



GJAOC Winter 2018 Newsletter

President Pro Tem's Message

I want to thank each and every board member who has given their valuable time, knowledge, and expertise to our association's agenda. And, on behalf of the Board of Directors, I want to thank the entire GJAOC membership for your continuing desire and effort to contribute to the well being of Orange County citizens, its cities, and those agencies and entities that make up this dynamic community.

Our Association is now at a full compliment of board membership, but more importantly, to a person, the board members are bringing vitality, enthusiasm, and strength to our efforts. We have re-defined and improved our working relationship with the court systems as well as our relationship with the Grand Jury panels. We are expanding the presence of the Grand Jury system through our speakers' bureau and recruiting efforts. We are hopeful that we can assist the courts in restructuring and improving a number of procedures in the Grand Jury process.

We do however; want to stress the need for the individual efforts of every individual member of our association. Each of you has a standing invitation to join us at the monthly board meetings. We emphasize this invitation to the prior officers of the association as well as those prior forepersons of grand jury panels. We are of the opinion that our membership includes citizens with a wide array of talent, knowledge, and experience, who are invaluable to our association and our communities as a whole.

Each of you became members of the grand jury because of an interest and desire to improve areas of public service. Each of you participated in the investigation and reporting of many difficult topics. We very much want you to bring that interest and special knowledge to the Association by your participation in a "Tracking and Implementation" effort. You, more than anyone, know the "real story" supporting these reports, and you more than anyone, have an interest in seeing that those recommendations were and are given serious consideration, and if not, why not.

Our Association has a unique voice re: public affairs and we want and need your contribution to that voice. Once again, we will be able to make our voice heard and the Grand Jury process will receive the respect and consideration that a citizen's oversight entity deserves. That oversight is critically important now more than ever,

With the holidays in sight, we wish each of you well and want you to know how valuable your friendship, your enthusiasm, and your community spirit are to us. We are looking forward to a new year of progress and hope that each of you will join us.

Stan Ness
President Pro Tem

Re: SB 10 - BAIL REFORM
by Marie Whittington
GJAOC Board of Directors member

Senate Bill 10 is a controversial California Bill just signed by Governor Brown that eliminates the cash-bail system and establishes a presumptive release approach wherein most arrestees are released immediately with no requirement to post cash bail. The stated goal is to correct what reformers see as a bail system that discriminates against the poor and is biased against minorities.

When this new law goes into effect in October 2019, the expected outcome is that most offenders must be released within 12 to 24 hours of arrest. Cash-bail is replaced with a “risk assessment” tool that supposedly predicts that the released offender is not a public risk and will make all court appearances. For those NOT immediately released, the law requires repeat detention hearings until the release is finally ordered.

This bill took 18 months to make it through the legislature, and as revisions were made, the original sponsors (ACLU, prison reform groups) switched from supporting to opposing it. Most unusual, at least four states have recently implemented similar programs – New Jersey, New Mexico, Colorado, and the District of Columbia. New Jersey has a pending lawsuit because a no-bail releasee is charged with murder. The US District Court in Houston reports that 21% of no-bail defendants fail to appear vs. 3.8% released on bail.

California has until October 2019 to put this program together and both State and Counties have to agree on how this program will be implemented. The first hurdle is at the State Courts level, then each County must design and implement a program that complies with the new law. This will involve at minimum the Sheriff, District Attorney, Public Defender and Probation. The 12 and 24 hour release requirements are unrealistic considering the amount of history and documents needed for the assessment. Some questions about the “unintended consequences” that may grow out of SB10:

- Will police “file high” and charge a felony when before they may have filed a lower level?
- Will the District Attorney “over-file” and pursue felony charges to support the argument to detain an offender?
- Will judges be reluctant to release fearing liability if a released offender commits a serious crime?
- Will the community object when an disruptive offender is released immediately back into the community?
- 33% of OC bookings are from other Counties. Where does that fall in release assessment?
- How can gang ties and immigration status be included in the assessment?

Of course, anticipated court involvement or a ballot measure challenging the law would most certainly delay its going into effect until at least 2020.

This new law will have significant impact on the County and its involved agencies – new costs, additional staff, more office space, etc. This might be an ideal project for GJAOC to pursue, offering to represent citizens and victims on the committee working out implementation details.

