

SHOULD CIVIL INVESTIGATIONS BE PERFORMED BY THE GRAND JURY IN CALIFORNIA

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EXECUTIVE SUMMARY

The grand jury is a fascinating subject for research. The institution has been in existence nearly a thousand years, with some evidence indicating it may date back to biblical times.

William Shakespeare made this reference in Act III of Twelfth Night, "And they have been grand-jurymen since before Noah was a sailor." The Magna Carta guaranteed a person's right to a pretrial review by the grand jury as a procedural safeguard. Colonists brought the institution to the New World, and it became a vital force in protesting British authority. Also referred to as the "People's Panel", grand juries became instrumental in furthering the concept of self-government.

Grand juries have survived the test of time and remain a part of the federal and state systems in this country. Each of the 50 states maintains the institution, though its scope of activities varies dramatically, and no two states have identical designs. It is in the comparison among states that California is set apart from the others. While the vast majority of states have kept the criminal grand jury intact, or at least the discretion to use it if necessary, only California and Nevada continue to use civil grand juries to comprehensively investigate local government agencies.

California courts have undergone tremendous change in the last two decades. People knowledgeable in the system twenty years ago would not recognize it today. No one is more painstakingly aware of the changes than those within the system who have strived to chart the

course and the rest who have weathered it. A state constitutional amendment was passed in 1998 permitting local judicial discretion to unify courts in each county. As of this writing, all 58 court systems have unified, thereby abolishing the Municipal Court. An entire layer of trial courts has been eliminated. As of 1997, complete funding responsibility was transferred from the counties to the state. As a result, the trial courts have become separated from county government and are now viewed as a separate entity. The third branch of government is now visibly apparent, though it was long shrouded in the county government structure. In January of 2001 approximately 20,000 people moved from county employment to that of the superior courts, statewide, resulting in an entirely separate personnel system. During these tremendous transitions, the allowable use of trial court funds was defined in California Rule of Court 810. These reforms did not touch the grand jury system, however. Grand jury costs were not included within the definition of court operations. They remain charges on the counties. The legal relationship between the grand jury and the court and county remain ambiguous.

Given the sweeping reform of the court system in California, it is time to investigate the role of the grand jury, not in its criminal function, but in its charge to conduct annual civil investigations of local government agencies.

The purpose of this paper is to identify and address problems surrounding the civil grand jury and to recommend reforms which will ensure that the public is well served.

ABSTRACT

This paper will examine the civil grand jury process in the State of California for purposes of determining if civil investigations, particularly those of local government, should continue under the current structure, or if statutory reform is needed. Nevada is the only state other than California that maintains comprehensive civil investigatory functions by a grand jury. The remaining states have either abolished the use of the grand jury for this purpose or utilize other methods to ensure governmental accountability.

The Superior Court in each of the 58 counties in California is required to impanel a grand jury and perform assorted administrative services for its support every year. The manner in which the grand jury functions has a direct impact on the court in terms of the degree of judicial interaction and the level of administrative assistance required. Although the grand jury is frequently referred to as an arm of the court, it is a part of the county government structure. The grand jury has it's own budget unit under the county and is completely funded with county money. The Superior Court is funded by the state and it's revenue and expenditures are entirely separate from the county. Clarification of statutes governing funding of the trial courts in California in recent years defined grand jury operations as a non-allowable use of court funds, thereby eliminating any confusion that may have existed.

The grand jury system is flawed in a number of ways. There are 58 different grand juries

in California each year, comprised of approximately 1100 citizens. Impanelment is problematic in that some jurisdictions have difficulty motivating citizens to apply. The time commitment is substantial, so that most working people are not able to serve. Consequently, the makeup of the grand jury is often weighted with older, retired persons. Those with personal agendas are attracted to grand jury service as it is perceived by some to be a powerful political institution. Once grand jurors are selected, no standardized, statewide training is provided. The length of service is unrealistic in terms of mandated duties. The duration of a term is 12 months, during which grand jurors, in discharging the civil investigation responsibility, must become familiar with local government operations, conduct investigations as they deem appropriate and prepare written recommendations for improvement. During this time they are essentially unsupervised, since much of what they do is secret, as provided by law. Governmental agencies investigated by the grand jury must file responses to the written recommendations; however the deadline for submission of responses is after the grand jury has been discharged from further duties. At the time of discharge, a new grand jury is impaneled and the cycle begins again.

Research was undertaken to determine if grand jury problems are prevalent throughout the state, and, if so, whether reform could improve the process. Consideration was also given to whether grand jury civil investigations of local government should continue at all.

Three governmental agencies in each county were surveyed for their opinions concerning the functioning of the civil grand jury. Surveys were sent to County Administrative Officers,

Offices of County Counsel and Court Executive Officers to determine satisfaction levels and to

measure the level of consistency that exists between counties. The three groups selected were those having the closest affiliation with the grand jury and, therefore, the most knowledge with the current process. Data was not sought from current grand jurors, nor those having previously served.

Responses were received from approximately one-half of the counties surveyed. The conclusion drawn from the data received is that there is considerable variation in many aspects of grand jury operations between counties, with the largest discrepancy existing in budget size compared to county population. While grand juries in some counties function with relatively few problems, other jurisdictions indicate the institution is in need of reform.

Although grand jurors are essentially considered volunteers, the statewide cost is in the millions of dollars annually. That having been said, grand jury budgets do not contain sufficient funds for the provision of training, equipment and other resources in order for jurors to perform their duties well. Increases to local budgets in order to correct substandard conditions could require double or triple the current level of funding. Such an increase would require a commitment from citizens and political leaders that there is a desire and a priority placed on correcting the many problems surrounding the grand jury today. Statutory revision and stable, adequate funding are paramount in lending efficiency and credibility to the process. Without either, serious consideration should be given to transferring the civil investigatory functions to a state agency or commission if those functions are to be performed on an annual basis. An office of citizen complaints at the local level, similar to that which exists in some locations for

complaints against police officers, with statewide oversight, might also provide a more consistent service in California than that which is currently provided by the civil grand jury.

I. <u>INTRODUCTION</u>

The civil grand jury process in California has been the subject of controversy for many years. Among county and court officials, there are proponents of the system as it currently exists, those that support sweeping reform and some that are in favor of abolition.

In the author's court, grand jury performance varies dramatically from year to year. Some of the most notable problems having developed over recent years are summarized below:

- ◆ Interest: Citizens willing to serve has been on the decline for several years.
- ♦ Time Commitment: Frequently, the grand jury is confronted with numerous problems during their brief term of service. Soon after impanelment, it is common for several members to resign because of the time commitment required. Two years ago, the grand jury concluded the year with less than the required number of jurors because the list of alternate jurors had been exhausted. It is not uncommon to hear jurors say they are anxious for the term to end as service is not what they envisioned.
- ♦ Management and Support: Already strained judicial resources must find time to be responsive to the grand jury's needs. Problem jurors can create tensions and dissatisfaction among the rest of the panel and the court is forced to intervene.
- **↑** Training: The budget allocated by the county does not allow for training or

attendance at statewide seminars for all members of the grand jury. Frequently, only the foreperson is able to attend conferences offering training.

◆ Facilities: The grand jury does not have it's own meeting room, office space, equipment or support staff. A conference room shared by county agencies is used for grand jury meetings, based on availability. Committee meetings take place at members homes, restaurants or other locations. No county or court office space, furniture or equipment is available for their use.

All too often, there are only a few talented and dedicated individuals who serve on the grand jury. In a group of 19 people, it is these few that do the work of many. Frequently jurors lack the skills and knowledge necessary to carry out their duties and the balance of the panel is left to carry the load. In some years there is congeniality among the members, and in others there is not. Individuals who have volunteered only because they have "agendas" or are intent on investigating pet peeves in government can make it through the selection process, only to make the jobs of others more difficult.

Others citizens, applying in a noble attempt to volunteer their time to government, leave with a sense of frustration and disappointment that their service was not meaningful or they simply were not appreciated. For this, not only is county government to blame, but all of government, for perpetuating an institution that is in dire need of reform. The needs of grand jurors have been ignored for decades.

The civil investigation charge to the grand jury is a wonderful concept. The presence of a watchful eye on local government is positive for Californians. Thus, no public servant should fear such a group reviewing his or her work. But the work must be performed well to be valuable. Therein lies the problem. From the method of selection to the filing of the final reports, the civil grand jury process is in need of correction.

Grand jury operations are inconsistent throughout the state, in part because oversight on a statewide basis does not exist. For every criticism, flaw or weakness that is cited in the grand jury system in this paper and other written works, there is an opposing view. There are many safeguards in the system that can also be construed as significant faults. This research will assess all components of the institution in order to evaluate if the grand jury's civil investigations should continue to be performed.

II. REVIEW OF RELEVANT LITERATURE

Literature on the civil grand jury is very limited. An initial review eliminates most books and publications because the majority focus on the federal system and its application to criminal proceedings. Narrowing the field to the California system and only the civil investigatory functions reduces the material to a very short list.

The most comprehensive book on the subject is Grand Juries, A Study in Citizenship in California by Bruce T. Olson.¹ Mr. Olson's study of the grand jury spans decades and his knowledge on the subject is unparalleled in this state. He is the Executive Director of the American Grand Jury Foundation located in Modesto, California and as such, conducts training seminars for new grand jurors. The book seems to have been written in answer to a question he was asked at the conclusion of one of his seminars. The question posed to him was: "In an era of experts, professional administrators, and increasingly complex government, is there a need for the civil grand jury, and what is its future?" The book does not provide any "yes" or "no" answers, but it implies that the grand jury, good or bad, is only what grand jurors make of it. Freedom-loving citizens must be involved and support the ideal of self-government.

The civil investigatory, or "watchdog," functions of the civil grand jury are discussed in

¹Bruce T. Olson, <u>Grand Juries</u>, <u>A Study in Citizenship in California</u>, (Modesto, California/American Grand Jury Foundation, 2000)

several California law review articles, which provided additional perspectives on this rather unique institution. "Adding Bite to the Watchdog's Bark: Reforming the California Civil Grand Jury System" by Stephanie A. Doria provides an in-depth examination of the grand jury, from its origins to a conclusion that the system should be retained and strengthened as a mechanism for citizens to monitor their local government.²

A 1999 McGeorge Law Review article titled, "The California Civil Grand Jury: From Watchdogs to Watched Dogs" by John M. Feser, Jr. details a segment of grand jury reform brought about by the Grand Jury Reform Task Force established in 1996.³ The task force, created by the California State Association of Counties and staffed by county officials throughout the state, has sponsored legislation pertaining to the functions of the civil grand jury in California. It was born out of substantial criticism levied on the grand jury that it is inefficient, wasteful and ignored. The article examines Penal Code Section 929 which gives the presiding judge of the superior court authority to make available to the public evidentiary material, findings and other information relied upon by the grand jury for its final report in a civil investigation. This statute was significant in that it was a departure from the secrecy protections afforded to the grand jury prior to its enactment.

Much of the information obtained on the historical background of the grand jury in

²Stephanie A. Doria, Adding Bite to the Watchdog's Bark: Reforming the California Civil Grand Jury System, 28 Pacific Law Journal (1997)

³John M. Feser, Jr., *The California Civil Grand Jury: From Watchdogs to Watched Dogs*, McGeorge Law Review, University of the Pacific (1999)

England and colonial America was found in two books. The first was <u>The Grand Jury: The Use</u> and Abuse of Political Power by Leroy D. Clark.⁴ The second was <u>The Grand Jury, An</u>

Institution on <u>Trial</u> by Marvin E. Frankel and Gary P. Naftalis.⁵ They provided detailed descriptions of events in English history that help to explain the grand jury's evolution from an institution feared by the people to one that protected them from abuses.

Numerous newspaper articles from the <u>Los Angeles Times</u> and <u>San Diego Union-Tribune</u> were helpful in terms of journalists' descriptions of the system and quotes from former grand jurors on their feelings about grand jury service. Although this information was limited in the amount of material available, it was valuable in that it originated from sources actually participating in the grand jury process.

Last, but not least, is the "Grand Jury Background Study" prepared by Professors Michael Vitiello and J. Clark Kelso from the Capital Center for Government Law and Policy, University of the Pacific, McGeorge School of Law.⁶ Equally informative was their "Roundtable Discussion on Grand Jury Reform" transcript of proceedings of June 1 and 2, 2000.⁷ This study

⁴Leroy D. Clark, <u>The Grand Jury: The Use and Abuse of Political Power</u> (New York: Quadrangle/New York Times Book Co., 1975)

⁵Marvin E. Frankel and Gary P. Naftalis, <u>The Grand Jury, An Institution on Trial</u> (New York: Hill and Wang, 1977)

⁶Michael Vitiello and J. Clark Kelso, *Grand Jury Background Study*, Capital Center for Government Law and Policy, University of the Pacific, McGeorge School of Law (2001)

⁷Michael Vitiello and J. Clark Kelso, *Roundtable Discussion on Grand Jury Reform*, University of the Pacific, McGeorge School of Law (2000)

was not limited to the civil functions of the grand jury in California, but explored certain aspects of the criminal function also. The material was particularly relevant to this research because it focused on the problems unique to California and recognized the need for reform. Tentative recommendations have been released suggesting that grand jury statutes be revised and moved from the Penal Code to the Government Code. Modifications to correct ambiguities in the current code sections would clarify the funding responsibilities of the county and the court, where confusion has existed. The recommendations also establish the first pilot program in the state to develop curriculum and provide grand jury training funded by the Legislature. Many of the points recognized in the background study and roundtable discussion were similar to those identified in this paper.

III. METHODOLOGY

In order to determine if grand jury reform or modification is needed, it was decided to approach the question from the perspective of local government officials. Although input from persons having served as grand jurors was considered valuable as well, the scope of the project did not allow collection of data from all available sources. Local governmental officials having the closest affiliation with the grand jury were identified as the superior court, county counsel and the county administrator, and were therefore selected for the study.

An assumption was made that problems with the grand jury process experienced locally are also experienced in other locations throughout the state. Because the grand jury in each of the 58 counties operates independently from the others, a date collection instrument was necessary to document the experiences and practices in each of the counties. Key questions were developed in the following five major areas: 1) Funding, 2) Resources, 3) Selection, 4) Legal Guidance and 5) Training, in order to ascertain similarities and differences from county to county. Surveys tailored to each of the three court or county agencies were prepared and some questions were duplicated across surveys. For example, county administrators and county counsel from every county were both asked if the county was generally in favor of the grand jury continuing to investigate local government. Other duplicate questions were asked in order to gather different perspectives on the same issue. The surveys are attached and incorporated as a part of this research as Appendixes A, B and C. An informal pretest of the surveys was

conducted and no changes were made as a result.

A total of 171 surveys were mailed in September, 2001, to the groups described above. Respondents were asked to complete the survey and mail or fax back to the author of this paper. Within approximately 45 days, 117 completed surveys had been returned. County Counsel responses were received from 58.6% of the counties; Court Executive Officers responded from 81% of the counties and County Administrative Officers answered in 50% of the counties. Data was extracted and grouped into ten tables according to subject matter, which are attached and incorporated as Appendixes E through N. Counties are referred to by number instead of name on all of the tables because many respondents requested anonymity. References to survey data contained within this paper use percentages based on the total number of responses received.

