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A BRIEF HISTORY AND OVERVIEW OF THE GRAND JURY

WHAT IS A GRAND JURY?

The concept of the Grand Jury traces its roots to Classical Greece. Ancient Athenians employed an “accusatory body” much as did the Saxons of early Briton. In fact, from 978 until 1016, one of the Saxon Dooms (laws) required an accusatory body of 12 for every 100 men. The accusing body was exhorted, “not to accuse an innocent man or spare a guilty one.”

The modern European jury system began to evolve during the Eleventh and Twelfth Centuries. As early as 1066, during the Norman conquest of England, courts summoned sworn citizens to investigate crimes that had come to their attention. Initially, these early juries both accused and tried suspects. The members of the accusing bodies were selected from small jurisdictions and they naturally presented accusations based on their personal knowledge. During the reign of Henry II (1154-1189), juries were divided into two types - civil and criminal. The oath taken by these jurors provided that they would faithfully carry out their duties, that they would aggrieve no one through enmity nor give deference through love, and that they would conceal things that they had heard. By the year 1290, civil juries were given authority to inquire about the conditions of bridges and highways and review the practices and conditions in the jails.

The Massachusetts Bay Colony impaneled the first American Grand Jury in 1635 to consider cases of murder, robbery and wife beating. By the end of the colonial period, the institution of the Grand Jury was firmly fixed in America’s new and ever-evolving system of government. Although the Constitution does not specifically mention Grand Juries, the Fifth Amendment provides the guarantee that, “no person shall be held to answer to a capital, or otherwise infamous crime, unless on the presentment of indictment of a grand jury.” Grand Juries were used in our early history to protest governmental abuses, to propose new laws and very often to determine who should face trial. Today, forty-two states have some form of Grand Jury, and California is one of the states that still allows prosecution to be initiated by either criminal Grand Jury indictment or a judicial preliminary hearing. The name “Grand Jury” derives from the fact that the body usually has a greater number of jurors than a trial (petit) Jury. In Butte County a Grand Jury of 19 persons is impaneled each year with 11 chosen as alternates.

THE GRAND JURY SYSTEM TODAY

The California State Constitution calls specifically for the use of Grand Juries in the governance of the State. In 1849, the California Legislature authorized Grand Juries in each county. The legislature passed laws in 1880 that required Grand Juries to review and investigate the activities of county government. Certain larger jurisdictions – such as the cities and counties of San Francisco and Los Angeles – impanel separate criminal (indictment) and civil (watchdog) Grand

Juries each year. Some counties impanel a separate Criminal Grand Jury only when needed. The Butte County Grand Jury serves in both capacities. As constituted today, the Grand Jury is a part of the Judicial Branch of Government and an arm of the Court. The Grand Jury does not have the functions of either the legislative or the administrative branches and it is not a police agency or political group. It is an investigative body with the objective of detecting and correcting flaws in government.

The primary civil function of the Grand Jury, and the most important reason for its existence, is the examination of all aspects of county and city government, including special districts and joint powers agencies. The Grand Jury sees that the public's monies are handled judiciously and that all accounts are properly audited. In general, the Grand Jury assures honest, efficient government in the best interest of the people.

THE GRAND JURY'S POWERS

The Grand Jury has three ways to exercise its power:

- By reports and recommendations regarding county government, cities, special districts and joint powers agencies.
- By indictment, bringing charges against an individual for criminal offense.
- By civil accusation of an official or employee where the result, on conviction, would be removal from office.

A large portion of the public wrongly believes that the appearance of an individual, particularly a public official, before the Grand Jury suggests guilt of malfeasance, misfeasance or nonfeasance. It is the constitutional responsibility of the Grand Jury to review the conduct of government each year. This entails having public officials appear before the jury for the purpose of providing information relative to their departments or offices. While it is a part of the judicial system, a Grand Jury is an entirely independent body. The Presiding Judge of the Superior Court, the District Attorney, the County Counsel and the State Attorney General act as its advisors, but cannot prevent the actions of the Grand Jury except on issues of legality. The Grand Jury is not accountable to elected officials or governmental employees.

