

RESPONSIVENESS TO GRAND JURY INQUIRIES

INTRODUCTION

Two Grand Jury responsibilities are civil oversight and investigation of citizens' complaints. Duties associated with both of these responsibilities necessitate that Grand Jury Panel Members (Panel) interface with various city and county employees and/or officials (E/O). Often the Panel just asked questions about procedure in the E/O's area of expertise. Other interactions may involve routine requests for printed data or scheduling interviews and tours. The fact that the Panel was experiencing such varied degrees of cooperation and friendliness led the Cities and Joint Powers Committee to question whether cooperation, or lack of, were random happenings, resulting from someone having an upsetting day, from a personality conflict or if certain E/O were consistently difficult.

INQUIRY

The subcommittee decided to look into both measurable (objective) criteria and opinion (subjective) criteria. For measurable data we called the city clerk for each city in the county and asked how long they required to transcribe, approve and release minutes for a City Council meeting. We followed-up each phone call with a letter asking for written confirmation of the information they had given us verbally. We kept records of the data and the response times and notes on how our requests were serviced. Several weeks after those calls, we ordered a set of minutes from each city using the same words for each request, i.e. "...the last minutes approved for a City Council meeting." The time each city took to respond to our request and whether the approved minutes were within the time frame each had previously stated as necessary were recorded. From these responses we could determine efficiency (if the minutes were approved within the prescribed time) and cooperation (time taken to respond to our request and the ease with which our request was serviced).

For subjective data we interviewed the Panel about their experiences and observations during interactions with E/O while performing their duties.

FINDINGS

The measurable criteria we collected are presented in Figure 1. Column (1) shows the time each city stated they needed to transcribe, review and approve minutes of their council meetings; column (2) shows the length of time each city took to provide written confirmation of the verbal information presented in column (1); column (3) shows the response time

each city needed to provide us with the requested minutes; and column (4) shows whether the minutes had been approved and ready to be released within the time shown in column 1.

CITY	(1) TIME TO APPROVE	(2) CONFIRM	(3) RESPONSE TO MINUTE REQUEST	(4) APPROVAL TIME
Camarillo	2 wks.	6 days	1 day	2 wks.
Fillmore	2 wks.	13 days	4.24 hr.	3 wks.*
Moorpark	4 wks.	6 days	16 min.	5 wks.*
Ojai	2 wks.	NR	20 min.	4 wks.
	2-3 months or longer	NR	NR	NR
Port Hueneme	1-3 wks.	NR	1 day	3 wks.
San Buenaventura	2 wks.	15 days	1 day	3 wks.
Santa Paula	15 days	NR	1 day	3 wks.*
Simi	3 wks	NR	20 min.	4 wks.
Thousand Oaks	2-3 wks	13 days	1 hr.	5 wks.

NR = No Response
* Considered within specified time because minutes were requested midway in approval cycle

Figure 1: Approval and response times as explained in the above paragraph

While collecting the data in Figure 1, we were generally greeted by friendly, cooperative personnel. Each city clerk took the time to give us the schedule for their city council meetings and the subsequent steps and reviews before the minutes could be released. The one exception was the Oxnard City Clerk who said it was impossible to give us the information we requested because they transcribed the council meeting minutes when they had time which would be somewhere around 2 to 3 months after the meeting. The minutes would be released about 2 weeks after they were transcribed. They did not respond to any of our further requests. Interactions with Oxnard will be discussed in greater detail in the paragraphs discussing subjective data.

Column (2) shows that five cities failed to respond to our requests for written confirmation of the data they had provided verbally. Each city that did respond confirmed exactly what they had told us on the phone. It is apparent by the data in column (3) that most of the City Clerks were very cooperative. Fillmore, Moorpark, Ojai and Simi faxed the minutes within an hour after our request. The first person to whom we spoke from Thousand Oaks put us on hold several times, which we later learned was because they considered the last approved minutes to be sensitive and

needed authorization from the City Attorney to release them. She seemed either unsure or unwilling to take that responsibility, but transferred us to another person who immediately promised to get the approval and mail us the minutes, She faxed them to us an hour later. Column (4) shows the minutes were approved and released within the time specified. A few of the cites appear to have required more time but careful inspection of the meeting cycle shows the minutes we received had been approved a week or so before our requests.

