

ENDORSED FILED

MAY 27 2016

**Report
of the
2015-2016
Sutter County Grand Jury**

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SUTTER
CLERK OF THE COURT
By JACKIE LASWELL Deputy

**Steven Meyer-Foreperson, Addam Heltsley, Andrew Sampeck, Annette Roach,
Carrie Mitchell, Christy Cook-Pratt, Gail Stillwell, Gerald Marta, Jacqueline McLaughlin,
John Forberg, Kristen Hart, Marianne Ethington, Pablo Fischetti, Perry Pasquale,
Richard Libby, Richard Snyder, Teresa Smith, William Carter**

**Final Report [pursuant to Penal Code 933(a) on subject:
Board of Supervisors' Response to the
2014-2015 Sutter County Grand Jury Final Report**

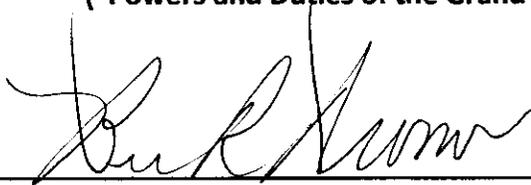


**Steven Meyer
2015-2016 Foreperson**

May 18, 2016

Date

Pursuant to Penal Code Section 933(a), the Presiding Judge makes the finding that the foregoing report is in compliance with the Title 4, Chapter 3 of the Penal Code ("Powers and Duties of the Grand Jury").



**Honorable Brian R. Aronson, Presiding Judge
Superior Court of California, County of Sutter County**

May 20, 2016

Date

BOARD OF SUPERVISORS' RESPONSE TO 2014-2015 SUTTER COUNTY GRAND JURY FINAL REPORT

SUMMARY

The Sutter County Grand Jury (SCGJ) is an investigatory body created for the protection of society and the enforcement of the law within the County. All complaints submitted to the SCGJ are treated confidentially. California Penal Code (PC) Section 911 in part states, *"I will not disclose any evidence brought before the grand jury, nor anything which I or any other grand juror may say, nor the manner in which I or any other grand juror may have voted on any matter before the grand jury."* In other words, the SCGJ protects sources, encourages candor among jurors, and all information not in final reports remains confidential. Each jury works independently of its predecessors and successors.

The SCGJ's monitoring of the responses to final reports is not required by law. However, governing boards (ie.: the Sutter County Board of Supervisors (BOS)) are required to respond to the findings and recommendations directed to them in a final grand jury report within ninety days. Elected officials' and agency heads' responses are due within sixty days. Responses must be forwarded to the Presiding Judge of the SCGJ. (PC Section 933(c)) The BOS did not respond within the ninety days for the 2014-2015 SCGJ Final Report. Additionally, the Sutter County Sheriff's response was not received by the Presiding Judge. However, the SCGJ does acknowledge that the Sheriff's response was submitted as a part of the BOS' response.

The BOS' Response to the 2014-2015 SCGJ Final Report, in multiple instances, did not provide a timeframe or provided an unacceptable timeframe according to PC Section 933.05. Additionally, the Sutter County District Attorney did not provide an acceptable timeframe in its response. It is the recommendation of the SCGJ that all Sutter County governing boards, elected officials, and agency heads be diligent to follow PC when submitting their required responses to grand jury reports.

There are multiple options by which citizens of Sutter County can bring concerns within the County to the attention of the SCGJ. These concerns are acknowledged and investigated confidentially for their validity, if under its jurisdiction, the SCGJ takes appropriate and corrective action when the situation warrants it.

BACKGROUND

"In our system of government, a grand jury is the only agency free from possible political or official bias that has an opportunity to see ... the operation of government ... on any broad basis. It performs a valuable public purpose in presenting its conclusions drawn from that overview. The public may, of course, ultimately conclude that the jury's fears were exaggerated, or that its proposed solutions are unwise. But the debate ... could lead only to a better understanding of public governmental problems." (Monroe v. Garrett, (1971) 17 Cal. App. 3rd 280)

The California Constitution mandates that "one or more grand juries shall be drawn and summoned at least once a year in each county." For many decades, county grand juries have served as both criminal grand juries issuing indictments and as civil grand juries investigating

local governments. There has been a grand jury operating in each county in California for over 160 years.

Continuity is a subject not explicitly addressed in the PC. However, the SCGJ can derive an understanding of continuity from the law and past practices. Continuity is defined as "an uninterrupted succession or flow; a coherent whole" (*American Heritage Dictionary*) and an "uninterrupted connection; unbroken succession; close union of parts" (*Webster's Revised Unabridged Dictionary*). Continuity means that the SCGJ is not alone as a grand jury. The SCGJ has much to draw on from its predecessors and will likely have much to pass on to its successors. Continuity is not just following up on what previous grand juries have done. Continuity also looks forward. It includes taking steps to provide future grand juries the resources they will need.

