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**CITY AND COUNTY OF SAN FRANCISCO**

**CIVIL GRAND JURY MANUAL**

**1999-2000**



City and County  
Of  
San Francisco, California

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## TABLE OF CONTENTS

FORWARD .....	1
ORGANIZATION CHART - CITY AND COUNTY OF SAN FRANCISCO .....	2
GRAND JURY INSTRUCTIONS BY THE PRESIDING JUDGE OF THE SUPERIOR COURT .....	3
OATH OF JURORS.....	13
CHARGE OF THE COURT .....	14
CONFLICT OF INTEREST CODE .....	14
NATURE AND BACKGROUND OF THE GRAND JURY.....	15
SUGGESTED PROCEDURES FOR ORGANIZING	
INTRODUCTION .....	21
PROCEDURE FOR FIRST MEETING .....	22
SESSIONS IN GENERAL.....	23
SUGGESTED PROCEDURE .....	24
SUGGESTED RULES OF ORDER.....	25
COMMITTEES .....	27
COMMITTEE PROCEDURE.....	29
WORK COMMITTEE PREFERENCES.....	31
PRELIMINARY TITLES AND AREAS OF WORK FOR COMMITTEES..	33
DUTIES	
FOREPERSON.....	34
FOREPERSON PRO TEMPORE .....	37
SECRETARY .....	38
PUBLICITY.....	40
POWERS AND DUTIES - GOVERNMENTAL AFFAIRS .....	41
LIMITATIONS ON INVESTIGATORY POWER .....	45
THE GRAND JURY AND THE CITY ATTORNEY .....	49

ELECTED OFFICIALS .....	50
OTHER CITY AND COUNTY OFFICERS .....	51
GRAND JURY REPORTS .....	52
CIVIL LIABILITY OF A GRAND JUROR .....	54
SUGGESTED OUTLINE OF REPORT .....	56
ADVICE AND ASSISTANCE .....	57
CORRESPONDENCE .....	57
GRAND JURY FILES AND LIBRARY .....	58
APPENDIX -- PERTINENT PROVISIONS OF THE LAW .....	59
ADMONITIONS AND OATHS .....	137
MISCELLANEOUS STATUTES .....	140



## FOREWORD

This manual has been developed to provide a detailed, comprehensive, and speedy indoctrination for new grand jury members. It is hoped that it will assist you in organizing quickly and efficiently.

It is an updated version of a Grand Jury Manual originally prepared by Walter H. Giubbini, retired Chief Assistant District Attorney, and revised annually by Michael K. Tamony, Assistant Executive Officer of the Superior Court and Consultant to the Grand Juries.

We would also like to acknowledge the assistance of the Marin County Superior Court for developing the format which is used in this manual.

July 1999

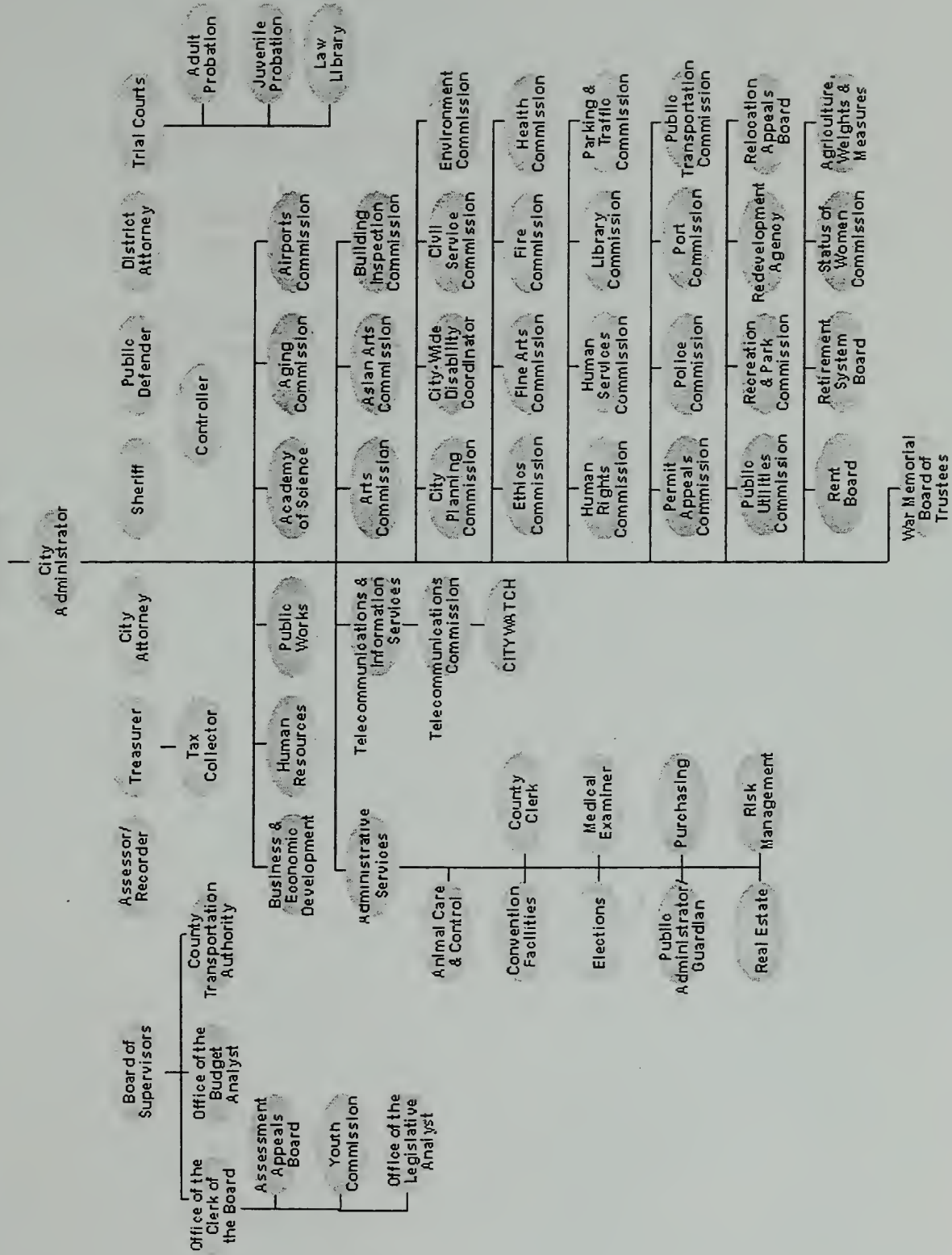
ALAN CARLSON  
Chief Executive Officer



# San Francisco City and County Government

as of July 1, 1997

## Mayor





**GRAND JURY INSTRUCTIONS**  
**BY THE PRESIDING JUDGE OF THE**  
**SUPERIOR COURT**  
**TO THE GRAND JURY OF THE**  
**CITY AND COUNTY OF SAN FRANCISCO**



Ladies and Gentlemen:

It is my duty under the law to give you some instructions concerning your function as a Civil Grand Jury, and also concerning certain rules of law that apply to your work. At the outset, I think you should bear in mind that the institution of the Grand Jury is one of very ancient origin. Its use as an instrument of government antedates the introduction into our country during colonial times. It has been continued and used throughout the whole of American history. It is not, however, my purpose today to go into the historical development of the Grand Jury. It is sufficient to point out to you that it is an institution of great importance, great power, and, therefore, great responsibility.

You are all familiar with the trial juries to which litigants in certain civil cases and defendants in all criminal cases are entitled under the provisions of the Constitution of the United States and of the State of California. Those juries must, of course, be distinguished from the body known as the Grand Jury.

The Grand Jury is one of the few instrumentalities of government wherein the proceedings are allowed by law and required by law to be secret. The reasons for this secrecy are good and they are important. The Grand Jury is designed not only to investigate matters that would otherwise not be acted upon because of the unwillingness or the inability of individuals to bring the complaint, but also to protect persons from the publicity that otherwise would be involved should complaints eventually prove to be unfounded. Therefore, every member of the Grand Jury shall keep secret whatever he or she or any other grand juror has said, or in what manner he or she or any other grand juror has voted on a matter before them.

The law further provides, that every grand juror who, except when required by a court willfully discloses any evidence adduced before the grand jury, or anything which he or she or any other member of the grand jury has said, or in what manner he or she or any other grand juror has voted on a matter before them is guilty of a misdemeanor.

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

The Civil Grand Jury may at all times ask the advice of the Court or the Presiding Judge thereof, or of the City Attorney in civil matters, or District Attorney in criminal matters, but unless such advice is asked the Judge of the court, City Attorney, and the District Attorney of the County may appear before the Grand Jury for the purpose of giving information or advice relative to any matter cognizable by them when so requested by the Civil Grand Jury.

As members of the Civil Grand Jury your jurisdiction is limited to the examination of the conduct of your City and County Government, its boards, commissions, departments, and bureaus, and into the conduct of any elected official, in order to assure yourselves and, through yourselves, the public, concerning the stewardship of the representatives of the public in our City and County. The Grand Jury normally conducts its investigations in secret sessions, but there is a special provision that they may hold open sessions when directed to



do so by an order of the Superior Court finding that the subject matter of investigation is one affecting the general public welfare, respecting matters involving the alleged corruption or misfeasance or malfeasance in office, or dereliction of duty, of public officials or public employees or of any person allegedly acting in conjunction or conspiracy with such public officials or employees in such alleged acts.

It is also the duty of the Civil Grand Jury to investigate and report on the needs of all county officers in the county, including the abolition or creation of offices and equipment therefore, or the method or system of performing the duties of the several offices, and it shall cause a copy of such report to be delivered to each member of the Board of Supervisors of the county.

The Civil Grand Jury, according to a special provision, may inquire into the case of every person imprisoned in the jail of a county on a criminal charge and not indicted, and shall inquire into the condition and management of the public prisons within the county.

In connection with this investigatory phase of your work, I wish to point out to you that the Civil Grand Jury is not intended to be and should not be made a super government for this city and county. It is not the function of the Grand Jury to interfere with the discretionary policy-making powers of public officials elected by the public or appointed according to law. Only when public officials violate applicable criminal or procedural laws, or so abuse their discretion as to violate the spirit and intent of those laws, do they become proper subjects for comment or action by a grand jury. To the extent that our law provides for

examination for certain proper purposes, make your inquiry as thorough as may be necessary to achieve the purpose of the statute. There is no need for going into matters that have no real relationship to the legal functions of the Grand Jury.

At the present time there is in existence a second Grand Jury which is called the Indictment Grand Jury. The Indictment Grand Jury hears evidence in felony cases presented to it by the District Attorney. This second Grand Jury has sole and exclusive jurisdiction to return indictments. If, during the course of your investigation, you should receive information concerning criminal matters it is your duty to report these matters to the District Attorney, or if appropriate, to the Indictment Grand Jury.

In your ultimate reports, take occasion to constructively criticize, if you wish, obvious inefficiency or abuse of discretion, or where you find particular excellence, you may commend it accordingly. I hope that during the coming year your committee work will be undertaken at an early date so that the committees will have ample time to consider what they are doing and their subject matter, and to prepare reports that will be sound, constructive, and worthwhile.

I also wish to stress the point that the Grand Jury is a deliberative body. Although each individual Grand Juror has the right and duty to act and vote according to the dictates of his or her own judgment and conscience, he or she should do so only after consultation and deliberation with his or her fellow jurors. It is important, therefore, that each Grand Juror fully and fairly state to the other Grand Jurors any information received touching upon actual or possible subjects of inquiry, so that subjects may be discussed, appraised, and further investigated

according to their relative important or, if of little or no consequence, discarded.

Before action of any kind is voted, let there be discussion among you concerning the evidence upon which the action is proposed. Consultation and careful deliberation will enlighten each individual Juror and will tend to make your combined decisions better and wiser. While you should never surrender your individual opinion merely and solely because of the opinions of other Jurors, or merely and solely for the purpose of reaching a decision, you should not hesitate to change your opinions when, after deliberation with your fellow Jurors, you are convinced that your original view was unsound. Remember that a final, sound result is far more important than mere stubborn pride of opinion.

It will be the important responsibility of the Foreperson of this Grand Jury, and of the Secretary, to see to it that your meetings are conducted and your proceedings recorded in an orderly manner, as far as possible in accordance with the simple but very wise rules of parliamentary law, under the direction of your Foreperson, with full presentation of the question immediately before you, with full opportunity for debate, and with careful voting procedure. Observance of this counsel will not only improve the quality of your final conclusions and actions, but will also, in the long run, save you the waste of time and energy involved in disorderly disputations among you.

Now, by reason of your membership on the Civil Grand Jury, you are going to be approached from time to time by individuals who will either directly or indirectly seek to engage you in discussions concerning matters within your field of inquiry or action. Sometimes they may be seeking to draw you out concerning

your views in order to obtain information for their own purposes. Sometimes they will seek to influence you for or against some course of action in which they may be interested. Sometimes they will impart to you information which they claim to have, either orally or by letters, which you may receive. In these situations, please bear in mind that it is your duty to be prudent, keep your own counsel, and listen or read with a view to distinguishing between information given in good faith on the one hand, or mere buttonhole importunings by specially interested persons or their special pleaders on the other hand. Sometimes this information comes from people of crank mentality.

It will be well for you always to be on your guard, hold your tongue, avoid disclosure and commitments. If the incident seems to involve serious matters and improper motives, report it to the Grand Jury, the District Attorney, or, if you think necessary, to the Presiding Judge. If you conclude that information has been given to you in good faith, your course is simple and clear. Fully and fairly state it in meeting assembled to your fellow Grand Jurors, discuss it, evaluate it, and proceed accordingly. Remember that the good faith and dependability of an informant can best be tested by reminding him or her that he or she can be and may be called upon to give formal testimony under oath on the subject before the whole Grand Jury. Bear in mind the admonition that during your service as a Grand Juror it will be better for you to listen than to talk, and better still to restrict your conversation concerning Grand Jury business pending, prospective, or possible -- to the Grand Jury Room, and never to discuss it at the luncheon, the cocktail party, the office or the home even with your closest relatives, associates, or superiors.

The success of your performance as a Grand Jury will be gauged, as far as I am concerned -- and I am quite sure as far as the general public is concerned -- not by sensational publicity concerning your work as a body or concerning the comments of individual Jury members, but by the calmness, the quietness, the smoothness, and the dignity of your proceedings. It is of the utmost importance that each Grand Juror bear in mind that he or she is a member of a body which consists of eighteen others. For best results you must work together, with mutual patience, tolerance, courtesy, and respect. One of the worst things that could happen would be the engendering of dislikes or enmities among you, or the splitting off of Jurors into cliques or groups of any kind for any reason. It will be the important responsibility of the Foreperson to make sure that no such deterioration occurs in this Grand Jury. To that end, he or she will be called upon to preside with tact, with restraint, with consideration, and with good spirit, and I ask that you so cooperate with your Foreperson that his or her task in this respect will be as light as possible.

Always remember, ladies and gentlemen, that you represent on this Grand Jury not yourselves nor any organizations or groups with which you may be associated, but that you represent the public. Therefore, it is your duty to think at all times not in terms of your own or any particular group's interest, or in terms of any personalities, but always in terms of the whole public interest. Violation of the letter or the spirit of the Grand Juror's Oath, which you took before me today, by any individual Grand Juror would endanger the integrity and the effectiveness of the whole Grand Jury. Should the Presiding Judge become convinced that any such violation tends to destroy the effectiveness and integrity of the body, he or she

would be obliged to act - even to the extent, if necessary, of discharging the whole Grand Jury and impaneling another one. This would be a most undeserved disappointment for Jurors not involved, but there might be no other course. It must be observed, therefore, that each individual Grand Juror places himself or herself in the hands of all the others, and the others place themselves in his or hers. Bear in mind that you are concerned primarily with the impartial and fearless enforcement of law and good government.

There are but a few brief practical suggestions I would like to add at this point.

1. Listen to the evidence and the opinions of your fellow jurors, but don't be a rubber stamp.
2. Be independent, but not obstinate.
3. Be absolutely fair -- you are acting as a judge. Because of the secrecy of the hearing, no one else may inquire into what you have done.
4. All jurors have an equal voice in determining matters before the Civil Grand Jury. Each juror has the right to state the reason for his or her views.
5. Express your opinion, but don't be dictatorial. Every juror has a right to his or her own opinion. You may try to persuade another juror, but do not try to force the juror to change his or her mind and agree with you. He or she might be right.
6. Do not keep silent when a matter is under discussion, and begin to talk about it after a vote has been taken.
7. Perform your duty with calm deliberation, for a reckless grand

jury can do as much harm to the community as a weak grand jury.

8. Do not investigate matters out of the province of the grand jury, or merely because someone suggested an investigation, without sufficient information, or merely because it would be an interesting matter to investigate.

9. Do not discuss confidential matters with your fellow jurors outside of the jury room.

10. It is of great importance that your attendance be regular and on time. If you are unable to attend the session, or desire to be excused, ask your foreperson.

11. Each juror has a duty and responsibility equal to yours. Each juror is entitled to be satisfied with the evidence before being called upon to vote. Although your mind may be made up, if others wish to pursue the matter further, you have no right to dismiss the witness or shut off proper discussion.

The Civil Grand Jury is further informed and charged that its powers, duties, and responsibilities are set forth in these instructions and the text and code sections set forth in the Civil Grand Jury Manual, a copy of which will be provided to you. The members of the Grand Jury are directed to read the entire manual. Your particular attention is directed to the Appendix entitled APertinent Provisions of the Law≡.

It will be my purpose during the year to follow closely the proceedings of the Civil Grand Jury. I think that this Grand Jury is comprised of highly principled individuals who have in their hearts and minds performing a consequential service for the community and its inhabitants. You may call upon

me for any advice or counsel at any time during the year.

From time to time I may have suggestions to make about matters that in my opinion may deserve consideration by the Grand Jury. It will be within your power to determine whether or not they should be considered. Hopefully, this Grand Jury may make a substantial contribution for the community welfare.

ALFRED G. CHIANTELLI  
PRESIDING JUDGE  
OF THE SUPERIOR COURT  
CITY AND COUNTY OF SAN FRANCISCO

JULY 1999



## OATH OF CIVIL GRAND JURORS

The oath taken by Civil Grand Jurors is as follows:

“I will support the Constitution of the United States and of the State of California, and all laws made in pursuance thereof and in conformity therewith, will diligently inquire into, and true presentment make, of governmental matters within this county subject to investigation by a civil grand jury pursuant to law. I will keep my own counsel, and that of my fellow grand jurors and of the government, and will not, except when required in due course of judicial proceedings, disclose the testimony of any witnesses examined before the grand jury, nor anything which I or any other grand juror may have said, nor the manner in which I or any other grand juror may have voted on any matter before the grand jury. I will investigate no person, department, or governmental entity through malice, hatred, or ill will, nor leave any uninvestigated through fear, favor, or affection, or for any reward, or the promise or hope thereof, but in all my presentments I will present the truth, the whole truth, and nothing but the truth, according to the best of my skill and understanding, so help me God.”

## **CHARGE OF THE COURT**

The oath of office having been administered, the court then proceeds to charge the jury and give such information as it deems proper or is required by law for the guidance of the jurors. (Penal Code sec. 914 and 914.1).

## **CONFLICT OF INTEREST CODE**

The City and County has amended its Administrative Code to adopt a Conflict of Interest Code for members of the Civil Grand Jury. Effective July 1, 1990, members of the Civil Grand Jury will be required to “. . . disclose all investments and business positions in business entities, and income from any sources which have done business within the City and County in the previous two years and income from all individuals who are employees of the City and County and all interests in real property.” (Section 58.168 San Francisco Administrative Code.)

Conflict of Interest Code forms and instructions will be distributed to the members of the Grand Jury. Questions concerning the Code or the forms will be directed to the City Attorney's Office.

**THE GRAND JURY  
ITS  
NATURE  
AND  
BACKGROUND**



## HISTORY

One of the earliest concepts of the Grand Jury dates back to ancient Greece where the Athenians used an accusatory body. Others claim the Saxons initiated the Grand Jury system. For example, in the years 978 to 1016, one of the Doms (laws) stated for each 100 men, 12 shall be named to act as an accusing body. "They shall not accuse an innocent man nor spare a guilty one."

The origin of the Grand Jury can also be traced back to the time of the Norman Conquest of England in 1066. There is evidence that the courts of that time summoned a body of sworn neighbors to present crimes which had come to their knowledge. The members of that accusing jury were selected from small jurisdictions, thus it was natural and indeed expected that the members would present accusations based on their personal knowledge.

