

This document is an extract of a larger publication.

civilgrandjury.org is a project of UnGovr.org, a US-based 501(c)(3) nonprofit dedicated to government transparency and public accountability.



2011 – 2012 Orange County Grand Jury



Final Report



Table of Contents

Final Report of 2011-2012 Orange County Grand Jury Table of Contents

Foreperson’s Letter to the Presiding Judge
Citizens Watchdog Power - The Orange County Grand Jury
Orange County Grand Jury Roster
2011-2012 Orange County Grand Jury Members
2011-2012 Orange County Grand Jury Photo Gallery
History of the Grand Jury System
INVITATION – To Participate in the Orange County Grand Jury

REPORTS

“Let There Be Light,” Dragging Special Districts From the Shadows..... 1
The Orange County Vector Control District, “A Study in Little Known Services”.....33
Transparency Breaking Up Compensation Fog- But Why Hide Pension Costs?.....43
Elder Abuse: The Perfect Storm85
Emergency Medical Response in Orange County109
Can the Consumer Price Index-Urban Keep Up With OCFA Wages?117
NESI-ASCON: the Saga Continues.....125
Inspection of Orange County Adult Detention Facilities, Part I.....137
Inspection of Orange County Juvenile Detention Facilities, Part II153
Sex Trafficking in Orange County.....167
The Dissolution of Redevelopment: Where have We Been? What Lies Ahead?.....179
City of Santa Ana, Special Assessment District211
ARTIC-the Anaheim Regional Transportation Intermodal Center223
Anti-Bullying Programs in Orange County Schools229
AB 109: Public Safety Realignment: A Paradigm Change245
Use of Governmental Influence On A Private Educational Institution261



ORANGE COUNTY GRAND JURY

700 CIVIC CENTER DRIVE WEST • SANTA ANA, CALIFORNIA 92701 • 714/834-3320
www.ocgrandjury.org • FAX 714/834-5555

June 30, 2012

Honorable Craig E. Robison
Superior Court of California, County of Orange
700 Civic Center Drive West
Santa Ana, CA 92701

Dear Judge Robison:

The 2011-2012 Grand Jury was sworn in on July 1, 2011 and seated to begin work on July 5. One juror resigned before the Jury was sworn, and this juror was replaced by an alternate. There were nineteen jurors assembled as the year began. As the year progressed, four jurors resigned from the Jury and were subsequently replaced by two alternates. Seventeen jurors were on the jury when the term ended on June 30, 2012.

This year the Jury heard 25 requests for criminal indictments, and 2 requests for investigative hearings, from the District Attorney and the California Attorney General. These indictments covered such diverse topics as homicide, mayhem and torture, credit card and money laundering, and income tax evasion. These indictments took about 30% of the Jury's time.

The Jury was very conscious of its civil function as a watchdog for the people as it investigated and reported upon the affairs of local government agencies. The jury studied topics which it believed needed review or were of current importance. This report details the activities of the jury and its reports, findings and recommendations. It is the result of hundreds of hours of effort by the members of the Jury. The goal of these reports is to highlight to the public's attention issues in the County, and to provide some constructive, cost-effective recommendations to improve the areas reviewed. The Jury hopes that the insights gained from the reports will be used by all public agencies to review and improve their operations.

The Jury challenges the public to improve the effectiveness of the Grand Jury by becoming involved. The Grand Jury is charged to be the watchdog for the public and to identify in its reports what it perceives to be mismanagement or improper spending of public funds. It will be most effective only with involvement by the public. It is imperative that citizens review the report with its findings and recommendations, and to go to the Grand Jury website, www.ocgrandjury.org, to review the agency responses. The public should insist upon cost-effective, efficient government and challenge any agency whose responses it believes to be inadequate. The Grand Jury's efforts will be strengthened by public follow up.

One of the main concerns of this Jury was to maintain the integrity of the Jury system by ensuring that the agencies replying to the previous jury's reports had implemented effective action to improve the areas investigated. The jury reviewed all responses in depth to ensure that the replies were adequate and that corrective action was taken. This area has concerned previous juries, and the 2011-2012 jury encourages future juries to carefully review past reports and the respondents corrective actions to ensure that the actions were implemented.

