

Procedures  
of the  
Mendocino County  
Grand Jury

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## Introduction

The Grand Jury is a judicial body comprising a number of citizens as specified by the California Penal Code. It is empanelled to act as an element of the judicial system authorized by the State Constitution for the protection of society and enforcement of law. The Grand Jury is not accountable to elected officials or governmental employees. Its findings and recommendations are to be unbiased and impartial. Each Grand Juror is sworn not to disclose the source of evidence obtained through any investigation.

The primary duty of the Regular Grand Jury is to investigate the functions of city and county government agencies, schools, and districts. Committees are formed to study citizen complaints and to visit various city and county facilities. Law mandates certain functions of the Grand Jury. The Grand Jury selects additional areas it wishes to study. At the end of its term, the Grand Jury publishes recommendations in a report that is distributed to public officials, libraries, and the news media, and listed on the Grand Jury's website. Individuals, agencies, or departments investigated are required to respond to the findings and recommendations within 60 or 90 days.

The purpose of this manual is to provide guidance in matters of law and procedure that apply to the Grand Jury. If you find the manual lacks information that would help you perform as a Grand Juror, please advise the Foreperson, the full panel, and the internal committee charged with keeping this manual current and useful.

Each Grand Jury can establish its own procedures (Penal Code §916). Your Grand Jury is free to recommend changes to the Presiding Judge, via the Foreperson. Exercise caution before recommending changes to avoid impairing your own effectiveness, or that of a future Grand Jury.

This manual will be passed on to future Grand Juries. Please do not write comments or make changes to this manual, so that a future Grand Juror can use it well. Write suggested revisions on a copy of the affected pages and submit your suggestions to the Foreperson for consideration.

This manual was revised June, 2005

## **Charge to Grand Jury by Presiding Judge**

Ladies and Gentlemen of the Grand Jury:

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

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

From the earliest of times to the present, a Grand Jury is composed of citizens of the county who are sworn to exercise sound and independent judgment of other governmental agencies within the county. A Grand Jury is primarily an investigative body with two principal areas of inquiry.

First, you have powers and duties to examine and report on public offices, public officers, and transactions. This is your civil function.

Second, you have powers and duties to inquire into possible public offenses, misconduct in office, and to determine whether to return indictments charging the commission of felonies. This is your criminal function.

Before discussing these functions, I wish to advise you of some organizational and administrative matters applicable to the business of a Grand Jury.

Your Foreperson is appointed by the Court for the full year of your tenure.

The Grand Jury may select a member to serve as temporary Foreperson. The temporary Foreperson shall perform the duties of the Foreperson and shall have all of the powers of the Foreperson if the regularly appointed Foreperson is either absent, or disqualified.

At your organizational meeting you shall determine your rules of procedure, and you shall choose your other officers, including a permanent secretary. I suggest that you shortly form committees to preliminarily consider matters within your fields of activity.

You will not be required to hear criminal matters. You will be able to concentrate your efforts on civil matters.

Twelve Grand Jurors constitute a quorum necessary for the transaction of your business. The importance of your work requires that each of you be present at all sessions, except for the most significant reasons.

You may at all times ask the advice of the Court or of the District Attorney or of the County Counsel, but unless such advice is requested by you, the Court and the County Counsel will not be present during your sessions. No person except members of the Grand Jury shall be permitted to be present during the expression of the opinions of the Grand Jurors, or the giving of their votes upon any matter before them.

In regard to your civil function you may seek advice from the District Attorney or the County Counsel. As to any matter that concerns you, please feel free to call upon me for advice.

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

You are instructed to keep your own counsel. Matters before the Grand Jury should never be discussed, even with your closest relatives, associates or superiors. And I urge that while you are on the Grand Jury, you take special pains to listen rather than to talk, and to restrict to the Grand Jury room your conversation concerning public business, either pending, prospective, or within the realm of possibility.

The law provides that every Grand Juror must keep secret all evidence adduced before the Grand Jury, or anything he himself, or any other Grand Juror, may have said; or in what manner he, or any other Grand Juror, may have voted on any matter before them. It is a misdemeanor to violate such secrecy of the Grand Jury room, or to disclose the finding of an indictment until the defendant has been arrested.

Although under certain proper circumstances, a court may require a Grand Juror to disclose testimony given before the Grand Jury, a Grand Juror cannot be questioned for anything he may say or any vote he may give in the Grand Jury room 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. But at times, in order to obtain legal advice, it may be necessary for you to disclose to the District Attorney, or to the County Counsel if he is 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.

When evidence is being presented to the grand jury no person is permitted to be present except: the members of the jury; the witness actually under examination (with an interpreter if necessary); and a stenographic reporter; unless a public hearing has been ordered by the court.

No session shall be open to the public unless so ordered by the Court and that will only be done upon a finding that the subject matter of the investigation is one affecting the general public welfare respecting matters involving alleged corruption, misfeasance or malfeasance in office, dereliction of duty of public officials or public employees, or of any person allegedly acting in conjunction with, or conspiracy with, such officials or employees in such alleged acts. An open session is extremely rare. Such order of the Court authorizing public sessions may be obtained only upon certain conditions. If this Grand Jury believes a public hearing is warranted then the Grand Jury acting through its foreperson may apply to me for such an order. In the tenure of any judges before you today there has not been an occasion to have such an open hearing.

As to your civil function, you are to make a careful and complete examination of and report on the operations, accounts and records of the officers, departments and functions of the

county, including those of any district in the county created pursuant to state law, for which the officers of the county are serving in their ex-officio capacity as officers of the districts. In addition, you may examine the books and records of any special purpose assessing or taxing district located wholly or partly in the county, or the local agency formation commission in the county. Also, you may examine the books and records which pertain to fiscal matters of any incorporated city or joint powers agency located in the county as well as the books and records of redevelopment agencies, housing authorities and non-profit corporations established by or operated on behalf of a public entity.

For the purposes only of these examinations involved in your civil function, you may employ the services of experts, and their assistants, at an agreed compensation which must be first approved by the court.

Moreover, you may investigate and report upon the needs of all county officers, including the abolition or creation of offices and the equipment for, or the method or system of performing the duties of, such offices. Such investigations and reports shall be conducted selectively each year, but the needs of each county officer shall be investigated and reported at least once every eight years.

Included in your examination and reports shall be all the books, records and accounts of all the officers of the county which are kept in their ex-officio capacities, as incumbents or officers of any special legislative district or other district in the county, created pursuant to state law.

All expenses of the Grand Jurors properly incurred in such examinations and reports shall be paid by the treasurer of the county from the general funds of the county upon warrants drawn by the county auditor, upon the written order of the court.

After investigating the books and accounts of the various officials of the county, the Grand Jury may order the District Attorney of the county to institute suit to recover any money that, in the judgment of the Grand Jury, may from any cause be due the county. The order of the Grand Jury, certified by the Foreperson of the Grand Jury and filed with the clerk of the county is full authority for the District Attorney to institute and maintain any such suit.

No later than the end of each fiscal year the Grand Jury shall submit to the Presiding Judge a final report with its findings and recommendations that pertain to pertinent matters of county government and that pertain to fiscal matters of county government. Reports may be submitted to the Presiding Judge at any time during the term of service of a Grand Jury.

No later than ninety (90) days after the Grand Jury submits a final report on the operations of any public agency, the governing body of the public agency shall comment to the Presiding Judge on the findings and recommendations. In addition every elective officer or agency head for which the Grand Jury has responsibility pursuant to Penal Code Section 914.1 shall comment within sixty (60) days to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of such county officer or agency head. Copies of such comments shall be sent by such county officers and agency heads to the Board of Supervisors. All such comments and reports shall forthwith be submitted to the Presiding Judge.

A copy of all responses to Grand Jury reports shall be placed on file with the clerk of the public agency and the office of the County Clerk and shall remain on file.



A copy of all responses shall be placed by the current Grand Jury on file with the applicable Grand Jury final report and it shall be in the control of the currently impaneled Grand Jury. Such files shall be maintained by the Grand Jury for not less than five (5) years.

As a matter of courtesy, the sitting Grand Jury should notify the past Grand Jury through its former Foreperson or Foreperson Pro Tem when the responses are received and offer to make them available for review by any of the previous committee chairs.

In this way, the former Grand Jury can make the current Grand Jury aware of any deficiencies that it finds in the responses. The current Grand Jury can then, if it chooses, pursue the matter.

You may investigate into all sales and transfers of land, and into the ownership of land, which might or should escheat to the State, and you may direct that proper escheat proceedings be commenced.

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

You are entitled to free access, at all reasonable times, to the public prisons, and to the examination, without charge, of all public records within the county.

I am required to call your attention particularly to certain statutory provisions in the California Government Code, those being Sections 23000 through 23015, inclusive, and 24054, 25250, 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 report.

You shall inquire into willful or corrupt misconduct in office of public officers of every description within the county.

If you should determine that any district or county officer is guilty of willful or corrupt misconduct in office, you may present an accusation in writing, stating the offense against him or her that will initiate legal action against that person for his removal from office. Such accusation shall be delivered to the District Attorney unless he or she is the officer accused, in which case it shall be delivered to the Clerk of this Court and by him or her to me.

The Grand Jury is empowered to compel by subpoena the attendance as witnesses before the entire Grand Jury, and to require the production of books, records, documents and other material objects. However, neither the Grand Jury, nor any of its committees, can compel the attendance of a witness or the production of records before a committee only. You cannot yourself issue subpoenas, since that is the function of the court and the prosecuting authorities, but you may direct that subpoenas be obtained from proper authorities.

However, 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. A defendant in a criminal case even has a privilege not to be called as a witness.

A witness called upon to testify before a Grand Jury has certain rights and duties which you should understand and respect. A Grand Jury, like a court, may ask only such questions as are pertinent to a matter then under consideration. If there be no matter under

consideration, a refusal to answer questions does not constitute contempt, nor, under such circumstances, is it contempt for a witness to refuse to appear.

You should never vote upon any matter in the presence of any witness, nor express any opinion on the matter under consideration during the examination of a witness. When you express opinions on a matter under consideration or when you take votes upon a matter under consideration all other persons must be excluded.

When a complaint is presented to you by persons other than law enforcement officials, I suggest that you ascertain whether or not the same complaint has theretofore been presented to the District Attorney. In some instances, you will probably find that the same matter, previously, has been submitted to the District Attorney and either acted upon by the District Attorney or prosecution thereon refused for valid legal reasons. Thus, in some cases the matters heard by the Grand Jury already have been extensively investigated by some law enforcement agency, and the news media, naturally, may have obtained a detailed knowledge of these cases. Also, you must realize that a witness who testified under oath at one of your sessions might make a statement outside the Grand Jury room. If, therefore, you should find in the news media a story containing substantially the same facts obtained by the Grand Jury in secret session, you must not assume that one of your fellow jurors has violated his or her oath as to secrecy.

You will find that you will be asked to examine, and will examine, some groundless complaints. You should require that all complaints be in writing. Attempts will be made to burden you with private grievances, real or imaginary, where no crime or charge cognizable by you has been committed. Some person may make false accusations before you. Not infrequently, persons who attempt to initiate accusatory proceedings are motivated by private enmity or political reasons. In light of the experience of past Grand Juries, a comparatively small percentage of the accusatory complaints which you will receive from other than law enforcement officials will deserve your official action. Some, however, may result in disclosures of offenses that would not have otherwise been brought to light; and when you obtain reliable information indicating an offense or misconduct within your jurisdiction, it is your duty to fearlessly and fairly investigate and take appropriate action.

You are not a detective agency and you should not engage in "fishing expeditions" or indiscriminate meddling with private or public affairs. You should not attempt to substitute your own judgment as to matters of business and operations of public offices where others may be more skilled in such matters and reasonably may hold different views. A Grand Jury cannot forage at will upon any whim it may entertain.

Your written reports are 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 innuendoes of improper conduct on the part of private citizens, or 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.

I trust that in a majority of the instances in which there has been such an abuse of power by a Grand Jury, it has come about because of insufficient explanation by the Court in the 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 to accept it as its guide.

Pursuant to the provisions of the Penal Code and the policies of this Court I instruct you to deliver to me all Grand Jury reports before filing them, and I instruct the Clerk not to accept for filing any Grand Jury report until it has been approved by the Court for filing. If you so desire you may submit the report to the County Counsel before it is filed. If you choose to do so the County Counsel will provide a written opinion of those statements which might be considered libelous. I urge you to seek the advice of the County Counsel, but I remind you that you are not obligated to follow such advice.

You may review reports of earlier Grand Juries, particularly those recommendations that have not been acted upon, the reasons therefore and the possible need for again recommending action where action has not been taken. But you shall not adopt as your own the recommendation of another Grand Jury unless you do so after your own investigation of the matter as to which the recommendation is made; nor may you make any report, declaration or recommendation on any matter except on the basis of your own investigation.

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 any 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 impaneling another one.

You must not 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, religion or economic status.

You are now aware that there are distinct limitations as to what you may do in the course of your investigations, presentments and reporting. You function lawfully as a body. An individual Grand Juror acting alone has no power or authority. And the body of the Grand Jury itself is not intended to be a super-government for this county, nor is it intended that you should interfere with the discretionary policy-making or operational powers of public officials. Only when public officials, or others, are justifiably suspected by you of violating applicable standards of conduct and laws and are subject to being indicted or accused by you, do they become proper subjects for indictment or accusation. And in this connection a Grand Juror is not civilly liable for damage resulting to a person indicted or accused by the Grand Jury. However, as to any comments in your reports upon a person or public official not indicted, such comments are not privileged and could, if libelous, be the basis for a charge of civil or criminal libel. It is for that reason, among others, that I have urged you to seek the advice of the County Counsel.

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

we maintain a government of, by and for the people. You are following in that honored calling.

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

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

I wish you well as you now begin your year of service as member of the Grand Jury for the County of Mendocino.

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Presiding Judge



## Grand Jurors Oath

The following oath shall be taken by each member of the grand jury:

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

(Penal Code §911)

## Overview of the Term

During your term as a grand juror, your activities will evolve. All your activities however, point toward publishing the Final Report at the end of your term. The next section gives you an overview. The section, “Grand Jury Timeline,” gives you more detail.

A Grand Juror’s term begins the day the Grand Juror Oath is sworn. There is no limit on the number of terms a Grand Juror may serve so long as that Juror serves no more than two subsequent years in a row. It has been determined that one day of service on the Grand Jury shall, for the purposes of determining Grand Juror holdover eligibility, be considered the first year of Grand Jury Service. A Grand Juror who has served only one day of Grand Jury service in a particular year would be considered a holdover juror in the subsequent year. That Grand Juror would not be eligible for Grand Jury service in the third year, but would again be eligible in the next year, starting the term of service over again.

### **Summary of Activities**

To begin with, you will spend some time getting organized. You will also receive training at a seminar presented by the California Grand Juror’s Association. You are highly encouraged to attend this vital training, even if you have participated in previous terms.

During this organizational phase, the full panel will decide what departments, agencies, and districts the Grand Jury will review during your term. Then the full panel will set up “external” committees that fit these areas of review. The full panel will also set up some “internal” committees, which deal with Grand Jury business. Jurors should consider serving on two external committees and one internal committee. Be aware that the Foreperson can make and alter committee assignments at any time that will benefit Grand Jury operations.

The next phase is investigation. During investigations, committees interview witnesses, collect and read documents, and visit sites. **Penal Code requires that at least two grand jurors attend any interviews and site visits and review or receive any documents.** After the committee collects each bit of information, the committee members discuss what they have learned, what it means, how it fits together, and what new questions to ask.

During the investigation phase, the full panel will receive and discuss complaints. The full panel decides by a vote of at least 12 grand jurors what to do with each complaint. The full panel can reject the complaint or can accept the complaint for investigation. If the full panel accepts a complaint, the Foreperson assigns it to the appropriate committee.

The investigation phase lasts as long as it takes for the committee to feel satisfied that the investigation has been as thorough as possible *in the time available*. Reviews and investigations may take a few weeks, several months, or even the entire term.

After a committee finishes its investigations, the committee members begin to draft a report on what they found. When the committee members are satisfied with their report, they pass the report to an internal committee for review. This committee will make suggestions about the form and format of the report; about errors of logic, completeness, and applicability of the parts of the report; and about style, grammar, and spelling. The committee prepares the report for final publication. (This process might take several attempts to complete). When the report is ready, it goes to the full panel for consideration and approval. The full panel

may, by a minimum of 12 votes, accept the report, request changes, or reject the report. Rejected reports will not be published.

When a report is final and the full panel has accepted it, the report is sent to the County Counsel for review against potentially libelous language. After making any changes suggested by County Counsel, the report is then sent to the Presiding Judge for review and acceptance. When the Presiding Judge accepts all the reports, the full panel publishes them together as its Final Report for the term. The jury can choose to disregard the advice of county council or the presiding Judge. However, doing so may subject individual jurors to civil penalties.

***Relationship Between the Courts and the Grand Jury***

The court staff and Presiding Judge serve as confidential advisors to the Grand Jury. The court staff shall recruit qualified Grand Jurors each year. Any other duties and obligations of the court shall be determined by local policy and procedures of the Grand Jury. The Presiding Judge has the power to remove any juror from the Grand Jury. The Foreperson is the link and spokesperson to the Presiding Judge for the Grand Jury. However, all Jurors have the right to send a letter to the Presiding Judge.

<b><i>Grand Jury Ground Rules</i></b>	
	1. Work together.
Above all.....	2. Keep your sense of humor.
Equality.....	3. Everyone has an equal voice and deserves equal respect.
Focus.....	4. One person speaks at a time so that each idea may be considered and recorded.
Higher perspective ....	5. Consider what is good for the whole Grand Jury; function as a whole
Keep it crisp.....	6. Limit comments and keep the meeting moving.
Non-judgmental .....	7. Remain tolerant in our views and to the views of others.
	8. Each person holds a personal perception/reality of the job.
Proxy.....	9. If someone is absent, the group will continue working.
Sanctions.....	10. We give each other the freedom to speak without fear of reprisal or criticism. Once 12 or more Grand Jurors have made a decision, that decision reflects the decision of the full Grand Jury.

