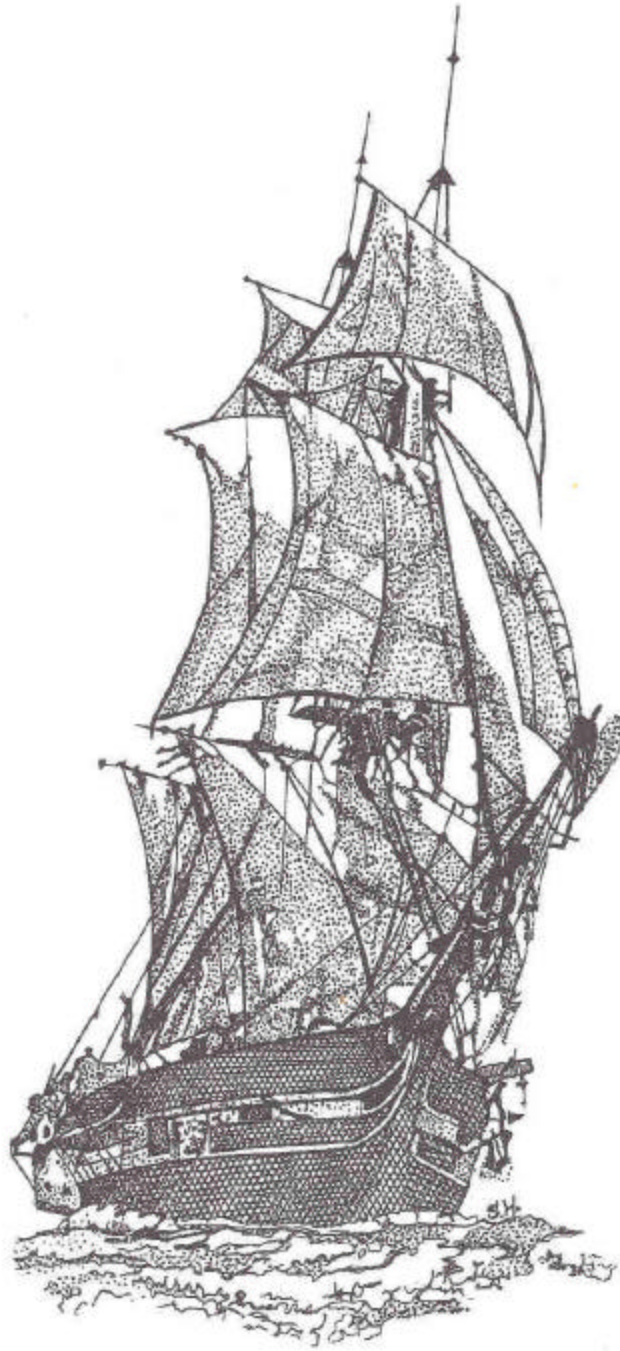


**ORANGE
COUNTY
GRAND
JURY**



The Pilgrim at Dana Point Harbor

**FINAL
REPORT
2002-2003**

**Declaration: More on Continuity
MAY 22, 2003**

DECLARATION: MORE ON CONTINUITY

Note: This document is a declaration as specified in Penal Code §939. 9.

The declaration pertains largely to internal operations of the Orange County Grand Jury and has no findings or recommendations. The study described herein was of such importance to the issue of Continuity that the Grand Jury intends to distribute it broadly and make it part of the permanent record of the 2002-2003 Orange County Grand Jury

Summary

Since a Grand Jury releases the majority of its reports during the second half of its term, most of the responses are received after the succeeding Grand Jury has been seated. Responding entities have a 60 or 90-day time frame to submit responses. The Grand Jury that made the Findings and Recommendations cannot follow up on most of the responses. The follow up becomes the responsibility of the sitting Grand Jury. To assure continuity, it is imperative that due diligence be designated for tracking and evaluation of responses.

This tracking of responses is intended to inform the public, help communities compare responses, ensure follow-up, promote solutions, and reduce the number of unresponsive answers. Public scrutiny of the responses can improve the impact of the Grand Jury's reports and recommendations as well as increase the credibility of the organizations required or requested to respond to the reports. Beginning with the 2002-2003 Grand Jury, the reports and the responses have been posted on the Grand Jury web site <http://www.occourts.org/grndjury/gjreports.asp>.

Introduction and Purpose

“You are a member of the Grand Jury for only one year. How can you be certain that the responses to the recommendations you have made will be implemented?” This is a valid question, one that is frequently asked by prospective members of the Grand Jury.

The Grand Jury is charged by the Supervising Judge of the Central Felony Panel of the Orange County Superior Court to use the mechanism in place for following up, summarizing, and analyzing the responses from the responding agencies. The sitting Grand Jury must do this for the prior Grand Jury.

