Note: In this manual, we have used a standard of 12 jurors when referring to the required number of jurors needed to find an indictment. The required number of jurors depends on the population of each county. Counties with populations exceeding 4,000,000 need at least 14 out of 23 jurors, counties with populations of 20,000 or less need at least 8 out of 11 jurors, and all other counties need at least 12 out of 19 jurors to concur before finding an indictment. This same standard is used for a grand jury to adopt rules and final reports. Therefore, depending on the population of your county, the standard of 12 jurors, used throughout this manual, may have to be changed to 14 or 8.
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HISTORY OF THE GRAND JURY

A grand jury derives its name from the fact that it usually has a greater number of jurors than a trial (petit) jury. In early Britain, the Saxons used something similar to a grand jury system. During the years 978 to 1016, one of the Doom Laws stated that for each 100 men, 12 were to be named to act as an accusing body. They were cautioned “not to accuse an innocent man nor spare a guilty one.”

The grand jury can also be traced to the time of the Norman Conquest of England in 1066. Evidence shows that the courts of that time summoned a body of sworn neighbors to present crimes that had come to their knowledge. Because the members of that accusing jury were selected from small jurisdictions, they could present accusations based on their personal knowledge.

Historians agree that the Assize\(^1\) of Clarendon in 1166 provided the groundwork for our present grand jury system. During the reign of Henry II (1154–1189), in an effort to regain for the crown the powers usurped by Thomas Becket, Chancellor of England, 12 “good and lawful” men in each village were assembled to reveal the names of those suspected of crimes. During this same period, juries were divided into two types, civil and criminal, with the development of each influencing the other.

The oath taken by these jurors provided that they would carry out their duties faithfully, would aggrieve no one through enmity nor defer to anyone through love, and would conceal those things that they had heard.

By the year 1290, these accusing juries were given the authority to inquire into the maintenance of bridges and highways, the defects of jails, and whether the sheriff had kept anyone in jail who should have been brought before the justices. “Le Grand Inquest” evolved during the reign of Edward III (1368), when the “accusatory jury” was increased in number from 12 to 23, with a majority vote necessary to indict anyone accused of a crime.

In America, the Massachusetts Bay Colony empanelled the first grand jury in 1635 to consider cases of murder, robbery, and wife beating. As early as 1700, the value of the grand jury was recognized in opposing the Royalists. These colonial grand juries expressed their independence by refusing to indict leaders of the Stamp Act (1765), and refusing to bring libel charges against the editors of the *Boston Gazette* (1765). The

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\(^1\) Assizes were periodic criminal courts held around England and Wales until 1971, when, together with the Quarter Sessions, they were abolished by the Courts Act 1971. The Assizes heard the most serious cases.
Philadelphia Grand Jury supported a union with other colonies to oppose British taxes in 1770.

By the end of the colonial period, grand juries had become indispensable adjuncts of government. “They proposed new laws, protested against abuses in government, and wielded the tremendous authority in their power to determine who should and should not face trial.”

Although originally the Constitution of the United States made no provision for a grand jury, the Fifth Amendment, ratified in 1791, guaranteed that:

[N]o person shall be held to answer to 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 time of war or public danger . . . .

Public support for grand juries, sustained through the revolutionary period, began to wane in the early 1800s. Adoption of the Fourteenth Amendment in 1868 made it illegal to “deprive any person of life, liberty or property without due process of law.” As interpreted by some states, this amendment no longer required prosecution of crimes by grand jury indictment nor prohibited direct accusation by a prosecutor. California is still one of the states that allows prosecution to be initiated by either grand jury indictment or judicial preliminary hearing.

The first California Penal Code contained statutes that provided for a grand jury to be empanelled quarterly, at the same time as the trial jurors were drawn. Early grand juries investigated local prisons, conducted audits of county books, and pursued matters of community interest. Because of statutes passed in 1880, the role of grand juries in California is unique in that their duties include investigation of county government. Only seven other states provide for investigation of county government by a grand jury beyond alleged misconduct of public officials. Only California and Nevada mandate that grand juries be empanelled annually to function specifically in a watchdog capacity over county government.

As constituted today, the grand jury is a part of the judicial branch of government—“an arm of the court.” It does not have the functions of either the legislative or executive branches, and it is not a police agency. Additionally, it does not mandate policy changes. It is an examining and investigative body that makes recommendations to improve systems, procedures, and methods of operations in designated local government. The primary functions of the grand jury, and the most important reasons for its existence, are examining all aspects of county government (including special districts), seeing that the public’s monies are handled judiciously, and ensuring that all accounts are properly audited—in general, guaranteeing honest, efficient government in the best interests of the people.
The grand jury has three ways to exercise its powers:

1. Written communications about unsatisfactory conditions when no crime is charged, with recommendations for improvements (reports);

2. Written complaints charging a person with a crime (indictments); and

3. Written complaints against a person whose conviction would result in removal from office rather than criminal penalties (accusations).

A large portion of the public believes that an individual appearing before the grand jury, particularly a public official, suggests malfeasance or misfeasance. It should be clearly understood that it is the constitutional responsibility of the grand jury to review the conduct of county government each year, and this entails having public officials appear before the jury for the purpose of providing information to the jury about their departments or offices.

Although grand jurors are a part of the judicial system and are considered to be officers of the court, the grand jury is an entirely independent body. The presiding judge of the superior court, the district attorney, county counsel, and the State Attorney General act as the grand jury’s advisors but cannot prevent the actions of the jury except for illegality.

Because of the confidential nature of a grand jury’s work, much of it must be conducted in closed session. Members of a grand jury are sworn to secrecy, thus assuring all who appear that their complaints will be handled in an entirely confidential manner. No one may be present during the sessions of a grand jury except those specified by law (Pen. Code, § 939), the minutes of its meetings may not be inspected by anyone, and its records cannot be subpoenaed.

Penal Code section 939 requires that prejudiced jurors may not be present during any part of proceedings from which they have once been formally excused, and no nonjuror may be present during the expressing of the opinions of grand jurors, or the giving of their votes, on any criminal or civil matter before them. An officer having custody of a prisoner witness may be present during criminal sessions of the grand jury while the prisoner is testifying, but the officer shall be warned to ensure the secrecy of any grand jury proceeding that he or she has heard.

The conduct of criminal investigations and the return of indictments is the smaller part of a grand jury’s function in California. In some states, all persons accused of felonies must be indicted by a grand jury before being tried. This is also true of the federal courts. In this state, the vast majority of criminal cases are presented to the court, at a preliminary hearing, on a complaint issued by the district attorney. Cases presented to the criminal grand jury by the district attorney may include, but are not limited to:

1. Cases having multiple defendants; and
2. Cases with special witnesses such as children, out-of-state witnesses, informers or undercover agents.

LEGAL REQUIREMENTS FOR TRAINING

The Civil Grand Jury Training, Communication, and Efficiency Act of 1997 (Stats. 1997, ch. 443) requires the court to ensure that its grand juries receive training that addresses, at a minimum, report writing, interviews, and the scope of a grand jury’s responsibility and statutory authority. According to the act, the court must arrange for a suitable meeting room and any other support necessary for the grand jury, and the costs incurred by the court for such support must be paid by the court or by the county from existing resources.

OTHER REQUIREMENTS AND CONSIDERATIONS

Rule 6.603 of the California Rules of Court emphasizes the authority and responsibilities of presiding judges “for leading the court, establishing policies, and allocating resources in a manner that promotes access to justice for all members of the public, provides a forum for the fair and expeditious resolution of disputes, maximizes the use of judicial and other resources, increases efficiency in court operations, and enhances service to the public.” Under this general authority, most presiding judges are collaborating with their counties to ensure that adequate funding is allocated for grand jury operations and training.

Typically, one of the major challenges facing the court is the level of funding allocated by the county’s board of supervisors to support grand jury operations—a function that has remained a county responsibility under the Trial Court Funding Act and, specifically, rule 810 of the California Rules of Court.

Presiding and assistant presiding judges have requested a “template” of resources and information for grand jurors. Many courts have spent time reinventing this information with each new presiding judge. In some counties, the court staff and the grand jurors themselves have individually or collectively prepared handbooks, guides, or procedures manuals for grand jurors to refer to during their year of service.

To respond to the ongoing need for information and to centralize grand juror resources, Administrative Office of the Courts staff developed this guide from templates and information provided by trial courts.

FUNCTIONS OF CIVIL GRAND JURY

The grand jury has two basic civil functions: (1) to weigh the allegations of misconduct against public officials and determine whether to present formal accusations requesting their removal from office, and (2) to act as the public’s “watchdog” by investigating and reporting upon the affairs of local government. “Of these functions, the watchdog role is
by far the one most often played by the modern grand jury in California.” (McClatchy Newspapers v. Superior Court (1988) 44 Cal.3d 1162, 1170.)

The general category of the powers and duties of the grand jury is to investigate and report on various matters of county, city, and special district governments. Briefly, the grand jury’s powers and duties are as follows:

1. Investigate all branches of the county government to ensure they are being managed efficiently, honestly, and in the best interest of citizens. Grand juries may issue reports during the year and do not necessarily have to wait until the final report. (See Pen. Code, §§ 925, 925a.)

2. Issue a final report on the needs and operation of county departments including its findings and recommendations. (Pen. Code §§ 928, 933.)

3. Investigate (including an audit) and report on the operations, books, records, and accounts of all county offices; contract an auditor to conduct such audits. (Pen. Code, § 925.)

4. Examine the books and records of any incorporated city or joint powers agency and investigate and report on the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of any such city or joint powers agency. (Pen. Code, § 925a.)

5. Examine the books and records of any special-purpose assessing or taxing district located wholly or partially in the county and investigate and report on the method and system of performing the duties of such districts. (Pen. Code, § 933.5.)

6. Report and make recommendations on its own audit of county records and accounts; report on county officials’ records and accounts as ex-officio officers of any district. (Pen. Code, § 925.)

7. Order the district attorney to sue for money that the grand jury feels is due and owing to the county. (Pen. Code, § 932.)

8. Report on the need for increasing or decreasing salaries of county-elected officials. (Pen. Code, § 927.)

9. Meet with the subject of an investigation, during and regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental. (Pen. Code, § 933.05(e).)

10. Be available for 45 days after the end of the term on reasonable notice to clarify the recommendations of the report. (Pen. Code, § 933.)
11. Issue resolutions regarding the grand jury’s position concerning legislation that may affect this particular county.

12. Study the report of the previous grand jury and review the recommendations of recent juries for improvements in county government. These reports are on file in the Jury Commissioner’s Office.

13. Read all letters from citizens or agencies and make inquiries and recommendations about those matters referred to the grand jury.

14. Inquire, at its option, into the case of every person imprisoned in the county jail on a criminal charge and not indicted. (Pen. Code, § 919(a).)

15. Inquire into the condition and management of the detention facilities within the county. (Pen. Code, § 919(b).)

16. Inquire into the willful or corrupt misconduct in office of public officers of every description within the county. (Pen. Code, § 919(c).)

17. Investigate and inquire, at its option, into all sales and transfers of land and into the ownership of land that under the state laws might revert to the State of California. (Pen. Code, § 920.)

18. Request the district attorney to petition the superior court to order a public recount of ballots tabulated by a voting system. (Elec. Code, § 15640.)

The grand jury may investigate and report upon the needs of all county officers and of all joint powers agencies in the county, including the abolition or creation of offices or agencies. It may also investigate the equipment needed for, and the method or system of performing the duties of, the several offices and agencies.

It may comment upon the performance of public officers and officials. If the grand jury discovers, or is informed of, any misconduct or misfeasance in office, it must inquire with diligence, with fairness, and without fear.

The grand jury may, at all times, ask the advice of the court or of the county counsel as to any civil matter. When it has finished the investigations into the civil matters of our local governments and before being discharged, the grand jury must report its findings and recommendations to the court.

In dealing with public officials, grand jurors should be particularly cautious. Charges of misconduct in office are easily made, and are often entirely unwarranted when they are based on mere rumor, suspicion, or conjecture. Investigation into such charges must proceed with deliberation and care lest they undermine confidence in public officers and employees, the vast majority of whom are devoted and honest public servants.
In the performance of its duties as an examining body, the grand jury should keep in mind that it is both a sword and a shield of justice—a sword to attack the wrongdoer, and a shield to protect the innocent against unjust prosecution. The grand jury may, at all times, ask the advice of the court or of the district attorney about any criminal matter.

GRAND JURY LIMITATIONS

Liability for Defamation

Members of a grand jury convened to investigate criminal charges are afforded certain immunities under the law. Members of a grand jury who are involved in the criminal indictment process cannot be sued for defamation. As one court has stated, when a grand juror serves in a quasi-judicial capacity in the criminal indictment process, the juror “is not civilly responsible no matter how erroneous [the] findings or how malicious [the] motive. . . .” (*Oppenheimer v. Ashburn* (1959) 173 Cal.App.2d 624, 629.)

The civil grand jury’s primary function is to investigate a report on the workings of local government. Because the grand jury’s power to investigate and report on matters pertaining to local government is created by statute, the Legislature is at liberty to impose reasonable limitations on the exercise of this “watchdog” function. One of the limitations is contained in Penal Code section 930: “If any grand jury shall, in the report [on its investigation of governmental operations] comment upon any person or official who has not been indicted by such grand jury such comments shall not be deemed to be privileged.” This means that an unindicted individual who is targeted for criticism in a grand jury report has the right to sue a grand jury for defamation.

