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FUNCTION OF THE GRAND JURY

THE GRAND JURY

The primary function of the Grand Jury is to examine all areas of local government: county, city and special districts (including school districts). The 19-member “civil” Grand Jury in Napa County conducts non-criminal investigations to ensure that government funds are judiciously used, that services are effectively delivered, and that all accounts are properly audited.

The Grand Jury is an independent and confidential body. The Presiding Judge of the Superior Court, the District Attorney, the County Counsel and the State Attorney General can, and do, provide advice, but they may not, except for legal cause, prevent the body from acting within its jurisdiction.

A county Grand Jury does not have jurisdiction in state and federal matters. There are state and federal grand juries impaneled at those respective levels. Consequently, the Napa County Grand Jury cannot investigate state or federal agencies. Nor does it have any jurisdiction over the courts or a matter in litigation. But, in general, governmental bodies within Napa County, and events involving those agencies, can be investigated by the Grand Jury.

Grand Jurors are expected to be fair, to show sound judgment, to maintain absolute confidentiality, and to serve as representatives of the public. Therefore, the Grand Jury is not the forum from which to express narrow political ideals or viewpoints, but is, rather, the organization that seeks to better the government that presently exists. Members are selected from among Napa County residents. Beginning in 1993, all residents were offered an opportunity to volunteer. Judges and friends of the court can also nominate county residents. Up to ten members, in their initial term of service, may volunteer to hold over for one additional year. Each Grand Jury is impaneled for one year, from July through the following June.

Napa County residents who are interested in serving as Grand Jurors are encouraged to apply. To be considered, an applicant must:

- Be a citizen of the United States
- Be at least 18 years of age
- Have resided in Napa County for at least one year immediately prior to being selected
- Have ordinary intelligence and good character
- Possess a working knowledge of the English language
- Not be presently serving as a trial juror

- Not have been a Grand Juror within one year of being selected (except holdovers)
- Not have been convicted of a felony or malfeasance in office
- Not be presently serving as an elected official

Interested citizens should write to the Superior Court, Napa County, Suite 125, 825 Brown Street, Napa 94559, or call 253-4481, Ext 202 to volunteer or nominate someone.

The Grand Jury is an arm of the court system. It is not a part of the District Attorney's Office, nor is it a law enforcement agency. For the most part Grand Juries function as “civil” grand juries rather than criminal grand juries. This is because preliminary hearings in the Courts have, for the most part, taken the place of criminal indictments by grand juries. In the federal system the rule is the opposite because the United States Constitution requires grand jury indictments for all serious federal crimes.

A “civil” grand jury has very limited powers. The California Supreme Court has held that the Grand Jury does not have inherent powers to establish its own investigatory apparatus for the detection of crime. Moreover, a “civil” grand jury should not engage in "fishing expeditions", "hidden agendas" or indiscriminate meddling. The scope of inquiry of a civil grand jury is limited to those subjects that are founded upon knowledge, which comes to the Grand Jury, not by rumors and reports, but by information acquired from evidence before the civil grand jury or from individual grand jurors' own observations. For the most part civil grand jurors are charged with investigating the "operations, accounts, and records" of the officers and departments of local government and the "method or system of performing the duties" those officers and departments employ.

A “civil” grand jury makes investigations and reports on those civil investigations to the general public after the reports have been reviewed and approved for release by the court. Although approval of the courts precedes the release of the Final Report, the courts do not have the right to require changes to the grand jury reports. The reports are usually issued in the form of a Final Report that is published at the end of the Grand Jury's year of service.

In extraordinary circumstances, the civil grand jury can become a participant in the legal process to remove from office or indict a government official, but any such action initiated by a grand jury must be based on facts substantiated and confirmed by the Grand Jury's own investigation. The Grand Jury can take no action based solely on allegations of other parties.

California law provides for civil and criminal functions for grand juries. While a “civil” grand jury can also function as a criminal grand jury, it is

unlikely that would occur. Were a criminal matter to be taken up by the Grand Jury at the request of the District Attorney, it is likely that a separate grand jury would be convened for that purpose.

