

**THE SAN BENITO COUNTY**



*Grand  
Jury*

**2022-2023  
POLICIES & PROCEDURES MANUAL**

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## **II. INTRODUCTION**

The purpose of the Policies and Procedures Manual is to provide written orientation for Jurors concerning the fundamentals of the Grand Jury and the laws applicable to Grand Jury proceedings. It furnishes incoming Jurors with information relevant to their roles and is a guideline for conduct throughout the phases of a Grand Jury term. The sitting Grand Jury should adopt this manual by a supermajority vote of twelve.

The information and materials in this manual are a compilation of prior Grand Jury Manuals for San Benito County and about the methods employed by each Jury. This specific manual reflects the basic best practices of the San Benito County Grand Jury. The policies and procedures noted have been updated through each successive term, and Jurors are encouraged to note policies that should be revised to reflect developments in technology and changes in the law. During the Grand Jury term, proposed revisions shall be noted in a log maintained by the Corresponding Secretary.

In addition to being a guideline for conduct throughout the phases of a Grand Jury's term, the manual also serves as an historical document, presenting ways prior Juries have addressed critical decisions. Each Jury may adapt procedures that meet their specific needs and also ensure consistency in following the penal code.

## Grand Jury Overview

The Civil Grand Jury is an independent institution that investigates the legislative and administrative agencies and departments that make up county, city and special district government in each of the 58 counties in California. The State Constitution has granted this power since 1850 to help ensure that these agencies are efficient, honest, and dedicated to serving the public.

The San Benito County Civil Grand Jury is composed of 19 members, selected annually under the supervision of the Presiding Judge of the San Benito County Superior Court, with the assistance of the Court's Administrative Office. By law, a Grand Juror must be a U.S. citizen 18 years of age or older; be a resident of San Benito County for at least one year; have knowledge of the English language; and have no convictions for malfeasance in office, any felony, or any other high crime.

In addition to meeting the statutory requirements, a Juror will be most effective by committing 15 to 20 hours per week, with potentially more time required from Officers and Committee Chairs. Grand Jurors need to demonstrate the ability to work cooperatively with others, be tolerant of all views and opinions, and have a genuine interest in having a positive impact on community affairs through local Governance.

## Oath of Grand Jurors

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 investigations carried on by the Grand Jury, of which the Grand Jury shall have or can obtain legal evidence. Further, I will not disclose any evidence brought before the Grand Jury, nor anything which I or any other Grand Juror may say, or the manner in which I or any other Grand Juror may have voted on any matter before the Grand Jury. I will keep the charge that will be given to me by the court.

## Laws Governing the Grand Jury

For a complete list of the laws governing the existence and operation of the Grand Jury, see the Compendium of California Grand Jury Law. The Jury is required to submit a Final Report of its findings and recommendations to the Presiding Judge of the Superior Court. By law, departments or agencies that are the focus of such reports must respond, either to agree or disagree with the findings, comply with the recommendations or explain why no action or only partial action will be taken. The Jury can function lawfully only as a body. Jurors may not as individuals conduct Grand Jury business or individually interview persons regarding Grand Jury matters.

Decisions are made by a majority vote. A quorum is necessary for voting. In the San Benito County Civil Grand Jury, a quorum is defined as 12. A supermajority vote (12 Jurors) is required for passage of all motions other than adjournment and non-business-related Decisions.

## Confidential Proceedings

The importance of maintaining the confidentiality of Grand Jury proceedings cannot be overemphasized. Confidentiality protects the interests of the public, those being investigated, and the Jurors themselves. The rules of secrecy must be strictly observed. A strong tradition of secrecy has historically shielded the investigations and deliberations of Grand Juries. This tradition serves to guard the Jury's independence of action and freedom of deliberation. Secrecy protects witnesses called before the Grand Jury and encourages their full disclosure. Secrecy also serves to protect the reputations of individuals and institutions investigated in matters for which the Grand Jury does not accuse or report.

Except under limited circumstances, proceedings before the Grand Jury must be conducted in utmost secrecy. Only members of the Jury, witnesses actually being examined, and those persons specifically permitted by law may be present. The District Attorney or his/her deputy may be present at Jury sessions for the purpose of giving information or advice, and to interrogate witnesses whenever the District Attorney deems it necessary. The Presiding Judge of the Superior Court or County Counsel may attend only by invitation when their advice is sought upon matters under consideration by the Grand Jury. Except when ordered to do so by the Court, a Juror must not disclose any evidence received by the Grand Jury, what any Juror has said, or in what manner any Juror has voted on a matter before the Grand Jury. Penal Code §924:

*"Every Grand Juror who, except when required by a court, willfully discloses any evidence adduced before the Grand Jury, or anything which he himself or any other member of the Grand Jury has said, or in what manner he or any other Grand Juror has voted on a matter before them, is guilty of a misdemeanor."*

Use of an encrypted email service will protect Grand Jury security. All such email shall include the following statement in the body of the message:

**"CONFIDENTIALITY NOTICE:** This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the Communication."



## Grand Jury Jurisdiction

While priority should be given to investigating citizen complaints, the Grand Jury spends most of its time examining all aspects of County and city governments and special districts, school districts, community colleges, joint powers agencies, and Local Agency Formation Commission (LAFCO). Penal Code §919 requires that the Grand Jury inquire annually into conditions of county jails and detention centers.

### **The Grand Jury may also:**

- Inspect and audit books, records, and financial expenditures to ensure that public funds are properly accounted for and legally spent.
- Inquire into charges of willful misconduct by public officials or employees.
- Study reports of previous Grand Jurors and review their recommendations for changes in County government. Follow-up on responses by agencies to Jury recommendations in order to verify that promised implementation of recommendations is carried out.

There is no requirement that an investigation be undertaken or a report be published on every issue brought before the Jury. The Jury as a whole (the Plenary) hears a preliminary report on each complaint or potential investigation from a committee, and then votes on which issues are to be examined.

## Conflict of Interest and Impartiality

In accordance with San Benito County's adopted Conflict of Interest Code, Jurors are required to complete a Statement of Economic interests (Form 700):

- At the start of their service
- At the beginning of a new calendar year
- Upon termination of service

Jurors are prohibited from using their official positions to influence decisions in which they have a financial interest, an organizational responsibility, or where they have a personal relationship that would constitute a conflict of interest. Jurors should avoid taking any action that could create the appearance of using their position for personal gain, or to promote personal interests or businesses. When a real or potential conflict of interest occurs, Jurors have an obligation to inform the Foreperson and excuse themselves from voting or participating in related proceedings or Deliberations.

Jurors must also guard against bias, defined as a prejudgment of essential facts which prevents a member of the Grand Jury from considering the issue on its merits, or a publicly expressed support or opposition to specific aspects of a matter before the Jury. Having an educated opinion on an issue should not be considered the same as having a bias. The same procedures that apply to potential conflict of interest shall apply to bias.

Members of the Grand Jury shall not accept gratuities except token gifts or mementos given to visitors as a matter of standard procedure. Transportation or moderately-priced meals are not considered gifts if they are deemed necessary to facilitate conducting business in the field.

## Conduct and Responsibility

The Grand Jury is a judicial body of the Court. Jurors may act only through the Grand Jury as a body. Individually, Jurors have no official standing, power, or authority.

### **A Juror Should:**

- Participate in developing common goals early in his or her term and work cooperatively to meet them.
- Seek to establish a bond of trust and confidence with fellow Jurors.
- Exercise discretion and diligence in conducting the business of the Grand Jury.
- Use the power of the Grand Jury only in the interest of the citizens of the County, not as a means of self-aggrandizement, gratification, or self-gain.
- Treat his/her fellow Jurors with courtesy and respect. (See below on page 12, Code of Collegiality).

### **A Juror should NOT:**

- Make public statements concerning Grand Jury matters.
- Discuss Grand Jury matters with anyone outside of the Jury.
- Exert undue pressure on other Jurors to change their minds on matters pending before the Jury.
- Monopolize deliberations.
- Reach a conclusion on a matter until all sides of the question have been fairly considered.
- Jurors must exercise caution in identifying themselves as Jurors in matters other than those directly connected with Grand Jury matters. This includes wearing Jury badges inappropriately.

A Juror may take no action without the prior explicit approval and authorization of the entire Jury. Unilateral action by a single Juror can result in serious misperceptions by the public of the intentions and activities of the Jury. A careless or reckless Juror may harm the reputation of the entire Jury. A Juror may be removed by the Presiding Judge upon recommendation of a supermajority vote of the Plenary, or the Presiding Judge may initiate the action. The Jurors may form individual opinions about matters pending before the Jury. However, the Jury as a deliberative body must operate by consensus and express a collective opinion in its reports. Once consensus has been reached, all members shall support the decision.

Only the Foreperson may act as official spokesperson for the Grand Jury. No other Juror is permitted to make public statements about Jury business, or operate as an individual in conducting Grand Jury business.

## Policies and Procedures Manual

Because of their extraordinary powers, privileges, and responsibilities, Jurors have a special obligation to exercise their authority and carry out their duties in a proper and responsible manner within the boundaries of the law. Jurors must never exploit or otherwise abuse their office.

## Code of Collegiality

Assume goodwill.  
Listen aggressively.  
Speak thoughtfully.  
Prepare diligently.  
Show up promptly.  
Collaborate respectfully.  
Prevail graciously.  
Concede cheerfully.  
Strive for synergy and consensus.  
Follow the rules of order.

## **III. OPERATIONS**

### **Orientation and Initial Meetings**

Initially, the incoming Grand Jury will meet as often as needed for training in the functions, duties, and responsibilities of a Grand Jury, and to discuss and adopt procedures under which it will operate.

During the first days of the term, the Foreperson assigns members to standing committees and selects temporary Committee Chairs. At the conclusion of orientation and training Officers are selected in Plenary. The Policies and Procedures Manual shall be reviewed and accepted by the incoming Jurors at an early meeting.

The incoming Jury should decide on operational practices such as whether the minutes should reflect a Juror's absence by name or simply note the number of Jurors in attendance; whether to have a snack rotation; or whether to collect petty cash to replenish water, coffee and paper goods.

### **Training**

Training sessions are arranged through the California Grand Jury Association (CGJA) by the outgoing and incoming Foreperson. In the past, other options included training conducted by the previous term's Foreperson, the current term's Foreperson (who is chosen by the Presiding Judge), holdover Jurors from the prior year, or other former Grand Jurors through the San Benito County Grand Jury Association.

The Information Systems Department (ISD) may be called on to provide special training on services and tools provided by ISD such as e-mail accounts on the County network server, usage of shared storage and video conferencing.

Besides the CGJA (GJ broad concepts) and ISD (facility tools) training, there may be additional specific software training to assure uniform skills in MS Word, MS Word's Tools (change tracking, Compare), file naming conventions, control of editing changes, and writing style.

## Holdovers

Under Penal Code § 901, the Presiding Judge may name up to 10 jurors who served on the previous jury and who consent to serve for a second year. Such jurors are called holdovers, and because of their prior service, provide valuable guidance to the newly seated jury.

