

Grand Jury

County of Monterey

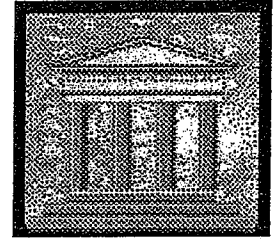
P.O. Box 414
Salinas, CA 93902
(831) 755-5020

December 21, 2005

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MPWMD



David Berger
General Manager
Monterey Peninsula Water
Management District
(via inter-office mail)

Dear Mr. Berger:

The Final Report of the 2005 Monterey County Civil Grand Jury has been submitted to the Presiding Judge of the Superior Court and will officially be released to the public on January 3, 2006. The Report contains findings and recommendations concerning your agency or department that will require a formal written response.

Legislation enacted in 1996 allows the Court to release an advance copy of a portion of the Report to the person or entity affected by the Report. As a result, an advance copy of the Report will be available to you on December 29 or December 30, 2005.

If you wish to obtain an advance copy, you must personally appear to pick up the copy; the Report will not be released to your staff. In order to receive your advance copy, you will be required to personally sign a statement, prepared by the Court, verifying that you will not disclose any contents of the Report prior to public release of the Final Report on January 3, 2006. Please be prepared to provide identification with a picture.

THE COURT WILL NOT GRANT ANY EXCEPTIONS TO THE ADVANCE RELEASE POLICY: You may pick up your copy on December 29 or December 30 at the Superior Court Jury Commissioner's Office, located at the Salinas Courthouse, 240 Church Street, Room 313, on the 3rd Floor of the North Wing.

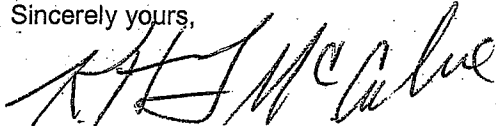
A copy of Penal Code Sections 933 and 933.05 are enclosed to assist you in preparing your response to the report. Please note this statute sets forth mandatory response requirements that you will be required to follow in preparing your response to the Report.

Your agency's written response to the Report is due on or before April 3, 2006. The response must be forwarded to the Honorable Stephen A. Sillman, Presiding Judge of the Superior Court – 2005, with a copy as provided in Penal Code Section 933(c), if applicable.

The fact that your department or agency is affected by the 2005 Final Report is confidential until the public release of the Report. The Court admonishes you not to disclose or discuss the information contained in this letter regarding the Report until the public release of the Report.

Please contact Maria Garcia, Deputy Court Executive Officer, at 775-5541, if you have any questions or need further information regarding this matter.

Sincerely yours,



K.H.T. McCabe,
Presiding Juror

Enclosure

933. Findings and Recommendations; Copies of Final Report; Comment of Governing Bodies; Elective Officers, or Agency Heads; definition:

(a) 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 or calendar 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 recommendations of the report.

(b) 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.

(c) 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 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. 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.

(d) 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 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.

(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.

(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 detrimental.

(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.