

CONTINUITY AND COMPLIANCE REPORT 2012-2021

MONTEREY COUNTY CIVIL GRAND JURY

SUMMARY

The grand jury is well suited to the effective investigation of local governments because it remains an independent body, operationally separate from the entities and officials it investigates. The term of each grand jury is one year.

The principal element of continuity is for a grand jury to review the responses to prior grand juries' reports: (1) to let the community know that someone is watching, (2) to publicize the responses and give credit where credit is due or admonish an agency for non-response, and (3) to keep the public informed about the continuous nature of grand jury work. Responses can take years to implement. Thus, it takes persistence by grand juries to record and publicize these achievements.

The past 10 years (2012-2021) of Monterey County Civil Grand Jury (MCCGJ) reports have been reviewed for compliance, content, and implementation. The 2021-2022 MCCGJ sent update letters to six of 51 entities to ascertain implementation of recommendations agreed upon in past Civil Grand Jury Reports or entities that never responded to their Civil Grand Jury report. These responses from the different county entities, special districts, school districts and cities could lead to new areas of investigation for future civil grand juries, if they so decide to re-investigate in the future.

GLOSSARY

BOS	Board of Supervisors of Monterey County
MCCGJ	Monterey County Civil Grand Jury

BACKGROUND

The 1849 -1850 California Constitution, Article 1, Section 23, mandates that civil grand juries are a formal body of volunteer civilians from each of California's 58 counties apply and are selected at least once a year. They publish an annual report at the end of their term with their findings and recommendations. Elected officials must respond in sixty (60) days. Entities have ninety (90) days to respond to the presiding Superior Court judge of the grand jury. These responses should include whether the entity agrees or disagrees with the recommendations made, as well as whether they have acted or will act on the recommendations. California has the last remaining comprehensive civil grand jury system in America.

Penal Code §916 authorizes the Civil Grand Jury to decide for itself what entities it feels it needs to investigate and how to do the investigation. Penal Code §933.05 requires the Civil Grand Jury to "submit to the presiding judge of the superior court a final report on its findings and recommendations that pertain to county government matters during the fiscal year."

The usefulness of the civil grand jury is embodied in its ability to illuminate issues it uncovers in its role as a watchdog on government within Monterey County. The Final Report is the vehicle used to officially release its findings and recommendations, with the substance and validity of each individual topic being subjected to thorough investigation.

Individual topics within a report are targeted at defined issues, and responses are requested from those who are legally empowered to reply to specific recommendations. While the grand jury acknowledges that compliance with recommendations is voluntary, it expects that most recommendations are accepted and implemented because respondents share the grand jury's desire to improve the functioning of government.

In *Monroe v Garrett (1971)*, it was found that in the United States' system of government a grand jury is the only agency free from possible political or official bias that has an opportunity to evaluate the operation of the government in great depth. It performs a valuable public service in presenting its conclusions drawn from that

overview. Some may conclude that the jury's findings were exaggerated or that its proposed recommendations were not warranted. The reports could provoke debate and lead to a better understanding of governmental operations. Civil grand juries should be encouraged, not prohibited.

Civil grand juries are sworn to secrecy for life in all their proceedings. Meeting minutes are not subject to subpoena and cannot be inspected by any member of the public. Confidentiality of interviewees and complainants is paramount for civil grand juries.

This Compliance and Continuity Report focuses only on the Penal Code requirements for responding to the grand jury's recommendations and implementation thereof.

Penal Code §933.05(b) states that the body or official designated in the report is required to select one of four responses to the recommendation:

- The recommendation has been implemented, with a summary of the action taken.
- It will be implemented, with a timeframe for implementation being provided.
- If a response indicated that a recommendation required further analysis or study, it must include an explanation of the scope, parameters, and timeframe of the proposed analysis or study.
- It will not be implemented because it is not warranted or is not reasonable, with an explanation to be provided.

This report looked at previous MCCGJ reports from 2012 through 2021. A continuity review of the year 2019-2020 was completed in last year's Civil Grand Jury report. This report addresses those entities which did not respond or verify implementation of specified recommendations.

METHODOLOGY

The 2021-2022 MCCGJ started this exercise by reviewing all reports listed from 2012 through 2021 to determine which required a response from a particular entity, and

to ensure compliance with the governing section of Penal Code §933.05(b). Many of the reports were accompanied by a response, but many reports had partial or no response. Six of the 51 entities received letters requesting either a formal response or verification of implementation.

DISCUSSION

This investigation found that a substantial number of the recommendations from the Grand Jury Reports have been implemented. Out of 231 entities that the Grand Jury required responses from, only 51 have not complied with the requirements of Penal Code §933.05(b). Situations occurred where:

- entities disagreed regarding responsibility for implementing recommendations,
- entities claimed that other entities needed to enact ordinances or the State to enact laws or funding to be approved,
- entities reported that further analysis was needed with no period specified as required,
- recommendations were implemented later than agreed to,
- implementation dates were agreed upon, but the Civil Grand Jury could not verify them.

Not all past MCCGJs have investigated the previous year's reports to see if identified entities responded, implemented, and verified recommendations. The 2021-2022 MCCGJ also looked at the previous 10 years of reports and required responses and implementations.