As the result of a 2002-2003 Grand Jury recommendation, report Recommendations directed to the County department heads and the Board of Supervisors (BOS) are responded to and tracked by the staff of the County Executive Officer (CEO). The CEO reports the current status of implementation to the sitting Grand Jury and the BOS once a year.

Report recommendations directed to elected officials of the county, cities, and special districts need to be diligently tracked by the new Grand Jury. The responsibility to do this follow-up belongs to the Grand Jury Special Issues and Continuity (SI/C) committee.

The purpose of this Declaration is to further explore the issue of continuity and to suggest a procedure to track the implementation of recommendations directed to the public entities other than those accepted by the BOS through the CEO staff for implementation follow-up.

Method of Study

- Examined past approaches used to maintain continuity to determine possible areas of improvement in follow up system.
- Reviewed the California Penal Code.
- Acquired lists totaling more than 150 public entities (elected officials of the County, cities, and special districts.)

Background

Declaration

This study is unusual in that most of the subject matter lies under the control of (1) the Penal Code, an instrument of the State of California Legislature because the State Legislature is the only institution that can change the Penal Code; (2) the Superior Court of Orange County; and (3) the Orange County Grand Jury itself. These entities are not within the legal jurisdiction of the Grand Jury. Consequently, this declaration has no Findings or Recommendations.

The Penal Code makes it clear that affected agencies and officials must respond to both Findings and Recommendations by the Grand Jury. The Recommendations, as opposed to Findings, have much greater influence on the affected agencies and officials in that, if followed, the Recommendations will change the way those entities operate. A Finding is a statement of conclusion reached by the Grand Jury after collecting and analyzing data. This Grand Jury concluded that while it is desirable to follow up on both Findings and Recommendations, follow-up on Recommendations is by far the more productive activity.

It is clear that the concerns of this Grand Jury about continuity are not new. Several studies have been done to develop a way to follow-up on responses to Recommendations. The 1997-1998 Grand Jury Declaration: *Improvement of Continuity in Grand Jury Activities* provided an expansive *Summary of Continuity-Related Studies in Grand Jury Reports* beginning with

the 1975-1976 Grand Jury reports. The 2002-2003 Grand Jury has updated this Summary beginning with the Summary in the 1997-1998 Grand Jury Declaration. (Appendix: *Chart 2*)

The Penal Code on Responses

Pursuant to Penal Code §933 and §933.05, each report includes Findings and Recommendations. Each Finding and each Recommendation either requires or requests a response from the party addressed. Specifically worded responses are limited by the Code. Responses may include additional information to clarify the specific response. The Code lists the following response choices.

Responses to Findings:

- 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 reason therefor.*

Responses for Recommendations:

- 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 implementation requires further analysis, with an explanation and the scope and parameters of an analysis or study and timeframe for the matter to be prepared for discussion by the officer or head of the agency 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 thereof.*

The follow up procedure is not a simple task because of the large number of responses. The process needs to begin early in the term. A chart for this procedure appears in the Appendix. (Chart 1 *Follow up Process for Report Responses*)

Current Grand Jury Follow-up Procedure

The Grand Jury Special Issues/Continuity Committee (SI/C) performs the initial assessment of the prior year's reports. This assessment includes input from the Grand Jury committee corresponding to the committee that initiated the report during the prior year (Appendix: Form 1 *Status of Report Responses*).

The Grand Jury SI/C Committee identifies reports that require follow up based upon the status of the response to the Recommendations. If the response is either Penal Code §933.05, number 2 (will be implemented in the future) or number 3 (requires further analysis), further follow up is required (Appendix: Form 2 Response Summary Evaluation).

Follow up Regarding County Responses

As a result of the 2002-2003 Grand Jury report, Tracking the Implementation of Grand Jury Recommendations, the Board of Supervisors, responding to a Grand Jury recommendation, and accessing the CEO staff, initiated the continual tracking of responses from the BOS and from County departments reporting to the BOS. The tracking applies if the response choice "will be implemented in the future" or response choice "requires further analysis".

The CEO provides an annual summary report Grand Jury no later than March of each year. The tracking and reporting continues until each item of implementation has been completed, or the Grand Jury otherwise determines that additional effort is unnecessary. Current follow up responses are posted on the Grand Jury web site by the Grand Jury administrative staff.

Follow up regarding other public entities (elected officials of the county, cities and special districts.)

Just as the CEO, at the request of the Grand Jury, continues to track the designated County response choices, the Grand Jury needs to track the current implementation status for the other public entities. The Grand Jury needs to send letters to the appropriate elected officials of the County, cities, and special districts to request the current status of implementation of specific Recommendations. The Grand Jury will maintain an open item status form.

