



Lassen County

Grand Jury

2011-2012

Final Report

On the  
Lassen County  
Probation Department



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**Superior Court of California  
In and For the County of Lassen**

220 SOUTH LASSEN STREET, SUITE 2  
SUSANVILLE, CA 96130

(530) 251-8124  
FAX (530) 257-9061

HONORABLE  
F. DONALD SOKOL  
PRESIDING JUDGE

**March 7, 2012**

**Clerk of the Court  
Lassen Superior Court  
220 South Lassen Street, Suite 6  
Susanville, CA 96130**

**To the Clerk of the Court:**

**As Presiding Judge of the Lassen County Superior Court I hereby instruct the Clerk to accept for filing the Lassen County Grand Jury Final Report on the Lassen County Probation Department for 2011-2012 as presented to me this 7<sup>th</sup> day of March, 2012.**

**Sincerely,**

A handwritten signature in cursive script that reads "F. Donald Sokol".

**F. Donald Sokol  
Presiding Judge**

**FDS:nh**

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2011-2012



*Lassen County Grand Jury*

*220 S. Lassen St*

*Susanville, CA 96130*

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This Final Report on the Lassen County Probation Department is being published in advance of the Grand Jury's Annual Report in July. Because Grand Jury members typically serve a term of one year, follow-up progress is seldom received prior to the end of its tenure. This early filing will allow responsible parties the allotted and mandated time limits to demonstrate a commitment to resolving issues discovered in the months-long investigation that the Grand Jury conducted.

This early filing may be a first for Lassen County's Grand Jury. But certainly it is not rare amongst other counties when conditions warrant special attention.

It is our hope residents will take the care in digesting this document equal to that given in its preparation by this year's Lassen County Grand Jury.

Mike Smith  
Foreman Pro Tempore

A handwritten signature in cursive script, appearing to read "Mike Smith", is written over the typed name.

## Members of the 2011-2012 Lassen County Grand Jury

Don Anderson, Foreman\*

Mike Smith, Foreman Pro-Tem

Darlene Walsh, Secretary

Floyd Bryant

Delight Callegari

Oscar Cisneros

Sandra Datema

Byron Frazier\*

Chris Gallagher

Jane Gardner

Sandy Jansen

David Meserve

Theresa Nagel

Phillip Parry\*

Carol Polan

Greg Reinsel

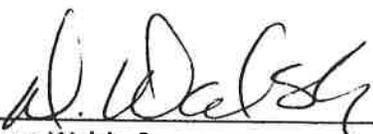
\*Returning Members from 2010-2011

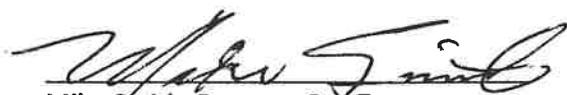
## Grand Jury Member's Disclaimer and Signatures

The Grand Jury recognizes that a conflict of interest may arise in the course of its investigation. In such instances, the juror may ask to be removed from all aspects of an investigation. Those members may choose not to investigate, attend interviews and deliberations, or assist in the making and acceptance of a final report that may result from the investigation.

Therefore, whenever the perception of a conflict of interest exists on the part of a member of the 2011-2012 Lassen County Grand Jury, that member abstains from any investigation involving such a conflict and from voting on the acceptance or rejection of any related subject. By signing this final report, I approve it even though I may have recused myself from, or voted against, certain individual reports which the majority approved.