## Suggested Grand Jury Timeline

<b>July</b>	<p>Orientation – Receive keys, Personal Information Sheet, Manual, GJ Badge blanks, Temporary Parking Pass Foreperson certifies that all Jurors are eligible Sign Code of Ethical Conduct Statement Select areas for review Meet the Department Heads, County Council, District Attorney and Presiding Judge Review citizen complaints received or passed from Previous Jury Committee assignments Initial Committee Meetings File Form700</p>
<b>August</b>	<p>Attend CGJA Training Seminar Prepare process for publishing previous Grand Jury Report with Responses Review citizen complaints Approve Committee Chairmen Committee Chairs meet with Edit Committee Determine Report Format for full panel approval at the end of term Committee Chairs receive report-documentation forms Data gathering for investigations Begin attending meetings of City Councils, Special Districts, Board of Supervisors, Juvenile Justice and Delinquency Prevention Commission, and any other official meetings the Grand Jury finds relevant</p>
<b>September</b>	<p>Continue investigations Review Responses to previous Grand Jury Final Report Make status reports to full panel on investigations Committee Chairs meet with Edit Committee Review citizen complaints Visit County Prison Facilities &amp; Work Camps Visit Juvenile Hall Building walk-thru with Grand Jury Building Landlord - Hugheys</p>
<b>October</b>	<p>Publish prior year Grand Jury Final Report with Department Responses and distribute to general distribution list and prior year Grand Jurors Post on Grand Jury website the prior-year Final Report with Final Report Responses Committee Chairs meet with Edit Committee Review citizen complaints Continue investigations Make status reports to full panel on investigations Write draft reports on completed investigations Edit committee reviews any draft final reports Write draft reports on facility visits</p>



**November** Continue investigations  
 Make status reports to full panel on investigations  
 Committee Chairs meet with Edit Committee  
 Review citizen complaints  
 Edit committee reviews any draft final reports  
 Write draft reports on completed investigations

**December** Continue investigations  
 Make status reports to full panel on investigations  
 Committee Chairs meet with Edit Committee  
 Review citizen complaints  
 Write draft reports on completed investigations  
 Edit committee reviews any draft final reports.  
 Building walk-thru with Grand Jury Building Landlord - Hugheys

**January** Continue investigations  
 Make status reports to full panel on investigations  
 Committee Chairs meet with Edit Committee  
 Review citizen complaints  
 Write draft reports on completed investigations  
 Edit committee reviews any draft final reports  
 File Annual Form 700

**February** Continue investigations  
 Make status reports to full panel on investigations  
 Committee Chairs meet with Edit Committee  
 Review citizen complaints  
 Review End of Year Timelines  
 Write draft reports on completed investigations  
 Edit committee reviews any draft final reports

**March** Complete all investigations  
 Committee Chairs meet with Edit Committee  
 Review citizen complaints  
 Court staff prepares PR recruitment piece for Local Media  
 Write draft report on completed investigations  
 Edit committee reviews any draft final reports.  
 Full panel reviews and approves any final reports submitted from the Edit committee  
 Determine Printing Dates for Approved Final Report  
 Plan recruiting for next year's Grand Jury  
 Building walk-thru with Grand Jury Building Landlord - Hugheys

**April** Complete all investigations  
 Write draft report on completed investigations  
 Consider deferring Citizen Complaints to Subsequent Grand Jury  
 Committee Chairs meet with Edit Committee  
 Edit committee reviews any draft final reports.  
 Full panel reviews and approves any final reports submitted

Send Final Reports approved by the full panel to the County Counsel for review for potentially libelous language.

Send Final Reports approved by the full panel to the Presiding Judge for review and approval to publish

Hold-over Jurors Complete Application

Recruit applicants for next year's Grand Jury

## **May**

Edit committee reviews any draft final reports

Full panel reviews and approves any final reports submitted

Consider deferring Citizen Complaints to Subsequent Grand Jury

Send Final Reports approved by the full panel to the County Counsel

Send Final Reports approved by the full panel to the Presiding Judge

## **June**

Print the Final Report & Post to Grand Juror Website

Alert local newspapers about forthcoming Final Report

Distribute Report sections to Respondents 48 hours Prior to Public Release

Send Copies to General Distribution List

Send Copies to all Accepted Complainants

Consider deferring Citizen Complaints to Subsequent Grand Jury

Distribute Report to Outgoing Grand Jury Members

Organization – turn in keys, parking pass, manual & badge

Ready the Procedures Manual for Next year's Jury

Return Investigational Materials to originating department

Surrender all confidential notes, files and committee information

File Form 700

Press Release on Final Report & Applications available on the website

Discharge from Grand Jury

## ***First Full Panel Meeting Agenda***

The following agenda suggests the items that the Grand Jury should cover at its first full panel meeting. If the time available doesn't permit treating all items, those not covered should be taken up at the second full panel meeting.

- Select a volunteer to take meeting minutes (until a Secretary is appointed)
- Adopt Rules of Order for all Grand Jury meetings
- Presentations by the Presiding Judge, the District Attorney, and the County Counsel
- Introductions—each Grand Juror gives a brief mini-bio that should include name; area of residence (Ukiah, Redwood Valley, Mendocino, Laytonville, etc.); current or previous employment, if any; reason for applying to the Grand Jury; and any special areas of expertise or interest for Grand Jury work
- Fill out and turn in to Foreperson Code of Ethical Conduct
- Collect name, mailing address, phone number, fax number (if any), e-mail address (if any) from each Grand Juror to create a Grand Jury roster
- Collect name; vehicle make and model, color, and year; and vehicle license number from each Grand Juror to apply for parking permits. The Grand Jury pays for parking permits

that permit you to park in any 2-hour or longer parking space (including metered spaces 2 hours or longer) in downtown Ukiah. Be sure to include information for all vehicles you might drive to Grand Jury meetings in Ukiah. \*Note that you can place a sign on your car dashboard for the first Grand Jury meeting, indicating that you are serving on the present Grand Jury.

- Distribute previous year Grand Jury Final Report, Grand Jury Manual (sign for it), keys (sign for these),
- Set full panel meeting day and time. Special Full Panel meetings may be called as need by the Foreperson
- Tour the Grand Jury facility. (note that there is a meeting room in Fort Bragg should the Full Panel or committees decide to meet on the Coast)
- It is suggested that you elect your Foreperson Pro Tempore at your second full panel meeting so that the jurors have some time to meet their fellow jurors and get at least preliminarily acquainted.
- Discuss training plans, both local and out-of-county CGJA seminar
- Watch the video “What is a Grand Jury?”
- Review the History of Grand Jury Investigations and complaints or topics pass on by the preceding Grand Jury; select 5–7 areas for review this term
- Organize committees around areas for review and sign up for committees; set committee meeting days and times. By their second meeting, each committee should, with guidance from the Foreperson, select one member as Chair. Another member should volunteer as official note taker. Complete Form 700, Statement of Economic Interest

### ***Second Full Panel Meeting Agenda***

At the second full panel meeting, the Grand Jury should place the following items on the agenda:

- Complete any agenda items from first full panel agenda that weren’t completed.
- Have Full Panel approve Procedures (this section of this manual).
- Elect officers (Treasurer and Secretary; and if so desired by the full panel, Parliamentarian, Sergeant-at-Arms, Librarian)
- Approve committee chair selections
- Watch the video on interviewing techniques.
- Elect a Foreperson Pro Tempore.
- Any other business that the Grand Jury officers or any of the Grand Jurors wants to bring before the full panel.

## **Guiding Principles**

Grand Jurors should follow principles of conduct that assure that the Grand Jury is well regarded and respected so that Grand Jury reports receive credibility with the public and the entities the Grand Jury reviews and so that future Grand Juries are afforded credibility and respect at the beginning of their terms.

**Charge by the Presiding Judge.** The first and more important source of guiding principles for a Grand Jury is the Charge by the Presiding Judge. It behooves every Grand Juror to read thoroughly and occasionally re-read the Charge.

**Quorum.** A Grand Jury functions legally only when officially in session with a quorum. A quorum is 12 jurors. In addition, at least 12 jurors must approve any changes to the rules of procedure, adoption of final reports, and all other final actions of the Grand Jury.

**Courtesy.** Grand Jurors are equals. During meetings, each Grand Juror is entitled, without interruption, to express views and give reasons for that position. When a Grand Juror wishes to speak, the Foreperson must first recognize the juror. The Foreperson should recognize in turn all jurors wishing to speak so that a few jurors do not dominate discussion or prevent every juror from being heard.

Jurors should not exert undue pressure on others to change their minds. No Grand Juror should be dictatorial. All jurors may express opinions and views calmly, emphatically, and reasonably; speak in normal tones without undue emotion.

Jurors who continue on the Grand Jury from the preceding term have no more authority or responsibility than newly appointed Grand Jurors. Second-term Grand Jurors must not be dominating or condescending toward fellow Grand Jurors. New Grand Jurors should recognize, however, that Grand Jurors who have served previously have an historical perspective and experience that might, from time to time, profitably be consulted.

**Conduct.** Routine meetings (usually committee meetings) may be conducted with a degree of informality. Meetings at which witnesses appear should be conducted with as much dignity as one expects in a court of law.

As officers of the court, jurors are to act at all times with impartiality and fearlessness, as expressed in the oath of office that each juror takes. Partisan politics can have no part in the Grand Jury. Persons who are extremely opinionated or biased and who cannot or will not set aside their biases should not serve.

Grand Jury meetings will allow sufficient time for all jurors to express their opinions. Any juror may request a vote on any topic being discussed. Each juror should consider carefully the views and opinions of fellow Grand Jurors.

## **Secrecy and Confidentiality**

There are both legal and practical reasons for secrecy of Grand Jury activities. Only fellow Grand Jurors are entitled to information about Grand Jury investigations, correspondence, deliberations, and discussions. Nothing that is said and nothing that is done as part of your Grand Jury work may be discussed with anyone not on the Grand Jury—not with relatives (including spouses), friends, business acquaintances, or the news media.

While conducting interviews or making field trips, jurors must not discuss or reveal any details regarding Grand Jury business, plans, or investigations. Grand Jury statements of approval or disapproval of departments, agencies, or districts, must come only from the entire Grand Jury and only by way of a final report, which has been approved by the Presiding Judge.

A recent California Attorney General's opinion issued in June, 2003 concluded:

1. A grand jury, sitting in its civil "watchdog" capacity, has the authority to admonish a witness not to disclose what the witness learns in the grand jury room regarding the subject of the grand jury's inquiry.
2. A violation of the admonition may constitute contempt of court
3. The following admonition would be legally sufficient (Appendix \_\_\_\_):

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

### **Rule of Secrecy**

The importance of the Rule of Secrecy cannot be overemphasized. It is designed to guard public interest as well as to protect each individual Grand Juror. Any Grand Juror who violates the Rule of Secrecy is guilty of a misdemeanor and must be dealt with appropriately by the court. In following this rule, no halfway measures are advisable. Half statements or innuendos by a Grand Juror lead to speculation, rumor, and violations of the rule. The only safe procedure is to make no comments to anyone.

**Rule of Two (or more): Two or more Grand Jurors must be present during an interview** (Penal Code §916). More than two is better. For most interviews it is best to have a minimum of three or four jurors. Individuals sometimes see and hear things differently, and you have more people taking notes. Problems can result if only two people do all of the interviewing for an investigation. Even if several members are present, some juries also tape all interviews.

If anyone asks you about any Grand Jury business, neither confirm nor deny the existence of an investigation. Tell any questioner that you are legally prevented from discussing any Grand Jury business in any way. Of course, you will need to inform witnesses about the areas you will question them so that the witness is prepared to answer as fully as possible.

**Absences.** Each Grand Juror should be prepared to devote as much time as is required to fulfill Grand Jury duties. Extended vacations and absences are not consonant with a Grand Juror's commitment. Within reason, jurors may be excused for pressing personal business or family matters. A Grand Juror who needs to be excused from a full panel meeting should request absence in advance from the Foreperson. For committee meetings, a Grand Juror should request absence from the committee chair. A juror who has an emergency should notify the Foreperson as soon as possible.

**Payment Claim Forms.** Each juror shall complete and sign a monthly payment claim form which details their participation and attendance at committee meetings, full panel meetings, whether or not a lunch may be claimed, and round trip mileage totals. Reimbursement checks will be issued upon receipt of Committee Minutes signed by the chairman, which document signed committee participation. County Code Appendix \_\_\_\_\_ - Reimbursement

**Ethics.** No Grand Juror should use membership on the Grand Jury for any personal gain or advantage. Grand Jurors must not identify themselves as grand jurors in matters other than those directly connected with Grand Jury business. Grand Jurors must not use their status as grand jurors for influence or to obtain favors during Grand Jury service.

Grand Jurors should not accept gifts except for token gifts and other such mementos given to visitors as a matter of standard procedure. Transportation or moderate meals while conducting business in the field are not considered gifts if they are necessary to support the logistics of the inspection, tour, or investigation.

### ***Conflict of Interest***

At the beginning of your term as Grand Juror, the Foreperson will ask you to sign a Code of Ethical Conduct statement (see appendix \_\_\_\_). This statement is meant to ensure that Grand Jurors serving on committees and conducting investigations will not use or appear to use such position for private gain and to ensure that the grand jurors do not have a clear, pre-existing bias regarding any actions that the Grand Jury might take.

It is the responsibility of each Grand Juror to advise the Foreperson and/or the entire Grand Jury of any potential conflicts of interest that exist at the beginning of the term and any conflicts that develop during the year of service in connection with Grand Jury work. A Grand Juror has a conflict of interest when all of the following occur:

1. The Grand Juror makes, participates in, or uses his or her position to influence a decision;
2. it is foreseeable that the decision will affect the grand juror's economic interest;
3. the effect of the decision on the grand juror's economic interest will be material;
4. the effect of the decision on the grand juror's economic interest will be distinguished from its effect on the public generally.

Whenever you have cause to believe that a matter before the Grand Jury could involve a conflict of interest, you shall announce the conflict of interest.

If you are uncertain if a matter before the Grand Jury involves a possible conflict of interest, you shall announce the possibility. The question of whether an actual conflict of interest exists may be referred to the County Counsel, the District Attorney, or the Presiding Judge.

Whenever a conflict of interest exists, the grand jurors involved shall abstain from investigations, discussions, voting, and writing a report on such matters, both in committee

and in full panel meetings. The officers shall comprise the executive Committee, plus one juror at-large selected by the Foreperson, and shall decide if a juror poses a conflict of interest and have express authority to determine appropriate action(s), including removal of the juror from the committee and any proceedings concerning the conflict of interest and who shall have the authority to remove the juror from the committee and/or the Grand Jury.

Bias shall be defined as either (1) prejudgment of essential facts that prevents the Grand Juror from considering the issue on its merits, or (2) publicly expressed support or opposition to specific aspects of a matter before the Grand Jury. Having an educated opinion on an issue should not be considered the same as having a bias. For bias, the same procedure used for conflict of interest applies.

**Form 700 - Statement of Economic Interest.** Grand Jury members must file a Statement of Economic Interest, Form 700. Within 30 days after you are sworn in as a Grand Juror, you should receive in the mail at home a copy of the Statement of Economic Interest from the Office of the County Clerk. Fill out the statement and return it to the County Clerk. You will receive another Statement of Economic Interest in the middle of your term and again at the end of your term, upon discharge.

If you do not receive a Statement of Economic Interest within 30 days, contact the Office of the County Clerk and ask that a Statement of Economic Interest, Form 700 be mailed to your home mailing address. Failure to file Form 700 in a timely manner may result in a fine imposed on a grand juror which, unless paid, could negatively impact your credit report.

Copies of each Grand Juror form 700 filing should be obtained by the Foreman of the Grand Jury each year, and should be reviewed by the Executive committee to ascertain potential conflicts of interest. The Grand Jury Foreman should insure timely filings of the form 700 by all Grand Jurors. Grand Jurors who fail to file the form 700 will be recommended for discharge by county counsel.

## **Organizing the Grand Jury**

One of your duties at your first meeting as a Grand Jury is to organize yourselves. You must select the meeting dates and times for the full panel to meet, the meetings dates and times for committees to meet—do this after your committees are formed—and you must select your officers. The next step in organizing your Grand Jury is to select the departments, agencies, and districts that you wish to review. Once you have selected the entities for review, you can form your committee. Grand Jurors attend two types of meetings: full panel meetings and committee meetings.

### ***Full Panel Meetings***

A full panel meeting is the gathering of the entire membership of the Grand Jury. Typically, the full panel meets once a month. (In late April and in May, you might need to meet weekly to review and approve final reports.)

The full panel decides on a day and week to meet and the starting time. For example, a Grand Jury might decide to meet on the first Thursday of each month, at 9:30 A.M. Once the full panel has decided on its meeting day and time, write the meetings and times on the Master Calendar.

Only one Full Panel reimbursement will be made for each Full Panel meeting date. Incidental committee meetings that occur subsequent to Full Panel adjournment will not be reimbursed as an extra committee meeting on that date.

## ***Committee Meetings***

Committees meet more often than the full panel to plan strategy, conduct interviews, review documents, and visit sites. Typically, each committee will meet twice a month. Committees pursuing a large, lengthy, or especially complex review might find it necessary to meet weekly. The days, times, and frequencies of meetings are entirely up to the committee members.

Note that because each Grand Juror serves on at least two external committees and at least one internal committee (see “Committee Formation”), the committees should arrange their meetings to avoid overlap as much as possible. For this reason, it is suggested that committees consult each other to select days and times that avoid overlap. Committee meeting times should be posted on the Master Calendar by committee chairs.

Following a committee meeting, the minutes should be turned in prior to the next full panel meeting to become part of the full panel meeting minutes using the Committee Minutes Form (appendix \_\_\_\_). In the case where a committee meeting exceeds six hours on site, the juror shall be entitled to claim an additional committee meeting on the Payment Claim Form. Committee meeting reimbursement and other expenses will not be reimbursed until the committee chairman has submitted signed committee minutes form to the Foreperson for each committee meeting.

If a sub-committee is assigned to a special committee meeting, i.e. gathering information from a county agency using the rule of two for contact during an investigation, then a committee member present at that meeting is responsible to give a copy of the signed meeting minutes to the committee Chairman, who will in turn provide a copy to the Foreperson. All signed Committee minutes shall be submitted to the Foreperson within 1 week of the committee meeting. The Foreperson shall withhold juror reimbursements until such documentation is submitted.

In addition to committee documentation responsibilities, Committee Chairs also give an oral presentation of their committees’ work during the preceding month. The presentation should cover what the committee has done, what it found out, concerns that have arisen, and what it plans to do next. When interviewing, it is recommended that the committee meet immediately after the interview is performed to record and evaluate the interview.

<p><b>Tip: If formed, the Coast committee can act as the coastal arm of other external committees. Other committees should then reciprocate when the Coastal committee needs help inland.</b></p>
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## ***Grand Jury Facilities***

At your first Grand Jury meeting, you’ll be shown around the Grand Jury facility at 110 West Standley Street in Ukiah—across the Street from the County Courthouse. This tour will acquaint you with the rooms, furnishings, and equipment.

You will be given a set of keys. All Grand Jurors receive at least two keys: a key to the front (outside) door and a key to the inner doors. Upon leaving the Grand Jury facility, please be



sure all the inner doors are locked. The main meeting room is not available to other departments of the County and the Courts for meetings. Locking the inner doors assures that confidential materials are not compromised. Also upon leaving the Grand Jury facilities, be sure the heat/air conditioning in both the main meeting room and in the office is turned off.

Grand Jury officers and committee chairs also receive a key that unlocks the committee file cabinets in the Grand Jury office. Be sure to lock the committee file cabinets before leaving.

### **Grand Jury Facilities in Fort Bragg**

For Grand Jurors who live on the coast, arrangements have been made through the County Buildings & Grounds Department to use the WIC conference room of the Avila Center in Fort Bragg. The Coastal Committee has a two-drawer locking file cabinet in the WIC conference room. The Chair of the Coastal Committee will need to meet the staff of the WIC office to reserve the conference room. (WIC has first call on the conference room.) The Chair of the Coastal Committee will also need to get a key for the WIC conference room from the Buildings & Grounds maintenance staffer in Fort Bragg. The Foreperson will issue the file cabinet key to the Coastal Committee Chair.

