

Grand Jury Continuity Report

Report of the
2000-2001 San Francisco Civil Grand Jury

SUMMARY

The 1999-2000 Civil Grand Jury (CGJ) published 16 reports on August 23, 2000. These reports covered the functions of various city agencies, evaluated their performance and made recommendations in accordance with CGJ investigative findings. In accordance with California State law, these recommendations must be responded to within either 60 or 90 days, depending upon the type of agency.

The 2000-2001 CGJ created a Continuity Committee to follow through on the issues and recommendations raised by the 1999-2000 CGJ reports. At the end of the 90-day response deadline, responses were tabulated. For agencies that had not responded, a letter was sent from the Presiding Judge, encouraging response.

A number of late responses subsequently were received. One of the belated agency responses was from the San Francisco Film and Video Commission (SFFVAC). We noted a strong contrast between the CGJ recommendations and the SFFVAC responses, which warranted additional review. The results of this review are presented separately as one of the series of this year's CGJ reports.

The CGJ recommends that:

The Board of Supervisors develop a change to Board of Supervisors Rules to provide written guidance to the Clerk of the Board regarding methods by which to provide required written responses to CGJ recommendations.

The Board of Supervisors develop a change to Board of Supervisors Rules to provide written guidance to the Clerk of the Board regarding methods by which to ensure that required hearings are held regarding CGJ reports.

BACKGROUND

Typically, a CGJ's reports are published following the end of its term. Each report lists required responses from any number of agencies. In accordance with California Penal Code Section 933(c), responses are required within either 60 or 90 days following publication of the CGJ reports, depending upon certain specified criteria (Attachment 1).

A given CGJ's term ends on June 30, and a new CGJ is impaneled in the first week of July. Due to this timing, if any CGJ recommendations have not been responded to by City departments and officials, there has been little or no follow up.

Section 2.10(b) of the Administrative Code requires the Controller to report on the implementation of CGJ recommendations no later than one year following issuance of the report(s). Controller's Office personnel send out requests for updates regarding the actions taken in response to the recommendations. However, not all of these follow up requests have been successful with respect to eliciting responses from these agencies.

In addition to required responses, Administrative Code, Section 2.10(a), requires that the Board of Supervisors hold public hearings for final CGJ reports (Attachment 2). Our review indicates that only one 1999-2000 CGJ report, "Juvenile Justice (CARC)"

received a hearing. This hearing occurred at a meeting of the Economic Vitality, Small Business and Social Policy Committee on March 6, 2001.

The 2000-2001 CGJ created a Continuity Committee to follow through on the issues and recommendations raised by the 1999-2000 CGJ report. The scope of this committee was:

To ensure that all departments were made aware of their requirement to respond to the recommendations made by the previous year's CGJ report.

To apprise the Board of Supervisors of their responsibility to hold hearings concerning the previous year's CGJ reports and to elicit their cooperation in this regard.

To follow up and elicit responses from non-responding departments, first by telephone and then, if necessary, by official letters of reminder.

To evaluate the recommendations of the previous year's CGJ reports and determine if further examination was warranted based upon the responses.

To encourage future CGJs to maintain a historical file regarding these responses. This process allows grand jurors to gain a more thorough understanding of the past relationships between earlier grand juries and various agencies.

At the end of the 90-day response deadline, responses were tabulated. For agencies that had not responded, a letter was sent from the Presiding Judge, encouraging response (see Attachment 3 for letter template).

The only exception to this was the Board of Supervisors. Rather than send a letter to the Board, the CGJ met individually with most of the Supervisors to provide information as to the CGJ's goals. We also noted that the Board had neither responded in writing to the various recommendations from the 1999-2000 reports, nor had hearings on them as required by Administrative Code, Section 2.10(a).

With the exception of the "Neglect of Reporting Requirements" report, at the end of the 90-day response deadline 29 agencies had failed to respond to the recommendations of the 1999-2000 CGJ reports. Letters were sent to 71 agencies from the Presiding Judge for failure to respond by the statutory deadline. A number of late responses subsequently were received.

"Neglect of Reporting Requirements" required approximately 250 responses and less than 10% of these recommendations still require a response. The most notable of those failing to respond are the District Attorney and San Francisco Housing Authority; most of the agencies failing to respond are quite small and have limited jurisdiction (e.g., task forces or advisory committees).

