

San Joaquin County Grand Jury



SAN JOAQUIN COUNTY DISTRICT ATTORNEY ENVIRONMENTAL UNIT 2008/2009 San Joaquin County Grand Jury Case No. 06-08

SUMMARY

The 2008/2009 San Joaquin County Grand Jury investigated a complaint of alleged abuse of power and misuse of public funds in actions made by the Environmental Unit of the San Joaquin County District Attorney's Office. The investigation proved to be beneficial to the Grand Jury because it afforded a better understanding of procedures and determined that the Environmental Unit acted in accordance with law and the practices of the office.

REASON FOR INVESTIGATION

A citizen reported that the San Joaquin County District Attorney's Office Environmental Unit acted inappropriately in an investigation regarding multiple environmental issues on the property, conducting unnecessary raids, aggressive inspections, employee harassments and the confiscation of business files which they failed to return for an extensive period of time. The Grand Jury chose to investigate this specific complaint and to review the policies and procedures of the District Attorney's Environmental Unit.

BACKGROUND

The District Attorney's Office is established by the California Constitution. The District Attorney is both the public prosecutor and chief law enforcement officer of the county. The Office is charged with the duty of investigating as well as prosecuting. The District Attorney's authority to investigate the facts before acting is unlimited, discretionary and his/her jurisdiction applies to any place within the county in investigating offenses to which criminal and civil penalties apply. The District Attorney is charged equally with the duty to investigate and prosecute crime and these functions are inseparable.

The Environmental Unit is a section of the District Attorney's Office. Its mission is to investigate and prosecute (where appropriate) alleged environmental complaints and to promote and protect the safety of the environment and the welfare of the community. Its responsibilities include field investigations, evidence gathering and the preparation and filing of appropriate legal documents to abate and cleanup conditions.

METHOD OF INVESTIGATION

An investigation was conducted, testimony was received and applicable documentation was reviewed.

FACTS

Concerned citizens and regulatory agencies may bring a case to the District Attorney asking for an investigation. The District Attorney may also initiate investigation(s). The goal of the Environmental Unit is to see that all businesses are following environmental rules and regulations.

The first step in responding to an environmental complaint made to a regulatory agency is a site visit by San Joaquin County Inspectors. If significant violations are found, correction notices are given to the property owner with time required to correct the issues and to respond with actions taken to bring the site into compliance. If additional information indicates further non-compliance, the matter may be referred to the District Attorney's Office.

The District Attorney's policy for timelines, compliance, clean-up, costs and penalties for environmental cases may vary in accordance with the findings of the investigation. The District Attorney may prosecute when there is a failure to comply with a directive.

Civil litigation and procedure allows for cost recovery. Records are kept on investigative time and travel. Disbursement of this money may involve a portion of money going to the District Attorney's office for costs, to the Attorney General or to other regulatory agencies that may have been involved with the case. Penalties go to the County general fund. Some disbursement documents are filed with the Court.

When items are taken pursuant to a search warrant, the District Attorney has ten days to file a Return of Search Warrant with the Court indicating it has these items. Items are held by order of the Court as evidence and most evidence is held until the completion of the case.

The goal of the environmental law enforcement is to bring business and individuals into compliance. This Grand Jury has considered the possibility that the assigned attorney works with a passion at a higher level than most. However, businesses and individuals with environmental violations prefer leniency. They prefer not to have a case filed against them. Failing that, they may attempt to place blame on prosecutors.

In San Joaquin County, ninety-seven percent of the environmental cases are resolved without a court trial. The District Attorney usually requires that violators admit certain wrongdoing when a settlement occurs. The key to a settlement is communication; the willingness of both parties to communicate effectively, discuss the issues at hand and move towards a resolution.

FINDINGS

1. There are provisions for the owner of the seized documents to informally request copies from the District Attorney or by making a formal request to the Court.
2. The Grand Jury finds that the Environmental Unit acted within the scope of its authority in this matter.

RECOMMENDATIONS

The San Joaquin County Grand Jury has no recommendations for this case.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the California Penal Code:

The District Attorney shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 60 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

DISCLAIMER

One juror did not participate in this investigation due to a possible conflict of interest.