The Coastal Committee can also meet, on a space available basis, in the Library of the Ten Mile Courthouse in Fort Bragg. The Chair of the Coastal Committee will need to check with the staff at the Ten Mile Courthouse if the space is available and to open the Library; no key will be issued.

If the Grand Jury sets up a north County committee, ask the Foreperson to consult with the Court Executive Officer about possible space for meetings in north County.

### **Officers**

The officers of the Grand Jury lead full panel meetings, set the agenda, and lead the organization of committees. The officers also handle the administration of the Grand Jury.

The officers are:

Foreperson

Foreperson Pro Tempore

Treasurer

Secretary

Additional, optional, officers: Parliamentarian, Sergeant-at-Arms, Librarian, and Historian.

The Presiding Judge chooses the Foreperson. The full panel chooses all its other officers at its first or second meeting. These officers shall comprise the Executive Committee of the Grand Jury

### **Foreperson**

The Presiding Judge selects the Foreperson. The Foreperson's most important task is to assure that the full panel and the committees function effectively. For this reason, the Foreperson will visit committee meetings and consult with committee chairs regularly. Any Grand Juror should feel free to consult the Foreperson on any Grand Jury matter. The Foreperson should be considered a facilitator, having no higher ranking than any other juror.

You can expect your Foreperson to perform the following duties:

- Preside at full panel meetings and make these meetings run effectively and efficiently
- Assign complaints accepted by the full panel to the appropriate committee
- Consult with the Presiding Judge, District Attorney, or County Counsel when it is appropriate and/or necessary or as directed by a vote of the Full Panel.
- Get approval from the Presiding Judge for any letter or report that might establish policy for the Grand Jury
- Make changes in committee assignments when deemed advisable
- Sign all general communications, including news releases, that represent the wishes, judgment, or response of the Grand Jury
- Act as the only spokesperson for the Grand Jury
- Approve and sign reimbursement forms for jurors and reimbursement statements prepared by the Treasurer
- Administer oaths to witnesses
- Speak to interested groups, upon request, about the functions of the Grand Jury
- Act as an ex-officio member of all committees
- Distribute manuals, and keys at the beginning of the term; and collect them from jurors who are released during the term and from all jurors at the end of the term
- Be available for 45 days after the end of the term, upon reasonable notice, to clarify the recommendations of the Final Report

## **Foreperson Pro Tempore**

The Foreperson Pro Tempore is the deputy Foreperson. Whenever the Foreperson cannot preside at a full panel meeting or over other Grand Jury business that normally falls to the Foreperson, the Foreperson Pro Tempore (usually said “Pro Tem” for convenience) presides. If the Foreperson resigns or is incapacitated, the Foreperson Pro Tem assumes the duties of the Foreperson until the Presiding Judge appoints a new Foreperson.

When asked, the Foreperson Pro Tem assists the Foreperson on matters of procedure, personnel problems, committee responsibilities; morale, effectiveness, and well being of the Grand Jury. The Foreperson Pro Tem should assist the Foreperson in any other way the Foreperson might request. (Penal Code § 916.1)

## **Treasurer**

The Treasurer processes the financial business of the Grand Jury. The Treasurer keeps a record of expenditures and reports at each full panel meeting on the expenditures and the state of the Grand Jury’s budget. The Treasurer processes and assures the accuracy of grand juror’s claims for reimbursement and submits them, along with a reimbursement statement to the Foreperson for signature. The Treasurer forwards the approved reimbursement forms and statements to the County Superior Court Administrative Office. The Treasurer handles all bills received by the Grand Jury, presents them to the Foreperson for signature, and forwards the bills for payment to the County Superior Court Administrative Office. The Treasurer is first and foremost a member of the Grand Jury. This means that the Treasurer is responsible to the members of the Grand Jury. It is recommended that the Treasurer should be trained by the prior Grand Jury Treasurer, and that the Treasurer conduct a training session on proper use of the Payment Claim forms.

### **The Treasurer should:**

- Have prior experience with financial matters.
- Be proficient with basic bookkeeping skills.
- Have some knowledge of Microsoft Excel or similar software.
- Keep neat and accurate records and pay attention to detail.
- Be available so as to handle and perform duties on a timely basis.
- Monitor the budget and keep the Foreperson informed.
- Ensure the Grand Jury's financial policies are being followed.
- Prepare any required financial reporting forms.
- Oversee all financial transactions.
- Meet with the Executive Committee on a regular basis.
- Ensure each juror receives monthly financial statements reconciled to the county budget.

### **Grand Jurors should:**

- Request reimbursement forms and assistance with filling them out from the Treasurer.
- Hand in completed (totaled) and signed reimbursement forms to the Treasurer at each full panel meeting.

### **Secretary**

Each Grand Jury has a recording secretary who records and distributes the minutes of each full panel meeting. The secretary also handles, records, and distributes Grand Jury correspondence and any complaints the Grand Jury receives.

NOTE: Starting with the 2000–2001 Grand Jury term, the Grand Jury has a confidential office assistant who can handle, record, and distribute correspondence and complaints. For the office assistant's job description, see Appendix \_\_\_\_

### **Parliamentarian**

The Parliamentarian is the person who is willing to read, study, understand, and represent the rules of order for full panel meetings. The Grand Jury has a copy of Robert's Rules of Order (Appendix \_\_\_\_). Each Grand Jury selects its own Rules of Order for meetings, each term.

### **Review Selection**

At the beginning of your term on the Grand Jury (preferably at your first meeting), you should select 5–7 areas for review. These reviews form the backbone of your work during your term. Here is a list of the areas that a Grand Jury may review.

1. Review and report on the operations, accounts, and functions of:
  - a. County officers, departments, and special legislative districts governed by county officers in their ex-officio capacity;
  - b. City officers and departments;
  - c. Joint Powers Agencies and officers;
  - d. Special purpose assessing or taxing districts located wholly or partly within the county;
  - e. Local Agency Formation Commission;

- f. Any nonprofit corporation established or operated on behalf of a public entity;
  - g. Redevelopment Agencies;
  - h. A Housing Authority;
  - i. Schools Districts and Boards of Education
2. Review and report on the needs for the increase or decrease of salaries of the county elected officials.
  3. Review and report upon the needs of all county officers in the county, including abolition or creation of offices and equipment for, or the method or system of, performing the duties of the several offices.
  4. Inquires into the conditions and management of the public prisons within the county.
  5. Inquire into possible willful or corrupt misconduct in office of public officers of every description within the county.
  6. Review and inquire into all sales and transfers of land, and into the ownership of land which, under state laws, might or should escheat to the State of California.

By law, each Grand Jury shall perform item #4—Inquire into the conditions and management of the public prisons within the county. So one area of review is set before you start—the Mendocino County Jail and the Conservation Camps. The Grand Jury reviews the other areas “annually on a selective basis” (Penal Code § 919). From among the other areas, select 4–6 additional areas for review. To help you decide which areas to select, consult the “History of Mendocino County Grand Jury Investigations” and the lists of Joint Powers Agreements (JPAs), agencies, districts, and County departments. As a further guide in your selection of areas to review, consider the Charge from the Presiding Judge, which advises in part “the needs of each county officer shall be investigated and reported at least once every eight years.” Review any complaints forwarded by the preceding Grand Jury—complaints give you clues about entities in need of review. Finally, you should consult § 914.1 to ascertain what guidance this code section provides. § 914.1 is also quoted in the Charge from the Presiding Judge.

## **History of Mendocino County Grand Jury Investigations**

The list of investigations is a record of reviews of investigations since 1982 into government entities that are subject to continuing review by the Grand Jury. This record, in addition to being of interest to the public, provides guidance for future Grand Juries. This list does not reflect all the citizen complaints received by the Grand Jury. The list of investigations appears as Appendix \_\_\_\_.

## **Committee Formation**

Committees are the working heart of each Grand Jury. A Grand Jury will need two types of committees—external and internal. Each Grand Jury forms these committees as it sees fit. Ad hoc committees may be formed by Foreperson consent as needed.

### ***External Committees***

Usually a Grand Jury forms external committees to match the areas of study and review the full panel selected at the beginning of the term. The names of the committees usually reflect the general lines or areas selected for review. For example, a Grand Jury might select names

like social services, public safety, administration, financial, health and welfare, county services, city services.

A Grand Jury will not want to set up more than 5–7 external committees. External committees (sometimes referred to as “action committees”) require a large time commitment by Grand Jurors. More than 5–7 external committees means either that each committee has very few members or that Grand Jurors must work on more than two external committees. Following the guideline “Less is more,” fewer external committees can perform more thorough reviews. Each Grand Juror usually serves on two external committees.

### ***Internal Committees***

Each Grand Jury must take care of certain matters of Grand Jury business. Internal committees handle these matters. The matters of Grand Jury business are preparing and publishing the final report, preparing and publishing the previous Grand Jury’s final report with responses, insuring that adequate responses are made according to Penal Code §933, updating the Grand Jury Manual and other Grand Jury documents, as needed, that are used from year to year, administration, and possibly public or community relations and education. Some sample names for internal committees for these functions are:

<b>Internal Function</b>	<b>Sample committee names</b>
Preparing and publishing the final report	Review, Publishing, Edit
Preparing and publishing the previous Grand Jury’s final report with responses	Response Review, Publishing
Updating the Grand Jury Manual and other Grand Jury documents, as needed, that are used from year to year; assure that accumulated wisdom is passed on to the next Grand Jury	Continuity
Grand Jury administration	Administration, Executive, Steering
Public or community relations and education	Community Relations, Public Relations, Public Education

### ***Committee Members***

A Grand Juror’s enthusiasm and interest in the area in which a committee works are important to the success of the committee and thus of the whole Grand Jury. For this reason, the Foreperson will consider each Grand Juror’s request for particular committees. It is not always possible to assign each Grand Juror only to preferred committees, but each Grand Juror may be assigned to at least one committee preference. If a juror feels that he/she is misplaced in a committee, consult the Foreperson about a possible reassignment.

A juror’s energy is better spent focused on a few committees rather than spread out over too many committees

**It is highly recommended that a juror serve on no more than 4 committees at one time.**

The Foreperson must be aware of a larger perspective—what benefits the Grand Jury as a whole. Because of this larger perspective, the Foreperson might make committee assignments where a Grand Juror’s expertise or experience will help most. Also, the Foreperson might wish to distribute experienced Grand Jury members among the committees so that first-time Grand Jurors can benefit from the experienced Grand Jurors. This arrangement can be especially beneficial during the first months of a Grand Jury term.

During the term, the Foreperson may reassign any Grand Juror to different committee for a variety of reasons that all come under the heading of benefiting the Grand Jury as a whole. Committee members may not be excused from service on the committee by the Foreperson without committee consent.

### **Committee Chairs**

One member of each committee acts as the chair of the committee. The committee chair leads committee meetings; sets the agendas; assigns committee members to research or writing tasks, or interviews; and handles all records requirements and any other administrative business for the committee. Committee Chairs are responsible to turn in a signed Committee minutes sheet recording the purpose and outcomes of the meeting, who was in attendance, where the meeting was held, etc. Minutes of each meeting should be turned into the Foreperson within one week of the committee meeting, to become a part of the permanent record of the jury, and to verify payment claim forms. Committee chairs may delegate committee tasks such as a Secretary to keep committee minutes, to willing committee members.

A committee chair is not a “boss” or intended to dominate the committee in any way. The committee chair is a single member of the committee, just as every Grand Juror is a single member of the full panel, including the Foreperson. In matters under consideration and in voting, the committee chair is simply another member of the committee. The chairman should be seen as a facilitator that aides the work of the committee and is responsible to notify all committee members of each meeting at least 48 hours in advance (whenever possible) by the preferred method of communication of that committee. The committee chair has authority to perform secretarial functions for the committee including documentation and the scheduling of appointments, unless otherwise revoked by the Foreperson or the Executive Committee. The Committee Chair shall keep a working notebook containing committee minutes and other pertinent documents at the Grand Jury room, which is available to other jurors. The committee Chair should be careful when scheduling such committee appointments, not to take testimony from the witness. All other committee functions shall be performed conforming to the rule of two. The Foreperson shall be kept informed of all committee work by the Chair of the committee. Any correspondence between the committee and outside organizations shall be made only through the Foreperson.

The Foreperson is responsible for committee-chair selections. Usually, the Foreperson assumes the role of “advise and consent,” rather than dictating the choice of committee chairs. In practice, the committee usually selects its own committee chair, with the approval of the Foreperson. (Often, the committee chair is the committee member who is willing to serve as committee chair). The Foreperson might in some circumstances, however, decide that a change of committee chair is necessary and select a different Grand Juror to take over as committee chair, upon approval of the committee.

## **Committee Functions**

The functions of the external committees are to:

- Gather information through interviews, document research, and site visits the information necessary for a review of the department, agency, or district selected by the full panel for review.
- Investigate the complaints accepted by the full panel and assigned to the committee by the Foreperson. The Grand Jury is not required by law to accept or investigate any complaints, but most Grand Juries do. Accepting and investigating complaints benefits the citizenry. Complaints can also provide useful information as well as hints about departments, agencies, or districts that need a full review.
- Recommend action to the full panel, if it seems necessary or desirable, after making an investigation.
- Write a Final Report on each area of review or investigation and submit the report to the Edit committee and then to the full panel for review and approval. If the committee chooses not to write a report on a given subject, they shall report that fact to the Full Panel.

## **Committee Rules**

Committees and committee members should adhere to the following rules:

Committees are working groups that represent the Grand Jury as a whole. As representatives, committees should conduct the Grand Jury's business in accordance with the wishes of the full panel.

No member may act without conforming to the rule of two, when contacting non-jurors concerning grand jury business. No committee member may act without consent of the committee.

Each committee should perform the duties assigned to it and referred to it by the Foreperson. Close contact should be maintained with the full panel through regular progress reports and signed committee minutes forms—presented at full panel meetings by the committee chair.

The committee chair should conduct meetings with sufficient rules of order to assure efficient and effective progress. A committee member should keep minutes. Each jury shall determine what constitutes a quorum for committee work.

No committee meeting is a closed meeting. Every committee meeting is open to any member of the Grand Jury who is interested in attending. Non-committee members will not be paid for committee attendance. Non-committee members attending a witness interview should submit questions through the committee chair, to avoid unnecessary or irrelevant lines of questioning. Disruptive non-committee members will be excused from a meeting by the Chair.

If the previous Grand Jury reviewed an area that your committee wants to review again, study previous Final Reports for possible problem areas for follow-up review, study any

responses to those Final Reports, and invite the chair (or other member) of the committee that studied the area during the preceding term.

Plans for inspections and tours and invitations for interviews must be cleared through the committee. All committee actions and findings must be presented to the full panel.

All aspects of Grand Jury investigations and information gathering must be authorized by the appropriate committee and must be conducted by two or more jurors; never by one grand juror working alone. No information gathered from interviews or document reviews by one juror working alone can be used as evidence. Note, however, that a sitting Grand Juror can be a witness and give testimony to fellow Grand Jurors.

Keep written records and take notes of interviews, inspections, tours, and reviews of documents. During interviews and inspections, some committee members should keep written notes. Other committee members should observe the behavior, demeanor, and manner of the witnesses, staff, or guides.

## **Training**

By law, the Superior Court of the County must provide new Grand Jurors with “training that addresses, at a minimum, report writing, interviews, and the scope of the Grand Jury’s responsibility and statutory authority.” You will receive several kinds of training and orientation—some locally and some at an out-of-County seminar.

### **Local Training & Orientation**

Local training begins the day you were sworn in as a Grand Juror. Your first training session was the reading of the Charge by the Court. After that, you received a variety of information from the Presiding Judge, the District Attorney, the County Counsel, perhaps even the Foreperson of the previous Grand Jury. The following descriptions should help you sort out and comprehend the wealth of information you received on your first day as a Grand Juror.

### **Charge by the Court**

The first piece of your training as a Grand Juror is the Charge by the Court read to you after being sworn in as a Grand Juror. This lengthy document appears in the first section of this manual. Because it is difficult to absorb all the information the Presiding Judge read, you should read (and re-read several more times during your term) the Charge so that you can absorb the advice and guidance the Charge gives.

### **District Attorney & County Counsel**

During your Grand Jury first meeting, the District Attorney and the County Counsel will introduce themselves to the Grand Jury and offer their views on the nature and work of the Grand Jury. These people are your advisors, along with the Presiding Judge. If you have legal or technical questions about Grand Jury work, ask your Foreperson to consult them for an opinion. (In past years, the Assistant District Attorney has acted as the direct advisor to the Grand Jury on behalf of the District Attorney.) Remember that the job of the county counsel is to protect the county’s position. With this in mind, it is generally better to rely on



the district attorney for advice first, and to consult county counsel upon matters in which the district attorney may have a perceived or real conflict of interest in the matter.

## **Previous Foreperson**

The Foreperson for the previous term is, by law, available to the Grand Jury for 45 days after his or her term to explain the recommendations of that Final Report. The previous Foreperson can also give advice about how to make your Grand Jury work more effectively and efficiently.

Your Foreperson is charged with making your Grand Jury term effective. If you have questions about the operations, procedures, or direction the Grand Jury should take or questions about committee workings, consult your Foreperson.

## **Mendocino County Grand Jurors Procedures Manual**

During your first Grand Jury meeting, you were given a copy of this manual, which you had to sign for. At the end of your term, you must return this manual and sign it back in to the Foreperson's charge.

This manual is the second most important piece of local training you receive (after the Charge by the Court). Read it carefully and thoroughly. **Consult it often.**

## **Legal Opinions**

In the Grand Jury office, you'll find two binders that contain legal opinions from the District Attorney's Office, from the County Counsel's Office, and from the Office of the Attorney General. A legal opinion is a written document that answers a question of law. Legal opinions express a legal view of a matter based on research of the laws and codes.

If you have legal questions, consult the listing of opinions at the front of one of the binders for an applicable legal opinion. If you don't find an applicable legal opinion in the binders, ask your Foreperson to request a legal opinion from the District Attorney or the County Counsel. If you find an old opinion, ask your Foreperson to consult the District Attorney or County Counsel about its validity.

## **Videos**

During the first or second full panel meeting, you may be shown a couple of videos. One video is a simple and short discussion of what a Grand Jury is. The second video gives you advice and demonstrations of how to conduct an interview. You should coordinate this information with the information later in this manual in the section titled "Interviewing."

## **Seminar by CGJA**

The California Grand Jurors Association (CGJA) provides training seminars to Grand Jurors of many counties. The CGJA training supplements and complements our local training and orientation. CGJA seminar covers broad subject areas that Grand Jurors find valuable. The Board of Supervisors has allocated funds to pay for the seminar, travel, meals, and lodging.

In August or September, you will travel with your fellow Grand Jurors out-of-county to attend a CGJA seminar. At the seminar, you'll receive a training manual, which is yours to keep even after your term as Grand Juror is finished. Among the most important topics you'll learn are investigations, interviewing, and report writing.

## **CGJA Chapter**

CGJA members are largely past Grand Jurors throughout the state, but any sitting Grand Jury may join CGJA. Some counties have CGJA Chapters. Currently there is no local chapter of CGJA Mendocino County. During your orientation, you will hear a short presentation about the CGJA and what it can provide to you as a Grand Juror and as a Grand Jury.

