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## 2001-2002 MARIN COUNTY GRAND JURY

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**TITLE OF REPORT: Evaluation of Responses to the 2000-2001  
Marin County Grand Jury Final Report**

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Date of Report: June 5, 2002

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

# **EVALUATION OF RESPONSES TO THE 2000-2001 MARIN COUNTY GRAND JURY FINAL REPORT**

## **INTRODUCTION**

The 2000-2001 Marin County Grand Jury issued nine (9) formal reports on various subjects relating to the governance of the County as well as its various cities, towns, and special districts. Each of those reports included findings and recommendations, as well as requests for responses from appropriate agencies. Interested parties may obtain copies of those responses from the office of Marin County Counsel.

The 2001-2002 Grand Jury carefully reviewed and considered the legal adequacy of the responses received pursuant to the requirements of Penal Code §933.05. In certain cases, it also followed up with the involved agencies in order to ensure that promised actions have indeed been undertaken.

Except as otherwise noted below, the responses were determined to be adequate.

## **DISCUSSION**

The following paragraphs summarize actions taken by this year's jury with respect to the reports prepared by the 2000/2001 Grand Jury:

- **Evaluation of Board of Supervisors' Response to 1999-2000 Grand Jury EHS [Environmental Health Services] Report**

This report dealt with a formal investigation by the 2000/2001 Jury into the adequacy of responses by the County of Marin to an earlier report issued by the 1999-2000 Grand Jury regarding the EHS Division of the Marin County Community Development Agency. The 2000-2001 Grand Jury requested responses from the Board of Supervisors to the eleven findings of the earlier report (to which responses had not been made) as well as to eight Recommendations whose responses it had deemed inadequate. In June 2001, the Board of Supervisors provided a response to the eleven findings but declined to provide further response, or even clarification of the previous response, to the Recommendations in question on the grounds that they believed they had already complied with the legal requirements of the Penal Code. The current Grand Jury is disappointed in the Board's position.

In the Board's response to the initial report of the '99-'00 Grand Jury, it had indicated that a number of the issues raised in that report had been referred to an appointed advisory panel called Septic Technical Advisory Committee (SepTAC). During the terms of both the 2000-2001 and the 2001-2002 Juries, SepTAC met regularly and attempted to reach consensus on a number of public health issues involving septic systems and their regulation. SepTAC submitted its final report to the Board in January 2002. While it reached consensus on some issues addressed by the '99-'00 Grand Jury, it did not on others, including the very important question of how to monitor existing septic systems. The report contained timelines for implementing some of the recommendations that it made but failed to include timelines for addressing other unsolved matters. Because of the public health issues involved, this Grand Jury believes that it is critical that the Board of Supervisors stick to the implementation schedule for the recommendations where they exist, and establish a specific implementation plan for those issues not resolved by SepTAC.

- **Who's Minding the San Rafael Rock Quarry?**

This report publicized issues regarding the San Rafael Rock Quarry that were of sufficient importance to result in the filing of four lawsuits. In September 2001 the County of Marin, The Attorney General of the State of California, The Point San Pedro Road Coalition (as a class action suit), and a private citizen all filed litigation against the Quarry, alleging various causes of action including that the operation constitutes "a public nuisance". After interviewing several parties involved in the pending litigation, the current Grand Jury decided to defer to the Court with respect to those issues raised in the report which are covered in the lawsuits.

The Grand Jury did, however, conduct a further inquiry into the issue raised in that report concerning the loss to County taxpayers of property tax revenue due to the failure of the County Assessor's office to reassess the quarry property after a change of corporate ownership of the Dutra Group which was part of a bankruptcy reorganization plan.

In her initial response to the Grand Jury in June 2001, the County Assessor-Recorder indicated that the change of ownership/reassessment issue required additional study. As a follow-up, she submitted a letter dated October 1, 2001 that cited an attached memo from the office of County Counsel concluding that the transfer of 100% of the stock in the Dutra Group did not constitute a change in ownership requiring reassessment of the quarry property. A copy of that memo is available from the office of the County Assessor/Recorder.

