

2011-2012 GRAND JURY

COR-2011-2012-001

REPORT

Response Problems

**GRAND JURY
FINAL REPORT**

**TRINITY COUNTY GRAND JURY
2011-2012**

FILED

APR 23 2012

**Continuity Committee
COR 2011/2012-001**

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

Final Report

**Continuity of Last Year's Grand Jury Reports
2010-2011**

**Over Due
Under Done**

Approved 4/11/2012


**Patricia Zugg
Foreperson**

Trinity County Grand Jury Report

Continuity Committee

COR 2011/2012-001

Summary

The 2010-2011 Trinity County Grand Jury formed a standing "Continuity Committee" to track the reports generated by the Grand Jury, and the responses to those reports, as required by the California Penal Code Section 933-933.05 and Trinity County Policy Statement 3-90 (P). The Grand Jury of 2011-2012 has continued with the standing committee as recommended by the outgoing Grand Jury.

The Penal Code clearly states what the content of a response is to be and sets forth the time limits: 60 calendar days for departments/agencies, or 90 calendar days for governing bodies from the filing date. The responses are to be sent to the Presiding Judge. The County Policy also concisely states when copies of the responses are to be distributed to the Presiding Judge, the Grand Jury and the County Administration Officer.

The Grand Jury found of 20 report respondents, eleven (11) were done in a timely manner and two (2) were asked to resubmit their responses. As of the writing of this report, two (2) responses were more than 90 days late, two (2) responses were 280 days past their due date and five (5) responses have not been received at all, for a total of 45% non-compliant. This is an actual violation of the referenced California Penal Code Section 933 (c). Some of this could be accounted for by the absence of a tracking system between the primary entities involved in the grand jury report process.

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 all detention facilities within the County, selected areas of county government, special districts and citizen complaints, as required by law.

The reports are sent to the appropriate respondents, elected officials or special districts. Each are required to respond to the report's "Findings and Recommendations" within a specified time (60 or 90 days) and in a specified format. After all responses to the reports are received they are compiled into a Final Report for publication and made available to the public.

Method of Investigation

The Trinity County Grand Jury Continuity Committee for 2011-2012:

1. Attended Board of Supervisor's meetings.
2. Kept a tracking sheet in order to check the timeliness of responses.
3. The responses were reviewed to assess if the content met the requirements of the law.
4. Conducted confidential interviews with relevant persons.

Discussion

This report assesses last year's responses to Grand Jury 2010-2011 reports.

Respondents are required to send their reply to the "Findings and Recommendations" of the report within the time frame stated in California Penal Code Section 933, and Trinity County Policy Statement 3-90 (P) to the Presiding Judge of the Superior Court (see Appendix).

When a response to the report is received, it is reviewed by the Grand Jury for correct content, and time frame compliance. Any deficiency is noted and the department/agencies or elected officials, is to be notified of the deficiency. The lack of compliance for both the California Penal Code and the County's own Policy Statement impedes the Grand Jury process.

The Trinity County Policy Statement 3-90 (P) clearly states on the first page (Item Three (3)) that a copy will be provided to the Grand Jury at the same time as a copy is provided to the Superior Court. This is not being done.

An interconnected tracking system that meets the needs of the Court Services, the Chairman of the Board of Supervisors, and the County Administrative Officer (CAO), is non-existent.

A copy of both the referenced California Penal Code and the Trinity County Policy Statement were included in the 2010-2011 Grand Jury report, "Continuity Committee, COR 2010/2011-001 with the title '*Deadlines Pass Without County Response*'". Prior to the report, a letter (see Appendix) was issued last year to all applicable parties addressing the non-compliance issues and included a copy of the referenced Penal Code and Policy Statement.

Findings and Recommendations

Finding 1:

As of the writing of this report, two (2) responses were received 90 days past their due date, two (2) were received 280 days past their due date and five (5) responses have not been received at all (45%), which is non-compliant with the Penal Code Section previously cited.

Recommendation 1:

Identify and correct the reasons the reports are not being responded to in a timely manner by the Penal Code mandated time frame.

Finding 2:

Copies of report responses are not being provided to the Grand Jury as required in the County's Policy Statement 3-90 (P) per Item Three (3).

Recommendation 2:

Provide copies of the response to the Grand Jury as set forth in the identified Item Three (3) of the County Policy Statement.

Finding 3:

An interconnected tracking system that meets the needs of the primary entities is non-existent. This adds to the County's inability to comply with the law as stated in the Penal Code Section 933 (c).

Recommendation 3:

The Court Services, the Chairman of the Board of Supervisors, and the CAO, working in conjunction, should create a interconnected tracking system that will facilitate the time frame requirements of the law.

Responses Required

In accordance with the California Penal Code Section 933.05, a response is required as indicated below:

Respondent	Findings/Recommendations	Due Date*
Court Services	3	60 days
CAO	1,2 & 3	60 days
Board of Supervisors	1,2 & 3	90 days

*Number of days after filing date of this Grand Jury report

The governing bodies indicated above should be aware that comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

Appendix

Letter with attached California Penal Code and Trinity County Policy Statement 3-90(P)



TRINITY COUNTY

TRINITY COUNTY GRAND JURY

P.O. Box 2308

Weaverville, CA 96093

DATE: May 12, 2011

TO: Trinity County Board of Supervisor
Trinity County Department Heads
Special Districts

FROM: Trinity County Grand Jury

RE: Report Response Process

The 2010-2011 Trinity Grand Jury has reviewed the responses to the reports initiated by the 2009-2010 Grand Jury and has determined that some of these responses were non-compliant and/or delinquent.

California Penal Code 933 through 933.05 and Trinity County Policy Statement #3-90 (P) specify the time frame, structure, and other legal requirements for all responses to Grand Jury reports.

For your review and information attached are copies of the referenced County Policy and California Penal Code.

All future responses to Grand Jury reports must comply with the guidelines and codes detailed in these documents.

Thank you for your cooperation in this important matter.

Sincerely,

Jerry Brasuell

Foreman

Trinity County Grand Jury

cc. Judge James Woodward

Attachment: Trinity County Policy Statement #3-90 (P)
California Penal Code 933 - 933.05

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.