The sitting Grand Jury will receive from the outgoing Grand Jury a current status of implementation report and evaluate each response for a recommendation for closure. All follow up responses are posted on the Grand Jury web site by the Grand Jury administrative staff.

Conclusion

1. The 2002-2003 Grand Jury reviewed all Recommendations made to other public entities (elected officials of County, cities and special districts) for the previous three years:
 - Six 1999-2000 Grand Jury reports with a total of ten open recommendations. As of April 29, 2003, one report remains open (*The Rainy Season's First Flush Hits the Harbors of Orange County*).
 - Eight 2000-2001 Grand Jury reports with 18 open recommendations. As of April 29, 2003, one (*Affordable Housing*) remains open and is also being reviewed by the CEO.
 - All 2001-2002 Grand Jury reports were closed by the 2002-2003 Grand Jury.
2. The CEO completed the 2001-2002 continuous tracking report from the BOS and County departments' responses. The report was submitted to the Grand Jury in February 2003.
3. Beginning with the 2002-2003 Grand Jury reports, the initial responses and all follow-up responses are available at the Grand Jury web site <http://www.occourts.org/grndjury/gjreports.asp>.

Research Sources

1. 1986-1987 Orange County Grand Jury Final Report, Report of the *Ad Hoc Committee on Recommendations and Responses to the Grand Jury*.
2. 1997-1998 Orange County Grand Jury Final Report, *Declaration: Improvement of Continuity in Grand Jury Activities*.
3. 1999-2000 Orange County Grand Jury Final Report, *The Never Ending Report*.
4. 2002-2003 Orange County Grand Jury Final Report, *Tracking the Implementation of Grand Jury Recommendations*.
5. Los Angeles Citizens' Economy and Efficiency Commission, *Final Recommendations*, November 2002.
6. Los Angeles Citizens' Economy and Efficiency Commission, *Review of the Effectiveness the Los Angeles County Grand Jury*, July 2001.

7. University of the Pacific, Mc George School of Law's Capital Center for Government Law and Policy, Sacramento, CA, *Final Recommendation for Reform of California Grand Jury Statutes*, January 2003.

Appendix

Chart 1 *Follow Up Process for Report Responses*

Chart 2 *Summary of Continuity-Related Studies in Grand Jury Reports-1997-1998 through 2002-2003*

