

# The Grand Jury and Its Function

## (in Santa Cruz County)

The Grand Jury is one of the oldest, most respected, and powerful civil institutions in the United States. More than 40 states have some form of the Grand Jury. The State of California mandates that 19 randomly selected citizens be empanelled every year as a Grand Jury in Santa Cruz. Grand Jury duties, powers, responsibilities, qualifications, and the selection process are set forth in the California Penal Code <I.&SECT; i seq.< et 888>

The Grand Jury is part of the judicial branch of government and has three functions:

- To examine all aspects of city and county governments and special districts by initiating its own investigations.
- To serve as ombudsmen for the citizens of the cities and county. A person can request the help of the Grand Jury by writing to:

**Santa Cruz County Grand Jury**  
**701 Ocean Street, Room 318-I**  
**Santa Cruz, CA 95060**  
**454-2099**  
[grandjury@co.santa-cruz.ca.us](mailto:grandjury@co.santa-cruz.ca.us)

- To conduct criminal investigations and, if the evidence is sufficient, issue criminal indictments in lieu of a preliminary Superior Court hearing.

## The Grand Jury Process

The Grand Jury, although a part of the judicial system, *is an entirely independent body*. The Presiding Judge of the Superior Court, The District Attorney, the County Counsel and the State Attorney General act only as its advisors. They cannot prevent Grand Jury action unless that action violates the law.

The Grand Jury reviews and evaluates procedures, methods and systems used by governmental agencies to determine whether they comply with the stated objectives of the agency and if their operation can be made more efficient and effective. It may inquire into any aspect of county/city government, including special legislative districts and joint power agencies, to ascertain that the best interest of Santa Cruz County residents are being served.

The Grand Jury functions lawfully only as a body. No individual grand juror, acting alone, has any power or authority. Meetings of the Grand Jury are not open to the public. Law requires all matters discussed before the Grand Jury and votes taken, to be kept private and confidential. The end result of inquiries into civil matters are

released to the public in the form of a final report which is approved, prior to release, by the Presiding Judge, the Supervising Judge of the Superior Court.

The Penal Code requires the Grand Jury to:

- Inquire into the condition and management of jails with the County.
- Investigate and report on the operations, accounts and records of county officers, departments, and functions.
- Inquire into the willful or corrupt misconduct in office of public officers.
- Submit a final report of its findings and recommendations, no later than the end of its term, to the Presiding Judge of the Superior Court. Agencies to which these recommendations are directed are required to respond to the Santa Cruz County Board of Supervisors within 90 days after the final report is released.

### **Requirements to Become a Grand Juror**

Grand juror candidates must meet all of the following qualifications:

- Be a citizen of the United States.
- Be at least 18 years old.
- Be a resident of Santa Cruz County for at least one year immediately prior to selection.
- Exhibit intelligence, sound judgment, and good character.
- Must not be serving as a trial juror in any California court.
- Cannot have been discharged as a grand juror in any California court within one year of the beginning date of service.
- Cannot have been convicted of malfeasance in office, any felony or other high crime.
- Cannot be serving as an elected public official.

### **Grand Jury Selection Process**

The law states that there shall be 19 members of the Grand Jury with six alternates. Candidates are drawn randomly from the same pool from which regular trial jurors are selected. Potential grand jurors are given information about Grand Jury duties and the time commitment required. Prospective grand jurors are invited to attend an orientation presented by the Jury Commissioner and members of the Grand Jury.

Officers of the court interview each candidate, usually twice, to reduce the number to 30 — five from each supervisorial district. The final selection is made by a random drawing of names. Upon approval by the court, up to 10 members of the previous Grand Jury may carry over to the following year.

Members of the Grand Jury represent a cross-section of ages, occupations, ethnic groups and geographic regions of the county.

## Time Commitment

The Grand Jury convenes July 1 through June 30 of the following year, is paid per diem (\$15 per day) for those days when the juror attends meeting with a maximum of two days per week, and is provided free parking at the County Government Center. Mileage is reimbursed for travel between jurors' residences and the Grand Jury office in the County Government Center, and for travel on Grand Jury business.