\_\_\_\_\_  
Deceased  
Don Anderson, Foreman

  
\_\_\_\_\_  
Darlene Walsh, Secretary

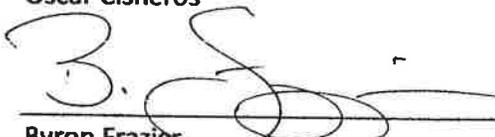
  
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Mike Smith, Foreman Pro-Tem

  
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Floyd Bryant

  
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Delight Callegari

  
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Oscar Cisneros

  
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Sandra Datema

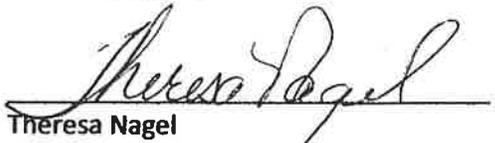
  
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Byron Frazier

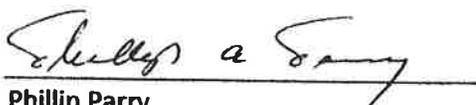
  
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Jane Gardner

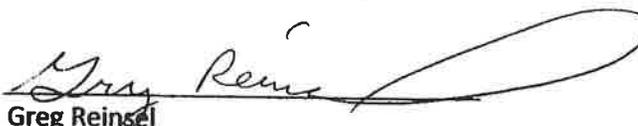
  
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Phillip Parry

  
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Carol Polan

  
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Greg Reinsel

## Grand Jury History and Function

The first formal Grand Jury was established in Massachusetts in 1635. By 1683, Grand Juries in some form were established in all of the colonies. The first cases considered by the Grand Jury were murder, robbery and wife beating. Cases in Pennsylvania included Grand Jury indictments for: holding a disorderly meeting in 1651, witchcraft in 1683 and for other crimes in 1685. Various public evils were added to the range of investigations by the Grand Jury in 1685, and began to set a precedent for future Grand Jury Interests.

The original United States Constitution which was written in 1787 did not contain a reference to the Grand Jury, but the Fifth Amendment provided the remedy for the omission. It states: "No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in the time of war or public danger..."

The fourteenth amendment in 1868 made most of the provisions of the Bill of Rights applicable to the States. Some of the states have interpreted this amendment to mean that prosecution of crimes no longer mandated a Grand Jury indictment. A study done by Deborah Day Emerson in the year 1984, shows that four states require a Grand Jury indictment for all crimes, 14 states and the District of Columbia require indictments for all felonies, six states mandate Grand Jury indictments for capital crimes only, 25 states (including California) make indictments optional. In a single state, Pennsylvania, the Grand Jury lacks the power to indict.

## California Grand Juries

The California Penal Code describes the organization, powers and the duties, and general structure of the Grand Jury. All of California's 58 counties are required to have Grand Juries. There have been recent changes in Section 904.6 of the Penal Code (1991) which permits any county to have an additional Grand Jury at the discretion of the Presiding Judge of the Superior Court. The Penal Code also allows county district attorney's the option of utilizing special Grand Juries in the handling of criminal cases. Although this alternative is offered in Penal Code 904.6, some counties choose to maintain their regular use of Grand Jury for criminal and civil duties.

The major function of a Civil Grand Jury is to oversee all aspects of the legislative and administrative departments that make up county, city and special district governments. It has the power to examine and guarantee that those who are given the responsibility of managing these offices are: truthful, dedicated and sincere in their efforts to serve the public. There are forty-two states that have some form of Grand Jury, but California and Nevada mandate the impaneling of a Grand Jury each year. The Lassen County Grand Jury is a judicial body of nineteen (19) citizens impaneled to watch over the citizens of Lassen County.

Grand jurors are forbidden by law, to disclose any evidence acquired during investigations, or disclose the names of complainants or witnesses. After investigations are completed, it is the responsibility of the Grand Jury to recommend changes that should be made in order to increase efficiency and improve services to the general public. Some of the recommendations made by the Grand Jury are to save the taxpayer money.

Special recommendations may be made to departments or agencies for excellence in management. The reports that are released to the public, have been collected, voted on by the 12 members, and the results carefully edited by the editing committee for a Final Report at the end of the 2011-2012 Grand Jury's term of office.

The Final Lassen County Grand Jury Report is distributed to the public and to public officials. Its distribution also includes: Lassen County Times newspaper, KSUE/KJDX radio station, the Susanville Library and is available in the Jury Commissioner's office at 220 S. Lassen Street, Susanville, California 96130. The telephone number is (530) 251-8109.