To facilitate the identity and selection of holdovers, in or about March, the Foreperson should discuss the process with the Jury and invite jurors who are interested in serving another term to inform the Foreperson of their interest. Thereafter, the Foreperson should observe the would-be holdovers to assess their commitment to the Grand Jury, their individual service to the Jury, and their ability to work with others, respectfully and productively.

By early May, the Foreperson should identify which of the would-be holdovers has the characteristics and temperament (and the available time) necessary to lead the Jury as Foreperson, and should determine whether that person is interested in serving in that role. These decisions should remain private until early June, at which time the Foreperson should contact the Presiding Judge (by email or, if the Judge prefers, through a meeting at court) to briefly describe each holdover and his/her strengths, and to recommend the holdover who will be the next Foreperson.

## CGJA's- Role of the Holdover

NOTE: from the California Grand Jury Association Legislative and Legal Resources Committee.

The authority for allowing the superior court to appoint a grand juror to serve a second term on the succeeding grand jury is in Penal Code section 901. That section allows the Presiding Judge to name up to 10 sitting jurors to serve a second consecutive term. While some do not, most courts do appoint holdover jurors.

The former juror can bring to the new jury a wealth of knowledge and experience. How That knowledge and experience are utilized may have a significant impact upon the success of the succeeding grand jury. The holdover juror has been through the process before and can be of great assistance to fellow jurors on the succeeding grand jury. A familiarity with local government operations and the procedure for scheduling and holding interviews, conducting investigations, and writing, reviewing, and releasing reports can give the new grand jury a head-start on the work at hand.

On occasion, however, a former juror can be disruptive and impede the effectiveness of the new grand jury. Such disruption may occur if the former juror attempts, alone or in concert with other holdovers, to dictate how the jury should operate or what the jury should investigate. Former jurors have no more, and no less, authority than the newly impaneled jurors. Former jurors must understand that deliberations in last year's grand jury remain confidential and cannot be revealed to the new grand jury.

Problems can arise when a grand jury has voted to pass on to the succeeding grand jury an investigation file pursuant to Penal Code section 924.4. Even then, the holdover juror remains bound by Penal Code section 911 (the oath of confidentiality) and Penal Code section 924.1 (the confidentiality statute) not to disclose to the new grand jury the substance of any discussion, vote, or evidence adduced by the prior grand jury that is not contained within the investigative file.

A holdover juror must not try to "take ownership" of any investigation that was initiated by the preceding grand jury. While an investigative file may have been passed forward, the new jury has no obligation to initiate its own investigation in connection with the issues raised within that investigative file. While that information is likely to be substantial, Penal Code section 939.9 requires that "A grand jury shall make no report, declaration, or recommendation on any matter except on the basis of its own investigation of the matter by such a grand jury." Accordingly, all investigative material must be reviewed by the new grand jury, and all interviews deemed necessary to the investigation must be undertaken by the new grand jury before they are able to write a report with their own findings and recommendations.



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The role of the holdover grand jurors can be beneficial or detrimental. It is up to them and the other members of the new grand jury to work together to reap the benefit of the experience that the holdover jurors bring to the table.

Usually, the Presiding Judge, and the Court Administrator, will want to meet with the incoming Foreperson to begin to establish a working relationship. After the Judge and the Court Administrator have been informed, the Foreperson may announce these new assignments to the Jury. NOTE: neither the Judge nor Court Administrator is asked to approve the Foreperson's decisions; they are merely to be informed.

## Attendance

Attendance for each Grand Juror must be regular and punctual. A Juror must advise the Foreperson in advance when he/she is unable to attend a scheduled Jury meeting or activity. An unexpected lack of a quorum may cause considerable inconvenience. The Plenary may wish to consider its rules for attendance early in the term. The limits on consecutive absences and/or total absences should be discussed and agreed upon. Extended absences due to medical or personal needs can be dealt with by the Plenary to decide if a member should be asked to resign

The San Benito County Civil Grand Jury's practice has been to meet weekly—on Wednesdays. In addition to attending general meetings of the Plenary, each Juror will be a member of one or more committees. These committees will meet as needed. Each committee will be assigned a meeting room by the Foreperson on the Grand Jury campus.

If a Juror cannot or will not participate in the activities of the Jury, the Plenary can recommend his or her removal. The Foreperson will notify the Presiding Judge of the Superior Court and the Judge will determine whether an Alternate Juror will be appointed. Alternate Jurors who are appointed to fill vacancies may review any previously collected information, and may vote on any Jury issues.

## Compensation and Reimbursement

Meetings are defined in several ways. General Grand Jury meetings, committee meetings, tours, inspections, and interviews are defined as meetings for the purpose of expense claims. Jurors' expense reports for per diem, mileage, and reimbursement claims are processed. The Treasurer will collect the reports at the first meeting of each month and submit them to the County for payment. Currently, each Juror in attendance receives a per diem of \$15.00 per general meeting.

No more than one General meeting may be claimed per day.

To claim per diem for a committee meeting, a majority of the committee members must be in attendance. For committees of four or five, this means at least three members. Investigation interviews and meetings, tours of County and city departments, attendance at public meetings (e.g., Board of Supervisors), and relevant classes are reported on the Juror's expense report as a committee meeting, provided a majority of the committee members are in attendance, or as Grand Jury business if fewer than a majority of the committee members are in attendance (in which case only mileage can be claimed).

Jurors are paid mileage for the use of their personal vehicles while performing Grand Jury business. The rate of reimbursement is determined each year. Miscellaneous expenditures submitted for reimbursement on the monthly expense report must be pre-authorized by the Foreperson and include original receipts. Any out of County trips and related expenses are only reimbursable if advance approval was obtained from the Foreperson. Before purchasing any office or computer supplies, Jurors should check with the Sergeant at Arms for local availability of required items.

## Communicating by EMail

Much of the Grand Jury communication is handled through email. It is required that Jurors have a separate email for all Grand Jury correspondence. Check with your FP to decide what is the best provider to use.

All emails must include the email privacy signature that is located in the introduction section of this manual.

## Facilities

The San Benito County Grand Jury meets at the Sheriff's office, in the main conference room upstairs. The address to the office is:

### **2301 Technology Parkway, Hollister, CA 95023**

There is ample parking outside, except where permits are required. Please ensure that you are not parking in an officer/employee only zone. Each Juror will be issued a badge, all CGJ members must wear their badge at all times within the facility. The Grand Jury rooms, cabinets, and files are to be kept locked when the facility is unoccupied.

The Sergeant at Arms is responsible to see that all doors are locked, and to ensure that the building is left in secure condition. Following are the recommendations for security of the Jury meeting rooms:

- File cabinets are closed and locked
- All windows are closed and locked
- The vertical blinds are closed
- Thermostat is in the off position
- Lights are turned off
- The outside door is closed and locked
- Grand Jury Laptop is secured at all times

## Typical Timeline of Activities

The following is a listing, by month(s), of activities that need attention by the foreperson, the pro tem, the other officers, and the entire grand jury. This is not a definitive list and may include activities that may not apply to your jury, but it can serve as an overview and guideline.

CGJA recommends that you develop a timeline of activities for your own jury and refer to it frequently during the term. One of your routine agenda items for plenary meetings can be “Review our timeline of activities.”

Court selects and swears in a new jury; select alternates.

### Beginning of Term

- Attend your local orientation program for jurors and alternates to get acquainted with each other and with your local officials, court personnel, and legal advisors – and to learn of local grand jury practices
- All jurors and alternates attend training conducted by the California Grand Jurors’ Association (CGJA)

### Month One

- Hold plenary (full panel) meetings to get organized – set the frequency, day, and time for regular plenary meetings; by a supermajority vote.
- Adopt rules of procedure (the “procedures manual”)
- Determine which officers to have and define their duties; decide which committees to have and how chairs are to be selected
- adopt ground rules for juror conduct during meetings
- Elect officers
- Form investigative and administrative committees
- Select committee chairs (or temporary chairs); set the frequency, day and time for various committee meetings
- Discuss the jury’s budget and the county’s expense reimbursement procedures, including jurors’ claims for per diem and mileage
- Arrange for the foreperson and pro tem to meet informally with the presiding judge, county counsel, and the district attorney to discuss roles and establish contact procedures (email, phone call, etc.)
- Have all jurors complete a Form 700 and W-9
- Discuss confidentiality, ethics, collegiality, and juror conflicts and recusals and have jurors sign a code of ethical conduct
- Review and evaluate the reports of the prior grand jury and the responses to them as they are received

### **Months 2-4**

- Conduct or arrange for internal training of the jury (review of individual chapters of the CGJA Training Manual, electronic communication, word processing and editing skills, etc.)
- Review your adopted ground rules for juror conduct during meetings
- Review any civil investigative files passed forward from the prior grand jury and consider assigning them to an investigative committee for initial research
- Conduct tours of state prisons and conservation camps, and consider touring local jails and juvenile facilities within the county
- Editorial committee works on style guidelines for reports as well as a template and presents them to the full jury for approval
- Investigative committees discuss topics of interest (including those contained in citizens' complaints), research the topics, prioritize them, and then decide which ones to propose to the full jury for investigation
- Committees prepare and submit proposals for investigation to the full jury for approval; the full jury must prioritize topics and approve each investigation by a supermajority vote
- Confer with legal advisor regarding jurisdiction or other legal issues
- Establish a master timeline for all inquiries, investigations, and report
- Begin investigations (research, observations, inspections, and interviews) and inquiries (often just a facility tour; no report) and report regularly to the plenary as to progress
- Investigative committees "meet with" (interview) the subject of each report, unless excused by the court
- Continuity committee reviews responses to prior year's reports and if recommendations were rejected, discusses possible reasons with plenary

### **Months 5-8**

- Foreperson and pro tem meet with county CAO/CEO on next year's grand jury budget to ensure adequate funding
- Committees continue to review complaints and other topic suggestions and propose their own topics for investigations
- Investigations continue and drafting of reports begins
- Editorial committee establishes or updates list of media contacts' email addresses

### **Months 7-10**

- Editorial committee reviews and edits draft reports and sends them back to investigating committees as needed
- Committees conduct exit interviews as reports near completion and conduct further investigation and revise reports as needed
- Legal advisor (county counsel or district attorney) reviews drafts of reports; committees and jury revise and approve reports again as needed
- The full panel reviews and approves reports by supermajority vote
- Jury submits reports to the judge for approval before release (the jury may release individual reports before the end of their term)
- Jury provides approved reports to subject agencies and officials two working days prior to their public release
- Jury posts reports on its website as they are released, then sends a press release with each report, or a link to the report, to media contacts

### **Month 10**

- Investigations, report writing, and exit interviews continue with any necessary advice from legal advisor
- Completed reports are reviewed by legal advisor and submitted to the judge for approval, prior to providing them to the entities two working days in advance of their public release
- Editorial committee meets with the manager of the print shop to plan the final consolidated report (covers, binding, dividers, procedures, etc.)
- Editorial committee discusses final details with plenary to get input on the look of the consolidated report

### **Month 11**

- Group picture may be taken
- Grand jury finishes last individual reports and submits them to the judge
- Editorial committee meets with the print shop manager to finalize cover choice, layout, etc., of the final consolidated report
- Continuity committee or foreperson assists in the preparation for the local orientation program for the incoming grand jurors and alternates and passes on information regarding the CGJA training program

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### Month 12

- Editorial committee reformats the approved grand jury reports and other content for inclusion in the consolidated final report, submits it to the print shop, and readies it for posting on the grand jury's website
- Editorial committee finalizes details on newspaper insert, if applicable, working with the newspaper to develop graphics and format, and reviews and revises other content to develop the insert for publication, and proofreads the insert
- Jury revises and prepares procedures manual for next jury to consider for adoption
- Each juror submits a "Leaving Office" Form 700
- Jury cleans meeting room, returns keys, organizes library
- Jury decides by supermajority which, if any, civil investigative files will be passed forward to the next jury or delivered to county counsel, and seals or shreds all other confidential files
- Jurors consider holding a social event for the outgoing jury

### End Of Term

- All jurors attend the selection and swearing in of the new jury and discharge of current panel
- Foreperson and other officers may, if invited, take part in the new jury's orientation program to provide information on local practices
- Foreperson should be available as a resource to the incoming jury, but must be careful to maintain confidentiality
- Foreperson or designee must be available for 45 days after the end of the term to clarify recommendations, if requested by any person



## IV. ORGANIZATION

### Officers and their Duties

At the time of Jury selection, the Presiding Judge of Superior Court appoints a Foreperson for the upcoming term. The other officers are usually assigned in the process of determining holdovers from the previous term.