The 2021-2022 MCCGJ takes seriously its obligation to investigate issues that affect our county and municipal government operations. MCCGJ expects responding entities to fulfill their obligation under Penal Code §933.05. The expectation is that each entity will respond in a timely manner, addressing each finding and recommendation, as required by law.

Failure to respond as required undermines the civil grand jury system and its ability to support government entities by making recommendations which could result in

improved governmental effectiveness and efficiency. Failure to respond does not allow the public or future civil grand juries to know if their recommendations are being implemented.

In publishing this data, it is hoped that future respondents to MCCGJ reports will be encouraged to comply with the California Penal code. It is expected that future grand juries will remain vigilant about the continuity of civil grand jury reports. Residents of Monterey County deserve nothing less.

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.

BIBLIOGRAPHY

MCCGJ website for 2012 through 2021 reports and some responses.

<https://www.co.monterey.ca.us/government/participate-get-involved/civil-grand-jury>

MCCGJ report 2002-2003

<https://www.monterey.courts.ca.gov/GrandJury>

San Mateo County Civil Grand Jury report 2015

sanmateocourt.org/court-divisions/grand-jury

California Civil Grand Jury Association website

cgja.org/sites/default/files/the-california-grand-jury-system-edition3.pdf

APPENDICES

- APPENDIX A: 10-year review of MCCGJ reports (2012-2022) by the numbers
- APPENDIX B: List of Past Ten-Year Entities pending responses/implementation verification
- APPENDIX C: Sample Letters sent to six sample entities: a) did not respond b) did not implement
- APPENDIX D: Graphs showing reports, recommendations, responses, and entities

APPENDIX A: 10-year review of MCCGJ reports (2012-2022)

Year/Number of Reports	# FINDINGS	# RECOMMENDATIONS	# Entities
2012-2013 - 9 reports	53	43	22
2013-2014 - 12 reports	89	53	18
2014-2015 - 14 reports	154	132	22
2015-2016 - 7 reports	74	78	37
2016-2017 - 11 reports	66	23	22
2017-2018 - 7 reports	75	56	39
2018-2019 - 7 reports	98	67	37
2019-2020 - 7 reports	78	49	23
2020-2021 - 6 reports	47	28	11
2021-2022 - 7 reports	Pending	Pending	Pending
TOTALS - 87 reports	749	529	231

APPENDIX B: List of Past Ten-Years Entities pending Responses and implementation verification

Cities

Carmel	Del Rey Oaks	Gonzales
Greenfield	King City	Marina
Monterey	Pacific Grove	Salinas
Salinas Police Dept.	Sand City	Seaside

County

Animal Control	Auditor-Controller
Board of Supervisors	District Attorney
Jail	Office of Education
Sheriff Office	Human Resources South County Use Permit Center

School Districts

Alisal Union	Big Sur Unified
Bradley Union	Carmel Unified
Chualar Union	Graves Elementary
Gonzales Unified	King City Union
Lagunita Elementary	Mission Union
Monterey Peninsula College	Monterey Peninsula Unified
North Monterey County Unified	Pacific Grove Unified
Salinas City Elementary	San Antonio Union
San Ardo Union	Soledad Unified
South Monterey County Joint Union High	Spreckels Union School District

Special Districts

Chualar Sewer	Marina Coast Water
Monterey Airport	Monterey Peninsula Water Management
North Salinas Mosquito Abatement	Salinas Valley Solid Waste Authority
South Monterey County Use Permit Center	

APPENDIX C(i): Sample letter sent to identified entity with past due

Response

(Date)

(Official's name and title)

(Entity)

(Entity's address)

Re: Your Response to (Title of grand jury report and its release date)

Dear (Name of official):

Neither the Superior Court nor the Grand Jury has received your response to the above-titled report, as required by Section §933(c) of the California Penal Code, quoted below.

Please advise us within 10 days of the date of this letter as to the date you will submit this response to the court and the Grand Jury.

We would also like you to be aware that it is our policy to indicate on the Grand Jury's website those responses that are past due or non-compliant. This status will be changed once a response is received or amended.

Sincerely,

(Signature)

(Name), Foreperson

FY (Name) Grand Jury

California Penal Code §933, subdivision(c) (excerpt, emphasis added)

(c) **No later than 90 days** after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment **within 60 days** to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls.

APPENDIX C(ii): Sample letter sent to identified entity with past due need for verification of implementation.

(Date)

(Official's name and title)

(Entity)

(Entity's address)

Re: Your Response to (Title of grand jury report and its release date)

Dear (Name of official):

The Grand Jury received your response to the above-titled report and finds that it does not comply with the requirements of Section §933.05 of the California Penal Code in the following respects:

Response to Recommendation (insert number): A response of "has been implemented" must include a summary regarding the implemented action, and your response failed to include such a summary.

Attached is an excerpt of Section §933.05 for your reference.

The Grand Jury requests that you resubmit your response in its entirety within ten days of the date of this letter, following the directions contained in the original letter of transmittal.

We would also like you to be aware that it is our policy to indicate on the Grand Jury's website those responses that are past due or non-compliant. This status will be changed once a response is received or amended.

Sincerely,

(Signature)

(Name), Foreperson

FY (Name) Grand Jury

Penal Code §933.05 (excerpt)

Subdivision (b) of §933.05 of the California Penal Code (excerpt, emphasis added)

For purposes of subdivision (b) of Section §933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, **with a timeframe** for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a **timeframe** 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.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation, therefore.