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NAPA COUNTY GRAND JURY 2013-2014



Photo courtesy of Alan Galbraith

CONSOLIDATED FINAL REPORT

CONSOLIDATED FINAL REPORT

TABLE OF CONTENTS

I.	2013-2014 Napa County Grand Jury Photograph	iii
II.	2013-2014 Napa County Grand Jury Roster	iv
III.	2013-2014 Grand Jury Letter to Napa County Residents	v
IV.	Letter to the Presiding and Supervising Judges of the Grand Jury . . .	vi
V.	Acknowledgements	vii
VI.	Overview of Napa County Grand Jury	viii
VII.	2013-2014 Grand Jury Final Reports	1
	• Review of Responses to the 2012-2013 Grand Jury Reports	1
	• Napa County Juvenile Hall Annual Review	20
	• Vine: Management & Ridership for the Future	24
	• Public Employment Retirement Benefit Review	41
	• Veterans Service and Outreach	55
	• Forming Partners with the Community through Youth Sports	69
	• Napa County Jail Annual Review	91

Cover Photograph: redwood lilies, native to California, high on Spring Mountain (near St. Helena), Napa County

I. 2013-2014 Napa County Grand Jury



*Photo courtesy of
Larry Busch*

Left to right, from top to bottom: Don Lemmons, Richard Fleckenstein, Alan Galbraith (foreperson), Larry Servente, Ron Allgower, Jo Gilbert, Warren Flint, Lynnette Sands, Sammy Gonzales, Chuck deLorimier, Patricia Sterling, Robin Rowe, John Pinto, Jeanne Doty, Erica Valentine, Bonnie Thoreen (foreperson *pro tempore*), Mike Wallace, Mary Ann Moss, Linda Leonard (secretary).

II. 2013-2104 Napa County Grand Jury Members

Alan Galbraith (foreperson)	St. Helena
Ronald W. Allgower	Napa
Charles R. deLorimier	Napa
Jeanne Doty	Napa
Richard Fleckenstein	Napa
R. Warren Flint	Napa
Jo Gilbert	Yountville
Sammy S. Gonzales	Napa
Donald R. Lemmons	Napa
Linda J. Leonard (secretary)	Napa
Mary Ann Moss	Napa
John V. Pinto	Napa
Robin Alice Rowe	Napa
Lynnette Sands	Napa
Lawrence A. Servente	Napa
Patricia M. Sterling	Napa
Bonnie L.V. Thoreen (<i>pro tempore</i>)	St. Helena
Erica Valentine	Napa
Michael Wallace	Napa

III. 2013-2014 Grand Jury Letter to Napa County Residents



NAPA COUNTY GRAND JURY
c/o Court Executive Office
825 Brown Street
Napa, CA 94559

May 17, 2014

To the Residents of Napa County:

The 2013-2014 Grand Jury is honored to present its Consolidated Final Report. The Grand Jury issued seven Final Reports during its one-year term of service to the County. The Consolidated Final Report combines them in one overall Report.

As fixed by law, our Grand Jury consists of nineteen members. We were sworn into service in July 2013. We served under Napa County Superior Court Presiding Judge Diane M. Price and Grand Jury Supervising Judge Mark S. Boessenecker. As required by law, the Supervising Judge approved each Report prior to its release to affected agencies. Also as required by law, the Office of County Counsel reviewed each Report for conformity to statute before approval by the Court.

Our investigations included numerous interviews of elected and appointed officials, County and City employees, other interested parties, and County residents, as well as facility tours and site visits. Our investigations included detailed document reviews. Not all of our investigations resulted in a published report.

Shortly after their issuance, our seven Final Reports become available for viewing or downloading on the Napa County Grand Jury web page, located at <http://www.napa.courts.ca.gov/general-info/grand-jury>. Grand Jury reports of prior years are also posted for viewing there, as well as agency responses to Grand Jury reports.

We appreciated the opportunity to serve our fellow residents of Napa County.

Regards,

/s/

Alan Galbraith, Foreperson
2013-2014 Napa County Grand Jury

IV. Letter to the Presiding and Supervising Judges



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY
c/o Court Executive Office
825 Brown Street
Napa, CA 94559

May 17, 2014

The Honorable Rodney Stone
Presiding Judge
Napa County Superior Court
825 Brown Street
Napa, CA 94559

The Honorable Mark S. Boessenecker
Grand Jury Supervising Judge
Napa County Superior Court
825 Brown Street
Napa, CA 94559

Re 2013-2014 Napa County Grand Jury Final Consolidated Report

Dear Judges Stone and Boessenecker:

The 2013-2014 Napa County Grand Jury hereby presents its Final Consolidated Report to the Presiding Judge and the Grand Jury Supervising Judge of The Superior Court of California, County of Napa.