IV. HISTORY OF THE GRAND JURY

The grand jury has a rich history. Originating in 12th Century England, it served to disclose the names of those persons deemed guilty of criminal offenses. King Henry II created the grand jury to regain jurisdiction over criminal charges from the baronial and ecclesiastical courts. Soon after taking the throne, Henry II discovered his predecessors had relinquished substantial judicial jurisdiction, so that even the most serious criminal offenders could claim "benefit of clergy" and be tried before an ecclesiastical court where the penalty could be as light as expulsion from a Church position. Even more compelling was the King's desire to regain substantial revenue resulting from fines imposed by the courts.

Once the church agreed to the body which ultimately became known as the grand jury, the King sought to regain criminal jurisdiction from feudal barons. Under the Assize of Clarendon, issued in 1166, the King effectively gained more power and control over his subjects by creating a panel of 16 men, who heard evidence and decided if a suspect was to be brought to trial. Originally, all accusations commenced with the grand jury members themselves and in fact, each juror was expected to bring those suspected of crimes before the panel. Although they never lost that power to accuse, outsiders were eventually allowed to make accusations, as well.⁹

⁸ Clark, *supra* note 4, at 8.

⁹Richard D. Younger, <u>The People's Panel: The Grand Jury in the United States, 1634 - 1941</u> (Providence, Rhode Island: Brown University Press, 1963) 1. A presentment was an accusation arising from the jury's own knowledge, as differentiated by an Indictment, which

Once accused by the jury, a suspect was tried by ordeal, which was a harrowing process rarely survived. A trial by ordeal could involve the suspect's arm being submerged in boiling water and after being bandaged for three days, if the wound festered, the accused was guilty. If trial by water was selected, the accused was thrown into a lake and if he sank, he was acquitted. If he swam, he was pronounced guilty. Similar tests using trial by hot iron as well as other objects were equally irrational.¹⁰ Suffice it to say, people were extremely fearful of the grand jury and their extraordinary power.

Likewise, grand jurors themselves were fearful to serve on the panel and suffered penalties if they failed to answer a summons. Heavy fines were imposed to insure there were adequate numbers of men to keep the grand jury process alive. The Crown also imposed penalties when grand jurors failed to indict a person the King believed to be guilty, or if the grand jury failed to make enough accusations, thereby limiting the revenue stream flowing to the royal treasury.¹¹

By the 17th century, the grand jury's role as a puppet of the King changed, and its powers were significantly reduced. The institution which the people had originally feared began to evolve into a shield between royal persecution and the English people. Cases receiving most notoriety were ones in which the grand jury found the evidence lacking and refused to indict,

included a charge brought to the grand jury from an outsider.

¹⁰Frankel and Naftalis, *supra* note 5, at 8.

¹¹Clark, *supra* note 4, at 9.

even when the King, for political reasons, urged the indictment. The concept of secrecy began to develop and juries no longer had to reveal the evidence they considered in deciding to indict or not. Trials by petit juries replaced trials by ordeal. Parliament's developing powers to tax diminished the grand jury's obligation to generate revenue for the crown. Although it took five centuries to become independent, England's grand jury was transformed into a vital force in protecting the rights and privileges of its citizens.

Our forefathers established a modified form of the grand jury when settling the American colonies. By 1683, all of the colonies had formed grand juries. They protested abuses and looked after the welfare of their communities. During revolutionary times, grand juries resisted British rule by refusing to indict those charged by the crown's emissaries. Prior to the creation of the first representative assembly in New York, the grand jury began to establish ordinances. In other colonies, they became roving investigators, inspecting jails and bridges and reprimanding local officials for failing to build them properly (the first hint of a civil grand jury). Grand juries sometimes selected petit juries, checked on people failing to attend church and audited county funds. Grand juries used the power of their written reports to inspire public pressure, forcing officials to take corrective action.

Grand jury history continued in the early formation of the United States with its

¹²Younger, *supra* note 9, at 2. Colonial grand juries participated in many activities not typically associated with today's grand juries. They acted as the voice of the people in conveying their wishes, suggested legislation and protested abuse by government.

¹³Clark, supra note 4, at 14.

placement in the Fifth Amendment of the Constitution. Bitter debates between the Federalists and Republicans resulted in partisan use of grand juries to indict Republican critics.¹⁴ By the time of the Civil War, grand juries in the South, hoping to continue the practice of slavery, brought indictments against those attempting to abolish it.

Over the years, the continued use of the grand jury has been widely argued. Many prominent Americans have criticized the institution, while others vehemently defend it. It has been described as inefficient and pointless by some, while others maintain it is an important safeguard against oppression and a critical last bastion for the lay citizen's involvement in government.

Despite its significant place in ancient history, grand juries ceased to exist by 1917 in England and were finally abolished in 1933 following years of debate. Critics accused grand jurors of abusing their power, investigating matters for personal and political motives, and filing reports without conducting full investigations. Many of the same sentiments expressed in England nearly 70 years ago are felt today in this country, and most states have followed England by abandoning use of the civil grand jury system.

Grand juries exist in all states today, although their roles are primarily in criminal matters. The term of service and scope of duties differ greatly between states. They are best known for their indictment function, whereby they assemble to hear criminal charges against

¹⁴Frankel and Naftalis, *supra* note 5, at 13.

individuals and determine whether such person(s) should be indicted.¹⁵ Fourteen states still require an indictment to commence prosecution of felony cases.¹⁶ Grand jury indictments are required for capital or life imprisonment cases in five other states. The remainder of the states use the indictment process as an available option for the prosecutor.

¹⁵Doria, *supra* note 2, at 1124. An indictment is a written accusation charging a public offense. When considering an indictment, the defendant is not present and cannot cross-examine witnesses.

¹⁶U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, State Court Organization, 1998, 283, 284, 285. States requiring an indictment to commence all felony prosecutions are Alabama, Alaska, District of Columbia, Maine, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, South Carolina, Tennessee, Virginia and West Virginia.

V. AUTHORITY TO DRAW GRAND JURIES, IMPANELMENT AND COST

The authority to draw a grand jury in California can be found in Section 23 of the California Constitution, which states, "One or more grand juries shall be drawn and summoned at least once a year in each county." No other specific information governing the duties, responsibilities or restrictions over the grand jury can be found in the Constitution.

Unlike most other states and the federal system, California grand juries have the power to conduct civil investigations of local government, which is commonly referred to as civil "watchdog" powers. A total of 35 states assign some civil duties to their grand juries, such as periodic inspections of jails and prisons or public buildings. However, none are as comprehensive as California and Nevada in inspecting local government operations and reporting on public affairs and the welfare and safety of the community.

The grand jury's role in criminal matters was severely reduced as a result of Hawkins v. Superior Court, a 1978 California Supreme Court case, which held that procedural rights afforded to defendants prosecuted by indictment were considerably disparate from those prosecuted by information, and therefore constituting a violation of the equal protection provision of the state constitution.¹⁷ The court recognized significant disparity in the rights of

¹⁷Hawkins v. Superior Court, 22 Cal. 3d 584, 1978. An information is a written accusation accusing a person of committing a criminal offense. It differs from an indictment only in that it is sworn to by a public officer, usually the District Attorney, instead of a grand jury.

defendants prosecuted by information who were entitled to a preliminary examination, and those prosecuted by indictment who were not. Those indicted by the grand jury were not allowed to be present in the room when the grand jury heard evidence, nor represented by counsel, and therefore could not cross-examine witnesses or present evidence on their behalf. As a result of the Hawkins case, defendants indicted by a grand jury had a right to a postindictment preliminary hearing, which essentially required the prosecutor to duplicate the presentation of his or her case. During the twelve years Hawkins was in effect, there was a sharp decline in the number of indictments that were returned by grand juries, allowing them to focus on civil "watchdog" functions.

The state constitution was amended in 1990 by the passage of Proposition 115, known as the Victim's Rights Law, overruling the Hawkins case. Article 1 was added to Section 14.1 of the constitution which eliminated the defendant's right to a postindictment preliminary hearing, thereby permitting the prosecutor to select criminal cases appropriate for grand jury indictment. Today, prosecutors use discretion in selecting criminal cases for grand jury review. Jurisdictions using a separate criminal grand jury, having been impaneled on a random basis, typically generate more indictments than others using a single grand jury for civil and criminal purposes.

Grand juries seeing their role as primarily civil, complain that involvement in criminal indictment hearings negatively impacts the time available to complete civil investigatory functions. For example, in the final report of the 1991-1992 Butte County grand jury, the following recommendation was set forth:

"As California statutes now allow, it is the recommendation of this Grand Jury that future criminal matters be taken before a specially selected Grand Jury specifically designated only for each criminal matter. This procedure would allow the members of the original Grand Jury to devote their time and efforts solely to matters regarding government activities and governmental expenditures."

Grand juror sentiments with respect to focusing on civil matters alone, are not shared universally. Depending on the make up of a panel, some grand jurors look forward to their role in criminal matters, seeing it as a rare opportunity to become involved in noteworthy cases.

A grand jury is impaneled annually in every one of the 58 California Counties. The required number of jurors is dependent on population. Twenty-three are required in a county having a population exceeding 4,000,000, eleven in a county having a population of 20,000 or less, and nineteen in all other counties. ¹⁸ Counties apply discretion to increase the size of the grand jury by local ordinance. ¹⁹ The reasoning for the number of required jurors may go back to ancient times and it's application today is difficult to reason. Under the current structure, a grand jury may establish its own internal operating procedures and rules. Most grand juries form

¹⁸California Penal Code, Section 888.2

¹⁹Butte county, having a population of 201,600 impanels 23 grand jurors instead of 19. Trinity county having a population of 13,000 impanels 19 grand jurors instead of 11. Both examples illustrate counties that have chosen to use a larger grand jury than that which is required.

Several different committees for purposes of distributing the civil investigations workload.²⁰ Once a decision has been made that a civil investigation will commence, it is usually assigned to a specific committee for action. In reality, a jury of this size presents a number of problems. Budgets must be considerably larger for panels of 19 persons, as opposed to the minimum number of 11. Counties experiencing difficulty obtaining enough qualified applicants would be better served by reducing the number required and thereby raising the standards which are applied to the selection process.

One additional grand jury may be impaneled at the direction presiding judge of the superior court in each county.²¹ The California Attorney General opined that the additional grand jury authorized by Penal Code section 904.6 is restricted to criminal matters only, and may not perform civil oversight functions.²² The second grand jury is selected at random from a source or sources reasonably representative of a cross section of the population, which in many instances differs dramatically from the selection method used to impanel the regular grand jury. This additional grand jury may withstand challenges that it is a representative cross section of the population where the regular grand jury likely will not. A survey of county officials indicates about half of the respondents believe the regular grand jury is not representative of the population

²⁰Citizen complaints and suggestions for investigations from a previous grand jury may be voted on by the entire group for purposes of deciding which investigations are to be undertaken.

²¹California Penal Code, Section 904.6

²²76 Opinions of the Attorney General, 181

in their jurisdictions.²³

California statutes define the grand jury as a body of the required number of persons sworn to inquire of public offenses committed or triable within the county. One grand jury in each county shall be charged and sworn to investigate matters of civil concern.²⁴ Qualifications to serve are minimal. Persons must be at least 18 years old, a citizen of the United States, a resident of the state and county for one year, having sufficient knowledge of the English language and be in possession of his or her natural faculties, of ordinary intelligence, of sound judgment and of fair character.²⁵ Persons are not eligible if they are serving as a trial juror, have been discharged as a grand juror within one year, been convicted of malfeasance in office or any felony, or currently serving as an elected public officer.

Although grand jurors are essentially considered volunteers, they do receive nominal compensation. Per diem in the amount of \$10 per grand jury meeting plus mileage is provided by law, however a higher fee or rate of mileage may otherwise be provided by county or city

²³See Table 1, Appendix E

²⁴California Penal Code, Section 888 makes the distinction if more than one grand jury is impaneled pursuant to Penal Code Sections 904.5 to 904.9, inclusive, only one grand jury shall have civil investigatory duties. Investigation or inquiry into matters of civil concern are described 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.

²⁵California Penal Code, Section 893

ordinance.²⁶ The grand jury per diem rate matched that of trial jurors until July 1, 2000 when legislation became effective raising trial jurors' pay to \$15 per day, commencing with the second day of service.²⁷ Effective July 1, 2002, grand jurors' per diem will be increased to \$15 per meeting. A survey of 30 California counties revealed that only 11 counties pay grand jurors the per diem rate set forth in the Government Code. Two Counties do not pay jurors for meeting attendance at all, and several southern California counties pay much more than that which is required by law.²⁸ Most counties pay grand jurors the mileage rate set by the Internal Revenue Service of \$.345 per mile (2001), however 2/3 of the counties responding to a survey on this subject indicate they pay round trip, instead of one-way as required by the Government Code. Legislative efforts in 2000 to raise grand juror per diem statewide resulted in the Governor vetoing the bill, describing grand jury service as a privilege for which citizens voluntarily apply and interview. The Governor also indicated in his veto message that he did not believe that "jurors who are summoned, and thus, commanded to serve should be paid less compensation than a grand juror." In some instances, individual grand jurors may waive payment of any compensation. Both per diem and mileage expenses are paid out of the county general fund.²⁹

²⁶California Penal Code, Section 890

²⁷No compensation is provided to trial jurors for the first day of service.

²⁸See Table 1, Appendix E. Los Angeles, Riverside and Santa Barbara counties pay 2-1/2 times the rate set in the Government Code. Ventura county pays twice the rate and Orange county pays five times the rate required by the code.

²⁹California Penal Code, Section 890.1. This section was amended effective 1/1/02 to increase grand juror pay from \$10 to \$15 per meeting, effective 7/1/02.

VI. CIVIL GRAND JURY STATUTORY POWERS

The California civil grand jury's powers are contained within a variety of statutes. Their investigative powers are so broad that there seems very little they cannot choose to examine, as long as it is within their county boundary. By law, they are required to investigate and report on the operations, accounts and records of officers, departments or functions of county government, including special districts, and they may select which agencies are to be investigated. They may probe any city or joint powers agency located in the county, examine their books and records and issue a report making any recommendations they deem proper. The need for an increase or decrease in the salaries of elected county officials may also be investigated and reported upon, as well as the needs of county officers, including the abolition or creation of offices. They are given unlimited access to all public records and complete independence while conducting investigations.

Investigations arising out of public complaint are performed at the discretion of the grand jury usually without input from any government source. Grand jurors reviewing citizen complaints have complete discretion to accept or ignore what is brought to their attention and they are under no obligation to explain their reasoning. Direction in local handbooks may suggest that an abbreviated reason be given; however, there is no statutory requirement to do so.

³⁰California Penal Code, Section 925

³¹California Penal Code, Section 925a

This concept of being able to pick and choose is offensive to those critical of the institution in that it is yet another area where individual feelings, bias or political motives can be abused.