## **Resources**

The Grand Jury has a number of resources available for advice and counsel. You'll want to consult these resources whenever you face a situation that you can't resolve on your own. Also, for legal questions—what the Grand Jury can and cannot do—you'll especially need to consult the Grand Jury advisors.

### ***Grand Jury Advisors***

The Grand Jury has three main advisors for legal and procedural matters: the Presiding Judge, the County Counsel, and the District Attorney (or Assistant District Attorney).

### **Presiding Judge**

The Presiding Judge has charge over the Grand Jury and is responsible for assuring that the Grand Jury operates according to the Penal Code. The Grand Jury submits its reports and procedures to the Presiding Judge for approval. The Presiding Judge also selects the Grand Jury members and the Foreperson.

If you believe that the Grand Jury needs to consult the Presiding Judge, present your concerns to your Foreperson. The Foreperson may consult the Presiding Judge at any time. The full panel may request the Presiding Judge to meet with the full panel. The Foreperson, as the only spokesperson for the Grand Jury, is your conduit to the Presiding Judge. Any approach to the Presiding Judge is made through your Foreperson. Any juror has may write a letter to the Presiding Judge.

Although in most cases, you will request subpoenas from the District Attorney, the Presiding Judge can also issue subpoenas.

All responses to the Final Report published by the preceding Grand Jury are sent to the Presiding Judge. The Presiding Judge sends copies of the responses to the Grand Jury so that the Grand Jury can publish the previous Final Report with the responses received. If responses are not forthcoming, the Grand Jury must write a letter to the Presiding Judge for each report that has not received a response. The Presiding Judge will then contact the officials who have not responded to remind them of their legal obligation to respond.

In the event that 12 members of the Grand Jury find that the Foreperson is a cause for concern, you may write to the Presiding Judge or request an appointment. If the Presiding Judge grants your request, the Foreperson will be present during your meeting with the Presiding Judge.

### **County Counsel**

The County Counsel can render legal opinions, will review any contracts the Grand Jury wants to set up with experts, and will review the Grand Jury Final Report to assure that it

contains no libelous or potentially libelous references to individuals. County Counsel is located in the County Administration Center at 501 Low Gap Road.

If the Presiding Judge (and the Grand Jury) is not receiving proper or timely responses to the previous term's Final Report, the Presiding Judge may direct the Foreperson to have the Grand Jury request that County Counsel write the officials who are not responding. The County Counsel will remind the officials of their legal requirement to respond. If the officials do not respond to the County Counsel's admonition, the County Counsel, with the Presiding Judge's consent, can begin Contempt of Court proceedings against the officials. The County Counsel's chief client is the County of Mendocino and may therefore not be able to give specific advice to the Grand Jury due to a possible conflict of interest.

## **District Attorney**

The District Attorney is a legal advisor to the Grand Jury. The District Attorney can issue and serve subpoenas at the Grand Jury's request. The District Attorney may also appear before the Grand Jury to present subjects for investigation. The District Attorney's offices are located at the south end of the Courthouse basement.

Usually, the Assistant District Attorney acts as the Grand Jury advisor for the District Attorney's office. Most of the Grand Jury's requests for legal opinions will go to and be handled by the Assistant District Attorney. (As noted above, the Grand Jury may also request legal opinions from the County Counsel. Nothing prevents the Grand Jury from consulting both the District Attorney and the County Counsel on any legal matter.)

The Assistant D.A. is not the only member of the District Attorney's office whom the Grand Jury may consult. The Grand Jury may consult the District Attorney. In some cases, the District Attorney will assign a Deputy District Attorney to advise and assist the Grand Jury with a particular investigation.

The County Administrative Officer (CAO) makes recommendations to the Board of Supervisors (BOS) on budget and legislative issues affecting the BOS. The CAO assembles all Grand Jury responses for publication by the Grand Jury. Local grand jury procedures dictate how and when the sitting grand jury deems required responses to be of an acceptable nature.

## **Grand Jury Office Assistant**

For routine operations, the Grand Jury has several sources of "business" assistance: a part-time office assistant, the staff of the Court Accounting Office, and the Court Administrator.

The Grand Jury has a budget for a part-time Staff Assistant. The budget is sufficient for a Staff Assistant to work an average of 10 hours per week. (The assistant was first hired in late Autumn 2000 as an Office Assistant Trainee. In April 2001, the assistant was promoted by the Foreperson to Office Assistant. Both of these job titles pay below the level of the authorized Staff Assistant title.)

The Grand Jury can retain the current assistant—this is the suggested course. The assistant knows the office procedures and has some history of Grand Jury work. Because of this, the assistant can relate historical knowledge about office procedures and contacts with County departments. The assistant's job descriptions may be found as an appendix in this manual.

The Grand Jury (specifically the Foreperson) can replace the office assistant. If so, the Grand Jury will need to learn over from scratch the ins-and-outs of procedures and contacts for office operations. This should not discourage a change if the office assistant is not performing the duties in a proper, timely, or effective manner. The office assistant is hired through the County Personnel Department.

## **Accounting**

In Room 302 of the Courthouse sits the Accounting Office for the Courts. The Court Accounting Office processes purchase requests, bills, reimbursements, and payroll for the Grand Jury. (The only payroll is for the assistant.). The Accounting Office also prints out each month the expenditures of the Grand Jury. The print out shows the Grand Jury's financial performance against its budget.

In most cases, only the Foreperson, the Treasurer, and the office assistant will deal with the Accounting Office. All Grand Jury supplies must be ordered through the Accounting Office for the Courts.

## **Court Executive Officer**

The Court Executive Officer's office is located in Room 303 of the Courthouse. The Court Executive Officer supervises the Court staff. If the Grand Jury has a problem with Court staff, needs special assistance from the Court staff, or has questions about administrative procedures, you should direct the Foreperson to contact the Court Executive Officer. Also, the Foreperson consults with the Court Executive Officer about space needs for committee meetings outside Ukiah. The Court Executive staff serves as confidential advisors to the Grand Jury

## **Law Library**

The Mendocino County Law Library stocks law books that contain all legal codes. Any Grand Jury or any member of the public may use the Law Library for legal research. Also, the Law Library staff will gladly help with your research. The Grand Jury library contains some law books. All of the State Codes are available online.

## **Grand Jury Library**

In the west hallway, you'll find the bookcases that contain the Grand Jury library. In the library, you'll find a variety of books, policy and procedures books, final reports (from Mendocino County and other counties), and various other documents.

The contents of the library are intended for use in the Grand Jury rooms and should remain on the premises at all times so that every Grand Juror can consult the library at any time. If there are two or more copies of a document in the library, you may check it out but sticking on the appropriate file card a note with your name, the document taken, the date taken, and the expected return date.

Every Grand Juror should accept the responsibility of keeping the library neat, intact, up-to-date, and useful.

## **Mail Racks**

On the cabinet along the west wall of the Grand Jury office, you'll find a rack that contains mail racks. These may be used to disseminate information to other jurors. The Foreperson, Office Assistant, and other Grand Jury members will use these folders to direct correspondence, messages, and other documents to the various committees your Grand Jury has set up.

**Committee Chairs should be especially diligent about checking their mail racks regularly.**

## **California Grand Jurors Association**

The California Grand Jurors Association (CGJA) is a statewide group of (mostly) former Grand Jurors who retain an interest in the Grand Jury process. Mendocino County has a local chapter. Through its training, newsletter, and other publications, the CGJA provides information to help Grand Jurors perform their duties more effectively. The CGJA maintains a standing legal committee. Advice from the CGJA may be sought by the Foreperson. However, all questions should be of a generic nature and should not reveal any specific, confidential information, conforming to the rules of secrecy. Remember, CGJA members cannot be held as confidential advisors, and may be subpoenaed to divulge information which you have given them.

Grand Jurors may join the CGJA, either as a state member, as a member of a local chapter, or both.

## ***Office Equipment, Furnishings, & Supplies***

The Grand Jury facility is equipped and furnished to support your Grand Jury work. The following sections describe the office procedures you should use. An inventory of office equipment may be found in the appendix of this manual.

## **Keys**

One of your duties at your first meeting as a Foreperson is to assure that the proper keys are distributed to all jurors, (Committee Chairman receive committee filing cabinet keys as well as interior and exterior office keys that are distributed to all jurors.)

## **Badges**

The Office assistant or court staff should type the names/information for all jurors on each card. County General services (Brian, 463-4293) has cardstock blanks. The presiding Judge needs to sign all completed cards prior to the picture-taking. Jurors need to appear at the sheriff's office (east of the County Jail Building) to have their pictures taken for juror badges, with signed cardstock in hand. The county Sheriff's office can inform all jurors of the current office hours for picture-taking.

## **Keeping Files**

Just like any organization or group that deals with legal matters, the Grand Jury receives and generates many documents. To keep track of these documents, the Grand Jury keeps files (aren't we clever). Some files you'll use often—the active files—adding or consulting

documents. Some files you'll consult only occasionally, and some you'll never consult—these are archive files the Grand Jury must retain.

## **Active Files**

The Grand Jury keeps the following active files:

- Correspondence Files—both incoming and outgoing correspondence
- Complaints—a log of all complaints received with a note whether the complaint was accepted for investigation or rejected and an individual file for each complaint
- Treasurer—paperwork relating to budget, expenditures, and orders for supplies and other purchases. The Treasurer also keeps a notebook of all monthly budget printouts and copies of monthly reimbursement forms.
- Committee Files—Each committee chairman keeps a file for the evidence (documents, minutes, and transcripts) pertaining to its reviews and complaint investigations, in the locked filing cabinets in the Grand Jury office.

## **Records Management & Retention**

The Grand Jury is required to retain certain documents for a time. The length of time depends on the type of document (consult the Records Retention Guidelines – Appendix \_\_\_\_). Retained documents are kept in the Grand Jury archive, which consists simply of storage boxes kept in the Grand Jury storage closet.

## **Ordering Supplies & Other Purchases**

Like any office, the Grand Jury office requires supplies and other purchases. The majority of supplies come either from the Curry's Catalog (in the Grand Jury office) or from General Services stores (Foreperson has a list of stores kept on hand). Other purchase requests go to General Services purchasing department.

To order supplies or make other purchases, write a note of what's needed and give your note to the Foreperson.. Once the Foreperson approves the purchase, the request to the Court Accounting Office for processing. You will not be reimbursed for any supplies you purchase.

## **Reimbursements**

Grand Jurors receive a per diem for full panel meetings and for committee meetings. You receive mileage reimbursement as well as reimbursement for lunch under certain conditions.

Each month at the full panel meeting, you turn in a signed (totaled) Timesheet Form (see sample). The Treasurer checks your math, checks the committee minutes, makes a summary sheet, and then hands the forms to the Foreperson for signature. The Treasurer makes copies of all the Reimbursement Forms. Creates a summary sheet, and then turns in the originals to the Court Accounting Office for payment. Jurors must sign committee minutes in order to receive reimbursement for Committee participation.

About 10–14 days after the forms are turned in, you'll receive two checks in the mail: a per diem check for your meetings and a mileage and meals reimbursement check. The monies you receive on your per diem check are taxable; the mileage and meals monies are not taxable.

Grand Jurors should:

- Request reimbursement forms and assistance with filling them out from the Treasurer.
- Hand in completed and signed reimbursement forms to the Treasurer at each full panel meeting.

**NOTE:** At the end of the calendar year, you will receive an IRS Form 1099 for your per diem payments only if the amount exceeds the IRS threshold for generating a Form 1099.

**Grand Jurors receive payments at the following rates:**

Full Panel: \$25.00 per meeting

Committees: \$10.00 per meeting—committees that meet for a full day are counted as two committee meetings, as are meetings of two different committees on the same day. The maximum pay per day is \$25 plus meals and mileage. Only committee members will be reimbursed for committee meetings.

Travel: \$0.405 per mile round-trip

Meals: \$9.00 for lunch—Grand Jurors in a full-day meeting or a morning meeting that lasts up to lunch time are eligible for lunch reimbursement, subject to county ordinance.

Appendix # \_\_\_\_\_

## **Communications**

Letters, memos, and messages come to the Grand Jury almost daily. The Grand Jury receives correspondence through County Inter-office mail and at the Ukiah Post Office. The Foreperson and the Office Assistant have keys to the Grand Jury Post Office box.

The following sections describe the various delivery systems for communications to and from the Grand Jury and how each is handled.

The Grand Jury mailing address is:

Mendocino County Grand Jury  
P. O. Box 629  
Ukiah, CA 95482

## ***Incoming Correspondence***

Incoming correspondence comes in the following forms:

- Letters
- Memos
- Faxes
- E-mail
- Documents
- Bills and invoices

**All incoming correspondence that relates to Grand Jury reviews and investigations should be logged in the Incoming Correspondence folder and a copy placed in that folder. Incoming correspondence is numbered consecutively throughout the term so that any Grand Juror who wishes to consult a piece of correspondence can find it by the number which appears on the copy and on the log sheet.**

The Incoming Correspondence folder will contain primarily letters, memos, and faxes (usually rare). If an e-mail message comes to the Grand Jury relating to a review or investigation, it should be printed and logged the same as letters and memos.

Complaint Forms are logged as incoming correspondence, but a copy is not placed in the Incoming Correspondence folder. Rather, Complaint Forms undergo an additional process—see “Complaints” later in this section.

Other forms of correspondence should be logged, but might prove too unwieldy to place a copy in the folder—for example, a policies and procedures manual or a complex, multipage letter. In these cases, note in the log what was received and what was done with it.

Bills and invoices are not logged but handled separately by the Foreperson and the Treasurer.

### **Summary of Incoming Correspondence Procedures**

1. Correspondence is dated stamped.
2. Correspondence logged in Incoming Mail log and original inscribed with log number.
3. Copy placed in Incoming Mail folder
4. Original placed in appropriate committee or file folder.

### **Outgoing Correspondence**

Written correspondence from the Grand Jury becomes part of the physical record of a review or an investigation. A copy of all outgoing written correspondence must be logged in and placed in the Outgoing Correspondence folder. In general, correspondence from the Grand Jury goes out under the signature of the Foreperson.

Outgoing correspondence is numbered consecutively throughout the term so that any Grand Juror who wishes to consult a piece of correspondence can find it by the number which appears on the copy and on the log sheet.

Some of the Grand Jury’s outgoing written correspondence originates in committees. The Foreperson may authorize committee chairs to sign for the Foreperson written correspondence pertaining to the committees’ reviews and investigations. The Foreperson may revoke this authorization from one, some, or all committee chairs if deemed prudent and necessary. Committee chairs may chose to have the Foreperson sign any or all committee written correspondence.

Committee chairs are encouraged to ask the Foreperson to advise and consent about outgoing correspondence. Committee chairs should be especially mindful of consulting with the Foreperson about written correspondence concerning especially serious or sensitive matters.



At the Foreperson's discretion, committee written correspondence can be referred for review too the Full Panel of the Grand Jury. Any written correspondence referred to the Full Panel and approved shall be signed by the Foreperson.

Committee chairs who sign written correspondence on behalf of the Foreperson should use the following format:

Committee-Chair's-Name	(signature)
for Foreperson's-Name	(handwrite "for"; type name)
Foreperson	(typed)

**NOTE:** The rules for written correspondence do not apply to telephone communications. See the guidelines under "Using the Telephone to Call Out."

### **Summary of Outgoing Correspondence Procedures**

1. Each committee prepares its own letters on Grand Jury letterhead. Ask for response within 14 days from date of letter.
2. Place original in Foreperson's folder for signature (unless Foreperson has given signing authority to committee chair—in this case, be sure Foreperson sees a copy of the letter).
3. Signed original is mailed; copy is logged and placed in Outgoing Mail folder. Committees may wish to keep a copy for their own files.

### **Letters and Memos Letterhead**

For the first page of letters and memos, use the Grand Jury letterhead, stored in the cabinet along the west wall of the Grand Jury office. (Use plain paper for drafts and subsequent pages of a letter or memo.)

### **Press Releases & Interviews**

All press releases and interviews must be handled by the Foreperson. The Foreperson may designate another Grand Juror to handle an interview.

### **Use of E-mail**

E-mail may be used only for non-confidential communication between Grand Jury members. An e-mail message is like a postcard in the physical mail system—it must be considered an open message. So, for example, an e-mail message that says, "Let's meet on Tuesday at 9 A.M." is not confidential and is prudent. An e-mail message that says "We will interview John Doe, Director of Services" is confidential and an imprudent use of e-mail.

It is imperative that Jurors use an email account to which no one else has password access for Grand Jury Correspondence. If a juror shares an email account with another person, that account may not be used for any grand jury correspondence. Whenever possible, use initials instead of names.

Whenever email is used, all Grand Jury Correspondence other than the setting of appointments, both incoming and outgoing, shall go through the Foreperson. Committee Chairmen who are arranging committee meetings should send *BCC* (blind copy) email to other members of the committee and the Foreperson. The Foreperson shall *BCC* email to the Foreperson Protempore or other officers of the executive committee, or the committee

chair as applicable. This practice is meant to preserve the ‘rule of two’ regarding contact with witnesses and others, in the course of Grand Jury business.

### **Answering Machine & Voice Mail**

In the office, the Grand Jury has a combination telephone, fax machine, and answering machine. This machine should be left on the T.A.D. setting. See Appendix (\_\_\_)

The Grand Jury telephone number is: **707-463-4320**

Daily, the Office Assistant, the Foreperson, or any other Grand Juror checks the answering machine and voice mail for messages. **If you check messages, transcribe them onto the message forms in the book beside the telephone and place the message form either in the small “Messages” box beside the telephone or clip it to the appropriate committee folder, if you know which one.** After listening to messages, turn down the speaker volume.

Each Grand Juror should check the Messages box during each visit to the Grand Jury rooms. To check messages on the answering machine, press the “Play” button on the face of the machine. The volume control is a slider along the lower left side of the machine. The face of the machine also has the buttons “Skip” (for jumping past a message), “Repeat” (to listen from the beginning of a message—must be pressed before message completes playing), and “Delete” (to remove a message).

**NOTE:** On the Foreperson’s desk is a speaker phone. This phone is connected to the line used for the computer to connect to the Internet. Do not use this phone for incoming calls.

### **Using the Telephone to Call Out**

Internally in the county, you need dial only the last four digits of a phone number.

To connect to an outside line, dial 9 and then dial the number as usual.

When you call to gather information or to set up an interview with a prospective witness, follow this protocol:

Do not identify yourself as a Grand Juror except to the person you wish to interview. This protects the witness’ confidentiality. In some cases, you may run against a receptionist or assistant who won’t put your call through without knowing your affiliation. If the person you want to reach is a department head, you may tell the receptionist you are from the Grand Jury. Otherwise, you may have to resort to written communication to set up an interview. Consult with your Foreperson.

Never reveal that your call is the result of a complaint.

Do not divulge the nature of your call except to the person you want to contact.

### **Fax**

Consider that any fax you send is similar to e-mail, but perhaps more so—it’s an open message that will perhaps be seen by others besides the recipient. Use the Grand Jury Fax cover sheet which contains a proper confidentiality clause.

If you receive a request for an interview, tell your Foreperson immediately. **Do not answer any questions about Grand Jury work.** This is the role of the Foreperson, who is the **only** spokesperson for the Grand Jury.

