

CATCHING AND PASSING THE BATON: THE WORK OF THE GRAND JURY

INTRODUCTION

The mission of a Grand Jury in California, as defined in the State Penal Code, is to provide citizen oversight of governmental agencies within a county, such as cities, special districts or county agencies. Jury members identify issues they believe need attention, interview relevant parties and do extensive research. By the end of their term they issue reports and recommendations on their findings. The relevant agencies are required to respond to each recommendation noting their agreement or disagreement.

A continuity report, like this one, enables an entering Grand Jury to look back to determine if those recommendations with which the agencies agreed have been implemented, or if those with which they disagreed have received any attention. The end goal is to ensure that the work of the Grand Jury is taken seriously by the addressed agencies, and that the public is provided an update on responses.

The following informational report provides both a recap of the status of recommendations made by the 2014-2015 San Luis Obispo County Grand Jury and an update on the status of any open recommendations noted in the 2015-2016 Continuity Report.

ORIGIN

A continuity report is traditionally prepared by each year's San Luis Obispo County Grand Jury (Grand Jury).

AUTHORITY

California Penal Code sections 933 and 933.05 prescribe responses to findings and recommendations. The Grand Jury posts all its reports and each agency's response(s) online each year at http://slocourts.net/grand_jury.

METHOD

The 2016-2017 Grand Jury reviewed all official responses from all agencies in preparing this report. Agencies were asked to respond if they agree to a recommendation, mostly agree, disagree or would implement later. Their response typically included additional comments or rationale. When additional details were required, such as current status on replies where intent to implement a recommendation was earlier provided, the Grand Jury formally requested by letter an update of status.

NARRATIVE

The 2015-2016 Grand Jury issued two investigative reports requiring follow up. This report contains detailed information regarding agency responses to the 2015-2016 recommendations. In addition, the current Grand Jury followed up on 11 still-open recommendations from the 2014-2015 reports to determine if any open issues remained.

REPORT: KEEPING SUSPECTS IN JAIL: WHEN IS SCHEDULED BAIL NOT ENOUGH?

This report was conducted to determine if local law enforcement agencies are utilizing their option to request enhanced bail for arrestees when indicated to preserve public safety and increase the chances that the offender will appear in court. The 2015-2016 Grand Jury found some inconsistencies in the development of policies for requesting enhanced bail and in the training of

local law enforcement professionals in this area. The following recommendations were made to ensure all local law enforcement personnel had consistent policies to rely on and were trained in the implementation of these policies.

Recommendation 1

“The San Luis Obispo County District Attorney (DA) should coordinate the development of uniform written policies and procedures for local law enforcement agencies to make requests of the court for appropriate bail increases.” The DA, San Luis Obispo County Sheriff (Sheriff) and chiefs of police for each of the seven cities of Arroyo Grande, Atascadero, Grover Beach, Morro Bay, Pismo Beach, Paso Robles and San Luis Obispo (Seven Cities) were required to respond.

The DA partially agreed with this recommendation and is already providing guidance in this area. The Sheriff also partially agreed, and already has written policies and training in place. Most cities agreed, noting these policies and procedures are in place and well documented. A detailed table showing response by agency is found in Appendix A.

Recommendation 2

“The District Attorney should coordinate formal training programs for the local law enforcement agencies in the process of obtaining bail increases.” The DA, Sheriff and Seven Cities were required to respond.

The DA and Sheriff disagreed with this recommendation, both stating that the training of law enforcement professionals remains the responsibility of the local law enforcement agency. With the exception of Paso Robles which disagreed, the cities responded that the required training is already in place, with some cities noting that the DA has provided the templates and that it is up to their local management to make sure the proper training is in place.

Recommendation 3

“Local law enforcement agencies should work with the District Attorney in the development of the above policies and programs within the resources of their respective departments.” The DA, Sheriff and Seven Cities were required to respond.

With the exception of the DA and Paso Robles, respondents said the proper policies are in place.

Recommendation 4

“Local law enforcement agencies should rely only on California state law when considering whether a bail increase is appropriate.” The Sheriff and Seven Cities were required to respond.

All responding agencies state they are currently following California law.

Overall Assessment

Overall, agencies’ responses are in agreement with the report’s recommendations, but it should be noted that the detailed responses make clear that the agencies felt they were already following such policies. None of the responses indicated any agency would be changing its policies or practices as a result of this report’s recommendations.

REPORT: MINOR USE PERMITS: AN OXYMORON?

Acting on a citizen’s complaint concerning the notification process used in the issuance of a Minor Use Permit (MUP), the previous Grand Jury looked at the Planning and Building Department’s process for issuing MUPs. They issued five recommendations, requiring responses from the Planning and Building Department (Department), County Administrative Officer (CAO) and San Luis Obispo County Board of Supervisors (Board). The Department prepared responses to all recommendations, and the CAO and Board accepted their recommended responses as their own.