The 2011-2012 Grand Jury has succeeded in obtaining internet access for the computers in the jury room. This access will be available for the 2012-2013 Grand Jury, and will be a significant improvement in the Jury's ability to gather information. The Jury sincerely appreciates the efforts of the County IT staff to obtain and install this service.

The Jury would not have been able to accomplish its work without the assistance and support of Donna Vinnacombe, our Grand Jury Administrator, our Administrative Assistant, Mary Booker, and the support of Robyn Samuelson and her staff in Jury Services, especially Theda Kaelin and Sandra Lopez. We are especially grateful to our skilled Court Reporter, Bob Sullivan, who diligently recorded every word of our many hearings. These people worked tirelessly to help the Jury complete its many tasks. The Grand Jury is deeply appreciative of their efforts. The Jury is also grateful for the cooperation of the many public officials and employees who provided the Jury insight into their operations during this past year.

The Jury is very much appreciates the support from our legal advisors in the County Counsel's office, Karen Prather, and in the District Attorney's Office, Rebecca Olivieri. Their sage advice and tireless efforts were invaluable as the Jury worked its way through the many investigations and criminal indictments.

The Jury is also grateful to the Honorable Thomas J. Borris, Presiding Judge of the Superior Court, the Honorable Craig E. Robison, Supervising Judge, Felony Panel, and Alan Carlson, Chief Executive Officer for their advice and continuing support throughout the year.

It is my pleasure to present to you and the people of Orange County the Final Report of the 2011-2012 Grand Jury. It has been a privilege for us to serve the citizens of Orange County, California.

Sincerely,

A handwritten signature in blue ink, appearing to read "Roy B. Baker III". The signature is stylized and cursive.

Roy B. Baker III, Foreman
2011-2012 Orange County Grand Jury

RBB:tk

*The most common way people give
up their power*

*Is by thinking they do not have
any.....*

Stan Ness....2011-2012

juror.... [with apologies to Alice Walker]

The Orange County Grand Jury, a duly selected and sworn body of citizens, is a powerful governmental watchdog institution. The Grand Jury has the legal power¹ to investigate and report on any and all County, City and District government affairs. This includes:

- County governmental officers, department or functions;
- Cities or joint power authorities;
- Special purpose assessing or taxing districts or local agency formation commission;
- Redevelopment agencies, housing authorities, or joint power authorities;
- Nonprofit corporations established by or operated on behalf of a public entity.

The report findings and recommendations resulting from the above Grand Jury studies are required by law to be responded to the Superior Court Presiding Judge within 90 days, by the governing body of any public agency subject to its reviewing authority. Similarly, County elected officials and public agencies have 60 days to respond. These reports and responses are posted as public documents at www.ocgrandjury.org.

Another example of the legal power of the Grand Jury, a county Grand Jury may present “an accusation against any officer of a district, county, or city, including any member of the governing board or personnel commission of a school district or any humane officers, for willful or corrupt misconduct in office.”² Specifically, this responsibility could involve misconduct in office, even when no criminal statute is violated, as the courts have also ruled that any act of malfeasance, misfeasance, or nonfeasance in office is sufficient to support removal.

The act does not need to be criminal, just willful. The accusation shall be delivered to the District Attorney, unless he is the officer accused, and the district attorney shall serve the accusation to the defendant to appear before the Superior Court.

Illustrative examples of selected past Orange County Grand Jury civil findings/recommendations and subsequent positive results are in the table on the next pages. This table was compiled by the 2011-2012 Orange County Grand Jury to spotlight the good work that results from the Grand Jury’s watchdog function, on behalf of Orange County citizens.

Many good government changes take more than one year to happen, some less, and are often the results of many forces that come to bear³. Grand Jury citizen volunteers are proud to be part of the process. The Grand Jurors Association of Orange County, composed of former Orange County Grand Jurors, was helpful in providing an institutional memory of the ongoing impacts of 10 of these past studies. For the sake of table brevity - findings, recommendations and results are paraphrased. As referenced above, these past reports may be found at www.ocgrandjury.org.