### Foreperson

In general, the foreperson is to ensure that the jury as a whole, functions effectively and efficiently. To this end, the foreperson should be in regular consultation with the Committee Chairs. The foreperson can vote on all matters, and has the determining vote in a tie.

The foreperson represents and acts as the spokesperson for the jury to all outside persons and entities. The foreperson also has duties related to indictments and the accusation function, which the District Attorney would discuss with the foreperson if the need arises. Some foreperson duties are found in the Penal Code. See the Appendix for specific laws in the Penal Code and the Government Code that apply to the foreperson.

- Oversees all activities of the grand jury and makes sure the jury conforms to all Penal Code requirements
- Prepares agendas for and presides at Plenary sessions and executive committee meetings
- As the official spokesperson for the grand jury, handles media contacts and publicly represents the grand jury
- Monitors juror recusals to ensure that jurors with conflicts take no part in the investigation and report in question
- Serves as ex officio member of all committees
- Monitors progress of committees as they conduct investigations and draft reports to ensure all work is conducted in a timely manner in order to complete the final consolidated report by term's end
- Ensures that jurors receive adequate training and orientation
- May place witnesses (interviewees) under oath
- Signs all grand jury reports and accusations (with prior approval of the supermajority)
- Signs correspondence and, with the court's approval, issues press releases

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- Monitors jury expenditures to stay within budgeted funding: consults with county budget representatives if the budget needs to be increased or modified
- Consults with the judge, County Counsel, and District Attorney on administrative or legal issues; may be accompanied to meetings with these officials by the Pro-Tem
- Reviews complaints with the grand jury for rejection or referral for initial review to the appropriate investigative committee
- Participates in the resolution of personal differences between jurors
- Initiates request to the court for removal of any jurors for excessive absences or other good cause
- Orients Alternate Juror called to serve
- Remains available for 45 days after the term's end, to clarify recommendations made in the final report
- Remains available for consultation to the incoming foreperson for two months into the new term
- Except for duties required by the Penal Code, the foreperson may choose a designee or delegate duties to other officers when appropriate

### **Penal Code that applies to the foreperson responsibilities:**

PC 916 "Each grand jury shall choose its officers, except for the foreman..."

PC 932 "...the grand jury may order the District Attorney...to institute suit to recover money...due the county. (The order must) be certified by the foreman..."

PC 933(a) "For 45 days after the end of the term, the foreperson and his or her designees shall upon reasonable notice, be available to clarify the recommendations of the report."

PC 933.05(e) This section provides that, upon request of the foreperson, the court may determine a meeting with the subject of an investigation would be detrimental and, on that basis, waive the requirement to have the meeting.

PC 939.1 This section provides that the grand jury, through its foreperson and the Attorney General or District Attorney, may request the judge to permit public hearings into the alleged corruption or misconduct of public officials.

PC 939.4 This section allows the foreperson to administer an oath to witnesses. The Pro Tem may administer the oath in the foreperson's absence.

Government Code 3062 provides that an accusation must be presented to the District Attorney by the foreperson.

Government Code 3073 provides that an accusation against the District Attorney must be delivered by the foreperson to the clerk of the court for delivery to the judge.

## Pro Tem

The Pro Tem assists and advises the foreperson as needed. The primary responsibility of the pro tem is to be able to step in and assume all the functions of the presiding officer when the foreperson is absent or recuses. In case of prolonged or permanent disability of the foreperson, the pro tem acts as foreperson until a new foreperson is appointed by the Presiding Judge.

The pro tem shall be fully informed and engaged in all functions of the foreperson duties in order to effectively assume those responsibilities as needed. The foreperson must ensure that the pro tem can rise to the occasion. It is best for the foreperson and pro tem develop a strong collaborative working relationship. The foreperson shall keep the pro tem informed of administrative and personnel matters. They work closely together, allowing them to leverage their skills and knowledge.

Specific tasks of the pro tem are best established based on those skills and knowledge that each individual brings to the group leadership. Possible duties specific to the pro tem shall be decided in that discussion. Those duties may include any or all of the following but is not limited to these duties:

- Chair a Chairpersons' Committee. Facilitate regularly scheduled meetings with the chairs of all investigative, and ad hoc committees. In addition to a deeper discussion of procedural items also relevant to all Grand Jurors, topics such as smoothing inter-committee issues, solving interpersonal issues, managing group tasks, and identifying committee member skills and abilities are possibilities for this function.
- Serve as liaison with the local Grand Jurors' Association.
- Chair the Continuity Committee. Ensure that all responses received by the court are made available to the grand jury. Finalize the report for early release.
- Be well versed on all sections of the Penal Code, which relate to the Grand Jury's function For purposes of reference he/she shall have all such provisions available and in possession at all general meetings.
- Provide training and/or co-teach as requested by the foreperson.

## Recording Secretary

The Recording Secretary shall keep minutes of every Grand Jury general meeting. The minutes should show:

- The time of convening, and the names of absent jurors or, alternatively, the number of jurors present and absent.
- The time of adjournment.
- The time of recess and of re-convening when anyone other than a grand juror attends or visits a meeting. (Refraining from conducting grand jury business when others are present is preferred to allowing others to be present under admonishment).
- The time of arrival and departure of any jurors to or from the jury room during deliberation (as in early or late arrivals/departures). Jurors leaving for brief periods for personal comfort need not be recorded.
- That at least 12 jurors were present during any deliberations or voting. The Foreperson should be informed if there are fewer than 12 jurors present.
- That if a juror attends a meeting via speaker-phone, it is noted in the minutes.
- A record of all motions made, and the action taken on the motions. No names shall be recorded. In bold, use M/S/A (motion, second, approval), or M/S/F (motion, second, failed) to signify.
- A record of RFIs, complaints and other matters brought to the Grand Jury, discussions concerning issues before the Grand Jury, and actions taken by the Grand Jury.

Familiarity with the operant Grand Jury Rules of Order is also important, both for awareness whenever the Foreperson moves to formal proceedings for particular agenda items as well as for providing back-up to the Juror anointed as the Parliamentarian. The Recording Secretary shall maintain a folder in the share file under Plenary/Minutes, and maintain it as the official record for the Grand Jury. It is advisable to save the minutes from each meeting in a word document and once approved, as a pdf.

The Recording Secretary shall make every effort to provide each member of the Grand Jury with an electronic copy of the minutes of each meeting within 2-3 days of the meeting so that jurors have ample time to read them before the next meeting.

Meeting minutes are formally approved at the following meeting. If needed, additions or corrections to the minutes, as determined at the following meeting, are inserted prior to permanently filing the pdf minutes in the Plenary/Minutes share folder.

## Information Technology Liaison

The IT liaison is responsible for coordination with the primary County ISD and the assigned ISD employees that work directly with the Courts and their website, as well as responsible for the IT operations for the Grand Jury Term.

### **Some examples of essential job functions are:**

- Coordinating ISD services with the Foreperson.
- Coordinating the GJ plans with the Court's Website support.
- Be willing to provide technical support to other jurors.
- Familiarity with VPN and other "from home" usage issues.
- Expert in video conferencing/Zoom.

### **The San Benito County Grand Jury has a heavy need for tech-savvy Jurors to help with the following:**

- Technical Training (as needed) on Basic Best Practices; setting up an email account, accessing Microsoft services such as Sharepoint or Google Drive for document sharing and organization, iOS & Android Email applications (help get formal Jury email addresses on mobile phones), how to use a QR code, Etc.
- Video Conferencing, create recurring zoom meetings for all CGJ meetings, interviews, etc.
- Calendar Invites
- Familiarity with advanced Word features such as mail merge, tracking changes, and large document layout
- Familiarity with Enterprise Windows networks, basic security, password reset, file retention, and basic Windows troubleshooting
- Knowledge of directory structure and maintenance on both a local drive and a network drive

## Corresponding Secretary

The Corresponding Secretary is the primary assistant to the Foreperson in providing administrative support to the Grand Jury. The Corresponding Secretary is responsible for the receipt of mail addressed to the San Benito County Civil Grand Jury, writing letters as directed by the Plenary or the Foreperson, and obtaining the Foreperson's signature on all correspondence before mailing.

### **Some examples of essential job functions are:**

- Check the Grand Jury phone for messages each weekday.
- Weekly mail pickup from the Santa Rosa Main Post Office.
- Date stamp, assign a number, and record all complaints. File complaints in the Complaint Binder located in the locked file.
- Scan the complaint into a PDF file and store that in the /complaints folder in the shared area.
- Numbers are assigned as month, year and the number starting with 000. For example, July 2016, Case #1 would be assigned as 0716-001. An R would be appended to rollover complaints.
- Maintain the Master Calendar of Investigations.
- File original complaints according to the three-digit case number.
- Date stamp all other mail received i.e., agendas, minutes, and announcements, and deliver to the appropriate Committee Chairperson.
- Summarize the complaint for the Plenary and assign it to the appropriate committee.
- Write letters of receipt and disposition of complaints as directed by the Plenary.
- File a copy of the R-letters sent to complainants with the original complaint.
- Purchase stamps as necessary for mailings and obtain reimbursement.
- Maintain a log of proposed revisions to the Policies and Procedures Manual.

### **Requisite skills:**

- Proficiency in Word and Excel.
- Ability to design documents and work with templates.
- Ability to organize documents and file systems.
- Understanding of data management systems.

## Sergeant at Arms

The Sergeant at Arms arrives early on meeting days to open doors, turn on lights, and heat or air conditioning. At the request of the Foreperson, the Sergeant at Arms assembles the Jurors for general meetings.