## Distribution List

### **Lassen County:**

Lassen County Probation Department

Lassen County Administrative Officer

Lassen County Counsel

Lassen County Personnel Department

Presiding Superior Court Judge

## Responses to Grand Jury Reports

### Summary of PC 933.05

A compendium of all codes pertaining to Grand Jury was produced by the Governor's Office of Planning and Research. This document is available to Grand Juries through the Superior Court in respective counties. Since the compendium was assembled the following has become law:

Penal Code §933.05 provides for only two (2) acceptable responses with which agencies and/or departments (respondents) may respond with respect to the *findings* of a Grand Jury report:

- 1) The respondent agrees with the finding.
- 2) The respondent disagrees wholly or partially with the findings, *in which case the respondent shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.*

Penal Code §933.05 provides for only four (4) acceptable responses with which agencies and/or departments (respondents) may respond with respect to the *recommendations* of the Grand Jury:

- 1) The recommendation has been implemented, with a summary regarding the implemented action.
- 2) The recommendation has not yet been implemented, but will be in the future, with a timeframe for implementation.
- 3) The recommendation requires future analysis, with an explanation and the scope and parameters of an analysis, with a timeframe for the matter to be prepared for discussion by the officer or head of the agency/department being investigated or reviewed, including the governing body of the public agency when applicable. *This timeframe shall not exceed six (6) 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 a detailed explanation therefore.

However, if a finding and/or recommendation of the Grand Jury addresses **budgetary** or **personnel** matters of a county agency/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/department.

**RESPONSE PROCEDURE TO GRAND JURY REPORT**  
**SUMMARY OF PC §933.05**

The governance of responses to Grand Jury Final Report is contained in Penal Code §933 and §933.05. Responses must be submitted within 60 to 90 days. Elected officials must respond within 60 days. Governing bodies (for example: the Board of Supervisors) must respond within 90 days. Please submit all responses in writing and digital format to the Presiding Judge, the Grand Jury Foreperson and the CAO's office.

Report Title: \_\_\_\_\_ Report Date: \_\_\_\_\_

Response By: \_\_\_\_\_ Title: \_\_\_\_\_

**Findings:**

I (we) agree with the findings numbered:

\_\_\_\_\_

I (we) disagree wholly or partially with the findings numbered:

\_\_\_\_\_

**Recommendations:**

Recommendations numbered \_\_\_\_\_ have been implemented. (Attach a summary describing the implemented actions)

Recommendations numbered \_\_\_\_\_ require further analysis. (Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer and/or director of the agency or department being investigated or reviewed; including the governing body of the public agency when applicable. This timeframe shall not exceed six (6) months from the date of publication of the Grand Jury Report).

Recommendations numbered \_\_\_\_\_ will not be implemented because they are not warranted and/or are not reasonable. (Attach an explanation)

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

Total number of pages attached: \_\_\_\_\_

with the cooperative efforts of Lassen County District Attorney Robert Burns and the Presiding Judge Honorable F. Donald Sokol. A court reporter was used to record the subpoena interview proceedings. The Lassen County Grand Jury conducted three days of formal interviews of both former and current Probation Department employees resulting in over 1,000 pages of transcripts.

## **Findings:**

**Oversight of the Chief Probation Officer (CPO) and the Probation Department-** This issue is of great concern to the Grand Jury. It appears that once a CPO is appointed by the Presiding Superior Court Judge there is no structured oversight or supervision of the CPO or how the Probation Department operates. An employee attempted to file a grievance with the Lassen County Personnel Department through the Interim County Administrative Officer (CAO)/Personnel Director along with Lassen County Counsel Richard Crabtree. This employee was directed to speak with the Presiding Judge and was left with no options in filing complaints against the CPO as neither the Lassen County Personnel Department, County Counsel nor the Presiding Judge would take responsibility in direct oversight and/or supervision of the CPO.

The Grand Jury learned that in January 2009, a citizen's complaint was filed against the Probation Department and the CPO. There appears to have been a disagreement between the then Presiding Superior Court Judge Stephen D. Bradbury and Lassen County over who was responsible to monitor and investigate the citizen complaint. The Honorable Judge Stephen D. Bradbury requested a legal opinion on the issue from the Office of the General Counsel, Judicial Council of California-Administrative Office of the Courts. Their response was that under Welfare and Institutions Code 270, the Court is responsible for appointing and removing CPO's. Once appointed, CPO's are county employees. The CPO must follow county employee policies and procedures and is responsible for supervising County Probation Officers, who are also county employees. The Administrative Office of the Courts took the position that because CPO's are County employees, the County is responsible for monitoring their performance and for investigating any allegations of misconduct.