¹ California Penal Code - Part 2, Title 4, Chapter 3, “Powers and Duties of Grand Jury”

² California Government Code – Article 3 “Removal other than by Impeachment” - Section 3060 “Accusation by grand jury”

³ Two examples appeared recently in the Orange County Register – 1) “Grand jury empowered Orangewood” June 23, 2012 by William Steiner, 1997 Chair of OC Board of Supervisors, and 2) “Cities hop to action to boost transparency grades” June 22, 2012 OC Watchdog blog by Teri Sforza, Register staff writer

Citizens Watchdog Power ☐ The Orange County Grand Jury

<u>Year</u>	<u>Study Topic</u>	<u>Conditions/Findings</u>	<u>Major Recommendation</u>	<u>Results</u>
2010-2011	Compensation Study of Orange County Cities	Public disclosure of municipal compensation levels was widely inconsistent, ranging from good to non-existent. In 2011, no cities were rated excellent for Compensation Content and Clarity.	<i>All cities in Orange County should report compensation to the public on the Internet in easily accessible manner. Elements to be reported include Salary, Other Pay, Insurance Premiums, Pension Costs and Total Costs.</i>	<i>Still in progress. Most cities have upgraded their websites. In 2012, 74% of cities were rated excellent for Accessibility and 41% were excellent for Executive Compensation Content & Clarity. Pension cost transparency lags behind and is a focus of a 2011-2012 Grand Jury report.</i>
2010-2011	County of Orange Compensation Disclosure	Quality and Extent of compensation disclosure by the County of Orange on its Internet website was inadequate.	<i>The County of Orange should report comp. on Internet in easily accessible manner. Compensation for all elected officials & department heads should be reported, including Benefits/ Pension Costs.</i>	<i>2011 – Done. The 2011-2012 Grand Jury rated the County of Orange an “A” for Accessibility and an “A” for Executive Compensation Transparency.</i>
2009-2010	Lobbying: The Shadow Government	Orange County did not have a lobbying ordinance. This was in stark contrast to other large government entities.	<i>Orange County Board of Supervisors should adopt a lobbying ordinance that applies to elected/appointed County Officers as well as all County Department Heads.</i>	<i>The Board of Supervisors adopted a County Ordinance #11-014, effective July 1, 2011, requiring lobbyists to register with the County.</i>

Citizens Watchdog Power ☐ The Orange County Grand Jury

<u>Year</u>	<u>Study Topic</u>	<u>Conditions/Findings</u>	<u>Major Recommendation</u>	<u>Results</u>
2008-2009	Guardian of Last Resort	<p>Management of practices used since the separation of the Public Guardian from the Health Care Agency has significantly increased administrative management costs.</p> <p>Combining of the Public Administrator & Public Guardian in 2005 has not produced the anticipated cost reductions. The agency made ineffective decisions that have cost OC taxpayers significant amounts of money.</p>	<p><i>Board of Supervisors should report on feasibility & legality of converting Public Administrator to an appointed office. The Board should have a comprehensive independent review done of Public Administrator/ Public Guardian. Based on results of review & Grand Jury Report, reconsider whether separating PA/PG from Health Care Agency was cost & performance effective.</i></p>	<p><i>Public Guardian was replaced by the Board of Supervisors in 2011. Public Administrator resigned in early 2012. One person had filled both roles. On the June, 2012 ballot, there was an initiative to change the position of Public Administrator from elected to appointed that was rejected by voters.</i></p>
2006-2007	An In-Custody Death Reviewed	<p>Investigation of death of a female prisoner in O.C. Sheriff Women’s Central Jail revealed the County Health Care Agency staffed jail infirmary with nurses lacking adequate emergency medical skills/equipment knowledge and equipment maintenance training.</p>	<ol style="list-style-type: none"> 1. <i>Nurses should be required to regularly demonstrate emergency response skills.</i> 2. <i>Personnel should be regularly trained & evaluated on use of emergency medical equipment with drills.</i> 3. <i>Appropriate emergency equipment should be placed in Women Outpatient Housing.</i> 	<p><i>All recommendations were implemented by the Sheriff and the County Health Agency. The County Performance Auditor subsequently reviewed correctional medical services leading to further improvements.</i></p>
2005-2006	Orange County Vector Control District – Out of Control?	<p>Employees’ morale at OCVCD was negatively impacted by management actions. This was in spite of OCVCD granting sizeable employee compensation increases of 22% in 2 years.</p>	<p><i>Board should investigate causes of low morale and take necessary actions to improve morale.</i></p>	<p><i>General Manager was terminated in March, 2010. The 2011-2012 Grand Jury report stated that OC Vector Control District is now “well run and well resourced.”</i></p>

