



GRAND JURY

County of San Diego
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Michael R. Letendre, Foreman

January 8, 2008

CONFIDENTIAL

Walt Ekard, Chief Administrative Officer
County of San Diego
1600 Pacific Highway, Room 209
San Diego, CA 92101

San Diego City Council
City of San Diego
202 C Street, 10th Floor
San Diego, CA 92101

Re: **Grand Jury Report: "Past Grand Jurors Association Implementation Review Board"**.

Dear Ladies and Gentlemen:

The 2007-2008 San Diego County Grand Jury herewith provides the referenced report for your review and comment to the Presiding Judge of the Superior Court in compliance with the Penal Code of California §933(c). This report was prepared pursuant to §925 and §925(a) of the Penal Code.

In accordance with Penal Code §933.05(e), a copy of this report is being provided to affected agencies two working days prior to its public release and after being approved by the Presiding Judge of the Superior Court.

Please note that §933.05(e) specifies that **no officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to its public release.** This report will be filed with the Clerk of the Court and released to the public on Thursday, January 10, 2008.

Sincerely yours,
2007-2008 SAN DIEGO COUNTY GRAND JURY


MICHAEL R. LETENDRE
Foreman

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**PAST GRAND JURORS ASSOCIATION
IMPLEMENTATION REVIEW BOARD**



**A Report by the
2005-2006 San Diego County Grand Jury
January 10, 2008**

PAST GRAND JURORS ASSOCIATION IMPLEMENTATION REVIEW BOARD

SUMMARY

After some years of informal discussion with the City of San Diego, the Past Grand Jurors Association forwarded to the City Council via the City Attorney's office a proposal to establish a Past Grand Jurors Implementation Review Board similar to the one that has operated for some years in the County of San Diego. On October 18, 2007, the Mayor and City Council of San Diego approved an ordinance (O-19671) establishing the Board. The City is to be commended for adopting this ordinance, but the 2007/2008 San Diego County Grand Jury suggests that the "sunset provision" (which would cause the ordinance to expire in two years), be eliminated so that the new Board can become a permanent fixture of City life.

PURPOSE

To ensure that the Recommendations of the San Diego County Grand Jury that are approved by the City of San Diego will be implemented and have a continuing impact on the City.

PROCEDURES

The new ordinance and the analysis of the Independent Budget Analyst's office were obtained and studied; interviews were conducted with City officials and officials from the Past Grand Jurors Association, and two of its reports to the San Diego County Board of Supervisors were examined.

DISCUSSION: New Ordinance to Establish a Past Grand Jurors Association Implementation Review Board for the City of San Diego

When the City Council was considering adopting this ordinance there were doubts raised by the Independent Budget Analyst as to whether this Board might duplicate the recently established framework in the Mayor's office for responding to all Grand Jury Recommendations and to ensure that the approved recommendations are implemented.

This Grand Jury examined City responses and reactions to various recommendations through the years and has found that there are occasions when the City has not followed through completely or in a timely fashion on its acceptance of a recommendation. The Mayor's new procedure may be an effective way for his office to handle Grand Jury reports, but it is not an independent process, and it apparently would not cover those recommendations directed solely to the City Council. Because of the experience the members have had of sitting on a Grand Jury for at least one year, this new Board would

help reduce the chance that the full completion of some approved recommendations might be overlooked. Sitting Grand Jurors only serve for one year and are occupied with new investigations. This limits their ability to follow up on the implementation of recommendations from previous Grand Juries.

The City should also note that the Board's function is restricted to examining the implementation of recommendations the City has accepted. This Board is not empowered to initiate any investigations on its own, and it only reports to the City. Since the County has had a good experience with its Committee, it is unlikely that the City's experience would be any different. All political bodies in the County of San Diego including County government, all city governmental entities and all special districts must respond in the same way to all findings and recommendations directed to them by the Grand Jury.

Concern was expressed by the City Council about diversity on the Board. This Grand Jury is concerned about diversity as well, and is exploring ways of increasing diversity among sitting Grand Jurors. If these efforts are successful, then the pool that the Past Grand Jurors Association uses to make nominations to the Board will be more diverse.

In May of 2000 a citizen complaint and lawsuit led to a change in the way the County's Review Committee meetings were publicized: more details on the agenda items were to be included in the public announcement of the meetings. It is to be hoped that the new City Board would avoid this pitfall.

FACTS/FINDINGS

Fact: On October 18, 2007, the City Council of San Diego approved an ordinance establishing a Past Grand Jurors Implementation Review Board (PGJIRB) for the City of San Diego.

Fact: The new ordinance contains a "sunset clause" of two years.

Finding: The County of San Diego has had an excellent experience with its Past Grand Jurors Implementation Review Committee (PGJIRC).

Fact: The County of San Diego changed the required contents of its publicly announced PGJIRC meetings agendas to make them more detailed for the benefit of interested parties.

RECOMMENDATIONS

The 2007/2008 San Diego County Grand Jury recommends that the San Diego City Council:

08-01: Eliminate the sunset provision in the ordinance and make the Board permanent.

- 08-02:** Provide the sitting Grand Jury with copies of the Implementation Review Board's reports to the City.
- 08-03:** Publish a detailed agenda in its public announcements of meetings of the Board.

The 2007/2008 San Diego County Grand Jury recommends that the County of San Diego through its Chief Administrative Officer continue to:

- 08-04:** Provide the sitting Grand Jury with copies of the Implementation Review Committee's reports to the County.

COMMENDATIONS

The City of San Diego is to be commended for establishing a Past Grand Jurors Association Implementation Review Board.

REQUIREMENT AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) 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) 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.
- (c) 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.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

| <u>Responding Agency</u> | <u>Recommendations</u> | <u>Date</u> |
|--|------------------------|-------------|
| City Council, City of San Diego | 08-01, 08-02, 08-03 | 04/09/2008 |
| Chief Administrative Officer, County of San Diego | 08-04 | 04/09/2008 |