

INTRODUCTION TO THE MENDOCINO COUNTY GRAND JURY

As citizens of the United States of America, we enjoy many rights and privileges not common in most countries of the world. One of our rights is that we may be involved with and become a part of our governmental process. One of the means of participation in our county is to be a member of the grand jury.

The grand jury is an adjunct of the Superior Court, and in California it is endowed with broad powers as an instrumentality of the judicial system.

The grand jury, accessible to all citizens of the County, acts as an ombudsman by receiving and investigating citizen complaints pertaining to the actions and performance of local public officials, and is an avenue of appeal independent of the usual public channels. The grand jury may instigate its own investigations, even in the absence of a complaint. In addition, the grand jury has important criminal justice responsibilities.

The grand jury is charged with an important responsibility that calls for diligence, impartiality, dedication, and strict confidentiality.

Grand jury duty is unlike anything you have ever done before. Orienting yourselves to working within a diverse group of 19 people will be a major part of your first month. Some people are outspoken; others are quiet. Some want to move immediately; others want to collect a lot of data. Some work harder than others. Establish and enforce ground rules for behavior at meetings. Provide a positive atmosphere. Above all, be tolerant of differences.

To be selected to serve on the grand jury is an honor, one that provides an opportunity to make a contribution of significant value to the community.

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MENDOCINO COUNTY 2017-2018 GRAND JURY PROCEDURES MANUAL

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PREFACE

This Procedures Manual is offered as the rules of procedures for the Mendocino County Grand Jury. This manual and its accompanying appendices will serve as a road map of the activities, responsibilities and powers of the grand jury. It sets forth the legal authority under which you operate, the laws that govern your activities, and the resources available to you during your term of office. The manual covers such areas as suggested procedures for your meetings and investigations, the duties of officers, and the role of suggested committees. Selected provisions of state law are included for your review.

You are urged to read through this manual before beginning your year's work. The sooner the grand jury knows its functions, the quicker it can get started. If you have any questions regarding your functions you are encouraged to speak to your foreperson who may seek the advice of County Counsel or the District Attorney. You should also consult this manual as needed throughout your term.

The 2017-18 Mendocino County Grand Jury thanks the Shasta County Grand Jury for sharing their updated Procedures Manual. We also thank the California Grand Jury Association for their training and advice.

Mendocino County Grand Jury 2017-18

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1. AN OVERVIEW OF THE GRAND JURY

A. History

The grand jury originated in medieval England; it was in use by the reign of Henry II (1154-1189). Although today it is a statutory body, it owes much of its development to the common law: that is, law based on judicial decisions as evolved in England and America. Initially, the grand jury both accused and tried suspects, but the functions were later separated. Its purpose was to prevent oppression by the English crown through a citizens' hearing prior to actual prosecution.

In addition to this criminal function, some states today have grand juries with a civil investigative function. California and Nevada have similar grand jury statutes: i.e., their grand juries are mandated to conduct civil investigations and audits of local governments, to insure efficient and proper operation of all local government, and to detect and expose fraud and malfeasance. The California statutes that prescribe the powers and duties of the grand jury are found, for the most part, at §888 through §939.91 of the Penal Code.

Although the grand jury concept was abolished in England in 1933, it has established itself in America as an important component of our judicial system. Nonetheless, over the years the grand jury system has had its critics, and in some ways its significance has waned. It is of concern that some critics of the grand jury condemn it without understanding it.

The grand jury is composed of lay persons who, in a year's time, must carry out complex tasks. As one reviews grand jury achievements, it is surprising what it has accomplished, rather than what it hasn't accomplished.

It is difficult to argue against the grand jury's retention when the American system of representative government depends so critically on the constructive involvement of citizens in public affairs.

B. Duties and Powers

By law, a civil grand jury performs an oversight or "watchdog" function, investigating and reporting on all aspects of local and county government, including aspects of city government, county government, special districts, local agency formation commissions, housing authorities, joint powers agencies, and non-profit agencies established by or operated on behalf of a public entity. The grand jury may also determine whether monies of local governmental agencies are handled properly and all accounts are properly audited, assuring honest, efficient government in the best interests of the people. The jury itself selects additional areas that it wishes to study. These may include investigations of citizen complaints.

During the year, the grand jury releases individual reports as they are approved by the full panel and reviewed by County Counsel and the Superior Court. At the end of the year, the grand jury releases its consolidated report to public officials and the media. The subsequent grand jury is responsible for collecting responses and publishing them on the grand jury website. An electronic copy of the final report with responses is then provided to the Court and forwarded by the Court to the State Archivist.

Civil grand juries may be tasked to investigate criminal matters and issue indictments when appropriate. Few civil grand juries are called to judge criminal matters; therefore, those matters are not included in this manual. Should the situation arise, the District Attorney calling for such investigation will explain the requirements.

C. Application and Selection of Grand Jurors

Grand jurors in each county of California are selected by judges of the Superior Court. In Mendocino County, announcements inviting applications are run in local newspapers and on local radio.

Applications are available online at www.mendocinocounty.org/government/grand-jury. They can also be picked up at the Courthouse, 100 North State Street, Room 303, Ukiah. The Superior Court Presiding Judge and the grand jury foreperson interview applicants whose background, competency and proper qualifications are reviewed.

From the pool of candidates, names are chosen by lottery to fill the final panel of 19 grand jurors, less the number of “hold-over” grand jurors from the preceding year. In addition, alternates names are drawn.

D. Qualifications for Grand Jury Service (Penal Code §893)

1. Competency

A person is competent to act as a grand juror only if he or she possesses each of the following qualifications:

- (a) He or she is a citizen of the United States of the age of 18 years or older and has been a resident of the state and of the county or city and county for one year immediately before being selected.
- (b) He or she is in possession of his or her natural faculties and is of ordinary intelligence, of sound judgment, and of fair character.
- (c) He or she is possessed of sufficient knowledge of the English language.

2. Incompetency

A person is not competent to act as a grand juror if any of the following apply:

- (a) The person is serving as a trial juror in any court of this state.
- (b) The person has been discharged as a grand juror in any court of this state within one year.
- (c) The person has been convicted of malfeasance in office or any felony or other high crime.
- (d) The person is serving as an elected public officer.

E. Oath and Charge

The grand jurors take their oath of office before the Presiding Judge of the Superior Court and the Judge reads the charge to the grand jury. If, during a juror's term of office, the Presiding Judge determines that a grand juror is no longer competent to serve, the Presiding Judge may order the removal of the grand juror and appointment of an alternate in his or her stead.

Juror's Oath

Penal Code §911 sets forth the juror's oath of office:

"I do solemnly swear (affirm) that I will support the Constitution of the United States and the State of California, and all laws made pursuant thereto and in conformity therewith, will diligently inquire into, and true presentment make, of all public offenses against the people of this state, committed or triable within this county, of which the grand jury shall have or can obtain legal evidence. Further, I will not disclose any evidence brought before the grand jury, nor anything which I or any other grand juror may say, or the manner in which I or any other grand juror may have voted on any matter before the grand jury. I will keep the charge that will be given to me by the court."

Charge of the Court

Each year when a new grand jury is impaneled, the Supervising Judge of the Superior Court provides guidance to the newly sworn jurors in the form known as a charge. (Penal Code §§ 914, 914.1) This charge outlines each juror's obligations, responsibilities and the laws and ethical constraints that jurors must understand and adopt to guide their actions. Jurors are encouraged to re-read this charge periodically.

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2. CHARGE TO 2017-2018 GRAND JURY

Ladies and Gentlemen of the Grand Jury:

I congratulate you on your selection to serve as Grand Jurors. As Grand Jurors you now commence a great undertaking. An undertaking that will be simultaneously filled with an awesome responsibility and with a remarkable opportunity for public service. I have no doubt that you will accept that responsibility and seize that opportunity and thereby accomplish your mission with great distinction.

Now that you have taken the oath, you are the 2017/2018 Mendocino County Grand Jury. It is my duty to instruct you concerning your functions as a Grand Jury and the applicable law, and it is your duty to follow these instructions.

From the earliest of times to the present, a Grand Jury is composed of citizens of the County who are sworn to exercise sound and independent judgment of other governmental agencies within the County. A Grand Jury is primarily an investigative body. You have powers and duties to examine and report on public offices, public officers, and transactions.

Before discussing further your duties and responsibilities, I wish to advise you of some organizational and administrative matters applicable to the business of a Grand Jury.

I. THE GRAND JURY'S PLACE IN CALIFORNIA COUNTY ORGANIZATION

A. Relationship in General to Other Governmental Agencies

You must consider yourselves an independent body. You perform a great service for the county and the court in your investigations. Your final report and recommendations will be directed primarily to the board of supervisors.

B. Relationship of the Grand Jury to the Superior Court

The court nominates the grand jury members, officiates over their management, instructs the grand jury, appoints the grand jury foreperson, advises members at their request, suggests procedures, receives indictments, approves the final reports, and retains the power to discharge a grand jury, or any member thereof, if it has been found to violate the law or its charge.

The grand jury, in its turn, is expected to uphold the law and this charge in carrying out its duties. You will relate both to the court and individual public departments of government.

II. STRUCTURE OF THE GRAND JURY

A. Officers

Your officers will consist of the grand jury foreperson, foreperson pro-tem, secretary, and whatever other officers you choose to elect. Your grand jury foreperson will be appointed by the court for the full year of your tenure.

At your organizational meeting you shall elect your other officers, including a deputy grand jury foreperson to act in the temporary absence or on the disqualification of your grand jury foreperson, and a permanent secretary.

B. Committees

I suggest that you form committees for the preliminary consideration of matters in the various fields of activity. Previous grand jury reports will show you the committees that have functioned in the past. You may find that in the course of your term, other matters will be brought to your attention that suggest the formation of ad hoc committees. Experience has shown that matters generally should not be brought before a business session of the grand jury without such preliminary consideration in committee.

C. Advisors

Members of the grand jury may ask the advice of the court, the District Attorney, or the county counsel, or in some situations the California State Attorney General. I suggest you seek advice from the county counsel regarding administrative and organizational matters, investigations that do not result in an accusation, and your reporting and other functions. Please do not hesitate to call on me for any advice you may desire from the court.

D. Staff

The Superior Court provides some staff services. The county prepares the grand jury budget, provides supplies, maintains the grand jury's chambers and provides any other staff support requested through the grand jury foreperson. Except for an auditor, you are not permitted to employ special counsel or special investigators.

III. ADMINISTRATIVE MATTERS

A. Place

You will have the use of a private room for the purpose of conducting your proceedings. In the course of your duties, you will inspect other facilities in the county. These field trips will probably be among the most valuable learning experiences in your year of service.

B. Establishing Times of Sessions

I suggest that you fix regular days and hours for your sessions.

C. Functions

Your functions are essentially investigatory. You have powers and duties with respect to public offices, officers, and transactions, especially in connection with examinations and reports. After study and discussion, you will probably make recommendations to the board of supervisors, or others, based on your findings. I would like to caution you to make reports factual and to have all pertinent information presented to you before you commit the prestige of the grand jury to any finding or public position.

D. Jurisdiction and Limitations

1. Jurisdiction

Your functions are limited to organizations within the limits of the county, with certain exceptions.

2. Limits on Grand Jury Power

You are now aware that there are distinct limitations on what you may do in the course of your investigations and reporting. *You function lawfully only as a body; no individual grand juror acting alone has any power or authority.* Further, the grand jury body itself is not intended to be a super government for this county, nor is it intended that you should interfere with the discretionary policymaking or operational powers of public officials. Only when public officials, or others, are justifiably suspected by you of violating applicable standards of conduct or laws, or are subject to being indicted or accused by you, do they become proper subjects for your action.

An individual grand jury is not civilly liable for damage resulting to a person indicted or accused by the grand jury. However, any comment in your reports on a person or public official not indicted is not privileged and could be the basis for a charge of civil or criminal libel against you.

E. Secrecy

1. Private Sessions

The deliberations and voting of the grand jury on its investigations are required by law to be in private session. It is significant that secrecy is prohibited in almost every other arm of government. Secrecy exists as to the grand jury because it is an agency designed not only to search out offenses and accusations that would not otherwise be acted upon because of fear or inability of individuals to bring the complaint, but also to protect innocent persons from publicity that might otherwise occur when charges are eventually proved to be unfounded. Matters before

the grand jury, therefore, should never be discussed out of session with anyone, even your closest relatives, friends, or associates.

2. Secrecy Required of Members

The law provides that every grand juror must keep secret all evidence adduced before the grand jury, and the way he or she, or any other grand juror, may have voted on a matter before them. By law it is a misdemeanor to violate such secrecy of the grand jury room or to disclose the findings. However, in many instances, a matter being heard by the grand jury already has been extensively investigated by some law enforcement agency, and the news media may have obtained some knowledge of the case. You must realize also that a witness who testified under oath or at one of your sessions may make a statement outside the grand jury room. Therefore, if you should find in the news media a story containing substantially the same facts obtained by the grand jury in secret session, you must not assume that one of your fellow jurors has violated the law of secrecy. Additionally, to obtain legal advice, it may be necessary for you to disclose to counsel or to me some matter of evidence that you have taken during an investigation, and such disclosure is not a violation of your oath.

F. Bringing of Complaints

You will receive letters from public and private persons throughout the year. You will be asked to examine some complaints that are groundless, false accusations, or matters motivated by private enmity or reasons of political or private advantage. Some, however, may result in disclosures of offenses that would not otherwise have been brought to light. When you obtain reliable information indicating an offense or misconduct, it is your duty to fearlessly and fairly investigate the matter and take appropriate action. Investigations should always be conducted with legal advice and assistance.

G. Reports

In accordance with the policy established by this court, and Penal Code section 933, I instruct you to deliver to me, as presiding judge of the superior court, all grand jury reports before filing them or otherwise releasing them. The law requires the presiding judge to determine whether any report fails to comply with the law relating to grand jury functions or is not within the grand jury's lawful inquiry and reporting powers. Your reports may follow complex investigations. The reports themselves may at times be complex. I will need a reasonable time to review your reports before they may be filed or released.

I will work with your grand jury foreperson to establish reasonable and workable policies to permit timely filing and release of your reports. I instruct the clerk of the superior court not to accept for filing any grand jury report until it has been approved for filing.

You may review reports of earlier grand juries, particularly those recommendations that have not been acted upon, the reasons for inaction, and the possible need for again

recommending action where action has not been taken. You shall not adopt as your own the recommendation of another grand jury unless you do your own investigation of the matter about which recommendation is made. You may not make any report, declaration, or recommendation on any matter except on the basis of your own investigation.

Your written reports must be factual. Occasionally a grand jury has returned reports to the court containing unfounded criticisms, castigations, or innuendos of improper conduct on the part of private citizens, or those engaged in public service. The publicity attendant to the filing of such reports can cause tragic consequences to accused persons who have no forum to establish their innocence. When even the possibility of prejudice exists, the veil of secrecy should not be lifted until the danger of prejudicing the case has passed. I call your attention to the provisions of Government Code sections 23000-23025, 24054 and 25525. They define county government and regulate some of its operations. You are instructed to ascertain by careful and diligent investigation whether such provisions have been complied with and to note the result of such investigation in your report.

H. Civil Investigations of County, City and District Affairs

1. Accounts, Records, Fiscal Matters

You are to make a careful and complete examination of the accounts and records, especially those pertaining to revenue of all county officers, and report the facts you find, with such recommendations as you consider proper.

The grand jury may at any time examine the books and records, which pertain to fiscal matters, of any incorporated city or joint powers agency located in the county. In addition to any other investigatory powers granted, the grand jury may investigate and report on the fiscal matters of any such city or joint powers agency and make such recommendations as it may consider appropriate.

The grand jury may also investigate and report on the needs of any or all joint powers agencies within the county, including the abolition or creation of agencies and the equipment for, or the method or system of performing the duties of, the several agencies. A copy of any such report will be transmitted to the governing body of any affected agency.

As used, "Joint Powers Agency" means an agency described in Section 6506 of the Government Code whose jurisdiction encompasses all or part of a county. (See Penal Code §925a.)

2. Reports to Presiding Judge and to Supervisors

No later than June 15, you shall submit to the presiding judge of this court a final report on your findings and recommendations pertaining to county government matters, other than fiscal matters during the fiscal year.

No later than the 90th day after receiving your final reports, the board of supervisors will comment on your findings and recommendations pertaining to county government matters under board control, and every elective officer shall report to the board of supervisors on the findings and recommendations pertaining to such county officer. All such comments and reports shall be presented to the presiding judge, and a copy thereof shall be placed on file with the clerk of the superior court and shall remain on file in the office of the clerk of the superior court.

3. Other Inquiries

You may inquire into the case of every person imprisoned in the county jail on a criminal charge and not indicted, but you are not required to investigate infractions of jail regulations unless requested to do so by proper authorities.

You are entitled to the examination, without charge, of all public records within the county.

IV. Conclusion

Violation of the letter or spirit of the grand juror's oath, or of my charge to you, would endanger the integrity and effectiveness of the grand jury. You must not be influenced by mere sentiment, conjecture, sympathy, public feeling, passion, or prejudice. You must apply the same objective standard of conduct and responsibility to all persons, regardless of sex, color, race, religion, ancestry, national origin, blindness or other physical disability, or economic status.

As you commence your service as Grand Jurors I am certain that some of you are apprehensive about the duties that you have assumed and the decisions that you may be required to make. You should not be uneasy. Many before you have assumed those duties and discharged them with honor, and like you, none was born to be a Grand Juror and none was specifically trained to be a Grand Juror. It should be of comfort to remember that for more than 200 years in this country and for over 100 years in this very county, citizens have been called together annually to serve as Grand Jurors. We do this because we have a government of the people, a government by the people, and a government for the people; and therefore it is natural and right that we ask people such as yourselves to serve as Grand Jurors and to scrutinize the workings of government and public officials to be certain that we maintain a government of, by and for the people. You are following in that honored calling.

I trust that your deliberations will be harmonious and that your reports may be such as to inform the people of this County whether or not the affairs of the County are properly and honestly conducted; and, if there be any fault to find, that you frankly point it out to the people. You have been selected on behalf of the people of Mendocino County to examine into the affairs of government; to approve what your judgment dictates is worthy of approval; and, to condemn anything, which meets with your prudent censure as being opposed to the best interests of the people.

You, like a Judge, cannot promise to always be right, but you, like a Judge have a duty to do your very best to be right. You are to diligently and impartially perform your duties to the best of your ability for the common good. The people can expect no more from you and they should receive no less from you.

I wish you well as you now begin your year of service as members of the 2017/2018 Grand Jury for the County of Mendocino.

Dated: June 23, 2017

Honorable Jeanine Nadel
Superior Court Judge

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3. CONDUCT AND PROCEDURES

A. Adoption and Amendment of These Rules

Penal Code §916 requires each grand jury to “determine its rules of procedure.” That section also requires that the jury’s adoption of the rules, and any subsequent amendment to them, must be accomplished by a supermajority vote, which is 12 affirmative votes.

This Procedures Manual constitutes the Mendocino County Grand Jury’s rules of procedure. Each year the grand jury has adopted this manual at the beginning of its term and used it to answer procedural questions as they arise. It is important that each juror review and understand its contents.

Once the manual has been adopted, it can be amended any time 12 or more jurors decide to do so. Should a supermajority determine that one or more provisions of the manual need to be amended, the jury should discuss the proposed amendment(s) with County Counsel to confirm that the change would be legally proper. These rules cannot be amended to allow jurors to exceed their jurisdiction or relieve them of duties imposed on them by law, and County Counsel can ensure that the proposed amendment will not violate the law. Any manual changes must also be confirmed by the Presiding Judge.

In this manual, those provisions that are, by law, mandatory or prohibitory, and which therefore cannot be amended, will ordinarily contain a citation to the Penal Code, or another legal authority. The primary mandates and prohibitions contained in the Penal Code are:

- The grand jury’s “rules of procedure” (this manual) can only be amended by a supermajority vote. (Penal Code §916)
- All “public actions” of the jury (such as the determination to conduct a particular investigation, or the release of a report) require a supermajority vote. (Penal Code §916)
- The grand jury must choose its own officers, except the foreperson. (Penal Code §916)
- The jury shall investigate and report on at least one county officer, department or function each year. (Penal Code §925)
- The jury must inquire into the condition and management of “public prisons” within the county, and any credible evidence of willful or corrupt misconduct of any public officer, but need not write a report on either type of inquiry. (Penal Code §919)
- At least two jurors must attend each interview. (Penal Code §916)

- Only the foreperson (or in the foreperson's absence, the pro tem) can administer an oath to a witness. (Penal Code §939.4)
- The jury must meet with the subject of the investigation, unless relieved by the court, and must give the official or the agency referred to in the report the relevant portions of the report two business days before its release to the public. (Penal Code §933.05)
- Each finding in a report must be supported with documented evidence. (Penal Code §916)
- If a problem is identified in a report, the report must recommend the means to resolve it, including financial, when applicable. (Penal Code §916)
- The grand jury cannot adopt the findings or recommendations of another grand jury or adopt an outsider's report as its own. (Penal Code §939.9)
- A juror may not disclose evidence, the discussions or votes of any juror, or the identity of witnesses, particularly whistleblowers. (Penal Codes §§ 924.1, 929)
- Reports of the grand jury may not contain the name of any person or facts leading to the identity of any person who provides information to the civil grand jury. (Penal Code §929)
- No one other than jurors may be present during deliberations or the taking of a vote. (Penal Code §939)
- The jury cannot exceed its budget, unless the proposed expenditure is approved in advance by the court, after giving notice to the board of supervisors. (Penal Code §914.5)

The grand jury cannot amend this manual in a way that would be inconsistent with any of the foregoing provisions.