A statement regarding matters of public concern must be proved false before there can be liability for defamation. Further, a public official may not recover damages even for a defamatory falsehood relating to his or her official conduct unless the public official proves that the statement was made with “actual malice,” that is, with knowledge that the statement was false or made with reckless disregard for whether the statement was true. Although these principles provide some protection from liability, even allegations of defamation are best avoided whenever possible.

A simple, preventive measure for avoiding defamation is not to specify any individual by name, title, or position in a grand jury report. Rather, the report should focus on the workings of the department, office, or program that is the subject of grand jury review. Ultimately, if grand jurors are performing their work in a reasonable, objective manner, free from conflicts of interest and bias, and are attempting to be as accurate, fair, impartial, and honest as possible in their annual report, then liability for defamation should not pose a significant risk.
Defense and Indemnity

The county has an obligation to provide the members of the grand jury with a defense and to pay any damages assessed against such members for any liability that stems from the performance of their duties as members of the grand jury. The county is not responsible, however, for defense or for payment of damages arising from conduct that is outside the proper scope of duties of grand jurors. In addition, the county will not be responsible for defense or damages whenever a grand juror has engaged in fraud or corruption or has acted with actual malice.

As long as the members of the grand jury perform their duties in good faith and act according to the instructions and advice of the presiding judge, grand jurors can be assured that the county will defend them in a lawsuit and that the county will be responsible for the payment of any damages that may be assessed against them.

Conflicts of Interest and Impartiality

Because of the grand jury’s extraordinary fact-finding powers and the sensitivity of many of its activities, grand jurors must be careful to avoid involvement in areas where an actual or perceived conflict of interest might exist. Avoiding conflicts and the appearance of conflicts is important for several reasons. It protects the integrity of the investigation; it protects the investigation of the grand jury as an institution; and it protects individual grand jurors from civil or criminal penalties.

Identifying Conflicts

Individual grand jurors have an obligation to inform the entire grand jury about any past or current activities or business interests that relate to the subject matter of any investigation. Grand jurors should recuse themselves from participating in any grand jury proceedings, deliberations, or votes when a real or potential conflict of interest exists that would affect their objectivity, disinterest, or fairness in the conduct of grand jury business.

It is the responsibility of each grand juror to advise the foreperson and/or the entire grand jury of any potential conflicts of interest that exist at the beginning of the term or that may develop during the year of service in connection with matters that come before the grand jury. Whenever a member of the grand jury believes that a matter to be discussed or voted upon would involve the member in a conflict of interest, the member must announce the conflict of interest and must abstain from both discussion and voting on the matter as a member of the grand jury.

Avoiding Bias

In addition to avoiding conflicts of interest, a grand juror must not have an identifiable bias regarding any actions that the grand jury may take. Bias is the prejudgment of
essential facts that prevents a member of the grand jury from considering an issue objectively, including publicly expressing support or opposition on a specific matter. Having an educated opinion on an issue should not be considered as having a bias. The same disclosure and recusal that applies to a potential conflict of interest should apply to preexisting bias.

EXAMPLES
The following are a few examples of situations that present potential conflicts of interest. The list is by no means exhaustive, but merely describes the most common areas where conflicts may arise.

1. Grand jury inquiries that may affect, positively or negatively, any investments of a grand juror, including real property ownership and interests in business entities and other financial investments.

2. Income to a grand juror, either directly or through a business entity, from a public agency or a public official or employee that is, or might be, the subject of a grand jury investigation.

3. Business activities, including those concluded in the recent past, between a business entity in which a grand juror has a financial interest and a local government agency, public official, or public employee that is, or may be, the subject of a grand jury inquiry.

4. Business or political activities in which confidential information gained as a result of grand jury participation creates an opportunity not afforded to the general public.

5. Involvement in groups whose activities may have an impact on matters currently before the grand jury.

No Personal Gain

No member of the grand jury should use or appear to use the position for any kind of personal gain or advantage. Members must not identify themselves as grand jurors in matters other than those directly connected with grand jury business.

They must not use their status as grand jurors to obtain influence or favors during grand jury service. Members of the grand jury should not accept gifts in connection with their service, except for token gifts and other such mementos given to visitors as a matter of standard procedure. Transportation and moderate meals while conducting business in the field are not considered gifts if necessary to support the logistics of the inspection, tour, or investigation.
GETTING STARTED

Forming a New Grand Jury—Overview

The first major undertaking of a newly empanelled grand jury is to define the jury’s organization and to develop a plan for how it is to function. Within the statutory framework, the civil grand jury organization is essentially what the grand jurors themselves want it to be. The first step in this process is to become acquainted with one another at the first meeting. The jury must then address such organizational issues as electing officers, establishing committees, selecting committee chairpersons, making committee assignments, and developing standard office procedures and meeting formats.

It is useful for all jurors to introduce themselves and to give a brief summary of their background. Jurors often mention their educational background, work experience, family, interests, and reasons why they want to serve on a grand jury. A name tag and/or tent card with each individual juror’s name printed on it is helpful. This makes it easier for jurors to learn the names of their fellow panel members.

The grand jury may recommend to the court how it wishes to obtain training. Training materials from the California Grand Jurors Association and the American Grand Jury Foundation are available for review. Past grand juries have chosen to have training conducted in-house. Training can include a combination of sessions with the county counsel, district attorney’s office, and past grand jurors.

No matter how well-planned the training, it cannot cover every possibility. As matters evolve with which grand jurors are unfamiliar, a grand jury may invite presentations to be made to provide necessary information. A thorough understanding by all jurors of the grand jury’s responsibilities and duties will result in more effective service.

Grand jurors should examine personal conflicts of interest. The grand jury should establish procedures to recuse jurors or allow jurors to recuse themselves from involvement in any investigations or votes related to such a conflict. Jurors should also complete Statement of Economic Interest Form 700. Past grand juries have invited the county counsel to explain the form and speak on issues including liability and conflict of interest.

Grand jurors should discuss the possibility of conflict of interest raised by participation in political campaigns during the term of service. Jurors should be careful not to use the name of the grand jury in personal endorsements.

It has been found helpful for each juror to fill out a biographical sketch form and committee preference questionnaire to serve as a basis for selection of assignments on the jury. Please

2 A sample biographical sketch form is included in the Appendix.
remember that the intention of the forms is to enable the jury to become better acquainted and eventually to select those persons best qualified to fill various offices and committee assignments.

**Grand Jury Orientation**

After the selection and the swearing in of the new grand jury, an orientation is scheduled. Because most of the jurors will be unfamiliar with the complexities of county government and are usually unaware of the functions of the grand jury, this orientation will provide the jurors with information to help them get off to a good start. It will consist of the following:

1. Discussion of the role and function of the grand jury by the superior court executive officer, jury commissioner, or the presiding judge.

2. Discussion of the role of the district attorney’s office as one of the legal advisors to the grand jury.

3. Discussion of the organization of county government by the county’s chief executive officer.

4. Discussion of the role of the board of supervisors in county government by the chairperson of the board.

5. Discussion of the role of the county counsel’s office as one of the legal advisors to the grand jury. The county counsel’s office has been invited by past grand juries to instruct the panel on the preparation of the Statement of Economic Interest Form 700.

**Orientation of Replacement Jurors (Alternates)**

Replacement jurors (alternate grand jurors who were not present during the initial orientation period) who join the grand jury after the term has started need individual orientation. The full panel should designate a “mentor” from among its members to work with the new member.

In addition, the chairperson of each committee to which the new member is assigned should meet with the new member individually to review each study area or investigation in progress and provide copies of all relevant documents.

**Grand Jury Holdovers**

If the presiding judge so decides, holdovers may be appointed to serve for a second term. The primary duties and responsibilities of a holdover grand juror are the same as those for all members.
Holdover grand jurors are selected to help the incoming panel during its initial orientation and organizational period, to provide information and background on county and city government, and to accelerate the new panel’s entry into the year’s work.

Although the presence of holdover jurors helps provide continuity, each new panel should establish its own objectives. A holdover grand juror has the added responsibility of helping to mentor incoming members, but they do not possess additional powers. Like passing a baton in a relay, one jury to the next, a holdover provides valuable experience that enables new grand juries to start working quickly.

The court selects the holdover jurors from those who have expressed an interest and willingness to serve a second term. The objective is to maintain a balance in age, sex, experience, and socioeconomic background whenever possible.

STRUCTURE AND OPERATION OF THE GRAND JURY

Officers

Penal Code section 916 sets forth that “[e]ach grand jury shall choose its officers, except the foreman, and shall determine its rules of proceeding. Adoption of its rules of procedure and all public actions . . . including adoption of final reports, shall be only with the concurrence of that number of grand jurors necessary to find an indictment . . . .” In all other matters, a simple majority is required.

The officers of the grand jury are designated as the foreperson, the foreperson pro tem, the secretary, and the secretary pro tem. The selection and duties of each officer are outlined below.

Foreperson

Selection: The presiding judge appoints the foreperson from among the persons empanelled to serve as grand jurors. The court may also appoint the new foreperson when the person previously appointed is excused or discharged. (See Pen. Code, § 912.) The appointment is usually made before the first full grand jury meeting of the year.

3 In this manual, we have used a standard of 12 jurors when referring to the required number of jurors needed to find an indictment. The required number of jurors depends on the population of each county. Counties with populations exceeding 4,000,000 need at least 14 out of 23 jurors, counties with populations of 20,000 or less need at least 8 out of 11 jurors, and all other counties need at least 12 out of 19 jurors to concur before finding an indictment. This same standard is used for a grand jury to adopt rules and final reports. Therefore, depending on the population of your county, the standard of 12 jurors, used throughout this manual, may have to be changed to 14 or 8.
Duties and Responsibilities:

1. Ensure that the grand jury, as a whole, and its committees operate effectively and properly in achieving the grand jury’s examining role in the scheme of local government;

2. Preside at meetings of the full grand jury;

3. Arrange the meetings of the full grand jury including preparation of an agenda;

4. Assign grand jury members to standing and ad hoc committees (assignments are made by the foreperson on the basis of the each juror’s interests and the needs of the grand jury);

5. Select all standing and ad hoc committee chairpersons;

6. Make changes in committee assignments when deemed advisable, with the approval of the committee chair;

7. Review all correspondence and complaints and assign them to the proper committee(s) for follow-up;

8. Oversee the maintenance of complaint files;

9. Draft grand jury correspondence;

10. Sign all communications from the grand jury, including all letters, reports, and press releases;

11. Be the only official spokesperson for the grand jury, unless someone else is designated by the foreperson;

12. Consult with the presiding judge of the superior court, the superior court executive officer, county counsel, the district attorney, or the Attorney General when appropriate or when it is requested by the grand jury, and report back to the grand jury;

13. Sign all accusations and present them to the court;

14. Administer oaths to persons appearing before the grand jury; and

15. Speak to interested groups, upon request, regarding the function of the grand jury.

The foreperson should recognize that his or her most important responsibility lies in seeing that the grand jury as a whole, and each of the committees, function effectively and efficiently. To this end, he or she should be in constant consultation with the various
committee chairpersons and should require frequent progress reports on the work being handled by each committee.

The foreperson should attend as many committee meetings as possible or receive at least verbal reports of activities. The foreperson is an ex-officio member of each committee and has the same rights as other committee members. However, the foreperson is not required to participate in committee proceedings and is not counted in the quorum. (“Ex-officio” as defined in Robert’s Rules of Order.) When the foreperson is not able to attend committee meetings, the foreperson pro tempore should attend in the foreperson’s place. The foreperson pro tempore succeeds to the rights of an absent foreperson. (See Pen. Code, § 916.1.)

**Foreperson Pro Tempore**

Selection: The foreperson pro tempore is elected by the full grand jury. (Pen. Code, § 916.1)

Duties and Responsibilities:

1. Assume the duties of the foreperson, including the authority to administer oaths, in the absence of the foreperson (see Pen. Code, § 916.1); and

2. Assist and counsel the foreperson, as requested, on matters concerning procedure; committee responsibilities; committee appointments; and the morale, efficiency, and well-being of the jury.

**Secretary**

Selection: The secretary is elected by the full grand jury. (Pen. Code, § 916.)

Duties and Responsibilities:

1. Keep an accurate record of every full grand jury meeting in the form of minutes (format for taking minutes is available from court staff). The minutes should indicate:
   a. The date and time of convening;
   b. Roll call and recording of those grand jurors present and absent;
   c. The identity of persons, other than jurors, who are in attendance at the meeting;
   d. The name of every person entering the room at any time during the jury meeting;
   e. The approval of all letters or other communications from the grand jury as a whole, to an individual. This would include letters regarding complaints as well as requests to appear and to produce documents and subpoenas; and
f. The approval of all final or midyear reports issued by the grand jury.

2. Acknowledge receipt of all letters addressed to the county grand jury; and
Draft correspondence as requested by the foreperson.

Secretary Pro Tempore

Selection: The secretary pro tempore is selected by the full grand jury through a vote.

Duties and Responsibilities: Assume the duties of the secretary in the absence of the secretary.

Other Officers

The grand jury may establish other offices and fill the offices as needed. (Pen. Code, § 916.)

Committee Organization and Operation

The grand jury operates primarily on the basis of committee work. By dividing up into committees to do its work, the grand jury can review a far greater range of activities than it could if it always operated as a whole. Each committee can specialize in an area of government and gather the information that will form the basis of a report.

The grand jury as a whole body exerts control over its committees in two respects. A committee should not begin an inquiry without the full grand jury’s consent that such an inquiry is appropriate and worthy of the grand jury’s attention. Second, only the grand jury as a whole can act; therefore, the results of a committee’s inquiry must be presented to, and approved by, the entire grand jury before a report can be issued or other action taken.