**Morale-**As reported by the majority of the employees, morale in the Probation Department is extremely low. The Grand Jury received a considerable amount of testimony from employees that the working environment is filled with anxiety as the perception of favoritism, intimidation and fear of retaliation seem to be the preferred supervision method used by the CPO within the department. Employees gave many examples of their allegations in this area.

By contrast, some employees said the department had been well supervised in recent years.

**CPO on medical leave, but continuing to work-**It was discovered that the CPO was off on long term approved medical leave, however still continued to work. Evidence exists which

shows the CPO continued to appear at the department and direct staff from home via telephone and computer. Additionally, the CPO had a county computer installed at her residence to enable her to work from home. By allowing an employee to continue to work who is off work while under full disability by a doctor, opens up liability issues for Lassen County and the taxpayers.

**Safety Equipment-**The operational status and overview of safety equipment needs immediate attention. Many staff reported that the O.C. (Oleoresin Capsicum) pepper spray utilized for personal protection which is carried on a daily work basis is out of date. One employee stated their O.C. spray had an expiration date of 2008. Another employee stated their O.C. expired six years ago. Apparently staff were not aware that new OC was in stock and available to replace their outdated spray. Many employees did not know if their protective vests were out of safety date compliance, nor did they know what the threat ratings were. Many staff voiced concerns over non functional field radios, therefore they had no choice but to use cell phones while in the field, which also included calling for emergency back-up on a cell phone if needed. Concern was also voiced due to the rural areas that cell phone service was inconsistent, leaving Probation Officers without any viable communication while in the performance of their mandated duties. Many staff also reported they have never received any radio training on how to properly use a department radio. Due to the serious nature of this issue, it was immediately reported to the CPO by the Grand Jury. Given the above information, which was verified by sworn testimony, the Grand Jury concluded that the CPO has exercised lack of leadership, supervision and effective communication in this area.

Of note is that the Lassen County Sheriff Department's radio system will be going digital in July 2012. The Probation Department utilizes an analog radio system which will not effectively communicate with a digital system. The primary emergency back-up for the Probation Department is the Sheriff Department. The Probation Department needs to ensure a plan of action is in place for this transition or address the Board of Supervisors on solutions for this issue.

**Policies and Procedures-** The Adult side of the Probation Department does not have a written set of Policies or Procedures as reported by Probation staff. There is not a procedure for Citizen Complaints as required per Penal Code section 832.5 (a) (a). When the CPO was questioned if she knew of the requirements associated with citizen complaints, she stated "Yes...We don't have a written policy or procedure". When Probation Department staff were asked how they learn their job without any written policies one person replied that they learn by "winging it and from co-workers." A written policy on the "Use of Force" does not exist within Probation. It was discovered that Lassen County has been paying an annual subscription fee for years to a company called Lexipol to assist in providing a working Policy/Procedure Manual, along with updates which are based on the California Penal Code and current case law. Even though taxpayers have been footing the bill for this service, it appears that the CPO is not

## **Introduction**

The Grand Jury is a constitutionally mandated judicial body charged to investigate civil matters but not criminal matters. The Grand Jury's responsibilities include investigating issues regarding city and county government as well as public agencies funded by the government, and issuing reports and recommendations when appropriate.

The Grand Jury is mandated by law to respond to citizen's complaint letters. As letters and complaints were received and reviewed by the Grand Jury for validity and content, inquiries and reviews were initiated into areas of possible concern. One of these areas of concern was the Lassen County Probation Department. A huge amount of effort, resources, and hours were invested into a review of the Lassen County Probation Department, as issues of great concern to the Grand Jury were discovered.

It was determined that in the interest of public safety and concern, that these issues needed immediate attention. Therefore, the decision was made to release the final report on the Lassen County Probation Department prior to the full year end Grand Jury report.

The following Grand Jury report is based on information, interviews, and sworn testimony brought before the Lassen County Grand Jury.