Generally, historians agree that the Assize of Clarendon in 1166 was the genesis of our present grand jury system. During the reign of Henry II (1154-1189), in an effort to regain for the crown the powers usurped by Thomas Beckett, Chancellor of England, twelve "good and lawful" men in each village were assembled to reveal the names of those suspected of crimes. It was during this same period that juries were divided into two types: civil and criminal, with the development of each influencing the other.

Originally, an "Assize" meant a court session or assembly. As used today, it refers to the accomplishment or enactments of such groups. Thus, the "Assize of Clarendon" was the first use of the jury for the purpose of discovery of evidence

and the presentation to royal officials those persons suspected of crimes. In addition, it reported on other matters relating to the maintenance of order and good government in its district.

The oath taken by these jurors was that they shall “do this faithfully, that they will aggrieve no one through enmity nor deference to anyone through love, and that they conceal those things which they have heard.”

By the year 1290, we find that the accusing jury was given the authority to inquire into the maintenance of bridges and highways, the defects of jails, and whether the sheriff had kept in jail anyone who should have been brought before the justices.

“Le grand inquest” evolved during the reign of Edward III (1368), when the “accusatory jury” was increased in number from 12 to 23, with a majority vote necessary to indict one accused of crime.

The Massachusetts Bay Colony empaneled the first Grand Jury in 1635 to consider cases of murder, robbery, and wife beating. As early as 1700, the value of the Grand Jury was recognized in opposing the Royalists. These colonial Grand Juries expressed their independence by refusing to indict leaders of the Stamp Act (1765), and a Boston Grand Jury refused to bring libel charges with other colonies to oppose British taxes and was supported by a Philadelphia Grand Jury in 1770.

By the end of the colonial period, the Grand Jury had become an indispensable adjunct of government: “they proposed new laws, protested against abuses in

government, and wielded tremendous authority in their power to determine who should and should not face trial.”

Although originally the Constitution of United States made no provision for a Grand Jury, the Fifth Amendment, ratified in 1791, guaranteed that:

“ ...no person shall be held to answer to a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger...”

Public support, sustained through the Revolutionary period, began to wane in the early 1800's. Adoption of the Fourteenth Amendment in 1868 made it illegal to “deprive any person of life, liberty, or property without due process of law.” As interpreted by some states, this amendment no longer required prosecution of crimes by Grand Jury indictment or prohibited direct accusation by the prosecutor (“information”). California is one of the states to initiate prosecution by either indictment or preliminary hearing.

The first California Penal Codes contained statutes providing for a Grand Jury, to be impaneled quarterly, at the same time as the trial jurors were drawn. Early Grand Juries investigated local prisons, conducted audits of county books and pursued matters of community interest. As cited, the role of the Grand Jury in California is unique in that by statutes passed in 1880, the duties included investigation of county government. Only seven other states provide for investigation of county government by a Grand Jury beyond alleged misconduct of

public officials. Only California and Nevada mandate that Grand Juries be impaneled annually to function specifically as a “watchdog” over county government.

It is interesting to note that while the Grand Jury was abolished in England in 1933, it has established itself as a component part of our judicial system.

As constituted today, the Grand Jury is a part of the judicial branch of government – “an arm of the court.” It does not have the functions of either the legislative or administrative branches, and it is not a police agency. It is an inquisitorial and investigative body and is part of the machinery of government having for its object the detection and correction of flaws in government and the detection of crime among its citizens. The primary function of the Grand Jury, and the most important reason for its existence, is the examination of all aspects of county government. This includes investigating the disbursement and auditing of the county’s monies with the objective of assuring the taxpayers of honest, efficient government.

The Grand Jury has three ways to exercise its powers:

1. Reports: Written communications of possibly unsatisfactory conditions with recommendations for improvement, where no crime is charged.
2. Indictments: Formal written complaints charging a person with a crime.
3. Accusations: Similar to indictments except that conviction would result in removal from office rather



would result in removal from office rather than criminal penalties.

A large portion of the public believes that an individual, particularly a public official, appearing before the Grand Jury suggests malfeasance or misfeasance. It should be clearly understood that it is the constitutional responsibility of the Grand Jury to review the conduct of government each year, and this entails having public officials appear before the jury for the purpose of providing information to the jury relative to their departments or offices.

While it is a part of the judicial system, a Grand Jury is an entirely independent body. The presiding judge of the Superior Court, the district attorney, the county counsel, and the state attorney general act as its advisors, but cannot prevent the actions of the jury except for legality.

Because of the confidential nature of a Grand Jury's work, much of it must be conducted in closed session. Members of a Grand Jury are sworn to secrecy, thus assuring all who appear that their complaints will be handled in an entirely confidential manner. No one may be present during the sessions of a Grand Jury except those specified by law (Penal Code Section 939), and the minutes of its meetings may not be inspected by anyone, nor can its records be subpoenaed.

The conduct of criminal investigations and the return of indictments is the smaller part of a Grand Jury's function in California. In some states all persons accused of felonies must be indicted by a Grand Jury before being tried. This is also true of

the federal courts. In this state the vast majority of criminal cases are presented to the court, at a preliminary hearing, on a complaint issued by the district attorney.

Unlike a trial jury, a Grand Jury does not pass upon the guilt or innocence of the person accused. Its duty is to decide whether the evidence is such as to warrant charging a person with a triable offense, such indictment to be acted upon by the courts.

The Civil Grand Jury serves as an ombudsman for citizens of the county. The jury may receive and investigate complaints by individuals regarding the actions and performances of county public officials.

Each Grand Jury is charged with a grave responsibility. The attention of the entire county is centered upon an active Grand Jury, and its every act is a matter of public interest. Malefactors and unfaithful public servants are uneasy, while honest citizens and conscientious public servants are reassured. Grand Jury service calls for diligence, impartiality, courage, and great responsibility. Selection for service is one of the greatest honors a citizen can receive and provides an opportunity to be of unequalled value to the community.

**SUGGESTED PROCEDURES  
FOR ORGANIZING  
AND  
RULES OF COURT**



## INTRODUCTION

The law provides that in all counties there shall be at least one Grand Jury drawn and impaneled in each year (Penal Code sec. 905, California Constitution, Article I, Section 23) to serve during the fiscal year (Penal Code sec. 905.5). The Grand Jury in the City and County of San Francisco consists of 19 members and is selected from the citizens of the City and County by the Superior Court, and sworn to inquire of public offenses committed or triable within the county (Penal Code sections 888, 888.2). The principal function of today's Grand Jury is to scrutinize the conduct of the public business of the county. The second principal function of the Grand Jury is to hear evidence presented by the District Attorney's office in proceedings directed towards an indictment. An indictment is an accusation in writing, presented by the Grand Jury to a competent court, charging a person with a public offense (Penal Code sec. 889).

Penal Code section 904.6 permits the presiding judge in any county or city and county, to impanel an additional Grand Jury to have sole and exclusive jurisdiction to return indictments if he or she deems it necessary. The presiding judge has impaneled an additional Grand Jury pursuant to this code section and an Indictment Grand Jury is in existence. The Indictment Grand Jury has sole and exclusive jurisdiction to return indictments. The duties of the Civil Grand Jury are limited to the civil functions required of grand juries.

## PROCEDURE FOR FIRST MEETING

In all probability, many of the Grand Jurors will not be personally acquainted nor familiar with the records and qualifications of other members. Therefore, at the organizational meeting, it is advisable for the foreperson to introduce him/herself to the other jurors, state his/her occupation, business, professional experience, and other general qualifications. He/she may then call upon each of the other grand jurors to make a similar statement concerning themselves. Members should not be too modest or retiring in their remarks, but should remember that the intent is to enable the jury, and particularly the foreperson, to become better acquainted with them and to select those best qualified to fill various offices and committees. It will be well if each member will also state whether or not any near relatives or business associates hold or have held any public office.

Experience has indicated that committee appointments and permanent organizations should be avoided at the first meeting. It will also help if each juror is requested to pick several committees on which he/she feels he/she is best qualified to serve, noting the committees in order of his/her preference or qualifications. These lists may be handed to the foreperson for study in conjunction with the information already obtained.

Unless immediate action of the Grand Jury on some pressing matter is necessary, it is suggested that at least one week elapse before the second meeting; so that all the jurors can (1) review the information contained in this manual, and (2) give serious thought to the permanent organization of the Grand Jury.

## SESSIONS - IN GENERAL

The Civil Grand Jury meets at places and times designated by the presiding judge. The Grand Jury usually meets at the Civic Center Courthouse, 400 McAllister Street, Room 617, on Monday afternoons at 5:30 p.m. Grand Jurors receive a fee of \$11.00 per day for each day in which they attend a meeting of the entire Grand Jury. Past Grand Juries have found these meetings convenient to all concerned.

Committees will organize separately and will meet at agreed times and places. In the event that a committee needs to meet at the Courthouse, the committee chairperson should contact the consultant or a member of his/her staff to make the necessary arrangements. Grand Jurors receive a fee of \$11.00 per day for each day in which they attend a committee meeting. Please note, however, that a local ordinance limits the number of paid committee meetings in any month to four. A fee cannot be paid to any member for any committee meeting in excess of four per month. Since these are per diem fees, only one fee is paid no matter how many meetings may be attended in one day.

## SUGGESTED PROCEDURE

The following is a suggested order of procedure for meetings at which the Grand Jury is not considering a special investigation.

Convene promptly at the hour and place designated.

Roll call by the secretary.

Read and approve, or correct and approve, the minutes of the previous meeting.

Read communications and refer to the appropriate committee for necessary action.

Hear reports of special committees, if any.

Hear reports of standing committees.

Attend to unfinished business.

Attend to new business.

Announce, if possible, the agenda for the next meeting.

Adjournment.



## SUGGESTED RULES OF ORDER

The foreperson shall preserve order; may speak on points of order in response to members, and shall decide all questions of order, subject to appeal. He/she shall be ex-officio a member of all committees.

When any member is about to speak, he/she shall address the foreperson and confine him/herself strictly to the question under discussion.

When a motion is made or a resolution is offered, it shall be handed, if in writing, to the secretary and read by him or her before it is discussed. Every resolution shall be reduced to writing, when adopted.

When a question is under debate, no other motion or proposal shall be received except a motion to adjourn, to lay on the table, to postpone to a certain time, to refer to committee, to amend, or to postpone indefinitely. The several motions shall take precedence in the order above set forth. A motion to adjourn shall always be in order except when a member is speaking. However, the foreperson may rule any motion out of order (except on appeal from his/her decision) if he/she finds the motion dilatory, absurd, or frivolous.

If at any meeting a member doubts the decision of a vote, he/she may call for a roll call.

No member who did not vote with the majority on any question shall move the reconsideration of a vote. Reconsideration of a question can only be had at the first subsequent meeting after notice has been given at the previous one.

All complaints presented to the Grand Jury must be in writing.

No matter shall be considered by the Grand Jury without having been referred to a committee for study and report, except by consent of two-thirds of the

members present, or direction of the foreperson.

No Grand Juror shall be allowed to speak on the same subject more than once, except by consent of the foreperson, and then only when all of the members who wish to speak have done so. The foreperson may then allow a juror to speak a second time, and this privilege is then extended to all members.

Committee reports or requests for official action must be submitted to the Grand Jurors in advance of the meeting at which they are to vote.

The foregoing rules may be suspended at any meeting of the Grand Jury by a vote of two-thirds of the members present.

The quorum for the conduct of civil matters, including the adoption of rules of procedure and final reports shall be 12. (Penal Code section 916).

Rules of procedure shall also include guidelines for the grand jury to ensure that all findings included in its final reports are supported by documentary evidence, including reports of contract auditors or consultants, official records, or interviews attended by no fewer than two grand jurors and that all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable. (Penal Code section 916).

Note:

No rule should be adopted or enforced which will keep the proceedings of the Grand Jury so restricted that matters cannot be informally discussed. There is no reason why meetings cannot be informal, while transacting business with efficiency and dispatch.

## COMMITTEES

The major work of the Grand Jury, that of investigation and reporting on the needs of all county officials and offices, is accomplished through committees established for that purpose.

Each Grand Jury determines the number and kind of standing committees it will organize. It may authorize at any time the appointment of any additional or special committees that may seem necessary to carry out the work of the Grand Jury in an expeditious manner.

The foreperson appoints the committees for the Grand Jury, but should make every effort to see that each juror has at least one assignment of major interest to him or her. The foreperson and the secretary are members of all committees, ex-officio. The foreperson appoints both the chairperson and members of the committees.

A Grand Jury should not feel itself committed to perpetuating the committees of the previous Grand Jury, but should establish those committees it feels it needs for the current year.

The committee structure should reflect that every Grand Jury may investigate and report upon the needs of all county officers, including the abolition or creation of offices and the equipment for, or the method or system of performing the duties of the offices. The Grand Jury's investigation and report shall be conducted selectively each year. (Penal Code sec. 928.)

The following is a suggested list of committees that might be used to expedite the business of the Grand Jury:

1. Administration and Finance
2. Art and Education
3. Health and Human Services
4. Infrastructure
5. Law and Justice
6. Transportation and Facilities

During the year, each committee should make progress reports from time to time. These progress reports will inform all members of what is being done and enable the members not on a committee to make suggestions and recommendations.

## COMMITTEE PROCEDURE

Each committee should determine as soon as possible what investigations or studies it wishes to make during the year, and should prepare an outline of visits, speakers, and resource materials that would open for investigation all aspects of the matter under examination. In particular, the work of previous Grand Juries in the area should be reviewed to capitalize on work already done or to discover areas of possible fruitful investigation.

Committee chairpersons should make periodic progress reports to the jury, as a whole, so that the Grand Jury as a whole may make suggestions and recommendations. This should be an internal reporting and discussion process and interim reports should be made only when by majority vote the grand jurors decide that they should be distributed publicly.

Chairpersons are authorized to call meetings of committees whenever they consider them desirable. As nearly every matter concerns more than one committee, members of other committees or even the entire Grand Jury may be invited to attend.

If a committee is studying a matter of great importance, witnesses should be heard by the Grand Jury as a whole. While a committee can invite, meet with, and interview any person in relation to their assignments, the committee does not have the power to subpoena witnesses; the Grand Jury as a whole does have the power to subpoena witnesses with the consent of a Superior Court Judge.

Committee meetings are conducted in much the same manner as meetings of the whole jury, except that the chairperson presides, and the foreperson and secretary, when present, are merely ex-officio members of the committee.

Committee chairpersons and members should, during their investigation, keep a list of all people interviewed and reports and documents received. Copies of such documents and of committee correspondence should be kept in that committee's file in the Grand Jury file.

Committees should confer with the Grand Jury Consultant regarding any county department they are studying. They should meet at least once with any department head involved in their investigations and make arrangements with him or her for other contacts desired in his or her department. The Grand Jury Consultant will assist in arranging for speakers, interviews, and office tours.

Good judgment requires that the utmost discretion be used by grand jurors in their committee's inquiries into county government.

## WORK COMMITTEE PREFERENCES

You will be given a copy of the final report of the newly discharged Grand Jury. You will be asked to read and familiarize yourself with that report so as to better understand the functions of the various committees.

Each member of the Grand Jury is expected to undertake work on three committees. Each committee, if possible, will consist of five members, one of whom will be named as chairperson. Each chairperson will serve on one other committee besides his/her own.

You will be given a work committee preference sheet, and each grand juror is to indicate on this sheet five committees on which he/she is willing to work. They are to be named in order of preference. If willing to serve as a chairperson on one or more of the committees, so indicate.

Preference sheets should be given to the foreperson as quickly as possible so that assignments can be made at the organizational meeting.

Obviously the preferences shown on these sheets may not result in an even distribution of five members, including a chairperson, for each committee. Probably one or more committees will be shown a preference by a number of members other than five. Under these circumstances, the foreperson will make adjustments as best he/she can and trust that the members will accept assignments in good faith. In case of a hardship as a result of an assignment, please notify the foreperson so that corrective steps may be taken.

In the event that a grand juror wishes to serve on more than three or, for good reason, less than three committees, please indicate that fact on the bottom of the preference sheet with an explanation.



## CIVIL GRAND JURY X COMMITTEES

### Administration & Financial

Agriculture/Weights & Measures, Dept. of  
Assessment Appeals Board  
Assessor  
Board of Supervisors  
City Administrator  
Civil Service Dept.  
Controller  
Department of Elections  
Ethics Commission  
Human Resources Dept.  
Mayor, Office of the  
Permit Appeals Board  
Public Administrator/Public Guardian  
Purchasing Dept.  
Real Estate Dept.  
Retirement System Board  
Small Business Advisory Commission  
Treasurer/Tax Collector

### Art & Education

Art Commission  
Asian Art Commission  
California Academy of Sciences  
Community College District  
Education (SFUSD & Board)  
Film and Video Arts Commission  
Fine Arts Museums  
Law Library  
Public Library (Dept. & Commission)

### Health & Human Services

Aging, Commission on  
Community Mental Health Services  
Emergency Services, Dept. Of  
Environmental Health, Dept. Of  
Health Service System Board  
Human Rights Commission  
Laguna Honda Hospital  
Mental Health, Dept. of  
Public Health (Dept. & Commission)  
San Francisco General Hospital  
Social Services (Dept. & Commission)  
Status of Women, Commission on the

### Infrastructure

Building Inspection, Bureau of  
City Planning, (Dept. & Commission)  
Electricity, Dept. of  
Fire (Dept. & Commission)  
Hetch Hetchy System  
Housing Authority  
Public Utilities Commission  
Public Works, Dept. of  
Redevelopment Agency  
Relocation Appeals Board  
Rent Stabilization Board  
Southeast Community Facility Commission  
Telecommunications/Information Services  
Water Department

### Law & Justice

Adult Probation Department  
Animal Care & Control  
City Attorney  
Coroner/Medical Examiner  
County Clerk/Recorder  
County Jails  
Delinquency Prevention Commission  
District Attorney  
Juvenile Probation Department  
Juvenile Probation Commission  
Parole Commissioners, Board of  
Police (Dept. & Commission)  
Public Defender  
Sheriff  
Youth Guidance Center

### Transportation & Facilities

Airport (Dept. & Commission)  
Convention Facilities  
Farmer's Market  
Municipal Railway  
Parking and Traffic (Dept. & Commission)  
Port (& Commission)  
Recreation & Park (Dept. & Commission)  
Transportation Authority  
War Memorial



**DUTIES**

**FOREPERSON**

**FOREPERSON PRO TEMPORE**

**SECRETARY**

**PUBLICITY**



## DUTIES OF THE FOREPERSON

From the persons impaneled to serve as Grand Jurors the court shall appoint a foreperson. It is customary for the judge to appoint the foreperson after the jurors have taken the oath. The court shall also appoint a foreperson when the person already appointed is excused or discharged before the Grand Jury is dismissed. (Penal Code sec. 912)

The following are the usual, routine duties of the foreperson:

1. To preside at meetings of the Grand Jury as efficiently as possible so the jury can accomplish its work.
2. To consult with the presiding judge of the Superior Court when necessary and request his appearance when desired.
3. To call meetings of the Grand Jury and prepare an agenda for each meeting.
4. Appoint all standing and such special committees as may be ordered by the Grand Jury, or as the foreperson may consider necessary.
5. Request legal advice on behalf of the Grand Jury from the Presiding Judge or the City Attorney, in civil matters.
6. To make changes in committee assignments when deemed advisable, with the approval of the committee chairperson.
7. To sign all communications of the Grand Jury including all news releases.

8. To be the only spokesman for the Grand Jury, unless otherwise designated.
9. To sign the final report of the Grand Jury, as well as any and all other official reports rendered by the Grand Jury.
10. Present correspondence to the Grand Jury.
11. To administer oaths.
12. To speak to interested groups, upon request on functions of the Grand Jury.
13. To assign investigations to the proper committee.
14. To keep such files as are deemed necessary.
15. To act as ex-officio member of all committees.
16. To see that a master plan is made that includes scheduled visits and speakers, dates for progress reports from the committees, and the tentative timetable for submission of the committee recommendations to the Grand Jury as a whole for discussion and adoption of the final report. A suggested set of deadlines could be: March 1<sup>st</sup> to April 1<sup>st</sup> - the committee chairpersons and members should start finalizing their reports; April 1<sup>st</sup> to May 1<sup>st</sup> - the committee chairpersons should make preliminary presentations of the reports to the Grand Jury as a whole; May 1<sup>st</sup> to June 1<sup>st</sup> the reports should be approved for public distribution. The absolute final date for the release of any report should be June 15<sup>th</sup>. While reports can be released up to and including 30 days after discharge, it is best to have them released on or before June 15<sup>th</sup>, unless some unusual condition prevails

17. To recognize that his or her most important responsibility lies in seeing that the Grand Jury as a whole and each of the committees functions effectively and efficiently. To this end, he or she should be in constant consultation with the various chairpersons and should require frequent progress reports as to the work being handled by each committee.

