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## **SHOULD CIVIL INVESTIGATIONS BE PERFORMED BY THE GRAND JURY IN CALIFORNIA**

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

The Superior Court in each of the 58 counties in California is required to impanel a grand jury and perform assorted administrative services for its support every year. The manner in which the grand jury functions has a direct impact on the court in terms of the degree of judicial interaction and the level of administrative assistance required. Although the grand jury is frequently referred to as an arm of the court, it is a part of the county government structure. The grand jury has its own budget unit under the county and is completely funded with county money. The Superior Court is funded by the state and its revenue and expenditures are entirely separate from the county.

Clarification of statutes governing funding of the trial courts in California in recent years defined grand jury operations as a non-allowable use of court funds, thereby eliminating any confusion that may have existed.

The grand jury system is flawed in a number of ways. There are 58 different grand juries in California each year, comprised of approximately 1100 citizens. Impanelment is problematic in that some jurisdictions have difficulty motivating citizens to apply. The time commitment is substantial, so that most working people are not able to serve. Consequently, the makeup of the grand jury is often weighted with older, retired persons. Those with personal agendas are attracted to grand jury service as it is perceived by some to be a powerful political institution. Once grand jurors are selected, no standardized, statewide training is provided. The length of service is unrealistic in terms of mandated duties. The duration of a term is 12 months, during which grand jurors, in discharging the civil investigation responsibility, must become familiar with local government operations, conduct investigations as they deem appropriate and prepare written recommendations for improvement. During this time they are essentially unsupervised, since much of what they do is secret, as provided by law. Governmental agencies investigated by the grand jury must file responses to the written recommendations; however the deadline for submission of responses is after the grand jury has been discharged from further duties. At the time of discharge, a new grand jury is impaneled and the

cycle begins again.

Research was undertaken to determine if grand jury problems are prevalent throughout the state, and, if so, whether reform could improve the process.

Consideration was also given to whether grand jury civil investigations of local government should continue at all.

Three governmental agencies in each county were surveyed for their opinions concerning the functioning of the civil grand jury. Surveys were sent to County Administrative Officers, Offices of County Counsel and Court Executive Officers to determine satisfaction levels and to measure the level of consistency that exists between counties. The three groups selected were those having the closest affiliation with the grand jury and, therefore, the most knowledge with the current process. Data was not sought from current grand jurors, nor those having previously served.

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

Although grand jurors are essentially considered volunteers, the statewide cost is in the millions of dollars annually. That having been said, grand jury

budgets do not contain sufficient funds for the provision of training, equipment and other resources in order for jurors to perform their duties well. Increases to local budgets in order to correct substandard conditions could require double or triple the current level of funding. Such an increase would require a commitment from citizens and political leaders that there is a desire and a priority placed on correcting the many problems surrounding the grand jury today. Statutory revision and stable, adequate funding are paramount in lending efficiency and credibility to the process. Without either, serious consideration should be given to transferring the civil investigatory functions to a state agency or commission if those functions are to be performed on an annual basis. An office of citizen complaints at the local level, similar to that which exists in some locations for complaints against police officers, with statewide oversight, might also provide a more consistent service in California than that which is currently provided by the civil grand jury.

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