

2002–2003 SANTA CLARA COUNTY CIVIL GRAND JURY

EVALUATION OF RESPONSES TO THE 2001-2002 CIVIL GRAND JURY FINAL REPORT

Summary

The 2002-2003 Santa Clara County Civil Grand Jury (Grand Jury) evaluated the responses to the 2001-2002 Santa Clara County Civil Grand Jury Final Report in order to provide continuity with the previous Grand Jury. This practice allows for each Grand Jury to monitor the commitment made by affected agencies in their responses to the findings and recommendations contained in the previous Grand Jury's reports. There were responses from 16 agencies; one agency responded incorrectly. Some recommendations required response from more than one agency.

Background

The 2001-2002 Civil Grand Jury reports were sent out with a transmittal letter that included a reference to California Penal Code Section 933(c), for the required response time, and Penal Code Section 933.05, for a guideline for the comment format. An attachment, Appendix A, is the guideline for comments.

Penal Code Section 933(a) requires the Grand Jury to "...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." Section 933(c) also requires comments from the "...governing body, elected county officer or agency head..." to the presiding judge of the superior court on these findings and recommendations.

The responses and comments submitted were evaluated by the 2002–2003 Grand Jury against Penal Code Section 933.05 (Appendix A), which requires the agency, officer or governing board to:

- A. Agree or disagree, wholly or in part, with each **Finding**.
 - a. Provide one of four possible responses to each **Recommendation**.
 1. Have implemented the recommendation.
 2. Will implement the recommendation.

3. Will study the implementation, with a plan available within six months.
4. Will not implement the recommendation.

Enforcement of the penal code requirements is the responsibility of the presiding judge of the superior court and, by delegation, the Grand Jury. The absence of a response to a specific finding, agreeing or disagreeing, and/or a recommendation in the report, is considered by the Grand Jury to be unacceptable, per penal code requirements.

Discussion

The 2001-2002 Santa Clara County Civil Grand Jury Final Report contained one Investigation, seven Reviews and seven Inquiries, along with a report on the Review of Audits and Financial Reports. The Reviews and Investigations contained 107 findings and 53 recommendations. Findings and recommendations were not included in the Inquiries. All but two of the agencies responded in a reasonable period of time, although three agencies required reminders. County agency heads submitted their responses to the Board of Supervisors for endorsement prior to sending them to the Grand Jury. This incorporates an additional delay in the responses and results in one response for both the agency and the Board of Supervisors.

The County of Santa Clara Probation Department did not respond to a recommendation that they obtain the services of the Santa Clara County Internal Auditor to establish policies and procedures for their accounting processes. The verbal response to a follow-up inquiry was that a new administrative manager had been hired, and would be preparing the new documents.

The Santa Clara Valley Transportation Authority deferred responses to security-related recommendations, pending the completion of a study by the United States Department of Transportation (DOT). The DOT report was classified for limited distribution, and a considerable amount of time and effort was expended by the Grand Jury in attempting to obtain permission to view the report. The Santa Clara County Counsel is continuing the process of obtaining the necessary federal permission.

Of the 107 findings reported by the 2001-2002 Grand Jury, the respondents agreed with 68%, disagreed with 17% and disagreed in part with 15%. Of the 53 recommendations, 14 had been implemented by the time of the responses to the report, an additional 14 were to be implemented, eight were under study and 11 would not be implemented. Six responses were not categorized.

The California Penal Code specifies that for recommendations that are *To Be Implemented*, a time frame for implementation must be included. In the case of

recommendations that are listed as *Under Study*, the responding agency is to include a plan and schedule for the study, a time frame which does not exceed six months.

Conclusions

The responses to the 2001-2002 Santa Clara County Civil Grand Jury final report are summarized below: (See Appendices B & C for detailed information.)

1. Investigation into Operations of the Orchard School District

This report contained 11 findings and five recommendations. Orchard School District had just hired a new superintendent who was reviewing the processes of the district. The responses were in agreement with ten of the eleven findings and five recommendations were to be implemented.

2. Review into Agency Compliance with the 1997 Court Order Concerning Educational Needs of Students in Court Schools

This report contained 17 findings and eight recommendations. The findings in the report were status reports on the 1999-2000 Grand Jury report's findings and recommendations. No additional responses were required. All eight of the recommendations were for the Santa Clara County Office of Education (COE). Four of the eight recommendations also included the County of Santa Clara Probation Department (Probation). Five of the recommendations were listed as having been implemented. The COE responded *Will Implement* to two of the recommendations. Probation agreed with the assessment of one of these two, to provide work experience classes to students. On the second recommendation, the expansion of partnerships with local school districts to provide improved transition support, Probation indicated that it *Has Been Implemented*, while COE indicated it *Will Be Implemented*. Both agencies responded that providing meaningful vocational training was under study. No follow-up was made on any of the responses, including the recommendation regarding vocational training.