To a large extent, the success of the jury will depend on the foreperson's skill in organizing and conducting meetings. The jury must function as a body rather than as individuals. Since the jurors have diversified experience, interests, and philosophies, this is not an easy task. It is the foreperson's responsibility to see that splinter groups do not form nor enmities occur between jurors. The foreperson should strive to preside with tact, restraint, consideration, common sense and a sense of humor, always keeping open communication between himself or herself and other jurors.

## FOREPERSON PRO TEMPORE

In the case of prolonged or permanent disability of the foreperson to serve, the court should be notified. The foreperson pro tem acts as foreperson until a new foreperson has been named by the court.

### Duties and Responsibilities

See duties of the foreperson. Additional duties such as the following may be assigned to the foreperson pro tem:

1. Assist and counsel the foreperson on matters concerning procedure, personnel problems, committee responsibilities, committee appointments, and the morale, efficiency, and well being of the jury.
2. Assist the foreperson in any way requested.



## DUTIES OF THE SECRETARY

The grand juror elected as secretary assumes a vital role in the smooth operations of the jury as a whole in addition to regular duties as a juror. The secretary does not need to have previous training in this field.

The following are the usual routine duties of the secretary.

1. To call and record the roll of the grand jurors present at each meeting.
2. To read the minutes of previous meetings and make corrections if necessary.
3. To keep an accurate record of all proceedings at every Grand Jury meeting in the form of minutes.

These minutes should show the following:

1. Time of convening.
2. Jurors absent at the time of convening.
3. The time absent jurors appear.
4. Exact hour and minute jurors, or other persons leave the meeting, when excused by the foreperson.

Note: It is important that the minutes show that at least a quorum is present at all times during any meeting or hearing, and the secretary should advise the foreperson if at

any time the number of jurors present drops below a quorum.

5. To keep a list of correspondence presented by the foreperson and action taken.
6. To record all of the motions made, seconded and voted upon, and the jury's action thereon.

Note: It is not material what persons moved or seconded any motions or what the specific vote was. It is only necessary to make an accurate record taken of the action.

7. To record reports formally submitted by various committees and the Grand Jury's action thereon.
  8. To record time of adjournment.
4. Turn over correspondence and other documents of the Grand Jury to the Consultant for filing at the conclusion of the term of office.

## PUBLICITY

The Penal Code requires grand jurors to keep secret most of their transactions. Each Grand Jury should decide on a definite policy as to what matters can and should be made public, and who will be authorized to release such publicity. It is suggested that the foreperson be so authorized, and that no other person shall make any statement on behalf of the Grand Jury.

In each instance where publicity is released:

- The jury should approve all news releases.
- Care should be taken in the preparation of reports and releases to provide a clear, concise statement of the jury's position.
- When a news release concerns a report or recommendation to a department or agency, ample time should be allowed for the recipient to receive the material before its release to the press.
- In each instance where publicity is released, consideration should be given to having it reviewed by the legal advisor before release.
- It will be well to have the release typewritten and to furnish a copy to any interested reporter with a copy placed in the Grand Jury file.

Grand Jurors must be on guard against undue publicity. Most matters requiring Grand Jury action can be successfully completed only if absolute secrecy is maintained throughout the inquiry.



**THE CIVIL GRAND JURY**  
**ITS**  
**POWERS AND DUTIES**  
**WITH RESPECT TO GOVERNMENTAL AFFAIRS**



**POWERS AND DUTIES OF THE GRAND JURY**  
**REGARDING GOVERNMENTAL AFFAIRS**

Each Grand Jury, as required by law, receives detailed and extensive instructions regarding its powers and duties from the presiding judge of the Superior Court. The present document is designed to inform the Grand Jury of available assistance and general guidelines applicable to the duties of the jury which pertain to civil and governmental matters.

When a juror takes the oath of office, he or she becomes not only a responsible officer of the court but a student of local government operations. Due to the increasingly complicated nature of local governmental operations, Grand Jurors sometimes expend substantial efforts in a frustrating attempt to secure information or data which is actually readily available upon appropriate inquiry. Likewise, extensive investigations may sometimes be undertaken by the jury on mistaken assumptions of illegality or impropriety.

Much of the Grand Jury's effectiveness is derived from the fact that the viewpoint of its members is fresh and unencumbered by prior conceptions about government.

The Grand Jury is perfectly free to follow its own inclinations in investigating local governmental affairs. This material is presented for the sole purpose of assisting the Jury. Prior consultation with the City Attorney, Mayor, Chief Administrative Officer, members of the Board of Supervisors, and other City and County officers may enable the Jury to discharge its duties effectively without blunting the sharpness of its observations and recommendations.

Each member of the Grand Jury will learn a great deal about City and County government and its relationship to its citizens. Past grand jurors have found such knowledge to be of personal satisfaction and public value. Grand Jurors enjoy a uniquely sensitive position that enables them to gain considerable knowledge of governmental functions and to propose improvements in their effectiveness.

The duties of the Civil Grand Jury can generally be set forth as follows:

To inquire into the conditions and management of public prisons within the county. (Penal Code sec. 919b);

To inquire into the willful or corrupt misconduct in office of public officers of every description within the county. (Penal Code sec. 919c); (See page 52 - Elected Officials);

To inquire into sales, transfers, and ownership of lands which might or should escheat to the state. (Penal Code sec. 920);

To investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in their ex officio capacity as officers of the districts. Such investigations may be conducted on some selective basis each year. (Penal Code sec. 925);

The performance of this duty may require the auditing of books, which should be accomplished as economically as possible. Previous audits and recommendations of auditors are available to you. In addition, the Internal Audits Division of the Controller's Office conducts a number of



audits each year, the results of which are available to the Civil Grand Jury. You should study the work and possible expense involved before employing an auditor. The contract with the auditor must be approved by the court.

The Grand Jury shall not duplicate any examination of financial statements which have been performed by or for the Board of Supervisors. The Grand Jury may enter into a joint contract with the Board of Supervisors to employ the services of an expert.

The Grand Jury is urged to study the report of the last Grand Jury and review the recommendations of recent Grand Juries for improvements in county government. The reports are on file in the Grand Jury Office.

After the examination of the City and County accounts and records, you may order the City Attorney in his or her capacity as county counsel to institute suit to recover any monies that, in your judgment, may be due the county.

Not only must the Grand Jury inquire into the county records, but it may examine the books and records of any special purpose, assessing, taxing district or "joint powers agency" located wholly or partly in the county.

To investigate and report upon the needs of all county officers in the county, including the abolition or creation of offices and the equipment for, or the method or system of performing the duties of, the several offices. Such

investigation and report shall be conducted selectively each year. (Penal Code sec. 928);

To submit no later than the end of each fiscal or calendar year of a county to the presiding judge of the Superior Court a final report of its findings and recommendations that pertain to county government matters other than fiscal matters during that year. To submit no later than the end of each fiscal or calendar year to the presiding judge of the Superior Court a final report of its findings and recommendations that pertain to fiscal matters of county government during that year. (Penal Code sec. 933). Copies are to be transmitted to each member of the Board of Supervisors of the county. (Penal Code sec. 928). No later than 90 days after the Grand Jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge on the findings and recommendations pertaining to matters under the control of the governing body, and every elective county officer or agency head for which the grand jury has responsibility pursuant to Penal Code section 914.1 shall comment within 60 days to the presiding judge, with an information copy sent to the Board of Supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In the City and County of San Francisco the Mayor is also required to comment on the findings and recommendations of the Grand Jury. (Penal Code sec. 933)

## LIMITATIONS ON INVESTIGATORY POWER

While the Grand Jury is authorized by statute to employ experts, auditors, or appraisers to aid in its examination of county financial records and the needs of county offices, it is not authorized to employ investigators or experts for other purposes. For example, the California Supreme Court has held that the jury does not have inherent power to establish its own investigatory apparatus for the detection of crime. Both practice and statute have left this function to law enforcement officials.

A Grand Jury may not, under our laws, use either private or public funds to employ special counsel or special investigators. In the event that the employment of special counsel or special investigators appears necessary, a request therefore should be made to the attorney general of the State of California. (Penal Code sec. 936)

Moreover, a Grand Jury should not engage in "fishing expeditions" or indiscriminate meddling. The scope of inquiry is limited to those subjects that are founded upon knowledge, which comes to the jury not by rumors and reports, but by knowledge acquired from the evidence before them or from their own observations.

A Grand Jury shall not make a report, declaration, or recommendation on any matter except on the basis of its own investigation. Also, a Grand Jury shall not adopt as its own the recommendation of another Grand Jury unless it does so after its own investigation of the matter. (Penal Code sec. 939.9)

1. QUORUM

A quorum for a meeting or the transaction of business consists of 12 jurors. The Grand Jury may act only as a body; an individual grand juror has no more authority than any private citizen does. The importance of your work requires that each of you be present at all sessions, except for the most pressing reasons.

2. SECRET SESSIONS

A Grand Jury is a secret as well as a legal tribunal. The law requires the grand jury to take an oath of secrecy. In meetings of the Civil Grand Jury no person is permitted to be present other than those persons invited or requested to attend, an interpreter, if appropriate, a stenographic reporter, if necessary. The judge of the Superior Court may be present only when his advice is requested.

The proceedings of the Grand Jury must be conducted in the utmost secrecy. This rule is of extreme importance. Penal Code sec. 924.1 provides that:

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 as said, or in what manner he or she or any other grand juror has voted on a matter before them, is guilty of a misdemeanor.

In following this rule you can use no halfway measures. Half statements or innuendoes by a grand juror lead to speculation, rumor, and violation of the law. A grand juror must not confide any information concerning the proceedings, even to a husband or wife or close friend.

There are, however, two situations when a grand juror may be compelled to disclose the proceedings in the Grand Jury room. The first exception permits any court to require a grand juror to disclose the testimony of a witness examined before the Grand Jury for the purpose of ascertaining whether that testimony is consistent with that witness' testimony before the court. (Penal Code sec. 924.2) The second exception allows a grand juror to be questioned on charges of perjury of which that juror may have been guilty in making an accusation or giving testimony to his fellow jurors. (Penal Code sec. 924.3)

To summarize: The rule of secrecy requires that witnesses shall remain before the Grand Jury only while testifying. The judge of the Superior court and the city attorney are entitled to be present, upon request, to give advice to the Civil Grand Jury. A stenographic reporter and interpreter may be present when necessary. All of these individuals must retire while the jury deliberates and discusses the matter and votes upon the question before it. Moreover, Penal Code sec. 891 provides:

Every person who, by any means whatsoever, willfully and knowingly, and without knowledge and consent of the grand jury, records, or attempts to record, all or part of the proceedings of any grand jury while it is deliberating or voting, or listens to or observes, or attempts to listen to or observe the proceedings of any

grand jury of which he is not a member while such jury is deliberating or voting is guilty of a misdemeanor.

Because of the necessity and requirement for secrecy of your proceedings, it is suggested that, as a matter of policy all publicity emanate from one source only.

3. PUBLIC SESSIONS

The Court may order that certain investigations be conducted in public -- matters involving misconduct of public officers which are found to affect the general welfare. Such order of the court may be obtained upon the filed written joint request of the district attorney (or attorney general) and the Grand Jury acting through its foreperson. (Penal Code sec. 939.1)

**THE GRAND JURY  
AND THE  
CITY ATTORNEY**

The city attorney is the civil legal advisor to the City and County, and all of its departments, officers, and commissions. In San Francisco, the city attorney acts as county counsel. The Penal Code authorizes the Grand Jury to request advice of the county counsel. It also allows the county counsel to be present during sessions of the Grand Jury pertaining to civil matters, if the jury desires his advice. If, at any time, the Grand Jury concludes that money is due and owing to the City and County and not collected, it may order the city attorney as county counsel to institute legal action for its collection.

Inasmuch as the city attorney acts as legal advisor to the Grand Jury, he or she is bound by both the secrecy restrictions on Grand Jury matters and the confidentiality of the attorney-client relationship.

**THE GRAND JURY**  
**AND**  
**ELECTED OFFICERS**

Elected and appointed officers will necessarily come under the scrutiny of the Civil Grand Jury during its investigation of the various City and County departments. While in most counties the Grand Jury is empowered to vote an "accusation" against an elected or appointed officer for willful or corrupt misconduct in office, and thereby direct a jury trial solely to the issue of his or her right to remain in office, this is not the case in San Francisco. The Charter under which the City and County operates sets forth the exclusive means by which elected officials can be removed from office.

Section 8.107 of the Charter of the City and County of San Francisco provides that the Mayor may suspend any elected officer (and certain other officials) for official misconduct. Thereafter written charges are filed with the Board of Supervisors and the accused official is entitled to a hearing before the Board. If the Board of Supervisors, by a three-fourths vote of all members of the Board, sustain the charges, the elected official is then removed from office. The Mayor has the power to suspend such officer while the hearing is pending, and to appoint a qualified person to discharge the duties of the office during the suspension.

Any person including elected officials, can be indicted by the Indictment Grand Jury if he or she has violated any criminal statute of this state, and the crime is a felony, regardless of any action taken under section 8.107 of the Charter.



**THE GRAND JURY**  
**AND**  
**CITY AND COUNTY OFFICERS**

Each City and County officer is qualified and willing to answer any questions pertaining to the specific functions discharged by his or her department and to assist the Civil Grand Jury in procuring information within his or her knowledge of special province.

It is not an unusual occurrence for a Grand Jury to expend a substantial period of time investigating a complaint or question raised by a member of the jury or a member of the public, only to find that the inquiry or complaint, when presented to the City and County officer involved, is satisfactorily resolved. Consequently, it is good practice, and basically fair, to insure that City and County officers are given ample opportunity to answer any questions or explain any complaints which are being considered by the Grand Jury or its committees. In this way, time will be saved for other important matters.

## GRAND JURY REPORTS

### FINAL REPORTS

At the end of its year of service, a Grand Jury is required by law to submit a final report to the presiding judge of the Superior Court. This report should contain a detailed account of its activities, together with such suggestions and recommendations as may be indicated.

The final report should represent the study of the entire Grand Jury. Even though the bulk of the work in various areas is done by individual committees, each grand juror should familiarize himself or herself sufficiently with the material covered in the committee reports so that he or she may intelligently vote on the recommendations presented for inclusion in the final report.

Before the Grand Jury begins its discussion of the committee reports, it should determine how many votes it would require to accept a recommendation for inclusion in the final report. Since the strength of the Grand Jury report lies in the degree to which it represents the decision of a representative group of citizens who have heard all sides of any issue and they recommend upon, it is suggested that a number greater than a mere majority of grand jurors be required.

The foreperson should appoint a special committee prior to March 1<sup>st</sup> to assemble and coordinate the materials for the final report, and to do the preparation and editing necessary to put the report into final form. The Grand Jury is most effective when it works by process of consensus. Nineteen members, after study of

all sides of a question, should be able to evolve a position that meets the approval of at least 12 jurors, which is a recommended minimum for acceptance of a report.

Final reports on any appropriate subject may be submitted to the Presiding Judge of the Superior Court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the Board of Supervisors, when applicable, upon finding of the Presiding Judge that the report is in compliance with the provisions of the Penal Code pertaining to Grand Jury Proceedings. One copy of each report found to be in compliance with these provisions shall be filed with the County Clerk and remain on file in the County Clerk's Office. (Penal Code section 933(a)).

### INTERIM REPORTS

In addition to the final report, a Grand Jury may submit interim reports if occasions warrant. Such reports should be confined to a single subject. It might be that an interim report would summarize the entire work of a committee, in which case a reference to the interim report is sufficient in that committee's section of the final report. The adoption of interim reports should be subject to the same procedures as apply to the adoption of final reports. Interim reports for public distribution should be held to a necessary minimum.

### COMMENT ON REPORT

No later than 90 days after the Grand Jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the

public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the Grand Jury has responsibility pursuant to section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises and controls. In any city and county, the mayor shall also comment on the Grand Jury's findings and recommendations. All such comments must be submitted to the presiding judge of the Superior Court who impaneled the Grand Jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor, when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report, by and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years. (Penal Code section 933(c)).

### RESPONSE TO GRAND JURY RECOMMENDATIONS

Section 933.05 of the Penal Code provides the method of response by the responding person or entity.

### CIVIL LIABILITY OF A GRAND JUROR

A grand juror is not civilly liable for damage resulting to a person indicted or accused by the Grand Jury. However, as to any comments in Grand Jury reports or

press releases about a person or public official not indicted, such comments are not privileged and could, if libelous, be the basis for a charge of civil or criminal libel. (Penal Code sec. 930)

This means that members of the Grand Jury are not immune from suits for libel in connection with any statements made in their report. Care must, therefore, be exercised to insure that all statements contained in the report are substantiated, accompanied by appropriate recommendations and are consistent with the Grand Jury's statutory authority.

## SUGGESTED OUTLINE OR REPORT

### 1. INTRODUCTION

Table of Contents (or Index)

Letter of Transmittal

List of Jurors

Jury Organization (Committee Chairman and Members)

Comments by Foreperson

Guest Speakers

Facilities and Projects Inspected

### II. BODY OF REPORT

1. Reports of Grand Jury Committees

2. Special Studies

3. Index of Recommendations

4. Recommendations to Future Panels

## **ADVICE AND ASSISTANCE**

If at any time a grand juror is uncertain either as to the law or procedure, he or she should not guess or speculate, but present his/her problem to the foreperson, who will ask the presiding judge, the city attorney, in all civil matters, and the grand jury consultant on procedural problems, for advice. Individual grand jurors must request legal opinions through the foreperson only. (Penal Code sec. 934)

Grand jurors should not hesitate to contact the consultant concerning any procedural problems they may have or to request information necessary to their committee work. The consultant and members of his staff are available to assist you at your request.

## **CORRESPONDENCE**

At each meeting of the Grand Jury the foreperson should advise the jury of all correspondence received since the previous meeting. If the correspondence is referred to a committee, or to another person such as the city attorney for investigation, the foreperson should have the responsibility of inquiring at subsequent meetings about the disposition.

## **GRAND JURY FILES**

All correspondence, copies of answers to same, committee reports referred to in the minutes, investigating materials, etc., should be kept in an official file maintained in the Grand Jury Office and available to members of the jury.

Correspondence carried on by committee chairs through the foreperson and other written materials accumulated in the course of the Grand Jury's work should ultimately be deposited in the files of the Grand Jury, to be available to subsequent grand juries. The secretary should be responsible for collecting and maintaining these materials in an assigned secure place.

## **LIBRARY**

Resource materials such as previous Grand Jury reports, budget messages for the City and County and reports of various departments and commissions, will be kept in the Grand Jury Office, for the use of grand jurors in their committee investigations.



**APPENDIX**  
**PERTINENT PROVISIONS**  
**OF THE LAW**



## APPENDIX

### PERTINENT PROVISIONS OF THE LAW

#### CONSTITUTION OF CALIFORNIA

##### ARTICLE 1, Section 23

One or more grand juries shall be drawn and summoned at least once a year in each county.

#### CODE OF CIVIL PROCEDURE

##### Sec. 193 KINDS OF JURIES

Juries are of three kinds:

- (a) Grand juries established pursuant to Title 4 (commencing with Section 888) of Part 2 of the Penal Code.
- (b) Trial juries.
- (c) Juries of Inquest. (Amended by Stats. 1988)
- (d)

##### Sec. 204 GROUNDS FOR EXEMPTION FROM JURY SERVICE

(a) No eligible person shall be exempt from service as a trial juror by reason of occupation, race, color, religion, sex, national origin, or economic status, or for any other reason. No person shall be excused from service as a trial juror except as specified in subdivision (b).