The grand jury may decide to pursue an issue as a body rather than by committee. This might be done in circumstances where there is considerable public interest or significance. In addition, a committee may conduct a preliminary inquiry with the inquiry completed by the whole grand jury. When considering an accusation, the grand jury always acts as a whole and not through committees.

Committee Selection and Membership

Each grand jury member usually serves on three committees. During the grand jury’s orientation process, each grand juror will be asked to fill out a questionnaire regarding his or her preference for assignment to certain committees.
The grand jury cannot be effective if the jury as a whole handles everything. Therefore, the accomplishments of the grand jury will depend to a great extent on the work of its committees.

One method of forming committees is to have jurors indicate their preference on a list of standing committees. It is strongly recommended that potential committee members avoid the appearance of conflict of interest, e.g., retired active law enforcement officers should not serve on the Law and Justice Committee.

The foreperson should not be appointed to regular committees but should be an ex-officio member of all committees. Committee chairpersons should be chosen for their willingness and ability to serve as chairpersons and have considerable time to devote to their jobs. Only one holdover member shall be assigned to a committee, so that the experience of all the holdovers may be made available to as many committees as possible.

When committees have overlapping concerns, each chairperson should serve as a member of the other committee or should designate a committee member in his or her place to serve as liaison.

**Types of Committees**

Theoretically, any number of committees may be formed, depending on the areas of interest of each grand jury. Some examples of committees and their duties are listed on the following pages.

*Cities and Special Districts Committee*

This committee concerns itself with, among other things, incorporated cities, special districts, and joint-power organizations that do not fall under other committees. When possible, random attendance at their meetings will ensure that the interest of public citizens is represented and that Government Code sections regarding open meeting laws are followed.

The Cities and Special Districts Committee reviews the following public officials and departments:

- City Administrator
- City Clerks
- City Councils
- City Engineers
- City Manager
- City Planners
- Fire Districts
- Local Agency Commissions
- Mayors
- Redevelopment Districts
- Special Districts, *i.e.*, Air Pollution Control
County Committee

This committee concerns itself with, among other things, the offices of county government. It reviews agendas and notices of public hearings. When possible, random attendance at those meetings will ensure that the interest of public citizens is represented and that Government Code sections regarding open meeting laws are followed.

The County Committee reviews the following public officials and departments:

- Airport
- Assessor
- Auditor/Controller
- Board of Directors
- Board of Supervisors
- Central Collections
- County Administrator
- County Clerk—Elections
- Data Processing
- General Services
- Building—Grounds
- Emergency Services
- Garage
- Printing
- Purchasing
- Real Estate
- Risk Management
- Human Resources—Civil Service
- Open Space
- Permit and Resource Management Department
- Public Works
- Recorder
Human Services Committee

The Human Services Committee concerns itself with, among other things, social services of the county, such as school districts, county superintendent of schools, public health, and the county fair.

The Human Services Committee reviews the following public officials and departments:

- Agriculture Commission/Weights & Measures
- Animal Regulations
- County Library
- Economic Development
- Fairgrounds
- Hospital
- Housing & Community Development
- Human Services
- Juvenile Hall
- Mental Health Services
- Nonprofit Corporations
- Parks & Recreation
- Public Health
- School Districts, including County Superintendent of Schools
- Veterans Services
- Youth Camp

Law and Justice Committee

The Law and Justice Committee considers all matters concerning, among other things, the public safety, criminal justice system and penal institutions, detention facilities, district attorney, municipal public safety officers, probation, public defender, and sheriff/coroner.

The Law & Justice Committee reviews the following public officials and departments:

- County Counsel
- Court Executive Officer
- Detention Facilities
- District Attorney
- Fire Departments
- Jury Commissioner
- Police Departments
- Probation Department
- Public Defender
**Safety Coordination**  
*Sheriff /Coroner*

**Ad Hoc Committees**

Ad Hoc Committees are formed for special purposes, as needed, with members appointed by the foreperson in consultation with other officers and the agreement, whenever practical, of the grand jury as a whole.

**Editorial Committee**

The Editorial Committee acts as editor for all committee reports and coordinates the final report as a whole. It should review all committee reports for correct punctuation and grammar, including, but not limited to, making wording changes. Such changes shall not alter the meaning or substance of the report, but shall be aimed at making the report more understandable by a person with the level of intelligence of a high school graduate. The Editorial Committee may also suggest reorganization of material for brevity or clarity reasons but shall not make any changes that will alter the meaning of the report without the consent of the committee preparing the report.

The author of each committee’s report will be invited to a meeting with the Editorial Committee before final recommendations are made regarding reports. When these meetings are completed, the Editorial Committee may, at its option, request to see reports again before they are presented to the full grand jury.

It is strongly recommended that the members of the Editorial Committee not be appointed until after the grand jury has been in office one or two months. Selection should be made from those individuals who have indicated some understanding of the principles of report writing, and have exhibited some skills in writing or editing. Ideally, there should be five or six members with representatives drawn from each major committee.

**Communications and Facilities Committee**

The Communications and Facilities Committee is responsible for the care and operation of all the grand jury’s computer equipment, telephone and fax equipment, duplicating machine, and shredder; maintaining office supplies; and anything else that helps make the grand jury’s facilities more functional.

**Social Services Committee**

The Social Services Committee concerns itself with the social services of the county, including: day-care centers, occupational programs, senior citizens’ programs, veterans’ services, welfare programs, food stamps, public administrator/public guardian, and public assistance.
Follow-Up Committee

Purpose
1. Provide accountability and continuity.
2. Ensure appropriate responses by the respondents to the grand jury final reports.
3. Ensure appropriate follow-through of recommendations of the grand jury by the respondents.

Reviewing the Responses to Final Reports
1. The Follow-Up Committee will review the responses as they are received.
2. The Follow-Up Committee will report to the full panel as the responses are received, the status of the responses, and the progress the respondents are making.

Review Criteria
1. The responses must be received within the specified time frame.
2. The agencies’ responses must be implemented in a timely manner not to exceed six months from the date of the grand jury’s final report.
3. The review of the response reveals that it is complete, addresses each recommendation, and indicates a time frame for implementation.
4. If the full panel does not believe that the agency has fulfilled its obligation, the panel can initiate a new grand jury investigation.

Follow-Up Committee Membership
If possible, a grand jury holdover should chair the Follow-Up Committee because he or she would be familiar with the final reports of the outgoing panel.

Rules of Procedure
The following is suggested for rules of procedure for committee operations:
1. All grand jury meetings operate informally, in accordance with Robert’s Rules of Order, but compatibly with transacting business efficiently.
2. To conduct its business, the grand jury must obtain the concurrence of 12 or more jurors before it can (1) adopt rules of procedure, (2) adopt any area of study or inquiry, (3) investigate any complaint, or (4) adopt its final report. With a quorum being present, all other action taken by the grand jury may be agreed to by a majority
of its members. All action taken by the grand jury will be reported as that of the entire grand jury, never as that of the majority. (See Pen. Code, § 940.)

3. The Executive Committee, consisting of the grand jury officers and committee chairs, may administer the routine affairs of the grand jury. The function of an Executive Committee is to facilitate the orderly transaction of grand jury business. The Executive Committee has no independent authority; ultimate authority always remains with the entire grand jury. The Executive Committee shall report its actions each month to the full grand jury.

4. The foreperson is an ex-officio member of each committee and has the same rights as other committee members. These include the right to make motions and to vote. However, the foreperson is not required to participate in committee proceedings and is not counted in the quorum. (“Ex-officio” as defined in Robert’s Rules of Order.) The foreperson pro tempore succeeds to the rights of an absent foreperson.

5. Correspondence by a committee of the grand jury must be signed jointly by the committee chair and by the foreperson; all other correspondence must be signed by the foreperson.

6. The grand jury shall make no report, declaration, or recommendations on any matter except on the basis of its own investigation of the matter made by such grand jury. The grand jury shall not adopt the recommendation of another grand jury as its own unless the grand jury adopting such recommendation does so after its own investigation of the matter about which the recommendation is made. (Pen. Code, § 939.9.)

7. Citizens’ requests for complaint forms shall be directed to staff of the grand jury office who will issue and collect such forms. To avoid any compromising position or improper appearance, jurors must not personally distribute or collect complaint forms.

8. Complaints should be signed and documented. The grand jury will carefully consider all such complaints; it will consider complaints that are not signed or not documented only under exceptional circumstances.

9. In addition to full grand jury meetings and committee meetings, grand jury members are entitled to a per diem when conducting other business of the grand jury if the following conditions are met: (1) The business and per diem are approved by the foreperson or foreperson pro tempore in the absence of the foreperson; (2) two or more jurors are present to conduct the business; and (3) their business takes two hours or more.
The rules of procedure incorporate the three-page Code of Ethical Conduct. Pertinent points made in the Code of Ethical Conduct include:

1. Grand jurors shall not as individuals conduct grand jury business or interview persons regarding grand jury matters. To avoid being misquoted or misrepresented, jurors must work in pairs or in teams while on official grand jury business.

2. Grand jurors shall maintain all grand jury information and proceedings in complete confidence. Only fellow grand jurors are entitled to information about investigations, correspondence, and deliberations.

3. During field trips or while conducting interviews, jurors must not discuss or reveal any details regarding grand jury business, plans, programs or recommendations. Only the entire grand jury can reveal such information in its reports.

4. All inquiries regarding grand jury matters must be directed to the foreperson. Only the foreperson or the foreperson’s designated spokesperson is authorized to make public statements to the media.

5. Approval or disapproval of agencies, departments, or public issues can be voiced only by the entire grand jury in its official reports. The presiding judge must review such reports before being released. Individual jurors must not publicly state their opinions.

6. Grand jurors should not identify themselves as grand jurors in matters other than those directly connected with grand jury business. Grand jurors must not use their status as grand jurors to exert influence, obtain favors, or create a favorable impression during grand jury service.

7. Grand jurors must be vigilant in avoiding potential conflicts of interest. They must promptly disclose to the entire grand jury any past or current business interests or involvement that would result in business, personal, political, social, or other advantages for them.

8. Grand jurors shall excuse themselves from voting on or participating in any grand jury proceedings or deliberations when a real or potential conflict of interest occurs that would affect their objectivity, disinterest, or fairness in the conduct of grand jury business.

9. All persons appearing before or contacted by the grand jury are entitled to respectful treatment, just as all jurors may expect similar treatment. All interviews and hearings of the grand jury should be conducted with dignity and decorum.

4 A suggested Code of Ethical Conduct is included in the Appendix.
10. Under no circumstances should any juror by word, gesture, or expression indicate what that juror thinks of the testimony being given.

11. Grand jurors must be fair in considering evidence and testimony. Conjecture, sympathy, passion, political leanings, and other subjective sentiments are not the proper basis for decision as a grand juror.

12. All grand jurors have equal rights and responsibilities. They shall be open-minded, impartial, and unprejudiced in all investigations. They will not exert undue pressure on other jurors but will treat them with courtesy and respect. Individuals agree not to monopolize hearings.

**Decorum and Conduct**

While discussing matters during meetings, each juror is entitled to express his or her viewpoint and give reasons for his or her position. It is improper for a juror to question the reasons or motives of another juror.

Although routine meetings may be conducted with some degree of informality, those at which witnesses appear should be conducted with as much dignity and decorum as expected in a court of law. When witnesses are called before the grand jury to testify or guests are present, coffee cups and similar articles should be removed from tabletops and desks.

Every effort must be made by jurors to remain alert and attentive in the presence of witnesses or guests. Grand jurors must not read or engage in any other activity during hearings or interviews that detracts from the dignity of the proceedings.

The grand jury is not beyond reproach. To be effective, the grand jury must be concerned with the appearance of impartiality as well as the fact of it. Grand Jurors must be constantly sensitive to whether their own actions or the actions of the grand jury as a body, add to, or detract from, the integrity of the grand jury as an institution. All members of the grand jury must be constantly aware of possible bias on their own behalf and that of other members of the grand jury. The grand jury must be alert to the possibility of a perception of bias, right or wrong, by those who will see any report from the grand jury. If a grand juror knows of or thinks he or she has a conflict of interest regarding an inquiry, that conflict of interest should be immediately communicated to the foreperson.

Be aware that someone may complain to the grand jury as a means of attacking an official or agency that he or she personally dislikes. The potential negative impact of this type of complaint is minimized by the requirement of secrecy. Consider investigating the actions and motives of the complainant if the jury can find no evidence of wrongdoing concerning the initial complaint or if the complaint appears to be an abuse of the grand jury process. In addition, be aware that the grand jury can also be used by an official to
attract attention to a problem the official does not want to take on alone, or to attempt to focus attention elsewhere, whether or not there is misconduct.

**Gifts**

Members of the jury, or the jury as a body, should not accept gifts, except token gifts whose value is small, and when failure to accept would be awkward. Token gifts are considered coffee, tea, plastic pens, and other mementos given to casual visitors as a matter of standard procedure. Transportation or moderately priced meals while conducting official business in the field are not considered gifts if they are necessary to support the logistics of the inspection, tour, or investigation.

**Seminars**

There are seminars available that are informative and useful on the conduct of grand jury activities. When a juror becomes aware of these seminars, and wishes to attend, the foreperson is to be informed. The foreperson can give permission to attend the seminar, or the matter may be brought before the entire panel for decision. The attendee is expected to make an oral presentation to the jury panel, detailing the issues of importance covered by the seminar.

