

GRAND JURY LEGACY: RESPONDING TO RECOMMENDATIONS

INTRODUCTION

Each San Luis Obispo County Grand Jury reinforces the effect and influence of the work of the previous year's Grand Jury by tracking the way agencies respond to that Grand Jury's recommendations. Agencies and government entities are required by California Penal Code Sections 933 and 933.05 to respond to the findings and recommendations in the final report of each year's Grand Jury. The agencies are directed by the Penal code to report if a recommendation has been implemented or provide a time frame for implementation. If an agency rejects the recommendation it must provide an explanation. When an agency decides to implement a recommendation, it is agreeing to change practices to provide improved service to the public. Each year, the Grand Jury posts each agency's responses on-line.¹ The 2012-2013 Grand Jury collected and reviewed follow-up data for seven out of the eleven 2011-2012 Grand Jury reports which required a total of 153 responses from various governmental agencies.

Notable Responses

The primary goal of any Grand Jury's investigations recommendations is to call attention to the practices and procedures of local government and, when warranted, request that issues be addressed and/or rectified. When jury recommendations are rejected or not implemented, cost is often the stated reason. In other cases, the responding party disagrees wholly or in part with the jury findings on which recommendations are based. For example, most of the recommendations in the case of *Out of Sight, Out of Mind: Medical Marijuana in San Luis Obispo County*, were rejected by respondents who stated "possession and distribution of marijuana violates federal law." Furthermore, four cases related to how local jurisdictions regulate medical marijuana are pending in the California Supreme Court.

¹ www.slocourts.net/grand_jury

Response Status to 2011-2012 Grand Jury Recommendations

Reports	Implemented	To Be Implemented	Under Review	Not Implemented	Total
I. Citizen Complaints and Internal Affairs Investigations	11	-	-	-	11
II. The County Jail, Juvenile Hall and Holding Cells	1	-	1	1	3
III. Are Paso Robles School Budgetary Woes a Lesson for Other Districts?	9	2	7	3	21
IV. Assessing Transparency of Community Service Districts	12*	-	-	-	12
V. Medical Marijuana in San Luis County	2	-	-	31	33
VI. Law Enforcement Property and Evidence Rooms	25	5	9	-	39
VII. City Employee Vacation and Sick Leave Accumulation Pay	13	8	1	12	34
Totals	73	15	18	47	153
*Partial Implementation by Templeton					

Following is a discussion of significant responses to recommendations contained in all seven of the 2011-2012 Grand Jury reports that required responses.

I. CITIZEN COMPLAINTS AND INTERNAL AFFAIRS INVESTIGATIONS

In 2004-2005 the Grand Jury recommended police departments in San Luis Obispo County adhere to state standards in handling citizen complaints and conducting internal affairs investigations. The 2011-2012 Grand Jury conducted a follow-up investigation to determine how police departments in San Luis Obispo County conduct investigations of citizens' complaints. This follow-up was initiated because some citizens were concerned as to their recourse to complain about police personnel and how they can file a complaint about those officers.

The conclusion of the 2011-2012 Grand Jury's investigation was that all police agencies in San Luis Obispo County are now conducting investigations into citizen complaints in a positive and effective manner and that the recommendations of the 2004-2005 Grand Jury have been implemented. Additionally, the 2011-2012 Grand Jury commended the San Luis Obispo Sheriff's Department for implementing a new Internal Affairs Unit headed by a respected veteran commander from outside the County and that incorporates new technology to improve accountability and record keeping.

Finally, the 2004-2005 Grand Jury recommended that police departments delete the admonishment on their citizen complaint report form, that a false report is a crime. The admonishment was considered to be a deterrent to citizens reporting police misconduct. All the police departments have implemented the recommendation. These actions by the Grand Jury and their implementation by the police departments in San Luis Obispo County will allow citizens to be more confident that they have recourse to complain about police conduct and those complaints will be handled in a professional manner without personal repercussions.

II. THE COUNTY JAIL, JUVENILE HALL, AND HOLDING CELLS

California State law mandates that, "The Grand Jury shall inquire into the condition and management of the public prisons within the county." The San Luis Obispo County Grand Jury follows this mandate by visiting San Luis Obispo Juvenile Hall, County Jail, and county

temporary holding facilities each year. The report of this inquiry by the Grand Jury is often merely informative, but in 2011-2012 there were three recommendations:

1. The Sheriff's Office should aggressively pursue reimbursement from Atascadero State Hospital (ASH) for medications prescribed for ASH patients who are transferred to the Jail;
2. Juvenile Hall management should take preventive and maintenance measures to address sanitation issues;
3. Courthouse Correctional Officers should explore an alternative route for wheelchair-bound prison inmates other than through public corridors.