One of the belated responses to the CGJ reports was from the SFFVAC, dated January 9, 2001. Upon reading both the report and this response, the 2000-2001 CGJ noted a strong contrast between the recommendations made and responses given. This appeared to warrant additional analysis, and we decided to continue a business review of the SFFVAC.

The creation of the Continuity Committee provided the 2000-2001 CGJ with the opportunity to ensure receipt of responses to the 1999-2000 CGJ recommendations, as well as the ability to review and access these responses for possible follow-up. The CGJ believes this ability to be a vital tool in terms of ensuring accountability from those areas of government that have been examined and encourages the continuation of the Continuity Committee by future CGJs.

ADVICE TO FUTURE GRAND JURIES

In order to facilitate a Continuity Committee, the 2000-2001 CGJ advises future CGJs that:

A CGJ Continuity Committee be a regular standing committee.

The CGJ Secretary or other willing juror chair the Continuity Committee and be responsible for monitoring the status of required responses.

Reports should be made regularly to the CGJ and Presiding Judge on late responses during the CGJ term. Agencies failing to respond should receive telephone reminders, followed by a formal letter from the Presiding Judge, if necessary.

The results of Continuity Committee actions should be included as a part of future Civil Grand Jury Final reports.

The CGJ review the received responses and, if warranted, consider selecting one or more reports for continued investigation (i.e., the 2000-2001 CGJ selection of the 1999-2000 CGJ SFFVAC report).

FINDINGS AND RECOMMENDATIONS

1. Finding: After meeting with individual members of the Board of Supervisors, the CGJ has yet to receive a written response to the 1999-2000 CGJ reports from the Clerk of the Board of Supervisors.

Recommendation: The CGJ recommends that the Board of Supervisors develop a change to its "Rules of Order", perhaps Section 5.7, to provide guidance to the Clerk of the Board regarding methods by which to provide required written responses to CGJ reports.

Required Response

Board of Supervisors - 90 Days

2. Finding: The Board of Supervisors has not held hearings regarding many of the 1999-2000 CGJ reports, contrary to the Administrative Code, Section 2.10(a), requirement to do so.

Recommendation: The CGJ recommends that the Board of Supervisors develop a change to its "Rules of Order" perhaps Section 5.7, to provide guidance to the Clerk of the Board regarding methods by which to ensure that required hearings are held regarding CGJ reports.

Required Response

Board of Supervisors - 90 Days

ATTACHMENT 1

CALIFORNIA PENAL CODE SECTION 933(c)

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 county clerk and remain on file in the office of the county clerk. The county 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. (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 therefor. (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 decisionmaking 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.

ATTACHMENT 2

ADMINISTRATIVE CODE, SECTION 2.10

SEC. 2.10. PUBLIC HEARINGS - REPORTS SUBMITTED BY THE CIVIL GRAND JURY

(a) A public hearing by a committee of the Board of Supervisors shall be conducted to consider a final report of findings and recommendations that is submitted by the civil grand jury to the Board of Supervisors. The Clerk of the Board of Supervisors shall notify the current foreman of the civil grand jury and the immediate past foreman of the civil grand jury of any such hearing that is scheduled by the Board of Supervisors.

(b) The Controller shall report to the Board of Supervisors on the implementation of recommendations that pertain to fiscal matters that were considered at a public hearing. The report by the Controller shall be submitted no later than one year following the date of the public hearing. (Added by Ord. 205-95, App. 6/16/95)

ATTACHMENT 3

LATE RESPONSE TEMPLATE LETTER

Date

Name

Title

Address

San Francisco, CA 9_____

Dear _____:

To date I have not received the response of (name of department, office, agency, etc.) to the recommendations of the 1999-2000 Civil Grand Jury reports, which were released August 23, 2000. Your response was to be submitted to me by (day, month, 2000) (within 60 or 90 days), pursuant to Penal Code Section 933 and in conformity with Penal Code Section 933.05 (the text of these Sections are attached).

Because your response is now overdue, the Civil Grand Jury has requested that I contact you regarding this matter. As a courtesy, I am writing to request that you voluntarily comply with the requirements of the above statutes by submitting your overdue response to me in order to avoid the necessity of the Court having to pursue other legal remedies to ensure compliance.

Specifically, please respond to the following reports and recommendations:

Report Title Recommendations

(name) (1, 2, 5, 7,)

We expect your anticipated cooperation and prompt attention in this matter. Should you have any questions, please feel free to call (court coordinator) at (415) 551-3065.

Sincerely,

Hon. (name)
Presiding Judge