### **Other duties include:**

- Ensure that no unauthorized persons are present in the Jury room during general sessions, deliberations, voting, and interviews.
- Set up power strips and electrical cords for plenary laptop connections.
- Answer the door during general meetings.
- Issue keys to Jury members (if requested), maintaining a record of who was issued keys for files, doors, and mailboxes by number with the Juror's signature confirmation.
- Set up a rotating schedule for refreshments at break. Members will take turns providing snacks for the Plenary sessions.
- Ensure the building is left intact, secure power strips and electrical cords, ensure doors are locked.
- Collect all County issued laptop computers from the plenary at the close of their term and return to the County I.T. office.
- Contact the County Administrator's Office for repair of items.

## Treasurer

The Treasurer is responsible for organizing, auditing, tracking, reporting and delivery of various financial transactions and documents.

### Some of the activities include:

- Obtaining form signatures
- Collecting and hand delivery of CA 700 forms
- Vendor forms and payment option forms to designated Accounting Analyst
- Collecting approved paper copies of monthly expense claims
- Auditing for accuracy and forwarding electronic versions for payment
- Obtains, Reviews, and Discusses budget and all financial related information with Foreperson
- Maintains financial forms in accordance with security procedures

### Treasurer Best Practices:

- At the beginning of the term, the Treasurer should make an appointment to introduce him/herself to the Accounting Analyst with whom they will be working closely over the coming year.
- They should obtain an Excel spreadsheet from the Foreperson of all jurors with contact information and personal email addresses and add columns for tracking CA 700 forms (x3), Vendor Request, Deposit Request, Payee Data Form, and monthly expense claims. This will help track all required forms but takes some attention as jurors withdraw and alternates are Added.
- It is strongly recommended that the Treasurer have a basic knowledge of spreadsheets and experience using Excel software. This will help in maintaining and providing the Foreperson any requested data.
- Juror information is confidential - Treasurers should not share information with anyone other than the designated Accounting Analyst and always file in a secure Location.



### Completing Forms for Jurors

#### CA 700 Forms

At the beginning of each term, receive an electronic package of the current version of CA 700 forms with attachments and instructions. Each juror MUST complete and sign a paper copy of the CA 700 form and include the mandated attachments if necessary.

- The Treasurer will collect, review for accuracy, request corrections from jurors, enter completed forms in the tracking spreadsheet and scan to an electronic version back-up file.
- Retain a copy in the office file cabinet.
- Hand carry the forms to the designated Accounting Analyst as soon as possible.
- Notify the Foreperson of any individual who fails to comply with this requirement.
- Any juror who is seated as a replacement must complete the CA 700 with the date they assumed their role.
- The Accounting Analyst should mail all forms to the new juror with a cc to the Treasurer.
- The Treasurer may give blank forms to the juror in order to expedite completion but work closely with the Accounting Analyst to avoid duplication.
- Any juror leaving jury service before the end of the term (regardless of reason) must complete another CA 700 form. The Accounting Analyst will email the form to the ex-juror. Let Foreperson know of any difficulties.
- The CA 700 completion process will repeat at the end of the calendar year (about February) using the updated form versions (2018-2019) and again at the end of the jury term.
- Prepare blank CA 700 forms for signature and collection on the last meeting day of the jury term.
- When the Treasurer takes office, he/she needs to prepare a 1" binder with tabs for each calendar month and place it in the small jury office filing cabinet for expense reports.
  - In addition, they will set up individual monthly folders by calendar year on a Shared Drive (such as MS or Google), so jurors can place their e-version of the expense report for review and submission.
  - Recommendation: add a sub-folder to move expense reports to as they are submitted to Accounting for payment. This helps to avoid duplicate submissions.

#### Supplier Request Form (See sample and instructions)

All jurors must complete a Supplier Request Form at the beginning of the term in order to receive payment for expenses. Each juror will receive a unique number and once a number is issued, the Accounting Analyst will email the juror and cc the Treasurer with the number and a copy of each individual expense claim form. Enter the date of submission and the number into the tracking spreadsheet.

#### Payee Data Record (See sample and instructions)

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All jurors must complete a Payee Data Record form at the beginning of the term. Enter the date of submission and the number into the tracking spreadsheet.

### Request for Direct Deposit

Any juror who would like to have direct deposit of their expense reimbursement must complete ACH Vendor/Payment Enrollment Form. A voided, canceled check must be attached. Collect, log and hand carry the forms to the Accounting Analyst. Make a notation of any juror who does not want to use direct deposit. This is important as these individuals will not have "ACH" in front of their supplier number on the Expense Report.

### Expense Reports

The Treasurer has the duty of monitoring expenses and informing the Foreperson of the state of the budget. These two Officers should consult quarterly at a Minimum. The Treasurer must give the Foreperson timely warning of possible budget Deficiencies.

The grand jury shall not spend money or incur obligations in excess of the amount budgeted for its investigative activities pursuant to this chapter by the county board of supervisors unless the proposed expenditure is approved in advance by the Presiding Judge of the superior court after the board of supervisors has been advised of the request. (Penal Code §914)

At the first meeting day of each month, the Treasurer collects a hard copy expense report from each juror for expenses in the previous month. The Treasurer verifies that the form has the Juror's original signature, has been signed by the appropriate Committee Chair or the Foreperson (the Treasurer signs the Foreperson's report) and that the expenses presented are accurate as follows:

### Stipends

General Meetings & Committee Meetings: (\$15.00) This stipend includes any meeting after the swearing in where the majority (consensus) of the jurors are present at the following: each day of initial training, plenary meetings, tours, report writing class, jury picture, cleaning of jury office, incoming jury orientation, new jury swearing-in, etc.

Only one stipend per day is reimbursable. Caution: When investigation interviews begin, DO NOT include the name of the person being interviewed on the expense claim. Enter the line item as "Committee Meeting-Interview(s)."

Obtain a listing of the members of each committee from the Foreperson. This will allow the Treasurer to compare stipend quantities and dates of meetings across multiple expense claims. Be sure to keep the list updated as jurors leave, are added and/or moved from committee to committee.

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### Mileage

A juror's normal round-trip mileage is from their home to the primary plenary meeting location. It is important to recognize that this is where many errors are noted. When the Plenary meeting location changes or there is an additional meeting on the same day at a different location, only the additional mileage is compensable, not multiple round trips.

At the beginning of the term, the per-mile allowance will be entered on the individual expense claim form by the Accounting Analyst. The per-mile charge will change at the beginning of the following year. The Treasurer will be notified by the Accounting Analyst or may need to call for verification. Types of errors: Example 1- Claim submission with incorrect per mileage charge especially after the year changes. Example 2 - The first day of training is at IT and the other two are out at the regular meeting location, 1 out of 3 round-trip mileage numbers should be different. Example 3 – Location of Plenary meeting changes.

### Other

Expenses in this category may include but are not limited to: lunch at the report writing class, restocking of office supplies, postage, post office box annual rental, lodging, printing, conference fees, etc. All expenses in this category MUST be pre approved by the Foreperson and receipts must be provided in order to receive Reimbursement. Expenses related to the coffee, morning snacks, etc. are paid out of the money donated by the jury members and monitored by the Sergeant-at-Arms. They are not the responsibility of the Treasurer.

**Note - If the juror does not want to submit expense claims for reimbursement, obtain the "donation" in writing and keep it in the Treasurer's file binder.**

Each juror places an electronic Excel version of their expense report in the Shared Drive folder. The Treasurer also verifies that electronic versions of the expense reports match the paper copy and must be in the form of Excel spreadsheets. No PDF or other software is acceptable. If any receipts have been filed with the hard copy reports, scan and include the reports in the form of PDFs. The Treasurer then electronically transmits all of the expense reports and scanned receipts to the appropriate official (Accounting Analyst.) Following transmission, place approved hard copy expense forms and original receipts in alphabetical order by month in the jury office binder.

### Expense Report Errors

If an error is discovered on a previously paid expense report, discuss immediately with the Accounting Analyst. If an expense was omitted from the previously submitted expense claim, add the omission to the next expense report if it is in the same calendar year. If in the previous year, create an additional expense claim and label it at the top "ADDENDUM."

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If the error resulted in an overpayment, create a claim with the one line item that was incorrect, label the top "CORRECTION", enter the dollar value that is to be taken back with a minus sign at the front.

### End of Year 1099

On or before January 31 in the New Year, San Benito County will issue a 1099 form to any juror who received reimbursement in an amount greater than \$600 in the previous year. There will be no 1099s for jurors with amounts less than \$600 but should inform their tax preparer of the amount received.

## V. **Advisors to the Grand Jury**

In the performance of its duties, the Grand Jury may at any time ask for legal advice from the Presiding Judge, the County Counsel, or the District Attorney. All formal requests for opinions or assistance shall be made by the Foreperson. No Juror acting alone should contact any advisor with individual requests unless delegated to do so by the Foreperson. General assistance with jury matters can also be obtained from the California Grand Jurors' Association.

### **Superior Court Judge**

The Presiding Judge of the Superior Court in San Benito County has traditionally been assigned to monitor and assist the Grand Jury. However, any Judge of the Superior Court could legally be assigned that function. The Judge may be present at meetings of the Jury and give advice only by invitation.

The Presiding Judge is authorized by law to withhold a Jury report from public release if it exceeds the scope of the Jury's investigative jurisdiction; therefore, the Jury must secure the Judge's review and approval of its reports prior to public release. In addition, the Judge is in a position to be especially helpful on matters involving hearing procedures and organizational and administrative issues.

### **County Counsel**

The County Counsel is the legal advisor on civil matters to the County and all of its departments, commissions, school districts, and to a number of other special districts in the County. County Counsel acts as legal advisor to the Jury but is not the Jury's advocate. He/she is bound by the secrecy restrictions on Jury matters and the confidentiality of the attorney-client relationship. However, since County Counsel also represents the Board of Supervisors, as well as all County departments and special districts, there is an inherent risk of a conflict of interest as issues arise in which those entities are also seeking legal counsel. County Counsel will notify the Foreperson of any potential conflict.

The Jury, through the Foreperson, should contact County Counsel if it has questions regarding the legality of an investigation. Any opinion rendered by County Counsel should be secured in writing. In the unlikely event of any legal action against the Jury, County Counsel would be called upon to defend the suit. Members of County Counsel's staff also

are available to the Jury and its committees to provide assistance in determining jurisdiction, drafting resolutions, preparing reports and related activities.

Any outside communication made at the direction of County Counsel by the Foreperson or a member of the Jury must be reviewed and approved by Counsel before distribution.

### **District Attorney**

The District Attorney acts as legal advisor to the Jury in criminal matters. At any point in an investigation where it appears a subject of the investigation may have committed a criminal offense, the District Attorney should be immediately consulted. Failure to do so could jeopardize the Jury's investigation, as well as any subsequent criminal proceedings.

The District Attorney may appear before the Jury to give information or advice relative to any matter pertinent to the Jury.

### **Attorney General**

The Attorney General of the State of California is available for advice and assistance. The Grand Jury's request for the assistance of the Attorney General is made through the Presiding Judge or by writing directly to the Attorney General's office.