The subjective data gathered through our interviews with the GFPM are summarized in the following paragraphs

Camarillo - Our interactions, although limited, have been very satisfactory. Even when we visited the City Council meeting, the entire council came down to welcome each of us.

Moorpark - The Panel found Moorpark E/O completely cooperative during our few interactions.

Oxnard - Oxnard library personnel were both helpful and courteous while providing the information Panel requested.

Before we started gathering the measured data presented in this report, the Panel had received a letter of concern from a citizen saying the law was possibly breached during one or more Oxnard City Council meetings. We requested minutes for three consecutive Council meetings, beginning with the meeting held on August 26th that we needed to evaluate the concern. Our initial request was made on September 15th During the next 4 weeks, we made 4 more requests for those same minutes. The City Clerk essentially told us he would send the minutes when he got ready and not before. On October 23rd we sent a 5th request with copies to the Mayor, the City Manager, the City Attorney and the City Council. Meanwhile, because we needed the information, we requested a videotape of one of the meetings. The Assistant City Clerk explained that we either had to give them a \$5 deposit on the tape to ensure its return or furnish them with a new, unused tape. We agreed to furnish a new tape and she promised to send the video coverage of the meeting. The following day the City Clerk returned to work and called to inform that our cost for the tape would be \$10. No other arrangements were possible. On December 1st we finally received the minutes we'd first requested on September 15th. We found the Oxnard City Clerk very uncooperative and discourteous.

Port Hueneme - The police department gave an impressive presentation to the Panel. The library personnel were very courteous while providing information we had requested from them.

Santa Paula - Although our interactions with the police department and the Interim City Manager were very satisfactory, the Interim City Manager demonstrated some lack of understanding of how the Grand Jury works by asking why the Panel were asking the same questions they'd asked the year before. This last statement will be discussed under the Conclusions section.

San Buenaventura - The Assistant Superintendent and the attorney representing the Ventura Unified School District were very polite and courteous to our Panel. The Ventura Police Chief, Assistant Chief and a Lieutenant warmly welcomed a subcommittee investigating a citizen's complaint. The three were open and candid in answering all questions, for which they were well prepared.

Panel investigations or inquiries of a topic normally culminate in a written report documenting the work. Before the report is released, the first three sections that include the factual data compiled are sent to the agency and/or person(s) providing the data to ensure its accuracy. In following this procedure, we sent the first three sections of a report to the City of San Buenaventura.

The facts we reported were taken primarily from letters the Director of Public Works and the City Attorney had sent us. Although the comments we received from the city were critical in their wording, they actually confirmed our conclusions.

Simi Valley - While investigating a citizen's concern, we found the Simi Valley Police openly cooperative and responsive in answering all our questions.

Thousand Oaks - Although the library personnel were very courteous and helpful, the Finance Director spoke to the subcommittee seeking information in a condescending tone.

Ventura County - The Panel found the Ventura County Medical Center personnel to be courteous. Although they initially failed to provide all the data requested, they did respond to a second phone call. Behavioral Health E/Os, who dealt with several different Panel subcommittees, were helpful, friendly and very cooperative in responding to requests for data.

The Ventura County Sheriffs' Department has willingly given Panel presentations on law enforcement procedures that have been valuable during our tenure. They have arranged a number of ride-alongs during which each member has been treated professionally. They have answered all our questions regarding investigations and inquiries openly and courteously. They have been very cooperative by arranging tours and transporting us to the sites even for all day trips.

We made tours through the detention facilities systems in Ventura County. At each we were provided with knowledgeable guides who freely answered all of our questions.

Employment Development Division (EDD) and Work Development Division (DD) personnel have been very cooperative in talking with us; the EDD provided us with more information than we requested. The Planning Director of the WDD also commented that we were asking the same questions we had asked the year before.

The Panel found the Harbor Department Director difficult to contact and slow in responding to messages asking her to return phone calls.

The Ventura County Parks and Recreation Department provided documentation regarding the parks and also arranged several, guided tours.

The Director of Animal Regulation was helpful, courteous and answered all Panel questions openly. She also personally conducted a tour through the Animal Regulation facility. The Panel found her equally cooperative in her roles as Director of the RAIN Project and Director of the County's Transitional Housing Program for Homeless Families.

The County Public Works Department was helpful in providing information to the Panel about county roads.

