline clearly defined by law (California Penal Code §933.05). The independent work and voice of Grand Juries are strengthened when local government entities and officials are held accountable and responsible to the will of their constituents.

To that end, the 2018-2019 Calaveras County Grand Jury carefully reviewed all responses to the 2017-2018 Calaveras County Grand Jury Final Report for compliance with the law. This report presents the analysis of that review.

The 2018-2019 Calaveras County Grand Jury deemed most responses compliant regarding mandated response times; however, several respondents failed to comply with the relevant provisions of the Penal Code and/or were lacking detail by which the agency's subsequent actions could be gauged.

The 2018-2019 Calaveras County Grand Jury appreciates the time and attention that all responders devoted to the work of the 2017-2018 Calaveras County Grand Jury. Although invited responders were not required by law to respond, several did, and the Calaveras County Grand Jury thanks them for their willingness to provide additional feedback.

GLOSSARY

ACS	Calaveras County Animal Control Services
BOS	Calaveras County Board of Supervisors
CCCD	Calaveras County Correctional Department
CCCR/ROV	Calaveras County Clerk Recorder/Registrar of Voters
CCCS/DMR	Calaveras County Community Service District (Middle River)
CCGJ	Calaveras County Grand Jury
CCHRD	Calaveras County Human Resources Department
CDCR	California Department of Corrections and Rehabilitation
DOEH	Director of Environmental Health & Air Pollution Control
SCC	Sierra Conservation Center
VCCM	Vallecito Conservation Camp Management

METHODOLOGY

The 2018–2019 CCGJ read continuity reports published by other California Grand Juries and studied relevant sections of the California Penal Code. The CCGJ studied other models for tracking Grand Jury reports, then created a comprehensive system for reviewing, analyzing, and tracking responses to previous CCGJ reports. This system was piloted to track the continuity function.

The 2018–2019 CCGJ tracking matrix will be passed on for 2019–2020 CCGJ use. The matrix will be populated by all responses received to the 2017–2018 CCGJ reports including any outstanding open responses. In addition, the 2018–2019 CCGJ will set up the tracking matrix for the following CCGJ, complete with the current year reports and response requests. A mechanism to track and report on all

outstanding responses will preserve the positive impact of CCGJ reports. We envision that the matrix will continue on with each subsequent CCGJ.

BACKGROUND

The civil role of county Grand Juries in California is unique. Its role in the judicial branch is to examine and investigate county government functions and make recommendations to improve systems, procedures, and methods of operations promoting honest, efficient government in the best interests of the citizens of the county.

The CCGJ is impaneled each year, beginning their service on July 1st and serving a one-year term. At the end of that term, they must publish a consolidated final report on the activities of local government, agencies, and special districts. These reports include facts, findings, and recommendations developed after intensive investigations. The reports specify which government officials and entities must respond by law to any findings or recommendations. Additionally, the reports specify those who are invited, but are not required, to respond.

California Penal Code §933.05 mandates how local governing bodies and elected officials must respond to findings and recommendations that fall under their jurisdictions. It is the responsibility of succeeding Grand Juries to monitor compliance with this Penal Code.

Tracking responses to previous Grand Jury reports is an internal function of the sitting CCGJ. The lasting value of a Grand Jury investigation is diminished when findings and recommendations are not appropriately addressed by the affected agencies. Often an agency will respond either that it intends to implement a recommendation at a later date or that a recommendation requires further study, leaving the report “open”. Recommendations aimed at fixing complex problems or calling for expensive solutions can often run up against the realities of the budgeting and procurement processes or leadership changes. Regardless of these difficulties, investigated entities are still responsible to provide substantive responses in compliance with government code requirements.

Tracking and follow-up of open responses is made all the more challenging as reports are typically published at or near the end of the CCGJ’s one-year term of service. As a result, Juries have served their term and been discharged long before responses to the reports are received. Diligent follow-up by local agencies and succeeding Grand Juries is therefore needed in order to ensure that all open responses are appropriately closed with published responses so, at the very least, they do not fall off the public radar.

While responses to reports are generally followed up by the succeeding Grand Jury, the problem arises when responses extend beyond the term of the succeeding panel and a new, subsequent Grand Jury – now two years removed from the Grand Jury issuing the report – is impaneled. Due to the passage of time between response and completion of the action to which the county entity has committed, responses of “will be implemented in the future” or “requires further analysis” are most susceptible to falling by the wayside without follow-up and, therefore, dropping out of public view.

DISCUSSION

Annually, the CCGJ concludes its term of service with a published report on completed civil investigations. These reports generate many findings and recommendations, prompting required and invited responses. The 2018-2019 CCGJ investigation of responses revealed that a number of them remain incomplete. It is anticipated that the implementation of the new matrix will encourage greater agency compliance. Reporting publicly on the completion of previously committed action will enhance the positive impact of the CCGJ in its role as a public watchdog.