**Confidentiality and Secrecy**

Good judgment requires that the utmost discretion be used by grand jurors in their committee’s inquiries into the policies, practices, and procedures of county government. Grand jury statements showing approval or disapproval of public issues or the actions of agencies and departments, and recommendations for changes of any kind, must come only from the entire grand jury and appear only in official reports that legal counsel has reviewed. *Verbal recommendations are not to be made at any time, for any reasons, by any member of the jury.*

During field trips or while conducting interviews, it is imperative that jurors do not discuss or reveal any details regarding grand jury business, plans, or programs. Only fellow grand jurors are entitled to information about grand jury investigations, correspondence, and deliberations. Do not discuss such matters with friends, relatives, business acquaintances, the news media, spouse, or other persons. Jurors are admonished not to discuss individual cases or other grand jury business with fellow grand jurors outside the jury room. In addition, the names of complainants and informants and replies to complainants shall not be revealed publicly.

**Grand Jury Attendance Policy**

Regular attendance at all general meetings and committee meetings is an essential part of a grand juror’s responsibility. The overall quality of the final report and all other grand jury work is dependent on the efforts and contributions of all 19 grand jurors.
In cases of excessive absenteeism, excused or not, the full panel may choose to remove a juror in accordance with the provisions of “Removal of Grand Juror Policy.” Such actions should be taken on a case-by-case basis. Excessive absenteeism is herein defined as missing two unexcused, consecutive full-panel meetings or a total of three full-panel meetings within a three-month period.

It is the responsibility of the individual grand juror to notify the office or foreperson whenever he or she will be absent from a full-panel meeting. Each juror should also notify the committee chairperson in case of an absence from a committee meeting. It is the responsibility of the individual grand juror to contact either the officer or the committee chairperson for information about any missed meeting.

**Removal of Grand Juror**

Only the presiding judge in accordance with a process directed by the presiding judge may remove a member of the grand jury.

All issues and facts concerning removal must be brought immediately to the attention of the presiding judge. Any action taken will be based on the merits of the issue before the presiding judge.

**Replacement**

1. The court shall summon the next available alternate grand juror and administer the oath of office.

2. The oath shall be reported, and a record of the proceeding shall be kept in the miscellaneous grand jury file in the clerk’s office.

**Accusations**

One of the principal duties of the grand jury is to inquire into any changes of willful or corrupt misconduct in office by public officials within the county. (Pen. Code, § 919(c).)

An accusation is a written statement presented by the grand jury, charging an elected or appointed county public official with willful or corrupt misconduct in office. It is to be distinguished from an indictment, which charges a private citizen or official with a public offense or crime.

California statutes have defined several areas where a public officer will be faced with criminal prosecution for actions such as acceptance of a bribe, conflicts of interest, etc. But these crimes are based upon some illegal act above and beyond the duties of the office assumed by the officeholder.
Let us assume that a public official attains office, violates no criminal statutes, but there is misconduct in his office. There is no crime so there cannot be an indictment. But the grand jury can file an accusation under section 3060 of the Government Code seeking the removal of the officeholder. The code indicates that any officer of a district, county, or city, including school board members, may be removed from office for willful or corrupt misconduct. (Gov. Code, § 3060.)

The courts have never clearly defined what type of conduct will allow removal from office. They have clearly said that the conduct does not have to be criminal; it need only be willful. The courts have also said that any act of malfeasance, misfeasance, or nonfeasance in office is sufficient to support removal.

**Malfeasance**

1. The doing of an act that is positively unlawful or wrong; or
2. The performance of a wrongful act that the person has no legal right to do.

**Misfeasance**

1. The improper doing of an act that a person might lawfully do; or
2. The performance of a duty or act that one ought or has a right to do, but in a manner so as to infringe upon the rights of others.

**Nonfeasance**

1. The failure to act where duty requires an act; or
2. Neglect or refusal, without sufficient cause or excuse, to do that which is the officer’s legal duty to do, whether willfully or through malice; or
3. Willful neglect of duty.

The following acts would support removal:

1. Exercise of official power in a corrupt, malicious, arbitrary, or oppressive manner.
2. Embezzlement.
3. Acceptance of a kickback or bribe.
4. Unauthorized use of county property.
5. Failure to keep required records.
6. Unlawful private activities or conflicts of interest.
7. Destruction or withholding of records.

8. Failure to perform duties of office.

9. Neglect of duty due to intoxication.

10. Neglect of duty over a period of time for any other reason.

Generally, an officeholder is not removed from office unless convicted of a crime. The removal power of the grand jury is not often used because the standard of conduct required for removal is not clear, and it is hard to prove. The exercise of discretionary power by an officeholder should not, in every case, be the subject of an investigation by the grand jury; if every decision were investigated, chaos would result. The conduct should be gross. It should recur (usually) over a period of time. Experience has shown that charges of misconduct are easily made and may be unwarranted, and that investigation based on rumor, suspicion, or conjecture is apt to interfere with normal functions and undermine public confidence in government.

On the other hand, if the grand jury has reason to believe that willful or corrupt misconduct exists, it should undertake an investigation. A dishonest public official discredits all others and undermines public confidence in government.

In connection with the grand jury’s duty to inquire into all public offenses, it is appropriate to caution the jury as a judicial body against assuming broad or general phases of investigations. The grand jury is not a detective agency or a court bureau of investigation. It would be wiser, in the absence of specific knowledge of a public offense or good reason to believe the same, to leave the detection of crime in the hands of the sheriff, the police, and the district attorney.

The grand jury is not expected to investigate misdemeanors, which are prosecuted upon complaints filed in superior court, nor would it investigate cases pending in superior court. The jury is not authorized by law to employ criminal investigators. The district attorney will conduct the necessary investigations required in the performance of grand jury duties.

The jury may also, under proper circumstances, seek investigator assistance from the Attorney General’s Office. This request should be made through the office of the presiding judge of the superior court or through the district attorney’s office, by letter from the grand jury. These offices will, in turn, notify the Attorney General that the assistance of that office and staff is required by the grand jury.

A grand jury is not permitted to involve itself in the accusation of public officials in chartered cities where the charter provides an exclusive method of removal of public officials (such as recall).

When persons other than law enforcement officials present a complaint to the grand jury, the jury should determine whether the same complaint has also been presented to the district
attorney. In some instances, the same matter has previously been submitted to the district
attorney and either has been acted on by him or her or for valid legal reasons has not been
prosecuted. Thus, in some cases, the matters heard by the grand jury have already been
extensively investigated by a law enforcement agency.

The grand jury should also check with the district attorney or county counsel, depending on
the nature of the complaint, to determine whether the investigation is within its jurisdiction.

**Procedure for Accusation**

1. Foreperson calls meeting to order.

2. Sergeant at arms is situated by the entrance of the courtroom and admits the district
   attorney, who will be the prosecutor.

3. The district attorney is introduced and presents a summary of the case. The summary
   should be limited to an opening statement of what proof will be presented, together
   with any relevant provisions of law.
   
   The district attorney should explain to the grand jury the elements of the accusations
   and all principles of the law that they must know to discharge their duties.

4. The sergeant at arms then calls the court reporter.

5. Foreperson swears in the court reporter with the following oath:

   You do solemnly swear (or affirm) that you will support the Constitution of the
   United States and the Constitution of the State of California, and that you will
   faithfully perform the duties of stenographic reporter for this grand jury, and that
   you will well and truly report the proceedings had before this grand jury, and
   when called upon so to do, will furnish a full, true and correct transcript of your
   notes within the time provided by law, and that you will not divulge any of the
   matters concerning which the grand jury is conducting an investigation, the names
   of any witnesses, or the testimony given by the same, until you have been ordered
   to do so by this grand jury.

6. The secretary calls the roll.

7. The foreperson then admonishes the jury:

   The grand jury will now consider the matter of [name of suspect] who is charged
   with having committed the offense of ______. If any juror here has a state of
   mind in reference to this case or to any party involved which will prevent him or
   her from acting impartially and without prejudice to the substantial rights of said
   party, then that juror, or jurors, are directed to retire from this hearing now.

   The foreperson then asks:
Is there anyone present with such a state of mind?

A juror should freely disclose any prejudice that might prevent him or her from being fair and impartial. The foreperson should then ask such jurors to retire.

The foreperson should then state:

Let the record show that no member of the grand jury has retired.

(Or the number of jurors if some members of the jury do retire.)

8. The district attorney on the record advises the grand jury of any exculpatory evidence. The members of the grand jury may request that exculpatory evidence be presented to them. The request for such evidence should be made before completing deliberations.

9. At the district attorney’s request, the grand jury proceeds with the hearing. The sergeant at arms brings in witnesses as they are called and should check briefcases for tape recorders before bringing witnesses into the jury room.

10. The foreperson swears in witnesses and any security officers that accompany them:

   Raise your right hand.
   Do you solemnly swear (or affirm) that the testimony you are about to give to this grand jury is the truth, the whole truth, and nothing but the truth, so help you God?

If an interpreter is required, the foreperson swears that person in with the following oath:

   Do you solemnly swear that you will make a true and correct interpretation of the English language into the __________ language, and the ____________ language into the English language to the best of your ability, so help you God?

11. If the investigation of the matter before the grand jury may result in an accusation against a witness, the district attorney should so advise the foreperson. The foreperson should then admonish the witness (witness should first be sworn):

   You are advised under the Fifth Amendment to the Constitution of the United States, and also under Article I of the California Constitution that you have a privilege against self-incrimination; that is to say, you do not have to answer any questions which may tend to incriminate you, or subject you to punishment for any crime, or degrade your character, and you can refuse to answer any such questions stating that the answer may tend to incriminate you or degrade your character. Do you understand?

12. The district attorney then examines the witness.

13. After this testimony, the foreperson should admonish the witness:
You are admonished not to discuss or repeat at any time, outside this jury room, the questions that have been asked of you in regard to this matter, or your answers, with the understanding that such disclosures on your part may be the basis for a charge against you of “Contempt of court.”
You may be excused.

14. After the conclusion of the testimony, the sergeant at arms escorts the witness out of the courtroom.

15. During a hearing, it is extremely important that all jurors see and hear all the evidence. A juror who does not see or hear all the evidence is disqualified from participating in the jury’s deliberation and voting. The foreperson can request the district attorney to halt the proceedings for a few minutes if it is necessary for a juror to leave the jury room. A recess should be called every 1-1/2 hours. The witness should be excused before the recess. After the jury reconvenes, the witness is recalled and must be reminded that he or she is still under oath. During this time, there should be no discussion with the district attorney or among jurors concerning the case.

16. During the course of testimony, any evidence introduced by the district attorney must be marked by the foreperson. When the district attorney has completed the case, the foreperson should make certain that all the grand jury exhibits (evidence) have been introduced into the record. The foreperson accepts all the exhibits into evidence and states that exhibits will be returned to the district attorney when the case is completed. On continuing cases, the foreperson should not accept items into evidence until the last day of the case.

17. On completion of the testimony and the introduction into evidence of all exhibits, the court reporter will leave the jury room. The prosecutor will then summarize the evidence presented if necessary. The prosecutor will also be available to answer questions of fact and/or law the jury may have.

18. When the testimony is complete and the grand jury has no further questions of the prosecutor, the foreperson should ask everyone but members of the grand jury to leave the room. The foreperson should ask each juror individually for a discussion of the accusation. General discussion should then continue as long as necessary. The foreperson should then read the accusation and ask the secretary to call the roll. As each juror’s name is called, the reply should be “Bill” (voting to return the accusation against the accused) or “No Bill” (voting not to return the accusation against the accused).

If 12 or more qualified jurors vote a “Bill,” it is considered returned, and the district attorney and a judge of the superior court should be notified.
The accusation must state the charges. Once it has been signed, the foreperson is directed to deliver it to the district attorney (unless the district attorney is the accused). The district attorney will have a copy of the accusation served on the accused person and shall notify the accused to appear in superior court 10 or more days after service. After service, the original accusation is filed with the clerk of the superior court.

The accused is entitled to a jury trial on the accusation. The trial proceeds as if the grand jury had filed an indictment (even though the accusation is considered civil in nature). If the accused is convicted, the penalty is removal from office.

**Examination of Witnesses**

Initially, only the district attorney or deputy district attorney should examine the witness. Such examination should be complete before any juror asks any questions. If this method is followed, the train of thought of the examiner will not be broken, and in many cases the questions that have come to the minds of the jurors will be covered by the district attorney before the examination is completed.

When the district attorney is finished with each witness, the jurors may submit written questions to the sergeant at arms, which will be delivered to the district attorney. The district attorney can refuse to ask the grand juror’s questions if they are irrelevant or would damage the accusation proceeding. Under no circumstances should a juror engage in argument with the witness.

The grand jury should not ask “off-the-record” questions or hold “off-the-record” discussions with the district attorney before or during an accusation hearing. If such discussions are held, they appear on the transcript as a notation that an “off-the-record” discussion took place.

**Right to Hold Public Session**

Whenever the subject matter of an investigation is one that affects the general public welfare and involves the alleged corruption, misfeasance, nonfeasance, or malfeasance in office of public officials or public employees, the grand jury, together with the Attorney General or the district attorney, may make a joint written request to the superior court for an order directing that a public hearing be held. If so ordered, the grand jury shall conduct the examination of witnesses in public, but all deliberations of the grand jury, including the discussions and voting on such investigation, shall be held in private. (Pen. Code, § 939.1.)