Jurors may file complaints themselves or may be referred matters from a previous grand jury; however, in both instances they are not compelled to take action. The decision of whether to commence an investigation may be left strictly to the foreperson without the concurrence of other members, depending on the procedural arrangement that is instituted by a particular grand jury. For example, a suggested practice is that complaints are referred to a particular committee for review and recommendation, following which a vote may be taken by the entire grand jury authorizing an investigation if at least 12 members concur.

The grand jury may employ experts or assistants to aid it in carrying out investigations, at an agreed compensation approved by the superior court. Expenditures for this purpose may not exceed \$30,000 annually, unless approved by the county board of supervisors. Although this option is available in situations where it is warranted, it is seldom used. A survey of county officials indicates funding was provided for experts in only 27% of the counties.³²

³²See Table 2, Appendix F

VII. FUNDING

Adequate funding is critical for any organization. The grand jury is certainly no exception. Although the grand jury is commonly referred to as an arm of the court, it is actually a part of county government and its funding flows from such. The statewide cost for the grand jury was not available from the California Department of Finance. The total figure for counties responding to a survey making up approximately half of those in California is just under \$4,000,000. The board of supervisors in each of the 58 counties in California allocates a fiscal year budget for annual expenditures, which may include payment of per diem and mileage costs, office expense and training. Data collected from County Administrators throughout California indicates only one out of 30 counties considers their local grand jury budgets inadequate.³³

Statutory provisions exist that permit the grand jury to investigate and report upon the operations of incorporated cities, joint powers agencies and special districts located in the county.³⁴ Each may have its own taxes and revenues, separate and apart from county government. While grand jury powers clearly cross county/city boundaries within a county, the

 $^{^{33}}Id.$

³⁴Penal Code Section 925 requires the grand jury to investigate and report on the operations, accounts and records of county officers including any special legislative district or district created pursuant to state law. Section 925a permits the grand jury to examine the books and records of any incorporated city or joint powers agency located in the county and make any recommendations it may deem fit. Authorization to examine the books and records of any special purpose assessing or taxing district or local agency formation commission is contained in Penal Code Section 933.5.

funding does not. Administrators in 70% of those counties responding indicated cities should contribute to the grand jury's budget.³⁵ An additional 10% either had a combined county/city governance structure or had no incorporated cities within their counties.

This divergence in the funding structures as between city and county governments may lend support to overall state funding responsibility. Grand jurors themselves question the total burden of their budget being on the county alone. The overall health of grand jury budgets varies dramatically from county to county. One northern California county having a population of approximately 800,000 reported a 2000/2001 grand jury budget of \$23,430, while another southern California county having a population of 773,500 reported a budget of \$198,420 for the same year. Similarly, two Central Valley counties within close proximity of each other and having populations of 400,000 and 415,000, reported budgets of \$98,988 and \$201,200, respectively. This is again illustrated in two small northern California counties having a difference in population of only 127 people, but whose budgets varied by 186%. These data may reflect many problems including that some counties that are in comparatively poor financial health or that possibly a low priority is placed on grand juries by some boards of supervisors. Grand jury complaints about a lack of resources and inadequate training are understandable.

³⁵See Table 2, Appendix F

³⁶Vitiello and Kelso, *supra* note 7, at 55.

³⁷Figures represent budget allocations and do not reflect actual expenditures.

Increases in funding by local county governments is also inconsistent and demonstrates a varied level of support among counties. Los Angeles County, the largest county in the State of California, reported a grand jury budget for fiscal year 1999/2000 of \$687,000 with an increase to \$1,189,000 for 2000/2001.³⁸ Riverside, the third largest county in the state, had a grand jury budget of \$386,000 for 1999/2000 and a projected decrease to \$385,000 for 2000/2001.³⁹ Reluctance on the part of counties to increase grand jury appropriations is varied. A survey of county grand jury budgets indicates a decrease in funding from fiscal year 1999/2000 to 2000/2001 in 30% of the counties, with 13% reporting no change in funding between fiscal years. The remaining 57% of counties reported budget increases from slight to substantial.

Funding may be directly correlated to community and county sentiments about the grand jury's worth. Counties that do not value the work of the grand jury or have little faith that its final report will be significant in terms of fresh suggestions for improvement, may be inclined to shift funds to other county agencies more highly regarded. Departments experiencing budget shortfalls or those faced with cutting staff and thereby service to the public, stand a better chance of winning approval from the Board of Supervisors when there is not enough money to go around. Grand juries typically do not prepare their county budgets and they may have very little interaction with the person who does. The time line for the process is such that the budget is actually prepared several months before grand jury selection takes place. It is unlikely that a newly sworn foreperson would be familiar enough with this arduous process to take an active

³⁸See Table 3, Appendix G

 $^{^{39}}Id.$

role in county budget appeal hearings which take place early in the fiscal year. Lack of leadership continuity in the grand jury from year to year can result in a serious detriment at budget time.

With no statewide standards in place, it is possible for persons who have a political ally who is the subject of a potential grand jury investigation or who may become the subject of a grand jury investigation themselves, to play a role in deciding or impacting grand jury funding levels. This is indicative of a serious flaw in the design of the institution. Persons having final decision making authority can manipulate the grand jury's ability to conduct investigations over officials or county operations for the following year. The grand jury's only recourse may be to ask the court to intervene by using Penal Code Section 931, and thus placing the court in the uncomfortable position of straining its relationship with the county by ordering the Auditor to pay necessary investigative expenses.

The county may also deliberately restrict the grand jury's ability to explore investigations pertaining to cities and special districts. Since boards of supervisors are focused on allocating dollars for county services and receive pressure from a variety of forces, they may be disinclined to provide funds that cross jurisdictional boundaries. Grand jurors have no authority to allocate expenditures from their budget and therefore are completely dependent on the county to provide adequate funding.

The entire budget process residing with the county is also an area that can lead to

confusion for the grand jury. They begin to see themselves as quasi county employees and correlate their jurisdiction to that of the county, instead of local jurisdiction, which includes cities and special districts. Grand jurors develop more of a connection and even sometimes a social relationship with county leaders so that they become focused on only a portion of their total scope of civil review.

VIII. SUPPORT RESOURCES

County government's provision of basic resources, such as support staff, office space, equipment and meeting rooms has been problematic for years. In 1997 the legislature successfully added statutory language requiring the superior court to arrange for a suitable meeting room and other support as the court determines necessary for the grand jury.⁴⁰

Unfortunately, there was no allocation of money for this purpose and the statute required costs incurred as a result be absorbed from existing resources. Data collected from 47 counties indicates 19% still do not provide meeting rooms for their grand jury and 6% provide a room, but it is also used for other purposes as well.⁴¹

Much needed office machines such as personal computers and typewriters are rarely provided. Grand jurors in many counties are forced to use their own personal equipment for official business. Enterprising members learn early in the term which jurors are computer literate and have a machine at home with which to type drafts of materials. Space used to store library materials and conduct grand jury business is frequently shared with county agencies. In extreme cases, the only space provided may consist of a locked file cabinet kept in a public corridor, and cardboard boxes are hauled in the trunk of someone's car to a meeting place.⁴² Committee

⁴⁰Penal Code Section 938.4

⁴¹See Table 4, Appendix H

⁴²Vitiello and Kelso, *supra* note 7, at 18.

meetings may be conducted in someone's home or at a restaurant because courthouse space is not available for use. Survey results indicate 34% of superior courts polled do not provide dedicated office space for the grand jury.⁴³ This may be due to the fact that many courts are out of space and have nothing available for the grand jury's use. Counties report 53% do not provide support staff to the grand jury and 20% have no computers or copy machines.⁴⁴

Enterprising grand jurors have gone so far as to conduct fund raisers in order to raise money to purchase word processing equipment.⁴⁵ This lack of resources serves to further hamper grand jurors' efforts to effectively use their 12 month tenure. An impression is made that counties do not want to help and do not place a priority on the needs of the grand jury.

Funding for experts and assistants is available to the grand jury, if first approved by the court.⁴⁶ Expenditures for such assistance may not exceed \$30,000 per year unless also approved by the Board of Supervisors. Outside auditors and appraisers may be allowed to examine records and documents if the grand jury requires assistance when examining the accounts of the county

⁴³See Table 4, Appendix H

⁴⁴See Table 5, Appendix I

⁴⁵Vitiello and Kelso, *supra* note 7, at 61. Dan Taranto, Director and Past President of the California Grand Jurors Association, indicated during a roundtable discussion that while serving on the Humboldt grand jury he went to the Board of Supervisors to ask for a typewriter because they had none. A typewriter with sticky keys was ultimately produced for the grand jury's use. Because of their dissatisfaction with the sticky typewriter and the Board's denial of the grand jury's request for a word processor, the grand jury conducted a fund raiser and bought its own equipment.

⁴⁶California Penal Code, Section 926

assessor. Survey results indicate funding for experts has been used in only 26% of counties responding.

In many instances, a reluctance to provide necessary tools and space to the grand jury may be more the result of an absence of a voice. experienced administrators are very effective in getting what they need by having learned how and when to ask, and what might be exchanged in return such that the desired results are produced. Because most grand juries, other than those from very large counties having designated support staff, do not have a representative knowledgeable in the process; inadequacies in support resources continue to magnify the challenges to grand juries year after year.

IX. SELECTION

Selection of the grand jury is the responsibility of the Superior Court in each of the 58 counties. Little else is consistent in the process of selection among the counties. Courts are not required to draw from any particular source of citizens such as lists of registered voters or licensed drivers. In fact, many counties use a combination of methods of selection in order to develop a list from which the final grand jurors are actually drawn. It is doubtful county residents actually know or understand how this process works where they reside because there is no requirement to advise the public which method is being used.⁴⁷

The process of selection begins by the court making an order designating the estimated number of jurors that will be required for the grand jury to carry out its duties. This order is made in the month prior to the beginning of the fiscal year. If the county has a jury commissioner or someone who performs the duties of a jury commissioner, a list is furnished to the judges from which the jury commissioner recommends individuals for grand jury service. The jury commissioner compiles the list pursuant to written rules or instructions adopted by the judges. Ironically, the court is not required to use any of the names on this list. In fact, the

⁴⁷Olson, *supra* note 1, at 271. Statutes governing grand jury selection allow the superior court considerable discretion. There is nothing to preclude persons employed by local government or even blood relatives of public officials.

⁴⁸County government operates on the fiscal year commencing July 1 and ending June 30 of the following year.

judges may create a pool of prospective jurors which may include any person in the county they feel suitable and competent.⁴⁹ This provision allows total discretion on the court's part to decide who shall become a prospective juror. One may conclude such authority is appropriate to ensure the grand jury is selected only from those individuals the court deems uniquely qualified to do the job.

The law provides for all prospective jurors to be nominated by judges or in some cases, by members of boards of supervisors or other local government officials, which is a method of selection once referred to as, "a means guaranteed to produce partiality." While this possibility may exist in order to impanel those people who possess the skills and abilities deemed desirable for grand jury work, it also smacks of century old criticisms when persons were hand picked by the King, or as late as the 1960's when the key-man system was used in this country. The key man system involved the clerk of the court contacting men having extensive connections and asking that they recommend grand jurors. 51

The nomination method can also place the court in the untenable position of nominating a friend or business acquaintance who discovers the grand jury may not be the prestigious, elite group it once was. Judges in smaller counties may experience difficulty in nominating the

⁴⁹California Penal Code, Section 903.4 permits judges to name any person they see fit to the group of those from which final selection will occur.

⁵⁰Frankel and Naftalis, *supra* note 5, at 34.

⁵¹*Id*.

required number of uniquely qualified individuals every twelve months, thereby creating the possibility of the same people serving over and over.

So much authority is conferred on the court in the selection process, that no one may challenge it. Neither the panel nor an individual grand juror may be challenged, except by the court for want of qualification.⁵²

For the above reasons and others, counties who once selected grand juries by personal nomination alone have changed to supplement the pool with citizen volunteers and a combination of registered voters and those licensed to drive. Of 47 courts responding to questions about their selection method, 6 indicated they still strictly use the nomination system.⁵³ Once the required number of prospective jurors is reached, all counties complete final selection by lottery. This process entails placing the names of prospective jurors on ballots and drawing one by one until the correct number of individuals have been seated.

Lack of randomness and the ability to select friends, associates or political allies is extremely perplexing for those familiar with the petit jury process. There is nothing to preclude selection of persons that are related to or supporters of local government officials or those with whom they share compatible political ideas to sit on the grand jury. In smaller, rural counties, judges involved in the selection process may interview all prospective jurors they do not

⁵²Penal Code Section 910

⁵³See Table 6, Appendix J

personally know. Therefore, those finally chosen may ultimately all be personal acquaintances of that judge. Ironically, potential abuse exists in the selection process that, if duplicated in local government, might compel an investigation by the grand jury. This is not to assert that judges would abuse the process, but to point out a weakness in the method that exists for selecting grand jurors.

The provision in existing law that requires the court to select grand jurors by personal interview in order to ascertain whether they possess the minimum qualifications is yet another hurdle. While it may lead some to believe jurors are being hand picked, it has resulted in eliminating individuals that may appear acceptable on paper, but reveal their true motivations upon in-person examination. The question is whether this is a prudent use of already strained judicial resources. Most counties search for no fewer than 30 people from which to draw their final number of grand jurors. If a conservative estimate of 50 individuals were scheduled for 30 minute interviews, it is conceivable almost a week of the court's time could be spent each year fulfilling this requirement. This is a serious problem in light of a recent statewide assessment of judicial needs having revealed that California is currently in need of 365.3 new judgeships, or an increase of 19.2% statewide. Because of insufficient staffing, it is conceivable that not all courts comply with Penal Code Section 896.

The composition of the grand jury has been attacked as lacking diversity in many ways.

⁵⁴Report of Results of Statewide Assessment of Judicial Needs Including List of Recommended New Judgeships to the Judicial Council, October 26, 2001

Many citizens who experience difficulty serving two or three days on a petit jury, may consider grand jury service an impossibility. With its term of 12 months and frequent evening and daytime meetings, interviews or tours, most working people with families making up a significant part of the population, are eliminated from service. Data collected from 47 courts indicates 59.5% experience difficulty in obtaining enough interested people to serve each year. Despite community outreach, the time commitment alone establishes a system where retired, more affluent people having the financial ability to volunteer their time make up a large percentage of those willing to serve.

Though the grand jury is criticized for its older membership, this could be considered an advantage. Highly experienced, retired professionals may be more suited to grasp the complexities of local government and conduct the investigations required of them. These same people may be more familiar with the community and could apply life experiences to grand jury duties.