Upon request by the Jury, the Attorney General may employ special counsel and special investigators to assist the Jury as provided for in the Penal Code. Moreover, the Attorney General may direct the Jury to convene, investigate, and consider criminal matters if the public interest requires. In practice, the Jury would usually call upon the Attorney General for assistance only where both the District Attorney and the County Counsel are unavailable to serve as a legal advisor.

### **Private Counsel**

The Penal Code provides a formal procedure whereby the Jury may retain private counsel in situations where the District Attorney, the County Counsel, and the Attorney General are all unable to assist. The Jury is not authorized to seek advice from private counsel informally (§936).

## Parliamentary Rules

The purpose of motions during plenary sessions is to facilitate voting so as to make the meetings orderly and expeditious. Typical motions during Grand Jury proceedings, all of which require a supermajority to pass, are as follows:

- To accept a citizen complaints as an open investigation by having an RFI (Request for Investigation) approved
- To start a self-initiated investigation by having an RFI approved
- To publish a report
- To carry over a case to the next Jury
- To send an official letter to a citizen or to an agency official
- To remove a Juror for cause
- To change a standing rule of procedure
- To object to consideration of a matter
- To depart from the agenda

## VI. Committees

### Selection and Membership

The investigative function of the Grand Jury is carried out by its committees. Generally, Jurors indicate their preference for a particular committee from a list of standing committees. (Appendix A, Committee Forms). The Foreperson assigns Jurors to committees taking into account not only the members' expressed preference, but also the need to have a balance of skills and experience on each committee.

The Foreperson should not be appointed to a regular committee but serves as an ex officio member of all committees. Committee Chairs can be appointed by the Foreperson or elected by committee members. Committee Chairs should be chosen for their ability and willingness to serve. It is recommended that only one holdover member be assigned to each committee in order to make holdovers' experience available to as many committees as possible. When committees have overlapping concerns, each Chairperson may serve as an ad hoc member of the other committee, or may designate a committee member in his/her place for liaison.

- Committees may meet more frequently than the Jury does as a whole. When matters concern more than one committee, members of the other committees may attend any committee meeting in which they are interested.
- Committee minutes are required. Each Committee Chair should designate a scribe who will take and maintain minutes of each meeting and send them out to the committee members at least two days prior to the next meeting. These minutes should be maintained in the committee folder in the share file under Committee Name/Minutes. Hard copies may also be maintained for reference, if desired.
- Prior to an interview, the committee should agree to a list of questions to be asked. The varying tasks may be distributed among the members, to include introductions of members to the interviewee, administering the admonishment, etc.
- It should be decided prior to the interview how the questions will be asked. A single juror, or any and all jurors may ask questions.
- Committee members must keep written notes of their interviews. These accounts will be a valuable aid in the preparation of a report if one is written.
- The interviews may be recorded and these recordings kept in the committee folder in the share file under Investigations.
- In addition to written notes of an interview, a recording may be made. Written notes and recordings should be stored on the shared drive, along with the other materials (questions, research, etc.) pertinent to that specific interview.



- Each committee should review reports of previous Grand Juries and, if possible, relevant reports from other county Grand Juries. Committee members should also review responses to previous Jury reports.

## Committee Chair

### **The duties of a Committee Chair include:**

- Prepare agendas and preside over meetings
- Work with the committee scribe to ensure accurate and complete minutes of all meetings.
- Prepare or guide in the preparation of a Request for Investigation, (Appendix A, RFI) as decided on by the Committee for Plenary approval
- Ensure that investigations maintain the focus approved by the Plenary
- Request the appropriate R-letter for plenary approval from the recommended case closure letters (Appendix A, Case Closure Letters)
- Report at regular plenary meetings about the work of the committee
- Work with the Editorial Committee or assign the principal report writer to review and edit reports for publication
- Consult with the Foreperson about any problems that might impede committee work
- Coordinate appointments for interviews with witnesses and schedule time and location for interviews.

# Standing Committees

## Cities and Special Districts Committee

This committee concerns itself with the operations of incorporated cities, special districts, and joint-power organizations which do not fall under other committees. When possible, random attendance at those organizations' meetings may help ensure that the interest of the public is being served, and that government codes regarding open meetings are being followed.

### Examples of Cities Subjects

City Administrator	City Clerks	City Councils	City Elections
City Manager	City Planners	Fire Districts	Mayors
Local Agency Commissions	City Engineers	Parks & Recreation	

### Examples of Special District Subjects

Air Pollution Control	Fire Protection	Mosquito Abatement	Cemetery
Fire Protection	Lighting	Memorial Buildings	Reclamation
Health Care	Community Service	Sanitation	Public Works
Waste Water	School Districts	Public Utility	

## Continuity Committee

This committee collects and records the responses that are due back from the previous year's Grand Jury reports. The responses are analyzed for compliance, non-compliance, or insufficient response. The Plenary may wish the committee to write a report in order to inform the community and public agencies of the results and highlight the attention that is paid to a previous Grand Jury's recommendations on a continuing basis. The media can be an important ally in this effort. Publication of the report in the late fall is an option that will keep the Grand Jury in the public's minds.

Responses are due back from the previous Grand Jury report in as little as 60 – 90 days after empanelment of the current Grand Jury. This is a committee that should be organized and functioning by September.

## County Agencies Committee

All offices of County government are within the purview of this committee. It reviews agendas and notices of public hearings, and when possible, attends those meetings to ensure that the interest of the public is being served, and that government codes regarding open meetings are being followed. Past practice has been to assist with County election result certification.

### Examples of County Subjects

Water Agency	Airports	Permit & Resource Management
Board of Supervisors	Real Estate	Printing
Data Processing	Purchasing	Assessor
Auditor-Controller	General Services	Recorder
County Commissions	SMART	Surveyor
County Administrator	Risk Management	County Clerk-Elections
Emergency Services	County Fair	Agriculture Commission
Treasurer-Tax Collector	Public Works	Economic Development

## Human Services Committee

The Human Services Committee is a sub-committee within the County Committee since Human Services is also within county governance. This committee examines social services operating in San Benito County.

### Examples of Human Services Subjects

Public Health	County Library	County Hospital
Human Resources-Civil Service	Housing & Community Dev.	Veterans Services
Fairgrounds	Parks & Recreation	Human Services
Weights & Measures	Mental Health Services	Animal Services
Non-Profit Corporations	Child Protective Services	

## Law and Justice Committee

This committee considers all matters concerning public safety, the criminal justice system and penal institutions, detention facilities, the District Attorney, municipal public safety offices, probation, the Public Defender, and the Sheriff-Coroner.

### Examples of Law & Justice Subjects

County Counsel	Detention Facilities	District Attorney
Jury Commissioner	Police Departments	Sheriff-Coroner
Juvenile Detention Facilities	Critical Incidents	Safety Coordination
Public Defender	Probation Department	County Morgue

## Editorial Committee

The Editorial Committee has three major responsibilities:

- Review, edit, and, when appropriate, approve all reports submitted by the Investigative Committees prior to acceptance by the Plenary.
- Coordinate and manage the publication of the Grand Jury's Final Report. This is sometimes organized as an adjunct team (See Publications Ad Hoc Team:).
- Review and, when appropriate, update the Grand Jury's Policies and Procedures Manual with the goal of providing continuity from one Grand Jury to the next.

The experience of former Grand Juries strongly suggests that the members of the Editorial Committee not be appointed until after the sitting Grand Jury has been in office for several months. Selection of committee members should be made from those Jurors who have demonstrated an understanding of the principles of report writing and have exhibited skills in writing or editing.

- Jurors selected for the Editorial Committee are required to attend a one-day Editorial workshop taught by the California Grand Jury Association.
- The Grand Jury will pay tuition for these individuals.
- Historically, the Editorial Committee consists of five members, with at least one representative from each of the Investigative Committees.
- This committee needs a sufficient number of members to provide coverage necessary to thoroughly review committee reports and allow for absences and resignations.
- The Foreperson will appoint one of the Committee members as Chair.
- Jurors interested in serving on the Editorial Committee are cautioned that during the report period (i.e., from mid-January through mid-May), they can expect to devote

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approximately an additional 12–15 hours per week in report review and meetings, in excess of regular Grand Jury requirements.

### Reports

So as to provide consistency of style for the reports, the Editorial Committee selects and proposes a writing style for use in all reports, [e.g., The Chicago Manual of Style or the MLA (Modern Language Association of America) Handbook for Writers of Research Paper]; selects and proposes fonts, formats, and software to be used in the reports; and provides templates for the writers to use. (See also Formal Writing – A Style Guide, Page70.)

### **The Plenary must approve these style recommendations**

With the approval of the plenary, the Editorial Committee selects a current juror who has the necessary skills and experience in design and publication to be the Grand Jury’s Designer of the Final Report. If no current Juror has the necessary skills and experience, the Editorial Committee must select another source to design and print the Final Report.

The Editorial Committee works closely with the Designer to establish timelines for approval and publication of the Final Report and to ensure that the timelines are met (Appendix B, Editorial Timeline).

In early January, the Editorial Committee presents to the Plenary a series of training sessions concerning the proper formats and templates; the difference between, and importance of, findings and recommendations; the importance of verifying information from the investigations; and, finally, persuasive writing rules and techniques.

Also, in January, the Investigative Committees should submit rough drafts of their proposed reports to the Editorial Committee for review and editorial suggestions. The CGJA recommends developing clear statements of Facts and Findings.

As the report writing continues, Investigative Committees will submit more polished reports to the Editors, who will review each draft for adherence to the agreed-upon format; completeness; clarity; logic; and mechanical problems (formatting, sequence; organization, word usage, grammar, spelling and punctuation). Editors are also responsible for providing feedback to the authors about the effectiveness of the report from the perspective of the intended audience. This may include questions on various aspects of the underlying investigations, triangulation of sources, and evidentiary basis of conclusions. The Editors should not make any changes that will alter the meaning of the report without the consent of the committee that prepared the report. At these review sessions, either the author of the report or an informed member of that committee must be in attendance.

## **Ad Hoc Committees**

Ad hoc committees are formed for special purposes, with members appointed by the Foreperson with the approval of the Plenary. Once it has concluded the assigned tasks, the Committee is disbanded.

### **Publications Ad Hoc Team**

A Publications team may be created to handle a single early report and/or the final report. This team may be needed during the third or fourth quarter depending on the needs of Outreach and Editorial Committees. The team interfaces with counsel, courts, publishers and the newspapers. Relationships, plans and procedures need to be worked out long in advance of June. Pictures can be gathered during the investigations. Coordination with Outreach and Editorial could start in January.

The Editorial Committee must budget for and retain a third party to perform these tasks. For the Summary the PD can accept Word or PDF copy and will perform layout tasks as part of their printing service. The PD Staff person who does this work has, in the past, offered her services to do the layout of the full report. The Gazette is also a resource for publication tasks.