## ***Computer***

In December 2000, the Grand Jury received its current computer. It's a Gateway Pentium III 800 MHz with 128 KB RAM and a 19 MB hard disk. During the 2001–2002 term, the Grand Jury will add a 19" monitor and a recordable/rewritable CD-ROM. The Grand Jury also has an ink-jet (black only) printer. Consult the office assistant for a username/password combination to use the computer. (Note the CD burner is broken and will not properly burn files to CD)

## **Deleting Computer Files**

Do not “clean up” the hard disk—delete unneeded files— you must obtain permission from the Foreperson to delete any files on the computer.

## ***Internet Service***

Internet Service is not provided for the Grand Jury through county information services. The Grand Jury may choose to select a local internet service provider. However, great caution should be taken to assure security is in place if the computer is internet-accessible.

## ***Copier***

The Grand Jury owns a copier that can make up to 10 collated copies at a time. (For non-collated copies, there is no limit.) The Grand Jury pays a fee for each copy made. The copy machine is for Grand Jury work only – no personal use permitted!

If you need to order more toner, contact your Foreperson, Treasurer, or the Grand Jury Office Assistant, who will order more toner from Wolco Systems at 1-888-768-6637. Spare toner cartridges are kept in the storage bin in the bottom of the copier cabinet. For copier repairs, ask the Foreperson or office assistant to call the local Wolco office at 467-8190.

At the back right side of the copier, you'll find a booklet that explains the various features of the Grand Jury copier.

## ***Paper and Electronic Storage Media***

The Grand Jury keeps a supply of copier paper on hand. To order more paper or electronic storage media, contact your Foreperson, Treasurer, or the Grand Jury Office Assistant, who will order more supplies through the Court Accounting Office.

## Complaints

Any individual may file a complaint with the Grand Jury about the conduct of local agencies or units of government and public officials, whether elected or appointed. Anyone may ask for an investigation of alleged misconduct. The procedure is to file by mail with the Grand Jury a written and signed Complaint Form. Filing a signed Complaint Form initiates the complaint process. A complaint may be filed anonymously and may be accepted even though not in proper format.

Once the Grand Jury receives a completed and signed Complaint Form, the complaint process follows a disciplined pattern. First, the Complaint Form is logged into the Complaint Folder, kept in the top file drawer. Copies of the Complaint Form are given to all Grand Jurors. At your next full-panel monthly meeting, you review the complaint to ascertain if it is within the scope of Grand Jury functions and investigative powers. The full panel decides whether to accept the complaint for further inquiry, or to reject it. The Grand Jury has complete discretion to accept or reject a complaint. Late in your term, your full panel may decide to pass a complaint to the next Grand Jury, which decides on its own whether to accept or reject the complaint. When a complaint is not accepted by the full panel for consideration, a letter is sent notifying the complainant. The Attorney General's office has given an opinion that no information may be given to the complainant as to why the complaint was not accepted by the full panel, because such information could be considered legal advice, and is strictly prohibited.

If the full panel accepts a complaint, the Foreperson assigns the complaint to an appropriate committee for investigation. Witnesses are interviewed under strict confidentiality. Documents are gathered and analyzed. Information and statements are crosschecked. When the committee completes its work, its findings and recommendations are presented to the full panel of jurors.

The full panel decides, by vote, what action, if any, should be recommended to correct whatever situation exists. The Foreperson notifies the complainant of the decision taken by the full panel. Check the sample response letters for the various types of response the Grand Jury may make to a complaint.

Throughout a complaint investigation, all information received by the Grand Jury must be kept in strict confidence and secrecy. You may disclose absolutely nothing, even after your term is ended. The only information a Grand Jury may disclose is its written Final Report. It is a misdemeanor for a Grand Juror to disclose evidence presented to the Grand Jury or of conversations and votes of Jurors (Penal Code §924.1). Knowing this, complainants can disclose freely any and all information to which they can attest.

Complaint Forms are available in the Grand Jury office in both English and Spanish versions, in case you receive a request for one. Also, citizens can download a Complaint Form from the Grand Jury website at <http://www.co.mendocino.ca.us/grandjury>.

### Summary of Complaint Procedure

1. New complaints are copied and mailed or given to jurors at least one week before a full panel meeting, if possible. (Late arrivals may be distributed at the full panel meeting to save one month's time.)

2. Complaint is discussed at full panel meeting. Committees should not discuss complaints before the full panel meeting.
3. The full panel votes to accept or to reject the complaint.
4. If a complaint is accepted, the Foreperson assigns it to an appropriate committee.
5. The disposition of the complaint is noted in the Complaint File log.
6. Foreperson writes a letter to the complainant about the Grand Jury's vote on the complaint.

## **Sample Letters to Complainants**

In the appendixes, you'll find sample letters the Foreperson may use to respond to a complainant. Great caution should be exercised when deciding to add to or modify the sample text to suit the situation.

## **Investigations**

**Investigations are the heart of your work as a Grand Juror.** In this section, you'll learn about the name and process of investigations, which includes regular reviews of County departments, agencies, and districts.

### ***Objective***

The purpose of Grand Jury investigations is to produce beneficial reports that make a meaningful contribution to your County.

An investigation is a formal, systematic, credible examination in search of truth. It is the process of determining who, what, when, where, why, how, and maybe, why not. It is a specific, planned approach to determine the truth of allegations, assumptions, complaints, and speculation. There are several possible objectives, including:

- Determining the validity of a complaint
- Saving taxpayer dollars
- Eliminating waste or redundancy
- Improving services
- Modernizing methodology
- Benefiting a significant segment of the population
- Verifying compliance with codes, processes, and procedures

Well-defined objectives help to maintain focus and prevent the investigation from being expanded too far or being sidetracked. Objectives and changes in objectives for an investigation should be brought back to the full panel for approval.

### ***Concerns***

There are certain rules under which a Grand Jury operates. These are specified in law. Many of these codes are noted in another section of this handbook, or in the recently published compendium of codes relating to the Grand Jury. The Grand Jury has copies of the Penal Code and the Code of Civil Procedure in the Grand Jury Library. Other California codes are available in the County Law Library or online.

Each Grand Jury will have access, through its Foreperson, to its Presiding Judge, District Attorney, and County Counsel to assist in interpreting codes governing procedures and investigations.

Every Grand Jury establishes its own operating procedures. Most use some form of Robert's Rules of Order, available in the Grand Jury Library. Committees usually work by majority vote; however, consensus may be a preferable method.

## **Rules**

A Grand Jury investigation must:

- Be approved by at least 12 members of the jury.
- Meet the current requirements of Penal Code Title 4, of Grand Jury Proceedings.
- Be within the legal jurisdiction of the Grand Jury as described in Penal Code Title 4, Chapter 3, "Powers and Duties of Grand Jury."
- Be kept confidential until a final report is published. A full understanding of Grand Jury confidentiality is essential. [Penal Code Section 924.1 (a).]
- Be conducted in an ethical, professional, and objective manner. A Grand Juror serves the citizens of his or her county with an open and unbiased mind. Only facts that are substantiated through your investigations count.
- Jurors must disclose any conflicts of interest.
- Jurors must act in accordance with the rule of two.
- A Grand Jury investigation must not:
  - Be, or even appear to be, politically motivated.
  - Be instigated by personal bias. Individual agendas have no place in a Grand Jury investigation.

<p><b>Note:</b> Grand Jurors are not professionally trained investigators. The guidance in this manual is not intended to turn you into trained investigators.</p>
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Grand Juries should:

- Seek help from professionals when it is needed; for example, in conducting financial audits.
- Recognize your limitations, but don't let them limit pursuit of the truth. Turn to your Presiding Judge, County Counsel, or District Attorney for help.

## **What to Investigate**

Investigations required by statute:

- Annual inspection of the jails. Statute requires that all jails and holding facilities within the county be inspected by each Grand Jury. (Penal Code § 919.b)
- Juvenile detention facilities, which operate as "probation departments", not jails, may be inspected or investigated as a separate matter.
- Each Grand Jury shall review the officers, departments, and functions of the county, cities, joint powers agencies, school districts, special legislative districts, or other taxing

districts in the county. Each Grand Jury should schedule reviews for the entities that have not been recently investigated. (Penal Code §925, and §925.a)  
These reviews should be the primary activity of a Grand Jury. At the beginning of its term, each Grand Jury should review the “History of Mendocino County Grand Jury Investigations”, found in the appendixes of this manual. The full panel should select 5–7 departments, agencies, and districts that have not been reviewed recently. These reviews should take precedence over citizen complaints.

### **Citizen’s Requests, Complaints, and Allegations**

The Grand Jury is not required to investigate every complaint, but each should be acknowledged in writing. The Grand Jury is forbidden from explaining to a complainant, why a particular complaint will not be considered, (which could be construed as giving legal advice).

If the complaint is clearly outside the jurisdiction of the Grand Jury, the complainant must receive a letter stating that the Grand Jury has not chosen to accept his/her complaint.

For efficiency, most Grand Juries have several form letters prepared for acknowledgement of complaints. Sample copies of such letters may be found in the Appendix. Great caution should be exercised in modifying these response letters to complainants.

Anonymous complaints may be considered.

All correspondence is sent over the signature of the Foreperson. The Foreperson is the only official spokesperson for the Grand Jury.

### **Suggestions from Previous Grand Jury**

An outgoing Grand Jury may pass on suggestions to the next Grand Jury, especially if they have not had time to take on an additional investigation, or if they are unable to complete one. (Penal Code §924.4)

When continuing an investigation begun the previous year, each Grand Jury must verify all findings before issuing a report. Each Grand Jury shall develop its own recommendations. (Penal Code §939.9)

### ***Planning the Investigation***

Careful planning is essential to prevent wasted time and effort, embarrassment, loss of credibility, and potential lawsuits.

The committee chair determines how many people need to be assigned to each investigation and makes the assignments. Keep in mind that at least two jurors need to be assigned to each task. (Penal Code §916)

Estimate how long it will take to perform each step of the investigation. Set a tentative, reasonable time line by working backward from the established report due date. Be flexible. Adjust the time line as the investigation proceeds. (Consult “Grand Jury Time Line.”)

## **Determine What is Already Known About the Subject to be Investigated**

As consumers of public services, Grand Jurors already have some information about their operations. Further information is often gained from citizen complaints; from the media; or from Grand Jury archives, libraries, and previous Grand Jury Final Reports.

Be sure to review logs of previous investigations and previous Grand Jury reports, to find if the agency has been investigated in the recent past, and if so, the outcome of the investigation.

## **Determine What Needs to be Learned**

- What is a department or agency's reason for existence? How does it differ from private enterprises?
- What are the laws or codes under which it operates? These are public records, as are all of the records of any department or public agency.
- Who uses the services? Some departments only serve other departments, not the general public. Some do both.
- What are the user's needs? Are they met? Can they be met better by the private sector or by public/private partnerships?
- Is there a value to this function or has it become outmoded, unnecessary, or preempted by another department?
- Is it cost-effective? Is that important? Many services that are in the public interest would not be cost effective in the private sector.
- Is it an "enterprise" department that generates all or a portion of its own income? Does it or should it charge market rates? (These might include photocopy fees, license fees, electric generation fees, and greens fees). Does the income go into the department's budget or into the general fund? Which would be preferable and why?
- Are there needs not being met—both public needs and departmental needs? What positive recommendations can the Grand Jury make to remedy this?
- Is there sufficient interaction, coordination, and cooperation between departments? How can this be achieved?

## ***Conducting the Investigation***

Keep an open mind. The essential qualities of an investigator are to form incisive questions, the ability to listen attentively, and the ability to distill and determine findings of fact. It is essential to consider all sources and fully document all facts. Take nothing for granted. Have a healthy skepticism. Separate facts from conjecture, truth from presumption, and reality from rumor. Never take a complaint or allegation as totally true and accurate. There are always two (or more) sides to an issue or situation. The Grand Jury needs a complete picture.

Beware of statements like "Everyone knows that..." or "Last week's newspaper reported...." These are unproven starting points.

It is the Grand Jury's obligation to obtain and compare information from more than a single source. Triangulate, meaning obtain information from at least three different sources, if



possible. Both testimony from witnesses and written documentation must be used when available.

There are no shortcuts to a successful investigation. You cannot rely on the research of anyone outside your own jurors. All outside information must be collected by at least two jurors, working together, and verified by two or more sources.

With the approval of the Presiding Judge, auditors or special investigators may be employed to help a Grand Jury with an investigation. (Penal Code § 926)

## **Information Sources**

Gathering information is really what reviewing and investigation is all about. To gather information, you can consult a wide range of sources, both human and documentary.

After you interview each person and after you review each document, **you should take the time to fill out a Facts and Evidence sheet.** (See a sample in the appendix). Filling out this sheet will give you tremendous help when you are trying to decide how much further to investigate and in what directions.

## **Agency or Department Staff**

**Top management:** It is advisable and useful to contact these individuals first in most instances. They are not necessarily the best source if there is a problem, but they are helpful for obtaining basic information or a broad overview. Remember, they are people who are accustomed to being interviewed by former Grand Juries and the media. They are experienced at telling you only what they want you to know. It is not obligatory to inform top management that you intend to contact any staff below them.

**Middle management:** Some or all of the above still holds true, but here you get away from the political and into the more practical management of a department. This is usually the level at which the actual work is implemented.

**Field workers, clerks, lower level employees.** These employees are helpful as you check to see if regulations and procedures are actually being implemented. They can describe the actual level of service and any bottlenecks in procedures.

## **Other agencies**

**Other departments.** All governmental bodies deal with other governmental bodies. Sometimes they are engaged in joint ventures; many times they are clients of each other. For example, the County Counsel is the lawyer for county departments; purchasing departments buy the merchandise but the individual departments set the criteria for the bid. Thus information regarding one department may be found in the records of another in the normal course of business.

**Other jurisdictions.** Comparisons between counties and/or cities are often helpful but should be carefully considered. The size, type of population, financial base, form of government, etc, all differ. Usually an inquiry to another jurisdiction will be received in a cooperative manner. This can be helpful in evaluating services, costs, methods, etc.

**Private business.** Although there are many basic differences between government and the private sector, it is often helpful to use the experience of private business. You may not

reveal the subject of your investigation. For example, in investigating a Human Resources **Department of a government entity**. It may be useful to examine a private sector Human Resources department. Obtaining procedure manuals from such businesses provides another information source.

## Documents & Records

Government works on paper. The investigation should examine all the information available, put things in a logical order, and see if there are any “holes” where information is missing.

It is absolutely necessary in the case of a complaint to have in hand all papers, including letters to government agencies, and the replies thereto. Without full and complete documentation, the investigation will stumble and fall.

When your committee has documents and records in hand, two Grand Jurors should review the documents and provide a summary to the committee. This practice is not strictly required by the Penal Code, but it is good practice. Having two Grand Jurors review each document and record means that your committee has corroborative summaries (hopefully) and one Grand Juror may pick out information the other gives less emphasis. The following give you a list of all the types of documents you might find, although not necessarily for every review or investigation.

- The pertinent statute or code that applies to the case is essential. Everything in government is mandated in some manner. Find the law that authorizes the procedure or department. It will inform you of the statutory responsibilities and limitations. Without this basic information, you have no ability to evaluate performance.
- Public records. These are legally available to you except for some information relating to juveniles, health and mental illness, and certain criminal records. If there is a question, check with your legal advisor.
- Studies from outside sources. If an entity that falls within the jurisdiction of the jury has ever commissioned a study from an outside agency, that information is also “public” even if it has never been distributed to the general public.
- County records, archives, Grand Jury library. Grand Jurors are urged to review these sources of background information prior to proceeding with an investigation.
- Obtain a current, dated mission statement and other basic information from the department. Sometimes the mission statement of a department has changed, but the department is still working under an old mission statement. This statement should tell you what the department thinks it should be doing.
- Obtain an internal organization chart. This should include names and titles of the main personnel. It is essential in determining the inner workings of the department. Again, be sure it is up to date.
- Job descriptions may be obtained from the Human Resources Department. You may find that the tasks being performed in a particular job category do not match the job description for that category. If specialized training or tests are part of the job qualifications, the person in the position should have those requisite qualifications.
- Line item vs. cumulative budgets—be sure to understand the difference. Have this explained to Grand Jurors by an expert, if necessary. Either or both can be misleading if not accurately interpreted.

- Obtain department reports, which are generally issued annually to a City Manager or the Board of Supervisors.
- Previous Grand Jury reports are helpful in determining if the recommendations of a previous jury have been implemented. Sometimes an investigation of a department only focused on one phase of their operation, and it is time to look elsewhere. Reports from Grand Juries in other counties may be useful as well.
- Other investigations of the department may have been issued by an outside source. A State or Federal body that funnels money into the department or jointly funds a procedure will often issue periodic reports. The county may contract with a private firm for certain reports on a regular basis or in a specific instance.
- Performance, management, and/or fiscal audits, often done annually, are frequently useful. Performance audits look at progress towards goals and adherence to stated missions. Management audits look at procedures and practices.
- Policy and Procedure manuals will provide information about operations and processes of the department or entity. They should include assignment of responsibility for implementation of policies and procedures at each level. Ask who sets the policy, who develops the procedures, how and when they are reviewed, evaluated, and updated. Are the manual and it's changes dated? How are they disseminated to employees? How are changes made known to employees?
- Agendas and Minutes of elected and appointed boards and commissions are extremely important documents. Grand Juries should request and receive a full agenda packet before the meeting that contains all the back-up information for each agenda item. In a large county, there will be a number of such documents from the board of supervisors, city councils, special district boards, and school boards. Be sure a juror is appointed to keep these documents organized and accessible.
- Obtain a department's or public agency's internal operating records. Is the purchasing department, for example, actually obtaining the number of bids required before awarding contracts?

<p><b>Note:</b> Interviews are an extremely important element of an investigation. For this reason, a separate section of this handbook is devoted to interviews. (See Guidelines to the Interview)</p>
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## Observation and Monitoring

Walk into a county or city facility or department. Observe the equipment, management, and employees. You are allowed to do this as a member of the public, should you choose not to identify yourselves as Grand Jurors. (At least two Grand Jurors should do this observation). Observe how the public is treated in the department or agency. Are procedures efficient and convenient? Are personnel courteous?

Attend and observe public meetings and study sessions of boards and commissions. Limit behavior to observing. Much can be learned about the operation of special districts, school boards, and other entities with elected officials by attending such meetings. They are open to the public by law. If you represent the Grand Jury you must attend in pairs or a group, not singly. This provides more eyes for observation as well as corroboration if observed behavior is contested.

## Subpoenas

Penal Code §939.2 gives the Grand Jury the authority to require a witness to appear before the Grand Jury. The Grand Jury may not issue subpoenas, but may request a subpoena from the District Attorney's Office or from the Superior Court by filling out the Subpoena form, available in the Grand Jury office (see sample subpoena in the appendix). Subpoenas may be obtained by a committee after consultation with the Foreperson. While the Subpoena form is the same as those used in criminal matters, the cover letter which accompanies the Subpoena should explain whether or not it pertains to a criminal matter, or a grand jury investigation or oversight. Allow at least two weeks processing time between submitting the request through the district attorney and the date on which the committee wants the witness to appear.

