

Accessibility of Citizen Complaint Forms: Continuation of Civil Grand Jury Initiative

During the 2023-2024 term, the MCCGJ continued the initiative from the 2022-2023 MCCGJ to improve access to Civil Grand Jury complaint forms. The previous Civil Grand Jury made hard copy complaint forms available at the Mariposa County Library, since complaint forms were only available online. This way, anyone, regardless of internet access, is able to obtain a complaint form and provide their input to the MCCGJ. To take this initiative a step further, the MCCGJ made hard copy complaint forms available at the Coulterville library, known as Red Cloud Library/Greeley Hill Branch in northern Mariposa County.

Misunderstandings of a Civil Grand Jury

Throughout its term, the 2023-2024 MCCGJ found that there seemed to be a widespread misunderstanding regarding the jurisdiction of a Civil Grand Jury and its powers. Some of this discussion is included in the Introduction section above and the Continuity Report below, however the MCCGJ thought it would be pertinent to attempt to demystify opinions around a Civil Grand Jury and its purpose. During the 2023-2024 term, MCCGJ received multiple complaints that were not under the jurisdiction of a Civil Grand Jury. The MCCGJ was met with a general reticence, if not fear, of the implications of being interviewed or questioned by a Civil Grand Jury.

Per California Penal Code Section 888, Civil Grand Juries do not have jurisdiction over criminal matters, like extortion or embezzlement. Separate *Criminal* Grand Juries are formed for these situations. Civil Grand Juries are empaneled to evaluate the local government procedures, methods, and systems for efficiency as a “watchdog” of the community. Furthermore, case law, specifically the *Board of Trustees of Calaveras Unified School District v. Leach*, restricts the Civil Grand Jury from investigating or commenting on the wisdom or merit of policy decisions. MCCGJ’s sole responsibility is to investigate the efficiency of current County process and procedures, such as how a building permit is processed or the procedure for training a staff member. Therefore, any criminal concerns that are uncovered during the course of an investigation or inquiry are forwarded to the District Attorney for further examination. Issues like staff misbehavior, code violations, or neighborly quarrels, are not under the jurisdiction of a Civil Grand Jury. The singular exemption is Penal Code Section 919(c) that mandates the grand jury to inquire into the willful or corrupt misconduct of any public officer or elected position. This accusation function of a Civil Grand Jury is further restricted by Government Code Section 3060 to 3075.

Per Penal Code Section 924.1, specific information discovered by the Civil Grand Jury, and not included in a report or validated, remains confidential for life. All Civil Grand Jury proceedings are conducted in secrecy to retain the integrity of the information that a Civil Grand Jury may uncover and protect interviewees. The report cannot name individuals or include “raw evidence.” Therefore, if an individual chooses to offer potentially controversial information to the Civil Grand Jury, the individual should not experience backlash or repercussions. The report will not provide enough detail to identify the individual nor particular actions. Although a Civil Grand Jury is entitled receive the information that it requests, the unwillingness to offer information based on the potential for negative consequences is misguided.

It is never the intent of a Civil Grand Jury to disparage the hardworking staff in our County that are committed to public service. The objective is to provide clarity on some of the systemic process and procedure issues that prevent the effective delivery of County services and improve the public’s trust in County government. County staff is likely already aware of the issues raised in this report. In fact, there

may already be solutions underway. By law, the intent of the report is to summarize the Civil Grand Jury's verified facts and findings discovered throughout the term of service; and present this information to the public as a third-party observer or "watchdog" of the community.

Continuity Report

This Continuity or Compliance Report is not intended to pass any judgement on the Board of Supervisors for their responses to the 2022-2023 Mariposa County Civil Grand Jury final report. The Civil Grand Jury would like to take the opportunity to express gratitude to the Board of Supervisors (BOS), their staff, and the Sheriff's Office (SO). While it is unfair to characterize the responses from the Board of Supervisors as anything but an honest effort to apply the correct Penal Code response (Section 933.05 (a)(b)) to all the findings and recommendations, more action is needed to comply with the Penal Code for all future responses to Civil Grand Jury reports. This will ensure that the Civil Grand Jury can continue to complete its job of recommending improvements to County Policies and Procedures with integrity and accuracy.