The first recommendation is under review as the Sheriff's Office examines "proposing legislation changes to obtain relief or compensation." The second recommendation has been implemented (remedied), and the 2012-2013 Grand Jury visit confirmed this fact. The third recommendation had been "previously explored for wheelchair-bound inmates..." and had been deemed non-implementable due to "the physical layout of the Courthouse."

III. ARE PASO ROBLES SCHOOL BUDGETARY WOES A LESSON FOR OTHER DISTRICTS?

In 2011, the Paso Robles Joint School District found itself facing serious budget problems. Noting this, as well as the fact that all ten San Luis Obispo County school districts were incurring an annual deficit, the 2011-2012 Grand Jury examined the situation in order to determine if there were lessons to be learned.

The Jury concluded that, in the absence of state assistance, local governing boards must find local solutions such as governing board financial education and the development of new financial resources.

All of the responses show that the districts agree in principle with the recommendations of the Grand Jury. In those cases where immediate implementation was not considered feasible or

possible, rationale for placing them under study has been provided. Those districts that disagreed with parts of the recommendations have provided alternative courses of action. It is apparent that the purpose and intent of the report has been fulfilled. No further action is required on the part of this Grand Jury.

Although the response requests were focused primarily on the need for training school board members to budget more accurately and employ local solutions in the absence of state funding, the individual school districts chose to highlight what they considered to be a more important element of school funding: namely, the state-imposed funding reductions that occurred during the previous four years. This concern is illustrated by the comments of the various school superintendents in their individual responses.

IV. MANAGING MILLIONS: ASSESSING TRANSPARENCY OF COMMUNITY SERVICE DISTRICTS

The 2011-2012 Grand Jury investigated how readily community service district (CSD) residents in San Luis Obispo County (County) could find information on the internet about how their CSDs are governed and how their budgets are allocated. Legally required public information that must be made available to CSD residents include board agendas, minutes and budget information. Among the 15 CSDs in the County, only Los Osos and Nipomo were found to provide websites containing all of the legally required information.

A notable finding of the 2011- 2012 Grand Jury was that Avila Beach CSD, which operates on a budget of \$1.1 million and provides many vital functions for its residents, did not maintain a website. In addition, two smaller CSDs did not have websites: Linne Road with a budget of \$60,000 and Creston Hills Ranch which does not have a budget.

The 2012-2013 Grand Jury noted that Avila Beach CSD activated its website in August 2012 shortly after the publication of the 2011-2012 Grand Jury report. Linne Road has also developed a website in response to the Grand Jury recommendations.

Responses from the remaining County CSDs (California Valley, Cambria, Ground Squirrel Hollow, Heritage Ranch, Independence Ranch, Oceano, San Miguel, San Simeon, Squire Canyon and Templeton) indicated that their websites were either compliant directly before or just after publication of the 2011-2012 Grand Jury report or were updated at a later time in response to the Grand Jury recommendations. However, Templeton CSD is partially compliant in that only draft minutes appear on its website.

V. OUT OF SIGHT, OUT OF MIND: MEDICAL MARIJUANA IN SAN LUIS OBISPO COUNTY

In 1996, Proposition 215 legalized medical use of marijuana for seriously ill Californians when deemed appropriate by a licensed physician. It also ensured that patients and their primary caregivers would not be subjected to criminal prosecution if a California licensed physician recommended its use.

In 2004, the State legislature clarified Proposition 215 by enacting SB 420 which further protected authorized patients and caregivers from prosecution and stipulated physician requirements for authorizing medical marijuana to a patient.

In 2011, medical marijuana was legal in California, but the Grand Jury felt the regulation of dispensing medical marijuana in San Luis Obispo County was subjective and inconsistent. Even though a County ordinance governing medical marijuana brick and mortar dispensaries had been approved, the Board of Supervisors repeatedly rejected applications of these dispensaries. The Grand Jury also felt that medical marijuana delivery services were operating, unregulated, in the cities and unincorporated areas of the county and were being ignored by local government. Thus, safe access to medical marijuana was not ensured to those legally authorized to use it.

The 2011-2012 Grand Jury report was an attempt to inform and suggest that local governments have the ability to create order through regulation and oversight, making medical marijuana, at least at the local level, safer for those legally authorized to use it and less available to those who abuse it. The report was not intended to advocate the use of medical marijuana.