Public sessions of the grand jury are not recommended except in rare instances. When an indictment results, the public hearing may have a prejudicial effect on the subsequent hearing before a “trial court.” Full provisions and rules covering public sessions of the grand jury are outlined in section 939 and subsequent sections of the California Penal Code.
Duty and Responsibility of Grand Jurors When Voting an Accusation

Each juror has an equal duty and responsibility and is entitled to be satisfied with the evidence before being called on to vote. Although some jurors may be decided on how to vote, if others wish to pursue the matter further, individual jurors have no right to dismiss the witness or shut off discussion. To ensure that complete and adequate consideration is given to the accusation, the foreperson should request that jurors briefly discuss their views of the case before voting.

When all the evidence in a case has been considered, the grand jury should vote by roll call whether to present an accusation. Each count against the defendant must be voted separately.

Finding an Accusation

To find an accusation requires the concurrence of at least 12 grand jurors, each of whom has attended the taking of all the evidence before the jury. A juror who has not attended is disqualified from participating in jury deliberations or voting.

When an accusation has been voted and found as required by law, and the formal written accusation has been prepared, it must be endorsed “A True Bill,” and the endorsement must be signed by the foreperson of the grand jury or the foreperson pro tempore, as the case may be. (Pen. Code, § 940.) The accusation must set forth in appropriate form the name of the defendant and the charges.

Presentation of an Accusation to the Judge of the Superior Court

When an indictment or accusation has been returned by the grand jury, it must be presented to the judge of the superior court and filed. The following procedure is recommended in order to ensure that all legal requirements are complied with:

Judge: I understand that the grand jury desires to present an accusation.

Foreperson: Yes, Your Honor.

Judge: Clerk, will you call the roll of the grand jury?

(Clerk does so and announces the result.)

The roll call may be waived at the discretion of the judge on a statement by the foreperson that all members of the grand jury are present or that only certain members are present.

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5 The endorsement is made by a grand jury upon a bill of indictment when the grand jury finds it is sustained by the evidence laid before it, and it is satisfied of the truth of the accusation. (See Pen. Code, § 940.)
Judge: Did all the grand jurors voting on the accusation hear all the testimony taken?

Foreperson: Yes, Your Honor.

Judge: Did at least 12 of the grand jurors who heard all the evidence vote for the return of the accusation?

Foreperson: Yes, Your Honor.

Judge: I will find that at least 12 of the grand jurors, who heard all the testimony taken, voted for the return of this accusation.

The foreperson approaches the judge and states:

May it please the Court, the grand jury of _____________ County, in its deliberations, has returned an accusation in the matter of the People of the State of California vs. ________________, and on behalf of the grand jury I herewith present “A True Bill.”

Judge: I note on page _______ of the accusation, the names of witnesses. Did all these persons testify in this case?

Foreperson answers.

Judge: Were any other witnesses examined?

Foreperson answers.

Judge: The court will receive the accusation, and it is ordered filed.

Note: An accusation is filed as an open public document.

No Bill

When a “No Bill” is voted, the district attorney and the judge should be notified by the foreperson.

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6 This phrase, endorsed by a grand jury on the indictment, is equivalent to “not found” or “not a true bill.” It means that, in the opinion of the jury, evidence was insufficient to warrant the return of a formal charge.
Grand Juror Responsibilities and Secrecy of Accusations

A grand juror cannot be compelled to testify how he or she or any other member of the grand jury voted or spoke upon any accusation.

Except when required by a court, it is a misdemeanor for any grand juror to disclose willfully any evidence adduced before the grand jury, anything that any member of the grand jury has said, or in what manner any grand juror has voted on a matter before them. A juror cannot be questioned by anyone for anything said or any vote given in the grand jury except in the event a charge of perjury is brought against such juror. (See Pen. Code, §§ 924, 924.1, 924.2, and 924.3.) The importance of this rule of secrecy cannot be overemphasized.

Trial jurors are requested to maintain a proper appearance and demeanor, and a grand juror should be equally careful in this regard. Audible expressions on the part of any grand juror denoting either approval or disapproval of any witness or testimony presented before the grand jury, or in the presence of any guest of the grand jury, violate appropriate decorum. Approving or disapproving gestures of head, hands, or body also violate appropriate decorum.

Investigations

How the grand jury conducts an inquiry can be as important as its findings and recommendations. The investigative process can often influence the findings and recommendations, how the public perceives the report, and how the officials mentioned in the report react.

Beginning an Inquiry

Complaints and suggestions for inquiries are usually received through the mail and given to the foreperson by the grand jury staff. To begin the process of deciding whether to conduct an inquiry, the foreperson assigns complaints or suggestions for a particular inquiry to the appropriate committee for a preliminary review. The presiding judge may provide information and evidence, including transcripts of testimony, acquired by a previous grand jury, but excluding any information relating to a criminal investigation, to the succeeding grand jury, upon its request. (Pen. Code, § 924.4.)

On receipt of the complaint or suggestion for an inquiry, the committee should decide, by majority vote, whether to conduct the inquiry. If the committee decides that an inquiry is appropriate, it should report its recommendation back to the full grand jury at the next full grand jury meeting. The entire grand jury should then also vote on whether the inquiry is appropriate and whether the inquiry should proceed by the assigned committee.
This approval process

- prevents unnecessary use of resources;
- allows the whole grand jury to determine allocation of its resources;
- allows the whole grand jury to be aware of the nature of the inquiry; and
- gives the whole grand jury an opportunity to contribute during the inquiry process.

When deciding whether to conduct an inquiry, make sure that the grand jury has the jurisdictional authority to review the agency or program in question. The grand jury has no jurisdictional authority to inquire into

- federal agencies;
- state agencies, except when there is specific authority to investigate state prisons; and
- superior court, for which there are other mechanisms of review.

If the grand jury is not sure of its jurisdictional authority in a situation, the foreperson should consult the presiding judge, the superior court executive officer, county counsel, district attorney, or Attorney General.

It is very important to plan properly before the inquiry begins. A poorly planned inquiry wastes the grand jury’s valuable time, may leave the jury open to a lawsuit, and may bring embarrassment and a loss of credibility to the jury.

The jury should clearly define the goal of the inquiry. Consider asking the following questions as a group:

- What is the issue?
- What are the objectives of the inquiry?
- Why is the inquiry being conducted?
- What will the jury possibly learn by conducting an inquiry?
- How will the agency or department be improved by the inquiry and the recommendations?
To stay focused and organized, each committee should establish a timeline and a system for ensuring that the committee’s assigned inquiries are moving forward. In addition, it should be clear what responsibilities each person on the committee has in carrying out an inquiry. Establishing a set of timelines and committee members’ duties will become very important when the committees begin handling multiple inquiries and reviews as the year progresses.

The committee or grand jury usually follows seven basic steps in conducting inquiries:

1. The formal complaint and applicable documents are obtained and reviewed;
2. Applicable statutes, ordinances, and regulations are researched;
3. Interviews are conducted;
4. Site visits may be conducted;
5. The research conducted is validated;
6. The report is drafted and submitted to full grand jury for review and adoption; and
7. A verification interview may be conducted with the appropriate agency head to confirm the facts gathered during the inquiry.

Types of Investigations

The purpose of a grand jury investigation is to produce beneficial reports that make a meaningful contribution to your county. The grand jury is required by California statutes to conduct certain types of investigations. In addition to these mandated duties, the grand jury may conduct independent investigations of any agency within its jurisdictions and respond to citizen complaints. The investigative duties of the grand jury can be categorized as:

- **Mandatory investigations**—those that the California Penal Code requires the grand jury to undertake.

- **Discretionary investigations**—those over which the Legislature has given the grand jury jurisdiction, but has stated it is not required.

- **Citizen complaints**—those complaints within the jurisdiction of the grand jury received from a citizen. The statutes preclude the grand jury from considering complaints on matters currently before the court, matters that are the subject of litigation, matters involving agencies located outside the county, matters involving privately held companies and matters involving the fiscal and administrative operations of the superior court. The committee must consider if the complaint falls within the jurisdiction of the grand jury, if the facts warrant an
investigation, and whether the topic of the complaint has already been reviewed by a previous grand jury.

Citizen Complaints

One of several responsibilities of the grand jury is to investigate and respond to citizen complaints regarding access to tax-supported county and city services, treatment by employees of the county or cities in providing these services, the actions of elected and appointed public officials, and the services of public funded, nonprofit organizations. The grand jury does not accept citizen complaints from telephone calls. If a complaint is received initially as a phone call, the complainant is requested to either submit a signed letter detailing his or her concerns, or a formal complaint form may be mailed to the complainant for completion and return. When either a signed letter or formal complaint form is received, it is read to the entire jury panel, assigned to the appropriate committee for action, and a letter of receipt and acceptance is sent to the complainant by the staff secretary. The staff secretary assigns a case number to the complaint, and the complainant is advised to refer to that number in future correspondence or calls. The committee that is assigned the complaint will keep a detailed log of all phone calls, interviews, and evidence received during their investigation. The ultimate disposition of the complaint is also noted in the case log. Complaints are handled as follows:

1. Persons who inquire about the procedure to file a complaint with the jury will be sent a complaint form by the staff secretary so that the original complaint received by the jury will be on the appropriate form. When a complainant sends a letter to the jury, a letter acknowledging receipt of the letter and a complaint form will be sent to the complainant for return. When the completed form is received, it shall be forwarded directly to the committee that has the original letter.

2. Unsigned complaints may be destroyed.

3. The grand jury has several procedures to resolve a citizen’s complaint:
   a. The case may be closed because of insufficient evidence to prove the claim.
   b. A transmittal report and copies of supporting data may be written based on the material acquired through grand jury investigation and turned over to other agencies, such as the district attorney for action. The complainant’s original letter to the grand jury should not be a part of the material forwarded. All original documents submitted by the complainant should be maintained in the grand jury file because there have been occasions when submittals to the district attorney have been misplaced. In addition, the foreperson shall request a quarterly status report on all cases submitted to the district attorney for action.
4. Citizen complaints submitted to all other agencies shall be treated as closed cases. The transmittal letter to those other agencies shall make it clear that their response should be sent to the complainant and not the grand jury.

5. The assigned committee completes its investigation and reports to the entire grand jury its findings and recommendations for action or resolution, which are then, by majority vote of the jury, rejected or accepted.

6. Elective dispositions:
   a. No action will be taken based on the workload priority of the jury.
   b. The complaint is not within the authority of the jury to investigate.
   c. The complaint is in litigation.
   d. The complaint has been filed with another investigative agency.
   e. The complainant has not sought remedy from the appropriate department or agency.

7. Documents provided to the investigating committee by a complainant are to be maintained in a safe manner. The complainant should be questioned about which documents are to be returned. The complainant’s wishes in this regard should be followed, and identified documents should be returned shortly after the complainant’s case has been closed. All other remaining file material concerning the case may be shredded immediately or during the file cleaning that should take place during the final weeks of the jury’s term.

**Interviewing**

Having decided to conduct an inquiry, the grand jury may obtain information about an agency or program by interviewing people. Some common sources of information are:

- People managing or working in the agency;
- Users, clients or customers of the agency;
- Commissions or legislative bodies overseeing the agency, including former members of the body;
- Other public agencies that interact with the agency that is under inquiry;
- Critics of the agency;
- Former employees of the agency;
- Grand juries or similar agencies in other counties or from the state; and
- Legal advisors to the grand jury.

In addition, the grand jury may wish to ask for annual reports, progress reports, audit reports, internal reviews, informational brochures, budget documents, press reports, and other written materials produced by the agency being reviewed, oversight agencies, governing boards, or chief executive offices. The jury may also wish to request applicable legal material from legal advisors of the agency or the grand jury, except to the extent that the documents are protected by the attorney-client privilege.

Ask the executive office staff about available reference materials. Documents may already be in the grand jury’s “library.” The grand jury is entitled to see most public records in the possession of an agency at reasonable times. (Pen. Code, §§ 921, 925a.) If the grand jury has difficulty obtaining a document, the document may be subpoenaed. Ask for assistance from legal advisors if the jury thinks a subpoena will be necessary to obtain materials. Without a court order, the grand jury is not entitled to review juvenile court files or adoption records. In addition, the grand jury is not entitled to view personnel files.

All jurors should be involved in the interview process, so it is important that all members are knowledgeable about effective good interview techniques and practices. If the grand jury intends to make well-founded conclusions and recommendations, it will need to plan its interviews carefully with that goal in mind.

**Before the Interview**

- Identify those individuals who should be interviewed. Usually the complainant is interviewed first. From those initial interviews, other individuals will be identified for subsequent interviews.
- Schedule interviews with the witness and notify committee members. Determine what documents need to be reviewed before the interview and those documents the committee wants the witness to bring with him or her.
- Most grand juries prefer to conduct interviews in the grand jury conference room. Should a committee want to interview a witness at another location, arrangements can be made.
- Research subject matter before the interview. The participants should clearly understand the goal of the interview.
- Background research can include, for example, information about the agency’s responsibilities.
• Prepare an outline of structured questions to ensure a thorough line of questioning. The answers will provide relevant information that is important to the investigation. The sequence of questions must be logical.

• The phrasing of the questions should be designed to elicit the desired response. Limited-choice questions will obtain facts, while open-ended questions will result in a narrative response. Follow-up questions allow the witness to expand or clarify an answer.

• Questions should be typed in the sequence they will be asked. A copy of the questions will be provided to each committee member.

• Agree on the format or role each member will take in the actual interview.

• Only interview one witness at a time. Husbands and wives and co-complainants must also be interviewed separately.

• Never interview alone. There should always be a minimum of two jurors present at an interview. A preferred number is at least three. (Interviews by telephone should be a conference call with a second committee member to help document the conversation.)

• Dress appropriately.

• Wear your grand jury badge for identification.

• Try to arrive 10 minutes early so the witness does not have to wait for committee members to arrive.