## Grand Jury Officers

Grand Jury officers and duties are:

- **Foreperson** recognizes that the most important responsibility lies in seeing that the Grand Jury as a whole and each of the committees function effectively and efficiently.
- **Foreperson Pro Tem**, in absence of the foreperson, assumes all functions of foreperson.
- **Recording Secretary** is general assistant to the foreperson in all matters, keeps an accurate record (minutes) of the proceedings of each meeting.
- **Corresponding Secretary** is responsible for incoming and outgoing mail.
- **Treasurer** provides jurors with reimbursement forms and collects these forms at the end of each quarter, handles all bills received by the Grand Jury.

## Grand Jury Committees

The work of the Grand Jury currently is done by its seven committees and by ad hoc committees, which are formed in response to special needs.

- **Audit and Finance** reviews the financial operations of city and county agencies.
- **Cities and Other County Agencies** has primary responsibility for examining city and county government agencies.
- **Continuity** is not an investigative body. It manages the internal functions of the Grand Jury.
- **Criminal Justice** is responsible for monitoring all aspects of the criminal and juvenile justice systems and personnel.
- **Health and Human Services** is responsible for all aspects of physical and mental health services as well as social services in cities and the county.
- **Schools and Libraries** focuses on schools and school districts, libraries and the County Office of Education.
- **Special Districts** deals with special functions such as ports and harbors, fire, water, recreational and other independent purposes.
- **Special Charge** initiated by the Superior Court Judge and normally includes all Grand Jury members.

## Grand Jury Today

Grand juries are today virtually unknown outside the [United States](#). [England](#) abandoned grand juries in 1933 and instead uses a [committal procedure](#), as do all [Australian jurisdictions](#). In Australia, although the State of [Victoria](#) maintains provisions for a grand jury in the [Crimes Act 1958](#) under section 354 Indictments, it has been used on rare occasions by individuals to bring other persons to court seeking them to be committed for trial on indictable offenses. [New Zealand](#) abolished the grand jury in 1961. Canada abolished it in the 1970s. Today approximately half of the states in the [U.S.](#) employ them,<sup>[7]</sup> and only twenty-two require their use, to varying extents.<sup>[8]</sup> Most jurisdictions have abolished grand juries, replacing them with the [preliminary hearing](#) at which a [judge](#) hears evidence concerning the alleged offenses and makes a decision on whether the prosecution can proceed.

A grand jury is meant to be part of the system of [checks and balances](#), preventing a case from going to trial on a prosecutor's bare word. A prosecutor must convince the grand jury, an impartial panel of ordinary citizens, that there exists [reasonable suspicion](#), [probable cause](#), or a [prima facie](#) case that a crime has been committed. The grand jury can compel [witnesses](#) to testify before them. Unlike the trial itself, the grand jury's proceedings are secret; the [defendant](#) and his or her [counsel](#) are generally not present for other witnesses' testimony. The grand jury's decision is either a "true bill" (meaning that there is a case to answer), or "no true bill". In the state of [Louisiana](#) there is a third option, "By premitting entirely the matter investigated". This requires nine of the twelve grand jurors to determine there is not enough evidence presented to determine if a person should or should not be charged with a crime.<sup>[9]</sup> Jurors typically are drawn from the same pool of citizens as a [petit jury](#), and participate for a specific time period.

United States

### Federal level

Charges involving "capital or infamous crimes" under [federal jurisdiction](#) must be presented to a grand jury, under the [Fifth Amendment to the United States Constitution](#). This has been interpreted to permit bypass of the grand jury for [misdemeanor](#) offenses, which can be charged by prosecutor's information.

## State level

Unlike many other provisions of the [Bill of Rights](#), the [Supreme Court](#) has ruled that this requirement was not [incorporated](#) to apply to [state](#) courts via the [Fourteenth Amendment](#), and states therefore may elect not to use grand juries.<sup>[10]</sup>

## Runaway grand jury

Rarely, grand juries aggressively go beyond the control of the prosecuting attorney. When the grand jury does so the situation is called a runaway grand jury. Runaway grand juries sometimes happen in [government corruption](#) or [organized crime](#) cases, if the grand jury comes to believe that the prosecutor himself has been improperly influenced. Such cases were common in the 19th century, but have become infrequent since the 1930s.<sup>[11]</sup>

One of the most famous cases was the [1935 Runaway Grand Jury](#) in [New York City](#), which was investigating gambling and mobster [Dutch Schultz](#). Jury members complained in open court, which was widely reported by the press, that prosecutors were not pursuing obvious leads and hinted that the [district attorney](#) was possibly receiving [payoffs](#). [Thomas E. Dewey](#) was appointed as an independent prosecutor and would rocket to fame on his prosecutions.<sup>[12]</sup>

## County grand juries in Arizona, Oregon, California, Massachusetts, Minnesota, New York and Nevada

In the U.S., the states of [Arizona](#), [California](#), [Massachusetts](#), [Minnesota](#), [New York](#), [Nevada](#), and [Oregon](#) have grand juries at the county level.