The report required responses to six recommendations be provided by the Board of Supervisors, County Health Agency and the seven cities (Arroyo Grande, Atascadero, Grover Beach, Morro Bay, Paso Robles, Pismo Beach and San Luis Obispo). Two recommendations were implemented: Arroyo Grande is amending its Municipal Code definition of a medical marijuana dispensary to include mobile collective delivery services within its jurisdiction; the Board of Supervisors had already implemented the recommendation to require medical marijuana mobile collective delivery services operating within the unincorporated areas of the County to possess a business license and seller's permit. The remaining recommendations will not be implemented because "the recommendations are not warranted." One reason given is that possession and distribution of marijuana violates federal law. Another reason given is that the California Supreme Court will review at least four cases related to how local jurisdictions regulate medical marijuana. The Board of Supervisors and cities expect the Court's rulings will clarify much of the legal confusion around medical marijuana related laws, but these rulings may not be issued for at least another year. The state's Supreme Court ruled in May 2013, to uphold the right of cities and counties to ban medical marijuana dispensaries but noted, "Nothing prevents future efforts by the Legislature, or by the People, to adopt a different approach."

All required responses have been received and no further action is required by the current Grand Jury. After the California Supreme Court rulings on related medical marijuana cases, the sitting Grand Jury may choose to revisit the 2011-2012 report and its recommendations.

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

In 2011-2012 the Grand Jury recommended to all seven police departments in San Luis Obispo County that they:

- Adhere to their respective policies relating to property/evidence room inspections;
- Complete a full audit of all property/evidence rooms;

- Provide continuing training with the County chapter of California Association for Property and Evidence (CAPE) for personnel assigned to property/evidence rooms;
- Have an operational ventilation system in their property rooms that contain drugs/narcotics; and
- Store handguns in a safe, neat and orderly manner.

All seven police departments in San Luis Obispo County have implemented all the above recommendations.

Another recommendation made was that the Sheriff's Office utilizes the service of either Police Officer Standards and Training (POST) for management assistance or a qualified consultant specializing in property/evidence room management. This recommendation will be implemented after the relocation of the property/evidence room is completed.

Upon the recommendations of the Grand Jury, the District Attorney's Office developed a formal policy that will assist law enforcement agencies with the proper retention and destruction of property/evidence. The Office also established a liaison between its office and each law enforcement jurisdiction to regularly review existing and new property/evidence laws and procedures.

VII. PAY ME NOW OR PAY ME LATER: CITY EMPLOYEE VACATION AND SICK LEAVE ACCUMULATION PAY

The 2011-2012 Grand Jury report was a study of actual employee vacation and sick leave accumulation. The report required the seven cities in San Luis Obispo County (Arroyo Grande, Atascadero, Grover Beach, Morro Bay, Paso Robles, Pismo Beach and San Luis Obispo) to respond to ten recommendations. The 2011-2012 Grand Jury concluded some cities are not in compliance with their own personnel rules, regulations and policies. It is also clear that in

some cities personnel rules and regulations have not been updated for some time. As a result, they do not reflect current practices. Paso Robles and Atascadero are in major violation of their own employee vacation accumulation policies.

The City of Paso Robles will consider whether to implement alternative accounting practices (e.g., earmarking a portion of budget reserves for future payout of accumulated vacation) in conjunction with review of the City's update of the Financial Forecast and Recovery priorities. The Grand Jury concluded that excessive accumulated vacation time places cities in financial jeopardy due to unfunded liability. Almost all accumulated time is paid off at a higher rate than when it was earned, which adds an additional financial burden on all cities. According to City Manager Jim App, Paso Robles has more than enough money to cover its liabilities in its General Fund.

The City of Atascadero has reviewed, and will continue to review, liabilities for all leave including sick leave, vacation and compensatory time, during the annual audit process. The City believes this action is sufficient and the City does not intend to undertake the time and expense involved in any further monitoring. According to City Manager Wade McKinney, there are a number of city employees who chose to perform their duties instead of taking all the vacation time to which they were entitled due to their dedication to the City. Furthermore, if these dedicated employees had taken the vacation time to which they were entitled in order to stay below the limitation amount for vacation accrual, then the City would have faced significant additional expenses including overtime expenses due to the increased workload on other City employees.

The 2011-2012 Grand Jury commended the Cities of Arroyo Grande, Grover Beach, Morro Bay, Pismo Beach, and San Luis Obispo for managing their accumulated vacation time well.

REQUIRED RESPONSES

This is an informational report. No response is required.