Challenges that grand jurors do not accurately represent a cross-section of the community and therefore do not stand the test for criminal matters, have resulted in the increasing number of separate grand juries, one for criminal, one for civil.⁵⁶ The amount of time a grand jury spends on criminal matters is solely at the discretion of the District Attorney. In counties where the

⁵⁵See Table 7, Appendix K

⁵⁶The grand jury responsible for civil duties is commonly referred to as the "regular" grand jury.

grand jury spends substantial time considering indictments, there is little time available for civil functions. For this reason, approximately 19% of California counties use multiple grand juries.⁵⁷ Selection of the criminal grand jury is done randomly, using the same pool as that used for petit juries, allowing the court to use previously described methods of selection for the civil grand jury. One urban county selects as many as four grand juries per year, with those designated for criminal purposes selected and dismissed every three months, thereby making it easier for the average citizen pressed into service.

One of the biggest obstacles to overcome in implementing separate grand juries is that of funding. While it may be advantageous to separate the functions, with a second criminal grand jury specifically authorized by California Penal Code Section 901.6, it can only be accomplished where there is adequate county funding to absorb the additional costs. Because California Rule of Court 810 does not permit grand jury expenditures to be made from California court funds, counties are responsible for a potentially significant increase in costs.

⁵⁷See Table 7, Appendix K

X. LEGAL GUIDANCE

The issue of legal guidance for the grand jury is particularly troublesome, not only for the court and county government, but for the grand jurors themselves. Proponents of the system describe the grand jury as a body of lay citizens gathered together to act as watchdogs over local government by interviewing public officials and inspecting public records. Put simply, it keeps government honest. The question is, who watches the grand jury? Their powers are very broad, and they are not required to have a complaint to commence an investigation. They may do so on their own initiative, which provides possibilities for abuse and personal agendas. They may go looking for problems which may or may not exist, having been intrigued by complainants.⁵⁸ A former Los Angeles County grand juror in 1984-85 said, "Forget the civil side completely. It's sort of ridiculous...We're just like babes in fairyland when we go down there (to the grand jury room), we don't know what the hell we're doing."

In addition to the need for sound legal counsel so that grand juries can reach accurate conclusions once investigations are completed, legal counsel is also essential to prevent exposure

⁵⁸Spoken by a member of the 1997-98 San Diego County Grand Jury, "Too often, grand juries simply get it wrong. They are easily seduced by the complainants who come to them with tales of alleged civic wrong that only they, the noble grand jury, can unearth and expose." Marjorie Van Nuis, *Grand Juries Are A Joke, But No One Laughs*, SAN DIEGO UNION-TRIBUNE, June 25, 1999

⁵⁹Robert W. Stewart, Experts Question Role, State Grand Juries Failing Civil "Watchdog" Function, LOS ANGELES TIMES, August 5, 1986

to civil liability on the part of grand jurors because comments in a report about persons or officials not indicted by the grand jury are not privileged.⁶⁰ In a 1978 case before the First District Court of Appeal, an engineering, land surveying and architectural firm was defamed by statements contained in a Lake County grand jury report that the firm had been negligent, incompetent and wrong in the performance of its duties. The court held that the grand jury members were not immune from being sued.⁶¹ The Supreme Court in 1988 also recognized the importance in balancing grand jury power. The court held that a grand jury exceeded its legal limits when it announced intention to disclose raw evidentiary materials gathered during a secret watchdog investigation.⁶²

Grand jurors themselves recognize the need for legal counsel. In the letter to the court, dated December 31, 1992, accompanying the Colusa County grand jury's final report, the foreman said the following:

"To assist the Grand Jury in its functions, we also recommend that an attorney from the county always be included as a member of the Jury. The complexity of laws, regulations, statutes, etc., governing the functioning of the Jury and governmental bodies within its purview are so complex and open to interpretation (that) the common layman appointed to the Jury is overwhelmed and intimidated.

⁶⁰California Penal Code Section 930

⁶¹Gillett-Harris-Duranceau & Associates, Inc. v. Robert C. Kemple, 83 Cal. App 3d

⁶²McClatchy Newspapers v. Superior Court of Fresno County, 44 Cal. 3d 1162

The efficient functioning of the Jury was often hampered by lack of immediate access to counsel."

Who is to provide legal guidance to this group of lay citizens in order to avoid the threat of abuse or defamation suits? Just as it may not be an effective use of overburdened judicial resources to interview prospective grand jurors, neither is it in the public's best interest to utilize a judge to supervise citizens having no legal training. Most Superior Court judges are far too busy carrying calendar assignments or trying cases to spend time overseeing every move the grand jury makes.

Most counties in California report that the grand jury is referred to County Counsel for matters requiring legal direction in connection with civil investigations.⁶³ There seems, however to be an inherent conflict of interest in county attorneys providing advice to a grand jury investigating a county agency, that agency also being represented by County Counsel. Grand jurors become frustrated when neither the presiding judge nor county counsel can assist them.⁶⁴ Others voice complaints that information from legal counsel is inconsistent and typically there is no expert available to them. There is no statewide centralized advice point that grand jurors may contact, despite efforts by the California Grand Jurors Association to create a pro bono hotline

⁶³Each county maintains the services of a County Counsel, who acts as the county's legal advisor and representative. If this person is not an employee of the county, he/she may provide services under a contractural agreement.

⁶⁴Vitiello and Kelso, *supra* note 7, at 56.

with law school students.⁶⁵ Grand jurors feel left out in the cold when legal advice is not immediately available to them and the perception is that no one really wants to help.

A survey of 32 County Counsel Offices throughout the state revealed 31% do not provide legal guidance on grand jury investigations. 66 Of those that do provide assistance, over half indicated the grand jury is referred to the District Attorney if County Counsel declares a conflict. Conflicts can occur in the instance where county counsel represents the interests of a county department that is being investigated by the grand jury and both sides are seeking legal counsel from the same office. The Court is used for conflict advice approximately 19% of the time. Data indicates independent, outside counsel is appointed in less than 10% of the counties responding.

Review of grand jury reports is an important safeguard to ensure libelous statements are eliminated prior to publication. In 41% of the county counsel offices responding, legal staff do not provide assistance in reviewing or editing written reports generated by the grand jury. ⁶⁷

Because grand jurors are liable for remarks against individuals not indicted, it is surprising that so many counties do not play a more active role on behalf of grand juries. Pursuant to an Attorney General opinion, the county must provide indemnification and defense to grand jurors who, acting within the scope of their lawful duties, are sued for statements made in a final

⁶⁵Vitiello and Kelso, supra note 7, at 69.

⁶⁶See Table 9, Appendix M

⁶⁷*Id*.

report.⁶⁸ The potential for exposure to liability on the part of the county, as well as grand jurors, would seem to dictate careful review of any materials generated by the grand jury prior to the issuance of reports.

⁶⁸Attorney General Opinion No. 97-1210, June 2, 1998, Volume 81, page 199

XI. TRAINING

Training may be the single-most critical element in assuring success in the grand jury process. By virtue of its definition, the grand jury is a group of citizens who may or may not have had any formal education, training or experience in areas such as conducting investigations, interviewing officials and writing reports. They may have little or no knowledge in dealing with governmental entities and are unaware of the local government structure of agencies and departments. The process, whether reasonable or not, requires them to become experts in these areas and more, and to complete all of their duties within a twelve-month period of time.

Grand jurors are informed of their many duties after impanelment and swearing has taken place, which may be considered the first installment of their training. This process is known as reading the charge, which is similar to the court's instruction to a petit jury prior to the commencement of deliberations. It is usually spoken by the court to the grand jurors and a written copy may be provided for their benefit, as well. The court is required by law to give them information on their duties and as to any charges for public offenses returned to the court or likely to come before the grand jury.⁶⁹ The charge may be lengthy or short, based on the court's opinion of how much information is necessary. A sample of a court's charge is attached to this paper and incorporated as Appendix D.

⁶⁹Penal Code Section 914 specifies that a charge shall be given. This section also sets forth the training that is to be provided to assist the grand jurors in the performance of the their duties regarding civil matters.

Most responsive to the training predicament are those persons who have experienced it themselves. Founded in 1982, The California Grand Jurors Association, (CGJA) states as its mission, "We promote government accountability by improving the training and resources available to California's 58 regular grand juries and educating the public about the substantial local government oversight and reporting powers those grand juries have." They are, without a doubt, a group of very talented and dedicated individuals who volunteer to perpetuate, enhance and improve the functions of the "regular" grand jury system in California. They indicate one of their primary purposes is to promote comprehensive training for new jurors in California. The CGJA is the only statewide organization of its kind, although local associations also exist in several counties.

CGJA conducts regional and statewide training seminars in California. It offers instruction covering broad subject areas taught by former grand jurors who lend their experiences and expertise. CGJA believes someone who has actually served is the most competent to teach, a concept that makes sense. Although the training is intended to supplement and complement the training received by grand jurors locally, it is often the only training provided in many jurisdictions. CGJA's training team utilizes skills learned from former jurors, who include attorneys, teachers, university professors, police and professional investigators, accountants, management auditors and others. These seminars average two days in length. The registration cost is affordable and the training includes a binder of reference materials.⁷¹ However, the associated travel costs including hotel,

⁷⁰Unknown author, "Why the CGJA Avoids the Term "Civil" Grand Jury." CGJA avoids the term "civil grand jury" and encourages grand jurors to do the same. The belief is that the term does not accurately describe the dual civil and criminal functions and thereby diminishes its powers.

⁷¹Registration cost for the seminar held in 2001 was \$75 per person.

meals and transportation may be beyond county budgets. Consequently, because of a lack of funding, many new grand jurors do not receive this instruction.

In addition to the training offered by CGJA, counties report they use a combination of other sources to help educate new grand jurors. Among those are local grand juror associations, former grand jurors, professional trainers, the district attorney and county counsel. Members of the court's staff and some county government officials also have some level of participation in local orientation and training sessions.

Legislation which placed an emphasis on training for grand jurors was passed in 1997 with the Grand Jury Training, Communication and Efficiency Act. It amended the language of the statute to specify that civil grand jurors should receive training that addresses, at a minimum, report writing, interviews, and the scope of the grand jury's responsibility and statutory authority. The Act was significant in that it created a state-mandated program of training in order to assist the grand jury in the performance of its duties with respect to civil matters. It identified key areas of concern and placed the burden on local officials to ensure that such education is provided. Those local officials were identified as the court, in consultation with the district attorney, the county counsel and at least one former grand juror.

Although the legislation formally recognized a need for grand jury training in civil matters, it did not create a uniform program for use statewide. The responsibility to carry out the intent of the

⁷²Penal Code Section 914

legislation was placed on local officials, and costs for doing so were to be absorbed by the court or the county from existing resources. In many instances, this need for specific training was not a new concept for counties, as they had been well aware grand jury training was lacking or even non-existent in some jurisdictions.

In reviewing survey results, grand jury budgets in 41% of the counties responding either decreased or remained the same between fiscal years 1997/98 and 1998/99, which may indicate that no additional funds were allocated for the training required by Penal Code Section 914.⁷³ When asked if boards of supervisors would support increasing grand jury budgets to support additional training, 27% of the county officials responded that they would not.

Despite the efforts of the legislature, government officials and associations of former grand jurors, training is still viewed overall as deficient. No formal training program exists for use statewide, and what is offered differs from county to county. There are no standards or requirements for elements of training, the absence of which can produce results which might subject the county and the grand juror, individually, to civil liability. Mandatory training provided to government employees in order to reduce the employer's liability is non-existent for the grand jury. A recent experience with sexual harassment issues highlighted the need for all types of training for grand jurors carrying out their duties under the auspices of the county. A member of a grand jury requesting records from a city office for purposes of conducting an investigation was accused of engaging in inappropriate behavior with a female employee. Although the grand juror stated he

⁷³See Table 3, Appendix G

meant no offense, he had no training on the sensitivity of sexual harassment issues and subjected himself and city and county departments to liability. Other training such as disability accommodation issues, either mandatory or optional, offered to governmental employees could also prove important for grand jurors.

County Counsel offices throughout the state were asked if they viewed the current training for grand jurors as adequate. Twenty-six percent of those responding answered in the negative. That survey also revealed 29% of County Counsel offices provide no training to the grand jury. Some of the commentary provided revealed that in one county the grand jury refused to allow County Counsel to perform training and that materials provided for their use were refused by grand jurors. Yet another County Counsel responds the grand jury would benefit from better training in investigations and report writing and although the current training was adequate for what it is, more comprehensive training is still needed.

Virtually every county supplies a handbook for its grand jurors, and in most instances, it is the grand jury itself or the court that revises or updates the handbook for the next grand jury.

County Counsel prepares the handbook in roughly one-third of the counties responding to a survey on this topic.

The skills grand jurors bring to their position must be considered in addressing training needs. Investigations requiring interviewing techniques, fact-finding and analysis skills are critical

⁷⁴Survey responses from California County Counsel Offices were received confidentially and thus, individual identity is not revealed.

for every member of the grand jury to perform effectively. The ability to question a public official with courtesy and respect, while also obtaining the necessary information needed to verify or corroborate facts is essential. Because of the number of investigations that are condensed within a 12 month period, and the reports that must be written, the majority of the group must possess basic skills in order to the share the workload. Persons who are limited or ineffective will only make the others' jobs more difficult.

California County Counsel Offices were surveyed on grand juror skills and knowledge of local government. In 71% of the counties polled, it is County Counsel who is the primary provider of guidance on investigations undertaken by the grand jury. Because they work closely with grand jurors, County Counsels may be the most insightful on their skills and abilities. Of those county counsels responding, 56% felt grand jurors possessed the interviewing and report writing skills necessary to carry out their duties, while 35% indicated they did not. The remaining 9% had no opinion or said the skills vary. As a surveyed on grand juror skills and knowledge of local government. In 71% of the counties polled, it is County Counsel who is the primary provider of guidance on investigations undertaken by the grand jury. Secure they work closely with grand jurors, County Counsels may be the most insightful on their skills and abilities. Of those county counsels responding, 56% felt grand jurors possessed the interviewing and report writing skills necessary to carry out their duties, while 35% indicated they did not. The remaining 9% had no opinion or said the skills vary.

Today's world of local government is complex and confusing. To further complicate matters, the grand jury's jurisdiction is not clearly defined by the same lines of demarcation as that of local government. Fifty percent of counties responding felt grand jurors possess the familiarity with local county government needed to carry out their duties. Forty-one percent indicated they do

⁷⁵See Table 9, Appendix M

 $^{^{76}}Id.$

not. The remainder had no opinion or felt it varied from year to year.⁷⁷ ⁷⁷Id. -48-

XII. PROBLEMS FOR COURTS

The court's actual involvement with the grand jury conflicts with the state of the law. Referred to by many as an "arm of the court", the degree of interaction and assistance between the court and the grand jury has been subject to interpretation for several years. With the advent of the Lockyer-Isenberg Trial Court Funding Act of 1997, California Rule of Court 810 was promulgated which defined "court operations" and thus specifically stated what was an allowable expenditure from trial court trust funds. Section (b) of that same rule excluded "civil and criminal grand jury expenses and operations (except for selection)". While funding for trial courts became a state responsibility, grand jury expenses remained under the county's authority. Statutory law requires considerable interaction between the court and the grand jury on matters such as resources and training, which is complicated by Rule 810. Court officials are placed in the position of using "court operations" resources for other than their specified purposes or abandoning the grand jury to fend for itself.

