



A Tradition of Stewardship
A Commitment to Service

**NAPA COUNTY GRAND JURY
2012-2013**

MAY 17, 2013

FINAL REPORT

**REVIEW OF RESPONSES TO THE
2011-2012 GRAND JURY REPORTS**

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NAPA COUNTY GRAND JURY
P.O. BOX 5397
NAPA, CALIFORNIA 94581

May 17, 2013

The Honorable Mark S. Boessenecker
Supervising Judge
Superior Court of the State of California
County of Napa
825 Brown Street
Napa, California 94559

Re: 2012-2013 Grand Jury Final Report: Review of Responses to the 2011-12 Grand Jury Reports.

Dear Judge Boessenecker,

Pursuant of Section 933 (a) of the California Penal Code, the 2012-2013 Napa County Grand Jury submits its final report on the Responses to the 2011-12 Grand Jury Reports.

Our investigation of this subject was conducted in a manner consistent with the California Penal Code, this Court's Charge, and the historic role of the Grand Jury, to pursue the interests of the residents of Napa County.

This is the second in a series of final reports we will be issuing during our term. I would like to acknowledge the good work and dedication of the Grand Jurors, as demonstrated in this report.

Respectfully submitted,

Victor J. Connell
Foreperson
2012-2013 Napa County Grand Jury



NAPA COUNTY GRAND JURY

**P.O. BOX 5397
NAPA, CALIFORNIA 94581**

May 17, 2013

To the Residents of Napa County:

Our second Grand Jury Final Report is on our review of Napa County officials' responses to the 2011-12 Grand Jury Reports. Most of the responses were received by the Napa Superior Court after the previous grand jury's term had expired. In this report, the current Napa County Grand Jury comments on those responses.

The Napa County Office of County Counsel has reviewed this final report. The Napa County Superior Court Presiding Judge, pursuant to California Penal Code Section 933(a), has found that this report complies with California Penal code Part 2 Title 4.

Copies of this report are available for review in the Napa City-County Library and online at www.napa.courts.ca.gov (follow the link to the Grand Jury).

We hope you find this report informative. It is an honor and privilege to serve you during our term.

Respectfully submitted,

The 2012-2013 Napa County Grand Jury

REVIEW OF RESPONSES TO THE 2011-2012 GRAND JURY REPORTS

SUMMARY

The 2011-2012 Grand Jury issued a Consolidated Final Report in June 2012, at the end of its one-year term. The Consolidated Final Report consisted of four individual Final Reports on government agencies and departments throughout Napa County. The 2011-2012 Grand Jury requested responses to particular Findings and to all Recommendations from the appropriate agencies and officials¹. Pursuant to California Penal Code Section 933, elected officials are required to respond within sixty days of the Grand Jury's report, and government agencies are required to respond within ninety days. Their responses must be addressed to the Presiding Judge of the Napa County Superior Court.

During its present term, the 2012-2013 Grand Jury reviewed all the responses provided by the government agencies, departments and officials to the four reports written by the 2011-2012 Grand Jury. The 2012-2013 Grand Jury found that all the required responses to the Recommendations had been submitted in a timely manner.

Reorganization of the Napa County Fire Department -- 7 Recommendations:

- (3) "Not Implemented"
- (3) "Implemented"
- (1) "Further Study Required"

Measure A -- 11 Recommendations:

- (8) "Not Implemented"
- (3) "Implemented"

Napa County Jail, Napa County Juvenile Hall, and California Public Safety Realignment Act -- 4 Recommendations:

¹ Grand Jury Reports are required by law to have both Findings and Recommendations. Findings are the Grand Jury's conclusions in the Report that are based on facts in the investigation. Recommendations are the Grand Jury's suggested course(s) of action or solution(s) to a given issue that logically follow from the Findings. The focus of this Report pertains solely to Recommendations.

(1) "Not Implemented"

(3) "To Be Implemented"

Shooting in Alta Heights -- 8 Recommendations:

(4) "Not Implemented"

(2) "Implemented"

(2) "To Be Implemented."

Upon reviewing the responses to the 2011-2012 Grand Jury's Final Report and after further investigation, the 2012-2013 Grand Jury has provided follow-up information regarding these reports. Those observations can be found in the Discussion section.

BACKGROUND

State law requires at least one agency or official to submit a written response to the Presiding Judge for every Recommendation in a grand jury report. The current Grand Jury must assure each response was submitted within the time frame and is compliant with the requirements of the California Penal Code Section 933.