Citizens Watchdog Power ☐ The Orange County Grand Jury

<u>Year</u>	<u>Study Topic</u>	<u>Conditions/Findings</u>	<u>Major Recommendation</u>	<u>Results</u>
2004-2005	Can Orange County Afford to Lose Human Relations Commission?	Orange County Board of Supervisors was discussing no longer funding the Orange County Human Relations Commission (OCHRC).	<i>Orange County Board of Supervisors should support Orange County Human Relations Commission (OCHRC) & budget consistent, annual funding to it.</i>	<i>2005 OC Board of Supervisors voted to fund Orange County Human Resource Commission that has provided invaluable service since 1971.</i>
2000-2001	Kids in Adult Lockup - Bad Boys in a Bad Place	Juveniles in custody were housed at Central Men's Jail, which was built in 1968, and was in dire need of complete renovation.	<i>Central Men's Jail should not be used to detain Juveniles. A new permanent suitable location should be identified.</i>	<i>New housing mods were built at Theo. Lacy Jail in Orange, and are now used to house juveniles. Juveniles charged as adults are housed at Central Men's Jail.</i>
1994-1995	Wider Use of Orange County Reclaimed Water	Orange County's natural water resources no longer met the needs of the County's population. Most of wastewater was lost to the ocean.	<i>Use County's state of the art and award winning water treatment plants to reclaim wastewater for more than just parks, greenbelts and freeway landscaping.</i>	<i>Water which has been purified is now returned to the groundwater basins for reuse. The Grand Jury Report received a citation from the Orange County Water District.</i>
1994-1995	Orange County Government Structure	County Bankruptcy	<i>Create permanent position of County Executive Officer (CEO).</i>	<i>Permanent CEO position created and continues currently. The County Administrative Officer (CAO) position was abolished.</i>

ORANGE COUNTY GRAND JURY

2011-2012

Roy B. Baker III: Foreperson

Helen D. Alberts: Human Services; Environment & Transportation; Orientation

Lynn Cudd: Human Services Chairman; Editorial; Juvenile Services

Don Dillon: Human Services; Environment & Transportation; Orientation

Stuart J. Fuller, III: Continuity & Special Issues; Environment & Transportation;
Orientation

Frederick C. Gebhardt: Foreperson Pro Tem; Editorial Chairman; Continuity &
Special Issues; Environment & Transportation

Barton Harlan: Secretary; Parliamentarian; Orientation Chairman; Continuity &
Special Issues; Juvenile Services

Dianne Mitchell: Human Services; Editorial; Administrative Agencies

Stanley Ness: Continuity & Special Issues Chairman; Administrative Agencies;
Orientation

Richard Newman: Criminal Justice Chairman; Editorial; Administrative Agencies

Dorean Ora: Criminal Justice; Orientation

Patricia Place: Criminal Justice; Juvenile Services; Editorial

Arthur (Gene) Rosen: Criminal Justice; Administrative Agencies; Orientation

Jerry Sheppard: Editorial; Continuity & Special Issues; Juvenile Services;

Myra Spicker: Environment & Transportation Chairman; Editorial; Criminal
Justice

Jean Watson: Juvenile Services Chairman; Human Services; Editorial

William F. Underwood: Administrative Agencies Chairman; Continuity &
Special Issues; Orientation

Orange County Grand Jury 2011-2012



Front Row: Jerry Sheppard, Myra Spicker, John Fornes (resigned), Helen Alberts, William Underwood, Lynn Cudd
Second Row: Stuart Fuller III, Dianne Mitchell, Frederick Gebhardt, Richard Newman, Stanley Ness, Donald Dillon
Third Row: Roy Baker III (seated, Foreperson), Patricia Place, Jean Watson, Barton Harlan, Dorean Ora, Arthur Rosen