Tracking and Implementation – Analysis of Responses to OCGJ 2016/17 Reports

by Michael Morris

GJAOC Board of Directors member

California Grand Jury reports must, by law, receive responses from the targeted agency/entity within either 60 or 90 days from a report's publication (the timeframe being determined based on the type of responding entity). As a refresher, recall that there are only 4 approved categories of response to the Recommendations made in a Grand Jury report:

1. Implemented – The recommendation has been implemented, with a summary regarding the implementation action(s). (I will use the shorthand of 'I' to refer to recommendations that the respondent has already implemented).
2. Will be Implemented – The recommendation has not been implemented, but will be implemented in the future, with a timeframe for implementation. (WbI).
3. Further Analysis – The recommendation requires further analysis, with an explanation of the scope and parameters of that analysis and timeframe. This timeframe shall not exceed six months from the date of publication of the Grand Jury report (FA).
4. Will not be Implemented – The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation (WnBI).

Since the Grand Jury (I will refer to the publishing Grand Jury as 'N') that published a report has typically been replaced with a new Grand Jury (I will refer to the subsequent Grand Jury as 'N + 1') by the time the response deadlines are reached, sometimes follow-up is challenging. Usually, the sitting N + 1 Grand Jury is quite attentive to the deadline dates, since it is simple to track and send out reminders to those respondents who are tardy. When it comes to analyzing the compliance and content of responses, N + 1 Grand Juries have a more difficult time, since they have probably begun to focus on their own reports and also because they might not be as deeply familiar with the subject-matter as the authors from the N Grand Jury.

The 2015/16 OC Grand Jury published an in-depth report analyzing the history of Grand Jury report responses and the processes in place to ensure that “open” recommendation responses were properly being tracked and followed-up upon (Orange County Grand Jury “To Be Continued...Follow-up for Open Formal Grand Jury Report Responses”, OC Grand Jury Final Report 2015-2016, 2016, Report 2, Print). In this report, an “open” recommendation response was one that fell into either the “Will be Implemented” or “Further Analysis” categories. It considered such responses to be IOUs to the Grand Jury, which needed to be tracked and followed-up upon.

Luckily, for all recommendations that were directed to the County Executive Office (CEO) and those entities for which it acted as the response coordinator (these include the Board of Supervisors (BoS) and those entities they govern), the CEO agreed to re-establish a 6-month review and update process with the N+1 Grand Jury. This means that each March, representatives of the CEO meet with the N+1 Grand Jury to provide status and updates on all CEO overseen report recommendations that were answered with either a WbI or FA response. This process has been helpful in ensuring that report recommendations directed at the BoS/CEO have meaningful closure. But what happens to those “open” report recommendations that are directed at entities other than those coordinated by the CEO, you might ask? This category of report response runs a significant risk of being left “open” without proper follow-up. The GJAOC's Tracking and Implementation Committee (TIC) aims to assist in reviewing these types of “open” report recommendations and ensuring that the IOUs issued by non-CEO overseen entities are actually paid-in-full.

When Grand Jury reports are directed to CEO-overseen entities, we find that the responses are compliant with statutory guidelines and that a mechanism is in place to ensure follow-up for “open” responses. If reports direct their recommendations to entities such as:

- Cities
- School Districts
- JPAs
- Orange County Sheriff
- Orange County District Attorney
- Orange County Transit Authority

the types of responses returned vary; those entities that are frequent respondents to Grand Jury reports usually provide compliant and timely responses. Those that are infrequent respondents sometimes provide non-compliant responses; exhibiting a lack of awareness of the statutory requirements for a Grand Jury report response. The GJAOC did an analysis of responses to recommendations made in the 10 reports published by the 2016/17 OC Grand Jury. Here is what we found:

	2016/17
Implemented	51
Will be Implemented	6
Needs Further Analysis	7
Will Not Be Impl/Not Warr	4
Non-Compliant Response	9

The responses that the GJAOC is particularly interested in are those 6 which were WbI, and the 7 that required further analysis (FA) based on their initial responses (more on these in a bit). Of greater concern are the 9 responses which were technically non-compliant based on the statutory response guidelines. Which entities provided non-compliant responses? Based on the earlier discussion, it should come as no surprise:

Non-Compliant Response Entity	number
Orange County Fire Authority	1
Orange County Sheriff's Department	1
Orange County District Attorney (partial non-c)	1
Orange County Mosquito & Vector Control Dist	2
Capistrano Unified School District	2
Orange Unified School District	2

None of these are managed via the CEO. The typical non-compliant response is in the form of: “<entity> agrees with the Grand Jury's recommendation”. It is nice that the responding entity agrees with a particular recommendation, but obviously that doesn't give any indication of whether the recommendation will be implemented and if so, when. All of these non-compliant respondents should expect a letter from the GJAOC revisiting their responses to the relevant 2016/17 Grand Jury