In a grand jury report, each Finding is required to be substantiated by written documents and/or oral testimony. In situations regarding taking oral testimony, such testimony must be in front of a minimum of two grand jurors to be considered. Every Recommendation in a report must be supported by at least one Finding. By adhering to these principles, the objectivity and accuracy of the report is assured. Recommendations from grand juries often suggest shortcomings and/or call for changes, and they provide an opportunity for governmental agencies to review their policies and procedures.

METHODOLOGY

The 2012-2013 Grand Jury evaluated the responses to the 2011-2012 Grand Jury's Findings and Recommendations, including follow-up interviews, to ensure compliance with requirements of the Penal Code Section 933.05 entitled "Responses to Finding."

The following criteria were considered:

- The response was received by the Presiding Judge within the statutory time frame, which included within ninety days for a public agency and within sixty days for an elected official or agency head.
- The respondent indicated either whole or in part agreement with the Finding. If there is a partial disagreement, the disputed portion of the Finding was specified and an explanation of the reason(s) was given.
- If a Recommendation was implemented, the respondent so indicated and provided a summary of the implementation action.
- If a Recommendation required further analysis, the respondent provided an explanation of the scope and parameters of an analysis of study, and a timeline for the matter to be discussed by the appropriate agency personnel.
- If the respondent indicated a Recommendation was not to be implemented because it was not warranted or reasonable, an explanation was included thereof.
- If a respondent should fail to satisfy any of the above applicable criteria, the grand jury can choose either to re-investigate, to collect further information and re-issue a report, or to decline further investigation. The 2012-2013 Grand Jury reviewed the thirty Recommendations given to the twenty-one governmental agencies in the Final Comprehensive Grand Jury Report of 2011-2012 wherever a response indicated that a Recommendation was being implemented, would be implemented, or needed further analysis by the appropriate agency.

DISCUSSION

I. REORGANIZATION OF THE NAPA COUNTY FIRE DEPARTMENT

On April 18, 2012, the Napa County Grand Jury issued a final report on reorganizing the Napa County Fire Department. The report had two major points: To hire an independent Napa County Fire Chief (NCFC) who would administer the Napa County Fire Department (NCFD) and the nine Volunteer Fire Departments, thereby effectively coordinating Napa County fire services.

To determine the cost appropriateness of the County's budget to CAL FIRE for its fire protection services by recommending a Cost Benefit Analysis (CBA).

The 2011-2012 GJ received responses to the Recommendations and relevant Findings from the following:

- Napa County Board of Supervisors
- Napa County Fire Chief
- Napa County Executive Officer
- Napa County Fire Chief Advisory Board
- Napa County Auditor-Controller

All responses were received in the required time frame. Of the seven Recommendations, three were "Implement" (43 percent), three were "Not Implement" (43 percent) and one required "Further Study" (14 percent).

Observations

The 2012-2013 Grand Jury investigated the follow-up to the Recommendations to evaluate the actions taken. It notes the following with Recommendation #1 and Recommendation #6.

R1. Napa County write a job description and employ a NCFC who will be independent and separate from CAL FIRE employment, before contracting CAL FIRE services for the agreement year 2013-2014.

The concern that prompted this Recommendation was the issue of local fire fighters, especially volunteer members, operating under their County Unit Chief, the same person who was also the CAL FIRE Chief. It was thought this weakened the commitment and attention to local services. In response, a separate employee was hired for the NCFC position. The position now focuses on all career and volunteer members of the NCFD, and the transition is proceeding in effect.

R6. Napa County complete a CBA, by an independent firm, of all the fire protection services provided by CAL FIRE and NCFD before contracting CAL FIRE services for the agreement year 2014-2015.

The Grand Jury reported that over decades the annual agreement between Napa County and CAL FIRE for fire protection, currently over eight million dollars, had never been reviewed by an independent firm. Both the NCFC and Napa County Board of Supervisors (BOS) agreed that this recommendation warranted further analysis. Subsequently, the BOS held a Fire Study Session on September 17, 2012 in which this recommendation was discussed. The BOS also committed staff to investigating relevant county expenditures and utilizing an outside firm to compare existing salaries of Napa fire personnel to those of comparable counties. The research is expected to be completed by Summer 2013 with the results to be included in the Board of Supervisors (BOS) Fall Study Session. It is likely that a Recommendation from the BOS will follow.

II. MEASURE A

On May 1, 2012, the 2011-2012 Napa County Grand Jury issued a final report on Measure A. This report dealt with the ½ percent sales tax increase passed in 1998 and imposed for a twenty-year period for flood protection. Specifically, the report dealt with improper expenditures by the City of Calistoga and the failure of the Financial Oversight Committee (FOC) to monitor the appropriateness of the city's procurement of Measure A funds.