• Please don’t bring cell phones or pagers into an interview.

• Phone the office if you are not able to attend the interview.

• Interviews will either be tape-recorded, or a court reporter will be present if requested by the committee. Each committee member will receive a copy of the transcript.

**Introduction**

• Create a comfortable and professional atmosphere. Try to put the witness at ease.

• The committee chairperson should introduce the committee members.

• Give the witness a glass of water in case he or she needs it.

• Explain confidentiality issues.
• Swear in the witness.

_Questioning_

• Begin the interview by telling the interviewee the purpose of the interview.

• Briefly explain the nature of the complaint, but do not respond in detail to questions asked by witnesses.

• Use structured, prepared questions. Never mention that you are looking for problems. Say that you are fact finders not fault finders.

• Do not react by nodding in agreement or by indicating negative reactions, or in any other way, which might indicate an attitude or feeling about the witness or the testimony.

• Be objective and fair. There should be no hidden agendas. Be sure the subject of the investigation is given a chance to respond to allegations made in the complaint.

• Start questioning with who, what, when, why, where, and how. These questions require a full answer instead of a plain “yes” or “no.”

• Ask direct and probing questions and hold the agency accountable for providing complete, accurate, and nonevasive answers. Do so in a professional manner and never ask questions that might be a form of entrapment.

• Maintain control of the interview by keeping the witness focused on the key issues.

• When conducting an interview, set objectives: What do you want to accomplish? What are you trying to find out? How will this information effect positive change?

• Ask the witness for appropriate documentation or corroborating evidence. Obtain a handbook, procedure manual, organizational chart, budget, statistical report or other needed documents for background information. An investigation can include a combination of observations, surveys, and interviews. Sometimes documents are gathered before the interview or are requested as issues come up during the interview.

• Do not answer the question for the witness. Allow the witness to give his or her own answer.
• Never mention the complainant’s name to a witness. The grand jury promises confidentiality to all complainants.

• Do not divulge the names of other witnesses or repeat what the grand jury has learned during an investigation.

• Lead advisors may be available to assist in questioning if requested by the panel.

Closing the Interview

• The chairperson should ask each committee member if he or she has any questions at the end of the interview. The members should try not to interrupt the main flow of questions because the interview can get sidetracked.

• At the end of the interview, the chairperson should ask the witness if there is anything else the witness would like to add, or anyone else he or she thinks the grand jury should talk to.

• Remind the witness of the documents or other information he or she has promised to provide. Be sure to agree on a schedule and method of delivery.

• Read the admonishment.

• Confirm that the witness understands the admonishment and will abide by it.

• Thank the witness for coming in.

After the Interview

• Discuss the interview and facts learned from the witness.

• Verify the information gained in the interview. Never base any finding or conclusion on information learned in a single interview. Use the principle of triangulation and verify the fact from three different sources such as documents, interviews with other people, or observation.

• Discuss the objectives of the interview, whether the objectives were achieved, what changes might be added in future interviews, and decide whom the committee needs to talk to next.

Concluding an Inquiry

The committee conducting the inquiry should prepare a written report of the results of the inquiry, including suggested findings and recommendations. A report does not need to be published if no useful purpose will be served. A mid-year report may be published if the nature of the problem is sufficiently urgent that waiting until the end of the grand jury’s
term would be detrimental to the report’s effectiveness. The findings and recommendations must be based on the committee’s own inquiry and research. There should be “evidence” to support each of the reports’ findings and recommendations; “evidence” can be direct, circumstantial, or hearsay—there is no standard spelled out in the statutes regarding civil grand jury investigations. The findings and recommendations cannot be based solely on a previous grand jury’s work. (See Pen. Code, § 924.4.) The drafted report must first be presented to the full committee for approval, and then to the full grand jury for final approval.

When approved by the full grand jury, the mid-year report and/or final report shall be reviewed by the superior court presiding judge and may be submitted to county counsel for review. (Pen. Code, § 933.) If the judge determines that the report is properly within the grand jury’s jurisdiction, he or she will order the report to be filed with the clerk of the superior court, and the report then becomes available to the public. If the judge determines that the report is not within the grand jury’s jurisdiction, he or she can refuse to file the report, and the report cannot be released to the public.

Traditionally, the report is also reviewed by county counsel before public release. Generally, there is no immunity for comments made in a report concerning a civil inquiry; grand jury members can be subject to libel actions for what is said. (Pen. Code § 930.) This is one of the reasons the report should be reviewed by the court and county counsel, before its release. The review provides an opportunity for any potentially libelous statements to be identified by the court and county counsel and then modified or verified by the jury.

After the full grand jury and its legal advisors have approved the report, the grand jury committees may conduct “verification interviews.” Verification interviews are used to confirm or correct facts discovered during investigation. Proper use of verification interviews guards against later charges that the Jury’s information is outdated or its facts are inaccurate.

REPORTS

When the investigation is complete, the committee needs to take the material and fit it to the report format that has been established by the grand jury. To avoid the final publication crunch, prepare the report as soon as possible.

Statutory Authority to Adopt and Issue Reports

At least 12 of the 19 grand jury members must agree on the final approval and adoption of mid-year and final reports. (Pen. Code, §§ 916, 940.)

By the end of the calendar year, the grand jury must submit its final report to the superior court for public filing. Penal Code section 933 provides that “[n]o later than the end of
each fiscal or calendar year of a county, each grand jury empanelled during that fiscal or calendar year shall submit to the presiding judge of the superior court a final report of its findings and recommendations . . . .”

As required by Penal Code section 933, the final report is officially filed as a record with the clerk of the superior court.

Certain legal limitations must be adhered to during the preparation of grand jury reports.

1. Findings and recommendations contained in grand jury reports are to be based on substantiated, factual, and legal data compiled during its investigation and tenure.

2. Members of a grand jury are not immune from suits for libel. Before the delivery of any report to an entity outside the grand jury, legal review is an absolute requirement. Care must be exercised to ensure that all statements contained in released reports are substantiated, accompanied by appropriate recommendations, and consistent with the jury’s statutory authority.

3. Before writing any final reports, each grand jury member should familiarize himself or herself with the Penal Code sections that relate to the operation of the grand jury.

**Typical Criticisms of Reports**

In drafting reports, the grand jury should keep in mind some of the common criticisms made about grand jury reports. A poorly drafted report can provide public officials with an excuse to evade or ignore the recommendations that are contained in the report. Typical criticisms of reports are that the:

- Agency was already implementing or considering implementing a similar approach;
- Recommendations are impractical;
- Recommendations are trivial;
- Recommendations are too costly;
- Recommendations would be illegal to implement;
- Report reflects an incomplete or erroneous grasp of the facts;
- Grand jury failed to understand the background or history of the problem;
- Grand jury failed to talk to a particular person or group of people, and therefore, the findings and recommendations failed to take into consideration the information these people could have provided; and
• Recommendations are redundant; they have already been tried, and they did not work.

Although many of these criticisms may be considered to be overstatements, defensive remarks, or generalizations, they nonetheless suggest pitfalls to avoid in drafting reports.

Guidelines for Writing Committee Reports

1. Before beginning a report, clearly define your intended audience. The final report is a matter of public record, but you should direct most individual reports—especially those that are investigative in nature—to the target agencies, not the general public. There are cases, however, where the opposite is true—when you may be making more of a public statement about the agency.

2. For purposes of documentation, keep a list of all departments, offices, agencies, and organizations actually visited over the course of the grand jury term, even if not reporting specifically on all of them. The final report will include this information in an appendix.

3. When evaluating and analyzing your data, remember that a strong report clearly

• States the problem or condition,

• Identifies the source of the problem or condition and the criteria (i.e., the laws or standards that were violated),

• Describes the context of the problem, and

• Identifies adverse consequences.

4. Write the “easy” sections first. Don’t worry about sequencing, transitions, or logical flow. These will come later.

5. Once the information is down on paper, work with the sequencing. Readers need to receive information in an orderly sequence. Don’t fall into the “familiarity” trap—assuming that because you know what you are trying to communicate, the reader should also know what you mean to say. Tell readers what they need to know.

6. Ask if all the material in the report is relevant to the purpose, the audience, and the content.

7. Always qualify facts and findings with a specific date. Examples: “The number of employees in XYZ Department was 35 as of December 1, 20__.” “As of June 15, 20__, the issue remained unresolved.”
8. Check and double check data that are represented as fact or supporting information. Just because four people said the same thing doesn’t necessarily mean it is true. Check the accuracy of figures and the date(s) they were valid.

9. Deadlines are important. Expect to write, and rewrite, and rewrite again. Allow enough time. Date all drafts.

10. Edit, edit, edit! Don’t be afraid to “whack and hack” (remove extraneous material). Content is most important, but do edit for consistent style, punctuation, and spelling.

11. Protect individuals’ confidentiality and the confidentiality of your sources. As a general rule, don’t refer to individuals by name except for department heads, managers, and supervisors whom you interviewed.


13. As much as possible, keep your writing in the active (as opposed to passive) voice. Active voice: The cat caught the rat. Passive voice: The rat was caught by the cat.

14. Define acronyms and technical words the first time you use them.

**Final Report Format**

The foreperson of the grand jury is customarily responsible for determining the format and style of the mid-year and final reports. Each subject of inquiry on which the grand jury decides to report may be presented in the following format:

1. Subject/Title
2. Summary
3. Procedure/Methodology
4. Background and Discussion
5. Findings
6. Recommendations
7. Agency/Department Required to Respond
8. Time Requirements for Agency/Department Response
9. Bibliography
Note: Recommendations may be either separately stated or interwoven with the associated findings.

Each of the possible sections of a report is described below, together with examples drawn from past county grand jury reports and reports from other counties.

**Subject/Title**

The subject or title should be a brief description of the subject matter and agency, if any, investigated and covered by this report.

**Summary**

The summary should indicate, in general terms, why the inquiry was initiated and how the grand jury got involved in this inquiry.

**Procedure/Methodology**

The procedure section should give a brief description of the manner in which the inquiry was conducted and the sources of information used as part of the inquiry. The description helps establish the credibility of the report by indicating the breadth of contacts and sources information.

**Site Visits**

If site visits or tours were made as part of the inquiry, each should be mentioned, together with the dates and a general description of the areas and facilities toured.

**Surveys**

If survey instruments or questionnaires of any kind were used as part of the inquiry, each should be mentioned, together with comments about the method of distribution and analysis. The survey instrument should be referred to in the report and a copy of it attached to the report.

**Background and Discussion**

The background and discussion section should contain a narrative of relevant facts, events, and circumstances. The purpose of this section is to provide a base of information, which supports the findings, and recommendations made and place them in a proper context. Give a brief history of the relevant events that lead up to the current state of affairs regarding the problem.

**These reports shall not include any proper names and addresses.**
Findings

In the Penal Code, the word “finding” is synonymous with “fact.” The Penal Code implies that the facts shown are those learned by the investigation and were found to be true. Findings should only be included if they relate to the investigation.

A witness may testify that he or she heard something about someone else. This is hearsay or rumor and not a finding. If the hearsay can be corroborated with hard evidence from another source, then it becomes fact. Lacking such corroboration, it remains hearsay and outside the arena of the grand jury.

In a long and complicated investigation, there may be many findings. Do not make a long list of findings. Instead, group the findings into logical sets. Each set becomes a finding with several subsets of findings.

If there is a finding, there may be a conclusion that can be drawn from it. A conclusion is the consequence of the finding. For example, if there is a finding that the cash drawer in a certain department is never locked, it might be concluded that security against theft is poor.

There is no need to have a conclusion for every finding. In some cases a combination of findings is required to result in a conclusion. When the same conclusion is derived from several findings, group the findings together, but state the conclusion only once.

There is a simple test to distinguish a finding from a conclusion. No conclusion can be in the past. Findings can be in the past, but conclusions based on them should be current or future events.

Findings should be supported by documented evidence and material gathered during the investigation. (Pen. Code, § 916) They are factual statements of conditions existing during the investigation. The Penal Code refers only to findings that are possible problems needing attention.

Recommendations

Because a grand jury can only suggest courses of action, the report must be very careful in the wording of recommendations. The words shall and must are not advisable. A grand jury does not have the power to demand action.

A recommendation must be a logical consequence of a set of findings and conclusions. Always offer a recommendation with enough evidence in terms of findings and conclusions to make the need for the recommendation compelling.

Do not recommend an impossible course of action (such as doubling the budget of one department while maintaining funding for other departments). Even one such
recommendation may render the entire report meaningless in the eyes of the readers. Elected officials understand this fact.

When a grand jury has composed a set of recommendations, it should review them to make sure that the wording is unambiguous. The shorter the recommendation, the tougher it will be to ignore. Do not write a book when a sentence or two will suffice. Do not attach conditions to a recommendation with words like “should” or “if.”

A recommendation must be carefully phrased, be direct, and be precise. When the grand jury offers a loophole, it will probably be taken. If a specific action is recommended, assign a time frame. For example, the grand jury may recommend that “the Board of Supervisors develop an action plan that will lead to completion of the general plan by December 31 of this year.” By limiting the implementation time with a deadline, the opportunity for delay is minimized. However, do not be unrealistic. In general, it takes several years for any good idea to sink in and be implemented.

The greatest force that a recommendation can have is to inform the public of a simple action that could solve a worrisome problem. In the long run, the citizens of the county exercise their power by voting. Recommendations are directed to the responsible agency or department about which the report is written or to the board of supervisors if they have jurisdiction.

When drafting the recommendations, think about what response the grand jury wants from the agency or legislative body involved. The grand jury must also consider how the agency may react to the language of the recommendation.