Due to the confidential nature of a Grand Jury's work, most, if not all, of that work must be conducted in closed sessions. Members of a Grand Jury are sworn to secrecy, thus assuring all who appear before it that their testimony will be handled in strict confidence. No one may be present during the sessions of a Grand Jury except those specified by law, and the minutes of its meetings may not be inspected by anyone, nor can its records be subpoenaed.

The Grand Jury serves as an ombudsman for citizens of the county. The Grand Jury may receive and investigate complaints by individuals regarding the actions and performances of county or other public officials. The Grand Jury is tasked with oversight of all local government. Additionally, the California Penal Code specifies that the Grand Jury shall inquire into the conditions and management of the public prisons, jails and juvenile detention facilities within the county.

The members of the Grand Jury are collectively granted special powers and privileges to aid them in carrying out their duties. The Grand Jury, in its official capacity, is permitted, with limited exceptions, access to and the right to inspect government facilities, and to review official books and records to which other citizens are denied access. The Grand Jury may issue subpoenas as necessary. The Grand Jury findings and recommendations are to be unbiased and impartial.

HOW IS THE GRAND JURY SELECTED?

Each fiscal year the Butte County Superior Court summons a large number of qualified citizens who have resided in the county for over a year and are at least 18 years of age. The court makes it clear that service on the Grand Jury is voluntary. Potential jurors should be reasonably intelligent, of good character and must possess a working command of the English language. From the pool of willing candidates, the court makes a good faith effort to select qualified men and women who are diverse in age and socio-economic, ethnic and educational backgrounds, and who represent the varied geographic areas of the county.

Superior Court judges and staff interview the body of qualified and willing candidates and choose thirty potential jurors. Nineteen members make up a full jury. At the discretion of the Presiding Judge, as many as ten members from the previous year's jury may "holdover" or serve a second term. In order to constitute the full panel of nineteen, names are drawn at random to serve a term of twelve months beginning in July. Over the course of the year, as necessary, alternates are called in sequential order from the pool of remaining potential jurors.

HOW DOES THE GRAND JURY WORK?

The Presiding Judge appoints a Foreperson to preside at meetings. The Grand Jury organizes itself into officers and committees. It then determines which of the various departments and functions of county, city and joint powers government it will review. It also reviews compliance with the recommendations of previous Butte County Grand Juries.

Inquiries on the part of the Grand Jury, letters and complaints from citizens and dictates of the California Penal Code collectively determine the Grand Jury's work. The Grand Jury aims to identify policies in government that may need improvement. All actions of the jury, including any communication from the public and all deliberations and votes, are completely confidential. The Grand

Jury publishes a report of its significant findings and recommendations near the end of its term.

The Grand Jury's Final Report typically reflects only a small part of its actual endeavors over the course of its term. State law requires specific and detailed responses from departments upon which the jury renders findings and recommendations. Elected officials have sixty days to respond; public agencies have ninety days.

The work of a Grand Jury is demanding. Members can expect to invest approximately 500 hours of time to Grand Jury work. Gratifying and personally rewarding service leads one to a much improved understanding of the organization and business of local government. In addition, there is the personal satisfaction of having contributed to its improvement. The Grand Jury experience provides a unique and valuable opportunity for community service.

The 2012-2013 Grand Jury wishes to thank those who responded to last year's Final Report and recognizes their contribution to the community and to the Grand Jury process. The time and effort taken to review the 2011-2012 Grand Jury Final Report and to prepare and submit responses to the Presiding Judge are appreciated.

May 29, 2013

The Grand Jury Final report has been submitted for filing on this date pursuant to California Penal Code section 933.

Final Reports, Responses and Government Entities

§ 933.

- a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.
- b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.
- c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.
- d) As used in this section, "agency" includes a department.

Responses to Findings and Recommendations

§ 933.05.

- a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:
 - 1) The respondent agrees with the finding.
 - 2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - 1) The recommendation has been implemented, with a summary regarding the implemented action.
 - 2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
 - 3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
 - 4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.
- d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.
- e) During an investigation, the grand jury shall meet with the subject of that investigation 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.
- f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall

disclose any contents of the report prior to the public release of the final report.

Added by Stats.1996, c.1170 (SB1457), § 1. Amended by Stats.1997, c.443 (AB829), § 5.