In general, it is better to request informally—via telephone, direct contact, or letter—a witness to come to an interview. Try several times and several approaches before giving up. Cooperation should be the hallmark of your relations with witnesses. If the witness refuses to appear unless the Grand Jury issues a subpoena, you may request a subpoena. Social Services records require a subpoena.

**Note:** You should make no judgment about a witness based on the need to request and serve a subpoena. In some cases, employees need to show cause to a supervisor for an absence from their workplace.

If the Grand Jury wishes to obtain records through a subpoena (when a request to see them is not honored), a subpoena “duces tecum” must be obtained. The subpoena must specify the documents requested. The Grand Jury, via the subpoena duces tecum, can require that an individual present the records in person and submit to questioning or can require that the records be presented without requiring the person's presence. In some cases, you may need to request to see the records at the place they are kept. This is true, usually, for confidential personal records.

**Note:** Confidential personal records will almost always require a subpoena duces tecum to open them to the Grand Jury.

The Grand Jury may subpoena two basic types of records: business records and consumers' personal records. Business records are “every kind of business, government activity, profession, occupation, calling, or operation of institutions, whether carried on for profit or not.” Consumers' personal records include such documents as medical records, school records, and title reports. You'll find a complete list of consumer records in Code of Civil Procedure §1985.3 (1).

If the Grand Jury deems it necessary to obtain protected financial records, contact either the District Attorney or County Counsel. The procedure that must be followed is set forth in the Government Code, commencing with §7470.

## ***Investigative File***

Each committee should open a separate file for each investigation in the Grand Jury office, as a systematic method of keeping track of each investigation.

- Keep a chronological log of dates and times of each interview; when, where, and from whom information was obtained; and where it is stored.
- Note the name of each witness and the name of each document on your Final Report Documentation sheet, along with the names of the two or more Grand Jurors who conducted the interview or document review. (See sample sheet here and in “Drafting the Final Report.”)
- Carefully transcribe all notes and recordings, and prepare a summary as soon as possible after they are obtained. All original material should be kept in the file in the Grand Jury offices.
- Fill out a Facts and Evidence sheet listing sources of information. In the left column of your Facts and Evidence sheet, make a list of what you found out (facts). These facts are the basis of your findings. In the right column of your Facts and Evidence sheet, for each fact list the evidence that reveals or supports the fact.
- Note the location in your Grand Jury library of all written materials obtained so that you can find them when needed. Also note the location of those materials already in the library or archives that pertain to your investigation.

<p><b>Note:</b> Keep in mind that your files should be retained in the Grand Jury archive files at the end of your term.</p>
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## ***Evaluation***

Consult your Facts and Evidence sheets, your transcribed notes and summary, and your chronological log as the basis of your evaluation of the state of your investigation so far.

### **Find the Problem**

Rather than placing the blame, focus on improving rather than playing “gotcha” and finding appropriate solutions

### **Make a Careful Assessment of your Information**

- Keep an open mind. Do not jump to conclusions! Does the present information substantiate previous data or are you getting a different story from different sources? Determine why, and decide what to do.
- Are your findings verified by multiple sources? Triangulate! One statement does not constitute a fact. Try to find different types of sources—written material, interviews, observation, different levels of a department—and see if your “fact” is substantiated. Information is “raw data” until it is verified as a fact.
- Are there sufficient data to satisfy your original objectives? Is follow-up necessary?
- Discriminate between findings of fact and recommendations.
- Did you give equal consideration to information that came in late in the investigation as opposed to that which came in early?

- Avoid placing more weight on negative information than on positive. Negatives resonate. Many people complain, and positive information is often left unmentioned. The information takes on a negative bias if this is not closely monitored.
- Be careful to listen to and evaluate objectively information from all sources. Even though information may come from a distasteful source, it could be more factual and complete than that of a source you consider more desirable.
- Take a comprehensive view of all sources, rather than just those that appear to be more “relevant” than others.
- Determine how each piece of information fits into the objectives of the investigation. Does it substantiate other data? Is there a logical flow or is something askew?
- Is there crossover with another committee’s investigation? If so, pass along the information as soon as possible.

### ***Finalizing the Investigation***

The Grand Jury final report is the culmination of your investigation. Writing the final report is covered in another section of this manual. However, there are several review questions the committee should ask as it prepares to write the final report.

- Do you have all the facts you need to fulfill the objectives of the investigation?
- Have the findings been sufficiently documented and validated? Are they truly findings of fact and not opinions, conjecture, or rumor?
- Is your language easily understood? Does it communicate well? It should not be overly technical, but clear and succinct.
- Are charts, tables, graphs, glossaries, etc., needed as appendices to clarify concepts? If they are, keep them simple and to a minimum.
- Is there a logical flow from facts to findings to recommendations?
- Is there substantial agreement within the committee? Even though the committee may operate by majority vote, consensus can sometimes be better. You still have to convince the full panel to accept your report. It is well to remember that there are no minority reports or opinions that issue from a Grand Jury.
- Are your recommendations doable? Are they practical and fiscally possible?
- Remember, you can offer praise as well as criticism and censure. You can do both. A Grand Jury final report is not necessarily a negative statement.

### **Interviewing**

Interviews are the major means of gathering information. In arranging and conducting an interview, Grand Jurors should be careful not to abuse the power of the Grand Jury and to treat all those interviewed with respect and consideration.

Rules of procedure shall include guidelines for that grand jury to ensure that all findings included in its final reports are supported by documented evidence, including reports of contract auditors or consultants, official records, or **interviews attended by no fewer than two grand jurors** (from Penal Code §916)

Although interviewing is only one type of several investigative methods used by Grand Juries, it is the most predominantly used method. It is not always the most reliable method. Following the suggestions about interviewing given here will improve the quality of your interviews.

## **Overview of Interviewing**

There are three main purposes of a Grand Jury interview:

- To obtain information
- To verify information
- To develop new leads and sources to use to gather more information and additional verification

A successful interview is based on three elements: credibility, planning, and rapport. The free flow of information will be enhanced if grand jurors prepare carefully for the interview by understanding the witness' problems, situation, and viewpoints before, during, and after the interview. A grand jury, sitting in its civil "watchdog" capacity, has the authority to admonish a witness not to disclose what the witness learns in the grand jury room regarding the subject of the grand jury's inquiry. An interview is not a round-table discussion with the interviewee.

**Grand Jurors should be careful not to give away confidential information in the course of their questioning.**

To gain a witness' confidence and cooperation, follow these steps for an interview:

- Prepare yourselves.
- Plan the interview.
- Invite the witness.
- Conduct the interview.
- Review the interview.
- Plan your next steps.

These steps are fully explained in following sections. In addition, you'll want to adhere to the following suggestions about attitudes and demeanor.

## **Attitudes & Demeanor**

How Grand Jurors conduct themselves during an interview can have a profound effect on the witness and on the quality of the information you gather. Sometimes an interview can be successful merely by giving the interviewee a forum to be heard. **If you're talking, you're not listening.** Be attentive to what is being said rather than thinking about what the witness may really mean or why the witness is saying what he's saying. The listener cannot acquire information, judge it, criticize it, or challenge it at the same time.

### **Examples of Inappropriate Juror Behavior During an Interview**

1. Put your head on the table or fall asleep.
2. Conduct a private conversation with another juror.
3. Clean your purse or briefcase, or shuffle papers.
4. Eat anything.
5. Offer suggestions to the witness for improvements, supply information to the witness, or give personal examples. Tell a witness what another witness has said.
6. Answer questions from the witness, except those about procedure or rules.
7. Display inflammatory, threatening, or disrespectful body language.
8. Accuse the witness of *anything*.
9. Stand up to end the interview before the witness is done.
10. Wear a hat (unless for religious reasons).

**A successful interviewer is a fact finder, not a faultfinder.** Jurors who are compelled to pontificate, to reform others, or to promote causes should be given tasks other than interviewing. Likewise, the compulsive talker—one who does most of the talking through lengthy questions or comments—and the compulsive director—one who guides the witness into telling the interviewer what the interviewer thinks is appropriate—should be excluded from interviewing. Give them tasks that don't require them to question witnesses, such as taking notes or compiling a report from other committee members' notes. Non-committee members who attend interviews should not question a witness without prior approval from the committee Chair, in order to avoid redundant or inappropriate lines of questioning which may have previously been stated, or are not germane to the committee's investigation. Any Grand Juror may ask the chair for a recess from the interview, in order to review lines of questioning without the witness present.

### **Qualities of a Good Interviewer**

Effective interviewers have the following qualities:

- Have a positive, motivating manner.
- Always professional and cordial, dressed appropriately, and on time.
- Are objective. Remain open-minded and neutral. Do not jump to conclusions. Conduct interviews as a "review" or "study," not as a complaint.
- Ask clear, simple questions.
- Listen actively. It is extremely important in interviewing to listen thoughtfully and carefully. Be and appear to be genuinely interested in acquiring information. Avoid interrupting the witness.
- Ask the witness to explain points. Politely but firmly challenge non-responses.
- Maintain firm but considerate control of the interview.



- Make no comments; offer no opinions; express, neither verbally nor with body language, your agreement or disagreement with a witness' answers. Don't be argumentative. Avoid using the interview to support ego or biases.
- Reveal no information. Do not say who else has been interviewed or may be interviewed (for example, do **not** say, "When we spoke with...she said.")
- Stay calm. Keep the witness on the point and make effective use of interview time.
- Don't conduct an "interrogation," just gather information.

## ***Planning an Interview***

Careful, thorough planning for an interview is perhaps the key element of a successful interview. With thorough preparation and planning, you improve your chances for a successful interview.

Develop the questions by brainstorming as a whole committee. This provides a broad base of collective thinking and allows everyone to contribute. Check over the questions to make sure the wording does not reveal any confidential information. Allow adequate time to prepare the questions prior to the interview. A good practice would be to mail questions to all committee members prior to the interview for revision.

Strive for **quality**, not quantity. There is a direct correlation between the quality of the question and the quality of the response it will elicit. To give a useful answer, the witness must understand the question. Keep questions short and simple. Questions should contain only one subject; avoid two-part questions; ask two separate questions instead.

Prepare questions that focus on your interview objective. Logically planned questions maintain focus and move the interview along efficiently.

Decide what to ask, in which form (open-ended or closed-ended), and in what order. Start with neutral questions—background of witness, organization; structure of organization, purpose; size of staff, budget—move to main questions, including any controversial or sensitive questions—conclude with neutral questions or a summary.

Open-ended and close-ended questions are the two types you will use.

- ✓ Open-ended questions tend to be general and broad in scope. They require a narrative type of answer. Example: Please explain each step in your evaluation process? How does your department develop its budget?
- ✓ Close-ended questions are more specific and tend to elicit a short answer, yes or no. They are useful to obtain a specific fact, such as what, whom, when or where.

Exclude judgmental or subjective words from questions—use the word "needs" to ask about problems or weaknesses; avoid "investigation," use "review" or "study" instead.

Never send questions in advance to a witness. Do not give your list of questions to the witness during the interview.

Prepare an Admonition of Confidentiality form for each witness to sign, and provide the witness with a copy.

Make certain to plan for committee debriefing time immediately after the interview. The importance of immediate debriefing cannot be stressed enough. If possible, inform the Grand Jurors at a Full Panel meeting, prior to an interview.

### ***Preparing for an Interview***

Before you plan an interview, every committee member should clearly understand, as far as possible, the responsibilities of the witness' organization. To do this, one or more committee members will have to research the organization and report their research to the rest of the committee. With this information in hand, you can prepare in the following ways.

**Review background information** on the interview topic—Read any preceding related Grand Jury reports and responses relevant to this topic. Review department budgets, financial and management audits, minutes, policy and procedures manuals, laws and regulations, and news articles to help you develop questions.

**Decide objectives**—What do you want to accomplish? Why is this interview being conducted? What information do you want to obtain?

**Decide whom to interview**—With the objective in mind, determine what person would have the information. When investigating a citizen complaint, interview the complainant first, asking questions to expand and clarify the information on the Complaint Form. Clarify who has the problem and what resolution they are seeking. Ask the complainant to bring all pertinent records including details of whom they have previously contacted and what response they received. Make copies of any records needed for your investigation.

**Be thorough; get the big picture**—Plan to interview people with different perspectives.

**Confidentiality**—Arrange to interview each person separately to allow them to speak candidly. An exception to this may be a husband and wife who submit a complaint as co-complainants. With public employees, separately interview more than one person at each level (for example, three file clerks) to protect anyone individual from being linked to specific information in the Final Report. At least two, or preferably three or four jurors should conduct such interviews. Prepare two copies of each 'Admonition of Confidentiality' form, one for each witness and one for the committee file.

**Decide on the most appropriate physical arrangement for the interview**—It is recommended that you interview witnesses in the Grand Jury chambers, either by the committee or the entire body. Be aware of the effect of seating arrangements and adjust them to build rapport.

**Tape Recording**—When recording an interview, advise the witness while the tape is recording that the interview is being recorded. State the names of all present and the date and time of the interview. There are pros and cons to using a tape recorder to record an interview: A tape recorder with good quality audio does provide an accurate record. The use of a tape recorder may make the witness nervous and uncomfortable, resulting in him or her giving you less information. Court reporters are expensive and should only be used if the situation warrants it. Use of a court reporter should be considered if a potential for future litigation exists.

**Telephone Interviews**—Telephone interviews should be used only in specific situations where a personal interview is not possible. The benefits of personal interaction and observation of body language and facial expression are lost. If there is no alternative to a telephone interview, resolve potential problems first: Take the speakerphone from the office to the Committee Room so that two or more Grand Jurors can participate; determine how you can be sure that you are talking to the correct person; and establish a method to control privacy and confidentiality. If you plan to tape record a telephone interview, you should have the witness state (on tape) that the interview is being recorded with his or her knowledge and consent. It is illegal to tape record a telephone conversation without the person’s knowledge and consent.

### ***Inviting the Witness & Confirming the Appointment***

The invitation should be approved by the full committee, and then extended to the individual. The Chair or designee should call to schedule the interview.

Schedule interview with an eye to witness’ schedule and workload. The witness should be given sufficient time to arrange the interview (usually about two weeks). It is important to establish a telephone protocol when making calls to a potential witness. Do not tell anyone, except the person you’re trying to reach, that you are from the Grand Jury. Most importantly do not reveal that the call is the result of a complaint. Some witnesses may need to be subpoenaed.

State how long you expect the interview to last. You do not have to divulge the topic. If, however, you want the witness to bring specific documents, you need to state this. Also, if the department, agency, or district deals with many areas, you might want to give the witness a focus for the interview so that pertinent information is fresh in mind for the interview.

Make sure the time and place for the interview are clear to the witness—give detailed directions to the physical address and location, if necessary; don’t rely on witnesses knowing where you are located or the location of any particular building.

It is wise to confirm date, time, and place in a follow-up letter if time permits. Letters should instruct the witness to call the Grand Jury room to confirm they will attend.

If a letter is not possible, confirm the appointment by phone a day or two in advance.

### ***The Interview Team***

The committee may interview as a whole or appoint a team to conduct the interview and report back. The entire Grand Jury can also interview. Whatever the size of the interview team, having one Grand Juror act as primary interviewer usually works best. You might have the Chair or designee conduct the opening and closing of the interview—the “friendly” parts—and the main interviewer ask the bulk of the questions. When you arrange the interview this way, other jurors present can pass questions to the interviewer to ask, or you might decide to permit each juror to ask any follow-up questions after the prepared questions are finished. Be aware that follow-up questions should fit with the committee’s objectives for the interview and not be “popcorn” questions that fly all over the landscape. It may also be necessary to call a short recess, so that the committee can confer without the witness present.

Consider assigning specific responsibilities to individual team members. These may include:

- Open and close the interview, make the introductions, have ‘Admonition of Confidentiality’ signed.
- Ask the questions developed by the committee.
- Take notes. One member should have sole responsibility during the interview for taking accurate, complete notes. All other members except the person asking questions should take their own notes.
- If the interview is taped, assign one person to monitor and change tapes.

## ***Conducting the Interview***

An interview has a beginning, middle, and an end. Each phase of an interview has its own set of guidelines and its own character. In general, start with neutral questions—background of witness, organization; structure of organization, purpose; size of staff, budget—move to controversial or sensitive questions (if any)—conclude with neutral questions or a summary. Remember to have all witnesses sign an admonishment of confidentiality (Appendix \_\_\_\_)

The following sections describe each phase. Before that, however, a few words about interview tactics.

## **Interview Strategies**

When you’re interviewing, keep in mind that you are gathering information, not conducting an interrogation. Think of an interview as a conversation. This does not mean that you can’t ask hard and pointed questions and probe for definitive answers. It does mean that you conduct the interview with courtesy, respect, and skill. Never accuse the witness of anything; don’t make assumptions. Interviewing tactics are the skills you’ll need to conduct an interview based on your preparation and planning.

Follow these guidelines while interviewing:

- Be attentive to what is being said rather than thinking about what the witness may really mean or why the witness is saying what he’s saying. The listener cannot acquire information, judge it, criticize it, or challenge it at the same time.
- Wait for witness to answer questions.
- Interview only one witness at a time in most cases
- Do not help witness with the answers.
- Observe witness’ body language, gestures, facial expressions, tone, and demeanor as well as words.
- Don’t “machine gun” with questions—no rapid-fire questioning either by one person or by two or more—it’s not an interrogation.
- Ask each question using this six-step process:
  1. Ask the question.
  2. Observe any non-verbal reaction (body language, eye contact, facial expressions, tone of voice, etc.)
  3. Listen carefully to the answer.
  4. Determine if the answer is clear and complete.

5. If the answer is not clear and complete, ask follow-up questions.
6. If the answer opens a new area that needs study, digress from your prepared questions to gather information about this new area. Then, return to your prepared questions.

Note: Grand Jurors should never offer any suggestions, answers, or opinions to the witness that could imply preconceived opinions. Grand Jurors should never commit themselves or the Grand Jury to do, or not to do, anything as a result of the interview.

## Note Taking

Note taking is extremely important. Memory is faulty; group memory is even more faulty. Take notes even if the interview is taped.

You can rely on your notes but not on your memory.

Take notes on all important points. One member should be given the responsibility during the interview for taking accurate, complete notes. All other members except the person asking questions should take their own notes.

Your collective notes will provide the basis for further investigation and for writing the final report.

## Starting the Interview

The beginning of an interview sets the tone and can begin to establish rapport with the witness. Special care and consideration should be given to make the witness feel welcome, comfortable, and important.

- Introduce the jurors, including positions such as Chair and Foreperson. Have the witness give his or her name and position. State the topic of the interview.
- Discuss briefly the positive aspects of the regular Grand Jury's function and the goal of improving local government.
- Read and have the witness sign the 'Admonition of Confidentiality' form, and provide the witness a copy.
- Start with a general, neutral, open-ended question that will be easy for the witness to answer. Ease into the interview by asking the witness to talk about his or her background and experience. People generally can relax as they tell about themselves.
- Follow with the prepared list of questions, using it in such a manner that is not obvious that you have a prepared list.

## Conducting the Middle of the Interview

During the middle of the interview, ask the questions that focus on the objective of the interview. Begin with your prepared questions. The answers might raise new questions you'll need to follow up on.