The Grand Jury expresses its appreciation to Deputy County Counsel Silva Darbinian and Judge Boessenecker for their work in reviewing final reports before their release to affected agencies. The Grand Jury also offers its appreciation to Napa Superior Court Chief Executive Richard Feldstein and Court Administrative Assistant Connie R. Brennan for their administrative support.

Very truly yours,

/s/

Alan Galbraith, Foreperson
2013-2014 Napa County Grand Jury

V. Acknowledgements

The 2013-2014 Napa County Grand Jury acknowledges assistance and support from the following:

The Honorable Diane M. Price and the Honorable Rodney Stone, Presiding Judges, California Superior Court, County of Napa

The Honorable Mark S. Boessenecker, Grand Jury Supervising Judge, California Superior Court, County of Napa

Richard Feldstein, Chief Executive Officer, California Superior Court, County of Napa

Connie Brennan, Court Administrative Assistant, California Superior Court, County of Napa

Silva Darbinian, Chief Deputy County Counsel, Napa County

Helena Franchi, Principal Management Analyst, Executive Office of Napa County

Elizabeth Habkirk, Principal Management Analyst, Executive Office of Napa County

Joseph Peatman, President, The Gasser Foundation

Terri Niles, Office Manager, The Gasser Foundation

News and Production Staff, *Napa Valley Register*

California Grand Jurors Association

Napa Chapter, California Grand Jurors Association

Larry Busch, Official Photographer of the Grand Jury

The Supportive Families of the Grand Jury Members

VI. Overview of the Napa County (Civil) Grand Jury

A. Introduction to the Grand Jury

The 2013-2014 Napa County Grand Jury served a one-year term, from July 2013 through June 2014. It is a civil grand jury. The following provides a broad overview of the Napa County Grand Jury, its origins, what it does, and how it functions.

1. Brief History of the Grand Jury

The Napa County Grand Jury has its historical roots in the English grand jury system dating back to the twelfth century. The grand jury protected citizens from the arbitrary authority of the Crown. In California, the institution of the grand jury is preserved in section 23 of article 1 of the State Constitution, which requires one or more grand juries to be drawn and summoned at least once a year in each county. The principal function of a California civil grand jury is to inquire into the affairs of local government. The civil grand jury is an arm of the state judicial system. It is not a law enforcement agency.

2. Composition of a Napa County Grand Jury

Historically, a grand jury consisted of twenty-three members. In California, the size of a grand jury is regulated by section 888.2 of the California Penal Code, which varies the size depending on a county's population. Based on its population, in Napa County the number of authorized grand jurors for a grand jury is nineteen (whether civil or criminal).

3. Function of the Napa County (Civil) Grand Jury

A civil grand jury is an independent body. Its primary role is one of oversight. It is the responsibility of a grand jury to conduct examinations into county and local governments within the county to ensure that they are being operated honestly and efficiently. The Supervising Judge of the Superior Court, County Counsel, the District Attorney, and the State Attorney General can, and on occasion do, provide advice, but they may not prevent a grand jury from acting within its jurisdiction.

A county grand jury does not have jurisdiction over federal or state matters, and therefore has no authority to investigate federal or state agencies. It also has no jurisdiction over the courts (a state agency) or over specific matters that are in litigation in court. In Napa County, the grand jury that is convened each year for a term of one year does not become involved in initiating criminal proceedings. The District Attorney has authority to impanel a separate special grand jury for this purpose. A civil grand jury focuses on specific matters within its jurisdiction. A grand jury member does not participate if a matter presents a conflict of interest or an appearance of a conflict of interest.

Matters that might be worthy of a civil grand jury investigation are brought to the attention of the grand jury in different ways. It reviews and evaluates complaints that are received from residents of Napa County. It pays close attention to governmental conduct that is reported in the news media. It may undertake an investigation that comes about from the observations of grand jurors. The grand jury is required by law to inspect the detention facilities in the county each year. It is also required by law to issue at least one report on Napa County operations.

Generally, California civil grand juries inquire into the operations, accounts, and records of local government agencies, as well as the methods and systems that are being employed in the performance of their duties. All non-State and non-Federal agencies within Napa County, including joint power agencies and special districts, as well as events involving those agencies, can be investigated by the Napa County Grand Jury. The Napa County Grand Jury is provided with a detailed Procedures Manual that sets forth “best practices” for a grand jury. It also contains a detailed listing of governmental agencies that are subject to investigation by the grand jury on a suggested five-year cycle.