(b) An eligible person may be excused from jury service only for undue hardship, upon themselves or upon the public, as defined by the Judicial Council. (Amended by Stats. 1988)

**PENAL CODE**

TITLE 4

GRAND JURY PROCEEDINGS

Chapter	Section
1. General Provisions .....	888
2. Formation of Grand Jury .....	893
3. Powers and Duties of Grand Jury .....	914

CHAPTER 1

GENERAL PROVISIONS

Section

888. Grand Jury defined

888.2 Required number defined

889. Indictment defined

890. Fees of grand jurors, mileage

890.1 Payment of fees and mileage

891 Recording, listening to or observing grand jury proceedings; misdemeanor

892 Proceedings against corporations

888. GRAND JURY DEFINED

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

Each grand jury or, if more than one has been duly impaneled pursuant to Sections 904.5 to 904.9, inclusive, one grand jury in each county, shall be charged and sworn to investigate or inquire into county matters of civil concern, such as the needs of county officers, including the abolition or creation of offices for, the purchase, lease, or sale of equipment for, or changes in the method or system of, performing the duties of the agencies subject to investigation pursuant to Section 914.1. (Amended Stats. 1988)

#### 888.2 REQUIRED NUMBER DEFINED

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

- (a) Twenty-three in a county having a population exceeding 4,000,000.
- (b) Eleven in a county having a population of 20,000 or less, upon the approval of the board of supervisors.
- (c) Nineteen in all other counties. (Amended by Stats. 1994)

#### 889. INDICTMENT DEFINED

An indictment is an accusation in writing, presented by the grand jury to a competent court, charging a person with a public offense. (Added by Stats. 1959)

#### 890. FEES OF GRAND JURORS; MILEAGE

Unless a higher fee or rate of mileage is otherwise provided by statute or county or city and county ordinance, the fees for grand jurors are ten dollars (\$10) a day for each day's attendance as a grand juror, and fifteen

cents (\$0.15) a mile, in going only, for each mile actually traveled in attending court as a grand juror. (Amended by Stats. 1980)

#### 890.1 PAYMENT OF FEES AND MILEAGE

The per diem and mileage of jurors where allowed by law shall be paid by the treasurer of the county out of the general fund of the county upon warrants drawn by the county auditor upon the written order of the judge of the superior court of the county. (Added by Stats. 1959)

#### 891. RECORDING, LISTENING TO, OR OBSERVING GRAND JURY PROCEEDINGS; MISDEMEANOR

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

This section is not intended to prohibit the taking of notes by a grand juror in connection with and solely for the purpose of assisting him or her in the performance of his or her duties as such juror. (Added by Stats. 1959)

#### 892. PROCEEDING AGAINST CORPORATIONS

The Grand Jury may proceed against a corporation. (Amended by Stats. 1973)

CHAPTER 2  
FORMATION OF GRAND JURY

Article	Section
1. Qualifications of Grand Jurors .....	893.
2. Listening and Selection of Grand Jurors .....	895.
3. Jury Commissioners.....	903.
4. Impaneling of Grand Jury.....	904.

ARTICLE I  
QUALIFICATIONS OF GRAND JURORS

Section

893. Competency; incompetency.

894. Exemptions; excuses

**893. COMPETENCY; INCOMPETENCY**

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

(1) He/she is a citizen of the United States of the age of 18 years or older who shall have been a resident of the state and of the county or city and county for one year immediately before selected and returned.

(2) He/she is in possession of his natural faculties, of ordinary intelligence, of sound judgment, and of fair character.

(3) He/she is possessed of sufficient knowledge of the English language.

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

(1) The person is serving as a trial juror in any court of this state.

(2) The person has been discharged as a grand juror in any court of this state within one year.

(3) The person has been convicted of malfeasance in office or any felony or other high crime.

(4) The person is serving as an elected public officer. (Amended by Stats. 1973)

#### 894. EXEMPTIONS; EXCUSES

Sections 204, 218, and 219 of the Code of Civil Procedure specify the exemptions and the excuses which relieve a person from liability to serve as a grand juror. (Amended by Stats. 1989)

## ARTICLE 2

### LISTING AND SELECTION OF GRAND JURORS

#### Section

895. Estimate of number of jurors needed; order.

896. Selection and listing by superior court.

899. Proportionate selection of names; separate list.



- 900. Filing of list; preparation of grand jury box.
- 901. Regular jurors; period of service.
- 902. Drawing of names from grand jury box; persons not serving; listing for succeeding year.

Section

895 ESTIMATE OF NUMBER OF JURORS NEEDED; ORDER

During the month proceeding the beginning of the fiscal year of the county, the superior court of each county shall make an order designating the estimated number of grand jurors that will, in the opinion of the court, be required for the transaction of business of the during the ensuing fiscal year as provided in Section 905.5. (Amended by Stats. 1974)

896 SELECTION AND LISTING BY COURT; INVESTIGATION; JURORS

- (a) Immediately after such order is made, the court shall select the grand jurors required by personal interview for the purpose of ascertaining whether they possess the qualifications prescribed by subdivision (a) of Section 893. If a person so interviewed, in the opinion of the court, possesses such qualifications, in order for his name to be listed he shall sign a statement declaring that he will be available for jury service for the number of hours usually required of a member of the grand jury of that county.
- (b) The selections shall be made of men and women who are not exempt from serving and who are suitable and competent to serve as grand jurors pursuant to Sections 893, 898, and 899. The court shall list the

persons so selected and required by the order to serve as grand jurors during the ensuing fiscal year of the county, or until a new list of grand jurors is provided, and shall at once place this list in the possession of the county clerk. (Amended by Stats. 1974)

899. PROPORTIONATE SELECTION OF NAMES; SEPARATE LIST

The names for the grand jury list shall be selected from the different wards, judicial districts, or supervisorial districts of the respective counties in proportion to the number of inhabitants therein, as nearly as the same can be estimated by the persons making the list. The grand jury list shall be kept separate and distinct from the trial jury list. In a county of the first class, the names for such list may be selected from the county at large. (Amended by Stats. 1969)

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

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

(a) Write down all the names on the list onto separate pieces of paper of the same size and appearance, fold each piece so as to conceal the name thereon, and deposit the pieces in a box called the "grand jury

box.”

(b) Assign a number to each name on the list and place, in a box to be called the “grand jury box,” markers of the same size, shape, and color, each containing a number which corresponds with a number on the list. (Amended by Stats. 1971)

901. REGULAR JURORS: PERIOD OF SERVICE

(a) The persons whose names are so returned shall be known as regular jurors and shall serve for one year and until other persons are selected and returned.

(b) If the superior court so decides, the presiding judge may name up to ten regular jurors not previously so named, who served on the previous grand jury and who so consent to serve for a second year.

(c) The court may also decide to select grand jurors pursuant to section 908.2. (Amended by Stats. 1988)

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

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

grand jurors, the names of such persons may be placed on the list of grand jurors drawn for the succeeding fiscal year. (Amended by Stats. 1974)

### ARTICLE 3 JURY COMMISSIONERS

#### Section

903. Applicability of article.

903.1 Furnishing jury lists; instructions for guidance, supervision.

903.2 Inquiry into qualifications; administration of oaths; traveling expenses.

903.3 Examination of lists; selection of jurors.

903.4 Selection of names not on lists.

#### 903. APPLICABILITY OF ARTICLE

This article applies in each county in which a jury commissioner is appointed pursuant to Section 204.1 of the Code of Civil Procedure and in each county in which the secretary of the judges of the superior court performs the duties of jury commissioner pursuant to Section 69893 of the Government Code. (Amended by Stats. 1989).

#### 903.1 FURNISHING JURY LISTS; INSTRUCTIONS FOR GUIDANCE; SUPERVISION

Pursuant to written rules or instructions adopted by a majority of judges of the superior court of the county, the jury commissioner shall furnish the

judges of the court annually a list of persons qualified to serve as grand jurors during the ensuing fiscal year of the county, or until a new list of jurors is required. From time to time, a majority of the judges of the superior court may adopt such rules or instructions as may be necessary for the guidance of the jury commissioner, who shall at all times be under the supervision and control of the judges of the court. Any list of jurors prepared pursuant to this article must, however, meet the requirements of Section 899. (Amended by Stats. 1974)

#### 903.2 INQUIRY INTO QUALIFICATIONS; ADMINISTRATION OF OATHS; TRAVELING EXPENSES

The jury commissioner shall diligently inquire and inform himself in respect to the qualifications of persons resident in his county who may be liable to be summoned for grand jury duty. He may require any person to answer under oath to be administered by him, all such questions as he may address to such person, touching his name, age, residence, occupation, and qualifications as a grand juror and also all questions as to similar matters concerning other persons of whose qualifications for Grand Jury duty he has knowledge.

The commissioner and his assistants, referred to in Section 79895 and 69896 of the Government Code shall have power to administer oaths and shall be allowed actual traveling expenses incurred in the performance of their duties. Such traveling expenses shall be audited, allowed, and paid out of the general fund of the county. (Added by Stats. 1959)

### 903.3 EXAMINATION OF LISTS: SELECTION OF JURORS

Pursuant to the rules or instructions adopted by a majority of the judges of the Superior Court, the jury commissioner shall return to the judges the list of persons recommended by him for Grand Jury duty. The judges of the Superior Court shall examine the jury list so returned and from such list a majority of the judges may select, to serve as grand jurors in the superior court of the county during the ensuing year or until a new list of jurors is required, such persons as, in their opinion, should be selected for Grand Jury duty. The persons so selected shall, in the opinion of the judges selecting them, be persons suitable and competent to serve as jurors, as required by law. (Added by Stats. 1959)

### 903.4 SELECTION OF NAMES NOT ON LISTS

The judges are not required to select any names from the list returned by the jury commissioner, but may, if in their judgment the due administration of justice requires, make all or any selections from among the body of persons in the county suitable and competent to serve as grand jurors regardless of the list returned by the jury commissioner. (Added by Stats. 1959)

ARTICLE 4  
IMPANELING OF GRAND JURY

Section

- 904 Order directing drawing of grand jury; number of jurors.
- 904.6 Additional grand jury impanelment.
- 905. Annual drawing.
- 905.5 Grand Jury impaneled to serve during fiscal year.
- 906. Drawing and summoning; time; manner; replacing names not drawn in grand jury box.
- 907. Failure to obey summons; attachment and fine.
- 908. Number of persons constituting jury; proceedings when too many or too few persons present.
- 908.1 Filling of vacancies.
- 908.2 Method of selecting grand jurors; duration of service.
- 909. Acceptance of juror; finding as to qualifications; excuse.
- 910. Challenges; restriction.
- 911. Oath.
- 912. Foreman; appointments; substitute foreman.
- 913. Attorney general; power to demand impaneling.

Section

- 904. ORDER DIRECTING DRAWING OF GRAND JURY: NUMBER OF JURORS

Every Superior Court, whenever in its opinion the public interest so requires, shall make and file with the county clerk an order directing a

Grand Jury to be drawn. Such order shall designate the number of grand jurors to be drawn, which shall not be less than 29 nor more than 40 in counties having a population exceeding four million and not less than 25 nor more than 30 in other counties. (Amended by Stats. 1971)

#### 904.6 ADDITIONAL GRAND JURY IMPANELMENT

(a) In any county or city and county, the presiding judge of the superior court may order and direct the impanelment, at any time, of one additional grand jury pursuant to this section.

(b) The presiding judge shall select persons, at random from the list of trial jurors in civil and criminal cases and shall examine them to determine if they are competent to serve as grand jurors. When a sufficient number of competent persons have been selected, they shall constitute the additional grand jury.

(c) Any additional grand jury which is impaneled pursuant to this section may serve for a period of one year from the date of impanelment, but may be discharged at any time within the one-year period by order of the presiding judge. In no event shall more than one additional grand jury be impaneled pursuant to this section at the same time.

(d) Whenever an additional grand jury is impaneled pursuant to this section, it may inquire into any matters which are subject to grand jury inquiry and shall have the sole and exclusive jurisdiction to return indictments, except for any matters which the regular grand jury is inquiring into at the time of its impanelment.



(e) It is the intent of the Legislature that all persons qualified for jury service shall have an equal opportunity to be considered for service as criminal grand jurors in the county in which they reside, and that they have an obligation to serve, when summoned for that purpose. All persons selected for the additional criminal grand jury shall be selected at random from a source or sources reasonably representative of a cross section of the population which is eligible for jury service in the county. (Amended by Stats. 1991)

#### 905. ANNUAL DRAWING

In all counties there shall be at least one Grand Jury drawn and impaneled in each year. (Amended by Stats. 1982)

#### 905.5 SERVICE DURING FISCAL YEAR

(a) Except as otherwise provided in subdivision (b), the Grand Jury shall be impaneled and serve during the fiscal year of the county in the manner provided in this chapter.

(b) The board of supervisors of a county may provide that the Grand Jury shall be impaneled and serve during the calendar year. The board of supervisors shall provide for an appropriate transition from fiscal year term to calendar year term for the Grand Jury. The provisions of subdivisions (a) and (b) of Section 901 shall not be deemed a limitation on any appropriate transition provisions as determined by resolution or ordinance; and, except as otherwise provided in this chapter, no transition grand jury shall serve more than 18 months. (Amended by Stats. 1984)

906. DRAWING AND SUMMONING; TIME; MANNER; REPLACING NAMES NOT DRAWN IN GRAND JURY BOX

The order shall designate the time at which the drawing will take place. The names of the grand jurors shall be drawn, and the list of names certified and summoned, as is provided for drawing and summoning trial jurors. The names of any persons drawn, who are not impaneled upon the Grand Jury, may be again placed in the Grand Jury box. (Added by Stats. 1959)

907. FAILURE TO OBEY SUMMONS: ATTACHMENT AND FINE

Any grand juror summoned, who willfully and without reasonable excuse fails to attend, may be attached and compelled to attend and the court may also impose a fine not exceeding fifty dollars (\$50), upon which execution may issue. If the grand juror was not personally served, the fine shall not be imposed until upon an order to show cause an opportunity has been offered the grand juror to be heard. (Added by Stats. 1959)

908. NUMBER OF PERSONS CONSTITUTING JURY: PROCEEDINGS WHEN TOO MANY OR TOO FEW PERSONS PRESENT

If the required number of the persons summoned as grand jurors are present and not excused, such required number shall constitute the Grand Jury. If more than the required number of such persons are present, the clerk shall write their names on separate ballots, which he shall fold so that the names cannot be seen, place them in a box, and draw out the required number of them. The persons whose names are on the ballots so drawn shall

constitute the Grand Jury. If less than the required number of such persons are present, the panel may be filled as provided in Section 226 of the Code of Civil Procedure. If more of the persons summoned to complete a Grand Jury attend than are required, the requisite number shall be obtained by writing the names of those summoned and not excused on ballots, depositing them in a box, and drawing as above provided. (Amended by Stats. 1963)

#### 908.1 FILLING OF VACANCIES

When, after the Grand Jury consisting of the required number of persons has been impaneled pursuant to law, the membership is reduced for any reason, such vacancies within an existing Grand Jury may be filled, so as to maintain the full membership at the required number of persons, by the clerk of the superior court, in the presence of the court, drawing out sufficient names to fill the vacancies from the grand jury box, pursuant to law, or from a special venire as provided in Section 226 of the Code of Civil Procedure. No person selected as a grand juror to fill a vacancy pursuant to this section shall vote as a grand juror on any matter upon which evidence has been taken by the Grand Jury prior to the time of his selection. (Amended by Stats. 1968)

## 908.2 METHOD OF SELECTING GRAND JURORS; DURATION OF SERVICE

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

(b) Each subsequent year, on January 2 and July 2, a sufficient number of grand jurors shall be impaneled to replace those whose service concluded the previous day. Those persons impaneled on January 2 shall serve until January 1 of the following year. Those persons impaneled on July 2 shall serve until July 1 of the following year. No person shall serve on the Grand Jury for more than one year.

(a) The provisions of subdivisions (a) and (b) shall not be applicable to the selection of grand jurors for an additional Grand Jury authorized pursuant to Sections 904.5, 904.6, 904.7, 904.8, and 904.9. (Amended by Stats. 1983)

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

Before accepting a person drawn as a grand juror, the court shall be satisfied that such person is duly qualified to act as such juror. When a person is drawn and found qualified he shall be accepted unless the court, on the application of the juror and before he is sworn, excuses him from such service for any of the reasons prescribed in this title or in Chapter 1 (commencing with Section 190), Title 3, Part 1 of the Code of Civil Procedure. (Added by Stats. 1959)

910. CHALLENGES; RESTRICTION

No challenge shall be made or allowed to the panel from which the Grand Jury is drawn, nor to an individual grand juror, except when made by the court for want of qualification, as prescribed in Section 909. (Added by Stats. 1959)

911. OATH

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

juror may say, nor the manner in which I or any other grand juror may have voted on any matter before the Grand Jury. I will keep the charge that will be given to me by the court." (Amended by Stats. 1983)

912. FOREMAN; APPOINTMENT; SUBSTITUTE FOREMAN

From the persons summoned to serve as grand jurors and appearing, the court shall appoint a foreman. The court shall also appoint a foreman when the person already appointed is excused or discharged before the Grand Jury is dismissed. (Added by Stats. 1959)

913. ATTORNEY GENERAL; POWER TO DEMAND IMPANELING

If a Grand Jury is not in existence, the attorney general may demand the impaneling of a Grand Jury by those charged with the duty to do so, and upon such demand by him, it shall be their duty to do so. (Added by Stats. 1959)

### CHAPTER 3

### POWERS AND DUTIES OF GRAND JURY

Article	Section
1.	General Provisions ..... 914
2.	Investigations of County, City, and District Affairs..... 925
3.	Legal and Other Assistants for Grand Juries ..... 934
4.	Conduct of Investigations.....939

## Section

914. Charge by court.

914.1 Investigations of county, district and housing authority affairs; charge.

914.5 Expenditures within budget; exception; procedure

915 Privacy, inquiry into offenses; discharge.

916 Choice of officers; rules of proceeding.

916.1 Foreman pro tempore.

917. Inquiry into public offenses, presentment by indictment.

918. Individual jurors; duty to declare knowledge of offenses; investigation.

919. Duty of inquiry as to prisoners not indicted, Duty of inquiry public prisons, and corrupt misconduct in public office.

920. Investigation of ownership, transfer of sale of realty subject to escheat; order directing institution of proceedings.

921. Access to public prisons and public record.

922. Proceedings for removal of district, county or city officers.

923. Investigation of matters of criminal nature; presentation by attorney general.

924. Willful disclosure of making of information or indictment; misdemeanor.

924.1 Willful disclosure of evidence, statement of juror or vote; misdemeanor.

924.2 Secrecy of deliberations and voting; court order for disclosure of testimony.

924.3 Privilege of juror as to statements and vote; exception in case of perjury.

924.4 Furnishing succeeding grand jury with information or evidence; exception.

924.6 Indictment not returned; court order for disclosure of testimony of witness.

Section

914. CHARGE BY COURT

(a) When the grand jury is impaneled and sworn, it shall be charged by the court. In doing so, the court shall give the grand jurors such information as it deems proper, or as is required by law, as to their duties, and as to any charges for public offenses returned to the court or likely to come before the grand jury.

(b) Assist a grand jury in the performance of its statutory duties regarding civil matters, the court, in consultation with the district attorney, the county counsel, and at least one former grand juror, shall ensure that a grand jury that considers or takes action on civil matters receives training that addresses, at a minimum, report writing, interviews, and the scope of the grand jury's responsibility and statutory authority.

(c) Any costs incurred by the court as a result of this section shall be absorbed by the court or the county from existing resources. (Amended by Stats. 1997)

914.1 INVESTIGATION OF COUNTY, DISTRICT AND HOUSING AUTHORITY AFFAIRS, CHARGE

When a grand jury is impaneled, for purposes which include the investigation of, or inquiry into, county matters of civil concern, the judge of the superior court of the county, in addition to other matters requiring action, shall call its attention to the provisions of Chapter 1 (commencing



with Section 23000) of Division 1 of Title 3, and Sections 24054 and 26525 of the Government Code, and instruct it to ascertain by a careful and diligent investigation whether such provisions have been complied with, and to note the result of such investigation in its report. At such time the judge shall also inform and charge the grand jury especially as to its powers, duties, and responsibilities under Article 1 (commencing with Section 888) of Chapter 2, and Article 2 (commencing with Section 925), Article 3 (commencing with Section 934) of this chapter, Article 3 (commencing with Section 3060) of Chapter 7 of Division 4 of Title 1 of the Government Code, and Section 17006 of the Welfare and Institutions Code. (Amended by Stats. 1988)

#### 914.5 EXPENDITURES WITHIN BUDGET; EXCEPTION; PROCEDURE

The grand jury shall not spend money or incur obligations in excess of the amount budgeted for its investigative activities pursuant to this chapter by the county board of supervisors unless the proposed expenditure is approved in advance by the presiding judge of the superior court after the board of supervisors has been advised of the request. (Added by Stats. 1970)

#### 915. INQUIRY INTO OFFENSES AND MATTERS OF CIVIL CONCERN

When the grand jury has been impaneled, sworn, and charged, it shall retire to a private room, except when operating under a finding pursuant to Section 939.1, and inquire into the offenses and matters of civil concern cognizable by it. On the completion of the business before the grand jury

or expiration of the term of prescribed service of one or more grand jurors, the court shall discharge it or the affected individual jurors. (Amended by Stats. 1988)

#### 916. SELECTION OF OFFICERS - SETTING RULES OF PROCEDURE

Each grand jury shall choose its officers, except the foreman, and shall determine its rules of proceeding. Adoption of its rules of procedure and all public actions of the grand jury, whether concerning criminal or civil matters unless otherwise prescribed in law, including adoption of final reports, shall be only with the concurrence of that number of grand jurors necessary to find an indictment pursuant to Section 940. Rules of procedure shall include guidelines for that grand jury to ensure that all findings included in its final reports are supported by documented evidence, including reports of contract auditors or consultants, official records, or interviews attended by no fewer than two grand jurors and that all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable. (Amended by Stats. 1988)

##### 916.1 FOREMAN PRO TEMPORE

If the foreman of the grand jury is absent from any meeting or if he is disqualified to act, the grand jury may select a member of that body to act as foreman pro tempore, who shall perform the duties, and have all the powers, of the regularly appointed foreman in his absence or disqualification. (Added by Stats. 1959)

917. PRESENTATION OF OFFENSES BY INDICTMENT

The grand jury may inquire into all public offenses committed or triable within the county and present them to the court by indictment. (Added by Stats. 1959)

918. INDIVIDUAL JURORS; DUTY TO DECLARE KNOWLEDGE OF OFFENSES; INVESTIGATION

If a member of a grand jury knows, or has reason to believe, that a public offense, triable within the county, has been committed, he may declare it to his fellow jurors who may thereupon investigate it. (Amended by Stats. 1976)

919. DUTY OF INQUIRY AS TO PRISONERS NOT INDICTED, PUBLIC PRISONS, AND CORRUPT MISCONDUCT IN PUBLIC OFFICE

(a) The Grand Jury may inquire into the case of every person imprisoned in the jail of the county on a criminal charge and not indicted.