B. Conflicts of Interest, Bias, and Financial Disclosures

It is essential that grand jurors preserve the credibility of the grand jury by scrupulously avoiding any real or perceived conflict of interest or bias.

In addition, no member of the grand jury should use his or her office for any kind of personal gain or advantage. Grand jurors 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 influence or obtain favors during grand jury service. When conducting inspections, members of the grand jury should not accept gifts.

It is the responsibility of each grand juror to advise the foreperson and/or the entire grand jury of any bias or present or potential conflicts of interest which exist at the beginning of

the term of service or which may later develop during the year of service in connection with issues that come before the grand jury.

Bias is defined as either (1) prejudgment of essential facts that prevents the grand juror from considering the issue on its merits, or (2) publicly expressed support or opposition to specific aspects of a matter before the grand jury. The grand jury should take care to avoid any appearance of bias. Any member who could reasonably be perceived as having a grudge against or a special sympathy for a public official or agency should refrain from any investigation involving that official or agency, as well as from any grand jury discussions regarding that investigation or voting on accepting or rejecting the report.

Having an educated opinion on an issue should not be considered the same as having a bias. The same procedures that apply to potential or actual conflicts of interest apply to pre-existing bias.

Penal Code §916.2 requires a juror to advise the court and foreperson if he or she has been employed by a local agency within the past three years and to recuse if that agency comes under review. For the purposes of Penal Code §916.2, “agency” includes a department or operational unit of a county or city. This means that a juror who worked in a city’s Public Works Department need not recuse from an investigation of the Electric Utility Department, unless there is some other conflict.

Potential or perceived conflicts of interest could be caused by a grand juror’s earlier employment with the public agency that is under investigation or the current employment by the public agency of a relative or close friend.

Another cause of a conflict could be a contractual relationship with the agency, or a recent or anticipated financial connection. In addition, a juror may be perceived as having a conflict if he or she has been engaged in litigation for or against the entity or official under investigation or has actively campaigned for or against the elected official in question. A juror who is known as a staunch advocate of a particular position, or who has repeatedly and publically criticized an official or entity might be seen as biased.

The test for determining bias is to ask, “Would a reasonable person knowing of the juror’s relationship or activity related to the entity, function, or official conclude that the juror might have a bias for or against the entity, function, or official?” If the answer is yes, there is a perceived conflict of interest and the juror should recuse.

The recused juror must abstain from both discussion and voting on any aspect of the matter during committee meetings or in meetings of the entire grand jury. The juror must leave the grand jury room whenever that matter is under consideration, including during the review of draft reports. He or she may not see the resulting report until after the end of the term. If any grand juror expresses concern that any other grand juror may have a

perceived conflict, it should be brought to the attention of the foreperson, who will bring it to the entire grand jury.

Once a grand juror has been recused from a committee or a particular investigation because of a perceived or actual conflict of interest, that grand juror is permanently recused and his or her recusal cannot be revoked.

The Fair Political Practices Commission has advised that grand jury members are public officials and thus are subject to financial disclosure requirements contained in the Government Code and the regulations promulgated thereunder. Therefore, each grand jury member must file a Statement of Economic Interest, California Form 700. A statement is to be filed at the beginning of the term, one at the end of the calendar year, and another upon discharge.

C. Secrecy, Confidentiality, and Security

There are both legal and practical reasons for secrecy of grand jury activities. Only fellow grand jurors, the presiding or supervising judge and the jury's authorized legal counsel are entitled to information about grand jury investigations, correspondence and deliberations. **These matters must never be discussed** with friends, relatives, business acquaintances or the news media, either during the grand jury's term or at any time thereafter. A grand juror who willfully discloses, at any time, any evidence presented to the grand jury, or anything any grand juror has said, or how any grand juror has voted is guilty of a misdemeanor. (Penal Code 924.1)

Using email allows grand jurors to efficiently communicate throughout their term. However, care must be taken to safeguard email transmissions. Jurors should take care to confirm that they are using the correct email addresses when sending confidential information, and they should append a federally approved Confidentiality Notice.

The grand jury's computers contain confidential information and for security reasons, should never be removed from the grand jury room, or used for any purposes other than those of the grand jury.

In order to preserve the grand jury's work, any computer composed work should be backed up to a grand jury thumb drive at the end of each use.

Grand jurors who happen to see each other outside the grand jury room, should take care that they do not discuss grand jury business where they might be overheard. Efforts should be made to limit the number of people who learn of the jury's investigation.

While conducting interviews or making field trips, jurors must never discuss or reveal any details regarding grand jury business, plans or investigations except to the extent

necessary to conduct the investigation. There should be no reference made as to whether an investigation will result in a report, as this will be determined later by the full jury.

Grand jury statements of approval or disapproval of departments or agencies must come only from the entire grand jury and appear only in official reports that legal counsel has reviewed before release.

Names or identifying information of complainants and informants may not be revealed in reports.

Only the entire grand jury can reveal evidence, findings or similar information and only in its official reports. Unauthorized disclosure of the evidence presented to the grand jury or the vote of any grand juror is a misdemeanor (Penal Code §924.1) and is likely to result in the offending juror's discharge from the grand jury.

Penal Code §933 requires the foreperson, or his or her designee, to be available for 45 days after the end of the term to "clarify the recommendations of the report." This is the only situation in which any juror may in any way elaborate on what is stated in a report, and it is limited to clarifying only the recommendations, not any other part of the report, such as a fact or finding.

Similarly, any "press release" cannot reveal any confidential information that does not appear in the report. "Confidential information" includes why the jury chose the topic, any evidence obtained by the grand jury, information about any sources of information relied on by the jury, or the jury's deliberations and votes. The press release can summarize the report (but not include any additional information) or it can simply consist of the report's summary. In addition, the press release may provide general information about the grand jury system. Any press release should be reviewed by County Counsel before it is distributed to ensure that grand jury secrecy is maintained.

Each committee chairperson must ensure that an investigative file is compiled and maintained on each investigation conducted by that committee. This file should contain one copy of all interview notes and documents related to the investigation and will be placed in the committees' file cabinets in a secured room. All duplicate copies of documents should be securely destroyed at whatever time they are no longer needed, but no later than the end of the grand jury term.

An individual grand juror should not retain any copies of any confidential material after the conclusion of his or her term of service. The materials can be brought to the grand jury meeting room for shredding.

D. Compensation for Grand Jury Expenditures and the Grand Jury's Budget

GENERAL EXPENSE REIMBURSEMENT POLICY

Payments to grand jurors for meeting attendance and reimbursement for travel related costs are governed by formal Mendocino County Policies and policies voluntarily adopted by the grand jury.

MENDOCINO COUNTY CODE SECTION 2.14.010 – Compensation and Mileage for Grand Jurors and Petit Jurors. [Bullets inserted into Code by GJ for clarity]

- *Pursuant to authority contained in the Penal Code Section 890, the fees for Grand Jurors are twenty-five dollars (\$25.00) for each full panel meeting and ten dollars (\$10.00) for each committee or investigative meeting not to exceed twenty-five dollars per day.*
- *Mileage shall be reimbursed according to mileage reimbursement rates established for County employees, for each mile actually traveled in attending Grand Jury business. Grand Jurors conducting official business in the County seat and who reside more than thirty (30) miles from the County seat may elect to stay overnight rather than drive back and forth to their residences and will be reimbursed for lodging and dinner costs incurred for no more than two nights per week exclusive of the State Grand Jury Training. Lodging shall not exceed the established local government hotel rate and dinner shall be reimbursed at rates set for County employees.*
- *Grand Jurors will be entitled to reimbursement for lunch at rates set for County employees only after a grand juror has attended a minimum of two (2) hours of morning service for full panel or committee meetings, investigative sessions or other legitimate activities such as orientation or training sessions.*

All meal and mileage reimbursement and fees for attendance shall be payable to Grand Jurors for committee meetings, investigative sessions by less than the full Grand Jury or other legitimate activities such as orientation sessions and training sessions, subject to budget limitations imposed by the Board of Supervisors and in accordance with the County Travel Policy. Any expenditure that exceeds the authorized budget must be approved in advance by the Presiding Judge of the Superior Court after the Board of Supervisors has been advised of the request. The Chief Executive Officer shall make a recommendation to the Board of Supervisors and the Presiding Judge prior to consideration by the Presiding Judge.

INTERNAL POLICIES

- Meeting payments must be verified by a completed and signed MINUTES form.
- Jurors must complete an Expense Claim Form, signed in blue ink. For timely payment, the form and any supporting documents must be submitted no later than the first full panel meeting of each month.
- Payments for local meals are fixed at \$16 for breakfast, \$17 for lunch, and \$31 for dinner. Receipts are not required.
- Meetings are typically of 2-3 hours duration either in the morning or afternoon.
- All non-routine travel expenses, including all lodging expenses, must be approved in advance by the foreperson. Appropriate per diems will apply.

- Each morning, evening or afternoon session counts as one meeting or one-half meeting, whether held by the same or different committees in a single day. All-day sessions, including site visits lasting for more than five hours may be claimed as 2.5 meetings.
- Most “meetings” consist of two or more jurors. However, with the foreperson’s approval, a single juror may claim meeting payment for necessary independent work conducted on behalf of the whole grand jury such as managing the monthly expense claims or compiling the final report.
- A single juror may also claim meeting payment when delegated by the foreperson, a committee, or the full panel to attend sessions of the Board of Supervisors or other public meetings of direct relevance to current work of the grand jury. Such meeting attendance must be pre-approved and informational material collected for review by interested members and a report made on any substantive meeting content.

The County Auditor-Controller provides a monthly report showing how much the grand jury has spent so far during the fiscal year in each line item of its budget and the percentage of the funds that remain. The grand jury Treasurer should review this report each month to ensure that the jury does not run out of funds before all its work for the year is completed. There is no obligation on the part of the Board of Supervisors to augment the grand jury’s budget without a court order and the court may be reluctant to order a county to modify its budget to accommodate over-spending by a grand jury.

The best way to stay within its budget is for the grand jury to schedule as many meetings, interviews and other activities for the same day, in order to limit per diem and mileage payments. Careful scheduling can save thousands of dollars each year.

County funds may only be used by the grand jury to conduct its official business. Note that the grand jury cannot use its budget to pay for snacks or for coffee, creamer or sweetener. It cannot purchase gifts for jurors or anyone else. Appropriate routine expenditures each year include costs of printing and publishing the grand jury’s consolidated Final Report, grand juror mileage and per diem, training of grand jurors and alternates by the California Grand Jurors’ Association, and the purchase of office equipment and cleaning supplies.

Payment for most expenses of the grand jury, including a juror’s per diem and mileage, is obtained through the submission of claims to the County Administrative Office. A copy of the claim form and a form to record the juror’s per diem and mileage can be found in the Forms Appendix.

Any questions about whether a particular expenditure can be reimbursed from County funds should be directed to the office of the CEO.

E. Orientation and Training

It is essential that each new grand jury promptly acquire a basic knowledge of its responsibilities. Grand jurors must gain a familiarity with public officials, departments, agencies and the court as soon as possible so they can begin conducting investigations within a few weeks of impanelment.

All jurors and alternates should attend the annual training seminar conducted by the California Grand Jurors' Association (CGJA). Attendees are given a Training Manual that they can refer to throughout their term. CGJA also provides a one-day report writing workshop in the fall. Jurors should attend this workshop if the budget allows.

In addition, the grand jury usually receives trainings on the Brown Act and Ethics. These trainings are ordinarily conducted by County Counsel.

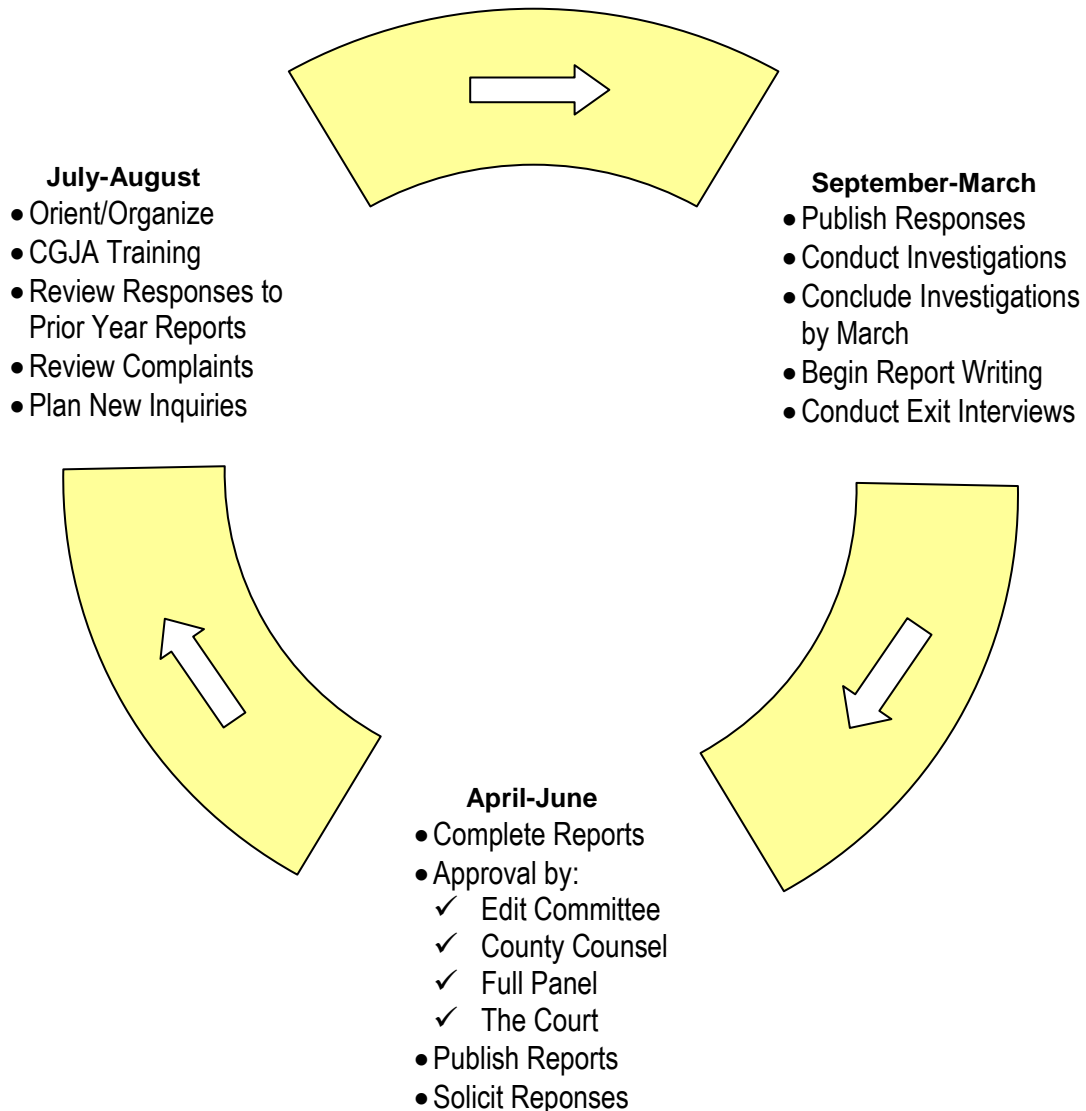
F. Initial Meetings

At the first Full Panel Meeting, following the swearing in ceremony, the foreperson conducts an orientation meeting. The following are suggestions of activities that might be included in the new grand jury's first few meetings:

1. Get acquainted. Organizations work best when the members know each other.
2. Distribute and discuss the meeting agenda, the Mendocino Grand Jury Procedures Manual, and a copy of the consolidated final report prepared by the outgoing panel.
3. Establish a schedule for regular full panel meetings, avoiding conflict with Tuesday Board of Supervisor meetings.
4. Establish policies for use of the grand jury meeting room and equipment, including restrooms, mail boxes, files, phones, library, security procedures, and copier.
5. Review and complete the Availability and Emergency Contact form and sign for card keys.
6. Review and discuss California Form 700 Statement of Economic Interests and complete IRS form W-9.
7. Explain and discuss the Compensation & Expense Claim form.
8. Explain the duties of grand jury officers. Officers are nominated and elected to serve as the executive committee of the new panel. This includes foreperson pro tem, secretary, and treasurer.
9. Discuss thoroughly the possibility of conflicts of interest and establish a procedure to identify conflicts and excuse jurors from involvement in any discussion, investigation or voting related to such a conflict. Discuss any juror concerns where there is a possible perception of conflict of interest.

10. Review the ground rules for your meetings. They include: raise your hand to be recognized by the foreperson before speaking; speak so that everyone can hear you; keep it brief; focus on the issue; never undermine other jurors, either directly or indirectly; strive for consensus; work to resolve conflicts; etc.
11. Discuss committee structure and the duties of the standing committees. Standing and, if warranted, ad hoc committees, should be established. Jurors' committee preferences should be solicited, Committee assignments are proposed by the foreperson. Each committee chooses its own chair.
12. Review the annual workflow of grand jury investigations:

GRAND JURY ANNUAL WORK FLOW



G. Full Panel Meeting Procedures

1. The foreperson or pro tem should prepare an agenda for each full panel meeting. The agenda will be distributed to the jurors by the foreperson by email at least 24 hours before the meeting. Any juror may add an item to the agenda before or during the meeting.
2. A quorum for conducting business consists of 12 grand jurors. (Penal Code §940)
3. Twelve affirmative votes, a “supermajority”, are required for the adoption or amendment of this Procedures Manual and for all public actions of the grand jury. (Penal Code §§ 916, 940) Public actions include authorizing an investigation or approving a report for public release. The number of votes needed for a supermajority is always 12, even if the number of jurors falls below 19.
4. Decisions or actions that are not public actions do not need 12 votes. For example, a motion to reschedule a meeting can be passed on a majority vote.
5. No “proxy votes” are allowed. Only members who are present at a meeting may vote. However, when necessary because of illness or other good cause, a juror may attend the meeting by conference call, as long as all of the jurors can hear each other throughout the entire meeting.
6. The foreperson must preserve harmony in meetings. He or she may speak on points of order and will decide all questions of procedure, subject to appeal. Voting is the foreperson’s choice; he or she may choose to vote on all motions or only when a tie occurs, or can choose not to vote.
7. A juror who doubts the decision of a vote may call for a roll call.
8. After every juror who wishes to speak on a motion has had the chance to speak at least once, and the discussion is becoming unnecessarily prolonged, any juror may “call for the question,” that is, ask that the motion be voted on.
9. A motion may be amended by the juror who made it; but he or she may decline to amend the motion and may instead call for a vote on it.
10. Cell phones must be turned off or silenced during plenary sessions and committee meetings. Jurors shall refrain from texting during sessions and meetings.

H. Attendance Requirements for All Meetings

It is of great importance that attendance be regular and prompt, both for full panel and committee meetings. The importance of the work requires that each juror be present and on time for all sessions, except for the most significant reasons, such as illness, unavailability because of serious personal demands, or family vacations. If a juror is

unable to attend a session or desires to be excused, he or she should if possible notify the foreperson or committee chair.

The foreperson will discuss absences with any juror whose attendance does not appear adequate for a fair contribution to the work of the jury. The unexpected lack of a quorum causes a great loss of time and money to the individual grand jurors affected, as well as to witnesses and other invitees.

The grand jury should schedule the months of March, April, and May so as to permit maximum attendance to complete and review the grand jury's reports.

I. Resignations and Removals

Any grand juror who wishes to resign from the grand jury must do so in writing, addressed to the foreperson.

The Presiding Judge may remove any juror for misconduct or failure to diligently undertake the duties of a grand juror. What constitutes sufficient grounds for removal is within the sole discretion of the court, but could include a statutory disqualification of a juror (for example, if a juror is convicted of a felony or moves out of the county), a violation of a provision of the Penal Code applicable to jurors (such as §924.1, which makes it a misdemeanor for a juror to disclose any grand jury evidence or vote), a juror's abandonment of his or her office, or any conduct by a juror that significantly disrupts the efficient operation of the grand jury.

The grand jury cannot remove or replace jurors. However, after consultation with the County Counsel, the foreperson may encourage a juror to resign. If that proves unsuccessful, the foreperson can speak to the Presiding Judge. Alternatively, on a majority vote, the jury can direct the foreperson, pro tem, or other executive officer to bring a juror's misconduct or chronic absence to the attention of the Presiding Judge through the County Counsel.

Although not mandated by state or county law, it is the practice in this county to replace a juror who leaves, resigns or dies, with one of the alternate jurors as soon as possible. However, if the vacancy occurs near the end of the term, the vacancy is usually not filled. The Presiding Judge ordinarily appoints replacement jurors from the alternates in the order their names were drawn at the time of impanelment, or if there are no remaining alternates, in the manner prescribed by the Penal Code.

J. The Grand Jury as One Body

Each individual grand juror has the right and the duty to speak and vote according to the dictates of his or her own judgment and conscience. All grand jurors have equal status.

Therefore, the grand jury is collegial rather than hierarchical.