## LASSEN COUNTY PROBATION DEPARTMENT

**Reason for Inquiry:** Penal Code 919 (b) mandates that the Grand Jury “inquire into the conditions of all detention facilities within their county,” which includes the Lassen County Juvenile Detention Facility. Public interest was expressed regarding the Probation Department preparedness for implementation of AB 109, which includes the anticipated arrival of State Prison Parolees to Lassen County; and public concern for the safety of unarmed Probation Officers.

**Inquiry Procedure:** Staff members of the Probation Department were contacted by the Grand Jury regarding the inquiry. Shortly after these contacts, complaints from the public were received by the Grand Jury regarding allegations of mismanagement within the Probation Department. A tour of the Probation Department was conducted by the Grand Jury on 09/14/2011. The tour was guided by the Chief Probation Officer (CPO) Letha Martin. Following the tour the Grand Jury concluded that a closer inspection of the operations of the Probation Department was warranted.

As the inquiry began information surfaced within the Probation Department that there are significant operational issues within the department and some staff exhibited unusual fear in talking to the Grand Jury. Some of the staff members expressed concern that they would be retaliated against for talking to the Grand Jury and that a subpoena would be required for them to respond to the Grand Jury inquiry. Enough information was discovered through the initial interviews and tour that the Grand Jury concluded in the best interest of the public to conduct an in-depth investigation of the Probation Department.

**Background:** The goals of the Probation Department are to protect the community by conducting investigations for the Court, enforcing court orders, assisting victims and facilitating the re-socialization of offenders. Through the Probation Department, criminal offenders are held accountable for their crimes by making restitution to their victims and reparation to the community. When offenders leave the probation system they should be more capable of living productively and being responsible in the community. The Probation Department attempts to help offenders address the problems that led to their illegal activity and provide the tools to allow them to become law-abiding and productive members of the community. A Probation Officer will also perform arrests, searches, conduct seizures and other peace officer duties as required.

**Methodology:** As part of its investigation numerous interviews were conducted which included current and former employees from all levels of the Lassen County Probation Department. Over fifteen subpoenas were issued to employees of the Probation Department

effectively utilizing the service and has not produced and maintained a Policy/Procedure manual for distribution to employees

**Phone Policy-**It was discovered that the Lassen County phone policy was not being followed or enforced which is costing taxpayer dollars. Cell phone records were reviewed and it appears that county cell phones were being used extensively by some employees for personal use. Phone records in part reflect what appears to be extensive use of a county cell phone by the CPO who was off work for several consecutive months.

The CPO testified that she has directed staff to refrain from utilizing the texting feature of their county cell phones because this is an unneeded expense that comes at a larger cost to the county; however, records reflect frequent and repetitive use by the CPO utilizing this texting feature to communicate with persons within the department.

Per Lassen County Personnel Rules and Regulations, Article III, Section 310, "Telephones provided by the County are for use in conducting County business. Use of County telephones by County employees for personal reasons, which are local and non-long distance, is not prohibited, but such calls shall be kept to a minimum. County telephones may not be used for personal long distance calls unless charged to a credit card or by other means billed to a non-county phone and in general should be restricted to arranging medical needs."

When the CPO was questioned regarding personal use of a county cell phone it was admitted that lacking a personal cell phone the county supplied cell phone was used for personal purposes. Another County Probation employee has continually reimbursed the county for personal use of the county supplied cell phone. To date, the Grand Jury has not been able to substantiate if reimbursements to the county have been made by the CPO.

**Firearm Policy-**As of the tour date with Probation, there are no Probation Officers who are authorized to carry duty weapons. With the passage of AB 109, the Probation Department will have an expanded caseload of convicted felons. Some of these felons will be facing their third strike and life in prison. The Grand Jury questions if this is an appropriate policy to not train and arm the Probation Officers for their protection and the protection of the community.

**Use of personal vehicles for work-**It was reported by many staff that due to insufficient county cars available they frequently use their personal vehicles and they are not reimbursed as allowed within county policy.