3. Review of County Emergency Psychiatric Services

This review by the Grand Jury included ten findings and four recommendations. A reply dated May 14, 2002 indicated agreement with eight of the findings and disagreement with two. Two of the recommendations will be implemented and two are to be studied. Although Recommendation Number One was specifically directed to the Santa Clara County Board of Supervisors, there was no distinction between the supervisors' response and the Santa Clara Valley Health and Hospital System Administration's response.

Counter to the requirements of Penal Code Section 933.05 no explanations or reasons for the disagreements on the findings were offered.

Given the potential for harm to clients, the 2001-2002 Santa Clara County Civil Grand Jury recommended that the 2002-2003 Grand Jury continue this review. The resulting report, "*Inquiry into the County Mental Health Services*" issued by the 2002-2003 Grand Jury, is contained in this volume.

4. Review of Customer Service at the Norman Y. Mineta San Jose International Airport

Ten findings and ten recommendations were the conclusion of this review for which a response, dated September 10, 2002, was received after approval by the San Jose City Council.

The letter expressed agreement or partial agreement with six findings and disagreement with four. It contained reasons for the position taken. The same reasoned approach was utilized in agreeing to implement three of the recommendations, rejecting two, and agreeing to study five. The Grand Jury intends to continue to monitor those five items under study.

5. Review of the Practices and Procedures of the Workers' Compensation Division

This report contained seven findings and eight recommendations. The response, dated April 29, 2002, indicated agreement with two of the findings and disagreement with five of the findings.

The seven recommendations had the following responses; one *Implemented*, one *Will Implement* and five *Will Not Implement*. The response to recommendation number eight to the Department of Risk Management was *Will Not Implement*, due to excessive costs.

The response essentially indicated that the Grand Jury's recommendations will not be implemented beyond current practices, due to budgetary limitations or that the matters are more appropriately handled by other offices.

6. Review of the Registrar of Voters Office

This report consisted of five findings and four recommendations. The May 9, 2002 letter replying to the 2001-2002 Santa Clara County Civil Grand Jury report did not comment on any of the findings. However, the four recommendations were each carefully considered.

Except for Recommendation 1, over which the state and federal governments maintain jurisdiction, recommendations are being implemented and/or expanded.

7. Review of the Santa Clara Valley Transportation Authority

This report contained eight findings and six recommendations. Of the findings, there was agreement with one, partial disagreement with five, total disagreement with one and one to which they deferred to the security assessment by the DOT. Of the six recommendations, two *Have Been Implemented*, three *Will Be Implemented* and one *Will Not Be Implemented*. Two of the three *Will Be Implemented* involve changes to the buses and light rail vehicles. As there are about 1,000 of these units to be considered, the implementation time is extensive. Follow-up efforts indicated that these changes are in process. For example, a new operations center was opened this year. This was a principal element in Recommendation 3, improved communications with buses and light rail vehicles. Considerable time was spent dealing with the DOT to obtain permission to review the status of security efforts.

8. Review of the Santa Clara County Keyboard Project

This report contained seven findings and four recommendations. Of the seven findings, the Clerk of the Board of Supervisors agreed with two, disagreed with three and partially disagreed with two. The Clerk indicated that one recommendation *Has Been Implemented*, one recommendation *Will Be Implemented*, and two *Will Not Be Implemented*. The responses were not categorized, but were clearly identified within the response letter.

PASSED and **ADOPTED** by the Santa Clara County Civil Grand Jury on this 15th day of May, 2003.

Fred de Funiak
Foreperson

Ron R. Layman
Foreperson Pro Tem

Patricia L. Cunningham
Secretary

Appendix A

California Penal Code Section 933.05, in relevant part:

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 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 therefor . . .

Appendix B
Responses to the Final Reports of the 2001-2002 Santa Clara County Civil Grand Jury