(b) The Grand Jury shall inquire into the condition and management of the public prisons within the county.

(c) The Grand Jury shall inquire into the willful or corrupt misconduct in office of public officers of every description within the county. (Amended by Stats. 1976)

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

The Grand Jury may investigate and inquire into all sales and transfers of land, and into the ownership of land, which, under the state laws, might or should escheat to the State of California. For this purpose, the Grand Jury may summon witnesses before it and examine them and the records. The Grand Jury shall direct that proper escheat proceedings be commenced when, in the opinion of the Grand Jury, the evidence justifies such proceedings. (Amended by Stats. 1976)

921. ACCESS TO PUBLIC PRISONS AND PUBLIC RECORDS

The Grand Jury is entitled to free access, at all reasonable times, to the public prisons, and to the examination, without charge, of all public records within the county. (Added by Stats. 1959)

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

The powers and duties of the Grand Jury in connection with proceedings for the removal of district, county, or city officers are prescribed in Article 3 (commencing with Section 3060), Chapter 7, Division 4, Title 1, of the Government Code. (Added by Stats. 1959)

923. INVESTIGATION OF MATTERS OF CRIMINAL NATURE;  
PRESENTATION BY ATTORNEY GENERAL

Whenever the attorney general considers the public interest requires, he may, with or without the concurrence of the district attorney, direct the Grand Jury to convene for the investigation and consideration of such matters of a criminal nature as he desires to submit to it. He may take full charge of the presentation of such matters to the Grand Jury, issue subpoenas, prepare indictments, and do all other things incident thereto to the same extent as the district attorney may do. (Added by Stats. 1959)

924. WILLFUL DISCLOSURE OF MAKING OF INFORMATION OR  
INDICTMENT; MISDEMEANOR

Every grand juror who willfully discloses the fact of an information or indictment having been made for a felony, until the defendant has been arrested, is guilty of a misdemeanor. (Added by Stats. 1959)

924.1 WILLFUL DISCLOSURE OF EVIDENCE, STATEMENT OF JUROR  
OR VOTE; MISDEMEANOR

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

(b) Every interpreter for the disabled appointed to assist a member of the grand jury pursuant to Section 939.11 who, except when required by a

court, willfully discloses any evidence adduced before the grand jury, or anything which he or she or any member of the grand jury has said, or in what matter any grand juror has voted on a matter before them, is guilty of a misdemeanor. (Amended by Stats. 1986)

#### 924.2 SECRECY OF DELIBERATIONS AND VOTING: COURT ORDER FOR DISCLOSURE OF TESTIMONY

Each grand juror shall keep secret whatever he himself or any other grand juror has said, or in what manner he or any other grand juror has voted on a matter before him. Any court may require a grand juror to disclose the testimony of a witness examined before the Grand Jury, for the purpose of ascertaining whether it is consistent with that given by the witness before the court, or to disclose the testimony given before the Grand Jury by any person, upon a charge against such person for perjury in giving his testimony or upon trial therefore. (Added by Stats. 1959)

#### 924.3 PRIVILEGE OF JUROR AS TO STATEMENTS AND VOTE; EXCEPTION IN CASE OF PERJURY

A grand juror cannot be questioned for anything he may say or any vote he may give in the Grand Jury relative to a matter legally pending before the jury, except for a perjury of which he may have been guilty in making an accusation or giving testimony to his fellow jurors. (Added by Stats. 1959)

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

Notwithstanding the provisions of Sections 924.1 and 924.2, any Grand Jury or, if the Grand Jury is no longer impaneled, the presiding or sole judge of the superior court, may pass on and provide the succeeding Grand Jury with any records, information or evidence acquired by the Grand Jury during the course of any investigation conducted by it during its term of service, except any information or evidence that relates to a criminal investigation or that could form part or all of the basis for issuance of an indictment. Transcripts of testimony reported during any session of the Grand Jury shall be made available to the succeeding Grand Jury upon its request. (Amended by Stats. 1998)

#### 924.6 INDICTMENT NOT RETURNED; COURT ORDER FOR DISCLOSURE OF TESTIMONY OF WITNESS

If no indictment is returned, the court that impaneled the Grand Jury shall, upon application of either party, order disclosure of all or part of the testimony of a witness before the Grand Jury to a defendant and the prosecutor in connection with any pending or subsequent criminal proceeding before any court if the court finds following an in camera hearing, which shall include the court's review of the Grand Jury's testimony, that the testimony is relevant, and appears to be admissible. (Added by Stats. 1975)

## ARTICLE 2

### INVESTIGATION OF COUNTY, CITY, AND DISTRICT AFFAIRS

#### Section

- 925. Accounts and records of county officers; report and recommendations.
- 925a. Cities or joint powers agencies; examination or investigation and report upon fiscal matters or needs.
- 926. Expert and assistants; employment; compensation; auditors and appraisers employed in examination of records.
- 927. Salaries of county-elected officials; report.
- 928. Needs of county officers; report.
- 929. Public release of grand jury report containing unprivileged material and findings.
- 930. Comments in report upon persons not indicted.
- 931. Payment of expenses.
- 932. Order directing district attorney to institute actions for recovery of money due county.
- 933. Comments and reports on grand jury recommendations.
- 933.05 Response to grand jury recommendations, content requirements; personal appearance by responding party; grand jury report to affected agency.
- 933.1 Examination of operations of redevelopment, housing, and joint powers agencies.
- 933.5 Books and records of special purpose assessing or taxing district.
- 933.6 Examination of operations of nonprofit corporation established by or operated on behalf of public entity.



## Section

### 925. ACCOUNTS AND RECORDS OF COUNTY OFFICERS; REPORT AND RECOMMENDATIONS

The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in their ex officio capacity as officers of the districts. The investigations may be conducted on some selective basis each year, but the grand jury shall not duplicate any examination of financial statements which has been performed by or for the board of supervisors pursuant to Section 25250 of the Government Code; this provision shall not be construed to limit the power of the grand jury to investigate and report on the operations accounts, and records of the officers, departments, or functions of the county. The grand jury may enter into a joint contract with the board of supervisors to employ the services of an expert as provided for in Section 926. (Added by Stats. 1977)

## SECTION

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

The grand jury may at any time examine the books and records of any incorporated city or joint powers agency located in the county. In addition

to any other investigatory powers granted by this chapter, the grand jury may investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit.

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

As used in this section, "joint powers agency" means an agency described in Section 6506 of the Government Code whose jurisdiction encompasses all or part of a county. (Amended Stats. 1983).

926. EXPERT & ASSISTANTS; EMPLOYMENT; COMPENSATION;  
AUDITORS AND APPRAISERS EMPLOYED IN EXAMINATION OF  
RECORDS

(a) If, in the judgment of the grand jury, the services of one or more experts are necessary for the purposes of Sections 925, 925a, 928, 933.1, and 933.5 or any of them, the grand jury may employ one or more experts, at an agreed compensation, to be first approved by the court. If, in the judgment of the grand jury, the services of assistants to such experts are required, the grand jury may employ such assistants, at a compensation to

be agreed upon and approved by the court. Expenditures for the services of experts and assistants for the purposes of Section 933.5 shall not exceed the sum of thirty thousand dollars (\$30,000) annually, unless such expenditures shall also be approved by the board of supervisors.

(b) When making an examination of the books, records, accounts, and documents maintained and processed by the county assessor, the grand jury, with the consent of the board of supervisors, may employ expert auditors or appraisers to assist in the examination. Auditors and appraisers, while performing pursuant to the directive of the grand jury, shall have access to all records and documents that may be inspected by the grand jury subject to the same limitations on public disclosure as apply to the grand jury.

(c) Any contract entered into by a grand jury pursuant to this section may include services to be performed after the discharge of the jury, but in no event may a jury contract for services to be performed later than six months after the end of the fiscal year during which the jury was impaneled.

(d) Any contract entered into by a grand jury pursuant to this section shall stipulate that the product of that contract shall be delivered on or before a time certain to the then-current grand jury of that county for such use as that jury finds appropriate to its adopted objectives. (Amended by Stats. 1988)

927. SALARIES OF COUNTY-ELECTED OFFICIALS; REPORT

A Grand Jury may, and when requested by the board of supervisors shall, investigate and report upon the needs for increase or decrease in salaries of the county-elected officials. A copy of such report shall be transmitted to the board of supervisors. (Amended by Stats. 1976)

928. NEEDS OF COUNTY OFFICERS; REPORT

Every Grand Jury may investigate and report upon the needs of all county officers in the county, including the abolition or creation of offices and the equipment for, or the method or system of performing the duties of, the several offices. Such investigation and report shall be conducted selectively each year. The Grand Jury shall cause a copy of such report to be transmitted to each member of the board of supervisors of the county. (Amended by Stats. 1981)

929. PUBLIC RELEASE OF GRAND JURY REPORT CONTAINING UNPRIVILEGED MATERIAL AND FINDINGS.

As to any matter not subject to privilege, with the approval of the presiding judge of the superior court or the judge appointed by the presiding judge to supervise the grand jury, a grand jury may make available to the public all or the evidentiary material, findings, and other information relied upon by, or presented to, a grand jury for its final report in any civil grand jury investigation provided that the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, shall not be released. Prior to granting approval pursuant

to this section, a judge may require the redaction or masking of any part of the evidentiary material, findings, or other information to be released to the public including but not limited to, the identity of witnesses and any testimony or materials of a defamatory or libelous nature. (Added by Stats. 1998)

930. COMMENTS IN REPORT UPON PERSONS NOT INDICTED

If any Grand Jury shall, in the report above mentioned, comment upon any person or official who has not been indicted by such Grand Jury, such comments shall not be deemed to be privileged. (Added by Stats. 1959)

931. PAYMENT OF EXPENSES

All expenses of the grand jurors incurred under this article shall be paid by the treasurer of the county out of the general fund of the county upon warrants drawn by the county auditor upon the written order of the judge of the superior court of the county. (Added by Stats. 1959)

932. ORDER DIRECTING DISTRICT ATTORNEY TO INSTITUTE  
ACTIONS FOR RECOVERY OF MONEY DUE COUNTY

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

authority for the district attorney to institute and maintain any such suit.  
(Added by Stats. 1959)

933. COMMENTS AND REPORTS ON GRAND GRAND JURY  
RECOMMENDATIONS

(a) Each grand jury year 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. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice be available to clarify the recommendations of the report.

(b) One copy of each final report, together with responses thereto, found to be in compliance with this title shall be placed on file with the county clerk and remain on file in the office of the county clerk. The county clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the

operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years

(d) As used in this section “agency” includes a department. (Amended by Stats. 1998)

933.05 RESPONSE TO GRAND JURY RECOMMENDATIONS – CONTENT REQUIREMENTS; PERSONAL APPEARANCE BY RESPONDING PARTY; GRAND JURY REPORT TO AFFECTED AGENCY

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

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

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

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

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.



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

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report. (Added by Stats. 1997)

Section

933.1 EXAMINATION OF BOOKS AND RECORDS OF REDEVELOPMENT AGENCY, HOUSING AUTHORITY, OR JOINT POWERS AGENCY

A grand jury may at any time examine the books and records of a redevelopment agency, a housing authority created pursuant to Division 24 (commencing with Section 33000) of the Health and Safety Code, or a joint powers agency created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, and, in addition to any other investigatory powers granted by this chapter, may investigate and report upon the method or system of performing the duties of such agency or authority. (Amended by Stats. 1986)

933.5 BOOKS AND RECORDS OF SPECIAL PURPOSE ASSESSMENT OR TAXING DISTRICT

A grand jury may at any time examine the books and records of any special-purpose assessing or taxing district located wholly or partly in the county or the local agency formation commission in the county, and, in addition to any other investigatory powers granted by this chapter, may investigate and report upon the method or system of performing the duties of such district or commission. (Amended by Stats. 1979)

933.6 EXAMINATION OF OPERATIONS OF NONPROFIT CORPORATION ESTABLISHED BY OR OPERATED ON BEHALF OF PUBLIC ENTITY

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

entity the books and records of which it is authorized by law to examine, and, in addition to any other investigatory powers granted by this chapter, may investigate and report upon the method or system of performing the duties of such nonprofit corporation. (Added by Stats. 1986)

### ARTICLE 3

#### LEGAL AND OTHER ASSISTANTS FOR GRAND JURIES

##### Section

934. Advice from judge, district attorney or county counsel

935. Appearance of district attorney.

936. Special Counsel and investigators.

936.5 Special counsel and investigators; employment by presiding judge of superior court; hearing; findings; notice; appeal; certification.

936.7 Sacramento county-retention of special counsel for grand jury.

937. Interpreter; subpoena; compensation.

938. Stenographic reporter.

938.1 Transcript of testimony.

938.2 Payment of reporter, affidavit.

938.3 Services of reporter as charge against the county; rates; manner of payment.

## Section

### 934. ADVICE FROM JUDGE, DISTRICT ATTORNEY OR COUNTY COUNSEL

(a) The grand jury may, at all times, request the advice of the court, or the judge thereof, or of the district attorney, or of the county counsel, or the Attorney General. Unless advice is requested, the judge of the court, or county counsel as to civil matters, shall not be present during the sessions of the grand jury.

(b) The Attorney General may grant or deny a request for advice from the grand jury. If the Attorney General grants a request for advice from the grand jury, the Attorney General shall fulfill that request within existing financial and staffing resources. (Amended by Stats. 1998)

### 935. APPEARANCE OF DISTRICT ATTORNEY

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

witness shall leave the place where the grand jury is holding its session.  
(Added by Stats. 1959)

#### 936. SPECIAL COUNSEL AND INVESTIGATORS

When requested to do so by the grand jury of any county, the Attorney General may employ special counsel and special investigators, whose duty it shall be to investigate and present the evidence in such investigation to such grand jury. The services of such special counsel and special investigators shall be a county charge of such county. (Added by Stats. 1959)

#### 936.5 SPECIAL COUNSEL AND INVESTIGATORS; EMPLOYMENT BY PRESIDING JUDGE OF SUPERIOR COURT; HEARING; FINDINGS; NOTICE; APPEAL; CERTIFICATION

(a) When requested to do so by the grand jury of any county, the presiding judge of the superior court may employ special counsel and special investigators, whose duty it shall be to investigate and present the evidence of the investigation to the grand jury.

(b) Prior to the appointment, the presiding judge shall conduct an evidentiary hearing and find that a conflict exists that would prevent the local district attorney, the county counsel, and the Attorney General from performing such investigation. Notice of the hearing shall be given to each of them unless he or she is a subject of the investigation. The finding of the presiding judge may be appealed by the district attorney, the county

counsel, or the Attorney General. The order shall be stayed pending the appeal made under this section.

(c) The authority to appoint is contingent upon the certification by the auditor-comptroller of the county, that the grand jury has funds appropriated to it sufficient to compensate the special counsel and investigator for services rendered pursuant to the court order. In the absence of a certification the court has no authority to appoint. In the event the county board of supervisors or a member thereof is under investigation, the county has an obligation to appropriate the necessary funds. (Added by Stats. 1980)

#### 936.7 SACRAMENTO COUNTY - RETENTION OF SPECIAL COUNSEL FOR GRAND JURY

(a) In a county of the eighth class, as defined, by Sections 28020 and 28029 of the Government Code, upon a request by the grand jury, the presiding judge of the superior court may retain, in the name of the county, a special counsel to the grand jury. The request shall be presented to the presiding judge in camera, by an affidavit, executed by the foreman of the grand jury which specifies the reason for the request and the nature of the services sought, and which certifies that the appointment of the special counsel is reasonably necessary to aid the work of the grand jury. The affidavit shall be confidential and its contents may not be made public except by order of the presiding judge upon a showing of good cause. The special counsel shall be selected by the presiding judge following

submission of the name of the nominee to the board of supervisors for comment.

The special counsel shall be retained under a contract executed by the presiding judge in the name of the county. The contract shall contain the following terms:

(1) The types of legal services to be rendered to the grand jury; provided, (i) that the special counsel's duties shall not include any legal advisory, investigative, or prosecutorial service which by statute is vested within the powers of the district attorney, and (ii) that the special counsel may not perform any investigative or prosecutorial service whatsoever except upon advance written approval by the presiding judge which specifies the number of hours of these services, the hourly rate therefor, and the subject matter of the inquiry.

(2) The hourly rate of compensation of the special counsel for legal advisory services delivered, together with a maximum contract amount payable for all services rendered under the contract during the term thereof, and all service authorizations issued pursuant thereto.

(3) That the contract may be canceled in advance of the expiration of its term by the presiding judge pursuant to service upon the special counsel of 10 days' advance written notice.

(b) The maximum contract amount shall be determined by the board of supervisors and included in the grand jury's annual operational budget.

The maximum amount shall be subject to increase by the presiding judge

through contract amendment during the term thereof, subject to and in compliance with the procedure prescribed by Section 914.5.

(c) The contract shall constitute a public record and shall be subject to public inspection and copying pursuant to the provisions of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). However, at the sole discretion of the board of supervisors, any or all the following steps may be taken:

(1) The nomination by the presiding judge, and any or all actions by the board of supervisors in commenting upon the nominee and the comments, may be made confidential.

(2) The deliberations and actions may be undertaken in meetings from which the public is excluded, and the communication containing comments may constitute a confidential record which is not subject to public inspection or copying except at the sole discretion of the board of supervisors. Moreover, any written authorization by the presiding judge pursuant to paragraph (1) of subdivision (a) shall constitute a confidential record which is not subject to public inspection or copying except in connection with a dispute concerning compensation for services rendered.  
(Added by Stats. 1988)



### 937. INTERPRETER; SUBPOENA; COMPENSATION

The grand jury or district attorney may require by subpoena the attendance of any person before the grand jury as an interpreter. While his services are necessary, such interpreter may be present at the examination of witnesses before the Grand Jury. The compensation for services of such interpreter constitutes a charge against the county, and shall be fixed by the Grand Jury. (Amended by Stats. 1976)

### 937. STENOGRAPHIC REPORTER

(a) Whenever criminal causes are being investigated before the Grand Jury, it shall appoint a competent stenographic reporter. He shall be sworn and shall report in shorthand the testimony given in such causes and shall transcribe the shorthand in all cases where an indictment is returned or accusation presented.

(b) At the request of the Grand Jury, the reporter shall also prepare transcripts of any testimony reported during any session of the immediately preceding Grand Jury. (Amended by Stats. 1975)

### 938.1 TRANSCRIPT OF TESTIMONY

(a) If an indictment has been found or accusation presented against a defendant, such stenographic reporter shall certify and deliver to the county clerk an original transcription of his shorthand notes and a copy thereof and as many additional copies as there are defendants, other than fictitious defendants, regardless of the number of charges or fictitious defendants included in the same investigation. The reporter shall complete such

certification and delivery within 10 days after the indictment has been found or the accusation presented unless the court for good cause makes an order extending the time. The time shall not be extended more than 20 days. The county clerk shall file the original of the transcript, deliver a copy of the transcript to the district attorney immediately upon his receipt thereof and deliver a copy of such transcript to each such defendant or his attorney. If the copy of the testimony is not served as provided in this section the court shall on motion of the defendant continue the trial to such time as may be necessary to secure to the defendant receipt of a copy of such testimony 10 days before such trial. If several criminal charges are investigated against a defendant on one investigation and thereafter separate indictments are returned or accusations presented upon said several charges, the delivery to such defendant or his attorney of one copy of the transcript of such investigation shall be a compliance with this section as to all of such indictments or accusations.

