

**TRINITY COUNTY GRAND JURY
2010-2011**

FILED

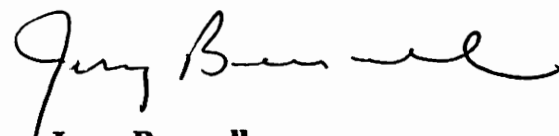
JUN 17 2011

CLERK OF THE SUPERIOR COURT
COUNTY OF TRINITY
BY: STACI WARNER, DEPUTY CLERK

**Continuity Committee
COR 2010/2011-001
Final Report**

**Continuity Report for Year 2009-2010
Grand Jury Deadlines Pass Without County Response**

Approved June 7, 2011



**Jerry Brasuell
Foreperson**

2010-2011 Trinity County Grand Jury

Continuity Committee

Continuity Report

Grand Jury Deadlines Pass Without County Response

Summary

The 2010-2011 Trinity County Grand Jury Continuity Committee (Committee) reviewed the last five years' Grand Jury Reports; paying particular attention to the 2009-2010 reporting year, assessing the compliance with California Penal Code 933.05 and Trinity County Policy Statement 3-90(P). The Grand Jury determined that some of the responses were either non-compliant and/or late based on the requirement of the referenced codes. The Committee will be primarily addressing, in this report, the timeliness of the responses. The non-compliance issues were mainly because of the lack of proper response format and content. The Committee hopes by taking this opportunity to educate the responders, it will produce future responses that are compliant with the law and are received by the deadlines set forth.

Background

Each year the Grand Jury is impaneled starting July 1st and ending June 30th of the following year. The Grand Jury investigates and reviews selected areas of county governments and citizen complaints. The Findings and Recommendations are sent to the various department heads, elected officials and special districts. Each is required to respond to the report within a certain time frame and in a specified format. After all responses to the reports are received, they are compiled into a Final Report for publication and released to the public.

Discussion

Respondents are required to respond in writing to the Findings and Recommendations, to the Presiding Judge of the Superior Court, within the time frame stated in California Penal Code 933.05 and Trinity County Policy Statement 3-90(P). (See attached California Penal Code and Trinity County Policy Statement.)

When a report is received, it is supposed to be reviewed by the Grand Jury for correct content and time frame compliance. Any deficiency is supposed to be noted and the department, or elected official, is to be notified of the deficiency. This has not been consistently done by the Grand Jury.

The research pointed out that some departments were not familiar with the above referenced law, both in respect to the content of the responses and the time frame deadlines. It was especially notable in successive years that more and more of the reports did not contain the proper guideline format responses, and were becoming later and later in meeting the deadline. The statistics unmistakably point out that response deadlines were being missed by the majority of departments.

The 2009-2010 Grand Jury sent out 17 reports. Three of the reports did not require a response. The remaining 14 reports required 39 responses from the various entities. Three required responses were never received, eight responses were submitted prior to the deadline date, 21 responses were past the deadline and four were more than four months past the deadline. This denotes a serious problem.

The research distinctly indicated that the parameters of the response guidelines were not met.

Findings and Recommendations

Finding 1:

It is evident that some departments are unfamiliar with the time frame response deadlines, and are also not familiar with the response guideline requirements.

Action Taken:

The Grand Jury sent a letter addressing the non-compliance issues with the reports, and included a copy of the State Penal Code and the Trinity County Policy Statement to all departments, elected officials and special districts.

Finding 2:

Every Trinity County Grand Jury has handled the Continuity Committee in a different manner, and some years has not formed one at all.

Recommendation 2:

A letter will be sent to next year's Grand Jury Foreman emphasizing the importance of the role of the Continuity Committee. It is recommended that a Continuity Report be included in the Final Report published for public perusal.

Responses Required

In accordance with California Penal Code 933.05 a response is required as indicated.

NONE

Appendices

California Penal Code 933.05

Trinity County Policy Statement 3-90 (P)

CALIFORNIA PENAL CODE 933 - 933.05

933

933. (a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(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. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

933.05

933.05. (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) 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 therefor.

(b) 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.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, 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.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

H. Policy Statement #3-90(P)/Responses To Final Report

**POLICY STATEMENT NO. 3-90 (P)
POLICY STATEMENT RE PROCEDURE FOR COMMENTING
TO GRAND JURY REPORTS AND
THE MANAGEMENT REPORT OF THE ANNUAL COUNTY AUDIT**

In order to establish a uniform procedure for the preparation and filing of comments to Grand Jury Reports, and the Management Report of the Annual Audit, it is the policy of the Board of Supervisors that the following steps be followed:

Grand Jury Reports:

1. Upon receipt of a final or interim report as provided in Section 933 of the Penal Code, the County Clerk will distribute copies to the members of the Board of Supervisors, the County Administrative Officer, and all affected departments. The Clerk shall establish a timetable for response to the report to comply with the 90 day limitation for the Board of Supervisors and the 60 day limitation for Elective Officers and appointed Department Heads.
2. The County Administrator shall be responsible for the preparation of the response to the recommendations and findings of the Grand Jury.
3. Comments shall be due from affected department heads within 30 days. Upon receipt, the Clerk shall immediately forward copies to the County Administrative officer, Grand Jury and the Superior Court Judge.
4. The County Administrative Officer will review all departmental responses for adequacy and completeness and may comment on the responses but shall not alter them.
5. The County Administrator, in coordination with members of the Board of Supervisors, shall prepare a final draft response which shall be scheduled on the Board agenda for discussion and approval in adequate time to meet the 90 day time frame required by Penal Code Section 933.
6. Upon adoption by the Board, the Clerk will file the original and furnish copies of the response, together with all departmental

responses, to the Superior Court Judge, the Grand Jury and others specifically requesting copies.

The response shall reflect substantially the following:

1. As to each finding, whether the responding department agrees with or disputes the finding. If the finding is disputed, an explanation of the dispute should be provided.
2. To enable each Grand Jury to track its recommendations, the response shall indicate that the recommendations:
 - A. Have been implemented. Provide a summary of significant detail.
 - B. Will be implemented. A time frame for implementation is required.
 - C. Requires further analysis. Detailed outline required showing the scope and parameters of the study.
 - D. Is not feasible. Explanation required.
3. Responses shall be brief and to the point. Each finding and recommendation shall be replied to separately.

Management Reports, Annual Audit:

1. Upon receipt of the Management Report, the County Clerk will distribute copies to the members of the Board of Supervisors, the County Administrative Officer, the Auditor/Controller, the Foremen of the Grand Jury and all affected departments. The Clerk shall establish a timetable for response to the report.
2. Comments shall be due from affected department heads within 30 days. Upon receipt, the Clerk shall immediately forward copies to the County Administrative Officer, the Auditor/Controller, the Grand Jury and the Board of Supervisors.
3. The Management Report and Responses shall be filed in the Office of the County Clerk.

ADOPTED: July 17, 1990

/s/ Howard G. Myrick
Howard G. Myrick - Chairman
Board of Supervisors, County of
Trinity, State of California.