The 2011-2012 Napa County Grand Jury received responses to the Recommendations and relevant Findings in its Report from the following:

- Napa County Counsel
- Napa County Public Works Director
- Napa County Auditor-Controller
- Napa County Board of Supervisors/Flood Protection and Water Improvement Authority (FPWIA)
- Financial Oversight Committee (FOC)
- Calistoga City Council

The parties above submitted all the required responses in a timely manner. There were eleven Recommendations in the report, of which three responses were "Implement" (27 percent) and eight responses were "Not Implement" (63 percent). Upon review, the Grand Jury was struck by how identical the responses were from the different agencies, as if all were written by the same individual, which seems inappropriate. The Grand Jury believes the spirit of the investigative process demands thoughtful individualized responses to the Recommendations.

Observations

The 2012-2013 Grand Jury wished to determine what effectively resulted from the Recommendations by the previous Grand Jury concerning the FOC. They are as follows.

R5. Financial Oversight Committee receives the information on proposed expenditures prior to approval by the Flood Protection and Water Improvement Authority.

The Grand Jury understands that the FOC is receiving and reviewing invoice information sooner in the process.

R6. Immediate, concerted and ongoing effort to fill Financial Oversight Committee vacancies by Financial Oversight Committee and Board of Supervisors; specifically, the vacancies for representatives from:

**Board of Supervisors
Business Community
Local Media
Napa County Taxpayers
Environmental Community
Agricultural Industry
Health and Human Services**

The 2012-2013 Grand Jury notes that subsequent to the current Measure A Report being published the FOC has added 4 members, resulting in a current committee of 13. The FOC has yet to achieve the required 17 representatives as stated in the ordinance.

R10. Financial Oversight Committee establish subcommittees in order to more effectively fulfill its responsibilities under the Ordinance, namely:

- **Provide the public with information regarding the manner in which Measure A proceeds have been spent;**
- **Prepare an annual audit regarding the use of Measure A proceeds;**
- **Review the financial impact of each project and advise the public whether it is consistent with the purpose, spirit, intent and language of Measure A;**
- **Inform the public of any expenditure which is inconsistent with the purpose and intent of Measure A;**
- **Make recommendations to the Napa County Flood Control and Water Conservation District regarding proposed replacement projects if a project identified in Measure A is determined not feasible.**

The Grand Jury acknowledges that this Recommendation is in fact being followed. In February 2012, an *ad hoc* Committee from the FOC re-examined several of the Calistoga projects cited in the 2011-2012 Grand Jury Report and presented its findings to the members. Its primary focus pertained to the issue of water flow from Kimball Dam to ensure the protection of the fish population downstream.

The Committee independently concluded that Calistoga City Council's use of Measure A funds to pay for legal expenses to defend its position in reserving a portion of water from being released was inconsistent with the purpose and intent of the Measure A ordinance. In May 2013 the FOC approved the Committee's report, thereby indicating Napa County Flood Protection and Water Improvement Authority, comprised of the Napa County Board of Supervisors, improperly reimbursed about \$525,000 to the City of Calistoga.

In its Measure A Report, the previous Grand Jury described the FOC as a "sleeping watchdog". Given its effort to become more critical and independent, it seems this sobriquet might now require amending. The present Grand Jury commends the FOC for its willingness to read the report with the intention of improving its operation and making an effort to more effectively fulfill its fiduciary responsibilities to the public.

III. NAPA COUNTY JAIL, NAPA COUNTY JUVENILE HALL, AND CALIFORNIA PUBLIC SAFETY REALIGNMENT ACT

Every year the Napa County Grand Jury is mandated to investigate local jail and detention facilities in order to assure they are being administered in the best interests of county residents. Accordingly, the 2011-2012 Grand Jury issued a final report detailing its investigation of (1) Napa County Jail, (2) Napa County Juvenile Hall and (3) potential effects on Napa County Jail as a result of realignment. At the time of this report, changes under the California Department of Corrections and Rehabilitation Reorganization Plan had only recently gone into effect.

The report was published in May 2012, and it addressed Recommendations to the following individual and governing bodies:

- Napa County Executive Officer
- Napa County Probation Department
- Napa County Department of Corrections
- Napa County Board of Supervisors.

Their responses were reviewed and found to meet statutory requirements. All responsible parties agreed to implement Recommendations 1, 2 and 3.