(b) The transcript shall not be open to the public until 10 days after its delivery to the defendant or his attorney. Thereafter the transcript shall be open to the public unless the court orders otherwise on its own motion or on motion of a party pending a determination as to whether all or part of the transcript should be sealed. If the court determines that there is a reasonable likelihood that making all or any part of the transcript public may prejudice a defendant's right to a fair and impartial trial, that part of the transcript shall be sealed until the defendant's trial has been completed. (Amended by Stats. 1971)

## 938.2 PAYMENT OF REPORTER; AFFIDAVIT

(a) For preparing any transcript in any case pursuant to subdivision (a) of Section 938.1, the stenographic reporter shall draw no salary or fees from the county for preparing such transcript in any case until all such transcripts of testimony in such case so taken by him are written up and delivered. Before making the order for payment to the reporter, the judge of the Superior Court shall require the reporter to show by affidavit or otherwise that he has written up and delivered all testimony taken by him, in accordance with subdivision (a) of Section 938 and Section 938.1.

(b) Before making the order for payment to a reporter who has prepared transcripts pursuant to subdivision (b) of Section 938, the judge of the Superior Court shall require the reporter to show by affidavit or otherwise that he has written up and delivered all testimony requested of him in accordance with that subdivision. (Amended by Stats. 1975)

## 938.3 SERVICES CHARGE AGAINST COUNTY

The services of the stenographic reporter shall constitute a charge against the county, and the stenographic reporter shall be compensated for reporting and transcribing at the same rates as prescribed in Sections 69947 to 69954, inclusive, of the Government Code, to be paid out of the county treasury on a warrant of the county auditor when ordered by the judge of the superior court. (Amended by Stats. 1987)

#### 938.4 MEETING ROOM AND OTHER SUPPORT

The superior court shall arrange for a suitable meeting room and other support as the court determines is necessary for the grand jury. Any costs incurred by the court as a result of this section shall be absorbed by the court or the county from existing resources. (Added to Stats. 1997)

### ARTICLE 4

#### CONDUCT OF INVESTIGATIONS

##### Section

939. Persons permitted to be present during session.

939.1 Public sessions; affecting general public welfare; request; court order; conduct of examination; secrecy of deliberation and voting; indictment.

939.2 Subpoena of witnesses; issuance.

939.3 Self-incrimination; procedure.

939.4 Foreman, authority to administer oaths.

939.5 Foreman; statement of matter to be considered and person to be charged; retirement of prejudiced juror; violation.

939.6 Receipt of evidence.

939.7 Evidence for defendant; authority to exclude; weighing evidence; order for production of explanatory evidence.

939.8 Sufficiency of Evidence to warrant indictment.

939.9 Report or recommendation only after own investigation.

939.11 Use of interpreters for grand jury members with hearing, sight, or speech

disabilities.

939.91 Reports or declarations that on evidence jury could not find indictment or that witness called for purpose not involving charge against witness.

## Section

### 939. PERSONS PERMITTED TO BE PRESENT DURING SESSION.

No person other than those specified in Article 3 (commencing with Section 934), and in Sections 939.1 and 939.11, and 939.21 and the officer having custody of a prisoner witness while the prisoner is testifying, is permitted to be present during the criminal sessions of the grand jury except the members and witnesses actually under examination. Members of the grand jury who have been excused pursuant to Section 939.5 shall not be present during any part of these proceedings. No persons other than grand jurors shall be permitted to be present during the expression of the opinions of the grand jurors, or the giving of their votes, on any criminal or civil matter before them. (Amended by Stats. 1998)

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

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

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

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

The deliberation of the Grand Jury and its voting upon such investigation shall be in private session. The Grand Jury may find indictments based wholly or partially upon the evidence introduced at such public session.  
(Added by Stats. 1959)

#### 939.11 INTERPRETER FOR DISABLED GRAND JUROR

Any member of the grand jury who has a hearing, sight, or speech disability may request an interpreter when his or her services are necessary to assist the juror to carry out his or her duties. The request shall be filed with the superior court. If the court, or the judge thereof, finds that an interpreter is necessary, the court shall make an order to that effect and may require by subpoena the attendance of any person before

the grand jury as interpreter. If the services of an interpreter are necessary, the court shall instruct the grand jury and the interpreter that the interpreter is not to participate in the jury's deliberations in any manner except to facilitate communication between the disabled juror and the other jurors. The court shall place the interpreter under oath not to disclose any grand jury matters, including the testimony of any witness, statements of any grand juror, or the vote of any grand juror, except in the due course of judicial proceedings. (Added by Stats. 1986)

#### 939.2 SUBPOENA OF WITNESSES; ISSUANCE

A subpoena requiring the attendance of a witness before the Grand Jury may be signed and issued by the district attorney, his investigator or, upon request of the Grand Jury, by a judge of the superior court, for witnesses in the state, in support of the prosecution, for those witnesses whose testimony, in his opinion, is material in an investigation before the Grand Jury, and for such other witnesses as the Grand Jury, upon an investigation pending before them, may direct. (Amended by Stats. 1971)

#### 939.3 SELF-INCRIMINATION; PROCEDURE

In any investigation or proceeding before a Grand Jury for any felony offense when a person refuses to answer a question or produce evidence of any other kind on the ground that he may be incriminated thereby, proceedings may be had under Section 1324. (Added by Stats. 1959)

939.4 FOREMAN; AUTHORITY TO ADMINISTER OATHS

The foreman may administer an oath to any witness appearing before the Grand Jury. (Added by Stats. 1959)

939.5 FOREMAN; STATEMENT OF MATTER TO BE CONSIDERED AND PERSON TO BE CHARGED; RETIREMENT OF PREJUDICED JUROR, VIOLATION

Before considering a charge against any person, the foreman of the Grand Jury shall state to those present the matter to be considered and the person to be charged with an offense in connection therewith. He shall direct any member of the Grand Jury who has a state of mind in reference to the case or to either party which will prevent him from acting impartially and without prejudice to the substantial rights of the party to retire. Any violation of this section by the foreman or any member of the Grand Jury is punishable by the court as a contempt. (Added by Stats. 1959)

939.6 RECEIPT OF EVIDENCE

(a) Subject to subdivision (b), in the investigation of a charge, the Grand Jury shall receive no other evidence than what is:

(1) Given by witnesses produced and sworn before the Grand Jury

(2) Furnished by writings, material objects, other things presented to the senses or

(3) Contained in a deposition that is admissible under subdivision 3 of Section 686.



(b) Except as provided in subdivision (c), the grand jury shall not receive any evidence except that which would be admissible over objection at the trial of a criminal action, but the fact that evidence that would have been excluded at trial was received by the Grand Jury does not render the indictment void where sufficient competent evidence to support the indictment was received by the Grand Jury.

(c) Notwithstanding Section 1200 of the Evidence Code, as to evidence relating to the foundation for admissibility into evidence of documents, exhibits, records, and other items of physical evidence, the evidence to support the indictment may be based in whole or in part upon the sworn testimony of a law enforcement officer relating the statement of a declarant made out of court and offered for the truth of the matter asserted. Any law enforcement officer testifying as to a hearsay statement pursuant to this subdivision shall have either five years of law enforcement experience or have completed a training course certified by the Commission on Peace Officer Standards and Training that includes training in the investigation and reporting of cases and testifying at preliminary hearings. (Amended by Stats. 1998)

## Section

### 939.7 EVIDENCE FOR DEFENDANT, AUTHORITY TO EXCLUDE; WEIGHING EVIDENCE; ORDER FOR PRODUCTION OF EXPLANATORY EVIDENCE

The Grand Jury is not required to hear evidence for the defendant, but it shall weigh all the evidence submitted to it, and when it has reason to

believe that other evidence within its reach will explain away the charge, it shall order the evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses. (Added by Stats. 1959)

#### 939.71 DUTY TO INFORM GRAND JURY OF EXCULPATORY EVIDENCE

(a) If the prosecutor is aware of exculpatory evidence, the prosecutor shall inform the grand jury of its nature and existence. Once the prosecutor has informed the grand jury of exculpatory evidence pursuant to this section, the prosecutor shall inform the grand jury of its duties under Section 939.7. If a failure to comply with the provisions of this section results in substantial prejudice, it shall be grounds for dismissal of the portion of the indictment related to that evidence.

(b) It is the intent of the Legislature by enacting this section to codify the holding in *Johnson v. Superior Court*, 15 Cal. 3d 248, and to affirm the duties of the grand jury pursuant to Section 939.7. (Added by Stats. 1997)

#### 939.8 SUFFICIENCY OF EVIDENCE TO WARRANT INDICTMENT

The Grand Jury shall find an indictment when all the evidence before it, taken together, if unexplained or uncontradicted, would, in its judgment, warrant a conviction by a trial jury. (Added by Stats. 1959)

939.9 REPORT OR RECOMMENDATION ONLY AFTER OWN INVESTIGATION

A Grand Jury shall make no report, declaration, or recommendation on any matter except on the basis of its own investigation of the matter made by such Grand Jury. A Grand Jury shall not adopt as its own the recommendation of another Grand Jury unless the Grand Jury adopting such recommendation does so after its own investigation of the matter as to which the recommendation is made, as required by this section. (Added by Stats. 1959)

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

(a) A Grand Jury which investigates a charge against a person, and as a result thereof cannot find an indictment against such person, shall, at the request of such person and upon the approval of the court which impaneled the Grand Jury, report or declare that a charge against such person was investigated and that the Grand Jury could not as a result of the evidence presented find an indictment. The report or declaration shall be issued upon completion of the investigation of the suspected criminal conduct, or series of related suspected criminal conduct, and in no event beyond the end of the Grand Jury's term.

(b) A Grand Jury shall, at the request of the person called and upon the approval of the court which impaneled the Grand Jury, report or declare that any person called before the Grand Jury for a purpose, other than to investigate a charge against such person, was called only as a witness to

an investigation which did not involve a charge against such person. The report or declaration shall be issued upon completion of the investigation of the suspected criminal conduct, or series of related suspected criminal conduct, and in no event beyond the end of the Grand Jury's term. (Added by Stats. 1975)

TITLE 5  
THE PLEADINGS

Chapter	SECTION
1. Finding and Presentment of the Indictment	940.

CHAPTER 1  
FINDING AND PRESENTMENT OF THE INDICTMENT

Section

- 940. Concurrence of jurors; number; endorsement.
- 943. Names of witnesses; insertion or endorsement at foot of indictment.
- 944. Presentment and filing; prohibition against recommendation of amount of bail.
- 945. Defendant not in custody; procedure upon finding.

## Section

### 940. CONCURRENCE OF JURORS; NUMBER; ENDORSEMENT

An indictment cannot be found without concurrence of at least 14 grand jurors in a county in which the required number of members of the Grand Jury prescribed by Section 888.2 is 23, at least 8 grand jurors in a county in which the required number of jurors is 11, and at least 12 jurors in other counties. When so found it must be endorsed, "A true bill," and the endorsement must be signed by the foreman of the Grand Jury. (Amended by Stats. 1994)

### 943. NAMES OF WITNESSES; INSERTION OR INDORSEMENT AT FOOT OF INDICTMENT

When an indictment is found, the names of the witnesses examined before the Grand Jury, or whose depositions may have been read before them, must be inserted at the foot of the indictment, or indorsed thereon, before it is presented to the court. (Enacted 1872)

### 944. PRESENTMENT AND FILING; PROHIBITION AGAINST RECOMMENDATION OF AMOUNT OF BAIL

An indictment, when found by the Grand Jury, must be presented by their foreman, in their presence, to the court, and must be filed with the clerk. No recommendation as to the dollar amount of bail to be fixed shall be made to any court by any Grand Jury. (Amended by Stats. 1974)

945. DEFENDANT NOT IN CUSTODY; PROCEDURE UPON FINDING

When an indictment is found against a defendant not in custody, the same proceedings must be had as are prescribed in Sections 979 to 984, inclusive, against a defendant who fails to appear for arraignment. (Enacted 1872)

THE FOLLOWING PAGES CONTAIN THE CODE SECTIONS REFERRED TO  
IN SECTION 914.1 OF THE PENAL CODE:

GOVERNMENT CODE

TITLE 3, DIVISION 1, CHAPTER 1

SECTION 23000. COUNTY DEFINED. A county is the largest political division of the State having corporate powers.

SECTION 23001. STATE DIVIDED INTO COUNTIES. The State is divided into counties, named, bounded, and constituted as provided in this title.

SECTION 23002. LEGAL SUBDIVISIONS. The several existing counties of the State and such other counties as are hereafter organized are legal subdivisions of the State.

SECTION 23003. POWERS IN GENERAL. A county is a body corporate and politic, has the powers specified in this title and such other necessarily implied from those expressed.

SECTION 23004. PARTICULAR POWERS. A county may:

- (a) Sue and be sued.
- (b) Purchase, receive by gift or bequest, and hold land within its limits, or elsewhere when permitted by law.

- (c) Make contracts and purchase and hold personal property necessary to the exercise of its powers.
- (d) Manage, sell, lease, or otherwise dispose of its property as the interests of its inhabitants require.
- (e) Levy and collect taxes authorized by law.

SECTION 23004.1 ACTIONS TO RECOVER FROM THIRD PARTY TORT FEASORS: LIEN ON JUDGMENT FOR INJURED PERSON.

- (a) Subject to the provision of Section 23004.3, in any case in which the county is authorized or required by law to furnish hospital, medical, surgical, or dental care and treatment, including prosthesis and medical appliances, to a person who is injured or suffers a disease, under circumstances creating a tort liability upon some third person to pay damages therefor, the county shall have a right to recover from said third person the reasonable value of the care and treatment so furnished or to be furnished, or shall, as to this right, be subrogated to any right or claim that the injured or diseased person, his guardian, personal representative, estate, or survivors has against such third person to the extent of the reasonable value of the care and treatment so furnished or to be furnished.
- (b) The county may, to enforce such rights, institute and prosecute legal proceedings against the third person who is liable for the injury or disease in the appropriate court, either in its own name or in the name of the injured person, his guardian, personal representative, estate, or survivors. Such action shall be commenced within the period prescribed in Section 340 of the Code of Civil Procedure. In the event that the injured person, his guardian,



personal representative, estate, survivors, or either of them brings an action for damages against the third person who is liable for the injury or disease, the county's right of action shall abate during the pendency of such action, and continue as a first lien against any judgment recovered by the injured or diseased person, his guardian, personal representative, estate, or survivors, against the third person who is liable for the injury or disease, to the extent of the reasonable value of the care and treatment so furnished or to be furnished. When the third person who is liable is insured, the county shall notify the third person's insurer, when known to the county, in writing of the lien within 30 days following the filing of the action by the injured or diseased person, his guardian, personal representative, estate, or survivors, against the third person who is liable for the injury or disease; provided, however, that failure to so notify the insurer shall not prejudice the claim or cause of action of the injured or diseased person, his guardian, personal representative, estate, or survivors, or the county.

**SECTION 23004.2 SAME: COMPROMISE AND SETTLEMENT: WAIVER OF CLAIMS: EFFECT ON CAUSE OF ACTION OF INJURED PERSON.**

- (a) The county may (1) compromise, or settle and execute a release of, any claim which the county has by virtue of the rights established by Section 23004.1; or (2) waive any such claim, in whole or in part, for the convenience of the county, or if the governing body of the county determines that collection would result in undue hardship upon the person who suffered the injury or disease resulting in care or treatment described in Section 23004.1.

- (b) No action taken by the county in connection with the rights afforded under Section 23004.1 or this section shall be a bar to any action upon the claim or cause of action of the injured or diseased person, his guardian, personal representative, estate, or survivors against the third person who is liable for the injury or disease, or shall operate to deny to the injured person the recovery for that portion of his damage not covered hereunder.

SECTION 23004.3 SAME: RESOLUTION BY SUPERVISORS.

Section 23004.1 and 23004.2 shall become operative in a county only if the Board of Supervisors of that county, by resolution, elects to be governed by the provisions of such sections.

SECTION 23004.4 PROVIDING LIABILITY INSURANCE COVERAGE FOR OPERATORS OF FOSTER HOME FACILITIES.

A county may provide insurance coverage for persons operating foster home facilities licensed pursuant to Chapter 1 (commencing with Section 16000) of Part 4 of Division 9 of the Welfare and Institutions Code against any third-party liability for injuries or damages resulting from the acts or omissions of any child placed in such facility by the county.

SECTION 23004.5 HEALTH CARE FACILITIES; ESTABLISHMENT AND MAINTENANCE OF ACTIVITIES THROUGH CORPORATIONS, JOINT VENTURES, OR PARTNERSHIPS.

Health care facilities, including, but not limited to, hospitals and clinics licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code, that are owned or operated by counties may establish, maintain, and carry on their

activities through one or more corporations, joint ventures, or partnerships for the direct benefit of those health care facilities and the health services that they provide. Nothing in this section shall be construed to exempt facilities conducting their activities in accordance with this section from the licensure requirements set for in Division 2 (commencing with Section 1200) of the Health and Safety Code, when those requirements are applicable. Nothing in this section shall be construed to eliminate the necessity of prior approval by the county's board of supervisors, at a noticed public hearing, of any transfer of the assets of a county health system and the consideration therefor. (Added by Stats. 1992)

#### SECTION 23005. MANNER OF EXERCISING POWERS.

A county may exercise its powers only through the Board of Supervisors or through agents and officers acting under authority of the Board of Authority conferred by law.

#### SECTION 23006. CONTRACTS, ETC., VIOLATING LAWS.

Any contract, authorization, allowance, payment, or liability to pay, made or attempted to be made in violation of law, is void, and shall not be the foundation or basis of a claim against the treasury of any county.

#### SECTION 23007. GIFT OR LOAN OF CREDIT IN AID OF PERSON OR CORPORATION.

Except as specified in this chapter, a county shall not, in any manner, give or loan its credit to or in aid of any person or corporation. An indebtedness or liability incurred contrary to this chapter is void.

SECTION 23008. LEASE OF EQUIPMENT, ETC. FOR DISTRICT OR MUNICIPAL CORPORATION: RESERVE OF FUNDS.

Whenever it is economical and satisfactory to do so, a county may lease equipment, perform work, or furnish goods for any district or municipal corporation within the county, if before the work is done or the goods as ordered or furnished by the county, an amount equal to the cost, or an amount 10% in excess of the estimated cost, is so reserved from the funds of the district or municipal corporation to be charged that it may be transferred to the county, when the work is completed or the goods are supplied.

SECTION 23009. SAME: CHARGES: HOW MADE: PAYMENT.

In such event, charges for work done or goods supplied may be made by claims and warrants upon the district or municipal corporation or by properly approved bill, in such form and manner as the auditor directs, from the department, division, or account supplying the goods or service to the district or municipal corporation supplied, and payment may be made by transfer of funds upon the books of the auditor and treasurer, on order of the Board of Supervisors, without the formality of claim and warrant.

SECTION 23010. LOANS OF COUNTY FUNDS TO DISTRICTS LOCATED WITHIN THE COUNTY; LOANS TO AND FROM OTHER DISTRICTS.

- (a) Pursuant to a resolution adopted by its board of supervisors, a county may lend any of its available fund to any community services district, county waterworks district, mosquito abatement district, pest abatement district, fire

protection district, flood control and water conservation district, recreation and park district, regional park district, regional park and open-space district, regional open-space district, or public cemetery district located wholly within the county, if its funds are or when available will be in the custody of the county or any officer of the county, in order to enable the district to perform its functions and meet its obligations. The loan shall not exceed 85 percent of the district's anticipated revenue for the fiscal year in which it is made or for the next ensuing fiscal year, and shall be repaid out of that revenue prior to the payment of any other obligation of the district.

- (b) Pursuant to a resolution adopted by its board of supervisors, a county may loan any of its available funds to a special district, in order to enable the district to perform its functions and meet its obligations. The loan shall not exceed 85 percent of the special district's anticipated property tax revenue projected to be generated for the fiscal year in which it is made or for the next ensuing fiscal year within that portion of the district's territory which is located within the county. The loan shall be repaid out of any available revenue of the special district prior to the payment of any other obligation of the district. For purposes of this subdivision, "special district" means a special district, as defined in Section 54775, which is located in more than one county.
- (c) The board of supervisors may borrow funds from the county or from other garbage disposal districts, not to exceed 85 percent of the district's anticipated revenue for the fiscal year in which they are borrowed or for the next ensuing fiscal year. In levying taxes or prescribing and collecting fees

or charges as authorized by this division, the board of supervisors may raise sufficient revenues to repay the loans.