	Title	Agency	Date Issued	Date Due	Date Recvd.	Findings		Recommendations	
						# of Finds	# Resp	# of Recom	# Resp
	Investigation into Operations of the Orchard School District	Orchard School District	4/10/02	07/09/02	09/20/02	11	11	5	5
		SC County Office of Education	4/10/02	07/09/02	06/14/02	11	11	1	1
	Review of the Practices and Procedures of the Workers' Compensation Division	SCC Workers' Compensation Div.	3/19/02	05/19/02	08/14/02	7	7	7	7
		SCC Department of Risk Management	3/19/02	05/19/02	08/14/02	7	7	1	
	Review of the Registrar of Voters Office	SCC Board of Supervisors	2/23/02	05/27/02	06/06/02	5	0	1	1
		Registrar of Voters	2/23/02	04/22/02	06/06/02	5	0	3	3
	Review of the Santa Clara County Keyboard Project	SCC Board of Supervisors	4/10/02	07/09/02	06/18/02	7	7	4	4
		Santa Clara County Clerk of the Board	4/10/02	06/09/02	06/18/02	7	7	4	4
	Review of the County Emergency Psychiatric Services	SCC Board of Supervisors	3/19/02	06/17/02	05/17/02	10		1	
		SCC Department of Mental Health	3/19/02	05/18/02	05/17/02	10	10	4	4
	Review into Agency Compliance with the 1997 Court Order Concerning Educational Needs of Students in Court Schools	SCC Department of Probation	6/24/02	08/23/02	08/30/02	17	N/A	4	N/A
		SCC Superintendent Schools	6/24/02	08/23/02	08/22/02	17	N/A	8	N/A
		SCC Board of Supervisors	6/24/02	08/23/02	08/30/02	17	N/A	1	N/A
		SCC Board of Education	6/24/02	08/23/02	08/22/02	17	N/A	8	N/A
	Review of the Santa Clara Valley Transportation Authority	SC Valley Transportation Authority	6/27/02	09/27/02	08/26/02	8	8	6	6
	Review of Customer Service at the Norman Y. Mineta San Jose International Airprot.	San Jose City Manager.	6/27/02	08/26/02	09/03/02	10	10	5	5

Appendix C

Analysis of Responses to the 2001-2002 SCCC Grand Jury Final Reports

File	Agency	FINDINGS			RECOMMENDATIONS				
			Agree	Disagree	Implmt	Will Study	Will Not		
1003	Orchard School Board	1	X		1		X		
		2	X		2		X		
		3	X		3		X		
		4			X	4		X	
		5	X			5		X	
		6	X						
		7	X						
		8	X						
		9	X						
		10	X						
		11	X						
	SC County Office of Education	1	X		1		X		
		2	X						
		3	X						
		4							
		5	X						
		6	X						
		7	X						
		8	X						
		9	X						
		10							
		11							
1013	SCC Workers' Compensation Division	1	X		1		X		
					X	2			X
		3			X	3			x
		4			X	4			X
		5			X	5			X
		6	X			6	X		
		7			X	7			X
	SCC Department of Risk Management	1				1			
		2							
		3							
		4							

Appendix C

Analysis of Responses to the 2001-2002 SCCC Grand Jury Final Reports

File	Agency	FINDINGS		RECOMMENDATIONS		
		Agree	Disagree	Implmt	Will Study	Will Not
1019	Registrar of Voters	1		1		X
		2		2	X	
		3		3	X	
		4				
		5				
	SCC Board of Supervisors					
1034	Clerk of the Board of Supervisors	1	X	1		X
		2	P	2		X
		3	X	3	X	
		4	X	4		X
		5	P			
		6	X			
		7	X			
	SCC BOS					
1035	SCC Department of Mental Health	1	X	1		X
		2	X	2		X
		3	X	3	X	
		4	X	4	X	
		5		X		
		6	X			
		7	X			
		8	X			
		9	X			
		10		X		
	SCC BOS					
1029	SCC Department of Probation	1		4	X	
		2		5		X
		3		6		X
		4		7	X	
		5				
		6				
		7				
		8				
		9				
		10				
		11				
		12				
		13				
		14				
		15				
		16				
		17				

Appendix C

Analysis of Responses to the 2001-2002 SCCC Grand Jury Final Reports

File	Agency	FINDINGS		RECOMMENDATIONS				
		Agree	Disagree	Implmt	Will Study	Will Not		
1029	SCC	1			1	X		
	Superintendent of Schools	2			2	X		
		3			3	X		
		4			4	X		
		5			5		X	
		6			6			X
		7			7		X	
		8			8	X		
		9						
		10						
		11						
		12						
		13						
		14						
		15						
		16						
		17						
	SCC BOS							
	SCC Board of Education							
1028	San Jose City	1	X		1			X
	Manager	2		X	1a			X
		3		X	1b		X	
		4		X	1c		X	
		5	X		1d	X		
		6		X	1e	X		
		7	X		2			X
		8	X		3	X		
		9	X		4		X	
		10	X		5		X	
1027	SC Valley	1		P	1	X		
	Transportation Authority	2		X	2	X		
		3		X	3		X	
		4		P	4		X	
		5		P	5			X
		6	X		6		X	
		7		P				
		8		P				