### **Information Technology & Training Ad Hoc Committee**

A successful team is usually one that encourages training throughout their term of tenure. Education and knowledge are keys to efficiency, clarity and significant results. An IT team in support of the IT Liaison (See Information Technology Liaison) may be created, depending on the skill set composure of the Grand Jury. Training, committee support, and special projects might fall under its purview.

## **Outreach: Community, Media Relations, and Recruitment**

In 2018-19 the Local California Grand Jurors Association was relied upon to perform recruitment activities (this included a rare mid-term recruitment); they achieved very good results and freed the sitting Grand Jury for investigative matters. The court, of course, interacts only with the sitting Grand Jury, so coordination remains in the hands of the sitting Grand Jury.

The Grand Jury provides oversight for all levels of County government, their agencies and departments on behalf of the county's residents. With a goal of strengthening government efficiency and accountability, its effectiveness is optimized through clear and open communication with the public. To this end, a strong relationship with local media is important to building community awareness.

### **Objectives**

- Build a strong awareness for the Grand Jury's role in the community
- Maintain a positive public image of Grand Jury contributions within the Community
- Establish personal contacts with applicable news and editorial personnel in the local print and broadcast media, in order that they may be called upon to provide the public with information relating to the Grand Jury's activities
- Provide the media with timely knowledge of new investigative reports, as well as local government's responses to these reports
- Coordinate the execution of Grand Jury outreach efforts for the purpose of recruiting future Jurors
- Coordinate with the Court Executive Officer
- Maintain communication with the Local California Grand Jurors' Association

### **Structure**

The Foreperson or designated representative makes requests to and provides coordination with the Local California Grand Jurors Association.

## **VII. Investigations**

### **Receiving Complaints**

All complaints, including those originating from the District Attorney or the Court, can be submitted online through our complaint form, or printed and delivered or mailed directly to the San Benito County Courthouse located at 450 4th Street, Hollister, CA 95023.

The complaint should include a return address, phone number, and e-mail (if available) and be signed by the complainant, but this is not legally required for a Jury to start an investigation. Standard complaint forms are available in English and Spanish.

Complaints cannot be accepted over the telephone. Original complaints and supporting documents should never be removed from the Corresponding Secretary's complaint binder. Committee members are provided with copies to use unless the materials are so voluminous as to make this impractical. Members are responsible for safeguarding copies as confidential documents.

The Corresponding Secretary should also check the Complainant Master List to determine if the particular citizen complaint was filed on prior occasions with that Grand Jury or prior Grand Juries. If so, an appropriate R-Letter may be considered by the Plenary.



## Citizen Complaints

Some of the questions the Plenary should try to answer in its investigations are:

- Is the department in compliance with applicable governing laws and regulations?
- Is the department achieving acceptable cost-efficiency in its operations?
- Is the department meeting the needs of the public?
- Does this department interact cooperatively with other departments?
- Is the department employing appropriate financial & accounting procedures?

Every Grand Jury receives communications from citizens relating grievances. Although the Penal Code does not specifically assign the Jury duties as to complaints, the Jury frequently investigates citizen complaints as part of its watchdog duties. Complaints are handled in strict confidence to protect the complainant's identity. Complainants must be assured of confidentiality and not be concerned about breaches of secrecy.

## Discussions and Assignment

All complaints are discussed with the Plenary. While all complaints will be addressed, not all complaints will lead to investigations or reports. The Plenary is not required to accept or act on all complaints. Complaints can be refused for a variety of reasons including, but not limited to, lack of jurisdiction, pending legal action, and the priority of other complaints that are more time-sensitive. Complaints received near the end of a Jury's term may be carried over to the next year by plenary vote. A complainant can refuse to be interviewed and, in that instance, the Plenary must decide whether to continue with an investigation.

All correspondence and files of the Jury are exempt from laws requiring disclosure to the public, notwithstanding Freedom of Information laws. However, persons sending letters to or receiving letters from the Jury may make such correspondence public. All correspondence regarding citizen complaints that is not in one of the forms prescribed in appendix (R-Letters) must be approved by the County Counsel before being sent to the public. The Plenary must understand that the contents of the letter may be made public by the recipient.

Upon receipt of a complaint, the Corresponding Secretary date stamps it, assigns a case number, and logs it into the master log of investigations. The Corresponding Secretary may, in consultation with the Foreperson, assign cases to the appropriate committee. The complaint and any attachments are copied for the committee, and the originals are placed in the complaint file. At the next plenary meeting, new case complaint summaries are presented by the Corresponding Secretary and the associated documents are distributed to the Chair of the assigned committee.

## Policies and Procedures Manual

Anonymous letters can be treated as complaints under special circumstances and with due discretion by the Jury. If the matter is not to be investigated further, the letters are filed pending additional information or a signed complaint. If nothing is received, the unsigned letters are destroyed at the end of the Jury's term.

Complaints, whether or not acted upon, frequently assist the Jury in identifying areas of County government in which citizens have concerns. One complaint investigation can discover other additional issues. The appropriate committee should look into such concerns when a particular governmental office is under scrutiny.

# Initial Committee Review

The first step to start a preliminary investigation is for the Committee Chair to review the complaint with all members of the Committee and discuss whether, for time management, a lead committee member should be assigned. Discussion within the Committee may lead to one particular member with knowledge or background of the particular issue raised in the complaint. Preliminary research by the Committee is not only a helpful tool, but one that can highlight early issues that must be reviewed, for example:

- Does the Grand Jury have jurisdiction over the government body at issue?
- What policy and procedures of the government body are available for immediate review to better understand the complaint? Who are the government personnel mentioned in the complaint and where are they identified in the personnel roster of the government body?
- Is a discreet date of an event identified in the complaint, or are there ongoing or multiple complaint allegations?
- Who is the complainant and what relation may that person have with the underlying allegations in the complaint?

To answer some of the questions identified in the initial complaint review, compose a preliminary list of information to retrieve. The majority of information may be available online. Some suggestions for research resources are:

- Internet search engines (i.e., Google)
- State statutes and local ordinances
- Organization charts, job descriptions, budgets, and manuals of procedure
- Recent news coverage (i.e., archives of The Press Democrat)
- Websites of Grand Juries in other counties and the California Grand Juror's Association
- Websites of County agencies and boards (agendas, minutes, videos)
- Prior Grand Jury reports, San Benito and other counties
- Public Meetings a committee member can attend as a private citizen

For each complaint the committee is working on, create a list of potential interviewees and the order in which they should be interviewed. If the case originated with a citizen complaint, the first interview may be with the complainant. On occasion, a complainant may refuse to be interviewed, which is a legal right. In such cases it may be best to begin by interviewing the department or agency head. The committee may also determine that further documents from the complainant or the government body are required to prepare for interviews or evaluate the complaint (Appendix B, How to Organize a Grand Jury Investigative File).

## **The Request for Investigation (RFI)**

After the committee has reviewed the available information to evaluate the complaint and create an investigation plan, the committee must come to the Plenary for approval to continue with a full investigation. The committee may determine at the onset to interview the complainant before submitting an RFI to Plenary, however, it is recommended that an RFI come before Plenary first.

The RFI is the investigative roadmap. The RFI communicates to the Plenary the nature of the complaint, the initial scope of the investigation, and the investigative plan. It further informs the Plenary of the investigative goals of the committee, opening a dialogue between Plenary and the committee that continues throughout the Grand Jury term. A supermajority of 12 Jurors must vote to approve further investigation based on the RFI. As the committee investigation proceeds, any substantial changes in the investigative plan must be brought back to the Plenary for review (Appendix A, Request for Investigation).

## Interview Procedures

Having identified the person to be interviewed, search Google and LinkedIn for biographical information. Before you interview an organization, Google it as well. Access their Website, which often has a lot of information you may need or want when going into the interview.

### Before the Interview

There **must** be a quorum of the committee present at all interviews. Attendance by all members is preferable. See the Interviews section of the California Grand Jurors' Association Training Manual for more information on interview procedures, field investigations, and employment of experts.

- Initial contact with the complainant should be via email or telephone to set up the preliminary interview.
- Should further preliminary communication be required, email is preferred so that a written communication record is created.
- Phone conversations with the complainant after an investigation has started should be limited to interview scheduling or housekeeping matters such as requesting further documentation.
- Government agency personnel, when contacted to set-up their interview, will often request to know the nature of the investigation. The committee should be prepared to compose a short, concise statement of the discrete area of inquiry without any references to the complainant.
- During the telephone conversation or email exchange, advise the interviewee that all aspects of the Grand Jury's inquiry are confidential and that he/she will be so admonished during their interview.
- A written follow-up communication by email will confirm this admonishment for the complaint file.
- The committee should meet to develop the interview questions in advance. One committee member should be designated as the lead interviewer.
- If receipt of documents in advance of the interview will assist with the preparation for the interview, the interviewee should be contacted by email/writing and notified of the documents requested with as much particularity as possible.
- Jurors should consider recording their interviews for accuracy. Discuss with your committee prior to the interview to ensure IT Liaison can be set up.

### During the Interview

- The lead interviewer or Committee Chair should introduce the committee members and state the purpose of the interview.
- The witness should be asked if they have participated in the San Benito County Civil Grand Jury process before.
- Explain that statements made during the interview will be kept strictly confidential, as the Grand Jurors are sworn to secrecy.
- It is also helpful to explain the Grand Jury's function (see California Grand Jurors' Association materials).
- The lead interviewer or another member of the committee shall obtain the interviewee's signature on two Admonishment forms at the beginning of the interview (Appendix A, Admonishment). One executed copy should be retained for the investigative file, and one executed copy handed to the witness.
- The committee interviewer is well served by full preparation before the interview and flexibility during the interview to adjust and add questions as necessary.

### Oaths

Past practice has been not to require witnesses to testify under oath.

- An oath should be administered if the Grand Jury is contemplating an accusation, the investigation may possibly uncover criminal conduct, or the jury has good reason to believe that the interviewee will be untruthful.
- The DA should be consulted about administering oaths in accusations or if evidence of criminal conduct is anticipated.
- If an oath is administered, an admonition should also be given to the interviewee. Whereas any juror can give an admonition, the Foreperson may administer an oath to any witness appearing before the grand jury.

### After the Interview

- After each interview, committee members are encouraged to debrief and compare notes to ensure that details of the interview are accurately captured.
- One committee member may write up the responses to coincide with the pre-discussed questions and distribute to the remainder of the committee for their records
- One committee member should write up the responses to coincide with the pre-discussed questions and distribute to the remainder of the committee for their records.
- If a designated "scribe" compiles a synopsis of all committee-member notes, it is helpful to color-code the contributions from the various committee members.

- Some investigative teams use audio recordings as a method of assuring accuracy in the note-taking. Sometimes these are transcribed, sometimes simply listened to in order to make accurate notes from the meeting. Notes are never shared with the interviewee.
- It is important to achieve 100% consensus within the committee on exactly what was said/meant during the interview.
- Committees are encouraged to keep a separate list of “facts” learned during interviews. These facts, once triangulated, will form the core of an investigative report. It is very helpful to record them consistently.