**Staff meetings-**An area of concern to many staff in the adult side of this department is that they do not have regular staff meetings with their supervisors. Many staff on the adult side are requesting a regular office meeting in which information can be shared and training given.

## **Recommendations:**

1. **Morale-** The Grand Jury recommends that all Supervisors and the CPO receive advanced training in supervision and the treatment of employees. There are many good people working within the Probation Department, however ineffective supervision and management needs to be addressed.
2. **Phone Policy-**The Probation Department should complete a review of all county cell phones in use for compliance with the Lassen County phone use policy with appropriate action taken if needed. It is also recommended that a review be done on the current cell phone plan utilized to determine if there are alternative plans available which would be a better value to the taxpayer.
3. **Oversight and supervision of the CPO and the Probation Department-** It is noted that the Presiding Superior Court Judge appoints the CPO, can terminate the CPO and completes the performance evaluations for the CPO. It is recommended that the Superior Court Presiding Judge, Lassen County Legal Counsel, County Administrative Officer, and the Lassen County Personnel Department convene on this issue to determine who should have responsible oversight of the Probation Department and the CPO; then implement a chain of command for the Probation Department into the county policy and procedures manual. Once it is determined who should have responsible oversight of the CPO and the Probation Department, it is recommended that a complete operational review be completed.
4. **Employees Allowed to Perform Work While Medically Excused from Work-** A review of the Department should be conducted in regard to County Policy in this matter to determine if it is wide spread, with appropriate action taken as needed.
5. **Policies and Procedures-** For the protection of Lassen County In today's litigious society and to give staff a place to review procedural issues, it is imperative to establish and distribute a working Policy/Procedures Manual. It is recommended that the Lexipol program be utilized to its full extent and make written policies readily available to all Probation Staff. To be in compliance with the Penal Code, a written policy/procedure must be established on Citizen Complaints. For the protection of staff, the public and Lassen County, a written "Use of Force" policy must be established.
6. **Safety Equipment-**An in depth review be conducted on the operational status of all safety equipment and any necessary action be taken. Documented safety equipment training needs to be completed by all staff. It is recommended that training records be initiated and maintained on all employees documenting all equipment and training received.

7. **Firearm Policy-** It is recommended that the Probation Department complete a review of their policy regarding arming Probation Officers. It is also recommended a review be completed regarding the possibility of entering into an agreement with other law enforcement agencies in Lassen County to provide training and certification of staff to carry firearms in accordance with the California Penal Code Section 830.5-Arming Deputy Probation Officers.

8. **Use of Personal Vehicles for Work-**It is recommended that documented training be given to all Probation employees on the County Policy for the use of personal vehicles in the work place. It is also recommended that a written departmental policy be developed for on-call employee vehicle use after normal duty hours.

9. **Staff Meetings-** It is recommended that regular staff meetings be hard scheduled to provide ongoing training and the dissemination of information.

10. **CPO-**An immediate inquiry into the performances of the CPO should be conducted through a cooperative effort between the Presiding Judge, County Counsel, and the County Administrative Officer regarding work performance, allegations of misconduct, potential abuse of county cell phones and other areas of concern to the county and court.

### **Response Required: YES**

Responses are required from the following:

1. Lassen County Probation Department
2. Lassen County Administrative Officer
3. Lassen County Counsel
4. Lassen County Personnel Department
5. Presiding Superior Court Judge

The California Penal Code specifies the required permissible responses to the findings and recommendations contained in this report.

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2. The recommendation has not yet been implemented, but will be in the future, with a time frame for the implementation.
3. The recommendation requires future analysis, with an explanation and the scope and parameters of an analysis, with a time frame for the matter to be prepared for discussion by the officer or head of the agency/department being investigated or reviewed, including the governing body of the public agency when applicable. **This time frame shall not exceed six (6) 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 a detailed explanation therefore.

The governance of responses to a Grand Jury Report is contained in Penal Code 933 and 933.05. Responses must be submitted within 60-90 days. Elected officials must respond within 60 days. Governing bodies (for example: the Board of Supervisors) must respond within 90 days. Please submit all responses in writing and digital format to the Presiding Judge, the Grand Jury Foreperson and the CAO's office.