4. Investigations by a (Civil) Grand Jury

Typically, the civil grand jury forms committees of five grand jurors to undertake an investigation into a specific matter. The committee members meet with management and staff of the agency under investigation. Relevant records and physical facilities of the agency are inspected, and committee members may also attend public meetings conducted under the auspices of the agency. The committee follows up on leads that might

provide relevant information. Eventually, the committee prepares a report, with findings of fact and recommendations for the agency. A supermajority of at least twelve grand jurors must approve the report at a full meeting of the grand jury prior to submitting the report to the county counsel and the court.

In their investigative work grand jurors are expected to be fair, show sound judgment, and maintain absolute confidentiality. They must at all times be dispassionate in their work. A grand jury is not a forum from which to express political ideals or viewpoints. The ultimate goal of the grand jury's work is to make recommendations that are useful and will improve governmental operations.

5. Final Reports of a (Civil) Grand Jury

A civil grand jury may, but is not required to, issue a final report upon completion of an investigation. Following approval by the Supervising Judge, the grand jury provides a copy of the report to the governing body of the affected agency or to the affected elected official. It is not publicly released by either the grand jury or the affected agency or elected official until after it has been in the possession of the agency or official for two working days. Copies of final reports are maintained by the Court Executive Office, and are published online at <http://www.napa.courts.ca.gov/general-info/grand-jury>. The Consolidated Final Report is published in local newspapers, is available online at the grand jury website, and is also available at public libraries in Napa County.

6. Response to Findings and Recommendations of a (Civil) Grand Jury

Affected agencies and elected officials are required to respond to a final report to the Presiding Judge of the Napa Superior Court. The responses must satisfy the particularized requirements as set forth in section 933.05 of the California Penal Code. The Napa County Grand Jury requests that the official signing the responses certify above his or her signature that the responses are in fact in conformity with section 933.05 of the Penal Code. Thus, it is imperative that each respondent become familiar with the legal requirements of section 933.05 and if in doubt consult with legal counsel before responding. A civil grand jury can, though is not required, to review the responses for conformity to section 933.05 of the Penal Code.

The 2013-2014 Napa County Grand Jury did so in its first published report, included in this Consolidated Final Report.

For the assistance of respondents, section 933.05 of the Penal Code is summarized below.

Response to findings: The responding agency or elected official must respond to *each* grand jury finding, and can do so in one of two ways: the respondent must state either agreement with the finding or disagreement with the finding. If in disagreement, the respondent must identify the specific area of dispute. Most importantly, the respondent must provide an explanation that sets out the reasons for disagreement.

Response to recommendations: The responding agency or elected official must respond to *each* grand jury recommendation. The respondent has four choices under section 933.05(b) of the Penal Code:

- The recommendation has been implemented. If the respondent so states, the respondent must also provide a meaningful summary describing the implementing action.
- The recommendation has not yet been implemented. If the respondent so states, the respondent must also provide the timeframe within which the action will be implemented.
- The recommendation requires further analysis. If the respondent so states, the respondent must also include an explanation that describes the scope and parameters of such a study or analysis. Further, the respondent must advise that such further study or analysis will be prepared for discussion within a timeframe not to exceed six months.
- The recommendation will not be implemented. If the respondent so states, the respondent must also state either that the recommendation is not warranted or is not reasonable, and must provide an explanation supporting the respondent's position.

Section 933.05(c) contains further response requirements if a recommendation is directed toward an agency or department headed by an elected officer and relates to budgetary or personnel matters.

Timing of Response: Affected agencies have 90 days to respond following receipt of a report and elected officials have sixty days to respond.

The response of agencies must be directed to the Presiding Judge. The response of an elected official must also be directed to the Presiding Judge, but with a copy to the Board of Supervisors.