Recommendation 1

“The Board of Supervisors should fund the update of the 1980 General Plan, incorporating appropriate amendments, and make it easily accessible using an electronic search.” The Board and CAO were required to respond.

The Board approved a response prepared by the Department that this recommendation will not be implemented “because it is not warranted or is not reasonable.” To quote the Department’s

response, “It is not accurate to say that the General Plan is outdated. Due to the size and scale of the County, instead of comprehensive updates every 15-20 years, the County of San Luis Obispo has chosen the strategy to complete significant element updates on a rotational basis. The County has completed the following significant element updates in the year listed:

- Land Use and Circulation Element, 2014
- Housing, 2014
- Coastal Land Use and Circulation Element, 2011
- Open Space, 2010
- Conservation, 2010
- Safety, 1999
- Noise, 1992”

Recommendation 2

“An estimated project cost should be required on the application to assist the public in evaluating the project’s impact.” The Board, CAO and Department were required to respond.

The response from the Department and agreed to by the Board is that this recommendation will not be implemented “because it is not warranted and is not reasonable.” The Department stated, “We do not believe that project cost is a relevant indicator of project impacts. A more accurate indicator of potential project impact is a detailed project description. A detailed project description is included on every public hearing notice.”

Recommendation 3

“The Board of Supervisors should direct the Department of Planning and Building to ensure MUP fees cover all costs of the application process.” The Board, CAO and Department were required to respond.

The Department responded that this recommendation has already been implemented. “The Department already recovers full staff cost including overhead for Minor Use Permits through fee development process.” (It should be noted that the 2016-2017 Grand Jury believes the intent of the 2015-2016 recommendation differs from the interpretation made by the Department and Board.

The report focused on adding new elements to the application process that could then be covered by additional application fees. The Department did not address this issue.)

Recommendation 4

“Tier III MUP projects should mandate a public hearing and not go on the Planning and Building Department’s consent agenda.” The Board, CAO and Department were required to respond.

The response from the Department and agreed to by the Board is that this recommendation will not be implemented “because it is not warranted or is not reasonable.” The Department wrote, “The MUP process is designed to let the public decide which projects will get public hearings and which ones will remain on the consent agenda. The process works by sending all neighbors within 300 feet of the project site a notice with a detailed project description and instructions for requesting a public hearing. To request a hearing, all a neighbor or member of the public must do is send the Department a letter or email indicating his or her desire to request a public hearing on the matter. The item is then removed from the consent agenda and receives a public hearing.”

Recommendation 5

“The Department should increase public notification above what is required by the State of California as the MUP tier levels increase as follows:

- a. The fee tier level and estimated cost of the project should be on the mailer to allow the public to gauge the scope of the project.
- b. The distribution area of the mailer should be appropriately increased in accordance with the tier level.
- c. The type size of the newspaper notice should be increased in accordance with the tier level.
- d. On-site signage containing the project information should be reinstated.
- e. The applicant should be charged for all costs.”

The Board, CAO, and Department were required to respond.

The response from the Department and agreed to by the Board is that this recommendation will not be implemented “because it is not warranted and is not reasonable except for Recommendation 5e which has already been implemented.”

Overall Assessment

Both the Department and Board disagreed directly with three of the four recommendations and acknowledged that it was doing only an aspect of the fourth. This Grand Jury believes that this report raised important concerns about the County’s General Plan and would encourage future Grand Juries to consider reexamining this issue.

FOLLOW-UP TO 2014-2015 GRAND JURY RECOMMENDATIONS

The current Grand Jury reviewed the status of all responses from the 2015-2016 Grand Jury continuity report cycle in which the responding agency indicated that a previous recommendation was agreed to but not yet implemented. Based on its follow-up, the current Grand Jury determined that all agreed-to actions have been or are in the process of being carried out.

Report 1: In a State of Emergency: Assessing Fire Risk in Cambria

Follow up requested: The Cambria Community Services District (CCSD) was asked to confirm the status of a grant of \$498,000 designated to

- Improve existing fuel breaks
- Expand the fuel break program
- Remove dead and dying trees
- Remove other fire hazards such as ladder fuels and other flammable materials

Response received: CCSD clarified that the money was awarded to the San Luis Obispo County Community Fire Safe Council. This organization submitted a detailed grant allocation document, indicating the funds were directed towards the items listed in the original response.

Report 2: Making the Case for Efficiency: Maximizing Emergency Services in Cambria

Follow up requested: CCSD was asked to confirm that a multi-year plan to address fire management had been developed.

Response received: CCSD noted that the development of a multi-year plan was dependent on a decision to contract with CAL FIRE for fire management or keep it under local jurisdiction. A one-year trial was initiated, with CAL FIRE taking the lead in fire management for Cambria. At the end of the trial period, it was decided that the trial had been very beneficial, but the community would retain its independent fire department and asked CAL FIRE to also operate a fire station in Cambria. Since that decision has been made, now the multi-year plan will be addressed.

