

Non-Compliant Response to the 2015–2016 Civil Grand Jury Report

Summary:

The Continuity Committee is responsible for ensuring, to the extent possible, the seamless transition from one Grand Jury to the next. One of the committee’s responsibilities is to monitor the filing of responses to the previous year’s grand jury reports, and advise the current grand jury if those responses are complete and legally sufficient, or if additional follow-up appears to be required.

Facts:

“The elected officials to whom the grand jury directs its recommendations are required to respond to the report’s finding and recommendations within 60 days. Governing bodies have 90 days to respond. Responses should be made to the presiding judge.” (Page 69 of the Civil Grand Jury procedures manual and Section 933.05 of the Penal Code)

The 90-day deadline for responses to the 2015 - 2016 Civil Grand Jury reports by city governments was September 30, 2016.

“If a governing board or elected official fails to respond to one or more of findings or recommendations, the jury should send a letter advising the board or official of the requirements of Penal Code Section 933.05.” (Page 69 of the Civil Grand Jury procedures manual).

Two city councils failed to respond, despite repeated reminders by letters, emails, phone calls and finally, by demands made in person by the Grand Jury foreperson and Continuity Committee chairperson.

The staff of one of those cities delivered their response the same day the Grand Jury foreperson and Continuity Committee chairperson met with them in their office.

Upon learning this city government was addressing serious internal problems, the Continuity Committee decided that no further action by the Grand Jury was merited in that case this time. The grand jury received no explanation from the Marina City Council for its failure to respond despite the many reminders by letter, email, phone calls and face to face visits to their offices. A response from the City of Marina was finally received in January 2017, more than four months after the 90-day deadline, and only when faced with the possibility of sanctions if there were any further delays in their response.

When finally received, the response of the City of Marina was in accord with the required format and contents.

Finding:

- F 1. The City of Marina's blatant failure to cooperate with the Civil Grand Jury and comply with the requirements set forth in California Penal Code Section 933.05 was unacceptable and risked incurring legal expenses if the Civil Grand Jury took legal action to compel compliance and sanctions if the City failed to comply with the court order.

Recommendation:

- R 1. The City of Marina must respond to all findings and recommendations required by all future Monterey County Civil Grand Juries, and those responses must be delivered to the presiding judge on or before the due date.

Request for Responses:

Pursuant to Penal Code section 933.05, the Monterey County Civil Grand Jury requests a response to F 1. and R 1. from the Marina City Council.