THE 2001-2002 NAPA COUNTY GRAND JURY

The current Grand Jury met regularly during the year every other Wednesday evening. Most of the members served on at least three committees. The majority of their time was spent in individual committee meetings and in conducting field investigations, which usually were performed both during normal business hours and, when appropriate, at night.

HOW INVESTIGATIONS ARE CONDUCTED

Jurors initially meet with the management and staff of an agency. The various records of the agency are inspected, the physical facilities are inspected, and representative public meetings, if any, are attended. Leads are followed which might provide additional information. Eventually, proposed "findings" and "recommendations" are developed.

CITIZEN COMPLAINTS AND LETTERS TO THE GRAND JURY

Each year correspondence is received from citizens expressing concern or requesting investigation of various city agencies, county agencies and special districts. Each complaint is reviewed by the Grand Jury and action is taken to either (1) investigate the matter and make a report; (2) investigate the matter and drop it; or (3) drop the matter without investigation. It is best to submit any complaint or request at the beginning of the jury term so that the Grand Jury will have sufficient time to investigate the matter.

WHAT HAPPENS AFTER THE FINAL REPORT IS PUBLISHED

Copies of the Grand Jury Final Report are maintained on file in the office of the Court Executive Officer and the Clerk of the Board of Supervisors, where they remain accessible to the public. Final Reports are also available at county libraries and are published in the newspapers. Agencies that are required to make responses must respond in writing to the Presiding Judge of the Superior Court of California, Napa County, within 60 to 90 days after publication of the Report. The responses must be placed on file with the clerk of the investigated agency and at the office of the Court Executive Officer and may be accessed by the public at those locations.

NOTE TO RESPONDENTS

GENERAL

The legal requirements for response to Grand Jury findings and recommendations are set forth in California Penal Code, Section 933.05. Each Respondent should become familiar with those legal requirements and if in doubt should consult with legal counsel before responding. For the assistance of Respondents, Section 933.05 of the Penal Code is summarized below:

HOW TO RESPOND TO FINDINGS

The responding person or entity must respond in one of two ways:

1. That there is agreement with the finding.
2. That there is disagreement, wholly or partially, with the finding. In such a case, the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons for the disagreement.

HOW TO REPORT ACTION IN RESPONSE TO RECOMMENDATIONS

Recommendations by the Grand Jury require action. The responding person or entity must report action on each recommendation in one of four ways:

1. The recommendation has been implemented, with a summary of the implemented action.
2. The recommendation has not been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis. If a Respondent replies in this manner, the law requires a detailed explanation of the analysis or study and a time frame not to exceed six months from the date of publication of the Grand Jury Final Report by which the recommendation will be discussed.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation as to why it is not warranted or reasonable.

BUDGETARY OR PERSONNEL RECOMMENDATIONS

If a finding or recommendation deals with budgetary or personnel matters of a county department headed by an elected officer, both the elected officer and the Board of Supervisors shall respond, if the Grand Jury so requests. While the response of the Board of Supervisors may be somewhat limited, the response by the department head must address all aspects of the findings and recommendations.

ADVANCE RELEASE OF GRAND JURY REPORT DISCLOSURE PROHIBITED PRIOR TO PUBLIC RELEASE

Two working days prior to public release of the Final Report, the Grand Jury is required to provide a copy of the pertinent portion of the report to each affected agency or person. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to its public release.

TIME TO RESPOND; TO WHOM TO RESPOND

The Penal Code provides for two different response methods:

1. For a Public Agency:

The governing body (i.e. the Board of Supervisors, a City Council, Board of Governors of a special district, etc.) of the public agency must respond within ninety days after public release of the Final Report. The response must be addressed to the Presiding Judge of the Superior Court.

2. For an Elected Officer or an Agency Head:

All elected officers or heads of agencies who are required to respond must do so within sixty days after public release of the Final Report. The response must be addressed to the Presiding Judge of the Superior Court, with an information copy to the Board of Supervisors.