A grand jury is a meeting of equals. This can be a challenge for some jurors whose work has been in a hierarchical environment. Even the foreperson has just one vote and no authority to unilaterally ignore or change the grand jury's rules of procedure. The foreperson is a facilitator; he or she guides but does not decide.

Jurors come from all walks of life. Each juror brings a unique perspective and should not hesitate to share their opinion or to agree or disagree as appropriate. Jurors must be reasonable, polite, and collegial. They must be willing to listen carefully to other jurors without interruption. Jurors should not be alienated by disagreements. Be open to changing your mind and once the jury reaches a decision, move on.

The entire jury panel has important responsibilities as a group and represents the public. The grand jury functions lawfully as one body. The law requires supermajority votes for adopting or changing rules of procedure and for deciding what to investigate and whether to issue a report. The final reports issued by the grand jury are reports of the full panel, regardless of how any individual votes.

An individual grand juror acting alone has no power or authority. All interviews must be conducted by at least two grand jurors. (Penal Code §916)

K. Discharge of the Grand Jury

The grand jury has a one-year term, beginning when the jurors are sworn in and ending when they are discharged by the Presiding Judge. The ceremony for the impanelment of the new grand jury and discharge of the old ordinarily takes place in late June or the first week in July.

At or before the last meeting of the term, the members must complete a California Form 700 and return all keys. The outgoing and incoming forepersons must make every effort to secure the premises and its contents. All personal files and notes from the prior term should be shredded. This includes deleting all emails (including those on personal electronics) and electronic files.

L. Serving Multiple Terms

Some individuals reapply to serve on a grand jury after taking a year or more off, and others volunteer to serve two years in a row; these are referred to as "holdover" jurors. (Penal Code §901(b)) Holdover jurors must take a year off after serving two years in a row.

Repeat and holdover jurors must keep in mind that they are serving on an entirely new and separate grand jury and have no more power or authority than first-term jurors. While they are likely to be willing and able to answer questions and share their experience and expertise, holdovers should not try to take control of the new jury.

Repeat and holdover jurors are prohibited from revealing any confidential matters from prior years' juries to members of the current jury, such as evidence not appearing in a final report, or what any juror said or how any juror voted.

4. OFFICERS

Except for the foreperson, each grand jury shall choose its officers and determine its rules of proceeding. (Penal Code §916)

The role of all officers is to serve and facilitate the work of the full panel. The Mendocino County Grand Jury traditionally operates with an executive committee composed of the foreperson, appointed by the Supervising Judge, the foreperson pro tem, a treasurer, and a secretary who have been nominated and approved by a vote of the full panel. The foreperson may also appoint jurors as temporary conveners to lead new committees until chairpersons are selected.

A supermajority of the grand jury can change the officers' duties (except those required by law) by amending this manual.

A. Foreperson

The foreperson is appointed by the Supervising Judge at the time of the swearing in of each new panel and may or may not be continuing from the prior year. The foreperson's most important tasks are to:

- Ensure that the full panel and the committees function effectively
- Serve as the sole spokesperson for the grand jury
- Serve as the liaison with the Court and County agencies

The foreperson is an ex officio member of all committees and consults with committee chairs regularly. Any grand juror should feel free to consult the foreperson on any grand jury matter.

The foreperson may delegate any of his or her duties to any member of the jury. The foreperson must notify the full panel of such delegation in a timely fashion.

In addition, the foreperson:

1. Prepares agendas, presides at full panel meetings, and facilitates other grand jury meetings as needed.
2. Orients new jurors and arranges for California Grand Jury Association training.
3. Makes committee assignments and changes these assignments as needed.
4. Proposes ad hoc committees as needed subject to full panel approval.
5. Assigns complaints accepted by the full panel to the appropriate committee.

6. Compiles a complaint log of all complaints received by the grand jury, and their disposition.
7. Establishes a complaint committee if warranted by the volume of complaints.
8. Delegates an individual or committee (Housekeeping) the responsibility of collecting and date-stamping received mail (Administration mailbox and Post Office box), and monitoring grand jury telephone messages.
9. Reviews and monitors the grand jury budget, requesting guidance of the Court as needed, and reports expenditures to the CEO's office. The foreperson may need to address the BOS if the budget needs to be supplemented.
10. Updates the CEO on projected travel costs as soon as the geographic distribution of jurors is known, and no later than August 15.
11. Approves and signs reimbursement forms for jurors and the combined reimbursement statements and purchase orders after they are prepared by the treasurer.
12. Pre-approves requests for up to two overnight stays per week by jurors who reside more than 30 miles from the grand jury office and are to serve in Ukiah on consecutive days.
13. Consults with the Supervising Judge, District Attorney, or County Counsel on investigative matters before the grand jury as deemed necessary by the foreperson or as directed by a vote of the full panel.
14. Presents to the full panel reports reviewed by the Con-Edit Committee for supermajority approval.
15. Submits to the Supervising Judge and County Counsel for their review all final reports prior to publication.
16. Submits to the Supervising Judge and County Counsel any documents that might establish policy for the grand jury, including changes to this Procedures Manual and its forms that have been authorized by the full panel.
17. Signs all general correspondence that represents the wishes, judgment, or response of the grand jury and reviews correspondence to be signed by committee chairs regarding on-going investigations.
18. Reviews committee schedules and investigation plans and encourages committees to operate in an efficient and cost-effective manner. In order to limit per diem and mileage charges, committee meetings and interviews should be, if possible, scheduled for the same day.
19. Serves as the official public spokesperson for decisions or statements of the grand jury. Speaks to media contacts and to interested groups, on request, and authorizes press releases. The foreperson may delegate specific speaking assignments to a member of the panel.

20. Administers oaths to subpoenaed witnesses and other witnesses when appropriate. (Witness Oaths are in Appendix B)
21. Writes a letter to the Supervising Judge summarizing the grand jury's year's work that serves as the foreword to the Consolidated Final Report.
22. Delivers to the Supervising Judge at least two copies of the Consolidated Report, one of which is sent to the California State Archivist. (Penal Code §933(b))
23. Collects keys, Grand Jury Procedures Manuals and Completion of Service Forms from out-going jurors. (Form appears in Appendix A)
24. Is available, on reasonable notice, for 45 days after the end of the term to respond to questions by the current foreperson and to clarify recommendations of the final report. (Penal Code §933(a))

B. Foreperson Pro Tem

1. Is nominated and elected by the full panel and should attend the CGJA training for forepersons and forepersons pro tem.
2. Assumes the foreperson's responsibilities in the absence of or at the request of the foreperson.
3. Serves on the transition team at the end of the term to ensure continuity between out-going and in-coming panels.
4. Acts as the foreperson in the event of a vacancy in the office of the foreperson until the Supervising Judge officially selects a replacement.
5. When asked, the foreperson pro tem assists the foreperson with matters of administrative procedure, committee responsibilities, personality issues, morale, and in any other way the foreperson might request. (Penal Code §916.1)

C. Secretary

1. Prepares the minutes of full panel meetings and emails them to the foreperson for review and distribution.
2. Records attendance at full panel meetings and places attendance sheet into foreperson's file for signature. Indicates in the minutes the times of any juror's late arrival and/or early departure, and records juror's recusals.
3. Distributes any full panel handouts to absent jurors by placing them in their boxes.
4. Records times of arrival and departure of non-jurors during any part of a meeting. Non-jurors are not permitted in meetings during deliberations or voting. (Penal Code §939)

5. Records all motions and seconds to motions. Reads the motion to the jurors before a vote is taken.
6. Records the vote on all motions as pass or fail. Only abstentions and recusals will be recorded by name.

D. Treasurer

1. Works with the foreperson to estimate juror travel expenses based on the geographic distribution of the panel and estimates travel to complete approved investigations.
2. Ensures the accuracy of grand jurors' reimbursement claims and submits them, along with a combined reimbursement statement, to the foreperson to sign, and submits to the CEO staff for payment approval.
3. Reviews and forwards to CEO staff any bills received through the grand jury mailbox, e.g. the post office box renewal and phone bills.
4. Orders grand jury office supplies as needed and submits order to CEO staff.
5. Prior to each full panel meeting, obtains from CEO staff an updated budget statement and presents a financial report at each full panel meeting.

5. COMMITTEES

State law does not refer to grand jury committees. However, the grand jury cannot be effective if everything is handled by the jury as a whole, so the grand jury establishes committees.

All grand jury members must serve on at least one committee during the term of the jury, but they should ordinarily not serve on more than three standing committees during the term. The foreperson is a member of each committee, but may not usurp the duties of the committee chairperson. The chairperson is responsible for presiding over the committee's meetings.

Grand jury members should not serve on a committee in which there is likelihood of a potential conflict of interest or appearance of bias.

At the beginning of the term, the foreperson will distribute the Availability and Emergency Contact Information form. Using this form, the foreperson will propose committee members based on the jurors' availability, experience, and residence. Consideration should be given to the potential for conflicts of interest when making committee assignments.

A juror desiring a change in assignment should discuss the matter with the committee chairperson and the foreperson. A change in membership status can be granted by the foreperson.

There are two types of committees: Internal and Investigative.

A. Internal Committees

Internal committees carry out the jury's administrative tasks. These committees are the Executive Committee, Continuity/Edit (CON-ED), and Housekeeping.

1. Executive Committee

The Executive Committee is comprised of the grand jury officers and, if designated by the foreperson, the committee chairs. The Executive Committee provides leadership and ensures the smooth operation of the grand jury.

At least one member of the committee should be readily available in Ukiah to answer and distribute phone messages and collect and distribute the grand jury mail several times each week. All mail must be date stamped before distribution.

2. Continuity/Edit Committee (Con-Edit)

- Reviews and updates as needed the Procedures Manuals and the grand jury forms, including printing forms to replenish the supply. All substantive changes to the Procedures Manual must be approved by the full panel and reviewed by the Supervising Judge and County Counsel. Copies can be found on the grand jury laptops; final drafts that can be edited for update are on the secure room main computer.
- Monitors the receipt of the prior year's report responses by using the Response Tracking Log and contacts required responders who have not submitted a timely response.
- Reviews report responses for Penal Code §933.05 compliance and prepares the Acknowledgement of Response Letters for the foreperson's signature.
- Prepares a copy of the prior year's final reports and responses for the foreperson to give to the Clerk of the Court. (Penal Code §933(b))
- Coordinates with the Executive Committee to maintain the records of the grand jury. This includes disposition of obsolete records.
- Maintains and updates the spreadsheet History of Grand Jury Reports, which is published online on the grand jury website.
- Coordinates with the foreperson to:
 - ensure that all of the prior year's reports and responses have been posted on the grand jury website;
 - post current year reports at least two days after transmittals have been sent to the required respondents.
- Prepares and submits to the foreperson an electronic file of the prior year's Consolidated Final Grand Jury Report with Responses no later than November 1.
- Requests the Mendocino County Department Head roster from the CEO's office periodically during the term, a copy of which is kept in the contact binder near the copy room telephone. The contact binder is a compendium of any useful contact lists.
- Updates the Grand Jury Media list annually. A hard copy is kept in the contact binder near the copy room telephone.
- Prepares and distributes timely press releases to inform the media when individual final reports have been released.
- Provides assistance to investigative committees in the use of the Report Template for preparation of new reports as needed.

- Meets with at least two representatives of each investigative committee to review and edit draft committee reports for clarity, consistency, and factual accuracy.
- Ensures that each report submitted is accompanied by a completed Report Contacts & Mailing List with name, title, address, e-mail and phone number for individuals who were interviewed.
- Distributes all court-approved reports with a transmittal packet to all respondents. The transmittal packet includes the following forms: the report in PDF format, a Required or Requested Transmittal Letter with the foreperson's signature, the Summary of Penal Code §933.05, and the Required or Requested Response Form.
- Sends reports to individuals interviewed who requested a copy as indicated on the Report Contacts & Mailing List.
- Sends reports to the media and libraries.
- Assembles the consolidated final report, which includes the foreperson's letter to the Supervising Judge, a Table of Contents, the individual reports, and optional cover art.
- Prepares and submits to the foreperson no later than November 1 an electronic file of the prior year's Consolidated Final Grand Jury Report with Responses, which in turn will be submitted to the Superior Court.
- Sends a copy of the consolidated report to the California Grand Jury Association.
- Monitors and updates the content on the grand jury website: <https://www.mendocinocounty.org/government/grand-jury>

3. Housekeeping Committee

This is a committee appointed by the foreperson that is responsible for the general cleanliness of the grand jury secure offices and kitchen, and other office duties as assigned. On the last day of the current term this committee sets up the grand jury room for the incoming jury, which includes making copies of the Procedures Manual and required forms, i.e. IRS Form W-9, California Form 700, and Availability and Emergency Contact Information.

B. Investigative Committees

Investigative committees consist of established standing committees and appointed ad hoc committees. They are responsible for conducting investigations, determining the viability of an investigation, and writing reports.

The grand jury decides which governmental entities and issues to investigate within the statutory limits. It must investigate at least one aspect of county government each year.

(Penal Code §925) The previous grand jury may pass on suggestions for possible investigations. Grand jurors themselves might suggest possible issues for investigation. Investigations may also be based on citizen complaints.

Approval of at least twelve members of the grand jury is required to begin an investigation. While some background research can be done by a committee before the grand jury approves an investigation, no interviews, site inspections or records requests can be undertaken until the investigation is formally approved.

Pursuant to the "Rule of Two" (Penal Code §916) all investigatory interviews must be conducted by at least two members of the grand jury.

Investigations should be started as early in the year as possible in order to allow sufficient time for a thorough investigation and the careful and deliberate writing, editing and re-writing of each of the individual reports. A completed report can be released at any time during the term after County Counsel review and approval of the Presiding Judge. All reports are compiled into the consolidated final report.

A quorum is more than fifty percent of the full committee membership. Action can only be taken if a quorum is present and a favorable vote shall be considered anything approved by a majority of the committee members present.

Each committee should create and maintain a file on every project assigned to it. Written records and notes should be kept of research, inspections, and interviews. The official committee files are kept in the file cabinets in the copy room.

1. Committee Chair

Each committee will select a chairperson from among its members. It is useful for the committee to also select a member to record notes. The chairperson, or designee:

- Schedules and facilitates committee meetings
- Arranges for interviews and site visits, including presenting the Admonition of Confidentiality to all interviewees
- Completes the Committee Meeting form for attendance and minutes. Minute taking may be delegated to an appointed committee member
- Maintains the committee document file, which shall include the complaint, source documentation, committee minutes, interview and inspection notes, and the interview admonitions
- Reports committee progress to the full panel

- Coordinates the report-writing process and presents the completed draft to the edit committee
- Disposes the document file and notes, excluding archival material, at the end of the term

2. Investigative Powers

The primary duty of the grand jury is to inquire into the operations of local governments, including but not limited to cities, county, special districts, school districts, and joint powers of authority. The grand jury may also investigate the conduct of the officials who run or oversee those local agencies or their divisions or departments. In addition, the grand jury is expressly authorized to investigate and report on the salaries of elected county officials and the need to improve, abolish, or create county offices.

Penal Code §916 is the source of the grand jury's power to decide for itself what it wants to do, how to do it, and how much energy to invest in doing it. The investigative powers of the grand jury are:

Juror Identified Public Offenses

A member of a grand jury who knows, or has reason to believe, that a public offense, triable within the county, has been committed, may declare it to his fellow jurors, who may thereupon investigate it. (Penal Code §918)

Removal of Public Officers

Inquire into willful or corrupt misconduct including malfeasance, misfeasance, and nonfeasance. (Penal Code §§ 919(c), 922 and Government Code §3060)

Government Operations

Inquire and report on county government operations to be assured that the responsibilities are being fulfilled efficiently, honestly, and in the best interest of the public. (Penal Code §§ 925, 928, 933.1)

County Records and Accounts

Audit books, records, and accounts of all county offices; contract for an auditor to conduct such audits. (Penal Code §§ 925, 926)

City Records and Accounts

Examine the books and records of any incorporated city, investigating and reporting upon the fiscal matters of any such city, and making recommendations regarding such fiscal matters. (Penal Code §§ 925(a), 926)

Special District Records and Accounts

Examine the books and records of any special-purpose assessing or taxing district located wholly or partly in the county and investigating and reporting on the method and system of performing the duties of such district. (Penal Code §§ 925(a), 933.1, 933.5)

Government Audit

Report and make recommendations on its own audit of county records and accounts and report on county officials' records and accounts as ex-officio officers of any district. (Penal Code §925)

Special Counsel and Special Investigators

Employ special counsel and investigators as requested by the grand jury and approved by the Supervising Judge. (Penal Code §936.5)

Return of Money Due

Order the district attorney or county counsel to sue for money that the jury believes is due and owing to the county. (Penal Code §932)

Salaries of Elected Officials

A grand jury may, and when requested by the board of supervisors shall, investigate and report upon the needs for increase or decrease in salaries of the county-elected officials. A copy of such report shall be transmitted to the board of supervisors. (Penal Code §927)

Response Follow-up

Study the report of the previous grand jury and review the recommendations of recent grand juries for improvements. (Penal Code §§ 924.4, 939.9)

Ombudsman

Serve as ombudsman for the citizens of the cities and the county.

Unindicted Prisoners

Inquire into the case of every person imprisoned in the jail of the county on a criminal charge and not indicted. (Penal Code §919(a))

Inspect Jails

Inquire into the condition and management of the public prisons within the county. (Penal Code §§ 919(b), 921)

Land Transfers

Investigate and inquire into all sales and transfers of land and into the ownership of land which under the State laws might escheat to the State. (Penal Code §920)

Welfare and Institutions

Inquire into welfare records pertaining to the investigation, supervision, relief, and rehabilitation of welfare recipients. (Government Code §17006)

Non-Profit Corporations

Investigate any non-profit corporation established by or operating on behalf of a public entity. (Penal Code §933.6)

3. Investigations Resulting from Complaints

The grand jury may decide to conduct an investigation based on a citizen's complaint.

Each complaint must be reviewed by the entire grand jury, which decides by a supermajority vote if it should be rejected or accepted for investigation. County Counsel may be consulted if there is any question as to whether the topic is within the grand jury's jurisdiction.

A complaint may be referred by the jury to a standing or an ad hoc committee for preliminary research before the jury considers whether to conduct an investigation. There must be no contact with anyone outside the grand jury unless and until the full panel votes to conduct an investigation. The committee reports back to the full panel, using the Committee Review Checklist for Proposed Investigation form, with a recommendation as to whether or not the complaint meets the criteria of the grand jury's mission.

The grand jury is not required by law to accept or act on the complaints it receives. The reasons for rejection of a complaint may include:

- Complaint is outside the grand jury's jurisdiction
- Complainant should seek legal advice or advice through other channels
- Complaint has no merit
- Complaint appears to be politically motivated
- Complaint involves issues in a current election campaign
- Complaint involves matters subject to current litigation
- Complaint involves matters that were subject to prior resolved litigation
- Complaint involves matters that have been resolved

- Complaint requires more resources than the grand jury has available
- Complaint comes in too late in the term for proper investigation

This list is not exhaustive. The grand jury needs no particular reason to decide not to conduct an investigation based on a complaint. The foreperson is responsible for acknowledging the receipt of a complaint from the public.

4. Types of Investigative Committees

In recent years, the Mendocino County Grand Jury investigative committees have been Administrative, Cities, Criminal Justice, Education, Health and Human Services, Special Districts, and Ad Hoc.

Administration

Investigates complaints and topics of concern related to county administration. Members of this committee attend all Board of Supervisors meetings.

Cities

Investigates complaints and topics of concern related to the four incorporated cities in the County.

Criminal Justice

Penal Code §919(b) requires that the grand jury inquire into the condition and management of “public prisons” within the county. A “public prison” is a state-operated correctional facility. In Mendocino County, the only such facilities are Chamberlain Creek and Parlin Fork Conservation Camps. While an inquiry into the condition and management of public prisons is required, the grand jury is not required to write a report following its inquiry.

This committee also considers all matters concerning law enforcement and public safety. The committee may investigate and report on the District Attorney, County Probation Department, Public Defender, Sheriff’s Office, County Jail, Juvenile Hall, Animal Control, city police departments, and law enforcement emergency services and dispatch operations.

Education

Investigates school related complaints and topics of concern (excluding curriculum), and conducts public school oversight inquiries.

Health and Human Services

Investigates complaints and topics of concern related to county programs and county funded non-profit agencies that provide a wide range of services including public health, environmental health, mental and physical health, substance abuse, senior centers, subsidized housing, and animal protection. Also investigates the Health and Human Services Agency response to emergency situations and natural disasters.

Special Districts

Investigates complaints and topics of concern related to the numerous special districts that operate to provide fire protection, water, sewer, cemetery, and other public services to the citizens of the County. Prospective members of the Special Districts Committee are strongly encouraged to participate in the LAFCo online workshop offered by CGJA.

Ad Hoc Committees

Ad hoc committees are formed as needed with members chosen by the foreperson in concurrence with the grand jury as a whole to conduct preliminary inquiries. These inquiries may become investigations after presentation to and approval by the full panel.

C. Investigatory and Legal Assistance

The grand jury is authorized to employ auditors and other experts upon prior court approval to aid in the jury's duties related to its investigations of the county, cities, joint powers agencies, districts, and LAFCo. (Penal Code §926) However, the grand jury may not spend money nor incur indebtedness in excess of the amount budgeted by the Board of Supervisors, unless the proposed expenditure has been approved in advance by the Presiding Judge of the Superior Court, following notification to the Board of Supervisors.