This Grand Jury decided to pursue the issue further and sought an opinion from the State Board of Equalization. A senior tax attorney for the Board of Equalization submitted a lengthy written opinion on the issue, dated March 22, 2002, to the Grand Jury (with copies to other interested parties). In that letter, a somewhat different opinion was expressed from that of the office of Marin County Counsel. A copy of that opinion is also available from the office of the Assessor/Recorder.

As of the writing of this report, the Assessor/Recorder is still in the process of trying to reconcile these opinions and determine how to proceed.

- **Marin County Coroner's Office: What It Does and Why a Morgue is Needed**

This report contained, among other recommendations, a recommendation that the coroner and his investigative staff, whom the County has acknowledged are sworn peace officers, be given the same Safety Retirement benefits accorded to virtually all other peace officers in the County. The County declined, stating that such matters were best left in the hands of collective bargaining agents. Although disappointed in the County's position, and after conducting an initial inquiry, the current Grand Jury decided not to conduct a formal investigation of this narrow issue. It therefore, albeit reluctantly, accepted the County's response as legally adequate.

- **Marin Emergency Radio Authority (MERA)**

This report dealt with delays in implementing an important safety communications system in Marin County. The issues raised in that report were seen by the 2001-2002 Grand Jury as being of particular importance given the tragic events of September 11, 2001. In response to an issue raised in that report, the current Grand Jury pursued and ultimately obtained written acknowledgement that responsibility for loss or damage to stored equipment rests with the vendor, Motorola Corporation.

The Grand Jury also inquired into the efforts by MERA to complete the system. Its findings in that regard are incorporated into its report entitled *Emergency Management and Operations in Marin County*. The reader is referred to that report, which points out the troubling fact that this critical element of the County's emergency response system is, unfortunately, mired in a neighborhood controversy in Tiburon. That controversy (in which certain residents have complained about the proposed presence of a necessary antenna in their neighborhood) has led to a decision by MERA to pursue a legal strategy whose outcome is uncertain as of the time of this writing. MERA advises that the system needs all its antennas to be in place and operational in order for any of it to be activated. This continued stalemate in Tiburon is extremely disturbing and potentially catastrophic. Furthermore, delays will assuredly be very costly to county taxpayers in the event the December 2002 contract completion date is not met.

- **College of Marin's Financial Analysis**

This report dealt with the failure of the College to break down its financial statements into separate reports for each of its two campuses in Kentfield and Indian Valley. Noting that the College's trustees had agreed to provide such separate analysis in its future reporting format, this year's jury followed up with the office of the College's Chief Financial Officer and determined that the promised action has been taken.

- **Supervisors' Discretionary Fund**

This year's Jury followed up to assure that agreed upon changes have been put in place in order to improve accountability and fiscal oversight over this fund. It appears that those changes have in fact been implemented. First, the Board of Supervisors has made the Fund (which it now refers to as "Community Service Projects") a budget line item (line item 235---Miscellaneous Various---Administration and Finance). The amount of the line item for fiscal 2001/2002 is \$625,000. Also, the office of the Auditor/Controller has agreed to conduct (and has in fact commenced as of this writing) no fewer than eleven audits involving grants from this "Community Service Projects" fund to various non-profit agencies. The audits will analyze whether or not the funds were utilized in accordance with the terms of the written grant contracts.

- **Profiting from Building Permit Fees**

Responses to this report were requested from the County Board of Supervisors as well as the elected Councils of all 11 cities and towns in the County. This year's jury followed up with several towns whose councils were delinquent in preparing, placing on an agenda, and approving the required responses in public meetings. Ultimately, it was determined that all responses met the requirements of Penal Code §933 *et seq.*

- **San Rafael Schools' Maintenance, Operations and Transportation Department**

This year's jury followed up to assure that the response complied with legal requirements. As ultimately submitted, it did.

- **School Counseling in Marin County's Public High and Middle Schools**

The Marin County Office of Education provided a timely and complete response to this report.

## **CONCLUDING CAVEAT**

Other than as noted, the actions taken by the current Grand Jury do not signify agreement or disagreement with the content of any or all of the responses to the prior Grand Jury's findings and/or recommendations. Indeed, this Grand Jury encourages future grand juries to review those reports and the findings and recommendations contained in each as well as the content of the responses and to thereafter conduct such investigations as they deem appropriate.