Follow-up questions are a very important part of a Grand Jury interview. Follow-up questions cannot be planned in advance because it is not possible to anticipate what the witness' answer will be.

Use follow-up questions to:

- pursue the question if not complete or clear.
- expand an answer—“Can you give an example?” “Would you please describe in more detail...”
- determine a sequence, chronology, or ranking—“Would you please start at the beginning and explain each step in the procedure.” “Did you receive the document before or after the public meeting?”
- clarify an answer by restating the witness’ answer—“Let me see if I understand. Are you saying that (paraphrase the answer)?”
- request definitions of jargon and acronyms and initialisms, or other unfamiliar language—“Would you please define the term ‘consent agenda?’” “What does the acronym LAFCO stand for?”
- refine a vague answer by using prescriptive limits—“A large portion of our department budget is allocated for materials,” is a vague answer. Ask, “What percentage of the budget?” “What is the actual dollar amount?”
- question any answer that is a generalization—“The crime rate is soaring.” Ask, “What types of crime? Increased over what time period? Based on what source of statistics?”

#### Ask questions to verify information and develop new leads and sources.

Ask some of the same questions you asked a previous witness in order to compare answers, but **never divulge an answer given by any other witness.**

Request source material or documentation—examples: “What evidence or data do you have to support that statement? May we have a copy of...? Where are the...(files, records, etc.) kept?”

Pursue any new information exposed—develop new leads, such as names of others you may want to interview. Example: “Who else was present at the meeting where that topic was discussed?”

Encourage the witness to suggest solutions—“What do you see as a possible solution to this problem? What other alternatives have you considered?”

#### Use silence during an interview

Listen to what is not being said. Does the witness appear to be avoiding a particular subject? Use the “pregnant pause.” After an witness has answered, try silence while maintaining eye contact as though you are expecting him or her to continue. Often individuals will expand upon their previous answer.

#### Retain control of the interview

The Grand Juror asking the questions must control the interview in order to move it along, maintain focus, and obtain complete answers.

Some problems that may arise and how to handle them...

- The witness becomes defensive and clams up. Try to prevent this by putting him or her at ease at the beginning. If he or she becomes defensive to a specific topic, switch temporarily to a different topic and later on try again, slightly rewording the question.
- The witness is evasive, talking all around the question and never answering it. Do not accept an evasive answer. Directly repeat the question. This will serve to establish who is in charge of the interview, the tenacity of the team, and the importance being placed on answers.
- The witness answers your question with a question, attempting to switch roles. Do not answer the witness' question. If you do, he or she is controlling the interview.
- The witness may try to lobby to gain support in some issue, negotiation, or conflict. Do not be used. Make no promises. Your purpose is to record only the facts and stay completely neutral.
- The witness may try to divert you by introducing a new topic—for example, “That is not the real problem here, the real problem is....” Immediately return to your original question.

Sometimes an answer (even one done as a diversion) will reveal something totally new that may be of interest to the Grand Jury. If this “sidetracked exception” occurs, be flexible. Stay in control as you make the judgment how far and how long you want to probe. When done, refocus where you diverged from your original question.

Provide opportunities for a witness to validate information—How do you know that's true? Who else might have information about this? Did you see that happen yourself? Were you there when that statement was made?

Challenge dead-end responses—ask for the validating evidence for bald statements of fact, denial of problems, or evasion that appear to dead-end a line of questioning.

**Note** If an interview is going badly, you may need to take a break without the witness being present and regroup.

## **Ending the Interview**

End smoothly. Never burn bridges behind you. By ending smoothly and amicably, you leave the door open to interview the witness again, if necessary. It is important to have accurate findings based on information you have verified as factual. If you feel there is any doubt or that the information may have changed during the course of the investigation, contact the appropriate witnesses to verify the accuracy of the findings.

Conclude with neutral questions or a summary.

- Ask the final questions.
- Ask the other Grand Jurors if they have any additional questions. This provides an opportunity to clarify incomplete answers or to approach a fact from a different direction. In a sensitive interview, it is wise to have these new questions submitted to the interviewer in writing.
- Ask the witness if he or she has anything more to add. Give the witness a chance to add or amend anything presented

- It is sometimes useful to take a five minute break with the witness excused from the room, so the committee may refocus on key questions that have not been asked.
- Request and obtain copies of any written documents referred to during the interview. (If possible, do not accept originals without giving the witness a receipt for them. The originals should be copied, if necessary, and returned to the witness promptly.)
- Thank the witness for his or her time and cooperation.
- Don't predict or promise anything to any witness.
- Never burn bridges before you get to them. By treating each witness respectfully and professionally, you avoid creating a reputation that might make other witness reluctant, hostile, or generally uncooperative.

## **Reviewing the Interview, Transcribing Your Notes, & Listing the Facts and Evidence**

After the interview is over and after the witness has left, **immediately** review the interview, transcribe your notes, and list the facts and evidence you obtained.

**Note** **Never discuss subject matter in front of the witness.** After concluding the interview, the witness should be thanked and politely dismissed with another reminder of the admonition of confidentiality agreement.

Debrief and write a report—as soon as finished, if possible; otherwise the sooner the better—waiting erodes memory, distorts perception, and creates ambiguity; clear notes right after the interview become obscure two days later.

Debrief by having the interview team compare notes, listen to tape recordings and check documents obtained immediately after the interview. Analyze and communicate to assure that the team agrees on the information obtained. Write it down!

Verify the information gained in the interview. Just because someone has stated something in an interview does not make it a fact. Never base any finding or conclusion on information from a single interview. Discuss how you can verify the information as factual and what sources you can use. Use the Principle of Triangulation and verify the fact from three different sources such as documents or records, interviews with other people, or actual observation. Transcribe notes immediately if possible but within a day or two at the latest.

Outline a plan to follow new leads and sources obtained through the interview. Report on any relevant ancillary information obtained to other committees, if appropriate.

### **List Your Facts and Evidence**

After your committee has reviewed its notes and agreed on what you learned, list the facts you found and the evidence that supports it—not just the witness' name, but also documents and reports and other witnesses that corroborate (or contradict) the facts.

Fill in a Facts and Evidence sheet (see Appendix).

1. In the left column of your Facts and Evidence sheet, make a list of what you found out (facts). These facts are the basis of your findings.



2. In the right column of your Facts and Evidence sheet, for each fact list the evidence that reveals or corroborates the fact (or evidence that contradicts the “fact”).

### **Evaluate the Interview**

Evaluate the interview to determine whether the objective was achieved, how the team worked together and what might be changed or added in future interviews. Ask yourselves these questions:

Did we achieve our objective? Was the information we gathered relevant? Helpful? What concerns or themes emerged? What wasn't mentioned?

Did you feel you were prepared? What areas could you improve on? What worked and what didn't? How can we improve our interviews?

Analyze the interview: What's the next step? How will you use the information?

### **Next Steps**

At the end of your review and evaluation of the interview, make a list of the witnesses you want to interview next and of the documents that you want to review next.

### **Summary of Interviewing**

Determine your objective for the interview

Introductions, purpose, simple questions, etc. to put witness at ease

Quality questions:

- Open ended questions -requires more than a yes, or no
- Closed end questions- Yes or no answers

Proper attitude:

- Be objective; don't make assumptions; suppress your biases
- Stay calm
- Don't be argumentative or accusatory
- Don't conduct an “interrogation”

Questions

- Ask, don't tell
- Observe witness for reactions, eyes. etc
- Listen carefully; take notes
- Are the answers clear and complete
- Pursue the question if not clear and complete
- Have “jargon” or other unfamiliar language defined
- Pursue definitive information
- “What is the basis of this or that alleged fact”

Pursue any new information exposed

Maintain control

- If witness clams up or gets defensive—possibly rephrasing the question will help, or move to another area of questioning and come back to the sensitive issue again

- Don't let the questioning slip away to the witness
- If witness refuses to answer a question, ask Why?
- Demonstrate your intent to get answers

#### Debrief and Critique Interview

- Was it relevant, helpful
- Did you feel you were prepared
- What areas could you improve on

#### Analysis of the interview

- How to use
- What's the next step

#### Validation

- Don't use information from one witness as fact
- Interview others to get a clear picture
- Check documents & any other pertinent information

## Final Reports

Your entire term as a Grand Juror is aimed at writing, publishing, and releasing a Final Report of your activities. (See Report Publishing Procedures later in this manual). The Following Sections give you information about these topics:

- How to conduct an investigation
- How to prepare, plan and conduct an interview
- How to draft a Final Report
- The process of reviewing and revising a draft Final Report
- The process of Full Panel approval of a Final Report
- The process of review and acceptance by the Grand Jury advisors
- How to handle and publish responses to the previous Final Report
- How to print and distribute the Final Report

### ***Drafting the Final Report***

There are two types of reports produced by the Grand Jury: the Investigation Final Report and the Consolidated Final Report. The Investigation Final Report may be issued at any time during the term of the Grand Jury. Issuing reports over the course of the year allows for earlier responses as well as greater publicity for the work of the Grand Jury.

The Consolidated Final Report is a collection of all Grand Jury reports issued during the term, Agency Responses collated by CAO, including, if applicable, the Continuity Committee's evaluation of responses to reports from the prior year for compliance with Penal Code 933 (a). All publicly-issued reports are final reports – there are no interim reports.

Drafting a final report is a careful process of selecting, organizing, and writing the findings and recommendations your committee wants the Grand Jury to publish. When you're done

drafting a report, you hand it to the committee in charge of reviewing your draft. (For that process, see “Reviewing the Draft & Revising.”)

When you create your drafts, apply these guidelines.

- Use a Word-Processing software to create your report.
- Double-space your draft.
- Add line numbers to your draft. Line numbers should be sequential beginning on the first page, to the end of the report.
- Add the date to the header or footer of your draft.
- Add page numbers to the header or footer of your draft.
- Save the file in RTF format; (the file can be opened on either a Macintosh or PC), and, perhaps more importantly, it prevents you from passing viruses to other computers.
- Print your draft report, save the file in digital format and submit to the draft review committee.
- Each time the committee submits a draft, whether the first draft or revised drafts to the draft review committee, the committee chair should be responsible for following these preceding steps.

The next topic gives you a list of suggested steps for the process of drafting a Final Report. Following the suggestions for the drafting, you’ll find a suggested format for your Final Report.

The following list gives you the procedure for drafting a final report.

1. List your sources on the Final Report Documentation sheet (Appendix \_\_\_\_). This list is the basis for your Method of Investigation.
2. Review your Facts and Evidence sheets (Appendix \_\_\_\_). These facts are the basis of your findings (step 8).
3. Develop a thesis (or theses) that states the general idea(s) that you want the Grand Jury to report. You will use the thesis or theses as the filter for deciding what facts and findings to include in the report and to help organize your findings.
4. Write the Method of Investigation, based on the list on your Final Report Documentation sheet (see step 1).
5. Write the Background.
6. Write your findings, based on your Facts and Evidence sheets (see step 3).
7. Write your recommendations, based on your findings. Be sure your recommendations are practicable, financially sound, and can be performed within six months. If you deviate from this suggestion, the Grand Jury risks having their recommendations not implemented because it is not warranted or is not reasonable (Penal Code §933.05(4)). Recommendations that take longer than six months require the respondents to state that the recommendation requires further analysis (Penal Code §933.05(3)).
8. Write a summary of the important points of your report to use as the Introduction. These points will be your thesis for the report and a brief summary (one or two sentences) of your major findings and recommendations.
9. Submit the Facts and Evidence sheet and other report documentation (Appendix \_\_\_\_ ) to the Foreperson, prior to edit committee approval.

The following committee report package is to be submitted by a committee chair to Edit Committee and Foreperson

- ❑ Report Tracking log (exhibit A)
- ❑ Facts and Evidence sheet (exhibit B)
- ❑ Final Report Documentation sheet (exhibit C)
- ❑ GJ Final Report Mailing List/Report Contacts (exhibit D)
- ❑ A transmittal letter containing correct contact and mailing information to **each of the entities** named in the Response Required and Response Requested headings for each report. (exhibit E)
- ❑ Hard copies of Investigating committee report
  - Sufficient copies for E/R committee member review (The Foreperson shall provide copies of Final Edit Committee version for Full Panel review)
- ❑ An electronic file containing exactly one copy of the final, correct version of the approved report from the Edit committee, that will be distributed to the Full Panel to gain approval for public distribution. (One electronic copy shall be archived by the E/R Committee; One electronic copy will be posted to the Website by the Foreperson and one will be archived by Court).

## **Style Notes**

Let clarity be your guide. Refer to “Elements of Style”, Appendix \_\_\_\_\_

Write in the 3<sup>rd</sup> person: he, she, they, the Grand Jury; do not use “we” or “our.”

Numbers: write out one through ten; use numerals for 11 and higher. Do not, however, start a sentence or a clause after a colon or semicolon with a numeral.

Use the full names of groups the first time they appear in each report, followed by an abbreviation in parentheses: for example, Mental Health Department (MHD). For subsequent references to the group, use only the abbreviation. All the same, try to avoid “alphabet soup”—many initials or acronyms—which make it difficult to follow the references to organizations. If you use the name of an organization only once or twice in a report, either simply use the full name or a short name, especially for minor organizations that are not the main focus of your report. In general, it’s better to use “common names” (names used by the person on the street) for groups, whenever possible.

Refer to Mendocino County as “County”—note that references to “County” are always capitalized.

Never use the names of individuals or businesses; avoid any reference to an individual that could be used to identify that person.

## **Notes About Information**

Present accurate information.

Check your sources—get more than one source of evidence for each finding.

Make sure your report contains accurate evidence that supports logical conclusions.

Give no conjectures, guesses, or opinions in your report.

Try to answer the questions Who, What, When, Where, How, and Why, as appropriate. In writing this information, focus on accuracy and logic.

Stay on the topic.

Keep statements clear, simple, and specific.

Avoid inflammatory wording.

Make sure you have evidence—law, documentation, and testimony from at least two sources—to substantiate the finding.

### **Notes About Format**

Full panel reviews and agrees to the font style and size for the report text and headings—for example, 12-point Times Roman for text and 14-point Arial Bold for headings.

Full panel reviews and agrees to the use of spacing and margins. Prior to Full Panel review for publishing approval, single-space the file, remove line numbers and revision dates in the header/footer.

### **A Suggested Format for Grand Jury Final Reports**

Each Grand Jury may set its own format. Whether your full panel decides to use the following suggestions or create its own format, a review of several previous years' final reports from Mendocino County and even other counties (check the Grand Jury library) can provide your full panel with suggestions for organizing your final report.

There are two types of reports produced by the Grand Jury: the Investigation Final Report and the Consolidated Final Report.

The Investigation Final Report may be issued at any time during the term of the Grand Jury. Issuing reports over the course of the year allows for earlier responses as well as greater publicity for the work of the Grand Jury.

The Consolidated Final Report is a collection of all Grand Jury reports issued during the term, Agency Responses collated by CAO, including, if applicable, the Continuity Committee's evaluation of responses to reports from the prior year for compliance with Penal Code 933 (a).

All publicly-issued reports are final reports – there are no interim reports.

Final reports will contain the following sections:

**TITLE HEADING:** includes issue date and any disclaimers.

**SUMMARY:** a clear capsule description of the issue(s)

**BACKGROUND:** provides a history of, and justification for, the investigation.

**METHODOLOGY:** records how and when the study was done and the sources of the facts obtained. Neither individual names nor titles should be listed as sources. (Penal Code 929)

**FINDINGS:** presents detailed information developed by or derived from the investigation, clearly organized by topic. It contains the specific facts learned. These are enumerated and logically connected to the issues. All findings do not have to have a recommendation.

**RECOMMENDATIONS:** a numbered list that states what the Grand Jury believes should be done, and by whom, to fix the problem(s) identified in the Findings. They must be specific and feasible. All recommendations must pertain to a finding.

COMMENTS: includes, in paragraph form, any relevant, appropriate comments the Grand Jury wishes to add to the report.

RESPONSES REQUESTED: only elected officials and departments are required to respond to a Grand Jury Report. All others are requested to respond.

### ***Committee Submission Package***

The purpose of the submission package is to provide a checklist for the reporting committee as well as to document the flow and content changes to the report through the editing conference and approval processes. The package contents are to remain intact throughout the review and final approval process.

### **Protection of Evidence**

Upon full panel approval of the reporting committee's report the committee will file all evidence with the Foreperson, along with the approved report and attached submission package.

### **The Package Contents**

To be submitted by committee chair to Edit Committee and Foreperson

- Originating committee's report
- Report Tracking log (exhibit A)
- Facts and Evidence sheet (exhibit B)
- Final Report Documentation sheet (exhibit C)
- GJ Final Report Mailing List/Report Contacts (exhibit D)
- A transmittal letter containing correct contact and mailing information **to each of the entities** named in the Response Required and Response Requested headings for each report. (exhibit E)
- Hard copies of committee report
- Sufficient copies for E/R committee member review (The Foreperson shall provide copies of Final Edit Committee version for Full Panel review)
- An electronic file containing exactly one copy of the final, correct version of the approved report from the Edit committee, that will be distributed to the Full Panel to gain approval for public distribution. (One electronic copy shall be archived by the E/R Committee; One electronic copy will be posted to the Website by the Foreperson and one will be archived by Court).

### ***Edit Committee Responsibilities***

The Edit Committee shall:

- Propose how reports are to be organized
- Propose word processing program and report formatting
- Provide references for good writing
- Define distinct roles for the investigating committee and edit committee

- ❑ Ensure that the Investigating Committee retains authorship of the report based upon facts they obtained and triangulated
- ❑ Review reports and suggest editing improvements
- ❑ Propose a process for report preparation, approval, release and scheduling
- ❑ Manage the process for report preparation, approval, and release
- ❑ Organize, assemble, and produce the consolidated final report
- ❑ Review / update transmittal forms and attachments

### ***Foreperson Responsibilities***

The Grand Jury Foreperson is responsible for the coordination of the reports in the approval channels to insure the orderly and timely publishing of the Grand Jury Report. The Foreperson shall:

- Send approved reports to Presiding Judge and County Counsel for comments
- Mail cover letter(s), copies of the reports, the Response Procedure to Grand Jury Reports (Exhibit F) and a copy of Penal Code §933.05 (Exhibit G), in a clasp sealed envelope and use the Confidential stamp in the Grand Jury office to stamp the envelopes front and back
- Keep track of reports that have been accepted by the Presiding Judge and for which County Counsel has comments
- Bring reports on which County Counsel has comments to the full panel for any needed changes to the report, have the full panel re-approve the report, and then resubmit the report to the Presiding Judge and County Counsel with a cover letter that specifies the changes. In the revised report, be sure to make clear the changes you have made (underlining new text and striking through deleted text.)
- Following approval of the changes by the Presiding Judge And County Counsel, submit the final, correct version of the report to the Presiding Judge and County Counsel for approval, then submit to Responders per Penal Code §933(f).