## Required Interview

Penal Code §933.05 (c) requires the Grand Jury to meet with the subject of the investigation (the person who is responsible for the function you are investigating, usually the department head) unless the court determines that the meeting would be detrimental. This interview avoids later challenges after the Final Report is released. This interview is apart and distinct from any exit interview the Grand Jury or committee may later undertake.

## Subpoena Protocol

During the course of an investigation, a committee might find it necessary to issue a subpoena to interview a witness or to obtain documents. However, before requesting a subpoena, an effort must be made to get voluntary compliance.

If that effort is not successful, the Committee Chair will ask the Foreperson to ask the County Counsel's office to prepare a subpoena. If the subpoena is for an interview, the e-mail request should include the person's name, title, department, and the date, time and place of the interview. If it is for documents, the specific types of documents sought should be identified. The County Counsel's office will then prepare a subpoena to be signed by the Presiding Judge. Documents are to be produced at the County Counsel's office.

County Counsel may coordinate the serving of subpoenas or the Foreperson may serve them. If possible, use of outside process servers should be minimized.

## Complaint Disposition

During committee meetings throughout the term, the members will review ongoing investigative plans, interview notes and documents gathered and when appropriate, to propose a recommendation to the Plenary to close a complaint investigation. The lead committee member for the complaint or Committee Chair shall prepare and send to Plenary for review a 'Request for R- Letter from \_\_\_\_\_ Committee' (Appendix A, Request for an R-Letter). This Request, in many ways, tracks the Request for Investigation (RFI) previously submitted to Plenary at the beginning of an investigation. The Request states the allegations in the complaint, background information, the result of the committee's investigation, and the committee's conclusions to support the R-letter. The committee's Request is placed on the Plenary Agenda for a vote after discussion between Plenary and the committee members. If the case is to be closed, a brief letter of explanation (R letter) is sent to the complainant by the Corresponding Secretary (Appendix A, Case Closure Letters).

## Mandated Investigations

According to the Penal Code, the Grand Jury must investigate the following:

- The accounts and records of officers and agencies operating within the County. Each Jury has discretion as to which departments it will audit and the scope of its audit. At least one County department must be reviewed on a selective basis as part of the ongoing process.
- Producing a report on the jails fulfills the Penal Code requirement of at least one County department being investigated.
- Every Grand Jury must perform its share of audits, so that all agencies are reviewed regularly.
- When requested by the Board of Supervisors, the need for an increase or decrease in the salaries of County elected officials.
- The condition and management of all detention facilities within the County.

NOTE: It has been the practice of most Civil Grand Juries to review Critical Incident Reports received from the District Attorney. The authority for these administrative reviews is derived from the San Benito County "Law Enforcement Employee Involved Fatal Incident Protocol." At the end of each term, generally the Jury's reports on these Critical Incidents are consolidated and included in the Final Report and labeled either "Critical Incidents" or "Fatal Incidents." However, each Jury, at its discretion, determines whether it will continue the practice of reviewing and reporting on these Critical Incidents.



## **Self-Initiated Investigations**

The Grand Jury's primary role is to investigate. The fact that a department has been reviewed within the recent past does not preclude further investigations by the current Grand Jury. Jurors should refer to the Prior Complaint Matrix maintained by the Corresponding Secretary to determine the nature and scope of prior investigations. Careful consideration should be given to previous audits, reports and Responses. Public concerns relating to agencies within the County may stimulate Grand Jury investigations. Other sources of cases are news stories and work by prior Grand Juries. Subjects of investigations carried over from previous years, or inadequate responses to prior report recommendations by an agency can be fruitful sources of new cases. If a Juror during the term requests a committee to commence an investigation, a complaint form shall be executed and submitted to the Corresponding Secretary to begin the complaint process.

## **Carryover Complaints**

Complaints received too late in the year for adequate consideration may be referred to the next Grand Jury by issuing an R-4 letter. If any materials from the old Grand Jury are to be passed to the next Grand Jury, the plenary must vote to do so. Any such materials are to be considered only as "hearsay" evidence by the next Grand Jury, which must carry out its own investigation; the next Grand Jury may decide not to follow up, by plenary vote.

## XIII. Reports

Penal Code §933(a) states that "Each grand jury shall submit to the Presiding Judge of the superior court a Final Report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury."

The Grand Jury is reminded that Penal Code §939.9 states that it cannot make a report on any matter "except on the basis of its own investigation of the matter..." It cannot adopt on its own "the recommendation of another grand jury unless the grand jury adopting such recommendation does so after its own investigation of the matter as to which the recommendation is made." Comprehensive training is provided at the beginning of each Jury's term, along with a training manual containing valuable information on subjects such as report writing and releases.

Generally, there are two types of reports issued by a Grand Jury: an early release of a single report and the Final Report, also referred to as the Consolidated Final Report. Their purpose is to make the Jury's findings and recommendations known to the public. A supermajority of 12 jurors must approve each report. County Counsel and the Presiding Judge must review all reports for liability and conformity with all applicable law (AppendixA, Report Release Checklist).

### Early Release of a Single Report

The main advantages of an early release report are timeliness for accomplishing the desired actions and greater attention from the public. An early release of a single report may be made to the media and to the Jury web site at any time during the term. County Counsel and the Presiding Judge, using the same procedures as for a Consolidated Final Report, **must** review and approve the report prior to publication.

An early released report must be incorporated into the Consolidated Final Report. The clock for responses starts ticking when the Consolidated Final Report is delivered to the respondents, e.g., 48 hours before the report is released to the public.

## Consolidated Final Report

- The Final Report should be ready for printing by late May of the Jury's term.
- By midterm the Editorial Committee should create a schedule for the Final Report; this schedule must be approved by the Jury.
- The schedule provides the deadlines used by the committees when submitting their reports to the Editorial Committee. Although the Editorial Committee has responsibility for guiding and editing the reports, all Jurors are responsible for their preparation and approval.

## Titles for Final Reports

The Editorial Committee will suggest function titles for each report and may wish to also utilize "catchier" sub-titles for reports.

## Format for Final Reports

The Editorial Committee will suggest the Plenary adopt a style guide and report format for all reports, providing consistency in the published Final Report. Here is a listing of typical sections and the general purpose of each.

### Summary

This synopsis of the entire report is meant to give the reader a brief overview of the reason for and conduct of the investigation, as well as the Grand Jury's findings, conclusions, and recommendations. Since only the summary will be published in the local newspaper, special attention must be given to its completeness.

County Counsel says, "So long as the Report Summaries to be published as an insert in local newspapers are simply shorter versions of the Summary section of the Final Report, with no substantive changes, especially as to Findings and Recommendations, County Counsel does not have to review them."

### Glossary

This section is optional and may appear at the beginning or the end of the report.

### **Background**

This section is intended to be a brief summary of the events that led up to the complaint and the subject of the investigation. This information should give the reader a foundation to understand the rest of the report. It is written in past tense and answers the question, “Why was this investigation done?”

### **Methodology**

This section describes the methods used in the investigation, such as documents reviewed and persons interviewed (by title or description, never the individual’s name). This section tells the reader that the Jurors researched the issue and can verify the facts and findings in the Report. Lengthy lists that may interfere with the flow of the report can be summarized here, with the complete list of documents placed in a reference list at the end of the report.

### **Discussion**

- This section constitutes the bulk of the report. It covers the events that led up to the investigation.
- This information should give the reader a factual foundation to understand the report’s findings and recommendations, by outlining the specific evidence that was discovered during the investigation.
- The evidence or facts described must be objective and verifiable.
- Facts are not hearsay, rumor, innuendo, or opinion. They are real and demonstrable. They have been determined by analyzing the evidence and weighing the credibility of the sources of that evidence, and have been verified by several sources (triangulation).
- Raw evidence is unverified information the Grand Jury has not triangulated and is improper to place in the Final Report.

### **Commendations**

This optional section is used only if circumstances warrant, such as when an agency, group, or if individuals have performed in an exemplary manner.

### **Findings**

This section bridges the gap between facts and the resulting recommendations. A finding is a one sentence conclusion or judgment based on fact(s), not just a recitation of the facts. Findings identify what needs to be fixed, improved, corrected or complimented.

### Recommendations

This section states what should be done, by whom, and when.

- **Recommendations should be specific, logical, achievable, financially feasible and within the law.** Remember, this is the government, recommendations need to be tangible, something that departments and agencies feel like they can actually achieve.
- Penal Code §916 requires recommendations whenever a problem or shortcoming is identified. Positive findings do not need accompanying recommendations
- Each recommendation should be directed to a specific agency or official, who will then be required to respond.

### Required Responses

This section states who is required to respond and to which recommendations. Only governing boards and elected officials are required to respond to Grand Jury reports. All findings and recommendations require a response. By requiring a response to a finding or recommendation, the affected agency or official is held publicly accountable for their written commentary. The report should state explicitly the title, agency, and/or department that must respond, and the specific finding or recommendation requiring the response.

### Bibliography

This section lists all of the written sources of information used to compile the report. This includes newspaper articles, books, trade journals, websites, brochures, reports and more.

### Suggested Reading

This is an optional list of supporting documents, website addresses and other information for readers inclined to delve deeper into the subject. This may be used in place of or in addition to an extensive bibliography.

### Appendix

This optional section is a good place to include information that is relevant and interesting but not critical to the report.

## Legal Requirements for Report Content

Penal Code §§925 and 933 (a-c) require a Final Report, stating “[e]ach grand jury shall submit to the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year ....” The Penal Code requires responses within a specific time frame and prescribes the format for the responses.

The Penal Code mandates that a Final Report have “findings and recommendations.” A finding is a conclusion or judgment based on fact or facts, not just a recitation of facts. Penal Code §916 states that all findings must be “supported by documented evidence” and a recommendation must be based on at least one finding.

This code section further mandates recommendations whenever problems or shortcomings have been identified. The Grand Jury should keep in mind that the recommendations should be specific (who is to do what and by when), logically related to the problem, achievable, financially feasible, and not in violation of any laws. The law does not further define the report content. However, experience and practicality suggest that Final Reports should also:

- 1. Explain the purpose and scope of the investigation**
- 2. Describe how the investigation was conducted**
- 3. Discuss the information that has been developed**

When describing “how” the investigation was conducted, neither individual names nor titles should be listed. Penal Code §929 requires that reports of the grand jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Grand Jury.

After reviewing a report, the County Counsel will provide a written opinion. The Jury is under no obligation to follow this advice, but it is strongly recommended that it be solicited and considered.

## Final Verification—the Exit Interview

Each investigating committee may conduct final exit interviews to verify the accuracy of the findings before publication of its report. Exit interviews are not mandatory, but are a tool to be sure the findings are factually accurate so the report cannot be challenged once it is officially released. Penal Code §933.05(d) states that the exit interview consists of reading and discussing ONLY the findings in the report to the affected department or agency.