Form 1 *Status of Report Responses*

Form 2 *Responses Summary Evaluation*

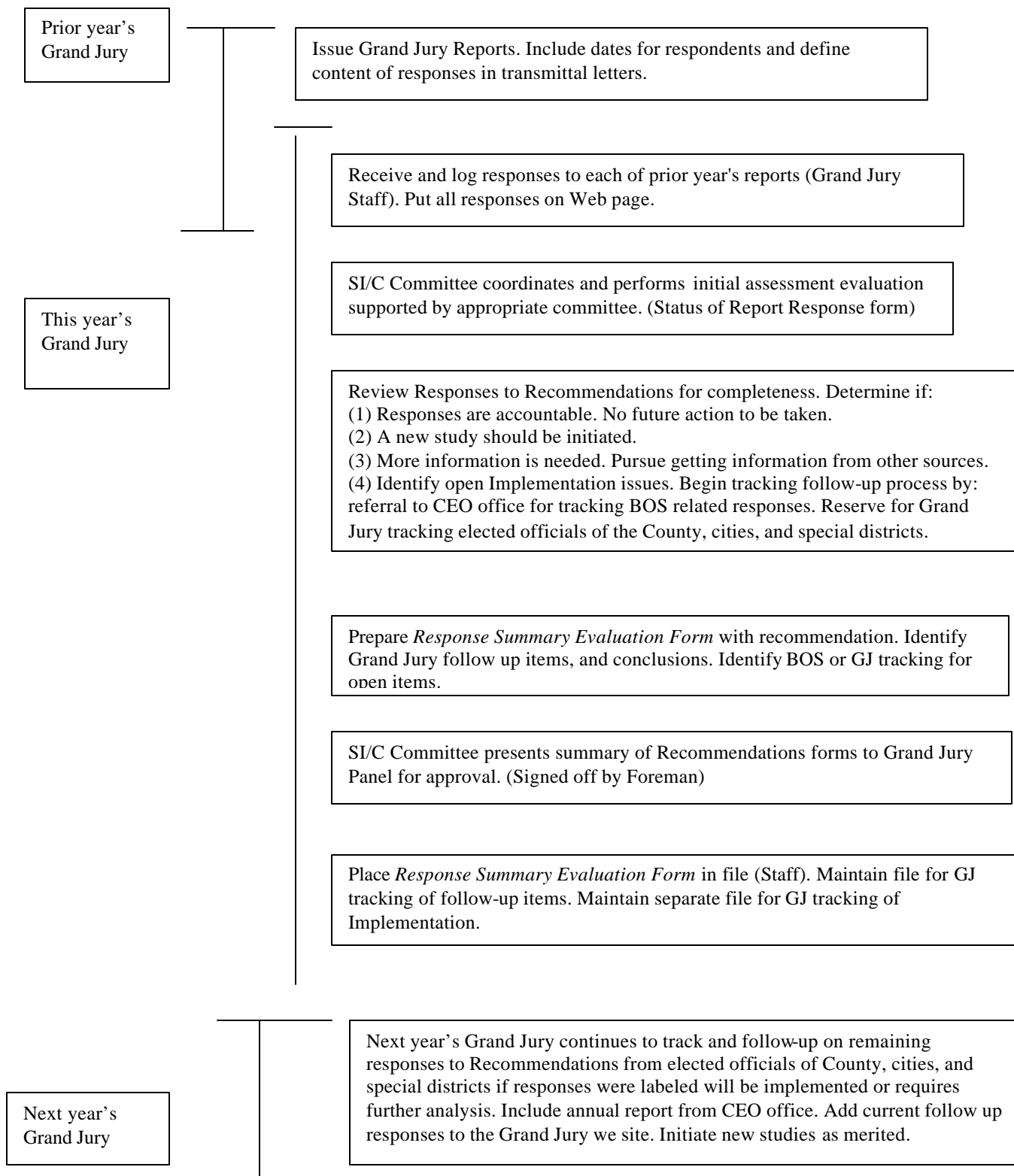


Chart 1 - The Follow up Process for Report Responses

Chart 2

Updated Summary of Continuity Related Studies in Grand Jury Reports

Year/Page	Title/Synopsis
1997-98/p 217	<p><i>Declaration: Improvement of continuity in Grand Jury Activities.</i></p> <p>Concludes that there must be timely follow-up by each newly seated Grand Jury on responses to Recommendations made in prior Grand Jury final reports. This follow up will enable careful evaluations by the sitting Grand Jury to determine whether any further study is required on those earlier Grand Jury Recommendations for which respondents have not been forthcoming or do not concur in some critical areas of concern.</p>
1998-1999/p 219	<p><i>Applying for Service on the Orange County Grand Jury</i></p> <p>Past Grand Jury reports are available for inspection by the public at most public libraries.</p>
1999-2000/p SI-9	<p><i>Continuity—The Never-ending Report</i></p> <p>Purpose is to demonstrate to affected parties and, importantly, to the public that the Orange County Grand Jury will review and act on missing and/or inadequate responses to its Findings and Recommendations.</p>
2000-2001	No study addressing continuity issues.
2001-2002	No study addressing continuity issues.
2002-2003	<p><i>Tracking the Implementation of Grand Jury Recommendations</i></p> <p>Recommended that the County Executive Office annually prepare a detailed written report for the Grand Jury on implementation items that remain open.</p> <p><i>Declaration: More on Continuity</i></p> <p>Suggests procedure to track the implementation of Recommendations directed to the public entities (elected officials of the county, cities and special districts) not under the jurisdiction of the Board of Supervisors.</p>

RESPONSE SUMMARY EVALUATION FORM

Date _____

Grand Jury Report title: _____

Original Report written by _____

CONTINUITY COMMITTEE:

The SI/C Committee has received and reviewed all of the required/requested responses from:

_____*

The SI/C Committee suggests the following actions: _____

Follow up on current status of implementation to response(s) to Recommendation number(s) _____ as needed. *

_____ Chair Date: _____

ORIGINATING COMMITTEE: _____ **Date** _____

We have reviewed the responses to this report together with the recommendations of the SI/C Committee and recommend that the GJ Panel take the following actions.

GRAND JURY PANEL:

No further action is to be taken. The follow-up process for this report is closed.

More information is needed. This report will be reviewed after the following:

A new study should be initiated by the _____ Committee.

The Grand Jury agrees that this issue should be addressed by the incoming Grand Jury.

The files of this matter are to be placed in the Grand Jury room under the control of the Administrative Staff.

_____ DATE _____

Foreman, Orange Co. Grand Jury

*Check Penal Code §933 and §933.05 for items with a number 2 or a number 3 response. May require follow-up procedure by Grand Jury through the SI/C Committee or the BOS (CEO staff)

Attached to this form are copies of the original G.J. report and the Status of Report Responses form.