The court's role in seating a grand jury does not end when the impaneling is completed.

Once newly sworn grand jurors get a better idea of what their service entails, some resign early in their term. Reports indicate that they find the experience frustrating because the intellectual makeup of the group varies such that goals developed in the beginning of the term cannot be attained. The grand jury's work becomes limited and people no longer wish to commit the time and effort

required.⁷⁸ Other jurors resign due to illness. A 12 month term for older citizens often results in resignations because of health issues. Resignations require court action to appoint replacement jurors.

Possibly one of the most unpleasant duties the court faces is removing a problem juror. Inappropriate behavior of a single person can be so corrosive to the group effort that if the offender is not removed, resignations of others will follow. In one such instance, jurors reported a member who repeatedly arrived late for meetings and then proceeded to ask an endless number of unnecessary questions causing delay and aggravation. The same juror was accused of hinting or asking favors of public entities, so that others were embarrassed by the impropriety of actually receiving gratuities. Abuse of power, absenteeism and lack of participation or willingness to contribute are issues that if not successfully dealt with internally by the foreperson, or other members of the grand jury, ultimately become the court's problem. In a survey of California courts, 40% of those responding indicated court officials were aware of complaints made against grand jurors that resulted in a juror's removal. Forty-two percent of the incidents were concluded by the offender resigning from the grand jury. In an extreme case concerning the 1998-99 Santa Clara County grand jury, a judge dismissed five jurors in mid-term for violating their oath. The damage was so intense the remainder of the grand jury was discharged because internal conflict caused the

⁷⁸David Hasemyer and Anne Krueger, *The Grand Jury: Behind Closed Doors*, SAN DIEGO UNION-TRIBUNE, June 12, 1986. Members of the San Diego grand jury found the experience frustrating and a waste of money. One person who resigned early indicated she should not be replaced because she hadn't accomplished anything. She stated the cases were boring and felt her time was wasted, along with the county's money.

⁷⁹See Table 6, Appendix J

group to become dysfunctional. Secrecy provisions prevented the release of exact details of the controversy, but the judge's decision was reviewed and upheld by the Court of Appeals. When the court becomes involved in an internal problem impacting the grand jury, the expenditure of time and energy in developing an effective solution can be considerable.

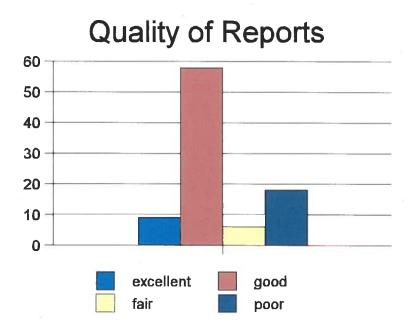
In cases of resignation or removal, courts keep several alternate jurors on a waiting list in order to replace those who do not complete their terms. In some cases, the list is exhausted and a grand jury must conclude the year with less than the required number. Replacing jurors part way through the term slows the process and may further hinder the grand jury from completing its work within the time allowed.

To further complicate the court's role, it is usually the presiding judge of each court that has the duty of overseeing the grand jury. The presiding judge in each county typically handles the administrative matters of the court. Pursuant to Penal Code Section 933(a) the grand jury shall submit a final report of its findings and recommendations that pertain to county government matters to the presiding judge. If a finding is made by the judge, the final report may be submitted for comment to the responsible county department or responsible officer. All comments by the governing body of a public agency which is the subject of a grand jury report, must also be submitted to the presiding judge. This process of reviewing and approving final reports for publication can be problematic for the court, depending on the quality of the grand jury's product. For example, in 1975, in a case in which a grand jury proposed to issue a report that the court

⁸⁰In some instances, the presiding judge may delegate the responsibility of overseeing the grand jury to another judge of the same court.

grand jury's jurisdiction, the court refused to file the report and the decision was appealed. The appellate court found the that judge's action was proper.⁸¹

The quality of grand jury reports is inconsistent throughout the state of California. Survey results indicate most Court Executive Officers rated the quality of reports as good. The same question posed to County Counsel resulted in 9% ranked excellent, 58% good, 6% fair and 18% poor. 82



⁸¹Bruce T. Olson, supra note 1, at 55

⁸² See Table 10, Appendix N

Grand jurors must rely on their collective resources, education and training to produce their final product. If they do not bring this experience to their role, significant impact is placed on both the court and/or county counsel to correct their shortcomings. Survey results reflect 41% of county counsel offices responding do not provide editing assistance on grand jury reports in their county, leading one to believe the bulk of the task is placed on the court, alone.⁸³

⁸³See Table 9, Appendix M

XIII. BROAD CRITICISMS

One does not have to look far to find criticisms of the civil grand jury. A leading observer and supporter of the system in California, and the most prominent scholar on the subject in this state, Bruce T. Olson said the following:

"How would I go about designing an ineffective institution? I'd call people into it who have absolutely no background in what they're doing. I'd create a situation where they can't even have (independent) counsel to help them ... I'd give them a horrendously broad mandate. I wouldn't give them any training at all ... And I'd create the grand jury as we know it today."84

Many people feel the civil grand jury system is outdated. Though it had a specific purpose centuries ago, it's design has not been modified significantly since the legislature mandated it's watchdog functions over a hundred years ago. Because the regular grand jury's involvement in the criminal arena has been essentially eliminated, the vast majority of its time and money is spent investigating local government.

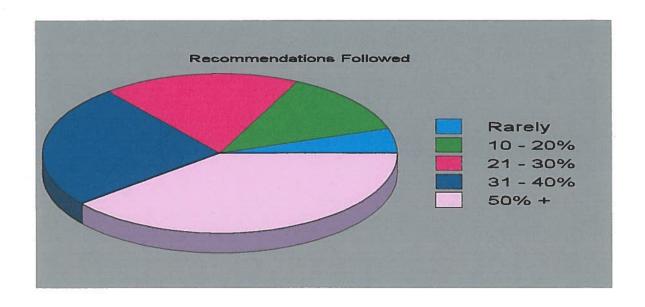
Many legal experts believe the grand jury cannot begin to understand the complexities of local government during its short term. While the operations of county government are complicated enough, the grand jury is also tasked with investigations into the workings of cities and special

⁸⁴Robert W. Stewart, *supra* note 41

districts, which include school districts. It is impractical to think that people having little or no knowledge of the intricate workings of governmental agencies could sufficiently learn their operations, conduct investigations and develop reports containing worthwhile recommendations for improvement in the period of twelve months.

Most boards of supervisors will employ experts or hire outside consultants if they seek to review management practices of a county agency, rather than rely on a grand jury's recommendations. Officials admit they pay little attention to grand jury reports because they are weak and based more on opinion than fact. County supervisors indicate comprehensive, well thought out solutions are rarely presented by grand juries, but instead reports may contain very simplistic ideas such as, "buy it" or "pay for it." *5 Trivial recommendations or those that are overly broad are of no value to the agencies investigated. In some instances reports do not bring anything new to light, but are merely a restatement of the same sentiments expressed by others. Proposed remedies may actually be suggestions provided by the government officials interviewed and in some cases, may be implemented before the grand jury issues its final report. Grand jury reports recognized for thoroughness in larger counties have actually been the work of outside accounting firms employed by the grand jury. Critics assert that results are not as satisfactory when grand juries do the work themselves. Although little data is available on the frequency with which grand jury recommendations are followed, survey results from 56 county officials estimated the following:

⁸⁵David Hasemyer and Anne Krueger, supra note 59



In spite of the vast investigative authority bestowed on the grand jury by the legislature, the grand jury is powerless to effect change in local government. Its recommendations are non-binding suggestions for improvement. Boards of supervisors are not required to implement, follow or adopt any of the findings of the grand jury. There is no statute that forces officials to comply with grand jury recommendations. Until the implementation of Penal Code Section 933, there was no obligation on the part of any agency which is the subject of a grand jury report, to respond to the grand jury's recommendations. That statute now requires the governing body of a public agency to comment to the Presiding Judge on the findings and recommendations pertaining to matters under their control within 90 days after the grand jury submits its final report. Elected county officers must also comment within 60 days, with an information copy sent to the county board of supervisors. In cities and counties, the mayor must also comment. The responding person and entities must indicate if they agree or disagree, in whole or in part, with the finding and provide further detail as to

further detail as to implementation of grand jury recommendations. If the grand jury's recommendation is not being implemented because it is not warranted or not reasonable, an explanation must be provided. The grand jury is, by the time of receipt of the responses, discharged and replaced by a new grand jury. There is no mechanism for a reply or rebuttal by the grand jury, or anyone else for that matter, to an agency response.

IVX. CONCLUSIONS

The concept that citizens should be involved in government in order to ensure honesty and efficiency is a valid one. The grand jury exists in California to implement citizen involvement, by way of its civil investigative, or "watchdog" function. However; in practice, and for a number of reasons, the quality of the work product of grand juries is mixed, at best. The "watchdog" function of the grand jury should continue only if the service provided is of high quality and it is delivered effectively and efficiently throughout the state.

Is there a need for regular investigations of local government today? This function carries with it a certain assumption that dishonesty exists in local government and that ordinary citizens have the expertise to uncover it. Investigative duties give the false impression to grand jurors that they should secretly look for problems and hope to find them or they have failed in their mission. The fact that grand jurors don't have to have a complaint in order to initiate an investigation provides ample room for abuse and personal agendas.

Survey responses received from the three governmental entities having the most interaction with grand juries clearly indicate one overarching theme. The entire process, from selection to discharge, and the work product of the grand jury, are extremely inconsistent from county to county. The fact that a grand jury may operate well in one county should not obscure the harm done by mediocre results in a neighboring county. Moreover, that the process may work well in a specific county in one year and produce failure the next, is neither an acceptable expenditure of public funds

nor a justification for maintaining the status quo.

The grand jury's traditional ex parte method of proceeding is foreign to our legal system and threatens fairness in the results. This antiquated method continues year after year in a state that has not only become dramatically more complex in the last century, but within a legal system which during the same period has developed substantial procedural safeguards in court proceedings to protect their integrity.

Possibly it is our expectations that are out of alignment with the process. The qualifications of grand jurors do not begin to cover the requirements of the job they are asked to perform. "Blue ribbon" panels in existence seventy-five years ago were comprised of prominent business people who brought specialized skills and experience which were easily transferred to grand jury tasks, such as analyzing books and accounts. They had knowledge and expertise that enabled them to uncover corruption, misconduct or neglect of public officials. Grand jury service came to be thought of as prestigious and revered, but it also developed into an institution of upper class, older, more affluent persons, not representative of the expectations of a diverse society.

By applying more egalitarian methods for selecting grand jurors in recent years, courts have revealed the other side of the coin because there exists no educational or experience requirements in order to qualify on the regular grand jury. Moreover there are no uniform, reliable structures to provide appropriate training to grand jurors. To complicate matters further, there exists no reliable statewide structure for the provision of high quality, conflict-free legal advice and counsel to grand juries in discharging their watchdog functions.

Although there is considerable information to support grand jury reform, the majority of survey responses indicate recommendations are followed approximately 50% of the time. There is no data to indicate if the proposals suggested by the grand jury would have been implemented without its recommendations, or if the ideas for improvement were actually that of local government officials. Additional research on this subject should include detailed analysis which would substantiate the value of the grand jury's recommendations.

In short, the system is currently designed to expect that a lay citizen of ordinary background and intelligence will become sufficiently familiar with local government structures and functions, to conduct meaningful inquiries into the complicated workings of interdependent local agencies, to scrutinize and critique their performance and then propose valuable improvements to their operations and the public service provided by them. That expectation is plainly unrealistic.

The civil grand jury's problems can no longer be ignored. The likelihood that the state government or the counties will dedicate enough funds to adequately address critical issues such as training, resources and the provision of legal counsel is slight. Other minor changes such a reducing the size of the grand jury or shortening its term, will do little to solve the larger problems with the civil grand jury because they do not address the sources of the problems.

VX. RECOMMENDATION

Impaneling a grand jury each year as specified in the constitution should continue. That jury should be selected and impaneled using the same process as that used for a petit jury. The local prosecutor should then call upon the grand jury as he or she deems fit for purposes of reviewing criminal matters.

However, mandatory investigations of local government, the grand jury's watchdog responsibilities, should cease. A mechanism for impanelment of a civil grand jury should be utilized only when an investigation is deemed necessary by the governing body of a city or county, which should be required to statutorily provide the funds and resources necessary to support the grand jury's investigation. The legislature should explore the development of a new structure for the independent and impartial periodic assessment of the performance of local government agencies.

Grand Jury Survey to California County Administrators

1.	What is the population of your county?
2.	What was the annual Grand Jury Budget for the following fiscal years? 1997/98 1998-99 1999/00 2000-01
3.	Do you think cities in your county should contribute to the Grand Jury budget? ☐ Yes ☐ No
4.	Is the Grand Jury budget in your county adequate to meet their needs? □ Yes □No
5.	Has your Board provided additional funding for the Grand Jury to retain independent counsel or other experts? □ Yes □No
6.	Would your Board of Supervisors support increasing the Grand Jury budget to provide additional training? ☐ Yes ☐ No
7.	Does your county provide support staff to the Grand Jury? ☐ Yes (please describe) ☐ No
8.	Does your county provide any of the following to the Grand Jury: dedicated office space
9.	Does your county provide a meeting room for the Grand Jury? □ Yes □ No
10.	Is your county generally in favor of the Grand Jury continuing to investigate county government?

11.	. If your answer is no to question #10, is there another agency or group t would better perform this function?						
12.	What would you estimate is the percentage of time the Grand Jury's recommendations are followed?						
	□ rarely □10 - 20% □21 - 30% □31 - 40% □50% plus						
13.	How would you categorize final Grand Jury reports in your county: □Excellent □Good □Poor						
14.	What does your county pay Grand Jurors for per diem \$ For mileage \$ One-way or round trip?						
15.	Do you think the make up of your current Grand Jury is representative (age, ethnic origin, etc.) of your county's population? □ Yes □ No						
16.	Does your Superior Court provide administrative support to the Grand Jury? □ Yes □ No						
17.	Whom may I contact in your county for more information on the Grand Jury?						
	Telephone: E-mail						
	Name of person completing survey						
	Title County						
Tha	nk you for completing this survey. Please fax to (530) 225-5339. No cover						

Thank you for completing this survey. Please fax to (530) 225-5339. No cover sheet is needed.