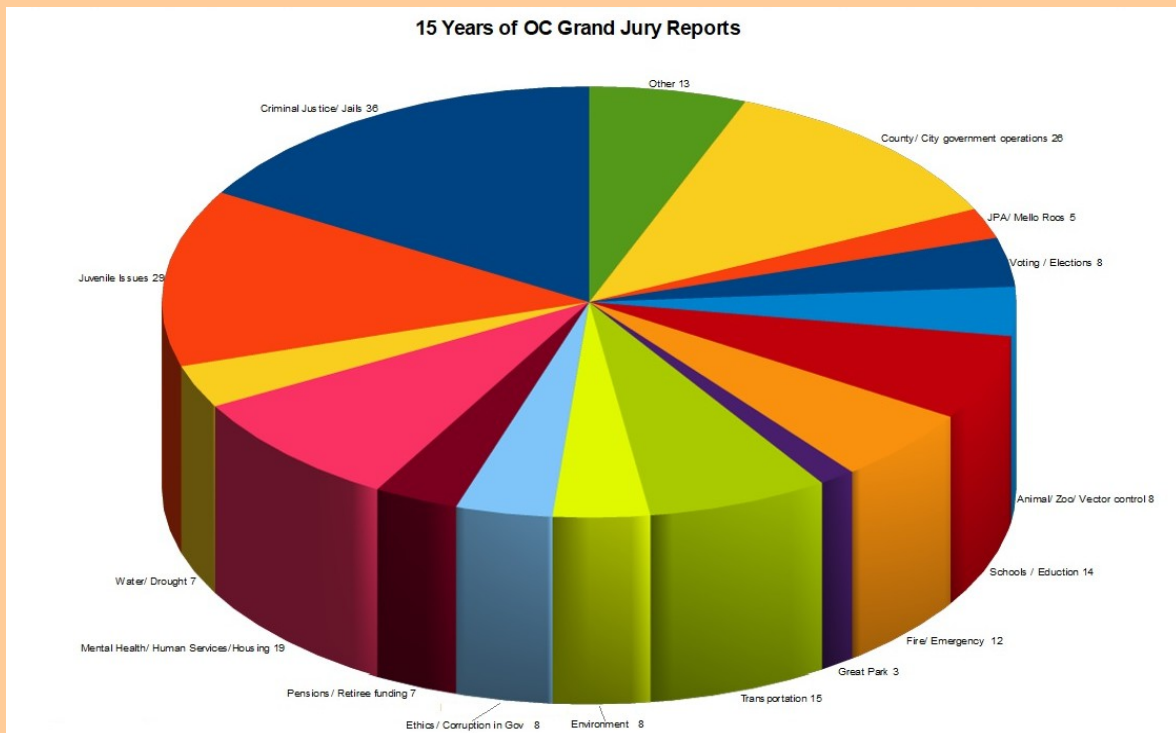
report and requesting a compliant response that is accurate and meaningful in the context of the originating report.

Let's return to the "open" recommendations from 2016/17. Of the 6 "Will be Implemented" responses, all were overseen by the CEO, and that office provided the N+1 Grand Jury with an update on March 2, 2018. Of the 6, the GJAOC considers only 3 truly "Implemented" and thus closed. The other 3 have timeframes that extended beyond March of 2018 and will thus require an additional update from the CEO during the March 2019 review. Similarly, of the 7 "Further Analysis" responses, 3 are definitely closed (2 of these will not be implemented after further analysis, 1 was implemented), and 4 are still awaiting actions and will require an additional update from the CEO in March 2019.

Readers will recognize that proper follow-up to Grand Jury report recommendations is fairly complex, given the many responding entities, categories of "open" responses and the fact that the actions behind some FA or WbI responses extend over long periods of time (in our opinion, any report recommendation that cannot be fully implemented within a reasonable (e.g. 12 month) timeframe should be categorized as "Will not be Implemented" with an explanation as to what delays make implementation impractical. Such a response should encourage a future Grand Jury to re-visit the issue at hand, and perhaps re-issue the Recommendation to the responding entity).