In addition, the grand jury may need legal advice during its term. County Counsel advises the jury about legal matters related to its internal operations and investigations and the District Attorney provides assistance concerning the indictment and accusation processes. In the event that the employment of special (outside) counsel or special investigators appears necessary, a written request should be made to the Attorney General of the State of California. If the Attorney General does not provide a timely response, the grand jury can request permission from the court to allow the jury to hire private counsel. It should be understood that jurors cannot reveal any information about an investigation to an expert or private counsel until after the court has authorized that person's retention; for that reason, all contacts with a prospective expert or counsel must wait until after the court approval has been obtained.

In investigations of alleged misconduct of a public official, it can be difficult to determine if the jury should use the County Counsel or District Attorney as its advisor. Before the foreperson asks either office for assistance in investigating complaints about public officials, the grand jury should answer the following questions:

- Is the complaint a civil matter, a criminal matter, or one involving an official's willful or corrupt misconduct? If it is a civil matter the grand jury should consult the County Counsel. The District Attorney provides advice on criminal matters and those involving official misconduct (accusations).
- Has there been an identical complaint made to the County Counsel or District Attorney about the official? If so, the grand jury should determine if the matter has been resolved or if the County Counsel or District Attorney can provide input to the grand jury.
- Is the matter in litigation? If so, the grand jury should defer its investigation until the conclusion of the litigation. Even then, the litigation itself cannot be investigated; the grand jury may only concern itself with the operations of local governments, and may not consider the litigated issues.

D. Inspections

State law requires that all fact-finding forays (e.g. tours, inspections) must be made in groups of at least two or more jurors. (Penal Code §916)

Committees may want to arrange tours to various county, city, or district facilities to see their operations first hand. These should be scheduled early in the term if possible. Jurors should dress appropriately for the location visited and behave professionally, observing the standard code of conduct.

Committee members need to understand that they represent the full grand jury.

Committee chairs should coordinate inspections so that the same department or physical plant will not be visited more frequently than necessary.

Immediately after the inspection the committee should discuss the site visit and agree on the information gained. This documentation is added to the investigative file maintained by the chair.

E. Interviews

The purpose of interviews is to obtain information, to verify information, and to acquire new leads and sources. The entire committee may conduct the interview or the committee may appoint a team to do it and report back. At least two grand jurors must be present at

each interview. (Penal Code §916) All members of the committee should try to attend all of the interviews.

Penal Code §933.05(e) states that the grand jury shall meet with the subject of an investigation unless the court determines that such a meeting would be detrimental. Fairness requires that the grand jury interview the person who will be held responsible for any criticisms contained in a grand jury report, and that person may be interviewed more than once, if and when the investigation uncovers new issues.

For reasons of confidentiality, the grand jury should not communicate with witnesses about the nature or contents of an investigation even during telephone and written communications used to schedule interviews and tours.

Committees should obtain as much information about the issue as possible prior to any interviews. In order to ask meaningful questions, review general reference materials as well as any complaints and any earlier grand jury reports.

1. Interview Procedure:

- Committee members need to understand that they represent the full grand jury.
- No fewer than two jurors may conduct an interview.
- The committee prepares questions in advance. A copy of the questions is given to members of the committee (**not** to the interviewee) to facilitate note-taking during the interview. One designated member asks the prepared questions. All members are encouraged to ask additional questions at the appropriate time.
- The chair asks that the Admonition of Confidentiality be signed and collects contact information.
- Committee members introduce themselves to the interviewee.
- If the interview is to be recorded, the chair informs the interviewee of this fact. After starting the recording, the chair states the date, time and place of the interview, the names of those present, and confirms with the interviewee that the recording is being made with his/her knowledge. Interview recordings should be retained with the investigation file for an appropriate period of time.
- If appropriate, the Witness Oath is administered by the foreperson or the foreperson pro tem. (Penal Code §939.4)
- Questions are asked in a courteous, respectful manner. A neutral tone is advised to avoid influencing responses.
- Jurors must not offer suggestions, answers, or opinions to the interviewee that would imply they have preconceived opinions of the issues under investigation.

- Jurors must never commit themselves, or the grand jury, to do or not to do anything as a result of an interview.
- Jurors should not discuss the subject among themselves in front of the interviewee.
- When questioning is complete, the chair asks the interviewee if they have any additional pertinent information or documentation, or if they think that the committee should speak to anyone else.
- The chair informs the interviewee that the committee may recall the interviewee for additional information. The chair also reminds all present of the importance of maintaining confidentiality.
- Immediately after each interview the committee should discuss the interview and agree on the information gained. This documentation is added to the investigative file maintained by the chair. Committees report their progress at regular full panel meetings to keep all jurors informed.

2. Exit Interviews (Penal Code §933.05(d))

The exit interview gives the committee a last chance to verify its findings with the person who is responsible for the activity that the jury has investigated. The committee should conduct an exit interview at the conclusion of every investigation. There may be more than one exit interview.

During the exit interview the committee reviews with the interviewee those findings that relate to that person or entity for which they are responsible and asks if the information is correct. Other than the findings, no other information about the report, such as the grand jury's recommendations, should be revealed.

If the person interviewed provides any information during the exit interview that casts doubt on the accuracy or fairness of the report, the committee modifies the report or re-opens the investigation.

F. Closing Investigation Files

At the end of a grand jury term, the following procedures should be followed for each investigation:

1. If it is determined that litigation is threatened or pending, and after consultation with County Counsel, the committee investigation file, including every individual's notes, must be kept until the end of the term, or longer. All duplicates should be shredded.
2. All personal files and notes should be shredded. This includes deleting all emails (including those on personal electronics) and electronic files.

3. If an investigation did not result in a report, the file should be given to the foreperson.

Note: Reports cannot be released by the grand jury after the jury is discharged. Pursuant to Penal Code §924.4, the grand jury can pass forward to the next grand jury a civil investigative file if the current grand jury has not been able to write a report on the investigation, either because of a lack of time or resources. This action requires a supermajority vote. The succeeding grand jury is allowed to review the contents of that file. The succeeding grand jury is not obligated to conduct an investigation on that matter; if it does, it must verify each piece of evidence that is contained in the file.

If there is concern that an investigation or report may result in a claim of defamation, the investigative file should be reviewed by County Counsel; it may be maintained by the County Counsel until the matter is resolved.

All confidential materials, other than the investigative files passed forward or given to County Counsel as described above, must be shredded or otherwise disposed of in a secure fashion.

G. DOCUMENT RETENTION TABLE

Document Type	# Years to Hold	# Copies to Hold
Consolidated Year-End Final Reports	Permanently as Hard Copy and Web Archive	2 Hard Copies Multiple copies of recent reports for distribution
Responses	Permanently as Hard copy and Web Archive	2 Hard Copies with Consolidated Report
Investigation Files (Labeled and Dated)	Non-controversial reports for 2 years. Sensitive reports as recommended by County Counsel and directed by investigating committee	1 original file Highly sensitive files delivered by foreperson to County Counsel's office for retention
Procedures Manuals	All revised versions for at least 5 years	Current version on website Past versions at least 1 copy soft and hard
Law Books and CGJA Compendium of GJ Law	Until New Edition	1
Complaints and Log	Log: Permanent Complaints: 2 years	1 Hard Soft Copy on foreperson's Computer
Investigation Matrix	Permanent	On Website Soft Copy on foreperson's computer
Internal Communications	2	2

6. REPORTS

A. Writing Reports

Not every investigation will result in a report. A small number of important reports is preferable to a larger number of inconsequential ones. Keep the following questions in mind from the beginning of an investigation, and review them before and after drafting a report:

Why Write Reports?	When to Write a Report
<ul style="list-style-type: none">• Evaluate government operations• Inform of shortcomings• Recommend appropriate changes• Persuade entity to make needed changes• Commend (as appropriate)• Communicate to the public	<p>Only if it will:</p> <ul style="list-style-type: none">• Discuss important issues and• Recommend productive changes or• Dispel significant public misconceptions• (Do not write inconsequential reports)

A final report is not always required to address a complaint or achieve a beneficial outcome. The process of investigating may, in and of itself, lead to corrective action.

If the investigation justifies a report, the investigative committee should start the draft as soon as it has a fairly clear picture of the facts and issues. The report should follow the format adopted by the grand jury. The template is found in the Forms Appendix A and is also available as an electronic form on the grand jury computers.

The investigative committee should use the Report Critique Form as it drafts each report. Using this form will help ensure that the report is logically organized and contains all the necessary components.

The most important components of a report are **facts** and **findings**.

A “fact” is a piece of information that has been verified or confirmed as being true. While information in an official government report or publication does not ordinarily need to be confirmed, statements made during interviews or in correspondence should be triangulated (that is, confirmed by two other information sources, such as other interviews or documents). Newspaper accounts and information from the internet should always be triangulated; they are not always reliable.

Every report must contain findings as well as facts. A “finding” is a judgment or conclusion, which can be neutral, commendatory or critical. Findings flow logically from the verified facts presented in the Discussion. They often imply approval or disapproval

or describe a problem. Each finding contains a single idea. A finding bridges the analytical gap between facts and any recommendations.

Effective Findings

- **Conclusions** or judgments about what the facts mean
- **Flow logically from the facts** in the Discussion
- Often **imply approval** or **disapproval** or **describe a problem**
- Contain a **single** idea
- **Show the need for action** if appropriate

Some investigations will result in findings that the agency or department is well run; if a report is written, it might not contain any recommendations, but it must have at least one finding.

On the other hand, if one or more problems are identified in the findings, the report must contain at least one recommendation for solving each problem. Penal Code §916 requires that any problems identified in the report be “accompanied by suggested means for their resolution, including financial, where applicable.” The jury should avoid recommending an expenditure that cannot realistically be funded.

As the investigative committee concludes its investigation and discusses each draft, the report will be revised as necessary. Reports are ordinarily re-written several times. Each draft of a report should be numbered and dated so that the latest version of the report can be identified.

The investigative committee will send the completed draft of the report to the Edit Committee. The Edit Committee will recommend changes as needed.

Note that reports cannot be released by the grand jury after the jury is discharged. They would have no legal effect and there would be no legal compulsion for officials to respond to it.

B. Report Format

Every report should use the following format:

Summary: This section contains a brief overview of the most important issues, findings, and recommendations of the report. It explains why the grand jury chose to investigate the particular topic. This is the one section that everyone who sees the report will read, so it should tell the story. This is the last section that is written and is frequently used as a press release.

Background: This section describes the circumstances and events that led to the investigation.

Methodology: This section lists the methods and sources used by the grand jury to develop the facts, findings, and recommendations contained in the report. In order to protect the identity of the interviewees, names are not included.

Discussion: This section contains the verified facts of the investigation, clearly organized in a logical order by topic. Except for reliable government documents, such as data from an adopted budget or a published report, all information must be triangulated. If the evidence from various sources is in conflict, credibility must be assessed.

Findings: Findings are the conclusions or judgments that logically flow from the verified facts. This is where the grand jury describes what the entity is doing, and the impact that this has on the agency, its customers, or the general public. Every report must have findings. (Penal Code §916) Findings should be numbered F1, F2, etc.

Recommendations: Recommendations are required when the findings identify a problem. Each recommendation must be based on and flow logically from one or more findings. A recommendation states **what** should be done to mitigate or fix the problems identified in the findings, **who** should perform the recommended action, and **when** the recommended action should be completed. The recommendations must be specific, practical and financially feasible. Recommendations should be numbered R1, R2, etc.

Responses: In this section the report identifies who must respond to specified findings and recommendations, which are referred to by number. Governing boards and elected officials are required to respond. The grand jury can request appointed department heads and other administrators to respond to specific findings and recommendations.

Glossary and Appendix: These sections are optional. The glossary can be placed after the Summary or before the Appendix. It defines words of art and acronyms. The Appendix is placed at the end before any Disclaimer. It can contain data, maps, excerpts from statutes, or other information not essential to the text of the report. However, it may not contain “raw evidence” (unverified information, such as a transcript of an interviewee’s testimony or a news article).

Disclaimer: This section is included if one or more jurors is recused from participating in the investigation due to a real or perceived conflict of interest.

C. **Report Review**

The investigative committees will submit completed drafts of their reports to the Edit Committee. The investigative committee chair and one other member attend the edit

session. The Edit Committee reviews the draft for grammar, style, and format. Edit will recommend changes but may not change the report content. The Edit Committee may return the report to the investigative committee for re-drafting.

When editing is complete, the report will be forwarded to County Counsel for review who might send back suggestions for changes, or ask to meet with the committee to review the report.

Once approved by County Counsel the report is presented to the full panel. The foreperson should provide a copy of the final draft to all non-recused members at least one week before the full panel session to allow time for the members to become familiar with it. The report will be discussed by the full panel, which can either approve or reject it by a supermajority vote, or refer it back to the investigative committee for additional work. The revised report will need to be reviewed again by the Edit Committee and County Counsel. Following this review, the report comes back to the full panel for a vote.

When the grand jury has approved the report, it is submitted to County Counsel and the Presiding Judge for final review.

D. Defamation

Defamation is a false statement about an identifiable person or corporation, which damages the person's or corporation's reputation. Written defamation is referred to as "libel" and oral defamation as "slander."

Penal Code §930 states, "If any grand jury shall, in the report above-mentioned, comment upon any person or official who has not been indicted by such grand jury, such comments shall not be deemed to be privileged."

Because grand jurors can be held personally liable for damages for defamation of persons or corporations wrongly disparaged in grand jury reports, it is critical that the grand jury be certain of the accuracy of any statement which accuses a person of a violation or a crime (such as a violation of the Brown Act or a Penal Code provision) or a claim that a person investigated by the grand jury is corrupt or incompetent. While there are some legal safeguards that protect grand jurors, it is best to avoid claims of defamation whenever possible. To this end, the grand jury shall not use personal names but may use official titles.

Because the truth of the supposedly libelous statement is always a defense, the best way for the grand jury to avoid a defamation lawsuit is to make sure that every sentence in its report is true. Every fact must be verified (triangulated), and every finding must be based on verified facts.

Litigation is more likely if the plaintiff feels insulted. Reports should not be sarcastic in tone. Jurors should avoid making sweeping condemnations of any identifiable person or corporation. Do not mention a person's supposed motives, morality or personal life. Do not label anyone's conduct. Stick to the facts; let the reader draw his or her own conclusions.

E. Release of Reports

After the Supervising Judge and County Counsel have reviewed the report, the Edit committee:

1. Enters the release date on the report and begins the process of delivering it to those who are required and requested to respond. The date of delivery to the listed respondents **must be at least two working days before release of the report** to the press and general public. (Penal Code §933.05(f))
2. Prepares a transmittal packet for each responsible officer, agency, or department asked to respond. Transmittal packets are delivered and emailed and include:
 - The report, in PDF format for email
 - Transmittal letter with foreperson's signature
 - Summary of Penal Code §933.05
 - Required/Requested Response form
3. Works with the designated contact in Information Technology to post each report on the grand jury website two or more working days after its release to the respondents. Any back-up documents referenced in the report are also posted at this time.
4. Releases final reports to media contacts. This can be achieved through email, postal mail, or hand-delivery. The report should be emailed using the Press Release form cover letter.
5. Releases all of the individual reports at the end of the term in both a printed and electronic consolidated Final Report. A copy is given to the Presiding Judge during discharge of the jury, which takes place before the impanelment of the next year's jury.

F. Responses to Grand Jury Reports Pursuant to Penal Code §933

Penal Code §933 allows the grand jury to require only *elected officials* and *governing bodies* to respond to the grand jury's reports. The elected officials to whom the grand jury directs its recommendations are required to respond to the reports' findings and recommendations within 60 days. The governing bodies have 90 days to respond. Responses are submitted to the Presiding Judge.

The grand jury may not *require* department heads or other officials who are appointed (rather than elected) to respond to reports. However, the grand jury may *request* a response from an appointed department head or official.

Note that the Board of Supervisors appoints the following: CEO, Clerk of the Board, County Counsel, Agriculture Commissioner, Museum Director, Chief Child Support Attorney, Public Defender, Alternate Defender, Air Quality Management District Officer, County Librarian, and Water Agency Director. All of these department heads answer directly to the Board of Supervisors.

The CEO appoints the Directors for Human Resources, Planning Building Services, Transportation, and Health and Human Services Agency (which includes Behavioral Health, Public Health, and Social Services). All of these answer directly to the CEO and ultimately to the Board of Supervisors.

Penal Code §933.05 requires that responses contain specific information. The respondent must state whether he or she agrees or disagrees with each finding. Disagreement with all or part of a finding must be explained.

Further, the respondent must state, with regard to each recommendation, the extent to which the recommendation has been implemented, or when it will be implemented, or why the department or public entity will not implement the recommendation. See Penal Code §933.05 for a more thorough description of the information that must be contained in the response.

When both an elected county department head and the Board of Supervisors are directed to respond to the same report, the Board may address only those budgetary or personnel matters over which it has some decision making authority; the elected department head must respond to all aspects of the findings and recommendations. (Penal Code §933.05(c))

The grand jury, through its Continuity Committee, should monitor the responses to the prior year's reports to determine if each of the boards and elected officials has responded on time and in accordance with §933.05. A letter of acknowledgement of receipt, signed by the foreperson, is sent to the respondents.

If a board or elected official fails to respond to one or more findings or recommendations, the jury should send a letter advising the board or official of the requirements of §933.05. A board's or official's responses, if inadequate, may prompt the succeeding grand jury to conduct a follow-up investigation of the agency. The succeeding jury must conduct its own investigation, and cannot rely on any of the facts or findings of the original jury, but must instead conduct its own research and interviews.

G. Public Statements

Penal Code §933(a) provides that the foreperson, or designee, must be available for 45 days after the end of the term to “clarify the recommendations of the report.” §933 does not indicate to whom these clarifications may be made, so presumably the foreperson and designee can discuss the recommendations (but not the findings or the investigation generally) with any person who requests clarification. §933 does not authorize the release of background information, votes or information about deliberations, or evidence adduced by the grand jury. The foreperson or designee may not “clarify” the facts or findings in the report.

It is important to remember that a grand juror who willfully discloses any evidence presented to the grand jury, or anything any grand juror has said or how any grand juror has voted, is guilty of a misdemeanor. (Penal Code §924.1)

Except for the purpose of “clarifying recommendations,” neither the foreperson nor any other grand juror should comment in the news media, or to anyone else, as to anything that is not explicitly contained in the consolidated Final Report, nor as to any aspect of the grand jury’s investigations.

Many matters requiring grand jury action can be successfully completed only if absolute secrecy is maintained throughout the inquiry. With regard to watchdog investigations, whistle-blowers will not come forward unless they can be confident that their identities will be safeguarded.

H. The Grand Jury’s Website

The grand jury has a page on the County’s website, which is maintained by the County’s Information Technology Department. It can be accessed by going to the County’s home page at <https://www.mendocinocounty.org/> (and clicking on “Government” and “Grand Jury”) or directly at <https://www.mendocinocounty.org/government/grand-jury>.

The grand jury’s webpage contains general information about the grand jury, final reports and responses from current and previous years, and copies of the complaint form and grand juror application form.

The webpage should be updated as necessary each year. The Con-Edit Committee is responsible for monitoring and updating the content of the website. The foreperson or designee contacts County IT to modify the information on the website.

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7. ADVISORS TO THE GRAND JURY

In the performance of its duties, the grand jury may, through the foreperson, ask the advice of the Presiding Judge, County Counsel, or the District Attorney. Unless such advice is asked of the Presiding Judge or County Counsel as to civil matters, they shall not be present during the sessions of the grand jury. (Penal Code §934)

In Mendocino County, the Presiding Judge provides administrative guidance to the grand jury about its membership and operations but does not provide legal advice. The grand jury will receive its legal advice from one of the attorneys described below.

A. The District Attorney/Attorney General

The District Attorney may at all times appear before the grand jury for the purpose of giving information or advice relative to any matter pertinent to the grand jury, and may interrogate witnesses before the grand jury whenever he or she thinks it necessary. (Penal Code §935) While §935 allows the DA to give advice on any topic, he or she usually assists the grand jury on matters only if County Counsel's office is recused.

At any time the grand jury concludes that money is due to the county and not collected, it may ask the District Attorney to institute legal action for its collection.

If during a civil investigation the grand jury uncovers evidence of criminal activity, the foreperson should promptly consult with the District Attorney.

The Attorney General of the State of California is also available for advice and assistance, but should only be solicited if the District Attorney has a conflict of interest or is otherwise unavailable to assist the grand jury with regard to a criminal matter (including an accusation for the removal from office of a public official). A request for the Attorney General's aid may be made by the grand jury in writing. (Penal Code §936)

B. County Counsel

County Counsel, and his or her deputies, is the civil legal advisor to the grand jury, the County Board of Supervisors, and all County departments, officers, and commissions, and will occasionally provide limited legal services to a special district or school district. County Counsel may assign a deputy to provide legal services to the grand jury when a firewall is necessary.

The grand jury, through its foreperson, should establish a working relationship with County Counsel early in the term, and should feel free to contact the attorney at any time. County Counsel currently provides Brown Act and ethics training. He or she will answer questions about the jury's jurisdiction or procedures. County Counsel will conduct legal

research, at the jury's request. County Counsel can file a motion to obtain confidential public records or obtain a subpoena (subpoena duces tecum) from the court to require witness testimony and the production of records. Finally, County Counsel will review the jury's draft reports for legal sufficiency.

