

---

**TRINITY COUNTY GRAND JURY  
2016-2017**

RECEIVED

JUN 23 2017

TRINITY COUNTY  
SUPERIOR COURT

**CONTINUITY COMMITTEE  
FINAL REPORT  
COR 2016-2017-001**

**GRAND JURY CONTINUITY REPORT**

Approved May 26, 2017

Reviewed 6/23/17  
Judge [Signature]

# **COR2016-2017-001 Grand Jury Continuity Report**

## **SUMMARY**

The power of the Grand Jury rests in its final report(s); however, the Grand Jury has no enforcement powers. A former presiding judge stated, "You, the Grand Jury, can only shed a bright light on the issue." The Grand Jury's governmental oversight role can only be effective through consistent follow-up.

The Grand Jury reports contain findings and recommendations pertaining to county government, city governments, joint powers agencies, or any other appropriate subject. (PC §925 et seq. & §933 et seq.). Each Grand Jury report may require responses to its findings and recommendations from government agencies. Therefore, subsequent Grand Juries diligently review all the agencies' responses from the preceding year for their adequacy. The current Grand Jury follows up with the agencies to ensure agreed upon actions are implemented. This follow-up is the only way the Grand Jury's legacy of improved service to the public is carried out.

The County Grand Jury Continuity Committee (Committee) reviewed the last year's responses to Grand Jury reports. In particular it assesses compliance with California Penal Code 933.05 and Trinity County Policy Statement 3-90(P). Based on the requirement of the referenced codes, the Grand Jury determined that some of the responses were non-compliant and/or late. In this report, the Committee will be primarily addressing 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, they 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 responses to the reports are received, they are compiled by the Grand Jury Continuity Committee into this Final Report for publication and released to the public.

## **METHODOLOGY**

- Reviewed the Final Reports of the 2015-2016 Grand Jury along with received responses.
- Reviewed the relevant Penal Codes and Trinity County Policy Statements.
- Reviewed the dates associated with the reports and responses as well as the overall content of each.

## **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 and Trinity County Policy Statement 3-90(P). (See in the Appendix for both the California Penal Code and Trinity County Policy Statement.) The Penal Code establishes a 90 day time limit for responses, while the Policy Statement further specifies that Departments must respond within 60 days. Both documents also specify the format for responses.

It is incumbent on the Grand Jury and Superior Court to provide reports to the appropriate respondents for review and responses. Each respondent receives a memo from the Court informing them of the need to respond. When a report response is received by the Grand Jury, it is to be reviewed by the Grand Jury for correct content and timeframe compliance. Any deficiency is to be noted and the department, or elected official, is to be notified of the deficiency. This has not been consistently done by past 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 became increasing late in meeting the deadline. The statistics unmistakably point out that response deadlines were being missed by departments and some departments were not responding at all.

## 2015-2016 Grand Jury Required Response Report

### COR2015-2016-001 - Community Development Block Grants 6/2/2016

<u>Respondent</u>	<u>Received</u>
-------------------	-----------------

Board of Supervisors	9/7/16
----------------------	--------

County Administrative Officer	8/1/16
-------------------------------	--------

County Auditor	8/4/16
----------------	--------

### JUR2015-2016-001 - Evidence Policies & Procedures 5/26/2016

<u>Respondent</u>	<u>Received</u>
-------------------	-----------------

Board of Supervisors	not received
----------------------	--------------

Sheriff Bruce Haney	7/29/16
---------------------	---------

### JUR2015-2016-002 - Inmate Welfare Fund 6/21/2016

<u>Respondent</u>	<u>Received</u>
-------------------	-----------------

Board of Supervisors	9/7/16
----------------------	--------

Sheriff Bruce Haney	7/29/16
---------------------	---------

### SDR2015-2016-001 - Water 6/30/2016

<u>Respondent</u>	<u>Received</u>
-------------------	-----------------

Board of Supervisors	9/7/2016
----------------------	----------

Planning Department	not received
---------------------	--------------

Environmental Health Director	9/8/2016
-------------------------------	----------

Code Enforcement Officer	not received
--------------------------	--------------

County Administrative Officer	8/9/2016
-------------------------------	----------

Trinity County Waterworks District #1	9/28/2016
---------------------------------------	-----------