B. Civil Grand Jury Service

1. Qualifications for Service

A grand juror must meet the following legal qualifications:

- Be at least 18 years of age
- Be a citizen of the United States
- Be a resident of Napa County for at least one year prior to the next July
- Be in possession of natural faculties, of ordinary intelligence, of sound judgment, and of fair character
- Possess sufficient knowledge of the English language
- Be not discharged as a grand juror of any California court within one year prior to the next July
- Never have been convicted of malfeasance in office or of any felony or other high crime
- Not currently be serving as an elected public officer

2. Term of Civil Grand Jury Service

Each July nineteen residents of Napa County are sworn as grand jurors for a period of twelve months. Civil grand jury service is generally considered to be a ten-hour per week commitment (weekly hours will fluctuate), with each grand jury establishing its own work schedule. Each person who is selected to serve must be fully cognizant of the time involved. Each prospective nominee should thoughtfully weigh any and all personal and business obligations before accepting the nomination. A grand juror can seek to hold over for one additional term. Typically, one or two members of a Napa County Grand Jury have served on the immediately prior grand jury.

3. Application for Civil Grand Jury Service

All residents of Napa County are offered the opportunity to volunteer for civil grand jury service by filing an application with the Napa Superior Court. The application form is available online, at www.napacourt.com/

[general-info/grand-jury](#) under “Eligibility Requirements & Questionnaire” with link to Grand Jury Questionnaire. Judges and friends of the court may also nominate county residents. The Court may also summons in County residents for civil grand jury service. Each grand jury is impaneled for one year from July 1 through June 30. Up to ten grand jurors in their initial term of service may volunteer to hold over for an additional year, though in practice the number of grand jurors holding over is well less than five.

Applications for service on the next grand jury may be submitted at any time during the year prior to April 15 for the term beginning the next July 1. A prospective grand juror can apply by completing the online questionnaire or by contacting the Court Administrative Assistant at the address listed below.

C. Other Civil Grand Jury Information

1. Communication with the Civil Grand Jury

Napa County residents seeking to bring matters about County and local governmental operations to the attention of the Napa County Grand Jury can do so by writing or emailing the grand jury through Court Administrative Assistant, at the address listed below. No specific form of communication is required. The 2013-2014 Grand Jury undertook to revise the complaint form. It is available online, in English and Spanish, at www.napacourt.com/general-info/grand-jury by clicking on “Complaint Form” or “Complaint Form – Spanish” under “CITIZEN COMPLAINTS.” Use of the complaint form is encouraged; again, it is *not* required; a letter will also work.

A duty of the grand jury is to review all correspondence received from the public. The grand jury responds in one of the following ways:

- Investigate the matter and prepare a final report
- Investigate the matter and decide not to follow up
- Decide not to follow up without investigation

A sitting grand jury will address matters brought to its attention well into its term. Due to time constraints, matters coming to its attention late in its term may be referred to the subsequent year’s grand jury.

2. More Information

For an application, general questions, comments, or more information, please write, call or email:

Ms. Connie Brennan, CCLS
Court Administrative Assistant
Superior Court of California
County of Napa
825 Brown Street, Napa, CA 94559
Telephone: (707) 259-8305
Fax: (707) 299-1250
Email: grandjury@napa.courts.ca.gov



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY 2013-2014

JANUARY 17, 2014

FINAL REPORT

**REVIEW OF RESPONSES TO
THE 2012-2013 GRAND JURY
REPORTS**

INDEX

I.	Introduction	3
II.	Review of Responses to the 2012-2013 Report On The Integrity Of Grand Jury Investigations	5
III.	Review of Responses to the 2012-2013 Report on the Napa County Jail.	9
IV.	Review of Responses to the 2012-2013 Report on Napa County Juvenile Hall	11
V.	Review of Responses to the 2012-2013 Report on the Napa County Sheriff/Coroner – Services Operations	11
VI.	Review of Responses to the 2012-2013 Report on the Napa County Election Division	14
VII.	Review of Responses to the 2012-2013 Report on Napa County Public Employee Retirement Benefits	16
VIII.	Conclusion	19

REVIEW OF RESPONSES TO THE 2012-2013 GRAND JURY REPORTS

I. INTRODUCTION

A. Summary

The 2012-2013 Grand Jury issued its Consolidated Final Reports on June 24, 2013, at the end of its one-year term. The Consolidated Final Reports consisted of six individual Final Reports on governmental operations in Napa County. The Grand Jury made recommendations in five of its six Final Reports, the exception being the Napa County Juvenile Hall Report. The Grand Jury specifically requested responses to its recommendations from affected agencies.

Pursuant to California Penal Code section 933, elected officials are required to respond within sixty days of a grand jury report and government agencies are required to respond within ninety days. Their responses must be addressed to the Presiding Judge of the Napa County Superior Court.

During its present term, the 2013-2014 Grand Jury reviewed all the responses provided by government agencies to the five reports by the 2012-2013 Grand Jury that requested responses. The 2013-2014 Grand Jury finds that all agencies with the exception of the City of Calistoga filed timely responses to the recommendations of the 2012-2013 Grand Jury. The City of Calistoga submitted its response on October 4, 2013.