Inasmuch as County Counsel acts as legal advisor to the grand jury, the office is bound by the secrecy restrictions on grand jury matters and the confidentiality of the attorney-client relationship.

C. California Grand Jury Association

The grand jury may also find it useful to consult the California Grand Jury Association for additional assistance. The CGJA website <http://cgja.org/> provides information and suggested forms. Members of the grand jury are advised to become familiar with the resources available on the [website](#).

8. OATHS, ADMONITIONS AND CRIMINAL FUNCTIONS

A. Oaths

The Oath to Grand Jurors is administered by the Court to all grand jurors on the occasion of their impanelment.

“The foreman may administer an oath to any witness appearing before the grand jury.” (Penal Code § 939.4) The person taking the oath swears or affirms that he or she will tell the truth when questioned by the grand jury (or the District Attorney, in the case of an accusation or indictment). A witness may be asked to take the oath when there is conflicting testimony or when there is reason to believe that it will evoke more accurate testimony. Also, if a court reporter records witness testimony, that reporter is required to take the oath.

The various oaths are found in Appendix B.

B. Accusations

The grand jury is required to investigate allegations of misconduct in office of local public officials and, where appropriate, may choose to initiate proceedings to remove officials from office. Pursuant to Penal Code §919(c), “the grand jury shall inquire into the willful or corrupt misconduct of public officers of every description within the County.” Penal Code §922 states that the grand jury must follow Government Code §3060 with regard to the removal from office of a district, county or city officer. Government Code §3060 provides:

“An accusation in writing 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 officer, for willful or corrupt misconduct in office, may be presented by the grand jury of the county for or in which the officer accused is elected or appointed. An accusation may not be presented without the concurrence of at least twelve grand jurors.”

The penalty for willful or corrupt misconduct in public office is removal from office. Just what constitutes willful or corrupt misconduct justifying removal from office may present a rather technical question upon which the grand jury should seek legal advice from the District Attorney. Generally speaking, if an official commits a crime in connection with the operation of his or her office, or willfully or corruptly fails or refuses to carry out a duty prescribed by law under which the officer holds his or her position, or when the officer’s conduct in office is below the standard of decency rightfully expected of a public official such as a gross and repeated failure to carry out his or her official

routine in a timely and appropriate manner, the official may be removed from office as a result of an accusation. *People v. Hale* (1965) 232 Cal.App.2d, 212, 219.

The accusation itself is a written statement presented by the grand jury and delivered to the District Attorney charging the public official with willful or corrupt misconduct in office. It is distinguished from an indictment, which is a written accusatory statement charging either a private citizen or a governmental official with a public offense or crime. The penalties differ. Conviction under an indictment may result in either incarceration or a fine, or both. But a conviction under an accusation can result only in the defendant's removal from office.

C. Right to Hold Public Session

Whenever the subject matter of an investigation affects the general public welfare and involves the alleged misconduct in office of government officials or 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, though such an event would be unusual. If so ordered, the grand jury shall conduct the examination of witnesses in open session. All deliberations of the jury, including the discussions and voting upon such investigation shall be held in private.

APPENDIX A FORMS

Printable forms are available in the GJ Forms file on the desktops of the grand jury computers and laptops. Files should always be saved as "Save As."

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Grand Jury Committee Meeting

Committee _____ date _____

Location _____ **Purpose** _____

Start Time _____

End Time _____

Attending Jurors (signatures):

Notes:

☐ Continued on other side

Committee Chair (signature) _____ **date** _____

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Mendocino County Grand Jury

Compensation & Expense Claim

Accounts Payable Use Only

Vendor # _____

Batch # _____

Control # _____

Acct Str GJ 862250

Month: _____ **Year:** _____

Juror Name: _____ **Last 4 Digits of SSN:** _____

Mailing Address: _____

Street/P.O. Box

City

ZIP Code[illegible]

continued on following page ☐

Full Panel Meetings: _____ x \$25.00 **Subtotal:** \$ _____

Committee Meetings: _____ x \$10.00 ^[1] **Subtotal:** \$ _____

Total Taxable Compensation: \$_____

Miles: _____ **x \$0.545..... Subtotal: \$** _____

Lunches: x \$17.00 ^[2] **Subtotal:** \$

Lodging: (\$116 maximum, *foreperson approval & receipt required)..... **Subtotal:** \$

Breakfast*: _____ x \$16.00 / Dinner*: _____ x \$31.00 ^[3] Subtotal: \$ _____

Total Non-Taxable Expenses: \$ _____

(Sign in Blue Ink)

Total Amount Due: \$ _____

Juror's Signature: _____ ***date:*** _____

Foreperson's Signature: _____ *date:* _____

[1] For each date enter the number of meetings attended. For more than five hours, or for three or more meetings, charge a maximum of 2.5 meetings or \$25 per day.

[2] Lunch expense may only be claimed after two or more hours of morning service.

[3] Breakfast and dinner expenses may only be claimed in conjunction with approved overnight lodging.

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Mendocino County Grand Jury

Compensation & Expense Claim (continued)

Month: _____ **Year:** _____

Juror Name: _____ **Last 4 Digits of SSN:** _____

[illegible]continued on following page ☐

page _____ of _____

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County of Mendocino Grand Jury
(707) 463-4320
www.mendocinocounty.org/government/grand-jury

grandjury@mendocinocounty.org
Post Office Box 939
Ukiah, CA 95482

ADMONITION OF CONFIDENTIALITY

You are admonished not to reveal to any person, except as directed by the court, which questions were asked or what responses were given or any other matters concerning the nature or subject of the Grand Jury's investigation which you learned during your appearance before the Grand Jury, unless and until such time as a transcript (if any), or a final report of this Grand Jury proceeding is made public or until authorized by this Grand Jury or the Court to disclose such matters. A violation of this admonition is punishable as contempt of court.

I have received a copy and acknowledge this admonition on _____
(Date)

Signed: _____

Print Name: _____

Address: _____

Office Phone: _____ Cell Phone: _____

Email: _____

☐ Please check box if you wish to receive a copy of any published report on this topic _____

(Please attach a business card if available)

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CONFIDENTIALITY NOTICE
Copy and Paste to All Grand Jury Emails

Confidentiality Notice: This electronic mail transmission may contain privileged and/or confidential information only for use by the intended recipient(s). Any usage, distribution, copying or disclosure by any other person, other than the intended recipient is strictly prohibited and may be subject to civil action and/or criminal penalties. If you received this transmission in error, please notify the sender by reply email or by telephone and immediately delete this email transmission and any attachments contained in this email.

Email is covered by the Electronic Communications Privacy Act, 18 USC SS 2510-2521 and is legally privileged.

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FULL PANEL MEETING AGENDA
Mendocino County Grand Jury
Date:

Call to Order

Pledge of Allegiance

Roll Call

Reading and Approval of Previous Meeting Minutes

Changes and Approval of Agenda

Review of Correspondence

Committee Reports

1. Administration/BOS
2. Cities
3. Criminal Justice
4. Edit/Continuity
5. Education
6. HHS
7. Special Districts
8. Ad Hoc

Old Business

New Business/New Complaints

County Counsel

Treasurer's Report

Housekeeping/Office Issues

Round Table

Calendar Announcements

Next Full Panel Meeting is:

Adjournment

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County of Mendocino Grand Jury
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www.mendocinocounty.org/government/grand-jury

grandjury@mendocinocounty.org
Post Office Box 939
Ukiah, CA 95482

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Availability and Emergency Contact Information

Juror Name:_____ **Received Keys:**_____ **Returned:**_____

(DATE) (DATE)

Most Grand Jurors invest many hours to committee and full panel work. Jurors are expected to serve on at least two committees and attend all meetings of the full panel. Most committees meet weekly and require additional time for interviews, document review and writing.

Monthly full panel meetings are typically held during the first week of each month on a day selected by mutual agreement. The foreperson may call additional full panel meetings as needed.

Each committee typically meets one day a week for 2-3 hours during either the morning or afternoon.

Please fill in all of the time slots for Monday thru Friday and indicate whether you are comfortable receiving phone calls on weekends.

- Enter A-OK for all time slots that would be equally preferable
- Enter OK for any other times that you would be willing to accept
- Enter NA for any time slots that would be impossible or unacceptable

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
						OK to Call? Y or N	
AM							
PM							

- ☐ If possible, I prefer to schedule two regular meetings on the same day
- ☐ If possible, I prefer to schedule regular meetings on different days

Please do not call my home before _____ or after _____.

IN THE EVENT OF A MEDICAL EMERGENCY

Please contact:

Phone: _____ Cell phone: _____

Relationship: _____

If you have a known condition likely to lead to a medical emergency, please provide any additional information you wish to share on the back of this form.

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STATEMENT OF ECONOMIC INTERESTS
COVER PAGE

Date Initial Filing Received
Official Use Only

Please type or print in ink.

NAME OF FILER (LAST)

(FIRST)

(MIDDLE)

1. Office, Agency, or Court

Agency Name (Do not use acronyms)

Division, Board, Department, District, if applicable

Your Position

► If filing for multiple positions, list below or on an attachment. (Do not use acronyms)

Agency: _____

Position: _____

2. Jurisdiction of Office (Check at least one box)

☐ State

☐ Judge or Court Commissioner (Statewide Jurisdiction)

☐ Multi-County _____

☐ County of _____

☐ City of _____

☐ Other _____

3. Type of Statement (Check at least one box)

☐ Annual: The period covered is January 1, 2015, through December 31, 2015.

-or-

The period covered is ____/____/____, through December 31, 2015.

☐ Leaving Office: Date Left ____/____/____
(Check one)

☐ The period covered is January 1, 2015, through the date of leaving office.

-or-

☐ The period covered is ____/____/____, through the date of leaving office.

☐ Assuming Office: Date assumed ____/____/____

☐ Candidate: Election year _____ and office sought, if different than Part 1: _____

4. Schedule Summary (must complete) ► Total number of pages including this cover page: _____

Schedules attached

☐ Schedule A-1 - Investments - schedule attached

☐ Schedule C - Income, Loans, & Business Positions - schedule attached

☐ Schedule A-2 - Investments - schedule attached

☐ Schedule D - Income - Gifts - schedule attached

☐ Schedule B - Real Property - schedule attached

☐ Schedule E - Income - Gifts - Travel Payments - schedule attached

-or-

☐ None - No reportable interests on any schedule

5. Verification

MAILING ADDRESS STREET CITY STATE ZIP CODE
(Business or Agency Address Recommended - Public Document)

DAYTIME TELEPHONE NUMBER

E-MAIL ADDRESS

()

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed _____
(month, day, year)

Signature _____
(File the originally signed statement with your filing official.)

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County of Mendocino Grand Jury
(707) 463-4320
www.mendocinocounty.org/government/grand-jury

grandjury@mendocinocounty.org
Post Office Box 939
Ukiah, CA 95482

COMPLAINT FORM

Please complete this form and return by email to: grandjury@mendocinocounty.org or mail to:

**Mendocino County Grand Jury
P.O. Box 939
Ukiah, CA 95482**

**THE GRAND JURY WILL KEEP ALL INFORMATION ON THIS FORM
STRICTLY CONFIDENTIAL**

Date:

Name(s):

Mailing Address:

Preferred Contact Phone:

Email:

To the best of my knowledge, the information herein is true and correct:

Signature(s) of Complainant(s)

- 1. Briefly describe the problem, as you understand it, including dates of events if relevant.**
- 2. If known, list the names of employees or officials of the County Department, Board, Commission, Joint Powers Agency, Redevelopment Agency, Special District, School District, City Government or Public Corporation about which this complaint is made.**

Name	Address	Phone/Email
		/
		/
		/
		/

		/
		/

3. List others you have contacted or who may have direct knowledge of this matter.

Name	Address	Phone/Email
		/
		/
		/
		/

4. What action do you want the Grand Jury to take?

5. Please list any supporting documents, correspondence, references, etc. and enclose copies.

6. Please add any other comments regarding this problem:



County of Mendocino Grand Jury
(707) 463-4320
www.mendocinocounty.org/government/grand-jury

grandjury@mendocinocounty.org
Post Office Box 939
Ukiah, CA 95482

COMPLAINT FORM

Please complete this form and return to:

Mendocino County Grand Jury
P.O. Box 939
Ukiah, CA 95482

THE GRAND JURY WILL KEEP ALL INFORMATION ON THIS FORM STRICTLY CONFIDENTIAL

Date: _____

Name(s): _____

Mailing Address: _____

Preferred Contact Phone: _____ E-Mail: _____

To the best of my knowledge, the information herein is true and correct.

Signatures of Complainant(s)

1. Briefly describe the problem, as you understand it, including dates of events if relevant. Attach additional pages as needed.

2. If known, list the names of employees or officials of the County Department, Board, Commission, Joint Powers Agency, Redevelopment Agency, Special District, School District, City Government or Public Corporation about which this complaint is made.

Name	Address	Phone/email

3. List others you have contacted or who may have direct knowledge of this matter.

Name	Address	Phone/email

4. What action do you want the Grand Jury to take?

5. Please list any supporting documents, correspondence, references, etc. and enclose copies.

6. Please attach any additional comments regarding this problem.

COMPLAINT LOG

[illegible]

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Complaint Response Form Letters

THESE FORM LETTERS HAVE BEEN REVIEWED BY COUNTY COUNSEL AND
SHOULD NOT BE ALTERED WITHOUT FURTHER REVIEW

Acknowledgment of Complaint Received

Date

Complainant Name

Street Address

City, CA Zip Code

Dear Name:

The Mendocino County Grand Jury has received your complaint dated Date.

We appreciate your concern for the well-being of our County.

Sincerely,

Foreperson

Year Mendocino County Grand Jury

Complaint Received Too Late for Consideration by Current Jury

Date

Complainant Name

Street Address

City, CA Zip Code

Dear Name:

The Mendocino County Grand Jury has received your complaint dated Date.

Your complaint was received too late in our term to be considered by the current Grand Jury.

We have forwarded your complaint to the next Grand Jury for consideration.

We appreciate your concern for the well-being of our County.

Sincerely,

Foreperson

Year Mendocino County Grand Jury

Complaint Received But Not Within Grand Jury's Jurisdiction

Date

Complainant Name

Street Address

City, CA Zip Code

Dear Name:

The Mendocino County Grand Jury has received your complaint dated Date. The Panel determined that your complaint is not within our jurisdiction and therefore will not be considered.

We appreciate your concern for the well-being of our County.

Sincerely,

Foreperson

Year Mendocino County Grand Jury

Committee Review Checklist for Proposed Investigation

Possible subject for investigation:

Where and how did this suggestion originate?

Is this within our jurisdiction? ☐ Yes ☐ No ☐ Don't Know

What possible concerns do we have regarding jurisdiction?

Are there any concerns regarding potential negative consequences?

Should we consult with our legal advisor about any issues?

Have previous grand juries studied this specific topic before? ☐ Yes ☐ No ☐ Don't Know

When?

Is any other entity (government, court, private, or media) studying this topic? ☐ Yes ☐ No ☐ Don't Know

Describe:

Is the scope too large? Is scope too limited?

Comments on scope:

How much time should it take to complete this investigation?

How many jurors should be assigned to this investigation?

Are there any members of the jury who might have a potential conflict of interest?

If we proceed with this investigation, how might our final report benefit our county?

Additional comments:

Proposed by Committee:

Date:

This form should be forwarded by the committee chair to the foreperson electronically by email before the Full Panel presentation.

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[REPORT TITLE]

[date and draft #]

SUMMARY

Highlight and type over this line to enter material.

GLOSSARY (IF NEEDED. CAN ALSO BE PLACED BEFORE APPENDIX)

Highlight and type over this line to enter material.

BACKGROUND

Highlight and type over this line to enter material.

METHODOLOGY

Highlight and type over this line to enter material.

DISCUSSION

Highlight and type over this line to enter material.

- Type here to use bullets, as needed. *(Additional bullets will be added automatically when you hit return or enter.)*
-

Use Subheads as Appropriate (Heading 2, in caps & lower case)

Highlight and type over this line to enter material.

FINDINGS

F1. Type findings here. *(They will be numbered automatically after you hit enter or return.)*

F2.

RECOMMENDATIONS

R1. Type recommendations here. *(They will be numbered automatically after you hit enter or return.)*

R2.

RESPONSES

Pursuant to Penal Code §933.05, responses are *required* from the following individuals:

1. Type individuals being asked here. Bullets will be added automatically when you press return or enter.

From the following governing bodies:

2. Type governing bodies being asked here. Bullets will be added automatically when you press return or enter.

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

Pursuant to Penal Code §933.05, responses are *requested* from the following individual(s):

BIBLIOGRAPHY (IF NEEDED)

Type here

APPENDIX (IF NEEDED)

DISCLAIMER (IF NEEDED)

This report was issued by the Mendocino County Grand Jury with the exception of a juror (or jurors) who is a former employee of XYZ (or describe other reasons for recusal). This grand juror was excluded from all parts of the investigation, including interviews, deliberations, and the writing and approval of this report.

Reports issued by the Mendocino County Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the grand jury not contain the name of any person or facts leading to the identity of any person who provides information to the civil grand jury.

REPORT CRITIQUE FORM

Use this form to critique your report. First, read through the report. Then track the facts, findings, and recommendations (is there a logical flow?). Then check for the other elements.

Desirable Elements	Yes or No	Comments
1. Does the Summary address the main issues, findings, and recommendations?		
2. Is the selection of topic explained in the Background ? Is the purpose of the investigation clear (what was investigated and why)? Is general information provided to put the study into context?		
3. Does the Methodology describe what investigative techniques were used? Are the descriptions clear and quantified, while not revealing the identity of witnesses?		
4. Does the Discussion section lay out the facts in a logical order , with a good flow? Do captions divide the topics? Are you using graphic elements for emphasis, e.g. photos, graphics, charts, text boxes, bullets?		
5. Does the Discussion avoid vague quantifiers and "wiggle language"? Are there any statements which seem incomplete or unsupported? Are any inconsistent?		

<p>6. Findings – Is each finding a conclusion or a judgment?</p> <p>Can each finding be traced back to facts that can be found in the Discussion section?</p>		
<p>7. Recommendations – Is each one based on one or more findings?</p>		
<p>8. Is each Recommendation reasonable, fiscally doable, and proportionate to the problem?</p>		
<p>9. Does each recommendation state who should do what by when?</p>		
<p>10. Are the correct responders identified, and is the time for response indicated?</p>		
<p>11. Is the tone of the report objective and fair?</p>		

11/14/17

REPORT CONTACTS & MAILING LIST
(Provide carefully proof read copy to CON-ED Chair with each submitted report)

COMMITTEE: _____

*REPORT TITLE:*_____ *DATE:* _____

Please list all contacts for this report. Indicate whether they are **required** or **requested** to respond or are simply to receive a courtesy copy. This contact list will be used to distribute the report and collect responses. Include e-mail addresses whenever possible and double check accuracy of all information.

CONTACT NAME & TITLE	ADDRESS	PHONE	E-MAIL	INTERVIEW DATE	RESPONSE REQUIRED	RESPONSE REQUESTED	COURTESY COPY

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COVER LETTER FOR REQUIRED RESPONSE
(For Delivering Report(s) to Entity and Advising of Response Obligations)



County of Mendocino Grand Jury
(707) 463-4320
www.mendocinocounty.org/government/grand-jury

grandjury@mendocinocounty.org
Post Office Box 939
Ukiah, CA 95482

**Grand Jury Report Transmittal
(with Instructions and Response Form for Required
Respondents)**

Name
Address
City

Date:

RE: Report Titled:

Dated: Report Date

Your response to the attached report by the Mendocino County Grand Jury is **required** pursuant to Penal Code §933.05, a copy of which is enclosed. Penal Code §933.05 also requires that your response to the Findings and Recommendations contained in the report be in writing and be submitted within **60 days for individual responses from elected officials or agency heads** or within **90 days for governing bodies** (including such entities as school boards, city councils and the Board of Supervisors).

Penal Code §933.05(f) specifically prohibits disclosure of the contents of this report by a public agency or its officers or governing body prior to the release to the public. The report will be released to the public and posted on the grand jury website two (2) or more business days after the date of this letter.

The Penal Code is specific as to the format of responses. Please complete and sign the enclosed Response Form and attach any additional comments as required.

Should you have any questions after reviewing the enclosures, please contact me at grandjury@mendocinocounty.org or at the address above.

Sincerely,

Foreperson
Mendocino County Grand Jury

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COVER LETTER FOR REQUESTED RESPONSE
(For Delivering Report(s) to Entity and Advising of Response Obligations)



County of Mendocino Grand Jury
(707) 463-4320
www.mendocinocounty.org/government/grand-jury

grandjury@mendocinocounty.org
Post Office Box 939
Ukiah, CA 95482

**Grand Jury Report Transmittal
(with Instructions and Response Form for Requested
Respondents)**

Name
Address
City

Date:

RE: Report Titled:

Dated: Report Date

Your response to the attached report by the Mendocino County Grand Jury is **requested**. The grand jury would appreciate that you follow the responding procedure set forth in Penal Code §933.05, a copy of which is enclosed. Please submit your response as soon as possible or within 90 days so that it can be published in a timely manner.