2011-2012 GRAND JURY OFFICERS



Left to right: Jean Watson, Historian; Frederick Gebhardt, Foreperson Pro Tem; Arthur Rosen, Sergeant-At-Arms; Barton Harlan, Secretary/Parliamentarian; Dorean Ora, Assistant Secretary; Roy Baker III (seated), Foreperson

EXECUTIVE COMMITTEE



Left to right (back): William Underwood, Frederick Gebhardt, Stanley Ness, Barton Harlan, Richard Newman, Lynn Cudd
Left to right (front): Jean Watson, Roy Baker III (seated, Foreperson) Myra Spicker

ADMINISTRATIVE AGENCIES



Left to right: Donald Dillon, Arthur Rosen, Richard Newman, Dianne Mitchell, Stanley Ness, William Underwood (seated, Chairperson)

CONTINUITY/SPECIAL ISSUES COMMITTEE



Left to right: William Underwood, Frederick Gebhardt, Stuart Fuller III, Barton Harlan, Jerry Sheppard, Stanley Ness (seated, Chairperson)

CRIMINAL JUSTICE COMMITTEE



Left to right: Myra Spicker, Dorean Ora, Patricia Place, Arthur Rosen, Richard Newman (seated, Chairperson)



Left to right: Frederick Gebhardt, John Fornes (resigned), Helen Alberts, Stuart Fuller III, Myra Spicker (seated, Chairperson)

HUMAN SERVICES



Left to right: Jean Watson, John Fornes (resigned), Helen Alberts, Donald Dillon,
Dianne Mitchell, Lynn Cudd (seated, Chairperson)

JUVENILE SERVICES



Left to right: Dorean Ora (resigned), Patricia Place, Barton Harlan, Lynn Cudd,
Jerry Sheppard, Jean Watson (seated, Chairperson)

EDITORIAL COMMITTEE



Clockwise from left: Frederick Gebhardt (Chairperson), Myra Spicker, Jean Watson, Jerry Sheppard, Patricia Place, Richard Newman, Dianne Mitchell, Lynn Cudd

RECRUITMENT AND ORIENTATION COMMITTEE



Clockwise from left: Dorean Ora, Stuart Fuller III, John Fornes (resigned), Stanley Ness, Barton Harlan (Chairperson), Arthur Rosen, Donald Dillon, William Underwood, Helen Alberts

HISTORY OF THE GRAND JURY ¹

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 Assize² 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

¹ California Administrative Office of the Courts; *Grand Jury Resource Manual for California Courts, Model Guide for Civil Grand Juries*; Tab 3; July 2005; pages 1-4

² 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.

bring libel charges against the editors of the Boston Gazette (1765). The 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 non-juror 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.



AN INVITATION To Participate In The Orange County Grand Jury



Participation in grand jury investigation and discussion is a rich and rewarding experience. It is an opportunity to get an intimate look at how government works and to make informed and valuable recommendations regarding possible improvements. It is also an opportunity to serve with fellow county residents and to discover how a body of nineteen citizens reaches consensus. This is the heart of the democratic process, and service on the grand jury is a valuable way to learn, to contribute and to make a difference in your community.

CRIMINAL / CIVIL FUNCTIONS

The major functions of a grand jury are divided into criminal indictments and civil investigations. While both functions are executed by the same panel in Orange County, the civil investigation portion requires the majority of the jury's time.

Criminal Indictments

The District Attorney will bring the majority of cases that are presented to the grand jury; however, the State Attorney General or a Special Prosecutor may present a case. The responsibility of the grand jury does not extend beyond the determination of whether or not there is probable cause to believe that a crime has been committed and that the accused has committed such crime.

Criminal indictment hearings are conducted in secrecy to protect witnesses and defendants in cases of no indictment. During a criminal investigation, only District Attorney representatives and a court reporter are allowed in the jury room, with a few exceptions. No person other than a grand juror may be present during deliberations or voting. An indictment can be returned only if a minimum of 12 jurors agree.