**Exhibit B - Facts and Evidence Sheet**

Report on \_\_\_\_\_  
 \_\_\_\_\_ Committee

Facts	Source of Evidence

## Exhibit C - Final Report Documentation

Report On \_\_\_\_\_  
\_\_\_\_\_ Committee

Person Interviewed, Document Reviewed, or Site Visited	<i>Date</i>	By Whom

## **Exhibit D - Final Report Mailing Addresses**

Please list all contacts for this report from whom the Grand Jury has Required or Requested a Report Response. This contact list will be used to distribute the Report and Request responses. Include email addresses whenever possible

## Exhibit E - Report Transmittal and Request for Responses

Date [DATE]

[Addressee]

[Addressee]

[Addressee]

[Addressee]

RE: [REPORT TITLE]

Report Date: \_\_\_\_\_

Enclosed please find a courtesy copy of the above report by the Mendocino County Civil Grand Jury. Penal code Section 933.05(f) specifically prohibits any disclosure of the contents of this report by a public agency or its officers or governing body prior to its release to the public, which will occur two days after the date of this letter.

The Grand Jury requests that you respond in writing, or preferably in digital format, to the Findings and Recommendations contained in the report pursuant to Penal Code Section 933.05 (copy enclosed). The Penal Code is specific as to the format of responses. The enclosed Response to Grand Jury Report Form should be used. The Penal Code is also specific about the deadline for responses, should you choose to respond. You are required to submit your response within 90 days as follows:

- One hard copy to: ERIC LABOWITZ, Presiding Judge, Superior Court
- One hard copy and one digital copy to the Grand Jury Foreperson
- One hard copy and one digital copy to the Mendocino County Chief Executive Officer

Your responses are public records. The clerk of the public agency affected must maintain a copy of your response. Should you have any questions, please contact me at 463.4320 or at the above address.

Sincerely,

Kathy Wylie, Foreman, Mendocino County Grand Jury

## Exhibit F - Response Procedure to Grand Jury Reports

The governance of responses to the Grand Jury Final Report is contained in Penal Code §933 and §933.05. Responses must be submitted within 60 or 90 days. Elected officials must respond within 60 days. Governing bodies (for example, the Board of Supervisors) must respond within 90 days. Please submit all responses in digital format to the Grand Jury Foreman.

Report Title: [TITLE]

Report Date: [DATE]

Response by: \_\_\_\_\_ Title: \_\_\_\_\_

### FINDINGS

- I (we) agree with findings numbered:

\_\_\_\_\_

- I (we) disagree wholly or partially with the findings numbered:

\_\_\_\_\_

(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons therefore.)

### RECOMMENDATIONS

- Recommendations numbered \_\_\_\_\_ have been implemented. (Attach a summary describing the implemented actions)

- Recommendations numbered \_\_\_\_\_ have not yet been implemented, but will be implemented in the future. (attach a time frame for the implementation)

- Recommendations numbered \_\_\_\_\_ require further analysis.

(Attach an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.)

- Recommendations numbered \_\_\_\_\_ Will not be implemented because they are not warranted or are not reasonable. (Attach an explanation)

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

No. of pages attached: \_\_\_\_\_

## Exhibit G - Summary of PC 933.05

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

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

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

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months (6) from the date of publication of the grand jury report.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

## ***Reviewing the Draft & Revising***

Report writing is difficult and requires exacting professionalism. Most Grand Jurors are not trained report writers, and Grand Jury final reports are an unusual specie of writing. For that reason, each Grand Jury sets up an internal committee that reviews final report drafts, asks questions, and makes recommendations. This committee may be called, variously, Review Committee, Publication Committee, or Edit Committee.

It may be difficult at first to understand what the review committee is up to. Many perhaps most reports return to their committees with extensive questions, comments, and recommendations. Why?

The report does not follow the format agreed by the full panel.

One or more sections of the report are incomplete or contain misplaced text.

Statements in the report are potentially libelous.

Statements and findings in the report are not supported by evidence or logic.

Negative findings have no corresponding Recommendations.

Recommendations have no corresponding Findings.

Language is unclear or vague or requires a qualitative standard that is not provided.

These and other reasons for revision will be noted on your report.

It is important to understand that the reviewing committee isn't trying to exercise maniacal power or ego or control. The reviewing committee is trying to work for the benefit of the entire Grand Jury and for the public. It does neither the Grand Jury nor the public any good to publish a report that is unintelligible, incomplete, inaccurate, speculative, opinionated, libelous, or disorganized.

Look on the reviewing committee as helpers in the drafting process. You may wish to "just be finished with it," especially if you have more reports to draft. The process can be frustrating, irritating, and aggravating. Remember that the Final Report is the only visible product of your entire year's work. The Final Report establishes the Grand Jury's reputation for diligence, fairness, and thoroughness. This reputation, once damaged, would take at least a year to recover, a year during which your successors would have to deal with the fallout of a sloppy, trivial, and discredited Final Report.

Usually after one or two rounds between the committee drafting the report and the reviewing committee, a report is ready to go to the full panel for disposition. Be aware that the full panel may send the report back to your committee for further work. Also be aware that County Counsel and the Presiding Judge may object to part or all of a report. Their reasons may include:

Potentially or actually libelous statements because the report names or identifies indirectly persons who are not elected officials

Report subject lies outside the Grand Jury's authority to investigate.

The committee writing the draft may ignore all recommendations for change, but to do so imperils the chances that your report will pass the full panel or be accepted by the Presiding Judge.

## **Summary of Review and Revision**

The following steps show the process of final report review and revision.

1. Committee drafts report.
2. Committee approves draft.
3. Committee sends draft to reviewing committee.
4. Reviewing committee reviews and notes comments, questions, and suggests revisions.
5. Reviewing committee returns draft to originating committee.
6. Committee revises draft, approves revisions, and sends revised draft to reviewing committee.
7. Repeat steps 4–6 until reviewing committee is satisfied or until originating committee decides no further changes are needed (against reviewing committee’s advice).
8. Draft is presented to full panel for approval, rejection, or return to committee for changes.
9. Committee Chair presents Foreperson with final approved version of committee report in digital format, for printing.

### ***Full Panel Approval***

After a draft report has traveled the committee to review to committee to review circuit enough times to produce an apparently publishable report, the report goes to the full panel for approval.

Grand Jurors should receive a copy of the draft report before the full panel meeting at which it will be discussed, time permitting. This advance copy gives you time to study the report thoroughly and to frame your evaluation and any questions you might have.

The full panel must approve every report. Only one report for each review or investigation is permitted. A published report represents the findings, conclusions, and recommendations of the full panel and of every one of its members. There can be no minority report from the full panel. For that reason, although only 12 jurors are needed to approve a report, you’ll want to work toward a larger consensus. Seven dissenting votes should be cause for concern. Such a vote probably indicates that the report needs to be reworked.

**At the full panel meeting, the process will probably go something like this:**

1. The Foreperson calls for the full panel to address the report.
2. The Foreperson calls on the chair of the committee that drafted the report to describe briefly the subject, important findings, and major recommendations of the whole committee. Usually this brief description should reiterate or parallel the Introduction/Synopsis of the report. The Chair may wish to add additional information about the report, particularly if the committee has not reached consensus about the report or some of its findings or recommendations.

**Note:** Even though there is no minority report published from the full panel, committee members who disagree with their committee’s report may present their views to the full panel for consideration. Such a situation would only arise if the committee chair failed to be sure that the committee reached consensus before the draft report was submitted.

3. The Foreperson calls for general discussion. At this point, you may raise your questions or concerns about the report. Try to be positive—that is, try to propose a solution or



resolution to the points that concern you. The full panel may revise the report without returning it to committee.

4. After general discussion, the Foreperson will call on each juror in turn around the table to be sure every juror has had a voice.
5. After all comments have been made, the Foreperson will entertain a motion to accept the report, reject the report, or send the report back to committee for further work.
6. If the report is rejected, it dies and is not published in the Grand Jury Final Report.
7. If the report is returned to committee for further work, the committee should complete the additional work as quickly as possible so that the full panel has time to consider the report again before the approval deadline. If the committee refuses to perform the work, the Foreperson will determine a disposition based on the views of the full panel.
8. If the report is approved, the Foreperson sends copies along with a cover letter to the Presiding Judge and County Counsel (see more under “Advisors’ Review”).
9. If the Presiding Judge or County Counsel suggests changes, the report goes back to the originating committee for corrections, returns to the full panel for approval, and then returns to the Presiding Judge for acceptance.
10. If the Presiding Judge accepts the report, it becomes part of the published Final Report.

**Note:** The full panel may vote to release a report at any time during its term. The Presiding Judge must accept the report first. This step is especially appropriate when the report concerns a matter for which timely resolution is imperative. A further advantage is that any report released four months or more before the Final Report goes to the printer can include responses to the report. All reports released early are published as part of the Final Report at the end of your term. An additional advantage of staggered report releases is maximizing the press coverage.

### ***Advisors’ Review***

Before the Grand Jury may publish its Final Report, the Presiding Judge must accept it. It is also prudent to submit a copy to County Counsel for review.

### **Review by County Counsel**

Because of the McClatchey Decision (see appendix), Grand Juries are vulnerable to libel suits if a report names or otherwise identifies non-elected officials, comments negatively about them, but no indictment is brought. County Counsel can review final reports for statements that could be potentially libelous.

County Counsel’s suggestions for changes are not binding on the Grand Jury. To ignore County Counsel’s advice is, however, very risky—we assume that no Grand Juror wants to end up in litigation.

The most common misstep of this kind is to give the name of a company or person or to give the exact job title of a person. To avoid these pitfalls, you can write “a private company,” “a member of the department staff,” or “the department office” (you may certainly name the department).

## Acceptance by Presiding Judge

Before the Grand Jury may publish its Final Report, the Presiding Judge must accept it. If the Grand Jury has done its work and writing properly, acceptance is not usually a problem. The Presiding Judge may not reject a Final Report because of its content. The Presiding Judge may reject a report because it is outside the legal jurisdiction of the Grand Jury or is otherwise not in conformance with the Penal Code. The Presiding Judge may also advise the Grand Jury when a Final Report contains potentially libelous material.

When the Presiding Judge has accepted a report, the Grand Jury may publish it at any time, but not later than the end of the term. This latitude in publishing means that a Grand Jury may publish one or more of its reports as soon as the reports are finished and accepted by the Presiding Judge. Early publication can give strong emphasis to a report that has timely or urgent matters that need attention and correction.

## Responses

After the Final Report is released, governing bodies and elected County department and the agency heads must write a response to the Final Report and send the responses to the Presiding Judge. The Presiding Judge sends a copy of the responses to the Grand Jury to check that it meets the requirements of Penal Code §933, and publish. (If a response comes directly to the Grand Jury, make a copy and give the original to the Presiding Judge.)

The governance of responses to the Grand Jury Final Report is contained in Penal Code §933 and §933.05. If you are working with responses, you should read this section carefully and completely. The following summary is not a substitute for reading §933 and §933.05, but will give you the gist of the situation.

Responses must be submitted within 60 or 90 days. Elected officials must respond within 60 days. Governing bodies (for example, the Board of Supervisors) must respond within 90 days. Some reports will have a Response Requested from an appointed department head, agency administrator, or district supervisor, or from someone related to the topic of the report. These people are not required to respond, but might.

The officials must write a response to each Finding and to each Recommendation in their sections of the Final Report (Appendix \_\_\_\_).

For the Findings, the Responses can be one of three responses:

- Agree with the finding.
- Disagree with the finding because....
- Disagree with [this] part of the finding because....

For the Recommendations, the Responses can be one of four responses:

- Already implemented on [date]
- Will not be implemented because....
- Will be implemented in these steps...on these dates....
- Will require more study (this study must be done within six months of the release of the Final Report)

When you receive the responses to the prior year Grand Jury (in August and September), the internal committee your Grand Jury formed to handle the responses must begin assembling

the Final Report with the Responses and setting up the printing. The County Administrator’s Office will help you with the word processing—most of the responses will come from the Board of Supervisors. Consult the Memo of Understanding between the Grand Jury and the Board of Supervisors.

By August 1, the committee that is handling the publication of the Final Report with Responses should also have arranged printing. Check with the prior year’s Foreperson if any printing arrangements have already been set.

September 30 the window for all responses closes—that’s 90 days from the end of the prior term. The actual due date for a response can vary, depending on the actual release date of a report and whether the respondents have 60 or 90 days to respond. Remember, too, that the Grand Jury may release any of its reports at any time after the Presiding Judge has accepted them. (All reports are then published together at the end of the term.) The following table gives you some sample release dates and response deadlines.

<b>Release Date</b>	<b>+ 60 days</b>	<b>+ 90 days</b>
January 13	March 14	April 13
March 19	May 18	June 17
May 9	July 8	August 7
November 30	January 29	February 28
June 30	August 29	September 28

After the final closing date, you need to check the responses received against a list of the reports and who was required to respond. For reports without responses, you print “Legally required response not received by printing deadline.”

If a response is faulty—missing or not compliant with §933.05—you must direct your Foreperson to write and advise the Presiding Judge and the affected agency which required responses have not been received and which responses are not compliant with the Penal Code.

Responses are not compliant with the Penal Code when a response to one or more findings or recommendations is missing or omits required information. For example, a response of “Already implemented” without the date of implementation is a faulty response. Similarly, a response of “To be implemented” without the steps and dates for implementation is a faulty response. (This is where a thorough study of Penal Code §933.05 is imperative.) The committee working on the responses and the Foreperson must be vigilant about informing the Presiding Judge and the affected agency when respondents are tardy or incomplete in their responses.

Publishing the Final Report with Responses is not the end of the trail. Peruse last year’s Final Report. Notice at the back there is a table that lists all the reports and summaries of the responses received. After your committee publishes the Final Report with Responses, you must compile such a table for inclusion in your Grand Jury’s Final Report. The CAO’s Office will compile the information for this table for County departments and agencies. The Grand Jury must compile the information for this table for non-County entities.

## **Publish and Distribute Final Report**

When sending individual reports, send copies to all the names on the Response Required and Response Requested lists for each report. This can be accomplished either by postal mail or email. Also include copies of Penal Code §933 and §933.05. Explain in your cover letter to the names in the Response Required list that they have 90 days to respond. Also explain in your cover letter that the report is being sent two working days ahead of public release, per Penal Code §933(f), and that they must keep the contents of the report confidential until public release. Be sure to mark the envelopes (or emails) confidential

For the final report, insert blank pages as needed to start each report on a right-hand (odd-numbered) page.

The CEO's office should receive a copy of all Reports ready for public Release. Per an Memo of Understanding (MOU) between the Grand Jury and the Board of Supervisors, the CEO's office compiles the reports, and subsequent responses for the Grand Jury.

After a report is approved by the full panel, reviewed by County Counsel, and accepted by the Presiding Judge, the Grand Jury is ready to publish it and distribute it to the affected agencies and the public via local media and the Grand Jury's website at <http://www.co.mendocino.ca.us/grandjury/>.

Reports may be released at any time during your term. The Final Report, compiled in June, contains all the reports, including those released earlier. There are no interim reports, all reports released are the final version of the report.

After the grand jury receives copies of the responses to the previous Grand Jury's Final Report, the Foreperson or his/her appointees shall work with the CAO's Office to publish and distribute the Final Report with Responses. Release of unpublished responses occurs in October per the MOU with the County (See Appendix \_\_\_\_).

The guiding document for the publication and distribution process is the MOU between the Grand Jury and the Board of Supervisors. A signed copy of the MOU is on file in the Grand Jury office in the folder marked "Contracts." The Board of Supervisors approved the Memo of Understanding in February 2001. The text is included here, after the descriptions of the Final Report and Final Report with Responses publication processes.

The Final Report is a no longer printed in a booklet. Due to budget constraints, the Grand Jury shall have the CAO and Information Services post all final report's to the Grand Jury's website. A letter informing all parties to all reports should be mailed informing them of these facts in lieu of printed distribution of the bound final report.

### **Final Report with Responses**

The Final Report with Responses is also published to the Grand Jury's website with the help of the CEO's office and Information Services.
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After you receive from the Presiding Judge copies of responses to the previous Grand Jury's Final Report, the Edit committee should work with the CEO's Office to assemble the Final Report with Responses. When the Foreman receives copies of non-County responses, the Foreperson must send copies to the CEO's office. (The CAO's office will already have on hand copies of responses from the Board of Supervisors and from County Departments.) The CEO's office puts together the reports and the responses and produces a disk that the Grand Jury can post to their website.

**Note** The CEO's office puts the responses together with the reports. The responses are interlaced in the Final Report which means that the responses appear after each finding and after each recommendation. Review previous years' Final Reports with Responses for examples. For the process of preparing the Final Report with Responses for printing, read Appendix \_\_\_\_\_ of the Memo of Understanding.

## ***Distributing***

After the Final Report is printed, you distribute it to local media and publish the report to the Grand Jury website. For the Final Report for your term, the distribution includes elected officials; County department heads; the heads of agencies and districts the Grand Jury has reported about; the Presiding Judge; libraries; and news outlets (see General Distribution List). The Grand Jury may choose to send copies to complainants.

**Important** Penal Code §933.05(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity **two working days prior to its public release** and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

Specify that the responses be submitted both in hard copy and in digital format.

For any report your full panel releases to news media, both for any report published separately before the end of the term and for the combined Final Report at the end of the term, the Foreperson should write a letter that identifies the report as a Grand Jury report or Final Report and highlights any important findings or, in the case of the full Final Report, any general conclusions—these points should be the same as those in the Foreperson’s Preface to the Final Report.

## ***Website Publication of The Final Report***

In addition, the Foreperson shall be responsible to place a copy of the Final Report on the Grand Jury website at <http://www.co.mendocino.ca.us/grandjury>, which is part of the Mendocino County website. To place a copy of the Final Report on the Grand Jury website, the Foreperson must arrange for certain preparatory tasks to be performed, including preparing the file electronically, and uploading it to the website, or submitting via electronic file, to the Information Services Department. Either the Grand Jury can perform these tasks for itself—providing the Office Assistant or some Grand Juror takes the Information Services training course for the software used and for managing and changing the contents of a website—or the Grand Jury may have Information Services perform these tasks under signature of the Foreperson.

You must request that Information Services add a link on the main page of the County website to your Table of Contents web page.

**Note** Information Services generally requires only one working day to complete the posting of the Final Report on the website, and will do so only under signature of the Foreperson. Information Services undertakes to respect the confidentiality of the Final Report and not reveal its contents until your Final Report is publicly released. In practical terms, this means you can give an electronic copy of the Final Report to Information Services the same day you mail the report to the affected agencies.

## ***Final Report with Responses***

The Final Report with Responses is the Final Report from the previous term with the responses from the governing bodies and any other responses received. You publish the Final Report with Responses in a website format on the Grand Jury website.

For the Final Report with Responses, you distribute to the General Distribution List, plus the general public as a webpage on the Grand Jury website. The Grand Jury pays for any newspaper distribution. If the Grand Jury has The Ukiah Daily Journal print the Final Report with Responses, they will deliver copies to the Fort Bragg Advocate News and the Mendocino Beacon. The Grand Jury may deliver copies to the other newspapers. The currently expected number of copies is usually about 25,000.

## **Website Publication of the Previous Final Report with Responses**

In addition, you'll replace the copy of the previous Final Report on the Grand Jury website with the previous Final Report with Responses. To place a copy of the Final Report with Responses on the Grand Jury website, you perform the same steps listed above under "Website Publication of Your Final Report."

**Note** The only difference is that the previous Final Report with Responses *replaces* the previous Final Report.