RESOURCES

The Penal Code of California forms the basis for the application of criminal law in the state of California. It was originally enacted in 1872 as one of the original four California Codes, and has been substantially amended and revised since then.

The SCGJ reviewed:

- PC Sections 911, 924, 924.1, 924.2, and 929
- PC Section 933(c) states: *"Not 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 elective 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 ..."*
- PC Section 933.05 states: *"(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..."

- 2014-2015 Sutter County Grand Jury Final Report
- Response Matrix to 2014-2015 Grand Jury Final Report
- BOS' Response to the 2014-2015 SCGJ Final Report

DISCUSSION

In California, the grand jury is an instrumentality of the court, subject to the superior court's general supervision. Empowered by the judicial system, the SCGJ is a fact-finding body that develops meaningful solutions to a wide range of government problems, thereby facilitating positive change in Sutter County.

As an investigatory body, the responsibilities of the SCGJ are many and diverse. However, there are three predominant functions of the SCGJ:

CIVIL WATCHDOG RESPONSIBILITIES

The SCGJ may examine all aspects of county and city government and special districts to ensure that the best interest of Sutter County citizens is being served. The SCGJ reviews and evaluates procedures, methods, and systems utilized by County government to determine whether more efficient and economical programs may be employed.

CITIZEN COMPLAINTS

The SCGJ receives many letters from citizens alleging mistreatment by officials, suspicions of misconduct, or governmental inefficiencies. Complaints received from citizens are acknowledged and investigated confidentially for their validity. If the situation warrants, and corrective action is under the jurisdiction of the SCGJ, appropriate action is taken.

CRIMINAL INVESTIGATIONS

Under certain circumstances, the SCGJ holds hearings to determine whether evidence presented by the Sutter County District Attorney is of sufficient nature to warrant persons having to stand trial in court. This function of the SCGJ is rarely utilized.

Most SCGJ "watchdog" findings are contained in reports describing problems encountered and making recommendations for solutions. A governing board that receives a report usually refers it to staff to prepare a draft response to the findings and recommendations. The draft response is then placed on the board's meeting agenda for its consideration, either on the regular agenda for a full public airing or on the consent calendar, where it is adopted together with other routine items. Once approved, responses must be forwarded to the Presiding Judge. (PC Section 933(c)) The court usually forwards them to the sitting grand jury. The BOS submitted their response to

the 2014-2015 SCGJ Final Report to the Presiding Judge after the date the response was due. The BOS had ninety days to submit a timely response.

As an elected official, the Sutter County Sheriff is required to submit a response to the final grand jury report's findings and recommendations that apply to its office, both to the Presiding Judge of the SCGJ and an informational copy to the BOS within sixty days. (PC Section 933(c)) The Sheriff's response was not received by the court. However, the SCGJ acknowledges that the response was submitted with the BOS' response.

The PC also governs response content. For each finding in the report, PC Section 933.05(e) requires the responding governing board or official to give one of two possible responses:

- 1) agrees with the finding, or
- 2) disagrees wholly or partially with the finding, with an explanation of the disagreement.

To each recommendation, the board or official is required to select one of four possible responses (PC Section 933.05(b)):

- 1) it has been implemented, with a summary of the action taken;
- 2) it will be implemented, with a timeframe for implementation;
- 3) it requires further analysis, with an explanation and the scope of the analysis, and a timeframe for response of up to six months from the release of the report; or
- 4) it will not be implemented because it is not warranted or is not reasonable, with an explanation.

Monitoring the responses to grand jury reports helps maintain pressure on local government agencies to respond to grand jury reports and to follow through on implementing those recommendations with which they concur. Only by constant vigilance and follow-up can the proven effectiveness of grand juries be maintained. The SCGJ's monitoring of responses, while not legally required, can be divided into these three levels:

- Compliance - This is a simple determination that the response met the legal requirements of PC Section 933 and Section 933.05 with respect to the timeliness of the response and the mandated format and content. If the response fails this test, the SCGJ may conduct a new investigation and publish a follow-up report that will focus additional attention on the topic and the public agency that failed to meet the timeline or comply with the legally mandated response format and content.
- Responsiveness - A determination that the response reflected that the entity understood the issues in the report and responded accordingly. In other words, the response was clear and not evasive. If the SCGJ wants the entity to readdress the issues, the only action possible is to initiate a full new investigation and issue a report.