Survey Instrument to County Counsel (California)

 □Yes □No 9. Are you generally in favor of the Grand Jury continuing to investigate county government? □ Yes □No 	1.	Does your office provide legal assistance to the Grand Jury in your county? □Yes □No
Are grand jurors sent to outside training, such as that sponsored by the California Grand Jurors Association? □ Yes □No Does your office prepare a handbook for grand jurors? □ Yes □No Does your office provide guidance on investigations to grand jurors when county departments are the subject(s) of their investigations? □ Yes □ No If your office has a conflict when the Grand Jury is seeking counsel, to whom are they referred? Has your county recently paid for independent counsel for the Grand Jury? □ Yes □ No Are you generally in favor of the Grand Jury continuing to investigate county government? □ Yes □ No	2.	
California Grand Jurors Association? Yes □No Does your office prepare a handbook for grand jurors? □Yes □No Does your office provide guidance on investigations to grand jurors when county departments are the subject(s) of their investigations? □Yes □No If your office has a conflict when the Grand Jury is seeking counsel, to whom are they referred? Has your county recently paid for independent counsel for the Grand Jury? □Yes □No Are you generally in favor of the Grand Jury continuing to investigate county government? □Yes □No	3.	· · · · · · · · · · · · · · · · · · ·
 □ Yes □No 6. Does your office provide guidance on investigations to grand jurors when county departments are the subject(s) of their investigations? □ Yes □ No 7. If your office has a conflict when the Grand Jury is seeking counsel, to whom are they referred? ■ Has your county recently paid for independent counsel for the Grand Jury? □ Yes □ No 9. Are you generally in favor of the Grand Jury continuing to investigate county government? □ Yes □ No 10. If your answer is no to the above questions, is there another agency or ground in the grand jury answer is no to the above questions, is there another agency or ground investigate. 	4.	California Grand Jurors Association?
county departments are the subject(s) of their investigations? \[\textsize	5.	· · · · · · · · · · · · · · · · · · ·
 whom are they referred?	6.	county departments are the subject(s) of their investigations?
 □Yes □No 9. Are you generally in favor of the Grand Jury continuing to investigate county government? □ Yes □No 10. If your answer is no to the above questions, is there another agency or grown 	7.	
county government? Yes No 10. If your answer is no to the above questions, is there another agency or grown.	8.	Has your county recently paid for independent counsel for the Grand Jury? □Yes □No
-	9.	county government?
	10.	If your answer is no to the above questions, is there another agency or group that would better perform this function?

11.	Does your office assist in editing final grand jury reports? □ Yes □No
12.	What would you estimate is the percentage of time the Grand Jury's recommendations are followed in your county? □Rarely □10 - 20% □21 - 30% □31 - 40% □50% plus
13.	Do you think grand jurors possess the familiarity with county government needed in order to conduct meaningful investigations? □ Yes □ No
14.	Do you find grand jurors possess the interviewing and report writing skills necessary to carry out their duties? □ Yes □No
15.	How would you categorize final Grand Jury reports in your county? □Excellent □Good □Poor
Nam	ne of person completing this survey
Title	County
Com	nments:
	nk you for completing this survey. Please fax to (530) 225-5339. No cover et needed.

Survey Instrument to Court Executive Officers (California)

1.	Does your court provide administrative support to the Grand Jury in your county?
	□ Yes □No
2.	Does the Grand Jury in your county have dedicated office space? □Yes □No
3.	Does the Grand Jury in your county have a dedicated meeting room? □Yes □No
4.	Does your court impanel one or two grand juries each year? □One □Two
5.	Do you think it would be beneficial to have one Grand Jury for Indictment purposes and another for civil investigations?
6.	If you were required to impanel separate criminal and civil Grand Juries each year, would you have enough interested individuals willing to serve?
7.	What method of selection does your court use? □Use general pool □Solicit applications of those interested □Nominated by judges □other
8.	How many persons serve on the Grand Jury in your county? □11 □19 □23
9.	Does your court experience difficulty in securing enough persons interested in serving on the Grand Jury? □Yes □No

10.	Are you aware of complaints made against grand jurors that resulted in the Presiding Judge removing the person from the Grand Jury?
	□Yes □No □Resulted in resignation
11.	Does your court interview prospective grand jurors? □Yes □No
12.	Is a bench officer personally present during the interviews? □Yes □No
13.	How would you categorize final Grand Jury reports in your county? □Excellent □Good □Poor
14.	Do members of your court participate in Grand Jury training? □ Yes □No
15.	Do members of your court participate in Grand Jury orientation? □Yes □No
Who	m may I contact in your court for more information on the Grand Jury?
Tele	phone E-mail
Com	ments:
Com	
\$	
Nam	ne of person completing survey
Title	County
	nk you for completing this survey. Please fax to (530) 225-5339. No cover

PRESIDING JUDGE'S CHARGE TO THE 2001/2002 GRAND JURY

LADIES AND GENTLEMEN OF THE GRAND JURY:

At the outset, may I extend my congratulations and best wishes upon your selection to serve as Grand Jurors for the current fiscal year. You are about to embark upon a great adventure, one filled with solemn responsibility and remarkable opportunity for public service. I anticipate that you will discharge your duties with distinction.

You have now been duly impaneled and sworn and constitute the Grand Jury for this County. It becomes my duty to instruct you concerning your functions and the law that applies to your work, and it is your duty to follow these instructions.

The Grand Jury of our Anglo-American legal system, historically and currently, is composed of citizens of the County appointed by the Court, who are expected to exercise sound judgment independent of other governmental agencies and as prescribed by statute. The duties and powers of the Grand Jury are delineated by the Penal and Government Codes of the State of California. During your term of office, you will become familiar with these laws.

Essentially, your functions are investigatory, and although there is some overlap, the Grand Jury functions are often classified as two-fold:

First, you are required to investigate and to issue formal reports on local public offices, officers and transactions; this is referred to as your civil function.

Second, you have powers and duties with respect to inquiring into possible misconduct in office of public officers, and determining whether to return indictments charging the commission of felonies; and this subject matter is sometimes referred to as your criminal function.

Before specifically detailing your functions, you should be advised of

some organizational and administrative matters applicable to Grand Jury business.

Your foreperson, Mr./Ms. _______, is appointed by the Court for the full year of your tenure. Mr./Ms. ______ will, I am sure, competently guide you through your year's work. He/she will be appointing officers and making committee assignments during the next several weeks.

Each Grand Jury should determine its own rules of procedure. You may

Each Grand Jury should determine its own rules of procedure. You may use the Grand Jury Procedures Manual as your rules, or you may modify those rules, so long as your modifications are in keeping with state law and my charge to you. If you change your rules of procedure, those rules must continue to include guidelines to ensure that the findings included in your final reports are supported by documented evidence. Your rules must also provide that official tours or interviews will be 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. Of course, it will be some time before the Grand Jury is familiar enough with its duties to determine if your Manual should be modified. Whether or not you modify your manual, you should read it thoroughly within the next week or so and refer to it as frequently as necessary.

I will now describe your duties in more detail.

THE CIVIL FUNCTIONS OF THE GRAND JURY

The primary function of the Grand Jury is the examination of certain aspects of county government, city governments and the governing boards of special districts. In addition, the Grand Jury is charged with the examination of other governmental entities, such as redevelopment agencies, local agency formation commissions, housing authorities, joint powers agencies, and nonprofit corporations established by or operated on behalf of a public entity.

The Grand Jury's investigation of public entities is ordinarily followed by the issuance of a formal report as to the entity's operations and facilities. This investigation and reporting on local governments is sometimes referred to as the Grand Jury's "watch dog" function.

State law requires that the Grand Jury investigate and report on the operations, functions and departments of the County each year. However, because of the size and complexity of County government, it would be impossible to investigate all county departments and functions each year. You might review the final reports issued by the last several Grand Juries to help you determine which departments or functions you would like to investigate. Your selection could also be based on a citizen's complaint or on recent media coverage concerning a county department, official or function.

In addition to investigating the County, the Grand Jury is allowed, but not required, to investigate the operations and facilities of incorporated cities and special districts, such as water districts and community services districts. You may also investigate the Office of Education, school districts located within Shasta County and certain other local public entities.

One important aspect of your investigation of local government is a determination whether public monies are being expended wisely and for appropriate purposes. In looking into fiscal matters, you are entitled to examine the books and records of all local public entities. If necessary, and with the approval of the court, the Grand Jury may employ experts, such as certified public accountants, to assist the Grand Jury in its examination of financial documents and affairs.

After investigating the books and accounts of the various officials of the County, the Grand Jury may order the District Attorney to institute suit to recover any money that, in your judgment, may be due from any source.

The expenses of the Grand Jury which are properly incurred in your examination of local public entities must be paid by the Treasurer of the County from the funds available to the Grand Jury in its budget. You should keep in mind that the Grand Jury operates within the confines of a limited budget; your budget cannot be increased absent the agreement of and formal action by the County Board of Supervisors.

Every year, the Grand Jury must inquire into the condition and management of all of the "public prisons" within the County. The term "prisons" means any adult or juvenile detention or correctional facility. The law allows but does not require the Grand Jury to inquire into the case of every

person imprisoned in the jail of the County on a criminal charge and not indicted. Grand Jurors are entitled to free access, at all times, to public detention and correctional facilities.

No later than the end of this fiscal year, you must submit to me, as the Presiding Judge of the Superior Court, a final report of your findings and recommendations related to your investigation of local government. I suggest that you ask the County Counsel for legal advice regarding your reports as you are working on them. Final reports on any appropriate subject may be submitted to the Presiding Judge at any time during your term of office. However, it has been the practice of the Shasta County Grand Jury to release a packet of all of its reports, including copies of any reports released mid-term, on the day that the succeeding Grand Jury is impaneled. On that same day, or soon after, the packet of Grand Jury final reports is printed by The Record Searchlight.

Those Grand Jury final reports that contain recommendations for the improvement of local government are submitted for comment to the department heads and the governing board of the agency you have investigated, such as the Board of Supervisors or a city council.

Within ninety days after the Grand Jury submits a final report concerning a public agency, that agency's governing body must submit its comments to the Presiding Judge on the findings and recommendations pertaining to matters under the control of the governing body. Any elective department head who has been asked to comment on a report must submit his or her comments within sixty days to the Presiding Judge. Appointed department heads cannot be required to respond to Grand Jury recommendations. A copy of all of the responses are placed on file with the County Clerk and are provided to the Grand Jury. Unfortunately, the newspaper does not publish the officials' and governing boards' responses to Grand Jury reports verbatim, although it runs articles on some of the responses.

The Grand Jury should make sure that each elected official or the governing board of a public entity that was the subject of a report by the preceding Grand Jury submits a response to that report. An inadequate response or the failure to respond may suggest to you the need to conduct your own investigation of that department or public entity this year.

This morning you will be given a copy of the Grand Jury Procedures Manual, which describes both your civil and criminal responsibilities and the manner in which you should conduct your meetings and investigations. The substance of the manual is hereby incorporated by this reference into these instructions. I direct each of you to read and consider your copy of the manual, and I call your attention, particularly, to certain statutory provisions quoted in the manual, particularly Government Code sections 23000 through 23025, inclusive, and sections 24054 and 26525; and I instruct you to ascertain by a careful and diligent investigation whether such provisions have been complied with and to note the result of such investigation in your final report.

Your civil investigations are confidential, except to the extent that you report your findings and recommendations in your Final Report. You must maintain the secrecy of your deliberations and any votes you or other Grand Jurors take during your meetings.

THE CRIMINAL FUNCTIONS OF THE GRAND JURY

The Grand Jury has two major criminal functions: The returning of an indictment charging a person with a felony, and the bringing of an accusation against a public official for wilful or corrupt misconduct in office.

The Grand Jury's criminal functions are initiated by the District Attorney, who may ask you to consider an indictment against a person or persons charged with a felony committed or triable within the County. The Grand Jury indictment proceeding is an alternative to a preliminary hearing before a judge. In this state, felony prosecution may be initiated by the District Attorney's filing of an accusatory pleading called an "information" or by an indictment found by the Grand Jury. The vast majority of felony prosecutions are initiated by the filing of an information. Both of these types of proceedings are designed to protect against groundless felony prosecutions.

It is not the function of the Grand Jury to determine the issue of guilt or innocence of the accused during the indictment proceeding. If an indictment is returned, a trial jury will decide upon the acquittal or conviction of the indicted person.

The indictment proceedings, including your deliberations and voting, must

take place in a private session. The law requires that each Grand Juror keep secret all evidence adduced before the Grand Jury, or anything that the Grand Juror himself or herself, or any other Grand Juror, may have said or the manner in which any Grand Juror may have voted on any matter. However, in order to obtain legal advice, it may be necessary for you to disclose to the District Attorney, or to the Attorney General if officiating in the case, or to me, some matter of evidence which you have taken during an investigation, and such a disclosure is not a violation of your oath.

During indictment proceedings, no person is permitted to be present in the Grand Jury room, except the members of the jury, the witness actually under examination, an interpreter and a bailiff if necessary, the District Attorney or Deputy District Attorney and the stenographic reporter. I may be present only when my advice is requested.

If the investigation involves the District Attorney or any deputies or employees of the District Attorney, none of them may be present unless called as a witness. During such a proceeding, the Attorney General is empowered to investigate and present the evidence to you.

In addition to considering indictments, the Grand Jury is required to inquire into the wilful or corrupt misconduct in office of public officers of every description within the County. If you should determine that any district, county or city official is guilty of wilful or corrupt misconduct in office, you may present an accusation in writing which will initiate legal action against the official to remove him or her from office. The accusation must be delivered to the District Attorney unless he or she is the officer accused, in which case it must be delivered to the clerk of the court and by the clerk to me. It should be borne in mind, however, that all public officials are subject to indictment for the commission of a felony if the evidence warrants the return of an indictment.

The procedures that the Grand Jury will use for either the finding of an indictment or the issuance of an accusation are similar. At the beginning of the proceedings, your foreperson will describe the subject to be considered by you and give you the name of the person or persons suspected of having committed the offense. Your foreperson will direct any member of the Grand Jury who is partial or prejudiced, either as to the case or the person named, to retire during the course of the proceedings.

The District Attorney or Deputy District Attorney will conduct the questioning of witnesses. Those witnesses will be sworn by the foreperson before they testify. A stenographer will record the testimony. If any of you has a question you feel should be put to a witness, you should write your question on a slip of paper and pass it on to the attorney so that the question may be asked in proper form. I must caution you that in the past there have been times when Grand Jurors themselves orally have asked improper questions which have resulted in serious legal problems at a later stage in the proceedings.

In your investigation of a charge, you may receive only that evidence which is given by witnesses produced and sworn, or furnished by writings, material objects, or other things presented to the senses, or contained in a legally admissible deposition.

Although you will not be required to hear evidence for an accused person, you must weigh all of the evidence submitted to you and if you have reason to believe that other evidence within your reach will explain away the charge, you must order such evidence be produced and you may require the issuance of process for such purpose. However, the Grand Jury itself may not compel the attendance of a witness or the production of records. Only the court and the prosecuting attorneys may issue subpoenas; but you may direct that subpoenas be obtained from the proper authorities.

You must remember the constitutional privilege of every person against self incrimination. A person generally has a privilege to refuse to disclose any matter that may tend to incriminate him or her. However, you may permit an accused person to appear before you to testify under oath, if the person requests. Under no circumstances is an accused person or any witness permitted to be accompanied by an attorney in the Grant Jury room while the proceedings are ongoing.

You cannot expect to hear all of the witnesses as fully as you would in a trial. However, you should make a full and fair inquiry. The consideration of only one side of an issue may falsely accuse innocent persons and result in needless and expensive legal proceedings.