Penal Code §933.05(f) specifically prohibits disclosure of the contents of this report by a public agency or its officers or governing body prior to the release to the public. The report will be released to the public and posted on the grand jury website two (2) or more business days after the date of this letter.

The Penal Code is specific as to the format of responses. Please complete and sign the enclosed Response Form and attach any additional comments as required.

Should you have any questions after reviewing the enclosures, please contact me at grandjury@mendocinocounty.org or at the address above.

Sincerely,

Foreperson
Mendocino County Grand Jury

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SUMMARY OF PENAL CODE §933.05

Penal Code §933.05 provides for only two (2) acceptable responses with which agencies and/or departments (respondents) may respond with respect to the **findings** of a Grand Jury report:

1. The respondent agrees with the finding.
2. The respondent disagrees wholly or partially with the findings, *in which case the respondent shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.*

Penal Code §933.05 provides for only four (4) acceptable responses with which agencies and/or departments (respondents) may respond with in respect to the **recommendations** of the Grand Jury.

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be 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, with a timeframe for the matter to be prepared for discussion by the officer or head of the agency/department being investigated or reviewed, including the governing body of the public agency when applicable. ***This timeframe shall not exceed six (6) 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 a detailed explanation therefore.

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 official, 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. (Penal Code §933.05(c))

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Email Grand Jury Report Response Request

(copy and paste)

Dear Name:

Please find attached a copy of the Mendocino County Grand Jury report Report Title, and a copy of instructions for your response.

If you have any questions, please don't hesitate to contact the Grand Jury at 463-4320.

Sincerely,

Name

Foreperson

Year Mendocino County Grand Jury

Confidentiality Notice: This electronic mail transmission may contain privileged and/or confidential information only for use by the intended recipient(s). Any usage, distribution, copying or disclosure by any other person, other than the intended recipient is strictly prohibited and may be subject to civil action and/or criminal penalties. If you received this transmission in error, please notify the sender by reply email or by telephone and immediately delete this email transmission and any attachments contained in this email.

Email is covered by the Electronic Communications Privacy Act, 18 USC SS 2510-2521 and is legally privileged.

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Grand Jury Report

REQUIRED RESPONSE FORM

Grand Jury Report Title :

Report Dated :

Response Form Submitted By:

(use address block as inserted on first page)

Response *MUST* be submitted, per Penal Code §933.05, no later than:

I have reviewed the report and submit my responses to the FINDINGS portion of the report as follows:

☐ I (we) agree with the Findings numbered:

☐ I (we) disagree wholly or partially with the Findings numbered below, and have *attached* a statement specifying any portion of the Finding that are disputed with an explanation of the reasons therefore.

I have reviewed the report and submit my responses to the RECOMMENDATIONS portion of the report as follows:

☐ The following Recommendation(s) have been implemented and **attached, as required**, is a summary describing the implemented actions:

☐ The following Recommendation(s) have not yet been implemented, but will be implemented in the future; **attached, as required**, is a time frame for implementation:

- ☐ The following Recommendation(s) require further analysis, and **attached, as required**, is an explanation and the scope and parameters of the planned analysis, and a time frame for the matter to be prepared, discussed and approved by the officer and/or director of the agency or department being investigated or reviewed: (This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)
- _____

- ☐ The following Recommendations will NOT be implemented because they are not warranted and/or are not deemed reasonable; **attached, as required**, is an explanation therefore:
- _____

I have completed the above responses, and have attached, as required the following number of pages to this response form:

Number of Pages attached: _____

I understand that responses to Grand Jury Reports are public records. They will be posted on the Grand Jury website: www.mendocinocounty.org/government/grand-jury. The clerk of the responding agency is required to maintain a copy of the response.

I understand that I must submit this signed response form and any attachments as follows:

First Step: E-mail in pdf file format to:

- The Grand Jury Foreperson at: grandjury@mendocinocounty.org
- The Presiding Judge: grandjury@mendocino.courts.ca.gov

Second Step: Mail all originals to:

Mendocino County Grand Jury
P.O. Box 939
Ukiah, CA 95482

Printed Name: _____

Title: _____

Signed: _____ Date: _____

Grand Jury Report

REQUESTED RESPONSE FORM

Grand Jury Report Title :

Report Dated :

Response Form Submitted By:

(use address block as inserted on first page)

Your Response is REQUESTED no later than:

I have reviewed the report and submit my responses to the FINDINGS portion of the report as follows:

- ☐ I (we) agree with the Findings numbered:
- _____
- ☐ I (we) disagree wholly or partially with the Findings numbered below, and have *attached* a statement specifying any portion of the Finding that are disputed with an explanation of the reasons therefore.
- _____

I have reviewed the report and submit my responses to the RECOMMENDATIONS portion of the report as follows:

- ☐ The following Recommendation(s) have have been implemented and *attached, as requested*, is a summary describing the implemented actions:
- _____
- ☐ The following Recommendation(s) have not yet been implemented, but will be implemented in the future; *attached, as requested*, is a time frame for implementation:
- _____

- ☐ The following Recommendation(s) require further analysis and **attached, as requested**, is an explanation and the scope and parameters of the planned analysis, and a time frame for the matter to be prepared, discussed and approved by the officer and/or director of the agency or department being investigated or reviewed: (This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)
-

- ☐ The following Recommendations will NOT be implemented because they are not warranted and/or are not deemed reasonable; **attached, as requested**, is an explanation therefore:
-

I have completed the above responses, and have attached, as requested the following number of pages to this response form:

Number of Pages attached: _____

I understand that responses to Grand Jury Reports are public records. They will be posted on the Grand Jury website: www.mendocinocounty.org/government/grand-jury. The clerk of the responding agency is required to maintain a copy of the response.

I understand that I must submit this signed response form and any attachments as follows:

First Step: E-mail in pdf file format to:

- The Grand Jury Foreperson at: grandjury@mendocinocounty.org
- The Presiding Judge: grandjury@mendocino.courts.ca.gov

Second Step: Mail all originals to:

Mendocino County Grand Jury
P.O. Box 939
Ukiah, CA 95482

Printed Name: _____

Title: _____

Signed: _____ Date: _____

RESPONSE TRACKING LOG FOR REPORTS							
Title	Date Sent	Respondent	Required Requested	Date Due	Date Received	Meets Code	Acknowledgment Letter Sent Date

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MENDOCINO COUNTY GRAND JURY

PRESS RELEASE

The (ENTER YEAR) Mendocino County Grand Jury report entitled: (ENTER FULL TITLE OF THE REPORT) is now available to the public on the grand jury website at:

<https://www.mendocinocounty.org/government/grand-jury>

Prior to publication, each grand jury report is reviewed and approved by the full panel of seated jurors and is reviewed by the Mendocino County Counsel and the Presiding Judge of the Superior Court.

The published summary of this report is attached. You may access the full report on the website. Please inform your readers / listeners / viewers that this new report has been published on the grand jury website and advise them of the website address.

It is a misdemeanor for individual jurors to discuss grand jury reports or the process through which a particular report was developed and published. Please address any inquiries to the grand jury foreperson, who serves as the jury's sole spokesperson.

Foreperson's Name

(year) Mendocino County Grand Jury

grandjury@mendocinocounty.org

(707) 463-4320

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County of Mendocino Grand Jury
(707) 463-4320
www.mendocinocounty.org/government/grand-jury

grandjury@mendocinocounty.org
Post Office Box 939
Ukiah, CA 95482

Date

Name and Title
Address

Re: Report Entitled

Dear :

We acknowledge receipt of your timely report response. Your response complied with California Penal Code Sections 933 and 933.05.

The Mendocino County Grand Jury thanks you and shares with you the resolve to maintain an effective and efficient local government.

Sincerely,

Foreperson Name
Foreman, Mendocino Grand Jury 2017-18

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APPENDIX B

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WITNESS OATHS

“The foreman may administer an oath to any witness appearing before the grand jury.” (Penal Code §939.4)

1. Oath to Witness

“Do you swear (or affirm) under penalty of perjury that the testimony you are about to give is the truth, the whole truth, and nothing but the truth and that these grand jury proceedings and the testimony and information you are about to provide this body shall remain secret and confidential, except as otherwise provided by law?”

2. Oath to Court Recorder

“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 the grand jury, and that you will well and truly report the proceedings had before this grand jury, and when called upon 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.”

3. Oath to Court Interpreter

“Do you solemnly swear (or affirm) that you will make a true and correct interpretation of the English language into _____ language and the _____ language into English language to the best of your ability 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?”

4. Oath to Deputy Sheriff/Bailiff

“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 deputy sheriff (or bailiff) for this grand jury, 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.”

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ADMONITIONS

The admonition instructs the witness not to reveal anything that transpires during the interview.

1. Admonition Provided to all Witnesses and any Court Reporter for an Interview in a Civil Investigation

"You are hereby admonished not to reveal to any person, except as directed by the court, which questions were asked or what responses were given or any other matters concerning the nature or subject of the Grand Jury's investigation which you learned during your appearance before the Grand Jury, unless and until such time as a final report of this Grand Jury proceeding is made public or until authorized by this grand jury or the court to disclose such matters. A violation of this admonition is punishable as contempt of court."

An admonition form, which can be signed by the interviewee at the investigative committee's request, is included in the Appendix.

2. Admonition to Grand Jurors Before Consideration of a Charge Presented by the District Attorney

Before considering a charge against any person, the foreperson shall state to those present:

"I am required by §939.5 of the Penal Code to make the following statement, and to inform you that any violation of this section is punishable by the Court as contempt:

‘The grand jury is about to consider the matter of a charge of _____ made against _____. I direct any member of the grand jury who has a state of mind in reference to the case or to either party which will prevent him or her from acting impartially and without prejudice to the substantial rights of the party, to retire. Failure to retire is punishable by the court as a contempt.’ ”

The foreperson then asks if there is anyone present with such a state of mind. A juror should disclose any prejudice that might prevent him or her from being fair and impartial to either the accused or the People of the State of California. If no juror has such a state of mind, the foreperson should recite this fact into the record. If a juror states he or she does have such a state of mind, the foreperson should ask such a juror to retire and should then recite into the record how many jurors have retired.

3. Admonition to Witness Accused or Charged With a Crime Before He or She Testifies

"You have a right, at your own request, but not otherwise, to be sworn and make any statement on your own behalf that you may desire. You are informed, however, that if you are sworn and make any statement, such statement, together with any questions that may be asked of you by the District Attorney, will be taken down in shorthand and

become a matter of record, and in the event an indictment is filed against you on this charge, that record may be used either for or against you at the time of your trial. You are not obliged, however, to make any statement whatever, unless you desire to do so. Any statement that you make must be completely voluntary on your part, and with this admonition in mind."

4. Admonition to Witness Whose Testimony May Result in a Criminal Indictment Before He or She Testifies

"You are advised 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, and you can refuse to answer any such questions, stating that the answer may tend to incriminate you.

"You also are advised that anything you say can and will be used against you in a court of law; that you have the right to talk to a lawyer; and that, if you cannot afford a lawyer, one will be appointed to represent you before any questioning, if you wish one.

"Do you understand each of these rights? Having these rights in mind, are you willing to testify at this time?"

5. Admonition Before Excusing Witnesses "3" or "4" (Indictment or Accusation)

"You are admonished not to reveal to any person, except as directed by the court, what questions were asked or what responses were given or any other matters concerning the nature or subject of the grand jury's investigation which you learned during your appearance before the grand jury unless and until such time as the transcript (if any) or a final report of this grand jury proceeding is made public or until you are authorized by the court to disclose such matters. Violation of this confidentiality agreement is punishable as contempt of court. This admonition, of course, does not preclude you from discussing your legal rights with any legally-employed attorney, should you feel that your own personal rights are in any way in jeopardy."

6. Confidentiality Agreement (Admonition) to Child Witness

"You should not discuss anything about this matter with anyone unless your (mother), (father), or (name of guardian), tells you it is all right."

7. Confidentiality Agreement (Admonition) to Other Persons Authorized to be in Grand Jury Room During Hearing

"You are directed not to discuss or disclose at any time, anything you may have seen or heard during this hearing. Do you understand?"

INDICTMENTS

An indictment is a proceeding used by the District Attorney in lieu of a preliminary hearing. Evidence of one or more alleged crimes is presented to the grand jury behind closed doors and the jury determines whether that evidence would warrant a conviction by a trial jury. If so, the defendant's case is set for trial.

The reasons cited by the District Attorney for using the indictment proceeding rather than a preliminary hearing are:

1. It allows the prosecution to toll the statute of limitations in the case of an absent defendant. The statute of limitations is automatically tolled when it can be proven that the defendant has fled the local jurisdiction for purposes of avoiding prosecution.
2. It saves time in narcotics cases when a single agent has made many purchases; in complex fraud cases; in cases involving multiple defendants; and in murder and kidnap cases, because the grand jury hearing is not open to the defense counsel for cross-examination.
3. It permits the continuation of a complex indictment hearing over a long period of time.
4. The District Attorney can use grand jury subpoenas, although no formal court proceedings have been started.
5. The secrecy and non-adversary nature of the grand jury hearing protects witnesses from embarrassing cross-examination, which would occur during a preliminary hearing, e.g., children, rape victims (however, witnesses will be subject to cross-examination during jury trial); protects an informant or undercover agent's identity; protects witnesses from harm and intimidation (however, this protection is granted only until delivery of the indictment transcript to the defendant, which includes a list of witnesses and their testimony); and protects an innocent defendant when no indictment is returned or accusation presented.

Should the District Attorney decide to present a criminal case to the grand jury, jurors will be provided written and oral instructions on the procedures they must follow.

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STATUTORY AND CASE LAW PERTAINING TO THE GRAND JURY

A. Text of Pertinent California Code Sections

This section of the Procedures Manual is focused on the grand jury's watchdog activities. It does not contain most of the code sections related to indictments. For the code sections in their entirety, review them in the California Penal Code text or online.

CONSTITUTION OF CALIFORNIA

ARTICLE 1, §23. One or more grand juries shall be drawn and summoned at least once a year in each county.

CALIFORNIA PENAL CODE

§888 GRAND JURY DEFINED; INVESTIGATION INTO COUNTY MATTERS OF CIVIL CONCERN

A grand jury is a body of the required number of persons returned from the citizens of the county before a court of competent jurisdiction, and sworn to inquire of public offenses committed or triable within the county.

Each grand jury or, if more than one has been duly impaneled pursuant to sections 904.5 to 904.9, inclusive, one grand jury in each county, shall be charged and sworn to investigate or inquire into county matters of civil concern, such as the needs of county officers, including the abolition or creation of offices for, the purchase, lease, or sale of equipment for, or changes in the method or system of, performing the duties of the agencies subject to investigation pursuant to §914.1.

§888.2 REQUIRED NUMBER DEFINED

As used in this title as applied to a grand jury, "required number" means:

- (a) Twenty-three in a county having a population exceeding 4,000,000.
- (b) Eleven in a county having a population of 20,000 or less, upon the approval of the board of supervisors.
- (c) Nineteen in all other counties.

§889 INDICTMENT DEFINED

An indictment is an accusation in writing, presented by the grand jury to a competent court, charging a person with a public offense.

§890 FEES OF GRAND JURORS; MILEAGE

Unless a higher fee or rate of mileage is otherwise provided by statute or county or city and county ordinance, the fees for grand jurors are fifteen dollars (\$15) a day for each day's attendance as a grand juror, and the mileage reimbursement applicable to county employees for each mile actually traveled in attending court as a grand juror.

§890.1 PAYMENT OF FEES AND MILEAGE

The per diem and mileage of grand jurors where allowed by law shall be paid by the treasurer of the county out of the general fund of the county upon warrants drawn by the county auditor upon the written order of the judge of the Superior court of the county.

§891 RECORDING, LISTENING TO OR OBSERVING GRAND JURY PROCEEDINGS

Every person who, by any means whatsoever, willfully and knowingly, and without knowledge and consent of the grand jury, records, or attempts to record, all or part of the proceedings of any grand jury while it is deliberating or voting, or listens to or observes, or attempts to listen to or observe, the proceedings of any grand jury of which he is not a member while such jury is deliberating or voting is guilty of a misdemeanor.

This section is not intended to prohibit the taking of notes by a grand juror in connection with and solely for the purpose of assisting him in the performance of his duties as such juror.

§893 COMPETENCY; INCOMPETENCY

- (a) A person is competent to act as a grand juror only if he possesses each of the following qualifications:
 - (1) He is a citizen of the United States of the age of 18 years or older who shall have been a resident of the state and of the county or city and county for one year immediately before being selected and returned.
 - (2) He is in possession of his natural faculties, of ordinary intelligence, of sound judgment, and of fair character.
 - (3) He is possessed of sufficient knowledge of the English language.
- (b) A person is not competent to act as a grand juror if any of the following apply:
 - (1) The person is serving as a trial juror in any court of this state.
 - (2) The person has been discharged as a grand juror in any court of this state within one year.
 - (3) The person has been convicted of malfeasance in office or any felony or other high crime.
 - (4) The person is serving as an elected public officer.

§894 EXEMPTIONS; EXCUSES

Sections 204, 218 and 219 of the Code of Civil Procedure specify the exemptions and the excuses which relieve a person from liability to serve as a grand juror.

§895 ESTIMATE OF NUMBER OF JURORS NEEDED; ORDER

During the month preceding the beginning of the fiscal year of the county, the superior court of each county shall make an order designating the estimated number of grand jurors that will, in the opinion of the court, be required for the transaction of the business of the court during the ensuing fiscal year as provided in §905.5.

§896 SELECTION AND LISTING BY COURT; INVESTIGATION; JURORS

- (a) Immediately after such order is made, the court shall select the grand jurors required by personal interview for the purpose of ascertaining whether they possess the qualifications prescribed by subdivision (a) of §893. If a person so interviewed, in the opinion of the court, possesses such qualifications, in order for his name to be listed he shall sign a statement declaring that he will be available for jury service for the number of hours usually required of a member of the grand jury in that county.
- (b) The selections shall be made of men and women who are not exempt from serving and who are suitable and competent to serve as grand jurors pursuant to sections 893, 898 (Los Angeles County only), and 899. The court shall list the persons so selected and required by the order to serve as grand jurors during the ensuing fiscal year of the county, or until a new list of grand jurors is provided, and shall at once place this list in the possession of the county clerk.

§899 PROPORTIONATE SELECTION OF NAMES; SEPARATE LIST

The names for the grand jury list shall be selected from the different wards, judicial districts, or supervisorial districts of the respective counties in proportion to the number of inhabitants therein, as nearly as the same can be estimated by the persons making the list. The grand jury list shall be kept separate and distinct from the trial jury list. In a county of the first class, the names for such list may be selected from the county at large.

§900 FILING OF LIST; PUBLICATION; PREPARATION OF GRAND JURY BOX

On receiving the list of persons selected by the court, the county clerk shall file it in his office and have such list, which shall include the name of the judge who selected each person on the list, published one time in a newspaper of general circulation, as defined in §6000 of the Government Code, in the county. The county clerk shall thereupon do either of the following:

- (a) Write down the names on the list onto separate pieces of paper of the same size and appearance, fold each piece so as to conceal the name thereon, and deposit the pieces in a box to be called the "grand jury box."
- (b) Assign a number to each name on the list and place, in a box to be called the "grand jury box," markers of the same size, shape, and color, each containing a number which corresponds with a number on the list.

§901 REGULAR JURORS; PERIOD OF SERVICE; SELECTION

- (a) The persons whose names are so returned shall be known as regular jurors, and shall serve for one year and until other persons are selected and returned.
- (b) If the superior court so decides, the presiding judge may name up to 10 regular jurors not previously so named, who served on the previous grand jury and who so consent, to serve for a second year.
- (c) The court may also decide to select grand jurors pursuant to §908.2.

§902 DRAWINGS OF NAMES OR MARKERS FROM GRAND JURY BOX; PERSONS NOT SERVING; LISTING FOR SUCCEEDING YEAR

The names of persons drawn for grand jurors shall be drawn from the grand jury box by withdrawing either the pieces of paper placed therein pursuant to subdivision (a) of §900 or the markers placed therein pursuant to subdivision (b) of §900. If, at the end of the fiscal year of the county, there are the names of persons in the grand jury box who have not been drawn during the fiscal year to serve and have not served as grand jurors, the names of such persons may be placed on the list of grand jurors drawn for the succeeding fiscal year.

§904 ORDER DIRECTING DRAWING OF GRAND JURY; NUMBER OF JURORS

Every superior court, whenever in its opinion the public interest so requires, shall make and file with the county clerk an order directing a grand jury to be drawn. Such order shall designate the number of grand jurors to be drawn, which shall not be less than 29 or more than 40 in counties having a population exceeding four million and not less than 25 nor more than 30 in other counties.

§904.6 COUNTY OR CITY AND COUNTY; ONE ADDITIONAL GRAND JURY; EQUAL OPPORTUNITY; JURISDICTION

- (a) In any county or city and county, the presiding judge of the superior court may order and direct the impanelment, at any time, of one additional grand jury pursuant to this section.
- (b) The presiding judge shall select persons at random from the list of trial jurors in civil and criminal cases and shall examine them to determine if they are competent to serve as grand jurors. When a sufficient number of competent persons have been selected, they shall constitute the additional grand jury.