California Penal Code §933(c) requires the governing body of any public agency for which the Grand Jury has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of said governing body. Such comments shall be made no later than 90 days after the Grand Jury publishes its report (filed with the Clerk of the Court). In the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. Sheriff, District Attorney, etc.), that elected County official shall comment on the findings and recommendations pertaining to the matters under that elected official's control within 60 days to the Presiding Judge with an information copy sent to the Board of Supervisors.

California Penal Code §933.05 details the manner in which such comment(s) are to be made:

- (1) As to each Grand Jury finding, the responding person or entity shall indicate one of the following:
 - a. The respondent agrees with the finding;
 - b. The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.
- (2) As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:
 - a. The recommendation has been implemented, with a summary regarding the implemented action;
 - b. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation;
 - c. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the Grand Jury report;
 - d. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

If a finding or recommendation of the Grand Jury addresses budgetary or personnel matters of a county agency or department headed by an elected official, both the agency or department head and the Board of Supervisors shall respond if requested by the Grand Jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

After reviewing documentation, the Grand Jury findings are as follows:

FINDINGS

- F1. All required responses to the CCGJ 2017-2018 Animal Control Services report were submitted in compliance within the time requirements of the California Penal Code §933.
- F2. Almost all required responses to the CCGJ 2017-2018 Animal Control Services report did not meet the “timeframe for implementation” requirement in California Penal Code §933.
- F3. All required responses to the CCGJ 2017-2018 Board of Supervisors Residency report were fully compliant with California Penal Code §933.
- F4. All required responses to the CCGJ 2017-2018 Calaveras County Jail report were submitted timely in compliance with California Penal Code §933.
- F5. Three responses to the CCGJ 2017-2018 Calaveras County Jail report, which indicated further analysis was required, did not indicate a time frame in which such analysis would be performed as required by California Penal Code §933.
- F6. Two respondents to the CCGJ 2017-2018 Measure E Election 2016 report submitted timely responses but did not indicate time frames in which further analysis would be performed as required by California Penal Code §933.
- F7. At the time of this writing, one agency required to respond to the CCGJ 2017-2018 Measure E Election 2016 report within 90 days has not responded.
- F8. At the time of this writing, none of the required officials or agencies have responded to the CCGJ 2017-2018 Vallecito Camp Facility report.
- F9. At the time of this writing, CAL Fire, which was invited to respond to the CCGJ 2017-2018 Vallecito Camp Facility report, has not responded.
- F10. The 2017-2018 CCGJ may have contributed to respondent noncompliance regarding the timeframe for implementation of corrective action or further analysis by failing to include specific instructions from the California Penal Code §933.

RECOMMENDATIONS

- R1. None
- R2. None
- R3. None
- R4. None
- R5. None

- R6. None
- R7. None
- R8. None
- R9. None
- R10. None

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

REFERENCE SOURCES

- California Penal Code §933 et seq., which specifies how responses are to be formatted
- 2017–2018 CCGJ Final Report
- All responses to the 2017–2018 CCGJ Final Report
- 2017–2018 Shasta County Grand Jury Responses to the 2016–2017 Shasta County Grand Jury Reports
- California Grand Jury Association Report Response Template
- 2016–2017 Orange County Grand Jury Report of Responses to the 2015–2016 Orange County Grand Jury Report titled “Unfinished Business”
- 2016–2017 El Dorado County Grand Jury Report of Responses to the 2015–2016 El Dorado County Grand Jury Report titled “Looking Back and Looking Ahead”
- 2017–2018 CCGJ Compliance Report Matrix compiled by 2018-2019 CCGJ
- 2017–2018 CCGJ Responses Matrix for Animal Control Services report compiled by 2018-2019 CCGJ
- 2017–2018 CCGJ Responses Matrix for Board of Supervisor Residency report compiled by 2018-2019 CCGJ
- 2017–2018 CCGJ Responses Matrix for Calaveras County Jail report compiled by 2018-2019 CCGJ
- 2017–2018 CCGJ Responses Matrix for Measure E Election 2016 report compiled by 2018-2019 CCGJ
- 2017–2018 CCGJ Responses Matrix for Vallecito Camp Facility report compiled by 2018-2019 CCGJ

APPENDIX

2017-2018 CCGJ Final Report Response Matrix Summary

		RESPONSES as of October 1, 2018												
		# of			# of Findings			# of Recommendations				Status of Response		
	Report Description	Respondents	Findings	Recommendations	Agree	Partially	Disagree	No	Yes	Will Be Implemented	Further Analysis Req'd	No Response	Received	Remaining
1	Animal Control Services	4	32	32		1	4	4	1			0	4	0
2	Board of Supervisors Residency Requirement	1	1	1	1	0	0	1	0	0	0	0	1	0
3	Public Correctional Facilities - Calaveras County Facility	3	14	14	1	2	1	2	2		1	0	3	0
4	Public Correctional Facilities - Vallecito Camp Facility	4	10	10								4	0	4
5	Measure E Election 2016	3	6	8	5			3	2		2	1	2	1