Historically, the grand jury indictment process is used for cases where:

- Public officials, employees or police officers are involved
- Statute of limitations is a concern

- The indictment is complex and must be presented over a long period of time
- Grand jury subpoena powers are necessary
- Secret and non-adversarial setting is needed for sensitive cases, such as cases involving children or rape victims

Civil Investigations

The civil, or "watchdog," responsibilities of the grand jury encompass the examination of all aspects of county government, including special districts, to ensure that the county is being governed honestly and efficiently and that county monies are being handled appropriately. The grand jury is mandated by law to inquire into the conditions and management of public jails.

The grand jury may conduct investigations on public agencies and on the administration and affairs of any city within the county, as well as examine books and records of redevelopment agencies. It is also appropriate for any private citizen, county official or county employee to present a written complaint to the grand jury for investigation.

Early in its term, the grand jury selects the government affairs it wishes to investigate. These investigations are generally conducted by committees, which correspond with the primary functions of the county. Committees may ask for support and advice from Superior Court, District Attorney, County Counsel, Attorney General or outside consultants.

By the last day of each year of service, the grand jury is required by law to submit all final reports to the Presiding Judge. These reports include all studies and investigations conducted by the jury during its term, with appropriate findings and recommendations. Copies of individual reports are submitted to each county entity investigated, with instructions that response to findings/recommendations be made by the responsible governing body within 60 or 90 days.

Past grand jury reports are available for inspection by the public at many public libraries and on the internet at www.ocgrandjury.org.

GRAND JUROR QUALIFICATIONS

The law states grand jury applicants must have these qualifications:

- Citizen of the United States, 18 years of age or older
- Resident of state and county for at least one year prior to being selected
- In possession of natural faculties, ordinary intelligence, sound judgment, fair character
- Possess sufficient knowledge of the English language

Applicants are disqualified if any of the following apply:

- Presently serving as a trial juror in any court in the state
- Presently serving as an elected public official
- Discharged as a grand juror in any court in the state within one year
- Convicted of malfeasance in office or any felony or other high crime

Beyond the legal requirements, several other qualifications are desirable for a grand juror:

- General knowledge of the functions, authorities and responsibilities of county and city government and of other civil entities
- Research abilities, including ability to read and comprehend complex material, a background in accessing/analyzing facts and experience in report writing.
- Substantial background in group/committee work
- Good to excellent health
- Respect and objectivity concerning the positions and views of others
- Be able and available to serve for a commitment of one full year

SELECTION PROCESS

Applications for grand jury service are reviewed by the Grand Jury Recruitment/Selection Committee, comprised of Superior Court judges. Every effort is made to recruit both men and women from all socio-economic levels, ethnic groups and age groups. Previous applicants who were not selected are encouraged to reapply. Applicants are judged on the knowledge, skills and abilities required for successful

performance as a grand juror. This screening process will identify approximately 90 applicants for further consideration.

A background check by the Orange County Sheriff-Coroner Department will be conducted on those applicants who are found to be best qualified, interested and available to serve. Those applicants who appear to be qualified will be invited for an interview with two members of the committee. Following the interviews the full committee will select finalists for the list of potential grand jurors, which may not exceed 30 names.

In addition, the law requires that potential grand jurors shall be selected from the five supervisorial districts in proportion to the population of those districts.

The 30 persons selected will constitute the grand jury panel and are summoned to appear in court where all names are placed in a lottery draw. The first 19 names chosen become the next Orange County Grand Jury. The remaining 11 names are drawn to provide alternates.

Shortly before the beginning of the term of service, July 1 through June 30, a training program is conducted for incoming Grand Jurors pursuant to PC § 914(b). The foreperson is selected by the Supervising Judge of the Criminal Panel and the Grand Jury Recruitment/Selection Committee Chairperson. All other officers are chosen by the jury itself.

COMMITMENT / COMPENSATION

The complex, diverse responsibilities of grand jurors make it necessary to give a serious commitment to the time requirements. The usual work schedule is four to five days per week, although some evening or weekend meetings may be required.

Jurors are provided with meeting facilities and secure, adjacent parking, as well as \$50 per day not to exceed \$250 per week. Reimbursement for the mileage to and from meetings is allowed at the regular county rate.