The Panel found the County Counsel very responsive and helpful in dealing with the many problems connected with it. They reviewed and interpreted legal material for us, gave us advice on how to deal with problems and reviewed our reports. Although they were sometimes a little slow in reviewing our reports, it is doubtful we could have accomplished our duties without their cooperation.

The PSSA Deputy Director was uncooperative with a Grand Jury subcommittee until they explained that, if necessary, a subpoena could be secured to encourage cooperation. Also the Foster Care Program Manager was not responsive to the Panel's phone calls.

The District Attorney's and the Public Defender's offices have been responsive to all our inquiries and questions. They welcomed any reports of possible wrongdoing but have not always provided us with feedback of the actions they have taken on the matters turned over to them.

The Board of Supervisors' Clerk has consistently been courteous and answered all our questions willingly. One of the supervisors did demonstrate a lack of understanding of how the Grand Jury works when a Panel member was arranging for a supervisor to talk to a subcommittee regarding a confidential investigation. The supervisor asked the topic of the investigation and labeled the situation ridiculous when the Panel member explained it was confidential.

CONCLUSIONS

Although most of the E/O with whom Panel interacted were pleasant, courteous and helpful, there are some noticeable exceptions. The remainder of this report will address only those exceptions.

Failure to cooperate with the Panel can result from either a lack of understanding of how the Grand Jury works, attempting to interfere with basic Grand Jury investigations and operations and/or blatant defiance.

E/O may make fewer comments regarding the same or similar questions being asked if they understood that investigations conducted by different subcommittees may be on similar or overlapping subjects. This also

holds true when a new Panel, which is seated annually, investigate the same or similar subjects with the same E/O.

A better understanding of Grand Jury activities might also lessen the number of time we hear a voice on the other end of a phone call say, "I don't know if I'm supposed to talk to you." It is difficult to understand, though, how any E/O could show such lack of courtesy as to label a situation ridiculous because a juror refused to divulge confidential information publicly.

The exhibition of uncooperative behavior, such as refusing to respond to our requests for information, requires more than education to resolve. The preferable solution would be for a top management person or the city council to recognize the problem and take appropriate steps. Of course the Panel could issue a subpoena for every piece of data it needs to ensure E/O cooperation, but we prefer not to use this approach.

Many concerns and complaints the Panel receives are based upon misunderstandings so most E/O are eager to work with jurors to resolve the problem. Lack of cooperation regarding Panel investigations give the appearance of trying to interfere with Panel investigations even if this is not the intent.

Those E/O who have demonstrated a lack of cooperation with Panel inquiries and investigations might be more inclined to be cooperative if Grand Jury Panels had more continuity. That is, it takes each new Panel about two months to learn their job and the resources available to them. Approximately two months before the end of their tenure, a seated Panel begins to concentrate more on completing reports on their activity during the previous year and spend less time beginning new investigations. This results in limited Grand Jury activity/effectiveness for a third of each year. Because there is no continuity between Grand Juries, each one is essentially a lame duck Panel.

Hypothetically, if an E/O elects not to cooperate with Grand Jury operations, he/she can simply delay responding as long as possible in hopes that time will run out before he/she has to cooperate. When the request for cooperation is initiated late enough during a Grand Jury's tenure, it is easy to see that this approach could effectively interfere with Grand Jury investigations, particularly if subpoenas are not issued. Creating some continuity between Grand Juries could minimize this problem.

For example, instead of seating an entire Grand Jury Panel each year, half the members could be replaced each six months or a third of the Panel every four months. The gradual replacement method would lend itself to the secondary benefit of personally interviewing each prospective member instead of relying wholly upon the applicant's completed application. These interviews, instead of being a major undertaking if conducted within a few weeks, could be spread out at the convenience of the interviewer. The names of those approved would form a pool from which replacements could be drawn when appropriate.

Another approach to establish some measure of continuity might be to require that a project unfinished by one Grand Jury be completed by the next Panel. Either of these approaches could minimize the effectiveness of being uncooperative with the Grand Jury.

RECOMMENDATIONS

- That all elected and management officials and other employees of Ventura County be instructed on the rules and procedures under which the Panel operates.
- That top city and county officials take steps to ensure employee(s) respond to Grand Jury requests in a timely manner so as not to prevent or delay Panel efforts to perform its duties.
- That timely steps be taken to establish continuity between subsequent Grand Juries.

RESPONSES REQUIRED

Jury Services

Oxnard City Council

Oxnard City Clerk