

San Joaquin County Grand Jury



Follow-up Report to the 2011-2012 San Joaquin County Grand Jury Case No. 0311 San Joaquin County Mosquito and Vector Control District

Preface

This report describes the summary from the 2011-2012 Grand Jury Final Report including the background of their investigation. Described herein are the methods the 2012-2013 Grand Jury used to determine if the agency investigated responded appropriately to the 2011-2012 Grand Jury's recommendations. The 2011-2012 Grand Jury findings and recommendations as well as the agency's responses are listed in this report and is followed by the 2012-2013 Grand Jury's follow-up results.

The legal advisor for the San Joaquin County Mosquito and Vector Control District submitted the initial response to the 2011-2012 Grand Jury Final Report. A copy of the original agency response may be located on the San Joaquin County Grand Jury web-site under *Previous Grand Jury Rosters and Reports* at <http://www.stocktoncourt.org/grandjury/2011-2012.htm>.

Summary

The 2011-2012 Grand Jury investigated the San Joaquin Mosquito and Vector Control District (District) due to a complaint alleging verbal sexual harassment, hostile work environment, management retaliation and nepotism. During the investigation, other issues were alleged relating to the secret and illegal spraying of a toxic chemical in the mosquito fish ponds and failure to report the spraying to the proper reporting agencies.

Background

The San Joaquin Mosquito and Vector Control District is an independent special district that provides many vital programs in the county. The District manages the mosquito population levels that help reduce the spread of viruses to humans and animals.

According to the California Health and Safety Code Section 2002(K), *Vector* means any insect or animal capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury including, but not limited to, mosquitoes, flies, mites, ticks, other arthropods, rodents and other vertebrates.

The governing body of the District is composed of 11 Board of Trustee members; seven members are appointed by and represent each incorporated city in the county and four members are appointed by the County Board of Supervisor's and represent the county at large. The Board employs a manager who oversees program functions, hires and supervises staff. The major funding sources to the District are derived from property taxes and assessments. On-going real estate foreclosures have resulted in an increased workload of neglected properties for the District to maintain.

Method of Follow-Up Investigation

The 2012-2013 Grand Jury reviewed the 2011-2012 Grand Jury Final Report and the files regarding this investigation, conducted interviews, requested additional information and conducted a site visit to determine if the District responded appropriately to the 2011-2012 Grand Jury recommendations.

Findings/Recommendations/Responses 2012-2013 Grand Jury Results

2011-2012 Grand Jury Finding F1: Sexual harassment had been committed in the form of rude, vulgar, and lewd remarks. These remarks were made on several occasions in the presence of several employees and met the criteria as specified in the District Policy #2210.

Agency response: "The District disagrees in part with this finding. Management received a report that an employee had told lewd jokes to other employees. The reporting person was not present at the time of the alleged incident and the incident was reported to have occurred well before the report was made. No one present at the alleged incident ever reported it or complained to management. Because no complaint was ever made by those present, the alleged incident, if it did in fact occur, does not appear to have risen to the level of creating an 'intimidating, hostile or offensive working environment'. However, such behavior, regardless of whether it created a hostile working environment, is in violation of Policy No. 2210 and the alleged violator was counseled not to engage in such behavior. Management did report to the Grand Jury a separate incident involving inappropriate banter. Those involved were counseled and to management's knowledge no further instances have occurred."

2011-2012 Grand Jury Recommendation R1 – Review the effectiveness of the District's current Sexual Harassment Policy and take appropriate steps to improve the training.

2011-2012 Grand Jury Recommendation R2 – The District's annual prevention of Sexual Harassment training be given as a separate program.

Agency response to Recommendations R1 and R2: "Management considers the current Sexual Harassment Policy to be sufficient. Regarding training, the District complies with California law by sending all employees in a supervisory role to attend 2 hours of Sexual Harassment Training on a biennial basis and provides annual in-house training to each employee on Harassment in the Workplace, which includes Sexual Harassment Prevention and Sexual Discrimination. Management is aware of one actual case of inappropriate sexual bantering and one reported case of inappropriate sexual comments and jokes over a period of 20 years. Currently management trains its employees on Sexual Harassment Prevention training in conjunction with other mandated safety/policy training subjects. Management will provide its next scheduled Sexual Harassment Prevention training as a stand-alone program."

The 2012-2013 Grand Jury reviewed the District's current sexual harassment training program and reviewed documentation indicating its training program is approved by an organization specializing in sexual harassment training. The District provided information documenting their training program. The Grand Jury also reviewed documentation showing the District's stand-alone training program had been completed, who attended and who conducted the training. The Grand Jury requires no further action.

2011-2012 Grand Jury Finding F2: The Grand Jury found no evidence to support a claim of retaliation against the complaining employee.

Agency response: "The District agrees with the finding."

2011-2012 Grand Jury Finding F3: The Nepotism Policy #2230 applies to new applicants only.

Agency response: "The District agrees with the finding."

2011-2012 Grand Jury Finding F4: There was no evidence of criminal violations occurring based on the review by the District Attorney's Office.

Agency response: "The District agrees with the finding."

Conclusion

The 2012-2013 Grand Jury determined there was sufficient evidence and documentation confirming that the San Joaquin County Mosquito and Vector Control District met all of the recommendations made by the 2011-2012 Grand Jury.

Disclaimer

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Sections 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).