COMMENTS REGARDING RESPONSES TO THE 2011-2012 GRAND JURY REPORT

BACKGROUND

State law requires that local government agencies respond in writing to grand jury reports. The governing board for an agency that is the subject of a report has 90 days to submit a response, while elected officials and department heads are allowed 60 days to respond. Responding agencies must state whether they agree or disagree with grand jury findings and whether recommendations will be implemented or not or require further analysis. With both findings and recommendations, agencies are required to explain disagreements.

DISCUSSION

The final 2011-12 Butte County Grand Jury report contains a total of 88 recommendations for 11 local government entities, of which 56 (64%) have been or will be implemented, according to the responding agencies. The 2012-13 Grand Jury believes that the four Butte County government agencies, the City of Gridley and the Feather River Recreation and Park District provided exemplary responses to the 2011-12 report. Agency responses to the 2011-12 report are available at www.buttecounty.net. Following are details on how local government agencies responded to the report:

Butte County Agencies

All Butte County government entities responding to 2011-12 reports did so on time and in accordance with state law. Those responding included the Board of Supervisors, Sheriff's Office, Probation Department and Department of Behavioral Health. Considered together, the four entities agreed with 18 of the reports' 42 findings (43%), while implementing or agreeing to implement 27 of the jury's 44 recommendations (61%).

Recap by County of Butte Agency						
	Findings		Recommendations			
	Agree	Disagree	Has been done	Will be done	Will not be done	Requires analysis
Butte County Supervisors	37%	63%	36%	19%	36%	9%
Dept. of Behavioral Health	33%	67%	29%	38%	25%	8%
Sheriff	50%	50%	27%	20%	27%	26%
Probation Officer	33%	67%	67%	0%	33%	0%

Cities

The Gridley City Council, as well as the city's administrator, responded to the 2011-12 report on time and in accordance with state law. The city put considerable effort into providing a detailed response. Of the report's 27 findings, the city agreed with 20 (74%), while implementing or agreeing to implement 20 of 28 Grand Jury recommendations (71%).

The City of Oroville responded to the 2011-12 report on time and in accordance with state law. The City Council and city administrator agreed with five of the Grand Jury's seven findings (71%), while implementing all four recommendations (100%).

Special Districts

The Durham Recreation and Park District responded to the 2011-12 report within the required response deadline. However, the district was informed by the 2012-13 Grand Jury that its initial response was not in accordance with state law in addressing the report's findings and recommendations. In a follow-up response, the district manager wrote that three of the Grand Jury's four recommendations (75%) will be implemented, but still no response was given to the report's 10 findings.

The Feather River Recreation and Park District responded to the 2011-12 report on time and in accordance with state law, providing by far the most comprehensive response of the four recreation and park districts. The district

agreed with seven of the Grand Jury's nine findings (78%) and plan to implement four of the seven recommendations (57%).

The Paradise Recreation and Park District responded to the 2011-12 report within the required response deadline. However, the district was informed by the 2012-13 Grand Jury that its initial response was not in accordance with state law in addressing the report's findings and recommendation. A follow-up response from the Paradise board president agreed to implement the jury's single recommendation but still did not address any of the nine findings.

The Richvale Recreation and Park District failed to respond to the 2011-12 report until contacted by the 2012-13 Grand Jury several weeks after the response deadline. The district's subsequent response did not address any of the nine findings and just three of the six recommendations, agreeing with one recommendation (17%).

The Gridley Business Improvement District responded to the 2011-12 report on time and in accordance with state law, concurring with the report's single finding and agreeing to implement all three recommendations (100%).

FINDINGS

- F1 Butte County government showed support for the grand jury system with its on-time and on-point responses, even as county officials disagreed as often as not with the findings and recommendations of the 2011-12 report.
- F2 The Feather River Recreation and Park District explained all of its positions in considerable detail and in conformance with state law. In contrast, three recreation and park districts - Durham, Paradise and Richvale - failed to meet their legal requirements even after a reminder letter from the 2012 - 13 Grand Jury.
- F3 The two cities that were the subjects of reports, Gridley and Oroville, both agreed overwhelmingly with the 2011-12 Grand Jury's findings and recommendations.
- F4 Larger local government agencies, which commonly have more personnel and more experience dealing with grand jury reports, generally did better than smaller agencies in providing legally adequate responses to reports.

RECOMMENDATIONS

None.

REQUEST FOR RESPONSES

None.