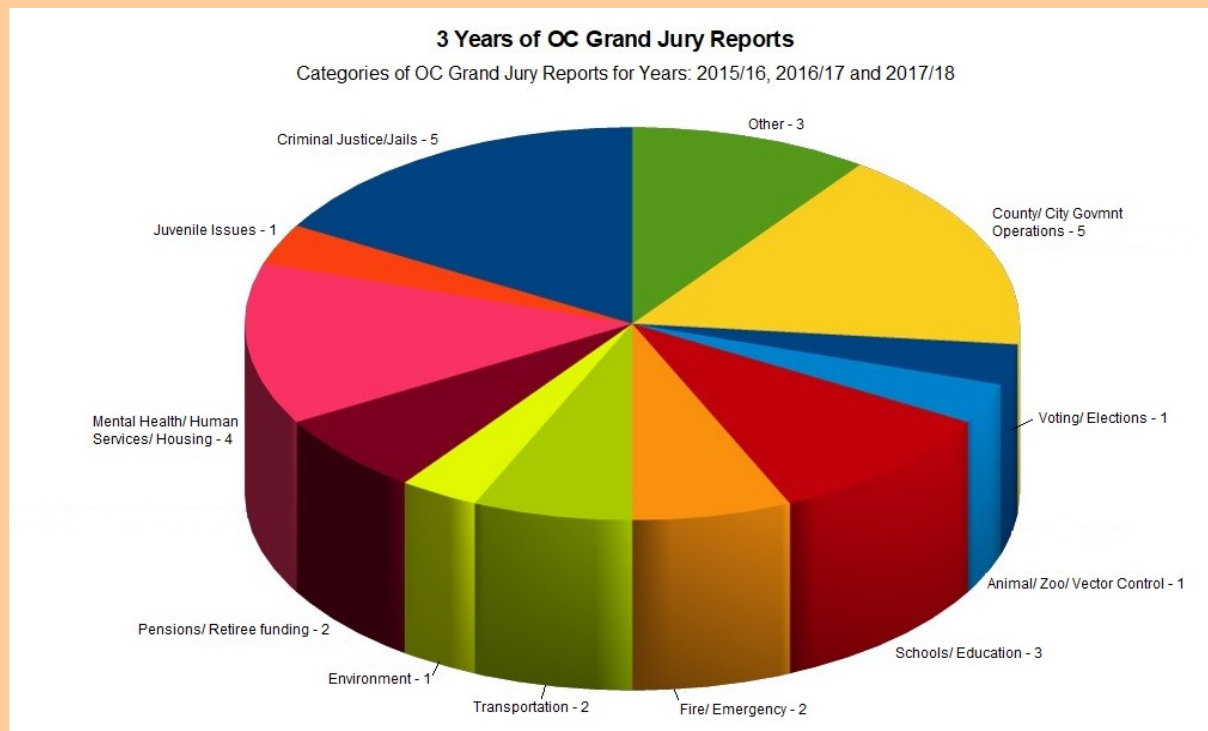
The Tracking and Implementation Committee will act to help ensure that all Grand Jury report respondents fulfill the requirements set out in California law and that any IOUs they issue are closed out properly. Our hope is that together with the help of the CEO, all Grand Jury report recommendations are closed-out in a timely and compliant fashion, and in a meaningful way that respects the work of the publishing Grand Jury.

Summary of OC Grand Jury Reports



The Criminal Justice/Jails category had the largest number of reports over the 15 year time period with 36; not surprising given the mandate that each Grand Jury produce at least 1 report dealing with the status of the jails. The next most frequently written about area was Juvenile Issues at 29 reports. These reports are separate from Schools/Education which garnered 14 unique reports. The third most frequently researched and reported area was County/City Government Operations with 26 reports and which is a broad area of enquiry.

The focus of the past 3 Grand Juries has been as follows:



Reviewing the categories of recent Grand Jury reports should reveal the issues that Orange County residents are currently most concerned with. Of course, Criminal Justice/Jails leads with 5 reports, but over the 3-year time span, only 3 reports would have been required. The Criminal Justice/Jails reports included:

- 2015/16
 - Sheriff's Temporary Detention/Holding Areas
- 2016/17
 - The Great Escape- Never Again?
 - The Myth of the OC Jailhouse Informant Program
- 2017/18
 - Preventable Deaths in OC Jails
 - Jail Food: Reservation Required

The number and range of subject-matter indicates an ongoing concern with issues of OC Jail management and overall functioning of the Criminal Justice system. Interesting too, is that during the past 3 years no Grand Jury has written about Water/Drought issues, nor about the Great Park. Perhaps these topics have lost currency with OC residents or have simply been written about so frequently that recent Grand Juries haven't felt able to add to the debate in a meaningful way?