METHODOLOGY

The 2023-2024 MCCGJ reviewed the previous 2022-2023 Civil Grand Jury Final Report as well as the responses from the SO and the BOS. The MCCGJ also attended or listened to the August 15th, 2023, BOS meeting during which the BOS approved their response to the Civil Grand Jury Final Report and accepted public comment on the matter. In addition, MCCGJ reviewed a number of other counties' Civil Grand Jury final reports, the responses given, and other Grand Juries' Compliance/ Continuity Reports. This Compliance Report focuses only on the Penal Code requirements for responding to the Civil Grand Jury's findings and recommendations. In reviewing these responses, we used the following format to determine whether the responses met the word as well as the intent of the Penal Code Section 933.05; "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 thereof. 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 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."

DISCUSSION

MCCGJ reviewed the 2022-2023 MCCGJ Final Report which consisted of thirteen (13) individual reports and forty-eight (48) findings and fifty-eight (58) recommendations. We found the responses to be on-time from both the SO and the BOS. The format of the responses from the BOS were somewhat confusing and difficult to follow, whereas the responses from the SO were proper in format according to the California Penal Code (933.05 (a)(b)).

Our concerns involve the alleged widespread disregard and failure to honor admonishment and confidentiality requirements, as part of the BOS response(s), and a lack of training for County staff in the requirements of the California Penal Code, which dictate the rules and procedures surrounding Civil Grand Jury communications. MCCGJ became aware of the failure to honor admonishments and resulting confidentiality/secrecy agreements when the BOS wrote in their response that a County staff member stated they did not respond to the MCCGJ because “they learned that another department had received an identical request and provided the requested information.” While this may have been an innocent discussion between colleagues, this type of communication regarding Civil Grand Jury proceedings is not allowed by the by the Penal Code and can result in a misdemeanor. It might have been averted if County staff were trained in the requirements of the Penal Code, especially when communicating with the Civil Grand Jury.

This Compliance Report is meant to discuss and recommend on what we perceive as some deficiencies in County government as it relates to confidential and clear communications with the Civil Grand Jury.

FINDINGS		RESPONSES
F1	There is no training for County staff on how to respond to requests and or inquiries from the Civil Grand Jury in compliance with the California Penal Code leading to inconsistencies from year to year in responses to Civil Grand Jury final reports	
F2	Board of Supervisors has blocked invited responses from Civil Grand Jury giving an impression of not wishing to hear from other individuals.	
RECOMMENDATIONS		RESPONSES
R1	County Counsel should develop and provide educational material for Board of Supervisors, Directors and staff for how to affectively work with civil grand jury in the next six months,	

R2	Board of Supervisors should welcome comment from any named invited responses.	
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The following governing boards are required to respond within 90 days pursuant to Penal Code sections §933 and §933.05:

Board of Supervisors: F1, F2, R1, R2

The following appointed officials are invited to respond within 60 days:

County Counsel: F1, R1

Per Penal Code §933.05(a)(1) and (2), responses must include acceptance, refutation, and/or clarification of the findings, and a commitment to implementing the recommendations, as appropriate, per Penal Code §933.5(b)(1)(2)(3) and (4).

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 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

1. Pan, Muzhe, et al. "Problems and Strategies of Allocating Public Service Resources in Rural Areas in the Context of County Urbanization." *International Journal of Environmental Research and Public Health*, PubMed Central, 7 Nov. 2022, www.ncbi.nlm.nih.gov/pmc/articles/PMC9656279/.
2. 2022-2023 Mariposa County Civil Grand Jury Final Report