Weaverville Community Services District	9/28/2016
---	-----------

### General Comments about Responses

- Board of Supervisors – Responses were timely and appropriate. For some reason **there was no response** to the JUR2015-2016-001 - Evidence Policies & Procedures. Claim was made that the CDBG loans are being sent default notices and that collections efforts are being made to the best of their ability. The Grand Jury was specifically told that no efforts are being made due to lack of funding and enough personnel during their investigation. In Finding #2 the recommendation was not addressed at all. They indicated that income received could not be used to service the loans. Grand Jury did not recommend that income received be used to service the loans. There seems to be no evidence to indicate public meetings were posted as required regarding the loans department. Recommendation #6 response noted that as volunteers come forward the members of the grants department could be replaced with new members. No explanation about how volunteers would know about these positions or any qualifications required to hold these positions were given.
- Sheriff – Responses were timely but did not follow the format as per County policy. The responses about insufficient funding or staff is an understandable constraint on addressing recommendations, however a response could indicate a plan to try and obtain the needed resources. The sheriff also indicated that he had never heard of the findings and recommendations before this report even though the same findings were mentioned in previous Grand Jury reports. No further information was supplied to explain or improve the situations.
- County Counsel-The responses were received in a timely manner. The response to Recommendation #2 regarding the reporting of delinquent loans to the Board of Supervisors was misinterpreted as to how the loans should be reported. Rather than report delinquent loans as individuals by name the monthly total dollar of the delinquent loans should be reported. A gradual monthly dollar to dollar improvement should occur if and when the loans are properly serviced. It is illegal to violate privacy laws but the total receivables should be reported monthly at a minimum to the Board of Supervisors and put on their regular agenda.
- .County Administrative Officer – Not having a County Administrative Officer makes responses problematic here. The duties of the CAO have been divided between the Supervisors and the County Counsel. The acting CAO is being paid \$5000.00 per month to serve in this position in addition to the yearly salary being paid as County Counsel. The CC (as acting CAO) responded to COR2015-2016-001 - Community Development Block Grants in a timely and appropriate manner but seemed to have no knowledge, oversight, or input in how the Community Development Block Grants are being handled. There is no oversight of that department and nothing is being done to ensure that payments are being made and that all terms of the loans are being met by the borrowers. The CC also responded to SDR2015-2016-001 - Water, stating that the CC office was not assigned to oversee the matters discussed in this report. It is unclear exactly what the County Auditor – Responses were timely and in an appropriate manner but were sent to an incorrect judge. Most responses denied any personal knowledge related to the issue

and claimed to not being responsible for these areas. Only 1 response was agreed to while 5 were “no knowledge, and 1 was “does not admit or deny”. These responses clearly indicate that no one is accountable in this department. The Grand Jury specifically asked employees in that department specific questions which were answered and reported in our findings and recommendations but were categorically dismissed by the responses. Further investigation should be made into whether or not the Brown Act does indeed cover Finding #4 that e-mail and conference calls were held without proper public notice.

- Planning Department - **No response was received.** The associated report was SDR2015-2016-001 - Water.
- Environmental Health Director - Responses were timely, although a few days off, were appropriate and mostly positive.
- Code Enforcement Officer - No response was received. The associated report was SDR2015-2016-001 - Water.
- Trinity County Waterworks District #1 - Responses were timely, however, there were no responses to the Findings as required. The two water districts filed combined reports even though they were required to answer separately.
- Weaverville Community Services District - Responses were timely, however, there were no responses to the Findings. The two water districts filed a combined response where separate responses were required.

## **FINDINGS**

F1. The Trinity County Grand Jury does not have policies and procedures for a Continuity Committee to produce an effective report to the public. No such report was produced in some years.

F2. It appears that many required Respondents are not familiar with the State Penal Code and Trinity County Policy Statement and either does not respond at all, respond past the required deadline, and/or respond inappropriately.

F3. Some Respondents do a very commendable job with their response which is thoughtful, on-time, and in the format required by law.

## **RECOMMENDATIONS**

R1. The Grand Jury should improve its own policies and procedures for ensuring that a proper Continuity Committee Report be produced each year.

R2. Both the Court and Grand Jury should help respondents be aware of requirements in both format and timeliness for responding to Grand Jury Reports.

## **REQUEST FOR RESPONSES**

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

### **Required responses**

- Trinity County Board of Supervisors
  - Recommendation R2 supported by Findings F2 and F3

## APPENDIX

### *Penal Code § 933 Findings and recommendations; comment of governing bodies; elective officers, or agency heads.*

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 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 recommendation of the report. 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.

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 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. As used in this section "agency" includes a department.

#### **§ 933.05 Responses to findings**

(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 in part with the finding. If this response is chosen, the respondent shall specify that portion of the finding which is disputed and include an explanation of the reasons for the disagreement.



(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. A summary of significant detail shall be included.

(2) The recommendation has not been implemented, but will be implemented in the future, with a time-frame for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time-frame 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 time-frame 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 official, 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 determined.

(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.

## **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