Follow up requested: CCSD and the Cambria Community Healthcare District (CCHD) should set in place funding approaches, including reserves, to update or replace fire and emergency equipment.

Response received: CCSD has sought funding to update or replace equipment. It has recently purchased a new fire engine, putting it in compliance with the requirements of the National Fire Protection Association (NFPA) 1901 Annex D, relating to vehicle and fleet replacement schedules. In addition, CCSD has hired three more full-time firefighters, putting it in line with NFPA 1901 standards. CCHD noted that a reserve/asset replacement policy is being developed which will identify the funding sources and amount of funds available for updating and replacing emergency equipment, including ambulances.

Follow up requested: CCSD and CCHD should determine how best to utilize firefighters and emergency medical services personnel within a common management organization.

Response received: CCSD replied that no joint agency has been formed because legal restrictions have not been resolved. CCHD replied that more study is required before proceeding with joining these organizations.

Report: Morro Bay Municipal Code Enforcement: Band-Aid or Progress?

Follow-up requested: The City Manager was asked to confirm the acquisition and installation of a municipal code management software package to track all code violations and that city staff has been trained on the software.

Response received: The City Manager confirmed that Morro Bay has purchased Cityworks, a software package designed to track code violations, and they have hired a consultant to implement the software suite. They have completed workflow processes for permitting, licensing and code enforcement, and the city hopes to have those operational in the months ahead. Code enforcement staff has been included in the workflow planning and is fully trained on the software process.

Report: Working or Not: Challenges in Enforcing Coastal Vacation Rental Regulations

Follow up requested: It was recommended that San Luis Obispo County, as a desirable tourist destination, develop a way to track short-term rentals and collect appropriate taxes.

Response received: Initially, the Board disagreed with the recommendation, as it was deemed not reasonable or warranted. Subsequently on November 15, 2016 the Board has changed direction and is subscribing to a service that alerts counties to short-term rental activity.

Report: We Are Waiting: Access to County-Provided Mental Health Services

Follow up requested: The Grand Jury recommended hiring additional staff to reduce the wait time to see a mental health professional. The follow-up request asked if the agency has been successful in hiring the additional staff and reducing the wait time for intake and assessment.

Response received: The agency responded that recruiting qualified individuals continued to be difficult. They are allocated 2.75 mental health nurse practitioner positions and only 1.25 are filled. They are allocated 6 mental health nurse positions and currently 4.5 of those are filled as of October 21, 2016. The wait time has been reduced for adult outpatient services by the addition of six licensed or waived mental health therapists. The wait times for assessments in the mental health programs have dropped considerably over the past three years. Wait times for initial assessments are at or below the agency's benchmark of 14 days. The wait time for psychiatric assessment is below its benchmark of 30 days. In Youth Services, the average wait time is now less than 10 days.

Report: Energy Use, Time Lost, Results Missing

Follow up requested: The CAO was asked to confirm that software to track energy use in county buildings had been purchased and that the appropriate staff had been trained in using the software.

Response received: The CAO confirmed that EnergyWise software has been purchased and installed and that the staff has been trained.

Report: California Men's Colony Inspection Report

Follow up requested: Moldy bread was seen on a tour of the California Men's Colony (CMC). CMC was asked to correct the issue.

Response received: CMC responded that it was addressing the issue of moldy bread with the supplier. CMC also reported it had detected mold in other parts of the kitchen. To remediate that issue, it is doing extensive repair work to remove and replace tainted areas.

CONCLUSIONS

A summary of the comments and responses to the 2015-2016 bail report indicates general agreement and that the agencies were already largely implementing the bail enhancement policies.

Recommendations in the 2015-2016 MUP report were largely rejected. The Board consistently agreed with the reasons for rejection as prepared by the Department.

Overall, agencies have followed through on their committed responses to the 2014-2015 reports.

REQUIRED RESPONSES

This is an informational report. No responses are required

APPENDIX A. DETAILED RESPONSES TO BAIL REPORT

This summary table recaps each agency’s response to each recommendation. For purpose of tracking, if an agency said it already complied with the recommendation, the response is shown as “agree.” If an agency plans to do more research to provide its final answer, the response is shown as “defining further.”

Agency	Recommendation 1	Recommendation 2	Recommendation 3	Recommendation 4
District Attorney	Partially agree	Disagree	Disagree	No required response
Sheriff	Partially agree	Disagree	Already in place	Didn’t understand
Arroyo Grande	Defining further	Defining further	Defining further	Defining further
Atascadero	Defining further	Defining further	Already in place	Already in place
Grover Beach	Agree	Agree	Agree	Agree
Morro Bay	Agree	Agree	Agree	Agree
Pismo Beach	Already in place	Already in place	Already in place	Already in place
Paso Robles	Partially disagree	Disagree	Partially disagree	Agree
San Luis Obispo	Agree	Agree	Future implementation	Agree
Overall comment	General agreement or already in place	DA and Sheriff disagree but cities generally agree	Only DA and Paso Robles disagree	General agreement or already in place