- (c) Any additional grand jury which is impaneled pursuant to this section may serve for a period of one year from the date of impanelment, but may be discharged at any time within the one-year period by order of the presiding judge. In no event shall more than one additional grand jury be impaneled pursuant to this section at the same time.
- (d) Whenever an additional grand jury is impaneled pursuant to this section, it may inquire into any matters which are subject to grand jury inquiry and shall have the sole and exclusive jurisdiction to return indictments, except for any matters which the regular grand jury is inquiring into at the time of its impanelment.
- (e) It is the intent of the Legislature that all persons qualified for jury service shall have an equal opportunity to be considered for service as criminal grand jurors in the county in which they reside, and that they have an obligation to serve, when summoned for that purpose. All persons selected for the additional criminal grand jury shall be selected at random from a source or sources reasonably representative of a cross section of the population which is eligible for jury service in the county.

§905 ANNUAL DRAWING

In all counties there shall be at least one grand jury drawn and impaneled in each year.

§905.5 SERVICE DURING FISCAL OR CALENDAR YEAR

- (a) Except as otherwise provided in subdivision (b), the grand jury shall be impaneled and serve during the fiscal year of the county in the manner provided in this chapter.
- (b) The board of supervisors of a county may provide that the grand jury shall be impaneled and serve during the calendar year. The board of supervisors shall provide for an appropriate transition from fiscal year term to calendar year term or from calendar year term for the grand jury. The provisions of subdivisions (a) and (b) of §901 shall not be deemed a limitation on any appropriate transition provisions as determined by resolution or ordinance; and, except as otherwise provided in this chapter, no transition grand jury shall serve more than 18 months.

§906 DRAWING AND SUMMONING; REPLACING NAMES NOT DRAWN IN GRAND JURY BOX

The order shall designate the time at which the drawing will take place. The names of the grand jurors shall be drawn, and the list of names certified and summoned, as is provided for drawing and summoning trial jurors. The names of any persons drawn, who are not impaneled upon the grand jury, may be again placed in the grand jury box.

§907 FAILURE TO OBEY SUMMONS; ATTACHMENT AND FINE

Any grand juror summoned, who willfully and without reasonable excuse fails to attend, may be attached and compelled to attend and the court may also impose a fine not exceeding fifty dollars (\$50), upon which execution may issue. If the grand juror was not personally served, the fine shall not be imposed until upon an order to show cause an opportunity has been offered the grand juror to be heard.

§908 NUMBER OF PERSONS CONSTITUTING JURY; PROCEEDINGS WHEN TOO MANY OR TOO FEW PERSONS PRESENT

If the required number of the persons summoned as grand jurors are present and not excused, such required number shall constitute the grand jury. If more than the required number of such persons are present, the clerk shall write their names on separate ballots, which he shall fold so that the names cannot be seen, place them in a box, and draw out the required number of them. The persons whose names are on the ballots so drawn shall constitute the grand jury. If less than the required number of such persons is present, the panel may be filled as provided in §226 of the Code of Civil Procedure. If more of the persons summoned to complete a grand jury attend than are required, the requisite number shall be obtained by writing the names of those summoned and not excused on ballots, depositing them in a box, and drawing as above provided.

§908.1 FILLING OF VACANCIES

When, after the grand jury consisting of the required number of persons has been impaneled pursuant to law, the membership is reduced for any reason, such vacancies within an existing grand jury may be filled, so as to maintain the full membership at the required number of persons, by the clerk of the superior court, in the presence of the court, drawing out sufficient names to fill the vacancies from the grand jury box, pursuant to law, or from a special venire as provided in §226 of the Code of Civil Procedure. No person selected as a grand juror to fill a vacancy pursuant to this section shall vote as a grand juror on any matter upon which evidence has been taken by the grand jury prior to the time of his selection.

§908.2 SELECTION OF GRAND JURORS; PERIOD OF SERVICE

- (a) Upon the decision of the superior court pursuant to §901 to adopt this method of selecting grand jurors, when the required number of persons have been impaneled as the grand jury pursuant to law, the clerk shall write the names of each such person on separate ballots. The clerk shall fold the ballots so that the names cannot be seen, place them in a box, and draw out half of such ballots, or in a county where the number of grand jurors is uneven, one more than half. The persons whose names are on the ballots so drawn shall serve for 12 months until July 1 of the following year. The persons whose names are not on the ballots so drawn shall serve for six months until January 1 of the following year.

- (b) Each subsequent year, on January 2 and July 2, a sufficient number of grand jurors shall be impaneled to replace those whose service concluded the previous day. Those persons impaneled on January 2, shall serve until January 1 of the following year. No person shall serve on the grand jury for more than one year.
- (c) The provisions of subdivisions (a) and (b) shall not be applicable to the selection of grand jurors for an additional grand jury authorized pursuant to sections 904.5 (Los Angeles County), 904.6, 904.7 (San Mateo County), 904.8 (Contra Costa County), and 904.9 (Marin County).

§909 ACCEPTANCE OF JUROR; FINDING AS TO QUALIFICATIONS; EXCUSE

Before accepting a person drawn as a grand juror, the court shall be satisfied that such person is duly qualified to act as such juror. When a person is drawn and found qualified he shall be accepted unless the court, on the application of the juror and before he is sworn, excuses him from such service for any of the reasons prescribed in this title or in Chapter 1 (commencing with §190), Title 3, Part 1 of the Code of Civil Procedure.

§910 CHALLENGES; RESTRICTION

No challenge shall be made or allowed to the panel from which the grand jury is drawn, nor to an individual grand juror, except when made by the court for want of qualification, as prescribed in §909.

§911 OATH

The following oath shall be taken by each member of the grand jury: "I do solemnly swear (affirm) that I will support the Constitution of the United States and of the State of California, and all laws made pursuant to and in conformity therewith, will diligently inquire into, and true presentment make, of all public offenses against the people of this state, committed or triable within this county, of which the grand jury shall have or can obtain legal evidence. Further, I will not disclose any evidence brought before the grand jury, nor anything which I or any other grand juror may have voted on any matter before the grand jury. I will keep the charge that will be given to me by the court."

§912 FOREPERSON; APPOINTMENT; SUBSTITUTE FOREPERSON

From the persons summoned to serve as grand jurors and appearing, the court shall appoint a foreperson. The court shall also appoint a foreperson when the person already appointed is excused or discharged before the grand jury is dismissed.

§913 ATTORNEY GENERAL; POWER TO DEMAND IMPANELING

If a grand jury is not in existence, the Attorney General may demand the impaneling of a grand jury by those charged with the duty to do so, and upon such demand by him or her, it shall be their duty to do so.

§914 CHARGE OF THE COURT

- (a) When the grand jury is impaneled and sworn, it shall be charged by the court. In doing so, the court shall give the grand jurors such information as it deems proper, or as is required by law, as to their duties, and as to any charges for public offenses returned to the court or likely to come before the grand jury.
- (b) To assist a grand jury in the performance of its statutory duties regarding civil matters, the court, in consultation with the district attorney, the county counsel, and at least one former grand juror, shall ensure that a grand jury that considers or takes action on civil matters receives training that addresses, at a minimum, report writing, interviews, and the scope of the grand jury's responsibility and statutory authority.
- (c) Any costs incurred by the court as a result of this section shall be absorbed by the court or the county from existing resources.

§914.1 INVESTIGATION OF COUNTY, CITY, DISTRICT AND HOUSING AFFAIRS; CHARGE

When a grand jury is impaneled, for purposes which include the investigation of, or inquiry into, county matters of civil concern, the judge of the superior court of the county, in addition to other matters requiring action, shall call its attention to the provisions of Chapter 1 (commencing with [§23000](#)) of Division 1 of Title 3, and sections [24054](#) and [26525](#) of the Government Code, and instruct it to ascertain by a careful and diligent investigation whether such provisions have been complied with, and to note the result of such investigation in its report. At such time the judge shall also inform and charge the grand jury especially as to its powers, duties, and responsibilities under Article 1 (commencing with §888) of Chapter 2, and Article 2 (commencing with §925), Article 3 (commencing with §934) of this chapter, Article 3 (commencing with [§3060](#)) of Chapter 7 of Division 4 of Title 1 of the Government Code, and [§17006](#) of the Welfare and Institutions Code.

§914.5 EXPENDITURES WITHIN BUDGET; EXCEPTION; PROCEDURE

The grand jury shall not spend money or incur obligations in excess of the amount budgeted for its investigative activities pursuant to this chapter by the county Board of Supervisors unless the proposed expenditure is approved in advance by the presiding judge of the superior court after the Board of Supervisors has been advised of the request.

§915 PRIVACY; INQUIRY INTO OFFENSES AND CIVIL MATTERS; DISCHARGE

When the grand jury has been impaneled, sworn, and charged, it shall retire to a private room, except when operating under a finding pursuant to §939.1, and inquire into the offenses and matters of civil concern cognizable by it. On the completion of the business before the grand jury or expiration of the term of prescribed service of one or more grand jurors, the court shall discharge it or the affected individual jurors.

§916 CHOICE OF OFFICERS; RULES OF PROCEEDING; CONCURRENCE OF JURORS

Each grand jury shall choose its officers, except the foreperson, and shall determine its rules of proceeding. Adoption of its rules of procedure and all public actions of the grand jury, whether concerning criminal or civil matters unless otherwise prescribed in law, including adoption of final reports, shall be only with the concurrence of that number of grand jurors necessary to find an indictment pursuant to §940. Rules of procedure shall include guidelines for that grand jury to ensure that all findings included in its final reports are supported by documented evidence, including reports of contract auditors or consultants, official records, or interviews attended by no fewer than two grand jurors and that all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable.

§916.1 FOREPERSON PRO TEMPORE

If the foreperson of a grand jury is absent from any meeting or if he is disqualified to act, the grand jury may select a member of that body to act as foreperson pro tempore, who shall perform the duties, and have all the powers of the regularly appointed foreperson in his absence or disqualification.

§916.2 GRAND JUROR CONFLICT OF INTEREST; RECUSAL

- (a) Notwithstanding any other provision of law, a grand juror who is a current employee of, or a former or retired employee last employed within the prior three years by, an agency within the investigative jurisdiction of the civil grand jury shall inform the foreperson and court of that fact and shall recuse himself or herself from participating in any grand jury civil investigation of that agency, including any discussion or vote concerning a civil investigation of that agency.
- (b) This section shall be in addition to any local policies or rules regarding conflict of interest for grand jurors.

§917 INQUIRY INTO PUBLIC OFFENSES; PRESENTMENT BY INDICTMENT

The grand jury may inquire into all public offenses committed or triable within the county and present them to the court by indictment.

§918 PUBLIC OFFENSES WITHIN JUROR'S KNOWLEDGE

If a member of a grand jury knows, or has reason to believe, that a public offense, triable within the county, has been committed, he may declare it to his fellow jurors, who may thereupon investigate it.

§919 CASE OF PRISONER NOT INDICTED; PRISON CONDITIONS; MALFEASANCE OF PUBLIC OFFICER

- (a) The grand jury may inquire into the case of every person imprisoned in the jail of the county on a criminal charge and not indicted.
- (b) The grand jury shall inquire into the condition and management of the public prisons within the county.
- (c) The grand jury shall inquire into the willful or corrupt misconduct of public officers of every description within the county.

§920 INVESTIGATION OF OWNERSHIP; TRANSFER OR SALE
OF REALTY SUBJECT TO ESCHEAT; ORDER DIRECTING INSTITUTION
OF PROCEEDINGS

The grand jury may investigate and inquire into all sales and transfers of land, and into the ownership of land which, under the state laws, might or should escheat to the State of California. For this purpose, the grand jury may summon witnesses before it and examine them and the records. The grand jury shall direct that proper escheat proceedings be commenced when, in the opinion of the grand jury, the evidence justifies such proceedings.

§921 ACCESS TO PRISONS AND PUBLIC RECORDS

The grand jury is entitled to free access, at all reasonable times, to the public prisons, and to the examination, without charge, of all public records within the county.

§922 PROCEEDINGS FOR REMOVAL OF DISTRICT, COUNTY OR CITY
OFFICERS

The powers and duties of the grand jury in connection with proceedings for the removal of district, county, or city officers are prescribed in Article 3 (commencing with §3060), Chapter 7, Division 4, Title 1 of the Government Code.

§924 SECRECY OF DELIBERATIONS AND VOTING; COURT ORDER FOR
DISCLOSURE OF TESTIMONY

Every grand juror who willfully discloses the fact of an information or indictment having been made for a felony, until the defendant has been arrested, is guilty of a misdemeanor.

§924.1 WILLFUL DISCLOSURE OF EVIDENCE; STATEMENT OF JUROR OR
INTERPRETER OR VOTE; MISDEMEANOR

- (a) Every grand juror who, except when required by a court, willfully discloses any evidence adduced before the grand jury or anything which he himself or any other member of the grand jury has said, or in what manner he or she or any other grand juror has voted on a matter before them, is guilty of a misdemeanor.

- (b) Every interpreter for the disabled appointed to assist a member of the grand jury pursuant to §939.11 who, except when required by a court, willfully discloses any evidence adduced before the grand jury, or anything which he or she or any member of the grand jury has said, or in what manner any grand juror has voted on a matter before them, is guilty of a misdemeanor.

§924.2 SECRECY OF DELIBERATIONS AND VOTING; COURT ORDER FOR DISCLOSURE OF TESTIMONY

Each grand juror shall keep secret whatever he himself or any other grand juror has said, or in what manner he or any other grand juror has voted on a matter before them. Any court may require a grand juror to disclose the testimony of a witness examined before the grand jury, for the purpose of ascertaining whether it is consistent with that given before the grand jury by any person, upon a charge given against such person for perjury in giving his testimony or upon trial therefor.

§924.3 IMMUNITY FROM QUESTIONING EXCEPT FOR PERJURY

A grand juror cannot be questioned for anything he may say or any vote he may give in the grand jury relative to a matter legally pending before the jury, except for a perjury of which he may have been guilty in making an accusation or giving testimony to his fellow jurors.

§924.4 FURNISHING SUCCEEDING GRAND JURY WITH INFORMATION OR EVIDENCE; EXCEPTION

Notwithstanding the provisions of §924.1 and 924.2, any grand jury or, if the grand jury is no longer impaneled, the presiding or sole judge of the superior court, may pass on and provide the succeeding grand jury with any records, information or evidence acquired by the grand jury during the course of any investigation conducted by it during its term of service, except any information or evidence that relates to a criminal investigation or that could form part or all of the basis for issuance of an indictment. Transcripts of testimony reported during any session of the grand jury shall be made available to the succeeding grand jury upon its request.

924. 6 DISCLOSURE OF TESTIMONY UPON COURT ORDER

If no indictment is returned, the court that impaneled the grand jury shall, upon application of either party, order disclosure of all or part of the testimony of a witness before the grand jury to a defendant and the prosecutor in connection with any pending or subsequent criminal proceeding before any court if the court finds following an in camera hearing, which shall include the court's review of the grand jury's testimony, that the testimony is relevant, and appears to be admissible.

§925 COUNTY OFFICERS, DEPARTMENTS OR FUNCTIONS; OPERATIONS, ACCOUNTS AND RECORDS; INVESTIGATIONS AND REPORTS

The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in their ex-officio capacity as officers of the districts. The investigations may be conducted on some selective basis each year, but the grand jury shall not duplicate any examination of financial statements which has been performed by the board of supervisors pursuant to §25250 of the Government Code; this provision shall not be construed to limit the power of the grand jury to investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county. The grand jury may enter into a joint contract with the board of supervisors to employ the services of an expert as provided for in §926.

§925a CITIES OR JOINT POWERS AGENCIES; EXAMINATION OR INVESTIGATION AND REPORT UPON FISCAL MATTERS OR NEEDS

The grand jury may at any time examine the books and records of any incorporated city or joint powers agency located in the county. In addition to any other investigatory powers granted by this chapter, the grand jury may investigate and report upon the fiscal matters of any such city or joint powers agency and make such recommendations as it may deem proper and fit.

The grand jury may investigate and report upon the needs of all joint powers agencies in the county, including the abolition or creation of agencies and the equipment for, or the method or system of performing the duties of the several agencies. It shall cause a copy of any such report to be transmitted to the governing body of any affected agency.

As used in this section, "joint powers agency" means an agency described in §6506 of the Government Code whose jurisdiction encompasses all or part of a county.

§926 EXPERTS AND ASSISTANTS; EMPLOYMENT; COMPENSATION; AUDITORS AND APPRAISERS EMPLOYED IN EXAMINATION OF RECORDS

- (a) If, in the judgment of the grand jury, the services of one or more experts are necessary for the purposes of sections 925, 925a, 928, 933.1, and 933.5 or any of them, the grand jury may employ one or more experts, at an agreed compensation, to be first approved by the court. If, in the judgment of the grand jury, the services of assistants to such experts are required, the grand jury may employ such assistants, at a compensation to be agreed upon and approved by the court. Expenditures for the services of experts and assistants for the purposes of §933.5 shall not exceed the sum of thirty thousand dollars (\$30,000) annually, unless such expenditures shall also be approved by the board of supervisors.

- (b) When making an examination of the books, records, accounts, and documents maintained and processed by the county assessor, the grand jury, with the consent of the board of supervisors, may employ expert auditors or appraisers to assist in the examination. Auditors and appraisers, while performing pursuant to the directive of the grand jury, shall have access to all records and documents that may be inspected by the grand jury subject to the same limitations on public disclosure as apply to the grand jury.
- (c) Any contract entered into by a grand jury pursuant to this section may include services to be performed after the discharge of the jury, but in no event may a jury contract for services to be performed later than six months after the end of the fiscal year during which the jury was impaneled.
- (d) Any contract entered into by a grand jury pursuant to this section shall stipulate that the product of that contract shall be delivered on or before a time certain to the then-current grand jury of that county for such use as that jury finds appropriate to its adopted objectives.

§927 SALARIES OF COUNTY-ELECTED OFFICIALS; REPORT

A grand jury may, and when requested by the board of supervisors shall, investigate and report upon the needs for increase or decrease in salaries of the county-elected officials. A copy of such report shall be transmitted to the board of supervisors.

§928 NEEDS OF COUNTY OFFICERS; REPORT

Every grand jury shall investigate and report upon the needs of all county officers in the county, including the abolition or creation of offices and the equipment for, or the method or system of performing the duties of, the several offices. Such investigation and report shall be conducted selectively each year. The grand jury shall cause a copy of such report to be transmitted to each member of the board of supervisors of the county.

§929 GRAND JURY EVIDENTIARY MATERIAL OR FINDINGS; RELEASE TO PUBLIC OF NON-PRIVILEGED MATTER; APPROVAL OF JUDGE

As to any matter not subject to privilege, with the approval of the presiding judge of the superior court or the judge appointed by the presiding judge to supervise the grand jury, a grand jury may make available to the public part of all of the evidentiary material, findings, and other information relied upon by, or presented to, a grand jury for its final report in any civil grand jury investigation provided that the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, shall not be released. Prior to granting approval pursuant to this section, a judge may require the redaction or masking of any part of the evidentiary material, findings, or other information to be released to the public including, but not limited to, the identity of witnesses and any testimony of materials of a defamatory or libelous nature.

§930 COMMENTS IN REPORT UPON PERSONS NOT INDICTED

If any grand jury shall, in the report above-mentioned, comment upon any person or official who has not been indicted by such grand jury such comments shall not be deemed to be privileged.

§931 EXPENSES

All expenses of the grand jurors incurred under this article shall be paid by the treasurer of the county out of the general fund of the county upon warrants drawn by the county auditor upon the written order of the judge of the superior court of the county.

§932 SUIT TO RECOVER MONEY DUE COUNTY; GRAND JURY'S ORDER AS AUTHORITY

After investigating the books and accounts of the various officials of the county, as provided in the foregoing sections of this article, the grand jury may order the district attorney of the county to institute suit to recover any money that, in the judgment of the grand jury, may from any cause be due the county. The order of the grand jury, certified by the foreperson of the grand jury and filed with the county clerk of the county, shall be full authority for the district attorney to institute and maintain any such suit.

§933 FINDINGS AND RECOMMENDATIONS; COMMENT OF GOVERNING BODIES, ELECTIVE OFFICERS, OR AGENCY HEADS

- (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 other than fiscal 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. One copy of each report found to be in compliance with this title shall be placed on file with the county clerk and remain on file in the office of the county clerk. 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 county clerk and remain on file in the office of the county clerk. The county 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 §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 and county, the mayor shall also comment on the findings and recommendations. All such 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.

933.05 RESPONSES TO FINDINGS

- (a) For purposes of subdivision (b) of §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 §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 time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame 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 time frame 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 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 relate 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.

§933.1 REDEVELOPMENT AGENCIES, HOUSING AUTHORITIES, OR JOINT POWERS AGENCIES; EXAMINATION OF BOOKS AND RECORDS; PERFORMANCE OF DUTIES

A grand jury may at any time examine the books and records of a redevelopment agency, a housing authority, created pursuant to Division 24 (commencing with §33000) of the Health and Safety Code, or a joint powers agency created pursuant to Chapter 5 (commencing with §6500) of Division 7 of Title 1 of the Government Code, and, in addition to any other investigatory powers granted by this chapter, may investigate and report upon the method or system of performing the duties of such agency or authority.