- Implementation - A determination as to whether the official or entity did as it stated it would do in its response. This is the most difficult area to address, as significant time may elapse before it is possible to verify whether the entity has done what it stated it would do. The SCGJ may conduct a full investigation and write a report concerning an entity's implementation efforts.

When a responder has agreed to implement grand jury recommendations, the PC requires a time frame for implementation. A time frame is also required if the responder states that further analysis is required. Specifically, PC 933.05(b) in part states: *"This timeframe shall not exceed six months from the date of publication of the grand jury report."* The BOS' Response to the 2014-2015 SCGJ Final Report contains multiple instances where the response does not include a timeframe or an unacceptable timeframe is given. Additionally, the Sutter County District Attorney's response was not compliant with the PC with respects to the timeframe given.

PC prevents the SCGJ from disclosing any information gathered during its investigations that is not released in the final report. Additionally, reports issued by the SCGJ do not identify individuals interviewed. Penal Code Section 929 requires that reports of the SCGJ not contain the name of any person or facts leading to the identity of any person who provides information to the SCGJ. Therefore, it is the responsibility of the SCGJ to protect the confidentiality of all individuals during the entire investigation process. This allows interviewees the confidence of anonymity, thereby providing the SCGJ with a greater ability to conduct a thorough investigation.

Included in the cover letter of the BOS' Response to the 2014-2015 SCGJ Final Report, the Chief Administrative Officer (CAO) invites the SCGJ to meet *"to discuss any or all these issues."* While the SCGJ can appreciate the desire of the CAO to try to resolve County issues, PC prevents such interaction. The responsibilities and jurisdiction of the SCGJ is limited to the confidential investigation process that leads to a final grand jury report.

The SCGJ welcomes letters from citizens alleging mistreatment by officials, suspicions of misconduct, and/or governmental inefficiencies. Additionally, the Sutter County Courts website has an electronic complaint form available. Complaints received from citizens are acknowledged and may be investigated confidentially for their validity. The SCGJ takes appropriate action when the situation warrants and when recommended corrective action is under its jurisdiction.

FINDINGS

- F1. The BOS' Response to the 2014-2015 SCGJ Final Report was received by the Presiding Judge after the date the response was due.
- F2. The BOS' Response to the 2014-2015 SCGJ Final Report did not follow California Penal Code Section 933.05 with respects to the mandated format and content. Additionally, the Sutter County District Attorney did not provide an acceptable timeframe in its response.

- F3. The Sutter County Sheriff's Response to the 2014-2015 SCGJ Final Report was not received by the Presiding Judge.
- F4. The CAO invited the SCGJ to meet to discuss issues covered in the BOS' Response to the 2014-2015 SCGJ Final Report.
- F5. The SCGJ has a complaint form that may be utilized by citizens to allege mistreatment by officials, suspicions of misconduct, and/or government inefficiencies.

RECOMMENDATIONS

- R1. All BOS and elected officials' responses shall follow California Penal Code Sections 933(c) and 933.05 with respect to the timeliness of the response and the mandated format and content.
- R2. The Sutter County Sheriff shall follow California Penal Code Sections 933(c) with respect to response submission to the Presiding Judge.
- R3. The BOS shall fully review the responses to the grand jury final report before approval for statements made by representatives of the County for accuracy with respect to California Penal Code (ie: Section 911 and 929).
- R4. Citizens with concerns regarding County or City government, that are within SCGJ jurisdiction, should submit a complaint. You may submit a complaint to the SCGJ using the form attached or by accessing the Sutter County Courts website at www.suttercourts.com/general-info/grand-jury/submit-complaint. You may print the form then later type in or fill in with ink all of the fields of information that apply to your concern and the issue(s) you have identified. Or, you may fill out the form electronically. After filling out the form, print the document, sign it attesting to the information, and mail to the address noted on the form. You are encouraged to attach additional information or documents that contribute information to your concern. Completed forms that are brought to the court for delivery to the SCGJ must be in a sealed envelope. All complaints submitted to the SCGJ are treated confidentially.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

- Sutter County Sheriff (F3, R2)
- Sutter County District Attorney (F2, R1)
- Sutter County Board of Supervisors

INVITED RESPONSES

- Sutter County Chief Administrative Officer

BIBLIOGRAPHY

2015-2016 California Grand Jurors' Association Training Manual

2015-2016 Sutter County Grand Jurors' Handbook

California Grand Jurors' Association Compendium of California Grand Jury Law

Sutter County Courts Grand Jurors' Website

APPENDIX

SUTTER COUNTY GRAND JURY CITIZEN COMPLAINT FORM

Response Matrix to 2014-2015 Grand Jury Final Report

DISCLAIMER

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.