APPLICATIONS / FURTHER INFORMATION

For more information or a grand jury application, please write or call:

Superior Court of California
County of Orange
Office of the Jury Commissioner
700 Civic Center Drive West
Santa Ana, CA 92702-1970
Grand Jury Hotline: (714) 834-6747
Grand Jury Web Site:
www.ocgrandjury.org
E-mail: feedback@occourts.org

You can make a difference!

INDEPENDENT SPECIAL DISTRICTS OF ORANGE COUNTY, CALIFORNIA

**"LET THERE BE LIGHT"
DRAGGING SPECIAL DISTRICTS FROM THE
SHADOWS**



GRAND JURY 2011-2012

2011/2012 ORANGE COUNTY GRAND JURY

“LET THERE BE LIGHT”

DRAGGING SPECIAL DISTRICTS FROM THE SHADOWS

*“No government ever voluntarily reduces itself in size.
Government programs, once launched, never disappear.*

*Actually, a government bureau is the nearest thing to eternal life we’ll ever see on this earth!”
Ronald Reagan*

SUMMARY

Orange County has almost as many independent special districts as city governments. Special districts are independent government agencies formed many years ago to provide services that neither the county nor the local cities were able or willing to provide. Orange County contains 27 of these special districts.

Between 1919 and 1964, when the population of the county was about a quarter of what it is today, only two-thirds of the cities were incorporated. These local independent governments (special districts) are not accountable to local cities, the County of Orange, or the State of California for their day-to-day operations. Some are funded by allocations from the 1% property tax and fees and are governed by locally elected or appointed directors. They have generated annual budgets totaling more than \$718,000,000 and amassed unrestricted reserves greater than \$866,000,000.

The 2011-2012 Orange County Grand Jury believes these special districts should be removed from the county government tax system, absorbed by other agencies, consolidated, or privatized.

No logical reason exists for these agencies to continue to use tax dollars to finance themselves. Numerous studies have declared California special districts “ineffective” and “redundant”. However, their operational independence, from not only city, county and state government, but also local tax-paying citizens has perpetuated their existence. While each performs actual or perceived necessary services, the continued independent structure of some special districts has become “unnecessary or obsolete.”¹

For over fifty years, various government agencies have identified inefficiencies and lack of transparency of these once useful government agencies. During that time, only minor changes have been made to correct or dissolve most of these shadow governments.

Past recommendations should be reconsidered for implementation. Sewer and water districts (often considered “enterprise” districts) should be weaned from the tax rolls and become solely fee based, and possibly privatized. Community service districts (often considered “non-enterprise” districts) should remove themselves from the tax rolls and have their services provid-

¹ Orange County Grand Jury; *Report on Special Districts and County Islands*; October 21, 1971

ed by the surrounding cities or local homeowners associations. Library districts should be absorbed into the local city government or the County Library System. The County Cemetery District and the County Vector Control District, the only countywide special districts, should be incorporated into the general county budget.

All taxes for special districts and other government agencies should be made transparent by specifically showing them separately within the 1% property tax bill sent to the taxpayer. All the allocations for the various government taxes and assessments should be clearly shown on the secured property tax bill. The taxpayer deserves to know where the taxes are being allocated. The Board of Supervisors should require that each tax and assessment be set forth plainly on the tax bill similar to the FDA requirement of showing the make-up and content of food and drugs. In addition, all the special districts should provide their constituents with an independent performance audit at least once every three years.

Finally, the special districts should be commended for the services they have provided in the past, and given a hearty blessing for the tax-free services they will provide in the future.

REASON FOR STUDY

This study is aimed at informing the public about special districts.

- What are the special districts in Orange County?
- How are they governed?
- Who are their constituents?
- What do they provide to their constituents?
- How are constituents involved in the operations?
- What is the source of special district funds?
- What are the assets and reserves of the special districts?
- Are alternative sources of funds and services available?

This study addresses these questions about Orange County special districts:

- Why, when and how were they formed?
- Is their original intent still being met?
- Are they still meeting their purpose?
- How well do they communicate with their constituents?
- Are there better ways to finance them and meet the needs of their constituents?

METHOD OF STUDY

The 2011-2012 Orange County Grand Jury used the following resources and methodology to learn about the special districts in Orange County.