When you have considered all the evidence in the case, you will vote whether or not to return an indictment or present an accusation. Your voting

must be conducted by a roll call, and not by secret or written ballot.

Any Grand Juror who has not been present during the taking of all of the evidence involved in the matter before the Grand Jury is disqualified from participating in your deliberations or voting on the finding of an indictment or the presenting of an accusation. During deliberations and voting, all persons other than the Grand Jurors must be excluded from the room.

As to the degree of evidence sufficient to warrant the return of an indictment, the law specifically provides that an indictment should be found when all of the evidence before you, taken together, if unexplained or uncontradicted, would, in your judgment, warrant a conviction by a trial jury. Only when the evidence measures up to this standard should you return an indictment; to do otherwise would be a violation of your oath.

In addition to returning indictments and presenting accusations, state law also allows you to inquire into all other public offenses, committed or triable within this County, which may be charged as a felony, but I should caution you as a judicial body against assuming broad or general criminal investigatory powers. You must be mindful that you are not a detective agency. It will be more proper for you, in the absence of your specific knowledge of a public offense or good reason to believe that such an offense has occurred, to leave the detection of crime in the hands of the Sheriff, the police, and the District Attorney.

GRAND JURY SECRECY

Unless, in exceptional circumstances provided by law, the court should order a public hearing, the proceedings of the Grand Jury must be conducted in strict secrecy. This rule is of extreme importance, and justifies reading to you portions of sections 924.2 and 924.3 of the Penal Code:

"Section 924.2: 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..."

"Section 924.3: 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."

The rule of secrecy requires that witnesses are to remain before the Grand Jury only while they are testifying. While the District Attorney or County Counsel may be present in the Grand Jury room for the purpose of providing advice to the Grand Jury he or she may not be present during your deliberation or voting.

A Grand Juror who wilfully discloses any evidence adduced by the Grand Jury or anything any Grand Juror has said or the manner in which a Grand Juror has voted is guilty of a misdemeanor.

APPROACHING YOUR INVESTIGATIVE FUNCTIONS

You will find that you will be asked to examine, and will examine, some groundless complaints. Attempts will be made to burden you with private grievances, real or imaginary. Some persons may make false accusations before you. Not infrequently, persons who attempt to initiate accusatory proceedings are motivated by private animus or political reasons. The Grand Jury should refuse to engage itself in these investigations.

In addition, the Grand Jury should not attempt to substitute your own judgment as to matters related to the business and operations of public offices where others may be more skilled in such matters and reasonably may hold different views. The Grand Jury cannot forge at will upon any whim it may entertain.

Your written reports regarding your civil investigations must be factual. Occasionally, some zealous Grand Juries, without proper understanding of their duties, have returned reports to the courts concerning matters beyond their powers of inquiry, and such reports contained unfounded criticisms, castigations,

or innuendos of improper conduct on the part of those engaged in public service. The publicity attendant to the filing of such reports has occasioned tragic consequences to accused persons who had no forum to establish their innocence. Any such abuse of power adds to existing sentiment to abandon our Grand Jury system.

You must never, in your official duties, be influenced by mere sentiment, conjecture, sympathy, public feeling, passion or prejudice, and you must apply the same objective standards of conduct and responsibility to all persons, regardless of race, color, creed, gender, religion or economic status.

I trust that in the majority of instances in which there has been such an abuse of power by a Grand Jury, it has come about because of an insufficient explanation by the court in its charge to the Grand Jurors as to their powers and duties, and of a failure on the part of the Grand Jury to individually and collectively know the law and accept it as its guide. The Presiding Judge, the County Counsel, and the District Attorney are all available to provide you the guidance you need. You should turn to any one of us whenever you need assistance.

Violation of the letter or spirit of the Grand Juror's oath you have taken, or of my charge to you, would endanger the integrity and effectiveness of the entire Grand Jury. If the court should be convinced that there is such violation which would tend to destroy your integrity or effectiveness, it would be obligated to act even to the extent, if necessary, of discharging the whole Grand Jury and empaneling another one.

You are now aware that there are distinct limitations as to what you may do in the course of your investigations and reporting. You function lawfully as a body. An individual Grand Juror acting alone has no power or authority; all of your acts must be accomplished on the affirmative vote of at least twelve of you. The Grand Jury itself is not intended to be a super government for this county, nor is it intended that you interfere with the discretionary policy making or operational powers of any public official. You must be aware that any comments in your reports upon a private person or public official not indicted are not privileged comments and could, if libelous, be the basis for a charge of defamation for which Grand Jurors may be individually liable.

Some of you may be apprehensive as you contemplate your Grand Jury

service in the year ahead and the decisions you may be called upon to make, but you need not be uneasy. May I suggest that no one is born to be a Grand Juror, or is trained specifically for the performance of the duties of a Grand Juror. Citizens are by law given the opportunity as lay people to scrutinize the workings of the public agencies and the conduct of public offices maintained and supported by the taxes of the citizenry.

All that the public can expect -- and it is entitled to no less -- is that Grand Jurors shall diligently and impartially perform their duties, to the best of their ability, dedicating themselves to the furtherance of the general good. You offer no guarantee that you will always be right, but you do have a solemn duty to do your best to be right.

A copy of this charge has been placed in the back of your Procedures Manual. You should refer to it from time to time during your term of office.

This concludes my charge to you. On behalf of the Shasta County Superior Court, I thank you for your willingness to serve your fellow citizens.

TABLE 1 - County Administrative Officer Survey - COSTS

COUNTY	PER DIEM	MILEAGE	ONE WAY / ROUND TRIP	REPRESENTATIVE OF POPULATION	SUPERIOR COURT SUPPORT
County 1	0 5000	34.5	RT	Yes	Yes
County 2	15	34.5	RT	No	Yes
County 3	10	34.5	RT	No	No
County 4	10	32.5	RT	Yes	Yes
County 5	20	IRS	RT	Yes	No
County 6	10	31	One Way	Yes	Yes
County 7	10	34.5	One Way	Yes	Yes
County 8	11	34.5	One Way	Don't Know	Yes
County 9	Unclear	27	RT	No	No
County 10	10	34.5	RT	No opinion	Yes
County 11	25	.31	RT	No	Yes
County 12	6	34.5	?	No	Yes
County 13	10	25	RT	Yes	Yes
County 14	10	34.5	One Way	No	Yes
County 15	?	34.5	RT	Yes	Yes
County 16	10	IRS	RT	Yes	Yes
County 17	15	34.5	RT	No	Yes
County 18	N/A	34.5	RT	No	Yes
County 19	50	IRS	RT	No	No
County 20	25	34.5	?	Unknown	Yes
County 21	25	.32	RT	No	No
County 22	11+parking	.345	RT	Yes	Yes
County 23	25	31	?	No	Yes
County 24	10	.345	RT	No	Yes
County 25	No response	No response	-	Yes	Yes
County 26	15 Mtg 12.50 Comm	.345	One Way	No	Yes
County 27	0	.345	RT	Yes	No
County 28	10	.345	RT	No	No
County 29	20	.345	RT ·	No	No
County 30	10	IRS	RT	Don't Know	Some

TABLE 2 - County Administrative Officer Survey - BUDGET

COUNTY	SHOULD CITIES CONTRIBUTE?	IS BUDGET ADEQUATE	FUNDING FOR EXPERTS	INCREASE FOR TRAINING
County 1	Yes	Yes	Yes	Unsure
County 2	N/A	-	No	-
County 3	Yes	Yes	Yes	Yes
County 4	No	Yes	No	-
County 5	Yes	Yes	No	-
County 6	Yes	Yes	Yes	-
County 7	Yes	Yes - modest	No	?
County 8	Yes	Yes	No	?
County 9	No	Yes	No	No
County 10	Yes	No	Yes	Yes
County 11	Yes	Yes	Yes	?
County 12	N/A	Yes	No	?
County 13	Yes	Yes	No	Yes
County 14	No	Yes	No	Yes
County 15	Yes	Yes	No	?
County 16	No opinion	Yes	No	Maybe
County 17	No	Yes	No	Yes
County 18	N/A	Yes	Yes	?
County 19	Yes	Yes	No	?
County 20	Yes	Yes	No	Yes
County 21	Yes	Yes	No	No
County 22	Yes	Yes	No	No
County 23	Yes	Yes	Yes	No
County 24	Yes	Yes	No	Yes
County 25	No	Yes	Yes	No
County 26	Yes	Yes	No	No
County 27	Yes	Yes	No	Yes
County 28	-	Yes	No	No
County 29	Yes	Yes	No	No

TABLE 3 - County Administrative Officer Survey - FUNDING

COUNTY	POPULATION	1997/1998	1998/1999	1999/2000	2000/2001
County 1	948,816	62,435	62,435	76,800	78,210
County 2	800,000	20,929	18,930	18,417	23,430
County 3	2,828,425	330,912	332,899	368,571	378,139
County 4	400,000	86,080	106,779	84,792	98,988
County 5	9,884,300	601,000	575,000	687,000	1,189,000
County 6	368,000	-	99,641	96,025	94,095
County 7	124,279	16,007	20,000	20,000	31,650
County 8	?	14,000	14,000	14,500	17,500
County 9	415,000	?	176,884	192,200	201,200
County 10	394,542	35,216	64,523	56,037	85,715
County 11	35,100	34,785	52,419	53,749	43,920
County 12	13,000	20,436	31,597	29,793	27,011
County 13	661,600	124,097	124,352	134,178	181,543
County 14	140,000	16,879	19,379	16,879	16,879
County 15	29,000	6,894	8,862	9,352	8,876
County 16	168,000	29,000	29,000	29,000	29,000
County 17	773,500	149,700	175,000	175,000	198,420
County 18	17,000	16,897	16,897	14,400	14,400
County 19	234,400	88,724	84,880	90,490	99,570
County 20	94,000	45,000	47,000	49,000	51,000
County 21	28,000	9,437	16,729	13,373	12,679
County 22	1,400,000	345,000	334,700	386,000	385,000
County 23	58,000	34,156	33,525	34,969	30,161
County 24	26,453	9,550	13,824	15,480	16,759
County 25	129,461	46,517	44,394	58,253	55,657
County 26	458,614	84,001	94,808	94,901	98,693
County 27	210,554	22,600	22,600	25,000	25,000
County 28	12,873	12,000	12,000	13,326	14,500
County 29	126,000	36,893	38,193	40,073	49,839

TABLE 4 - Court Executive Officer Survey - RESOURCES

COUNTY	ADMIN SUPPORT	DEDICATED OFFICE SPACE	DEDICATED MEETING ROOM	PARTICIPATE IN TRAINING	ORIENTATION
County 1	No	Yes	Yes	Yes	Yes
County 2	Yes	Yes	Yes	Yes	No
County 3	Yes - limited	No	Yes - shared	No	Yes
County 4	Yes	Yes	Yes	Yes	No
County 5	Yes	Yes	Yes	No	Yes
County 6	Yes	Yes	Yes	Yes	Yes
County 7	Yes	No - some	Yes	No	Yes
County 8	No - selection only	Yes - not in courthouse	Yes	No	No
County 9	No	Yes	Yes - shared	Yes	Yes
County 10	Yes	No	Yes	No	Yes
County 11	Yes	No	Yes - shared	Judge	No
County 12	Yes - limited	Yes	Yes	Yes	Yes
County 13	Yes	Yes	Yes	No	Yes
County 14	Yes - limited	No	No	Yes	No
County 15	Yes	Yes	Yes	Yes	Yes
County 16	Yes	No	Yes	No	Yes
County 17	No	Yes	Yes	Yes	Yes
County 18	Yes	No	No	No	Yes
County 19	No	Yes	Yes	Yes	Yes
County 20	No	No	No	Yes - Judge	Yes
County 21	Yes	No	No	No	No
County 22	Yes	No	No	Sometimes	No
County 23	Yes - ½ time aide	Yes	Yes	Yes	Yes
County 24	Yes	Yes	Yes	No	No
County 25	Yes	Yes	No	Yes	Yes
County 26	Yes	Yes	Yes	No	Yes-bench officer

COUNTY	ADMIN SUPPORT	DEDICATED OFFICE SPACE	DEDICATED MEETING ROOM	PARTICIPATE IN TRAINING	ORIENTATION
County 27	Yes	No	Yes-limited	No	No
County 28	Yes	Yes	Yes	Yes	Yes
County 29	Yes	Yes	Yes	Yes	Yes
County 30	Limited	No	No	No	Judge
County 31	Yes - paid by city	Yes	Yes	Yes	Yes
County 32	Yes	Yes	Yes	Yes	Yes
County 33	Yes	Yes	Yes	Yes	Yes
County 34	Yes	Yes	Yes	Sometimes	No
County 35	Yes	Yes	Yes	Yes	Yes
County 36	Yes	Yes	Yes	Yes	Yes
County 37	Yes - some	Yes	Yes	Yes	No
County 38	Yes	Yes	Yes	No	Yes
County 39	Yes	Yes	Yes	No	Yes
County 40	Yes	Yes	Yes	No	Yes
County 41	Yes	No	No	No	Yes
County 42	Yes	No	Yes	No	Yes
County 43	Yes	Yes	Yes	No	Yes
County 44	Yes	No	Yes	No	Yes
County 45	No	Yes	Yes	Yes	Yes
County 46	Yes - limited	Yes	Yes	No	Yes
County 47	Yes	No	No	No	Yes

TABLE 5 - County Administrative Officer Survey - RESOURCES

COUNTY	PROVIDE STAFF	SPACE	COMPUTERS	COPY MACHINE	ROOM
County 1	Yes	Yes	Yes	Yes	Yes
County 2	No - Court	Yes	Yes	Yes	Yes
County 3	Yes	Yes	Yes	Yes	Yes
County 4	Yes	Yes	Yes	Yes	Yes
County 5	Yes	Yes	Yes	Yes	Yes
County 6	Yes	Yes	Yes	Yes	Yes
County 7	Yes	Yes	Yes	Yes	Yes
County 8	No	No	No	Yes	Yes
County 9	No	Yes	Yes	Yes	Yes
County 10	No - Court	Yes	Yes	Yes	Yes
County 11	No	Yes	Yes	Yes	Yes
County 12	Yes	No	No	Yes	Yes
County 13	Yes	Yes	Yes	Yes	Yes
County 14	Yes	Yes	Yes	Yes	Yes
County 15	No	No	No	No	Yes
County 16	No	Yes	Yes	Yes	Yes
County 17	No	Yes	Yes	Yes	Yes
County 18	No	No	Yes	No - Court	Yes
County 19	No - Court	Yes	Yes	Yes	Yes
County 20	Yes	Yes	Yes	Yes	Yes
County 21	No	Yes	Yes	No	Yes
County 22	Yes	Yes	Yes	Yes	Yes
County 23	Yes	Yes	Yes	Yes	Yes
County 24	No - Court	Yes	Yes	Yes	Yes
County 25	No	Yes	Yes	Yes	Yes