R1. County Criminal Justice Community report each year to the citizens on how the alternative programs are working, including current information on average jail population, alternative program statistics, and recidivism rate along with the annual crime rate report.

R2. County administration continue to reach out at public forums, and solicit community input regarding jail design and location, while looking at jail expansion alternatives.

R3. The County prepare to assume greater financial responsibility for Realignment, in the event State funding is not forthcoming.

Observations

The Grand Jury will continue to investigate the condition and management of the County's jails on a yearly basis as mandated by the California Penal Code Section 919 (b).

IV. SHOOTING IN ALTA HEIGHTS

On June 15, 2012, the 2011-2012 Napa County Grand Jury issued a final report entitled Shooting in Alta Heights. It involved an Officer Involved Shooting (OIS), which resulted in the death of a Napa resident. The report did not render any opinion regarding the justification of the shooting, but rather concentrated on what suitable services should be provided for citizens in such situations.

The 2011-2012 Napa County Grand Jury received responses to the Recommendations and relevant Findings in its report from the following:

- Napa City Police Chief
- Director of Napa County Mental Health Department
- Napa County Sheriff
- St. Helena Police Chief
- Calistoga Police Chief
- Napa County Board of Supervisors
- Napa City Council
- American Canyon City Council
- Calistoga City Council
- St. Helena City Council
- Yountville City Council

The Report consisted of eight Recommendations, of which two responses were “Implement” (25 percent), four responses were “Not Implement” (50 percent) and two responses were “To Be Implemented” (25 percent). After reviewing the responses to the Recommendations, the 2012-2013 Grand Jury believes its comments are warranted regarding two main points of interest:

1. Napa Mental Health Services and Napa Law Enforcement Agencies develop coordinated services to help residents cope with the occurrence and outcome of crises that befall their communities, and
2. The suggestion that the Grand Jury act as a Civilian Review Board.

Observations

First, the 2012-2013 Grand Jury investigated what changes the Napa County law enforcement agencies and Mental Health Department brought to their procedures involving crisis intervention and traumatic incidents since the 2011-2012 Grand Jury Report. The Recommendations from that report were as written:

R4. Within 180 Days the law enforcement departments in Napa County and Mental Health Department establish more effective coordination in situations of crisis intervention by (1) engaging in joint training exercises, and by (2) maintaining instantaneous communication and patching capability.

R7- Within 180 days the Napa County Mental Health Department (1) establish support programs for communities involved in traumatic incidents, and (2) establish additional programs to promote community awareness of resources for crisis support.

Interviews and follow up research produced promising results. In fact, some developments occurred before the publication of the report, which indicates the agencies reviewed the incident and initiated changes, as one would expect of public organizations operating on a professional level. Training for mental health crisis situations between law officers and mental health department representatives is now ongoing. Additionally, there has been a joint effort to reach out to members of the community where police have discharged firearms, and the Mental Health Department continues to implement programs aimed and community awareness of the support available for mental health needs in Napa County.

Second, the 2011-2012 Grand Jury had proposed a civilian review board to provide feedback in situations involving officers using lethal force:

R5. Within one year the Napa County Board of Supervisors and all Napa County incorporated local governments establish a civilian review board to examine all investigation documents of this incident and all future Officer involved shooting (OIS) incidents to provide feedback from a civilian point of view.

In their responses several of the governmental bodies stated the since the Grand Jury is comprised of civilians who investigate for the public good, it could act as a civilian review board in OIS situations. This conclusion is erroneous for the following reasons:

1. The absence of a statute requiring Grand Jury Members to serve on a citizen review board,
2. The interruption of mandated Grand Jury duties that must be completed in a 12-month term and,
3. The lack of continuity year to year of the same members serving.

Given that the government bodies otherwise rejected this Recommendation, the Grand Jury regrettably recognizes there is no likelihood further action will be taken by the agencies regarding this issue in the near future.

Final Conclusion

The 2012-2013 Grand Jury recognizes the necessary time and effort undertaken by both the previous Grand Jury in creating its reports and by the public agencies in responding to those reports. Both share a common pursuit: a commitment to improving the well-being of Napa County residents.

The 2012-2013 Grand Jury also acknowledges that a commitment to facilitating positive changes in Napa County is often an evolutionary rather than a revolutionary process; changes are likely to be completed in the long-term rather than short-term. The recommendations by a grand jury and the actions of public agencies prompted by those recommendations should not be dismissed and forgotten. It is to these ends that the 2012-2013 Napa County Grand Jury, performing its role as a voice of the people, has respectfully submitted this report.