- Reviewed county and state sources to define special districts and determine how many are in Orange County.
- Identified the special districts in Orange County.
- Reviewed LAFCO reports.
- Reviewed the state laws related to the various special districts.
- Reviewed the past Grand Jury reports related to special districts.²
- Reviewed the web sites of special districts for clarity and transparency.
- Reviewed the Orange County Auditor-Controller's tax ledgers.³
- Compiled the data and information from the special districts in Orange County.⁴
- Presented findings and recommendations.

Some of these were informative. Others gave direction for further resources and all were educational.

Much of the data used in this was gathered from the various special districts response to a request for information from the 2011-2012 Orange County Grand Jury. Some represented different fiscal years. Consequently, at the time of the publication of this study the data may differ.

BACKGROUND AND FACTS

What is a special district?

The Government Code of California defines a special district as “any agency of the state for the local performance of governmental or proprietary functions within limited boundaries”.⁵ They have four common characteristics:

- A form of local government;
- Governed by a board of directors;
- Providing services and facilities;
- Defined by specific boundaries.

Special districts have also been categorized as “enterprise districts” (those that sell products) or “non-enterprise districts” (those that only provide services) and “independent” or “dependent” special districts. All the special districts studied herein were “independent” special districts.

The number of special districts varies depending on one's definition. Among others, they include fire protection, cemetery, community service, county water, state water, reclamation, resource

² See *Appendix A* for a list of past related grand jury reports

³ Orange County Auditor-Controller web site; *Tax Ledger; Special Districts and Mello-Roos CFD-Governed by Local Boards (Bank elsewhere) and Special Districts and Mello-Roos CFD-Governed by Local Boards (Bank with OC Treasurer)*; 12/2/2011

⁴ See *Appendix B* for information gathering letter sent to the special districts

⁵ *California Government Code* §16271

conservation, sanitation, and recreation & parks. The State Controller identifies 4,787 of these special districts in the State of which 55 are in Orange County.⁶ The California Little Hoover Commission in their 2000 report noted more than 3,800 special districts in the State.⁷ The California Special Districts Association identifies 2,189 special districts statewide. The Orange County Register lists 75 special districts in Orange County.⁸ The Orange County Auditor-Controller's office lists only 40 special districts.⁹ So, how many special districts are in Orange County?

The Local Agency Formation Commission (LAFCO) of Orange County, which is authorized to facilitate constructive changes in governmental structure and boundaries,¹⁰ identifies only 27 special districts within the county.¹¹ The 2011-2012 Orange County Grand Jury study centers on these 27 agencies. Please see the maps (Figures 2, 3 & 4 prepared by LAFCO) on pages 6, 7 & 8 for the location of these various special districts.

Thirteen additional special districts that are on the Auditor-Controller's list, but are not on LAFCO's list, include major countywide agencies such as:

- Orange County Flood Control;
- Orange County Fire Authority;
- Orange County Sanitation District;
- Orange County Transit Authority; and
- several County Service Areas (CSAs),¹² that include:
 - Cypress Recreation and Parks;
 - Garden Grove Sanitary;
 - Laguna Beach County Water;
 - Santiago Water (now a part of the Irvine Ranch Water District).

The 27 special districts in Orange County were formed as early as 1919 and as late as 1964. They include six community service districts, two library districts, two countywide districts, one parks and recreation district, four sanitation districts, five combined water and sanitary districts, and seven water districts.

See Figure No. 1 for a graphic illustration of the founding of cities and special districts versus the growth of Orange County.

⁶ California State Controller John Chiang; *Government Compensation in California*; Calendar Year 2009

⁷ California Little Hoover Commission; *Special Districts: Relics of the Past or Resources for the Future*; Executive Summary; May 2000

⁸ Orange County Register; *OC Watchdog*; May 9, 2011

⁹ Orange County Auditor-Controller; *2011 Tax Ledger Tables*

¹⁰ Orange County; *LAFCO Mission Statement*

¹¹ LAFCO website; <http://colafco.org>; *Special Districts Under Orange County LAFCO Jurisdiction*; Nov. 23, 2011 (with the exception of the Orange County Sanitation District and Laguna Beach County Water District)

¹² Ibid.11