In California, each county is required by the state constitution to have at least one grand jury impaneled at all times. Grand Juries are governed by Title 4 of the California Penal Code, as well as other more general provisions. Grand juries are not subject to the [Brown Act](#).

Most grand juries are seated on a fiscal cycle, i.e. July through June. Most counties have panels consisting of 19 jurors, some have as few as 11 jurors, others have as many as 23 (see [California Penal Code Section 888.2](#)). All actions by a grand jury require a [two-thirds vote](#). Jurors are usually selected on a volunteer basis.

These county-level grand juries primarily focus on oversight of government institutions at the county level and lower. Almost any entity that receives

public money can be examined by the grand jury, including county government, cities, and [special districts](#). Each panel selects the topics that it wishes to examine each year. A jury is not allowed to *continue* an oversight from a previous panel. If a jury wishes to look at a subject that a prior jury was examining, it must start its own investigation and independently verify all information. It may use information obtained from the prior jury but this information must be verified before it can be used by the current jury. Upon completing its investigation, the jury may, but is not required to, issue a report detailing its findings and recommendations.

The grand jury is required to publish a minimum of one report containing a minimum of one finding and one recommendation. The published reports are the only public record of the grand jury's work; there is no [minority report](#). Each published report includes a list of those public entities that are required or requested to respond. The format of these responses is dictated by [California Penal Code Section 933.05](#), as is the time span in which they must respond.

County grand juries develop areas to examine by two avenues: juror interests, and public complaints. Complaints filed by the public are kept confidential. The protection of [whistleblowers](#) is one of the primary reasons for the confidential nature of the grand jury's work.

Most county grand juries in California do not consider criminal matters, though by law they are able to. The decision of whether or not to present criminal cases to the grand jury is made by the county District Attorney.

The law governing county grand juries may differ in Nevada.

[Hennepin County, Minnesota](#) (which contains [Minneapolis](#)) keeps a Grand Jury impaneled at all times. Each Grand Jury serves a term of four months. The Grand Jury typically meets one day each week. It focuses almost exclusively on homicide cases.

## Circuit Grand Juries in Kentucky

In Kentucky, grand jurors are empaneled in each county, at the Circuit level (felonies only) for a four-month term (3 panels per year). During the trial jury orientation for the given four-month term, the grand jurors are selected from the trial jury pool, although the method of selection is not necessarily random. The meetings are twice a month (however, grand juries in more populous counties generally meet more often), with each meeting usually going through 20-30 cases in a 4-5 hour period. The indictment rate is about 98-99%; the grand jury can broaden (about 1% of the time) or narrow

(about 3% of the time) the counts in the indictment as well. Usually, 15 or so grand jurors are required to report to meetings; the hope is that 12 will show to each meeting, which is the number of jurors required to hear cases (extra jurors can leave). It takes 9 *yes* votes to the question of probable cause to sign a true bill of indictment. Less than 9 *yes* votes either causes a *no true bill* or a narrowing of the indictment (depending on the votes per count).

The rules are very similar to the federal process; the grand jury only hears from law enforcement personnel, with the exception of property crimes, where store detectives or actual victims of theft or vandalism are called to testify. The only cases brought to the grand jury are those initiated from the [Commonwealth's Attorney's](#) office (the prosecutor for felonies). For the vast majority of cases, the grand jurors generally only hear a recitation of facts from the police report, crime laboratory reports, and other documentation generated during the evidence gathering process. Grand jurors can ask factual questions of the witnesses and legal questions of the prosecutors. The ability to broaden or narrow indictments does technically allow for grand juries to open new avenues of investigation, although since it is dependent on prosecutors for facts, this seems *very rarely* done, if ever. Rules of confidentiality apply to grand jurors, which are similar to the federal rules.