SUTTER COUNTY GRAND JURY
CITIZEN COMPLAINT FORM

All complaints submitted to the Grand Jury will be treated confidentially.

MAIL TO:

SUTTER COUNTY GRAND JURY
Attention: Foreperson
P.O. Box A
Yuba City, CA 95992

Date: _____

(1) COMPLAINT

Your Name: _____

Home Address: _____

Home Phone: _____ Driver's License No.: _____

Work Address: _____

Work Phone: _____

(2) PERSON OR AGENCY ABOUT WHICH COMPLAINT IS MADE

Name: _____

Address: _____

Phone: _____

Person in Charge (if an agency): _____

(3) BRIEF SUMMARY OF PROBLEM (Include dates of all events, names of persons or agencies involved, etc.)

(Attach additional sheets as necessary)

(4) WHAT OTHER PERSONS OR AGENCIES HAVE YOU CONTACTED ABOUT THIS PROBLEM?

Name and/or Agency	Address	Date of Contact
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(5) PLEASE ATTACH ANY CORRESPONDENCE OR DOCUMENTS YOU HAVE RELATING TO THE PROBLEM.

(6) WHEN DID YOU FIRST LEARN OF OR DISCOVER THE PROBLEM?

(7) WHOM DO YOU THINK SHOULD BE CONTACTED ABOUT THIS PROBLEM?

Name and/or Agency	Address	Phone
_____	_____	_____

Reason to Contact _____

Name and/or Agency	Address	Phone
_____	_____	_____

Reason to Contact _____

(Add additional pages for persons as necessary)

(8) WHAT ACTION DO YOU WANT THE GRAND JURY TO TAKE?

(Signature)

CONTENTS

Response Matrix to 2014-2015 Grand Jury Final Report
Reponses filed on 9/24/15 with Superior Court of California, County of Sutter

SUTTER COUNTY AUDITOR-CONTROLLER

SUTTER COUNTY DISTRICT ATTORNEY'S OFFICE

YUBA CITY – WASTEWATER TREATMENT PLANTS

**Response Filed 9/30/15 with the Superior Court of California,
County of Sutter**

THE SUTTER COUNTY BOARD OF SUPERVISORS

Response Matrix for the 2014-2015 Grand Jury Final Report

The Following matrix is for the 2013-2014 Grand Jury's activities and notes agencies inspected or investigated. The matrix denotes agencies elected and non-elected officials and the date for which they are responsible to respond to the Grand Jury Final Report (90 days of receipt of the Final Report for county and city administered officials and 60 days from receipt for elected officials under Penal Code Section 933 (c)).

	Agency Required to Respond	Elected Official	Date Response Due	Date Response Received	Responsible for Responses
1	Sutter County Fire Chief Fire and Emergency Committee	No	9/24/15		Dan Yager
2	Sutter County Board of Supervisors Fire and Emergency Committee Sutter County District Attorney Sutter County Health/Mental Health/ Social Services Sutter County Human Services: Welfare & Social Services Division Sutter County Internal Auditor Sutter County Jail Medical Sutter County Sheriff's Office Communication and Promotional Opportunities	Yes	8/24/15	09/30/15	Sutter County Board of Supervisors
3	Sutter County District Attorney	Yes	8/24/15	9/10/15	Amanda Hopper, District Attorney
	Sutter County Auditor/Controller Sutter County District Attorney	Yes	8/24/15	8/14/15	Nathan Black, Auditor/Controller
4	Sutter County Administrator Sutter County Health/Mental Health/Social Services	No	9/24/15		James Arkens, Sutter County Administrator
5	Sutter County Administrator	No	9/24/15		James Arkens, Sutter County Administrator/HR Director
	Sutter County Human Services Director	No	9/24/15		Tom Sherry, Sutter County Human Services Director

6	Sutter County Auditor/Controller	Yes	8/24/15	8/14/15	Nathan Black, Auditor/Controller
	Sutter County Administrator	No	9/24/15		James Arkens, Sutter County Administrator
	Sutter County Internal Auditor				
7	Sutter County Sheriff	Yes	8/24/15		J. Paul Parker, Sutter County Sheriff
	Sutter County Jail Medical				
8	Sutter County Sheriff	Yes	8/24/15		J. Paul Parker, Sutter County Sheriff
	Communication and Promotional Opportunities Sutter County Sheriff's Office				
9	Yuba City Council	Yes	8/24/15	7/27/15	John Dukes, Mayor
	Sutter County Public Works	No	9/24/15		Mike Paulucci, Deputy Public Works Director
	Wastewater Treatment Plants				