COUNTY	PROVIDE STAFF	SPACE	COMPUTERS	COPY MACHINE	ROOM
County 26	No	Yes	Yes	Yes	Yes
County 27	Yes	Yes	No - Court	No - Court	Yes
County 28	Yes	No	No	Yes	Yes
County 29	No	Yes	Yes	No	Yes
County 30	No	No	No	No - Court	Yes

TABLE 6 - Court Executive Officer Survey - METHOD OF SELECTION

COUNTY	POOL	SOLICIT	NOMINATION	OTHER	COMPLAINT	INTERVIEW	JUDGE
County 1		x	x		No	Sometimes	Yes
County 2	Х				No	Yes	No
County 3	X				Yes	Yes	Yes 2-3
County 4	X				Resignation	Yes	Yes
County 5	Х	Х	Х	9	No	Yes	Yes
County 6	X	Х			No	Only Foreperson	Yes
County 7		X	X	Referrals from GJ	No	Yes	Yes
County 8	Х	X			Not in last 3 years	Yes (Judge, CEO, Bd. of Sups)	Yes
County 9	Crim.	Х	X		No	Yes	Yes
County 10	X		Х		Yes	en mass No	Yes
County 11		X			No Answer	Yes	Yes
County 12			х		Resignation	Yes	Yes
County 13	Х				No	Yes	Yes
County 14			Х		No	Yes	Yes (PJ)
County 15	X	x	X		Yes	Yes	Yes
County 16	X				No	Yes	No
County 17	9	X			Yes - Resignation	Yes	Yes
County 18	Х				No	Yes	Yes
County 19		x	Х		Yes	Yes	Yes
County 20	х	Х	Х		No	Yes	Yes
County 21		25	Х		No	No	No
County 22	Crim. only		X		No	No	N/A
County 23	Х	х	Х		Yes	Yes	Yes
County 24	Х	х			No	Yes (by citizens)	Yes

COUNTY	POOL	SOLICIT	NOMINATION	OTHER	COMPLAINT	INTERVIEW	JUDGE
County 25		x			Yes minor	Yes	No
County 26		х		,	Resignation	Yes	Yes
County 27	10		X (by Bd. of Sups.)		No	Yes	Yes
County 28	Х	Х	X		Yes	Yes	Yes
County 29			X	Ti.	No	No	No answer
County 30	X	X	X		No	No	No answer
County 31		Х	X		No	Yes	Yes
County 32		Х	X		Yes Resignation	Yes	Yes
County 33		X	х		No	Yes	Yes
County 34	х	X	X		No	Yes	Yes
County 35				Volunteer	Yes	Yes	Yes
County 36		Х	X	Comm. outreach	Yes	Yes	Yes
County 37	Х				No	Yes	Yes
County 38		Х			No	No	N/A
County 39		Х	х		Yes Resignation	Yes	Yes
County 40		Х			Yes	Yes	Yes
County 41	х				No	Yes	Yes
County 42	Х				Yes	Yes	Yes
County 43	X	х	X		No	No	N/A
County 44	Х	0	-		Yes Resignation	Yes	Yes
County 45		Х	Х		No	No	No
County 46		Х	Х		No	Yes	Yes
County 47		х	15		Yes	Yes	Yes

TABLE 7 - Court Executive Officer Survey - IMPANELMENT

COUNTY	ONE OR TWO	BENEFICIAL TO HAVE TWO	ENOUGH TO IMPANEL	DIFFICULTY IN GETTING ENOUGH INTERESTED	SIZE
County 1	One	No comment	Unknown	Yes	19
County 2	One	Yes	No	Yes	19
County 3	One	Yes	Yes	No (Have used all alternates)	23
County 4	One	Yes	Yes	No	19
County 5	Two	Yes	Yes	No	19
County 6	Depends	Yes	Yes	No	19
County 7	One	No	No	Yes	19
County 8	One	Yes	No	Yes	19
County 9	One	Yes	Yes	No	19
County 10	One	Yes	Yes	Yes	19
County 11	One	No	No	Yes	11
County 12	One	??	No answer	Yes	19
County 13	One	Yes	No	Yes	19
County 14	One	No	Not sure. Would be hard.	Yes	19
County 15	Two	Yes	Yes	No	23
County 16	One	No answer	Yes	No	19
County 17	One	No	No	No, but getting harder.	19
County 18	One	No	No	No	?
County 19	One	Yes	Yes. More interest in crim.	Yes	19
County 20	One	No	No	Yes	19
County 21	One	No	No	No	11 🧓
County 22	One	No	No	Yes	19
County 23	Two	Yes	Yes	Yes - varies	19
County 24	One	Yes	Yes	Yes	19
County 25	Two	Yes	Yes	Yes	19

COUNTY	ONE OR TWO	BENEFICIAL TO HAVE TWO	ENOUGH TO IMPANEL	DIFFICULTY IN GETTING ENOUGH INTERESTED	SIZE
County 26	One	No	No	No. Have in the past.	19
County 27	One	Yes	Yes	No	19
County 28	Two	Yes	Yes	Yes	19
County 29	One	No	Yes	Yes	19
County 30	One	No	No	Yes	19
County 31	One	Yes	No ,	Yes	19
County 32	One	Yes	Yes	Yes	19
County 33	Four	Yes	Yes	No	19
County 34	Two plus	Yes	Yes	No	19
County 35	Two	Yes	Yes	No	19
County 36	Two	N/A	N/A	Yes	19
County 37	One	Yes	N/A	Yes	19
County 38	One	No	No	Yes	19
County 39	One	Yes	Yes	Yes. Always work.	19
County 40	One	No	Yes	No	19
County 41	One	No	Yes	No	19
County 42	One	Yes	No	No	19
County 43	One	No	No	No	19
County 44	One	No	No	Yes	19
County 45	One	Yes	Don't know.	Yes	19
County 46	One	No	No	Yes	19
County 47	One	Yes	No	Yes	19

TABLE 8 - County Counsel Survey - TRAINING

COUNTY	PROVIDE LEGAL ASSISTANCE	PROVIDE TRAINING	IS TRAINING ADEQUATE?	OUTSIDE TRAINING?
County 1	Yes	No	Yes	No
County 2	Yes	Yes, bulk by Court	Yes	Possibly
County 3	Yes	No	No	?
County 4	Yes	Yes, very limited	No	Yes
County 5	Yes	Yes	Unknown	Unknown
County 6	Yes	Yes	No	Yes
County 7	Yes	Yes	Yes	Yes
County 8	Yes	Yes	Yes	Yes
County 9	Yes	No	No answer	Yes
County 10	Yes	Yes	Yes	Yes
County 11	Yes	No	No	Yes
County 12	Yes	Yes	Yes	Yes
County 13	Yes	No	Yes	Yes - 2 days
County 14	Yes, but DA is primary	Yes	Yes	No
County 15	Yes	Minimal	Yes	Yes
County 16	Yes	Yes	Yes	?
County 17	Yes	No	Yes	Yes
County 18	Yes	No	No	Yes
County 19	Yes	Yes	Yes	Yes
County 20	Yes	Yes	No	Yes
County 21	Yes	No - DA does	Yes	Yes
County 22	Yes	Yes	Yes	Yes - some attend
County 23	Yes	Yes - 2 hr. general overview	Yes	Yes
County 24	Yes	Yes	Yes	Yes
County 25	Yes	Yes	Yes	Yes
County 26	Yes	Yes	No	Yes

COUNTY	PROVIDE LEGAL ASSISTANCE	PROVIDE TRAINING	IS TRAINING ADEQUATE?	OUTSIDE TRAINING?
County 27	Yes	Yes	No opinion	No
County 28	Yes	Yes	Yes	No
County 29	Yes	No	Yes - if they attend	Yes - some attend
County 30	Yes	No	No	No
County 31	Yes	Yes	Yes	No response
County 32	Yes	Yes	Good starting point	Not that I know of
County 33	Yes	No	Yes/No	Yes
County 34	Yes	Yes	Yes	Yes

TABLE 9 - County Counsel Survey - GUIDANCE

COUNTY	HANDBOOK	GUIDANCE ON INVEST	CONFLICTS REFERRED TO?	INDEP COUNSEL	EDIT	FAMILIARITY	SKILLS
County 1	No	Yes	DA	No	Yes	Yes	Yes
County 2	They review/No	Yes	DA	No	Yes	Generally Yes	Generally Yes
County 3	No	No	No answer	No	No	Yes	Yes
County 4	No	No	No referral	No	No	Yes	Yes
County 5	No	Yes	Outside Case	Yes	Yes	Varies	Varies
County 6	Yes	Yes	DA	No	Yes	No	No
County 7	Prepare themselves No	Yes	DA ,	No	Yes	Yes	Yes
County 8	No	Yes	DA	No	Yes	Yes	Yes
County 9	Yes	Yes	AG	No	No	Yes	Yes
County 10	No	No	DA	No	No	No	Yes
County 11	No	Yes	DA	Yes	Yes	No -	No
County 12	No	No	Judge	No	No	No	No
County 13	Yes	Yes	DA, AG	No	No	No	Yes
County 14	No	No	N/A	No	No	Yes	No
County 15	No	No	DA or Judge	No	Yes	Big No	Problem No
County 16	No Court Does	Yes	DA, AG	No	Yes	No	Some Years
County 17	Yes	Yes	Other office atty	No	Yes	* No	No
County 18	No	No	DA	No	No	Yes	Yes
County 19	Yes	Yes	No conflicts	No	Yes	Yes - After training & assist	Yes
County 20	No	No	PJ	No	Yes	No	Yes
County 21	Yes	Yes	N/A	No	Yes	No	No

COUNTY	HANDBOOK	GUIDANCE ON INVEST	CONFLICTS REFERRED TO?	INDEP COUNSEL	EDIT	FAMILIARITY	SKILLS
County 22	No	Yes	Hasn't come up	No	No	No	Yes
County 23	No	Yes	DA, AG	No	Yes	Not at the beginning	-
County 24	No	Yes	Neighboring Co. Cnsl.	No	No	Yes	Yes
County 25	Yes	Yes	DA	No	No	Yes	Yes
County 26	Yes	Yes	Court Research Attys	Yes	No Answer	Yes, for the most part	Yes
County 27	Yes	Yes	PJ, DA	No	Yes	No	No
County 28	Yes	Yes	No answer	No	No	No opinion	-
County 29	Yes	Yes	DA	No	Yes	Yes sometimes	-
County 30	No	Yes	DA	No	Yes	No	No
County 31	No	No	DA	No	No	No	No
County 32	No	Yes	Court	No	Yes	No	Yes
County 33	No	Yes	Court	No	Yes	No	Yes
County 34	No	No	DA	No	No	Some do	Yes

TABLE 10 - Court Executive Officer, County Administrative Officer and County Counsel Survey - Quality

COUNTY	CONTINUE TO	INVEST	WHO SHOULD?		PERCENTAGE F	OLLOWED	QUALITY (F REPORTS	
	COUNTY ADMINISTRATOR	COUNTY COUNSEL	COUNTY ADMINISTRATOR	COUNTY COUNSEL	COUNTY ADMINISTRATOR	COUNTY COUNSEL	COURT EXECUTIVE	COUNTY ADMINIST- RATOR	COUNTY
County 1							Good		:
County 2	Opinion varies	Yes	No answer	No answer	31-40	31-40	Ex.	Good	Ex
County 3							Varies		
County 4		Yes		No answer		50+	Poor		Good
County 5	ĕ	Yes		No answer		No answer			Poor
County 6	-	Yes	10	No answer		No answer			Poor
County 7	Yes	Yes	No answer	No answer	31-40	31-40		Good	Good
County 8						(4)	Good		
County 9			wi.				Good		
County 10	Yes		No answer		21-30		Good	Varies	
County 11	Yes	Yes	N/A	No answer	10-20 or less	50+	Ex	Good	Varies
County 12	No answer		No answer		50+		Varies	Good	
County 13							Good		
County 14	Yes	Yes	No answer	No answer	31-40	10-20	Good	Good	Good
County 15	No	Yes	Nobody	N/A	50+	50+	Good	Fair	Ex
County 16	?	Yes	?	No answer	50+	31-40	Good		Ex
County 17	Yes		No answer		50+		Good	No opinion	
County 18	Yes	Yes	No answer	N/A	50+	21-30	Good	Ex to Good	Good
County 19	Some- times	Yes	No answer	No answer	31-40	50+	Good	Fair	Good
County 20		No		No	21-30		Ex		Poor
County 21						11	Good		

COUNTY	CONTINUE TO	INVEST	WHO SHOULD?		PERCENTAGE FOLLOWED		QUALITY OF REPORTS		
	COUNTY ADMINISTRATOR	COUNTY	COUNTY ADMINISTRATOR	COUNTY	COUNTY ADMINISTRATOR	COUNTY COUNSEL	COURT EXECUTIVE	COUNTY ADMINIST- RATOR	COUNTY
County 22		No		Not that I know of		10-20	Ex		Poor
County 23	Yes	No	No answer	State level	21-30	21-30	Fair	Good	Poor
County 24	Yes		No answer		50+		Good	Good	
County 25	Yes	Yes	No answer	No answer	31-40	31-40	Good	Good	Good
County 26	No	Yes	The state	More over- sight & limita- tions	31-40	50+	Ex	Av.	Fair
County 27	Yes	Yes	No answer	No answer	50+	50+	Ex	Good	Good
County 28		Yes	<u>1</u>	No answer		50+	Good		Good
County 29	No choice	Yes	No answer	No answer	Rarely	31-40	Good	Irrele- vant	Good
County 30		Yes		No answer		50+	Good		Good
County 31							Good		
County 32		Yes	н	No answer		21-30	Good		Good
County 33		Yes		No answer		50+	Good to Poor		Good
County 34	Yes	Yes	No answer	N/A	50+	21-30	Good	Good	Good
County 35							Good		
County 36		Yes		No answer		50+			Good
County 37	No	Yes	Citizens Comm.	No answer	Rarely	No answer	Ex	Poor	Good
County 38		No opinion		No answer		21-30	Good		No opinior
County 39							Good		

COUNTY	CONTINUE TO	INVEST	WHO SHOULD?		PERCENTAGE FO	OLLOWED	QUALITY O	F REPORTS	
14,	COUNTY ADMENISTRATOR	COUNTY	COUNTY ADMINISTRATOR	COUNTY COUNSEL	COUNTY ADMINISTRATOR	COUNTY	COURT EXECUTIVE	COUNTY ADMINIST- RATOR	COUNTY
County 40	Yes	Yes	No answer	No answer	50+	31-40	Good	Good	Good
County 41							Poor		
County 42							Good		2
County 43	Yes	Yes	No answer	No answer	10-20	21-30	Ex to Good	Poor	Good to Poor
County 44	Yes	No	No answer	State & Fed	50+	10-20		Good	Fair
County 45		No	#	DA for crim.		10-20	Good		Poor
County 46	Yes	Yes	No answer	No answer	21-30	50+	Good	Good	Good
County 47	Yes	Yes	No answer	No answer	50+	Rarely		Good	Good
County 48							Good		