§933.5 SPECIAL-PURPOSE ASSESSING OR TAXING DISTRICT; LOCAL AGENCY FORMATION COMMISSION; EXAMINATION OF BOOKS AND RECORDS; PERFORMANCE OF DUTIES

A grand jury may at any time examine the books and records of any special-purpose assessing or taxing district located wholly or partly in the county or the local agency formation commission in the county, and, in addition to any other investigatory powers granted by this chapter, may investigate and report upon the method or system of performing the duties of such district or commission.

§933.6 NONPROFIT CORPORATIONS ESTABLISHED BY OR OPERATED ON BEHALF OF A PUBLIC ENTITY; EXAMINATION OF BOOKS AND RECORDS; INVESTIGATION AND REPORT ON PERFORMANCE OF DUTIES

A grand jury may at any time examine books and records of any nonprofit corporation established by or operated on behalf of a public entity the books and records of which it

is authorized by law to examine, and, in addition to any other investigatory powers granted by this chapter, may investigate and report upon the method or system of performing the duties of such nonprofit corporation.

§934 ADVICE FROM JUDGE, DISTRICT ATTORNEY OR COUNTY COUNSEL

- (a) The grand jury may, at all times, request the advice of the court, or the judge thereof, or of the district attorney, or of the county counsel, or the Attorney General. Unless such advice is requested, the judge of the court, or county counsel as to civil matters, shall not be present during the session of the grand jury.
- (b) The Attorney General may grant or deny a request for advice from the grand jury. If the Attorney General grants a request for advice from the grand jury, the Attorney General shall fulfill that request within existing financial staffing resources.

§935 PRESENCE OF DISTRICT ATTORNEY; RIGHT TO ADVISE JURY AND INTERROGATE WITNESSES; RESTRICTION WHEN CHARGE MADE INVOLVING DISTRICT ATTORNEY OR ASSISTANT

The district attorney of the county may at all times appear before the grand jury for the purpose of giving information or advice relative to any matter cognizable by the grand jury, and may interrogate witnesses before the grand jury whenever he thinks it necessary. When a charge against or involving the district attorney, or assistant district attorney, or deputy district attorney, or anyone employed by or connected with the office of the district attorney, is being investigated by the grand jury, such district attorney, or assistant district attorney, or deputy district attorney, or all or any one or more of them, shall not be allowed to be present before such grand jury when such charge is being investigated, in an official capacity but only as a witness, and he shall only be present while a witness and after his appearance as such witness shall leave the place where the grand jury is holding its session.

§936 EMPLOYMENT OF SPECIAL COUNSEL AND INVESTIGATORS

When requested so to do by the grand jury of any county, the attorney general may employ special counsel and special investigators, whose duty it shall be to investigate and present the evidence in such investigation to such grand jury. The services of such special counsel and special investigators shall be a county charge of such county.

§936.5 EMPLOYMENT OF SPECIAL COUNSEL BY PRESIDING JUDGE

- (a) When requested to do so by the grand jury of any county, the presiding judge of the superior court may employ special counsel and special investigators, whose duty it shall be to investigate and present the evidence of the investigation to the grand jury.
- (b) Prior to the appointment, the presiding judge shall conduct an evidentiary hearing and find that a conflict exists that would prevent the local district attorney, the

county counsel, and the Attorney General from performing such investigation. Notice of the hearing shall be given to each of them unless he or she is a subject of the investigation. The finding of the presiding judge may be appealed by the district attorney, the county counsel, or the Attorney General. The order shall be stayed pending the appeal made under this section.

- (c) The authority to appoint is contingent upon the certification by the auditor-comptroller of the county, that the grand jury has funds appropriated to it sufficient to compensate the special counsel and investigator for services rendered pursuant to the court order. In the absence of a certification, the court has no authority to appoint. In the event the county board of supervisors or a member thereof is under investigation, the county has an obligation to appropriate the necessary funds.

§937 SERVICES OF INTERPRETER; COMPENSATION

The grand jury or district attorney may require by subpoena the attendance of any person before the grand jury as interpreter. While his services are necessary, such interpreter may be present at the examination of witnesses before the grand jury. The compensation for services of such interpreter constitutes a charge against the county, and shall be fixed by the grand jury.

§938.4 MEETING ROOMS FOR GRAND JURY; COSTS

The superior court shall arrange for a suitable meeting room and other support as the court determines is necessary for the grand jury. Any costs incurred by the court as a result of this section shall be absorbed by the court or the county from existing resources.

§939 PRIVATE SESSIONS

No person other than those specified in Article 3 (commencing with §934), and in sections 939.1, 939.11, and 939.21, and the officer having custody of a prisoner witness while the prisoner is testifying, is permitted to be present during the criminal sessions of the grand jury except the members and witnesses actually under examination. Members of the grand jury who have been excused pursuant to §939.5 shall not be present during any part of these proceedings. No persons other than grand jurors shall be permitted to be present during the expression of the opinions of the grand jurors, or the giving of their votes, on any criminal or civil matter before them.

§939.1 PUBLIC SESSIONS; MATTERS AFFECTING GENERAL PUBLIC WELFARE; REQUEST COURT ORDER; CONDUCT OF EXAMINATION; SECRECY OF DELIBERATION AND VOTING; INDICTMENT

The grand jury acting through its foreperson and the attorney general or the district attorney may make a joint written request for public sessions of the grand jury. The request shall be filed with the superior court. If the court, or the judge thereof, finds that the subject matter of the investigation affects the general public welfare, involving the

alleged corruption, misfeasance, or malfeasance in office or dereliction of duty of public officials or employees or of any person allegedly acting in conjunction or conspiracy with such officials or employees in such alleged acts, the court or judge may make an order directing the grand jury to conduct its investigation in a session or sessions open to the public. The order shall state the finding of the court. The grand jury shall comply with the order.

The conduct of such investigation and the examination of witnesses shall be by the members of the grand jury and the district attorney.

The deliberation of the grand jury and its voting upon such investigation shall be in private session. The grand jury may find indictments based wholly or partially upon the evidence introduced at such public session.

§939.11 INTERPRETER; REQUEST BY JUROR; INSTRUCTION; OATH

Any member of the grand jury who has a hearing, sight, or speech disability may request an interpreter when his or her services are necessary to assist the juror to carry out his or her duties. The request shall be filed with the superior court. If the court, or the judge thereof, finds that an interpreter is necessary, the court shall make an order to that effect and may require by subpoena the attendance of any person before the grand jury as interpreter. If the services of an interpreter are necessary, the court shall instruct the grand jury and the interpreter that the interpreter is not to participate in the jury's deliberations in any manner except to facilitate communication between the disabled juror and the other jurors. The court shall place the interpreter under oath not to disclose any grand jury matters, including the testimony of any witness, statements of any grand juror, or the vote of any grand juror, except in the due course of judicial proceedings.

§939.2 SUBPOENA OF WITNESSES; ISSUANCE

A subpoena requiring the attendance of a witness before the grand jury may be signed and issued by the district attorney, his investigator, or, upon request of the grand jury, by any judge of the superior court, for witnesses in the State, in support of the prosecution, for those witnesses whose testimony, in his opinion, is material in an investigation before the grand jury, and for such other witnesses as the grand jury, upon an investigation pending before them, may direct.

§939.4 FOREPERSON MAY ADMINISTER OATH

The foreperson may administer an oath to any witness appearing before the grand jury.

§939.9 REPORT OR RECOMMENDATION ONLY AFTER OWN INVESTIGATION

A grand jury shall make no reports, declaration, or recommendation on any matter except on the basis of its own investigations of the matter made by such grand jury. A grand jury shall not adopt as its own the recommendation of another grand jury unless the grand jury

adopting such recommendation does so after its own investigation of the matter as to which the recommendation is made, as required by this section.

**§939.91 DECLARATION THAT EVIDENCE DID NOT SUPPORT INDICTMENT;
DECLARATION THAT PERSON WAS WITNESS**

- (a) A grand jury which investigates a charge against a person and as a result thereof cannot find an indictment against such person, shall, at the request of such person and upon the approval of the court which impaneled the grand jury, report or declare that a charge against such person was investigated and that the grand jury could not as a result of the evidence presented find an indictment. The report or declaration shall be issued upon completion of the investigation of the suspected criminal conduct, and in no event beyond the end of the grand jury's term.
- (b) A grand jury shall, at the request of the person called and upon the approval of the court which impaneled the grand jury, report or declare that any person called before the grand jury for a purpose, other than to investigate a charge against such person, was called only as a witness to an investigation which did not involve a charge against such person. The report or declaration shall be issued upon completion of the investigation of the suspected criminal conduct, or series of related suspected criminal conduct, and in no event beyond the end of the grand jury's term.

GOVERNMENT CODE

§3060 ACCUSATION BY GRAND JURY

An accusation in writing 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 officer, for willful or corrupt misconduct in office, may be presented by the grand jury of the county for or in which the officer accused is elected or appointed. The grand jury presenting the accusation may also be the additional grand jury impaneled pursuant to §§ 904.4, 904.6 or 904.8 of the Penal Code. An accusation may not be presented without the concurrence of at least 12 grand jurors, or at least eight grand jurors in a county in which the required number of members of the grand jury is 11, or at least 14 grand jurors in a county in which the required number of members of the grand jury is 23.

§3061 FORM OF ACCUSATION

The accusation shall state the offense charged in ordinary and concise language, and without repetition.

§3062 DELIVERY OF ACCUSATION TO DISTRICT ATTORNEY

The accusation shall be delivered by the foreperson of the grand jury to the district attorney of the county, unless he is the officer accused.

Upon a conviction and at the time appointed by the court, it shall pronounce judgment that the defendant be removed from office. To warrant a removal, the judgment shall be entered upon the minutes, and the causes of removal shall be assigned therein.

§3073 PROCEEDINGS FOR REMOVAL OF DISTRICT ATTORNEY

The same proceedings may be had on like grounds for the removal of a district attorney, except that the accusation shall be delivered by the foreperson of the grand jury to the clerk, and by him to a judge of the superior court of the county. The judge shall appoint a person to act as prosecuting officer in the matter, or place the accusation in the hands of the district attorney of an adjoining county, and require him to conduct the proceedings.

§3074 REMOVAL FOR WILLFUL OR CORRUPT MISCONDUCT IN OFFICE: LIMITATION

Any officer subject to removal pursuant to this article may be removed from office for willful or corrupt misconduct in office occurring at any time within the six years immediately preceding the presentation of an accusation by the grand jury.

§25250 EXAMINATION AND AUDIT OF OFFICERS' ACCOUNTS

At least biennially the board of supervisors shall examine and audit, or cause to be audited, the financial accounts and records of all officers having responsibility for the care, management, collection or disbursement of money belonging to the county or money received or disbursed by them under authority of law. The audit shall encompass the immediately preceding two-year period, or any portion thereof not included in a prior audit. This financial examination or audit may be performed in coordination with the investigations conducted by the grand jury under §925 of the Penal Code, or the board of supervisors may resolve to accept reports delivered pursuant to §933 of the Penal Code in lieu of its own separate examination if such reports are found to fulfill some or all of the requirements of this section. In connection with the requirements of this section and §25253, the board of supervisors may employ the services of an independent certified public accountant or licensed public accountant to perform an examination of the financial statements in accordance with generally accepted auditing standards.

B. Summary of Brown Act Open Meeting Requirements (Government Code §§ 54950-54963)

During their investigations and review of governing bodies, grand jurors should be alert to possible violations of the Ralph M. Brown Act, sometimes referred to as California's "open meeting law." Following are pertinent highlights of the Act:

- 1. PURPOSE OF THE BROWN ACT:** To maximize public access to the deliberative processes of the governing boards of local public agencies by (1) prohibiting communications about board matters among a quorum of the board

except at noticed meetings; (2) requiring agendas for all meetings, with clear agenda item descriptions; and (3) encouraging public input at meetings.

2. APPLICATION: The Act applies to all local legislative bodies, which are defined as:

- A. Governing boards of local agencies (such as counties, cities or special districts); and
- B. Any commission or committee of the local agency, created by the board of the local agency, whether permanent or temporary, decision-making or advisory, **except:**

Advisory committee composed solely of **less than a quorum** of governing board members, **unless** the committee is a standing committee with continuing subject matter jurisdiction or a fixed meeting schedule; and

- C. Boards of nonprofit corporations which (1) were created by a local agency and are exercising delegated authority of the agency, or (2) receive funds from the agency and have on their boards a voting member appointed by the local agency. (Note that the grand jury cannot investigate a nonprofit unless it was created by or is operating on behalf of a local government; being subject to the Brown Act does not, by itself, bring a nonprofit under the jurisdiction of the grand jury.)
- D. A person elected as a member of a governing board who has not yet taken office is considered a member of the Board with regard to communications with seated or elected Board members.

3. NOTICE AND AGENDA REQUIREMENTS:

- A. An agenda must be **posted** at least 72 hours before a **regular meeting**, or 24 hours before a **special meeting**.
- B. The agenda must contain the time and location of the meeting (including each teleconference location) and a **brief but thorough description of each item** to be discussed or acted upon in open or closed session.
- C. The agenda must be posted in a location **freely accessible** to the public 24 hours per day, including each teleconferencing location. Also, every legislative body or its presiding officer must post an agenda for each regular or special meeting on the local agency's Internet Web site, if the local agency has one, in addition to the other agenda notice requirements.

- D. **No action or discussion is allowed on any item not appearing on the posted agenda.**

During regular meetings the board **may add a matter** to the agenda **if** (1) an emergency exists (crippling disaster or work stoppage), or (2) the board finds on a two-thirds vote (or a unanimous vote if fewer than two-thirds are present) that the matter arose subsequent to posting of the agenda and it cannot wait until the next regular meeting. A board may not add items to the agenda of a special meeting.

- E. **Special meetings** may be called by the presiding officer or majority of members by special notice. Notice of special meeting must be received by each member of the board unless the member files a written waiver or actually attends the special meeting.

4. **MEETING DEFINED:**

- A. Any **congregation of a majority** of board members (in person or by video or audio teleconferencing) to **hear, discuss or deliberate** upon any item under the agency's jurisdiction, even if no vote is taken, or
- B. Any direct communication, by personal intermediaries or technological devices, including e-mail, employed by a majority of members to develop a **collective concurrence** to take action ("**serial meeting**"). (Ordinarily involves a board member or staff B individual constituents may contact a quorum, so long as no concurrence is sought.)
- C. **Exceptions:** Attendance of a majority of board members is not prohibited at:
- 1) **Conferences open to the public** to discuss issues of general interest to the public or public agencies, provided that a majority does not discuss specific business involving their agency;
 - 2) **Open and publicized meetings** to address a topic of local community concern, conducted by someone other than the agency, provided that members do not discuss the topics or issues among themselves or take part in reaching a concurrence on action to be taken;
 - 3) Purely **social or ceremonial** events; or
 - 4) A noticed **meeting of one of the agency's standing committees** or a **meeting of another local agency**, as long as the members do not take part in the meeting or discuss business among themselves.

Any congregation of a quorum of the board at which business is discussed and which is not properly noticed and agendized as a regular or special meeting is *illegal* unless one of these four exceptions applies.

The Brown Act does not prohibit board members from giving testimony in private before a grand jury, either as individuals or as a body.

5. PUBLIC INPUT:

- A. At **regular and special** meetings, **the public is entitled to address agenda items**, before or during the governing board's consideration of the item.
- B. At **regular** meetings, the board must also provide opportunity for public to address **non-agenda** items that are within the jurisdiction of the board.
- C. Public input may be prohibited on matters over which the board lacks jurisdiction.
- D. The board **may not consider or take any action on items not appearing on or appropriately added to the agenda**, except to the extent necessary to agendaize the issue for a subsequent meeting, respond to questions, refer the matter to staff, or ask the speaker or staff a question for clarification.
- E. The board may adopt **reasonable regulations** limiting the amount of time for public input by topic or individual speaker.
- F. The board **may not prohibit public criticism** of the policies, procedures, programs, or services of the agency or of the acts or omissions of the board or its employees (even if the comment is defamatory).
- G. The board may not require members of the public to register or to provide any information as a condition of attending the meeting.
- H. Members of the board or staff may make **brief announcements or reports** on activities without the specific announcements or reports appearing on the agenda.
- I. **Written materials** that are provided to all or a majority of board members **are public records** and must be made available to the public upon request.
- J. **Closed session materials are generally exempt** from public disclosure.
- K. The agency must **mail a copy of the agenda** and all documents comprising the agenda packet (except closed session materials) to any person who makes an annual written request for them and pays a fee that covers, but does not exceed, the cost of this service. Upon request, the documents must be made available in alternate formats to persons with a disability.

- L. Each board or commission shall provide the time and place for holding **regular meetings** by adoption of an ordinance, resolution or by-laws. A meeting of a committee which is posted at least 72 hours in advance is a “regular meeting.”
- M. The public may **tape-record, videotape or film** meetings or review or obtain copies of the agency’s tapes.
- N. The meeting place must be **accessible** to all persons.
- O. No secret ballots are allowed.

6. CLOSED SESSIONS:

- A. The board may meet in closed session to **consult with legal counsel** concerning **pending litigation**:
 - 1) Includes litigation which has been **formally initiated**; or
 - 2) Where the board is meeting to decide whether to **initiate litigation**; or
 - 3) Where, **upon advice** from legal counsel, a **significant exposure to litigation** exists based upon limited grounds defined in the act.
 - 4) Prior to closed session, **the board must state or the agenda refer to the statutory basis** and, if it involves a pending lawsuit, the legislative body must normally identify the case.
 - 5) **Must report in open session** if counsel is instructed to defend, or seek or refrain from seeking appellate review or to appear as amicus. If instructed to initiate a lawsuit, must be announced and particulars given at that meeting or after suit is filed or service of process completed. When litigation is settled, it must be reported after the settlement is final.
- B. The governing board may **consider the appointment, employment, evaluation, discipline, or dismissal** of a public employee.
 - 1) Closed session may **not** be held to discuss **an elected official**.
 - 2) An independent contractor may be considered to be an employee if he or she functions as an officer or an employee of the agency.
 - 3) Closed session and the nature of the item must be included on the **agenda** and, except for disciplinary matters or dismissal, **must identify the position** of the employee in question.

- 4) An **action taken** in closed session **must be reported** in open session at the same meeting, provided that any action to dismiss an employee need not be announced until the first meeting following exhaustion of all administrative remedies.
- C. The board may use a closed session to **hear complaints or charges** brought against a public employee, provided:
- 1) Employee must be given **written notice** at least 24 hours in advance of the proposed closed session **and** given the **right** to have the complaints or charges discussed in **open session**;
 - 2) If notice is not given to the employee, any disciplinary action is null and void.
- D. The board may meet in closed session with its representatives prior to or during **labor negotiations** with represented and unrepresented employees to review the agency's position and instruct representatives. The agency's representatives must be listed on the agenda. Salaries of elected officials may not be discussed in closed session.
- E. Closed session is permitted to allow the board to meet with its negotiator concerning the **purchase, sale, exchange, or lease of real property**:
- 1) To give instructions regarding price and terms of payment.
 - 2) Prior to closed session, the chair must identify in open session the property and persons to be negotiated with.
 - 3) The board **must report** in open session on **any agreement** to acquire real property.
- F. Closed session is permitted in order to discuss a **claim for liability losses** or **workers' compensation** liability.
- G. The board may meet in closed session to determine whether an applicant with a criminal record has been rehabilitated.
- H. The board may hold a closed session on matters posing a threat to the security of essential public services or of the public's right of access to services for facilities.
- I. **Closed session procedural requirements:**
- 1) A **brief general description** of each item to be discussed must be **on the agenda** and must be disclosed in open session prior to closed session; the sample agenda descriptions in Government Code §54954.5 should be used.

- 2) Only those items disclosed in an agenda item description may be considered in closed session.
- 3) The board **must publicly report if a specified action was taken** in closed session and if so, the vote, at the same meeting or as otherwise specified (§54957.1).
- 4) The board must provide any **approved documents** (such as employment or settlement contracts) **to the public**, upon request.
- 5) Closed sessions cannot be semi-closed (open to some members of the public, but not others; staff with an official role may be present).

[Note: The agenda and reporting requirements for closed session are very detailed. Do not rely on this brief outline. Refer to the Act or contact counsel if you have any question about how closed sessions should be agendized.]

7. LEGAL PENALTIES

- A. A **violation** of the Brown Act, **with wrongful intent** to deprive the public of information to which it is entitled, **is a misdemeanor**.
- B. Any person may petition the court to prevent violations of the Brown Act. If the Court determines that there has been a violation of the Brown Act, it **may order** the board to **tape record its closed sessions**.
- C. Any interested person may sue in court to **nullify a past board action** taken in violation of the Act; however, the person must:
 - 1) Present a **written demand to correct** the illegal action within 90 days of action if it was taken in closed session or 30 days if in open session;
 - 2) **Allow** the board **30 days to cure** or correct; and
 - 3) Bring suit within 15 days thereafter.
- D. The board may be required to pay **attorneys' fees and costs** to anyone bringing suit if the court determines that there was a violation.
- E. Actions against a board member who breaches confidentiality of closed session might include: misdemeanor prosecution for failure to perform duties; barring member from future closed sessions; obtaining an injunction against future disclosures; or filing an accusation for willful or corrupt misconduct in office (all of which may be difficult to win.)

C. Summaries of Relevant Cases

See your CGJA Training Manual for summaries of the cases and Attorney General opinions related to the civil functions of the grand jury.

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