The recommendations made in the report should:

1. Specify the agency that the grand jury believes has the authority to implement the recommendation that the grand jury is making;
2. Specify the issues that ought to be addressed by the agency;
3. Specify what specific types of action the grand jury believes should be taken to alleviate the problem;
4. Specify what actions or conduct the agency should seek to stop or those actions from which the agency should itself cease in order to alleviate a problem; and
5. Commend those who have done a good job or have acted in an exemplary manner, which the grand jury wishes others to emulate.

The recommendations should NOT:

1. Recommend actions that the agency or official has no jurisdiction or authority to perform;
2. Recommend policy changes or considerations;

3. Recommend or endorse private vendors, contractors, or consultants;

4. Demand that an agency or official perform some act, or cease from some action, when the action is within the agency’s or official’s sole discretion to perform;

5. Use language that is derogatory, libelous, judgmental, or impugns the integrity or honesty of the agency or individual to which it is directed; or

6. Be so general and nonspecific that the agency can avoid doing anything by making the excuse that it could not determine from the report exactly what the grand jury wanted done.

Agency/Department Required to Respond and Time Requirements for Response

This section of the report should specifically state:

- The name of the agency, department, or governmental body required to respond to the Findings and Recommendations;
- When the response is due; and
- Where the response is to be filed.

Bibliography

The bibliography should list the written materials consulted as part of the inquiry process, particularly reports by other agencies, governmental or private. The citations should be as accurate and complete as possible to permit readers to locate the same documents for review. The list establishes whether certain documents that relate to the history of the problem and past attempts to resolve the problem were reviewed.

Other Report Content

Transmittal Letter

Because the grand jury is preparing the report for the presiding judge of the county superior court, a transmittal letter is usually included with the report to the judge. It is a standard letter that typically thanks the judge for support and guidance and tells the judge how well the proceedings went and how cooperative public officials were. It usually concludes with, “this concludes the work of the 20__–20__ grand jury.” The letter is placed at the beginning of the report.
Juror Credits

It is customary to include a list of jurors and officers of the grand jury. Do not identify grand jurors by committee; the grand jury, not a committee, is issuing the report.

Table of Contents

A table of contents makes it easier to navigate through the report.

Noninvestigative Status Reports

These are mandatory, noninvestigative reports. The California Penal Code requires, among other things, that the grand jury report on the fiscal matters of the county and inspect the jail facilities. If the grand jury does not issue an investigative report about fiscal budget matters, then a status report is required. These reports can be brief.

Response Analysis

The grand jury report should include an evaluation of the responses to the previous final report. This is an important responsibility to the public. It becomes the responsibility of the new grand jury to review the responses and determine if any follow-up inquiry will be conducted. The newest grand jury or a subsequent grand jury may follow up and inquire into and report on the extent of compliance with grand jury recommendations. Keep in mind, however, that agencies are not required to adopt the recommendations of a grand jury.

Report Amplification

If the grand jury report contains additional materials, the materials should follow the formal part of the report. These might include:

- A tutorial to explain background or technicalities;
- Explanations to clarify or expand on findings; and/or
- Tables of detailed data too extensive for the body of the report.

Response by Governing Bodies to the Final Report

When the grand jury submits a final report regarding a public agency that is subject to the reviewing authority of the grand jury, the governing body of the public agency must respond to the grand jury’s findings and recommendations by commenting to the presiding judge of the superior court as provided in Penal Code sections 933 and 933.05. When the report pertains to matters under the control of an elected county officer, that officer is also required to respond.
Copy Requirements

The report must be delivered to the presiding judge of the superior court for filing as a public record with the clerk of the superior court. After official filing with the court, copies of the report are forwarded to the board of supervisors and to all other public agencies and departments reviewed in the report. The foreperson also addresses a letter to the person who is responsible for responding to the recommendations. The foreperson calls to that person’s attention the section of the report that falls within his or her area of responsibility and identifies the page numbers and the specific recommendation(s) to which that person must respond. The policymakers and administrators who can act on the recommendations in the report are therefore the primary audience. In order to have an impact, the report must be specific and provide enough information and detail to the governing body or department to allow it to act, if it chooses to do so. In addition, the language of the report should encourage agencies to act constructively and not react negatively.

The press will also receive the report and will provide a summary of the information in the report to the public. The report must therefore provide enough background information for the press to understand the nature and scope of the matters that were investigated. In addition, copies of the report are sent to all libraries in the county and made available to members of the public who request a copy.

Report Review Process

When the committee is satisfied that the report is ready, it is submitted to the full grand jury for review. The full jury will either accept the report or return it.

Reject or Return

The full grand jury may decide to return the report to the committee and suggest that the committee consider redoing the report to include or exclude certain ideas, or it may reject the report (12 must concur) and rule that it will not be included in the final report.

Accepting the Report in Substance

If a report is essentially complete but lacks a few details, the grand jury may approve (12 must concur) to accept the report in substance.

Report Approval Cycle

Step 1: The committee prepares a draft of the report and presents it to the grand jury for general acceptance. It is convenient if the report is in the final report format.
Step 2: The grand jury may then take one of these actions:

- Return the report to the originating committee to rework, revise, or reconsider. The originating committee has the option of reworking the report as suggested by the grand jury or recommending that the investigation be dropped. At least 12 members of the jury must agree to such action.

- Approve the report in substance. The report then goes to the editorial committee for final, detailed editing.

Step 3: The completed report is returned to the full grand jury for final approval. The grand jury has three options:

- The report can be returned to the originating committee for further work. If the report was generally accepted at the first reading, then it should be acceptable when edited.

- The grand jury may decide not to issue the report.

- The grand jury may approve the report, either for immediate issuance as an interim report or as part of the final report. Legal review (but not approval) by the county counsel is required before it can be released.

Step 4: After review by the county counsel, the report is ready for release. If the report is to be published in the final report, then the editorial committee holds on to it. If the report is to be issued immediately, the foreperson prepares a transmittal letter, and the editorial committee arranges for printing and release.

Step 5: All the reports, including interim reports, are included in the final report.
APPENDIX

SAMPLE FORMS

Sample Form: Biographical Sketch

Please give *only* the information you would like to share.

Your name_________________________ Name of spouse____________________

Place of birth ___________________ Place where you grew up_______________________

Previous place of residence ______________County____________________

Length of time lived in ___________ County

City where you now live___________________________

Colleges attended:______________________________

Work related: Retired___ Employed___ Full time___ Part time___

Self Employed___ Full time___ Part time____

Current Employer ______________________________________________________

Current position/duties ________________________________________________

Relevant prior work experience________________________________________

Volunteer activities: _________________________________________________

Hobbies/Interests: ___________________________________________________

Special skills/experience _____________________________________________

Reason for choosing to be a grand juror: _________________________________

__________________________________________________________________

If you are interested in holding a grand jury office, number, in order of preference, the offices listed below.

_____ Foreperson
_____ Foreperson Pro Tempore
_____ Corresponding Secretary
_____ Recording Secretary
_____ Treasurer
_____ Sergeant at Arms
Sample Form: Committee Preference Questionnaire

To make committee selections and assignments, we need to know something about your background and preferences. Each juror is asked to give a brief sketch as follows:

NAME____________________________________________________________

ADDRESS_________________________________________________________

E-MAIL____________________________________ (Pager)__________________

TELEPHONE
(Work)_______ (Home)_______ (Fax)_______ (Cell)_____________________

OCCUPATION_____________________________________________________

EDUCATIONAL BACKGROUND_____________________________________

Are you interested in being a Committee Chair? Yes___ No___ If so, which committee?___

Please number the following committees in order of preference. 1st, 2nd, 3rd, etc.

/__/  1. Audit and Finance

/__/  2. Criminal Justice

/__/  3. Editorial

/__/  4. Education

/__/  5. Government/Administration

/__/  6. Health & Environment

/__/  7. Planning, Buildings, Property

/__/  8. Social Services
Sample Form: [Name of County] County Grand Jury Correspondence Log

ADDRESS, ZIP CODE

<table>
<thead>
<tr>
<th>Document Number</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Received</td>
<td></td>
</tr>
<tr>
<td>Correspondence</td>
<td></td>
</tr>
<tr>
<td>Subject</td>
<td></td>
</tr>
<tr>
<td>Committee Assigned</td>
<td></td>
</tr>
<tr>
<td>Date Letter Sent</td>
<td></td>
</tr>
<tr>
<td>Action Taken</td>
<td></td>
</tr>
<tr>
<td>Date Closed</td>
<td></td>
</tr>
</tbody>
</table>

**KEY**
- C  Citizen
- H  Hold Over Complaint
- E  Employee
- GJ Initiated by grand jury
- FE Form Employees
- I  Inmate
- G  Government Agencies
Sample Form: Complaint Status

[DATE]

[NAME OF COUNTY] COUNTY
GRAND JURY COMPLAINT STATUS

<table>
<thead>
<tr>
<th>Complaint Number</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of Complainant</td>
<td></td>
</tr>
<tr>
<td>Date of Letter</td>
<td></td>
</tr>
<tr>
<td>Subject</td>
<td></td>
</tr>
<tr>
<td>Date Received by Secretary</td>
<td></td>
</tr>
<tr>
<td>Date Acknowledgment Sent</td>
<td></td>
</tr>
<tr>
<td>Date Letter Referred to Committee</td>
<td></td>
</tr>
<tr>
<td>Date Follow-Up Letter Sent</td>
<td></td>
</tr>
<tr>
<td>Date of Action</td>
<td></td>
</tr>
<tr>
<td>Summary of Action Taken by Committee</td>
<td></td>
</tr>
<tr>
<td>Date Complaint Considered Closed</td>
<td></td>
</tr>
</tbody>
</table>
RETURN DOCUMENT TO SECRETARY

Civil Grand Jury Citizen Complaint Form

Street Address, City, State, Zip Code

THIS COMPLAINT IS AGAINST:

___________________________________________________________________________
___________________________________________________________________________
___________________________________________________________________________
___________________________________________________________________________

OTHER PERSONS OR AGENCIES CONTACTED:

___________________________________________________________________________
___________________________________________________________________________
COMPLAINANT

Name

Address

City, State, Zip Code

Home/Work Phone

The information in this form is true, correct, and complete to the best of my knowledge.

Signature   Date

ALL COMMUNICATIONS TO THE GRAND JURY ARE CONFIDENTIAL
Confidentiality Statement

For your protection, we hereby inform you that the Penal Code of the State of California specifies that all communications to the grand jury are secret and confidential. It is a serious violation for members of the grand jury to disclose any information discussed at this meeting.

We therefore request that you keep our discussion completely confidential. The fact that this inquiry is being made, the identity of any of the individuals involved in the discussion, the contents of the inquiry, and any details of your response must not be disclosed to anyone, including your staff, your superiors, or anyone else.

____________________________________
Dated

____________________________________
Signature

____________________________________
Printed Name and Title
Sample Interview Form

Date: ________________________________

Meeting with: ________________________________

Interviewer: ________________________________

[Name],__________________________ Foreperson

[Name of county] Civil Grand Jury

Enclosure
Sample Form: Request for Document

<table>
<thead>
<tr>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of Committee:</td>
</tr>
<tr>
<td>Name of Juror Making Request:</td>
</tr>
<tr>
<td>Name of Document:</td>
</tr>
<tr>
<td>Date Document Needed by:</td>
</tr>
<tr>
<td>Please Request the Above-Named Document From:</td>
</tr>
<tr>
<td>If Source of Document Is Not Known, Please Indicate:</td>
</tr>
<tr>
<td>Comments, if Any, Pertaining to the Above-Named Document:</td>
</tr>
</tbody>
</table>
### Sample Form: Development and Review Sheet for Grand Jury Finding  
(For Committee’s use in developing finding for final report)

<table>
<thead>
<tr>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Job Number</td>
</tr>
<tr>
<td>Committee Name</td>
</tr>
<tr>
<td>Agency</td>
</tr>
<tr>
<td>Finding</td>
</tr>
<tr>
<td><strong>Condition</strong> (The existing situation, and whether isolated or widespread.)</td>
</tr>
<tr>
<td><strong>Background</strong> (Brief history of the situation and what it should be ideally.)</td>
</tr>
<tr>
<td><strong>Problem</strong> (In terms of cost, adverse performance, or other factors (scope). How does problem relate to services, dollars, people?)</td>
</tr>
<tr>
<td><strong>Recommendation</strong> (What should be done? Who should do it? When should it be done?)</td>
</tr>
</tbody>
</table>
SAMPLE LETTERS

Receipt Acknowledgment and Request to Complete Complaint Form

Date
Name
Address
City, State, Zip Code

Re:

Dear Mr./Mrs./Ms. [Last Name]:

Your letter of [date] was received in this office on [date].

You will need to fill out the enclosed Citizen’s Complaint Form and return it to this office at the above address. The completed complaint form will help the grand jury to review the issue referred to in your letter.

Please supply the grand jury with the specific evidence you have in support of the allegations when you return the completed complaint form.

Sincerely,

[Name], Foreperson
[Name of county] Grand Jury

Enclosure
Response to Telephone Complaint

Date

Name

Address

City, State, Zip Code

Dear Mr./Mrs./Ms. [Last Name]:

This letter is written in response to your recent telephone call and correspondence to the grand jury office.

By law, all grand jury proceedings are confidential and are conducted at private meetings. Because of the confidential nature of the grand jury proceedings, you will not receive any oral or written acknowledgment from the grand jury as to whether an investigation was or was not conducted regarding your situation. If additional information is needed, you will be contacted by the grand jury. Otherwise, there can be no communication with you regarding the grand jury’s activities in this matter.