While all agencies (with the one exception) submitted timely responses, some of the responses did not comply with the specific statutory requirements of section 933 of the Penal Code. In particular, agencies responding that a recommendation had been implemented did not in each case provide a meaningful summary of the implementation, as required by law. Agencies responding that a recommendation would be implemented did not in each case specify the timeframe for its implementation, as required by law. Of even greater concern, agencies stating that a recommendation required further study did not in each case provide the parameters of further analysis or study, and the needed timeframe, as required by law. (*See* California Penal Code section 933.05 describing form and content expected of responses depending on category of response.) The 2013-2014 Grand Jury encourages agencies to comply strictly with the statutory requirements of section 933.05. Strict compliance facilitates the work of the Grand Jury, especially its ability to track the implementation of grand jury recommendations. The Grand Jury

concludes with a suggestion that responding officials certify that their responses conform to statutory requirements.

B. Background

State law requires that at least one agency or official submit a written response to the Presiding Judge for every recommendation in a grand jury report. The current Grand Jury must assure that each response was submitted within the statutory timeframe and is otherwise compliant with the requirements of California Penal Code section 933.

In a grand jury report each finding is required to be substantiated by written documents and/or oral testimony. To be considered, oral testimony must be taken before at least two grand jurors. Every recommendation in a report must be supported by at least one finding. By adhering to these principles, the objectivity and accuracy of a grand jury report are assured. Recommendations from grand juries often suggest shortcomings and/or call for changes, and they encourage governmental entities to review their policies and procedures.

C. Methodology

The 2013-2014 Grand Jury evaluated the responses to the 2012-2013 Grand Jury's recommendations to ensure compliance with the requirements of California Penal Code section 933.05.

The following criteria were considered:

- Was the response timely received by the Presiding Judge, which is within ninety days for a public agency and within sixty days for an elected official, including an elected agency head?
- If a respondent disagreed in part or in whole with a recommendation, did the respondent provide a reasoned explanation of its disagreement?
- If a respondent stated that a recommendation had been implemented, did the respondent provide a non-conclusory summary of the implemented action?
- If a respondent stated that a recommendation was to be implemented, did the respondent provide a summary of the proposed implementing action, and also the timeframe for completing the implementing action?

- If a respondent stated that a recommendation required further analysis or study, did the respondent provide an explanation of the scope and parameters of the proposed analysis or study, and also provide a timeframe for completion of the proposed analysis or study, with the timeframe not to exceed six months from the date of the release of the specific 2012-2013 Grand Jury final report?
- If a respondent stated that a recommendation was not to be implemented on the ground that it was not warranted or not reasonable, did the respondent include a reasoned explanation supporting its position?

The 2013-2014 Grand Jury reviewed the twenty-three recommendations given to the fifteen governmental agencies and officials in the Consolidated Final Reports of the 2012-2013 Grand Jury. It sets forth its observations concerning agency and officials' responses in this review report.

II. REVIEW OF RESPONSES TO THE 2012-2013 REPORT ON THE INTEGRITY OF GRAND JURY INVESTIGATIONS

A. Discussion

On April 25, 2013, the 2012-2013 Grand Jury issued its final report entitled On The Integrity Of Grand Jury Investigations. During its term the Grand Jury stated that it had conducted "extensive inquiries and investigations into the operations of certain agencies and departments within the Cities and County of Napa, some of which have or will result in formal reports and others will not." The Grand Jury continued that witnesses coming before it had violated the secrecy admonition applicable to its proceedings. *"This conduct created an atmosphere within the concerned departments which caused other witnesses to feel pressure, apprehension, and intimidation, resulting in their being less than forthcoming in subsequent testimony."* Italics added.

The 2012-2013 Grand Jury further stated: "Certain individuals in City or County departments, who were sometimes interviewees themselves, were in *flagrant and knowing disregard* for the secrecy of the investigation and binding nature of the [written] admonition [of secrecy, contained in a signed admonishment in a form approved by the California Attorney General], by pointedly interrogating co-workers about questions the Grand Jury asked, what answers they had given, who spoke about a certain subject, what records were disclosed and the like." Italics added. The Grand Jury continued: *"The employees so interrogated subsequently expressed to the Grand Jury a deep concern about the conduct of these individuals, particularly when the persons so questioning served in a supervisory capacity over them."* Italics added.