- The exit interviewee should again be admonished as to confidentiality.
- The full written report is not to be disclosed or read. If the Final Consolidated Report requires revision, the committee undertaking an exit interview is reminded that adequate time must be available in the term for report revisions, review by Editorial, and vote again by Plenary.
- An exit interview should not be conducted if the Court, either on its own determination or upon request of the Foreperson, determines that such a meeting would be detrimental.
- No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to its publication. See California Grand Jurors' Association Training manual for suggested guidelines.
- In the fall, as the jurors become familiar with the responsibilities of the Jury, and have begun their investigations, together they should propose a timeline by which all tasks should be accomplished, with the goal being the publication of the Final Report.
- This timeline will need to be revised as the year progresses, but it is a constant reminder to the Jury of their goals.
- By the middle of March, the Foreperson, or the Chair of the Editorial Committee, or the Jury's designee for overseeing printing of the Report, should send copies of the timeline to the Presiding Judge, County Counsel, and the Court Administrator, so they all are aware of the Jury's schedule and expectations.
- All three will play an important part in meeting the Jury's publishing schedule. To that end, the timeline should include dates by which the County Counsel and the Presiding Judge must approve the reports in order to meet the printer's timelines, and deadlines for the Jury to forward the reports to each of them.
- Usually, the Foreperson sends copies of each report (with line numbers) as approved by the Plenary to County Counsel by email. This report version should be finalized to the point of including any charts, graphs or photos that will be included in the final published report.
- County Counsel returns each report, by email, with his comments, corrections, or suggestions.
- Although the Jury is not obligated to incorporate the suggestions, unless of course they concern legal issues, the Jury would be wise to consider the suggestions carefully; he has considerable experience in this process, and knows what works. The Jury returns to County Counsel the revised report, without lines, and in a form marked FINAL.

If the County Council approves, the Court Administrator then sends the report to the Judge, with an accompanying letter of approval, by U.S. Mail. This back and forth process can take time, so plan accordingly. In addition, the Judge's trial calendar may be full and the Judge may take several (or more) days to review the reports. When the Judge has approved a report, a signed acknowledgement is returned to the Foreperson, along with each Final report. Occasionally, because of vacations or other absences by County Counsel or the Judge, the approval process goes off the track. In those instances, it is necessary that the Foreperson have a strong relationship with one of the clerks at the court. Don't leave anything to chance, keep the communications open, and be flexible.

### **Suggested Procedure for Issuing Reports**

1. The investigating committee writes the first draft of the report and submits it to the Editorial Committee.
  - The initial draft should be double spaced, with line numbers, and annotations on sources to facilitate the editorial process.
2. The Editorial Committee edits the draft for grammar, punctuation, logic, and clarity.
  - The member of the Editorial Committee representing the investigative committee that generated the report communicates these edits back to the investigative committee.
  - The investigative committee discusses the proposed changes and makes the modifications deemed appropriate.
  - If extensive corrections or changes are needed, the investigative committee rewrites the report and re-submits it to the Editorial Committee. This process is repeated until both the Editorial Committee and the investigative committee are satisfied with the report.
3. The Editorial Committee submits the final version of the report to the Plenary at least 2 days prior to the general session at which the report will be considered. Members of the Plenary are asked to review the report prior to the session. The discussion by the Plenary covers substantive not stylistic matters.
4. The report must be approved by a supermajority of the Jury. If major substantial issues arise that cannot be addressed by changes discussed and agreed upon in the meeting, the report is returned to the Editorial Committee.
  - The investigative committee works with the Editorial Committee to address the unresolved issues. The Editorial Committee then resubmits the report to the Plenary for its consideration following the procedure outlined in (3) above.
5. A member of the Editorial Committee prepares the final copy of the report as approved by the Plenary, reflecting all changes agreed upon during the plenary discussion, and sends it to the Foreperson.



## Policies and Procedures Manual

6. The Foreperson sends it to County Counsel for legal review and comments.
  - Counsel can ask questions and offer opinions but cannot force changes to a lawful report.
  - The investigating committee may, or may not, make the recommended changes.
  - If no further changes are made to the report, County Counsel sends the report to the Presiding Judge for approval.
  - The scope of the Judge's review is strictly confined to ensuring that reports do not extend beyond the legal boundaries of the Grand Jury's broad reporting power, for example, a report on matters which the Grand Jury has not itself investigated or a report of a government entity not lying within the Grand Jury's jurisdiction. Upon approval, the Judge returns the report to the Foreperson for release.

## Distribution of Reports

Building the Reports Packet. The distribution of reports is a two-fold process:

- An advance copy to subject agencies
- The public release of the report.
- After approval of the Presiding Judge, and two working days prior to its public release, the Grand Jury shall provide the affected agency a copy of the portion of the Grand Jury report relating to that agency.
- The report delivered must be the version that appears in the Final Report, with all inserted photos and charts. This is typically delivered as a printed PDF file. This PDF file is the file which has been approved by Counsel and the Presiding Judge and which is included in the Consolidated Final Report.
- The report packet also contains an admonishment that the contents of the report should not be revealed until the actual date of publication, a cover letter, and a copy of the applicable penal code with response instructions for the recipient.
- Seal the items in a large envelope and attach the admonishment notice to the outside of the envelope.
- Each committee should designate members to assemble and hand deliver the packet. If the recipient is not available to take delivery, a designated agent may sign for it. Fill in the appropriate areas on the Notice. Have their office make a copy of the signed Notice or create a copy with a smartphone.
- The Editorial Committee drafts a press release. Investigative committees compile a reference press Q&A for the foreperson, anticipating questions likely to be asked by the media.

## Physical Distribution of the Reports

The Foreperson coordinates with the Community and Media Relations Committee for the general distribution of the Final Report. The report is distributed through the news media, the Superior Court website, and printed copy. The online version of the Final Report is posted by the Court. The Grand Jury should expect to print at least 200 copies of the Final Report. Copies are delivered to the Board of Supervisors as well as County officers, courts, County archives, and public libraries (See Report Distribution List below).

## Final Report Distribution List

The Final Report is considered public when the Foreperson officially presents it to the Presiding Judge. The Summary Final Report is usually published in the local press later that week. "So long as the Report Summaries to be published as an insert in local newspapers are simply shorter versions of the Summary section of the Final Report, with no substantive changes, especially as to Findings and Recommendations, County Counsel does not have to review them." It's a huge time saver.

County CAO  
State and County Archives  
Board of Supervisors  
Courts (To CAO)  
County Counsel  
Libraries  
Current Grand Jury members  
Incoming Jury  
California Grand Jurors' Association  
Civil Grand Jury Website  
Facebook  
Instagram

# Final Report Timeline

## **January**

Writer prepares first draft of report

## **February**

Investigating committee polishes report and checks facts

## **February**

Investigating committee reviews and approves draft

## **February - March**

Back and forth with Editorial Committee

## **March**

Submit to Plenary for review and approval

## **March**

Following approval from Plenary, submit to County Counsel for review

## **April**

Conduct exit interviews (where appropriate)

## **April**

Plenary approval; submit to Presiding Judge

## **April**

Submit Final Report to printer

## **June**

Send copies to entities with admonition that this is not yet a released report

## **June**

Release Final Report

## IX. Communications and Record Management

### **Documents pertaining to Committees and Investigations**

On the shared drive there will be a committee folder for each committee. The contents of this committee folder are accessible to the entire committee. It is most efficient if there is a computer savvy person on the committee who will help all the committee members with accessing, retrieving or saving documents to this folder when needed.

Documents pertaining to each individual investigation worked on by a committee are saved on the shared drive. This allows access to investigative documents by all Jurors, but is especially valuable in allowing committee members to share the resource material collected as well as interview notes, email containing links to on-line material, working versions of reports, etc...

The contents of the committee folder can vary, but must contain a sub-folder marked INVESTIGATIONS. The committee folder should have a folder for the Minutes and might also contain a folder for each member to store their own material, in effect acting as a back-up for documents created on the laptop. General research documents could be stored here as well. The committee is free to structure this space for their convenience, with the warning that too many files, especially if not named well to facilitate retrieval, can result in chaos.

Inside the INVESTIGATIONS folder there must be a subfolder for each investigation undertaken by the committee. The documents that need to be saved to a specific investigation folder include:

- The RFI
- A subfolder for each person interviewed. This subfolder will contain any email pertinent to the individual, each member's interview notes, research pertaining to that person or his position, the questions asked during the interview, and a copy of the signed admonition for the interview. Recordings, if made, are stored here as well. If more than one interview is conducted with the same person, it is recommended that there be a subfolder for each interview.
- A subfolder for the report, if one is to be written.
- Email pertinent to the general investigation.

It is highly recommended that duplicate copies of the same document not be kept in the committee folder. While different versions of a report might be in the report folder, once a final report is completed and filed, the working versions should be removed.

Please see documents on the shared drive in the Grand Jury Technology Training Material or Important Documents for Jurors folders for guidance on other technology issues.

## **X. Housekeeping at the End of the CGJ Term**

### **Document Retention Policy**

At the end of the year, all materials will be removed from committee online shared folders and paper documentation will be shredded, unless a committee gives good reason for keeping the material. These exceptions must be approved by a super majority vote of the Plenary. Please see the document under “/reference/legal consult/document retention” summarizing input from the California Grand Juror’s Association legal counsel and our own San Benito County Counsel for detailed arguments concerning this policy.

The default policy is to destroy all investigation files, both paper and electronic, as well as all agendas and minutes. The 2018-19 Grand Jury asked for guidance on record retention, both from the California Grand Jury Association legal team and County Counsel. All committee files will be copied to a thumb drive and retained by County Counsel for the judge’s use. These files will then be deleted from the shared folder.

Most of the files in the /plenary area of the shared file system are not of a confidential nature, and will serve the next Grand Jury well. The Agendas, Minutes, information on the Grand Jury members, and other items not pure Grand Jury supporting information shall also be expunged. The foreperson will oversee this work.

The Master Calendar of Investigations is one of the core documents of the Grand Jury. It is, indeed, confidential, but must be passed on to the next Grand Jury.

The current Grand Jury has begun an investigation, not written a report, but deems it important enough to recommend for further action to the next Grand Jury. In this case the material shall be copied to a “memory stick” for the next Foreperson. That will be the only surviving copy.

## Housekeeping Steps

Sort the contents of each committee drawer to determine which files to prepare documents for shredding.

Remove paper and binder clips.

Remove papers from binders.

Discard damaged binders and place reusable binders on the bookcase.

Leave papers inside paper or cardboard file folders

Put all paper into boxes for shredding.

The Foreperson will arrange for shredding of all material scheduled for destruction.

The retention of any confidential material, either paper or electronic, must be approved by plenary vote.

Retain 5-10 copies of the San Benito County Final Report on the bookcase. (It has been the practice to keep up to 15 years of history). Policies and Procedures Manual Revised April 2019  
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Ensure that 2-3 copies of the bound Response Reports (Continuity Report) for the current year are filed on the bookcase. (It has been the practice to keep up to 15 years of history).

Destroy all meeting minutes and agendas.

Replace the Chicago Manual of Style and the office Thesaurus to the bookcase.

The outgoing Foreperson works with the incoming Foreperson to set up the new set of folders on the shared drive for the new Grand Jury session or oversees the task.

### Checklist for individual Jurors

- Fill out the final form 700.
- Fill out the Grand Juror Exit Form (see Appendix B)