The board of supervisors may lend available district funds to another garbage disposal district, subject to the terms and conditions set forth in this section.

Nothing contained in this section shall prohibit the board of supervisors from borrowing funds from banks or other financial institutions when the best interests of the district are served thereby.

- (d) Notwithstanding any other provisions of law, funds, when borrowed by a garbage disposal district pursuant to subdivision (c), shall forthwith increase the appropriations of the district for which they are needed. The governing body of the entity from which the funds are borrowed may specify the date and manner in which the funds shall be repaid. The loan shall not exceed 85 percent of the district's anticipated revenue for the fiscal year in which it is made or for the next ensuing fiscal year, and shall be repaid out of that revenue prior to the payment of any other obligation of the district.
- (e) The district shall pay interest on all funds borrowed from the county at the same rate that the county applies to funds of the district on deposit with the county. (Amended by Stats. 1988)

**SECTION 23010.1 LOAN OF FUNDS TO COUNTY FIRE PROTECTION DISTRICT; PURPOSES: RESOLUTION: REPAYMENT.**

Pursuant to a resolution adopted by its board of supervisors, a county may lend any of its available funds to any fire protection district located wholly within the county if the funds of the fire protection district are or, when available, will be in custody

of the county treasurer, for the acquisition of real or personal property and the construction of structures needed for district purposes. The board of supervisors in the resolution shall specify the date and manner in which the funds shall be repaid. The resolution may require the repayment of the loan in equal annual installments. The loan shall be repaid within the time specified in the resolution which shall not in any event exceed ten years. (Amended by Stats. 1967)

#### SECTION 23010.2 LOANS OF FUNDS TO CITIES INCORPORATED FOR LESS THAN YEAR: LIMITATIONS ON AMOUNT: REPAYMENT.

The board of supervisors may loan to any city within its limits which has been incorporated for less than one year an amount not exceeding eighty-five percent (85%) of the city's anticipated revenues for the fiscal year in which such loan is made. Such loans shall be repaid within the fiscal year in which made.

#### SECTION 23010.3 ADDITIONAL EXPENDITURE FOR CONVEYANCE WORKS FOR SEWER OR DRAINAGE IMPROVEMENT: CONNECTION FEE

Upon adoption of an authorizing resolution by the board of supervisors, in connection with the construction of any sanitary sewer, storm sewer, or drainage improvements, a county may expend any of its available funds for any additional cost of construction of any conveyance works in excess of the construction required for the current project, or for a portion of the cost of conveyance works directly benefiting properties in an area outside the area to be served by the current project, if the board of supervisors first finds and declares in that resolution, that

there is an area outside the area to be served by the current project which may in the future utilize the conveyance works; that additional construction of conveyance works for the current project is necessary to serve the outside area in the future; and that the board of supervisors will have the right in the future to use, or to permit the use of, the conveyance works and the additional construction which will benefit the outside area. In lieu of a county contribution of funds for additional construction or for a portion of the cost of the conveyance works where an outside area is directly benefited, the board of supervisors may agree to reimburse, from future connection fees, any entity or person described in subdivisions (a) to (g), inclusive.

The provisions of this section shall be applicable in cases in which improvements are to be constructed by any of the following:

- (a) A county pursuant to the (sic) "The Improvement Act of 1911," Division 7 (commencing with Section 5000) of the Streets and Highways Code.
- (b) A county pursuant to the "Municipal Improvement Act of 1913," Division 12 (commencing with Section 10000) of the Streets and Highways Code.
- (c) A county in any other manner.
- (d) Any district which is governed by the board of supervisors of the county in which the work is to be performed.
- (e) Any district, not governed by the board of supervisors of the county in which the work is to be performed, with which the board of supervisors has contracted so as to assure the right of the county to use the conveyance works and the additional construction, for the future benefit of the outside area.



- (f) Any incorporated city with which the board of supervisors has contracted so as to assure the right of the county to use the conveyance works and the additional construction, for the future benefit of the outside area.
- (g) Any person, if the works when completed are to be dedicated or conveyed to the county or to a district governed by the board of supervisors of the county in which the work is to be performed.

The board of supervisors may impose a connection fee upon any person or district in the outside area to be paid to the county as a condition to connecting to any conveyance works which have been augmented by additional construction, or which have been found by the board of supervisors to directly benefit the outside area, pursuant to this section. The connection fee shall be a prorated share of the total cost of the additional construction, or of the portion of the costs of the conveyance works where an outside area is directly benefited. The fee may include a reasonable amount for administrative costs associated with the collection of the fee and to provide reimbursement to an entity or person described in subdivisions (a) to (g), inclusive. In computing the total cost of the additional construction, or of the portion of the costs of the conveyance works where an outside area is directly benefited, the board of supervisors shall include an amount attributable to interest from the date of completion of the construction to the date of connection and, in the event the board of supervisors agrees to reimburse, from future connection fees, any entity or person described in subdivisions (a) to (g), inclusive, all accrued interest shall be payable to that entity or person.

This section shall not decrease or limit any other power vested in counties or boards of supervisors.

SECTION 23010.4 LOAN OF FUNDS TO SCHOOL DISTRICT FOR REMOVAL OF ASBESTOS-DERIVED MATERIALS FROM SCHOOLS.

Upon receipt of an application from the governing body of any school district maintaining a school within a county, requesting to borrow funds from the county for the purpose of removing or replacing asbestos-derived materials used in constructing, insulating, or furnishing one or more of those schools, and declaring the existence of such asbestos-derived materials used in constructing, insulating, or furnishing one or more of those schools, and declaring the existence of such asbestos-derived material to be potentially detrimental to the health of pupils, teachers, and others using the school, the county board of supervisors may loan, and the school district may borrow, the requested county funds upon such terms and conditions as are mutually agreed upon by the respective governing bodies, provided that the loan shall be repaid only from the school district's deferred maintenance fund established pursuant to Section 39618 of the Education Code.

SECTION 23011 NAME: DESIGNATION BY.

The name of a county designated in this chapter is its corporate name, and it shall be designated thereby in any action or proceeding touching its corporate rights, property, and duties.

SECTION 23012 NAMES OF COUNTIES.

The names of the counties of the State are:

Alameda	Marin	San Luis Obispo
Alpine	Mariposa	San Mateo
Amador	Mendocino	Santa Barbara
Butte	Merced	Santa Clara
Calaveras	Modoc	Santa Cruz
Colusa	Mono	Shasta
Contra Costa	Monterey	Sierra
Del Norte	Napa	Siskiyou
El Dorado	Nevada	Solano
Fresno	Orange	Sonoma
Glenn	Placer	Stanislaus
Humboldt	Plumas	Sutter
Imperial	Riverside	Tehama
Inyo	Sacramento	Trinity
Kern	San Benito	Tulare
Kings	San Bernadino	Tuolomne
Lake	San Diego	Ventura
Lassen	San Francisco	Yolo
Los Angeles	San Joaquin	Yuba
Madera		

SECTION 23013. DEPARTMENT OF CORRECTIONS: RIGHT TO ESTABLISH: FUNCTIONS: ESTABLISHMENT OF JOINT DEPARTMENT OF CORRECTIONS.

The board of supervisors of any county may, by resolution, establish a department of corrections to be headed by an officer appointed by the board, which shall have jurisdiction over all county functions, personnel, and facilities, or so many as the board names in its resolution, relating to institutional punishment, care, treatment, and rehabilitation of prisoners, including, but not limited to, the county jail and industrial farms and road camps, their functions and personnel.

The boards of supervisors of two or more counties may, by agreement and the enactment of ordinances in conformity thereto, establish a joint department of corrections to serve all the counties included in the agreement, to be headed by an officer appointed by the boards jointly.

SECTION 23014 REVOLVING FUNDS: AUTHORITY TO APPROPRIATE TO FUND: USES: REIMBURSEMENT OF FUND

Pursuant to a resolution adopted by its board of supervisors by a four-fifths vote of all of the members of the board of supervisors, a county may appropriate any of its available moneys to a revolving fund not to exceed Five Hundred Thousand Dollars (\$500,000) to be used by any county sanitation district, county flood control district, or county maintenance district, located wholly within the county for the acquisition of real or personal property, environmental impact studies, fiscal analysis, engineering services, or the construction of structures or

improvements needed in whole or in part for district purposes. The revolving fund shall be reimbursed from service fees, connection charges, tax revenues or other moneys available to the district, and no sums shall be disbursed from the fund until an agreement with a term not exceeding five years has been made between the board of supervisors and the governing board of the district encompassing the method by, and the time within, which the district is to reimburse the fund. Such reimbursement from tax revenue shall not exceed in any one fiscal year an amount equal to One Cent (\$.01) on the tax rate or Twenty-Five Thousand Dollars (\$25,000), which ever is less. The district shall reimburse the fund for any amount disbursed to the district within five years after such disbursement, together with interest at the current rate per annum received on similar types of investments by the county as determined by the county treasurer.

#### SECTION 23015 EDUCATION OR REHABILITATION PROGRAMS FOR WARDS OR OFFENDERS

A county may conduct or participate in programs for the training, education or rehabilitation of wards or offenders, including, but not limited to, programs in which state or federal funds are granted or reimbursable. In connection therewith, a county may contract with federal, state or local public agencies, private persons, corporations and other business entities, any may make such expenditures of county funds as may be required for the conduct of, or participation in, such programs.

SECTION 23025 DEAF TELETYPE EQUIPMENT REQUIRED IN COUNTIES PROVIDING EMERGENCY SERVICES.

A county, whether general law or chartered, which provides any emergency services, shall provide deaf teletype equipment at a central location within the county to relay requests for such emergency services. (Added by Stats. 1980)

TITLE 3, DIVISION 2, PART 1, CHAPTER 2.

SECTION 24054 ILLEGAL CLAIMS, LIABILITY OF OFFICER

Any officer authorizing, aiding to authorize, auditing, allowing, or paying any claim or demand upon or against the treasury of any county, or any fund thereof, in violation of law or of the Constitution is liable personally and upon his official bond to the person damaged by such illegal action, to the extent of his loss by reason of the non-payment of his claim.

TITLE 3, DIVISION 2, PART 3, CHAPTER 1

SECTION 26525 ILLEGAL PAYMENT OF FUNDS: UNAUTHORIZED WARRANTS: ACTIONS TO RECOVER MONEY PAID OR TO RESTRAIN PAYMENT

If the board of supervisors without authority of law orders any amount paid as salary, fees, or for any other purposes and the money is actually paid, or if any county officer draws any warrant in his own favor or in favor of any other person without authorization by the board or law and the warrant is paid, the district attorney shall institute suit in the name of the county to recover the money paid,

and 20% damages for the use thereof. If the money has not been paid on the order of warrants, the district attorney upon receiving notice thereof shall commence suit in the name of the county to restrain the payment. An order of the board is not necessary in order to maintain the suits.

## WELFARE AND INSTITUTIONS CODE

### SECTION 17006. INVESTIGATIONS; SUPERVISION; AND REHABILITATION; RECORDS; DISCLOSURE OF CONFIDENTIAL INFORMATION REGARDING CRIMINAL ACT.

The board of supervisors of every county as a board, or by committee or by any person or society as it may authorize, shall investigate every application for relief from the funds of the county, shall supervise by periodic visitation every person receiving that relief, shall devise ways and means for bringing persons unable to maintain themselves to self-support, and shall keep full and complete records of the investigation, supervision, relief, and rehabilitation as shall be prescribed by the department. These records shall be confidential and shall not be open to examination or inspection, except by the grand jury of the county or by a board or an officer of the state or the county charged with the supervision or direction of that relief or with the control or expenditure of funds applicable to that relief. Any citizen shall be entitled to demand and receive from the board, officer, committee, person, or society having custody of these records a statement of the amount, character, and value of the relief received by any person.

(b)(1) This section shall not be construed to prohibit an employee of a county welfare department from disclosing confidential information concerning a public social services applicant or recipient to a state or local law enforcement agency investigating or gathering information regarding a criminal act committed in a welfare department office, a criminal act against any county or state welfare worker, or any criminal act witnessed by any county or state welfare worker while involved in the administration of public social services at any location. Further, this section shall not be construed to prohibit an employee of a county welfare department from disclosing confidential information concerning a public social services applicant or recipient to a state or local law enforcement agency investigating or gathering information regarding a criminal act intentionally committed by an applicant or recipient against any off-duty county or state welfare worker in retaliation for an act performed in the course of the welfare worker's duty when the person committing the offense knows or reasonably should know that the victim is a state or county welfare worker

(2) For purposes of this subdivision, "criminal act" means only an act that is violation of state or local law.

(3) Disclosure of confidential information pursuant to this subdivision shall be limited to the applicant's name, physical description, and address. (Amended by Stats. 1994)



ARTICLE 3 (commencing with Section 3060) of CHAPTER 7 OF DIVISION 4  
OF TITLE 1 OF THE GOVERNMENT CODE

PLEASE NOTE THAT THE ABOVE SECTIONS OF THE GOVERNMENT  
CODE PROVIDE FOR REMOVAL OF LOCAL GOVERNMENT OFFICIALS  
FROM OFFICE BY TRIAL AFTER THE GRAND JURY HAS VOTED AN  
"ACCUSATION" AGAINST THE OFFICIAL. THIS PROCEDURE IS NOT  
FOLLOWED IN SAN FRANCISCO SINCE THE CHARTER (SECTION 8.107)  
PROVIDES AN EXCLUSIVE METHOD FOR THE REMOVAL OF ELECTED  
OFFICIALS FROM OFFICE. SEE PAGE 48 OF TEXT.

ADMONITIONS AND OATHS

1. Oath to Witness (C.C.P. 2094)

You do solemnly swear that the evidence you shall give in this  
investigation now pending before this Grand Jury, shall be the truth, the  
whole truth, and nothing but the truth, so help you God.

(Either the work "affirm" or "declare" can be substituted for "swear" where  
the witness so requests.) (C.C.P. 2097)

When a person is sworn who believes in any other than the Christian  
religion, he may be sworn according to the peculiar ceremonies of his  
religion, if there be any such. (C.C.P. 2096)

2. Oath to Interpreter

You do solemnly swear that you will make a true interpretation to the witness, in a language that the witness understands, and that you will make a true interpretation of the witness' answers to questions in this Grand Jury proceeding, in the English language, to the best of your skill and judgment (Ev Code 751 (a)). Then ask: "Please state for the record the language used by the witness."

3. Oath to Translator

You do solemnly swear that you will make a true translation in the English language of all writings you are required to decipher or translate in this Grand Jury proceeding (Ev Code 751 (c)). Then ask: "Please state for the record what language the writing is in."

4. Admonition to Witness Not to Discuss Testimony

You are admonished not to discuss or impart at any time, outside of this jury room, the questions that have been asked of you in regard to this matter, or your answers, until authorized by this grand jury or the Court to discuss or impart such matters. You will understand that a violation of these instructions on your part may be the basis for a charge against you of contempt of court. This admonition, of course, does not preclude you from discussing your legal rights with any legally employed attorney, should you feel that your own personal rights are in any way in jeopardy.

5. Oath To Court Reporter

You do solemnly swear that you will correctly take and thereafter transcribe all the testimony offered or given by any witness testifying before this Grand Jury upon the investigation now pending before it and you do further solemnly swear that you will not divulge any of the testimony so given or any of the secrets of this Grand Jury save and except upon the order of a court of competent jurisdiction, so help you God.

6. Citation For Failure To Answer Question When Subpoenaed

In the event that a witness subpoenaed to appear before the grand jury refuses to answer a question or questions, the witness should be told: We will have you cited for contempt of Court for failure to answer the following question(s): (Repeat questions(s) for the record. The failure to answer is then to be brought to the attention of the Presiding Judge for further action.



**MISCELLANEOUS**

**STATUTES**



## EXCERPTS FROM THE CALIFORNIA CODE OF CIVIL PROCEDURE

### Title 3. Persons Specially Invested with Powers of a Judicial Nature

#### Chapter 1. Trial Jury Selection and Management Act

193. Kinds of juries. Juries are of three kinds:

(a) Grand juries established pursuant to Title 4 (commencing with Section 888) of Part 2 of the Penal Code.

(b) Trial juries.

(c) Juries of inquest.

*(Added by Stats. 1988, Ch. 1245.)*

## EXCERPTS FROM THE CALIFORNIA EVIDENCE CODE

### Division 3. General Provisions

#### Chapter 1. Applicability of Code

300 . Applicability of Code. Except as otherwise provided by statute, this code applies in every action before the Supreme Court or a court of appeal, superior court, municipal court, or justice court, including proceedings in actions conducted by a referee, court commissioner, or similar officer, but does not apply to grand jury proceedings.

*(Added by Stats. 1965, Ch. 299; Amended by Stats. 1967, Ch. 17.)*

## EXCERPTS FROM THE CALIFORNIA GOVERNMENT CODE

### Division 4. Public Officers and Employees

#### Article 3. Removal Other Than By Impeachment

3960. Accusation by grand jury. An accusation in writing against any officer of a district, county, or city, including any member of the governing board or personnel commission of a school district, for willful or corrupt misconduct in office, may be presented by the grand jury of the county for or in which the officer accused is elected or

appointed. An accusation may not be presented without the concurrence of at least 12 grand jurors.

*(Added by Stats. 1943, Ch. 134; Amended by Stats. 1951, Ch. 1553; Amended by Stats. 1955, Ch. 1125; Amended by Stats. 1977, Ch. 823.)*

**3061. Form of accusation.** The accusation shall state the offense charged in ordinary and concise language, and without repetition.

*(Added by Stats. 1943, Ch. 134.)*

**3062. Delivery of accusation to district attorney.** The accusation shall be delivered by the foreman of the grand jury to the district attorney of the county, unless he is the officer accused.

*(Added by Stats. 1943, Ch. 134.)*

**3073. Proceedings for removal of district attorney.** The same proceedings may be had on like grounds for the removal of a district, except that the accusation shall be delivered by the foreman of the grand jury to the clerk, and by him to a judge of the superior court of the county. The judge shall appoint a person to act as prosecuting officer in the matter, or place the accusation in the hands of the district attorney of an adjoining county, and require him to conduct the proceedings.

*(Added by Stats. 1943, Ch. 134.)*

**3074. Removal for willful or corrupt misconduct in office; limitation.** Any officer subject to removal pursuant to this article may be removed from office for willful or corrupt misconduct in office occurring at any time within the six years immediately preceding the presentation of an accusation by the grand jury.

*(Added by Stats. 1971, Ch. 702.)*

## **Chapter 20. Governmental Access to Financial Records**

### **Article 3. Confidentiality of, and Access to, Financial Records**

**7476. Judicial subpoena or subpoena duces tecum.** (a) Except as provided in subdivisions (b) and (c), an officer, employee, or agent of a state or local agency or department thereof, may obtain financial records under paragraph (4) of subdivision (a) of Section 7470 pursuant to a judicial subpoena or subpoena duces tecum only if:

(1) The subpoena or subpoena duces tecum is issued and served upon the financial institution and the customer in compliance with Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of the Code of Civil Procedure and the requirements of paragraph (2) or (3) have been met. In the event actual service on the customer has not been made prior to the time the financial records are required to be produced in response to a subpoena or subpoena duces tecum the court shall, prior to turning over any records to the agency, and upon good cause shown, make a finding that due diligence has been exercised by the agency in its attempt to effect such service; and



(2) Ten days after service pass without the customer giving notice to the financial institution that the customer has moved to quash the subpoena. If testimony is to be taken, or financial records produced, before a court, the 10-day period provided for in this subdivision may be shortened by the court upon a showing of good cause. The court shall direct that all reasonable measures be taken to notify the customer within the time so shortened. The motion to quash the subpoena must be made whenever practicable, in the judicial proceeding pending before the court; or

(3) A judge or magistrate in a judicial proceeding to which the customer is a party rules that the subpoena should not be quashed. Nothing in this paragraph is intended to preclude appellate remedies which may be available under existing law.