If the grand jury decides to investigate a matter, it may issue a public statement regarding the investigation or publish information in the final report. You should be aware, however, that the grand jury may investigate a matter and then may choose not to issue a public statement concerning the matter in the final report. The grand jury has discretion as to whether to include an investigation in its final report. The final report is a public document and is kept on file with the clerk of the superior court when published.

Sincerely,

[Name], Foreperson
[Name of county] Grand Jury
Complaint Acknowledgment

Date
Name
Address
City, State, Zip Code

Dear Mr./Mrs./Ms. [Last Name]:

Subject: Complaint No._______

Your complaint letter has been received and read to the full grand jury panel. The matter has been referred to the appropriate jury committee for study.

Please refer to the above complaint number when sending any additional information to us.

Sincerely,

[Name], Foreperson
[Name of county] Grand Jury
Suggested Responses to Complaints

1. Opening Paragraphs
   a. The [name of county] Grand Jury has studied the allegations contained in your letter of [date].
   b. The [name of county] Grand Jury has considered the matter of the complaint in your letter of [date].

2. Reasons for Refusal
   a. Prior Consideration—
      It is the understanding of this jury that the problem of [state problem] was presented to the [name of county] Grand Jury. After consideration, the case was closed. It will not be reopened unless you can furnish additional information or data not previously brought to the jury’s attention.
   b. Later Developments—
      It is the understanding of the grand jury that the problem to which you refer in your complaint has been resolved by [method of resolution]. Accordingly, the jury is taking no further action.
   c. Lack of Jurisdiction—
      It is the opinion of the jury that the topic of your complaint is not properly within its province. Therefore, no action will be taken on your complaint.
   d. Matter Is Before the Courts—
      The [name of county] Grand Jury does not take action on matters pending before the courts. Therefore, no action will be taken.
   e. Time and Priorities—
      Because of limitations on the time of the [name of county] Grand Jury and the duties and responsibilities placed on it under California law, priorities must be established.
   f. Other Remedies Are Available —
      In view of other remedies available to you such as [list remedies], the grand jury is unable to take further action on your complaint at this time.
g. Lack of Detail—

Your complaint does not contain sufficient information to warrant an investigation. Unless you can support these allegations by specific information including dates, names, and acts of occurrences by [date], the grand jury will consider this case closed.
Continuation of Complaint Review at End of Jury Term

Date
Name
Address
City, State, Zip Code

Dear Mr./Mrs./Ms. [Last Name]:

Subject: Complaint No._______

Each grand jury panel serves on a fiscal year basis.

The jury will leave office on June 30, [year].

We have expended considerable time in reviewing your complaint, however, the investigation is not concluded. The file will be an open item for the [name of jury] jury.

Your cooperation is appreciated.

Sincerely,

[Name], Foreperson
[Name of county] Grand Jury
Grand Jury Introduction Letter

[Name of County] GRAND JURY
ADDRESS, CITY, ZIP CODE

Date
Name
Address
City, State, Zip Code

Dear Mr./Mrs./Ms. [Last Name]:

The [name of committee] Committee of the [name of county] Grand Jury will be conducting a comprehensive review of services within your [department or office]. The Chairperson of this committee is [name].

In order to fulfill the jury’s mandate to “investigate all branches of government to be assured that they are being administered efficiently, honestly, and in the best interest of [name of county]’s citizens,” [name] and [his or her] committee will be soliciting information from your staff as well as from other personnel within your organization.

Staff input is an essential part of the jury’s review process, and you and your staff should feel completely comfortable in speaking openly and honestly with us. Therefore, on behalf of the grand jury, I request your cooperation in this process by informing your staff that they should provide jurors with requested information, either written or verbal, as the situation dictates.

As with all grand juries, the participation and comments made by any citizen or agency employee during a [name of county] grand jury review is confidential. You and all persons interviewed are not to disclose any information regarding the interview before or after the interview takes place. There should, of course, be no admonishment of, interference with, or inference drawn from an individual’s appearance before the grand jury, nor should the individual be interrogated about or reprimanded for such appearance or because of any findings reported by the grand jury.

The grand jury must also “investigate and report on the needs of county officers, including offices and equipment for . . . performing the duties of county offices.” Accordingly, the grand jury looks forward to learning more about your organization and hopes that this review will be mutually beneficial.
Sincerely,

__________________________    ____ _______________________

Foreperson                    Chairperson
Final Report “No Response” Letter

Date
Name
Address
City, State, Zip Code

Dear Mr./Mrs./Ms. [Last Name]:

The grand jury has not received your response to the 20__–20__ grand jury final report that was forwarded with the enclosed letter dated_____________. Please respond immediately, or the matter will be referred to the Presiding Judge of [name of county] Superior Court for appropriate action.

If you feel this letter is in error, could you please forward a copy of your response so that we may include it in our files.

Sincerely,

[Name], Foreperson
[name of county] Grand Jury

Enclosure(s)
Copy of Letter, Copy of Report, Penal Code section 933.05
MISCELLANEOUS

Code of Ethical Conduct

Statutes, case law, and common law dictate that a jury function lawfully only as a body, not as a gathering of individuals. Grand jurors may not, as individuals, conduct grand jury business or interview persons regarding grand jury matters. By working in pairs or in teams, jurors avoid being misquoted or misrepresented; this practice also emphasizes that jurors are not operating as individuals but rather, are on official grand jury business.

- I will be familiar with the charge to the grand jury and will review it periodically to make certain that I am functioning within the limits of the grand jury’s jurisdiction.

- I will participate in developing common goals early in my term and work cooperatively to meet them.

- I will seek to establish a bond of trust and confidence with my fellow grand jurors.

The community may be harmed by an extremely apathetic or an extremely reckless grand juror.

- I will exercise discretion and diligence in conducting the business of the grand jury.

A grand juror shall maintain confidentiality concerning grand jury information and proceedings at all times. Only fellow grand jurors are entitled to information about grand jury investigations, correspondence, and deliberations. During field trips or while conducting interviews, jurors must not discuss or reveal any details regarding grand jury business, plans, or programs. Only the entire grand jury can reveal such information in its midyear or final reports. All inquiries regarding grand jury matters shall be directed to the Foreperson. Only the foreperson or a designated spokesperson will make statements to the media.

- I will not discuss grand jury matters with friends, relatives, business acquaintances, the news media, or other persons.

- I will not make public statements concerning grand jury matters that approve or disapprove of agencies, departments, or public issues.

- I will not discuss grand jury matters with fellow grand jurors outside the jury room except where privacy is assured.
• Grand jurors must exercise caution in identifying themselves as grand jurors in matters other than those directly connected with grand jury matters.

• I will not use my status as a grand juror to exert influence, obtain favors, or create a favorable impression during grand jury service.

Grand jurors must be constantly alert to potential conflict of interest within their ranks; they must promptly disclose to the entire grand jury any past or current business interests or involvement that would result in business, personal, political, social, or other advantage for them.

• I will excuse myself from voting or participating in any grand jury proceedings or deliberations when a real or potential conflict of interest occurs that would affect my objectivity, disinterest, or fairness in the conduct of grand jury business.

• I will refrain from accepting money, gifts, favors, or other considerations from any person or agency under investigation or subject to an investigation.

• I will treat witnesses respectfully and will encourage interviewing procedures to be conducted courteously and in a dignified manner.

Attendance for each grand juror must be regular and punctual. You must obtain permission to be excused from grand jury meetings or activities you are expected to attend. An unexpected lack of a quorum in a formal proceeding causes significant inconvenience for officials, witnesses, and other grand jurors.

Oaths will be administered to witnesses in a dignified manner to emphasize the seriousness of the proceedings and the necessity to tell the truth. All persons who appear before the grand jury are entitled to respectful treatment; similarly, all persons contacted by grand jurors outside the jury room are entitled to respectful treatment; conversely, grand jurors may expect similar treatment. All interviews and hearings of the grand jury should be conducted with dignity and decorum. Under no circumstances should any juror by word, gesture, or expression indicate his or her thinking as to the testimony being given.

• I will treat witnesses in a dignified and courteous manner.

Grand jurors must be fair in considering evidence and testimony. Conjecture, sympathy, passion, political leanings, and other subjective sentiments are not the proper basis for decisions as a grand juror.

• I will consider every issue on its merits, showing no favoritism toward any group or individual.
• I will maintain a high level of integrity in order that my official and private affairs remain above reproach.

In all deliberations, all grand jurors have equal rights and responsibilities. Grand jurors should not be dictatorial.

• I will be open-minded, impartial, and unprejudiced in all grand jury investigations.

• I will not exert undue pressure on other grand jurors to change their minds.

• I will not monopolize hearings or deliberations.

I will treat my fellow jurors with courtesy and respect.

Dated: ______________________________
Where to Get Help

The grand jury is free to follow its own inclinations in investigating county government affairs. A substantial portion of the jury’s time and energy is used in attempting to secure information or data; make sure that this information is not already available so that effort is not wasted.

County Administrative Officer

The county administrative officer is the administrative assistant of the board of supervisors. He or she carries out the policies the board has adopted; is often the communications link between the administrative department heads and the board; collects factual information on which the board can base its policy decisions; and helps prepare the county budget. By performing these tasks, the administrative officer becomes extremely knowledgeable regarding sources of information and the existence of data in which the grand jury may be interested.

County Counsel

The county counsel is the civil legal advisor to the county and to all its departments, officers, and commissions; all school districts in the county; and a number of other special districts. The Penal Code authorizes the grand jury to request the advice of the county counsel. (The grand jury should be aware of a potential conflict of interest.) If the grand jury questions legality in investigating a matter brought to its attention, it should ask the opinion of the county counsel or the district attorney before starting an investigation. The jury may allow the county counsel to be present during sessions pertaining to a question about legality of the investigation.

The county counsel may be called on to provide assistance in drafting resolutions and contracts. The contract for the audit of the county’s books is a “must” usage of the county counsel’s department.

District Attorney

The primary function of the district attorney is to prosecute those accused of crimes. The district attorney’s office is at all times available to the grand jury and its members in connection with the discharge of their criminal law responsibilities.

The grand jury cannot subpoena witnesses. This is the function of the court or the district attorney. The grand jury may request the district attorney to issue a subpoena for witnesses, books, records, documents, and other evidence.
Judges of the Superior Court

The grand jury may request advice and assistance from the judges of the superior court at any time on any matter, whether it is civil or criminal.
Civil Grand Jury Process for Handling Citizen Complaints

- Grand Jury Receives Complaint
- Foreperson Opens and Reviews Complaint
- Foreperson Refers Complaint to Committee Chair
- Committee Presents Recommendation to Full Grand Jury
- Committee Reviews and Votes on Recommendation
- Grand Jury Votes to Authorize Committee to Conduct an Inquiry
- Committee Starts Inquiry Process
  - Or
  - Committee Gives Monthly Updates to Full Grand Jury
- Grand Jury Votes to Refer Complainant Elsewhere
  - Or
  - Committee Writes Report
    - Or
    - Editorial Committee Reviews Report
- Grand Jury Votes to Decline Complainant’s Request for an Inquiry
  - Editorial Committee Returns Report to Committee
    - Committee Votes on Final Review and Adoption
- Committee Presents Report to Full Grand Jury for Adoption Vote
  - Committee Includes Report in Final Report and Presents to Presiding Judge
ADMONITIONS

Statement to Person Appearing Before the Grand Jury

The grand jury is an independent and unbiased body of citizens, newly formed each year, with the responsibility and the power to review or investigate most governmental departments, agencies, and personnel within ___________ County.

You have been invited to a grand jury interview under conditions of complete secrecy as permitted and required by law. You may speak without fear of being quoted or published.

Admonition to Person Appearing Before the Grand Jury

You are admonished not to discuss or disclose at any time outside this jury room anything that you have heard or seen. A violation of these instructions on your part may be the basis for a charge against you of contempt of court.

Advice to Witness—Accusation Proceedings

You are advised under the Fifth Amendment to the Constitution of the United States, and also under Article 1 of the California Constitution, that you have a privilege against self-incrimination; that is to say, you do not have to answer any questions that may tend to incriminate you, or subject you to punishment for any crime, or to degrade your character, and you can refuse to answer any such questions stating that the answer may tend to incriminate you or degrade your character. Do you understand?

Admonition to Witness at End of Testimony—Accusation Proceedings

You are admonished not to discuss or disclose at any time outside this jury room the questions that have been asked of you or your answers until authorized by this grand jury or the court. A violation of these instructions on your part may be the basis for a charge against you of contempt of court. This does not preclude you from discussing your legal rights with your own attorney.
OATHS

Oaths are administered by the foreperson. (Pen. Code, § 939.4.)

Witness’s Oath

You do solemnly swear that the testimony you are about to give in this matter now pending before the grand jury shall be the truth, the whole truth, and nothing but the truth, so help you God.

Witness’s Affirmation

You do solemnly affirm that the testimony you are about to give in this matter now pending before the grand jury shall be the truth, and nothing but the truth, and this do you do under the pains and penalties of perjury.

Interpreter’s Oath

You do solemnly swear (affirm) that you will make a true interpretation to this witness before the grand jury in a language that the witness understands, and that you will make a true interpretation of the witness’s answers to the questions to the grand jury in the English language, with your best skill and judgment.

Reporter’s Oath

You do solemnly swear (affirm) that you will well and truly report the testimony given before this grand jury, and when called upon to do so, will furnish a true and correct transcript of your notes as prescribed by law, and that you will not otherwise disclose matters learned by you while present in this grand jury room unless required to do so by the grand jury or the court.