(b)(1) A grand jury, upon resolution adopted by a majority of its members, may obtain financial records pursuant to a judicial subpoena or subpoena duces tecum which, upon a written showing to a judge of the superior court that there exists a reasonable inference that a crime within the jurisdiction of the grand jury has been committed and that the financial records sought are reasonably necessary to the jury's investigation of that crime, is personally signed and issued by a judge of the superior court in accordance with Section 939.2 of the Penal Code, and:

(i) The subpoena is issued and served upon the financial institution and the customer and 10 days after service pass without the customer giving notice to the financial institution that the customer has moved to quash the subpoena. In the event actual service on the customer has not been made prior to the time the financial records are required to be produced in response to a subpoena or subpoena duces tecum the court shall, prior to turning over any records to the grand jury, and upon good cause shown, make a finding that due diligence has been exercised by the grand jury in its attempt to effect such service; the 10-day period provided for in this subparagraph may be shortened by the court upon a showing of good cause; the court shall direct that all reasonable measures be taken to notify the customer within the time so shortened; the motion to quash the subpoena must be made wherever practicable before the judge who issued the subpoena;

(ii) A judge rules in a judicial proceeding to which the customer is a party that the subpoena should not be quashed. Nothing in this subparagraph is intended to preclude appellate remedies which may be available under existing law; or

(iii) A court orders the financial institution and the grand jury to withhold notification to the customer for 30 days from the date of receipt of the judicial subpoena or subpoena duces tecum after making a finding upon a written showing that notice to the customer by the financial institution and the grand jury would impede the investigation by the grand jury. The withholding of such notification may be extended for additional 30-day periods up to the end of the term of the grand jury if a court makes a finding upon a written showing, at the time of each extension, that notice to the customer by the financial institution and the grand jury would impede the investigation by the grand jury. Whenever practicable, any application for an extension of time shall be made to the judge who issued the judicial subpoena or subpoena duces tecum. In deciding whether to grant an extension of the notification time, the judge shall endeavor to provide the customer with prompt notification, consistent with the purpose of this act, and on the presumption

that prompt notification, consistent with the purpose of this act, and on the presumption that prompt notification is the rule and delayed notification the exception.

(2) For the purpose of this subdivision, an "inference" is a deduction that may be reasonably drawn by the grand jury from facts relevant to the investigation.

(3) If the requirements of subparagraph (i) or (ii) of paragraph (1) are met, the judge shall order the grand jury to notify the customer in writing within 60 days of the issuance of the subpoena or subpoena duces tecum; provided, however, that the judge may shorten the 60-day period. If the requirements of subparagraph (iii) of paragraph (1) are met, the judge shall order the grand jury to notify the customer in writing when the financial institution is no longer prohibited from notifying the customer. The notice shall specify the financial records which were examined and the reason for such examination.

(4) Any showing which is required to be made pursuant to this subdivision, as well as the court record of any finding made pursuant to such showing, shall be sealed until one person named in the indictment to which the showing related has been arrested, or until the end of the term of the grand jury, if no indictment to which the showing relates has been returned. Provided, however, that a court may unseal a showing and court record relating thereto on a written showing of good cause and upon service of such showing upon the grand jury and the expiration of 10 days after service without the grand jury giving notice to the court that the jury moves for an in camera hearing regarding the existence of good cause. If notice is given by the grand jury the court shall conduct an in camera hearing upon such terms and with such person present as the court deems proper. At the conclusion of the in camera hearing, the court, if it finds that good cause exists, may order the showing and court record relating thereto to be unsealed upon such terms as it deems proper.

(c) In any criminal case in which an accusatory pleading is on file charging a violation of Section 476a of the Penal Code, an officer, employee, or agent of a state or local agency or department thereof, may obtain financial records under paragraph (4) of subdivision (a) of Section 7470 pursuant to a judicial subpoena or the subpoena duces tecum only if:

(1) The financial records to be produced are of the bank account or accounts as to which the defendant is alleged to have violated Section 476a of the Penal Code.

(2) The subpoena or subpoena duces tecum is issued and served upon the financial institution in compliance with Chapter 2 (commencing with Section 1985) of title 3 of Part 4 of the Code of Civil Procedure.

(3) The records are to be produced at a preliminary hearing or trial at which the defendant will have the opportunity to move to quash the subpoena or subpoena duces tecum prior to the disclosure of any information contained within said records, and to move to suppress any portion of the records which the court finds irrelevant to the charges.

*(Added by Stats. 1976, Ch. 1320; Amended by Stats. 1978, Ch. 1346.)*

### **Division 3. Executive Department**

#### **Chapter 5. Controller**

##### **Article 4. Reports**

**12464. Investigation of irregularities by accountant; report; copy of results to grand jury.** If the county, city, or district reports are not made in time, form, and manner required or there is reason to believe that any such report is false, incomplete, or incorrect, the Controller shall appoint some qualified accountant to make an investigation and to obtain the information required. The accountant appointed shall report to the Controller the results of investigation, and a copy shall be filed with the legislative body of the county, city, or district, the accounts of which were so investigated. If a similar investigation has to be made of the accounts of any county, city, or district, for two successive years, a certified copy of the results of the investigation last made shall be transmitted to the grand jury of the county so investigated or in which the city or district so investigated is situated, or, if the district is situated in more than one county, in the county in which any portion of the district is situated.

*(Added by Stats. 1945, Ch. 111; Amended by Stats. 1949, Ch. 1521.)*

#### **Chapter 6. Attorney General**

##### **Article 4. Supervision of District Attorneys**

**12552. Grand jury; powers and duties; filing of informations.** The powers and duties of the Attorney General with respect to grand juries are prescribed in Section 913 and 923 of the Penal Code. The Attorney General may also file informations.

*(Added by Stats. 1945, Ch. 111; Amended by Stats. 1959, Ch. 501.)*

### **Division 3. Legislative Department**

#### **Part 9. State Board of Equalization**

##### **Chapter 1. General**

**15619. Prohibition against divulging information; power of governor.** Any member or ex-member of the State Board of Equalization, or any agent employed by it, or the Controller, or ex-Controller, or any person employed by him, or any person who has at any time obtained such knowledge from any of the foregoing officers or persons shall

divulge or make known in any manner not provided by law, any of the following items of information concerning the business affairs of companies reporting to the board;

(a) Any information concerning the business affairs of any company which is gained during an examination of its books and accounts or in any other manner, and which information is not required by law to be reported to the State Board of Equalization.

(b) Any information, other than the assessment and the amount of taxes levied, obtained by the State Board of Equalization in accordance with law from any company other than one concerning which such information is required by law to be made public.

(c) Any particular item of information relating to the disposition of its earnings contained in the report of a quasi-public corporation which such corporation, by written communication specifying the items and presented at the time when it files its report, requests shall be treated as confidential.

Nothing in this section shall be construed as preventing examination of such records and reports by law enforcement agencies, grand juries, boards of supervisors, or their duly authorized agents, employees or representatives conducting an investigation of an assessor's office pursuant to Section 25303 of this code, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine such records.

The Governor may authorize examination of such reports by other state officers. In such event the information obtained by such persons shall not be made public. The Governor, however, may direct that any of the information referred to in this section shall be made public.

Any violation of this section is a misdemeanor and punishable by a fine not to exceed one thousand dollars (\$1,000), or by imprisonment not to exceed six months, or both, at the discretion of the court.

*(Added by Stats. 1951, Ch. 655; Amended by Stats. 1966, Ch. 147, 1<sup>st</sup> ex. Session; Amended by Stats. 1983, Ch. 1092. Effective September 27, 1983.)*

## Chapter 2. Surveys of Local Assessment Procedures

**15641. Audit; appraisal data; inspection of information and records.** In order to verify the information furnished to the assessor of the county, the board may audit the original books of account, wherever located, of any person owning, claiming, possessing or controlling property included in a survey conducted pursuant to this chapter when the property is of a type for which accounting records are useful sources of appraisal data.

No appraisal data relating to individual properties obtained for the purposes of any survey under this chapter shall be made public, and no state or local officer or employee thereof gaining knowledge thereof in any action taken under this chapter shall make any disclosure with respect thereto except as that may be required for the purposes of this

chapter. Except as specifically provided herein, any appraisal data may be disclosed by the board to any assessor, or by the board or the assessor to the assessee of the property to which the data relate.

The board shall permit an assessee of the property to inspect, at the appropriate office of the board, any information and records relating to an appraisal of his or her property, including "market data" as defined in Section 408. However, no information or records, other than "market data," which relate to the property or business affairs of a person other than the assessee shall be disclosed.

Nothing in this section shall be construed as preventing examination of that data by law enforcement agencies, grand juries, board of supervisors, or their duly authorized agents, employees, or representatives conducting an investigation of an assessor's office pursuant to Section 25303, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine that data.

*(Added by Stats. 1982, Ch. 327. Effective June 30, 1982; Amended by Stats. 1996, Ch. 1087.)*

**15645. Preparation of written survey report; confidential report relating to personnel; response to findings and recommendations; final survey report; implementation report.** (a) Upon completion of a survey of the procedures and practices of a county assessor, the board shall prepare a written survey report setting forth its findings and recommendations and transmit a copy to the assessor. In addition the board may file with the assessor a confidential report containing matters relating to personnel. Before preparing its written survey report, the board shall meet with the assessor to discuss and confer on those matters which may be included in the written survey report.

(b) Within 30 days after receiving a copy of the survey report, the assessor may file with the board a written response to the findings and recommendations in the survey report. The board may, for good cause, extend the period for filing the response.

(c) The survey report, together with the assessor's response, if any, and the board's comments, if any, shall constitute the final survey report. The final survey report shall be issued by the board within two years after the date the board began the survey. Within a year after receiving a copy of the final survey report, and annually thereafter, no later than the date on which the initial report was issued by the board and until all issues are resolved, the assessor shall file with the board of supervisors a report, indicating the manner in which he assessor has implemented, intends to implement, or the reasons for not implementing, the recommendations of the survey report, with copies of that response being sent to the Governor, the Attorney General, the State Board of Equalization, the Senate and Assembly and to the grand juries and assessment appeals boards of the counties to which they relate.

*(Added by Stats. 1951, Ch. 655; Amended by Stats. 1966, Ch. 147, 1<sup>st</sup> ex session; Amended by Stats. 1982, Ch. 327. Effective June 30, 1982; Amended by Stats. 1996, Ch. 1087.)*

**15646. Filing of copies of final survey reports.** Copies of final survey reports shall be filed with the Governor, Attorney General, and with the assessors, the boards of supervisors, the grand juries and assessment appeals boards of the counties to which they relate, and to other assessors of the counties unless one of these assessors notifies the State Board of Equalization to the contrary, and, on opening day of each regular session, with the Senate and Assembly.

*(Added by Stats. 1951, Ch. 655; Amended by Stats. 1966, Ch. 147, 1<sup>st</sup> ex session; Amended by Stats. 1982, Ch. 327. Effective June 30, 1982; Amended by Stats. 1987, Ch. 1184.)*

### **Title 3. Government of Counties**

#### **Part 2. Board of Supervisors**

#### **Chapter 3. Financial Powers**

**25250. Examination and audit of financial accounts and records of officers.** At least biennially the board of supervisors shall examine and audit, or cause to be audited, the financial accounts and records of all officers having responsibility for the care, management, collection, or disbursement of money belonging to the county or money received or disbursed by them under authority of law. The audit shall encompass the immediately preceding two-year period, or any portion thereof not included in a prior audit. This financial examination or audit may be performed in coordination with the investigations conducted by the grand jury under Section 925 of the Penal Code, or the board of supervisors may resolve to accept reports delivered pursuant to Section 933 of the Penal code in lieu of its own separate examination if such reports are found to fulfill some or all of the requirements of this section. In connection with the requirements of this section and Section 25253, the board of supervisors may employ the services of an independent certified public accountant or licensed public accountant to perform an examination of the financial statements in accordance with generally accepted auditing standards.

*(Added by Stats. 1947, Ch. 424; Amended by Stats. 1977, Ch. 107; Amended by Stats. 1981, Ch. 800.)*

#### **Part 3. Other Officers**

#### **Chapter 1. District Attorney**

**26501.** The district attorney shall institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses when he has information that such offenses have been committed. For that purpose, when not engaged

in criminal proceedings in the superior court or in civil cases on behalf of the people, he shall attend upon the magistrates in cases of arrest when required by them and shall attend before and give advice to the grand jury whenever cases are presented to it for its consideration.<sup>10</sup>

*(Added by Stats. 1947, Ch. 424.)*

#### Chapter 4.6. Consolidated Office of Director of Finance

**26983. Annual, independent audit.** The board of Supervisors of every county having the office of director of finance shall cause an annual, independent audit to be made of such office. The board of supervisors may request that the grand jury select such independent auditor.

*(Added by Stats. 1969, Ch. 638.)*

#### Chapter 5. County Treasurer

**27100. Examination of records and count of funds.** The books, accounts, and vouchers of county treasurers, including all books, accounts, vouchers, or other records, in his office relating to reclamation districts, are at all times subject to the inspection and examination of the board of supervisors or grand jury, or of any officers or agents designated by the board of supervisors or grand jury to make the inspection and examination.

*(Added by Stats. 1947, Ch. 424.)*

#### Chapter 12. County Counsel

**27647. Representation of judges.** (a) If requested so to do by the superior court of the county of which he is county counsel, or by any municipal court or justice court in such county, or by any judge thereof, and insofar as such duties are not in conflict with, and do not interfere with, his other duties, the county counsel may represent any such court or judge thereof in all matters and questions of law pertaining to any of such judge's duties, including any representation authorized by Section 68111 and representation in all civil actions and proceedings in any court in which with respect to the court's or judge's official capacity, such court or judge is concerned or is a party.

(b) This section shall not apply to any of the following:

(1) Any criminal proceedings in which a judge is a defendant.

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<sup>10</sup> California case law provides that the district attorney does not have the authority to issue subpoenas to witnesses before the grand jury without the latter's direction. *In re Peart*, 5 Cal.App.2d 469, 43 P.2d 334 (App. 3 Dist. 1935).

- (2) Any grand jury proceedings.
  - (3) Any proceeding before the Commission on Judicial Qualifications
  - (4) Any civil action or proceeding arising out of facts under which the judge was convicted of a criminal offense in a criminal proceeding.
- (Added by Stats. 1971, Ch. 1723.)*

## Title 5. Local Agencies

### Part 1. Powers and Duties Common to Cities, Counties, and Other Agencies

#### Chapter 9. Meetings

**54953.1. Testimony of members before grand jury.** The provisions of this chapter shall not be construed to prohibit the members of the legislative body of a local agency from giving testimony in private before a grand jury, either as individuals or as a body.

*(Added by Stats. 1979, Ch. 950.)*

## Title 8. The Organization and Government of Courts

### Chapter 1. General Provisions

**68091. Compensation and mileage for grand jury members; county ordinances.** Except as otherwise provided by law, the board of supervisors in each county may specify by ordinance the compensation and mileage for members of the grand jury in that county.

*(Added by Stats. 1980, Ch. 1361.)*

**68094. Witness fees and mileage; grand jury.** Except as otherwise provided by law, witness' fees for each day's actual attendance, when legally required to attend before a grand jury, are twelve dollars (\$12) a day and mileage for each mile actually traveled in attendance as such witness, one way only twenty cents (\$0.20). Such per diem and mileage are discretionary and shall only be allowed upon a showing that the allowances are necessary for the expenses of the witness in attending. The court may disallow any fees to a witness unnecessarily subpoenaed.

*(Added by Stats. 1953, Ch. 206; Amended by Stats. 1957, Ch. 1908; Amended by Stats. 1970, Ch. 1061.)*



## Other Relevant California Penal Code Statutes

### Title 7. Of Crimes Against Public Justice

#### Chapter 7. Other Offenses Against Public Justice

**148.5. False report of criminal offense; misdemeanor.** (a) Every person who reports to any peace officer listed in Section 830.1 or 830.2, district attorney, or deputy district attorney that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor.

(b) Every person who reports to any other peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor if (1) the false information is given while the peace officer is engaged in the performance of his or her duties as a peace officer and (2) the person providing the false information knows or should have known that the person receiving the information is a peace officer.

(c) Except as provided in subdivisions (a) and (b), every person who reports to any employee who is assigned to accept reports from citizens, either directly or by telephone, and who is employed by a state or local agency which is designated in Section 830.1, 830.2, subdivision (e) of 830.3, Section 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, or 830.4, that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor if (1) the false information is given while the employee is engaged in the performance of his or her duties as an agency employee and (2) the person providing the false information knows or should have known that the person receiving the information is an agency employee engaged in the performance of the duties described in this subdivision.

(d) Every person who makes a report to a grand jury that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor. This subdivision shall not be construed as prohibiting or precluding a charge of perjury or contempt for any report made under oath in an investigation or proceeding before a grand jury.

(e) This section does not apply to reports made by persons who are required by statute to report known or suspected instances of child abuse, dependent adult abuse, or elder abuse.

*(Added by Stats. 1957, Ch. 813; Amended by Stats. 1984, Ch. 824; Amended by Stats. 1986, Ch. 740; Amended by Stats. 1987, Ch. 744; Amended by Stats. 1989, Ch. 1165; Amended by Stats. 1990, Ch. 675 and Ch. 1700.)*

## Title 6. Pleadings and Proceedings Before Trial

### Chapter 3. Demurrer and Amendment

**1004. Demurrer; grounds.** The defendant may demur to the accusatory pleading at any time prior to the entry of a plea, when it appears upon the face thereof either:

(1) If an indictment, that the grand jury by which it was found had no legal authority to inquire into the offense charged, or, if an information or complaint that the court has no jurisdiction of the offense charged therein;

(2) That it does not substantially conform to the provisions of Section 950 and 952, and also Section 951 in the case of an indictment or information;

(3) That more than one offense is charged, except as provided in Section 954;

(4) That the facts stated do not constitute a public offense;

(5) That it contains matter which, if true, would constitute a legal justification or excuse of the offense charged, or other legal bar to the prosecution.

*(Enacted 1872. Amended by Stats. 1880, Ch. 47; Amended by Stats. 1905, Ch. 574; Amended by Stats 1951, Ch. 1674.)*

## Title 10. Miscellaneous Proceedings

### Chapter 2. Who May Be Witnesses in Criminal Action

**1324. Self-incrimination; order compelling testimony; use of privileged testimony or information; perjury; false swearing; or contempt.** In any felony proceeding or in any investigation or proceeding before a grand jury for any felony offense if a person refuses to answer a question or produce evidence of any other kind on the ground that he or she may be incriminated thereby, and if the district attorney of the county or any other prosecuting agency in writing requests the court in and for that county to order that person to answer the question or produce the evidence, a judge shall set a time for hearing and order the person to appear before the court and show cause, if any, why the question should not be answered or the evidence produced, and the court shall order the question answered or the evidence produced unless it finds that to do so would be clearly contrary to the public interest, or could subject the witness to a criminal prosecution in another jurisdiction, and that person shall comply with the order. After complying, and if, but for this section, he or she would have been privileged to withhold the answer given or the evidence produced by him, or her, no testimony or other information compelled under the order or any information directly or indirectly derived from the testimony or other information may be used against the witness in any criminal case. But he or she may nevertheless be prosecuted or subjected to penalty or forfeiture for any perjury, false swearing or contempt committed in answering, or failing to answer, or in producing, or failing to produce, evidence in accordance with the order. Nothing in this section shall prohibit the district attorney or any other prosecuting agency from requesting an order

granting use immunity of transactional immunity to a witness compelled to give testimony or produce evidence.

*(Added by Stats. 1953, Ch. 1353; Amended by Stats. 1957, Ch. 2395; Amended by Stats. 1996, Ch. 302.)*

### Chapter 3. Compelling the Attendance of Witnesses

**1326. Subpoena defined; persons authorized to issue.** The process by which the attendance of a witness before a court or magistrate is required is a subpoena. It may be signed and issued by any of the following:

(1) A magistrate before whom a complaint is laid or his clerk, the district attorney or his investigator, or the public defender or his investigator, for witnesses in the state.

(2) The district attorney, his investigator, or, upon request of the grand jury, any judge of the superior court, for witnesses in the state, in support of an indictment or information, to appear before the court in which it is to be tried.

(3) The district attorney or his investigator, the public defender or his investigator, the clerk of the court in which a criminal action is to be tried, or, if there is no clerk, the judge of the court. The clerk or judge shall, at any time, upon application of the defendant, and without charge, issue as many blank subpoenas, subscribed by him, for witnesses in the state, as the defendant may require.

*(Enacted 1872. Amended by Stats. 1880, Ch. 47; Amended by Stats. 1937, Ch. 215; Amended by Stats. 1939, Ch. 1015; Amended by Stats. 1951, Ch. 1674; Amended by Stats. 1953, Ch. 613; Amended by Stats. 1959, Ch. 501; Amended by Stats. 1959, Ch. 1058; Amended by Stats. 1971, Ch. 1196; Amended by Stats. 1972, Ch. 543.)*















