

**REVIEW OF THE
EFFECTIVENESS OF THE
LOS ANGELES COUNTY GRAND JURY**

Prepared by:

The Los Angeles County Citizens' Economy and Efficiency Commission

July, 2001

**THE LOS ANGELES COUNTY
CITIZENS' ECONOMY AND EFFICIENCY COMMISSION**

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Citizens' Economy and Efficiency Commission**

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The purpose of the Commission is to examine any function of county government at the request of the Board of Supervisors, on its own initiative, or as suggested by others and adopted, and to submit recommendations to the Board which will improve local government economy and efficiency, and effectiveness.

**CITIZENS'
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COMMISSION**
LOS ANGELES COUNTY
1964-2001

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Honorable Michael D. Antonovich

Mayor Los Angeles County and Chair of the Board of Supervisors

Room 869, Kenneth Hahn Hall of Administration

500 West Temple Street

Los Angeles, CA 90012

Dear Mayor Antonovich:

As you are aware, the Los Angeles County Superior Court bifurcated the 2000-2001 Grand Jury into its criminal and civil functions. As a result of this bifurcation several problems arose that have required increased attention by the court. These issues, involving items such as facilities, training, morale, ability to indict, costs, and recruitment, have caused difficulties for both the court and the grand jury. Although the court has already addressed many of these issues, the Economy and Efficiency Commission wished to further assist the court in their efforts and to raise other specific concerns. Thus, the Commission undertook a review of the grand jury to consider these difficulties in the context of the operations and effectiveness of the separate functions that have been divided.

The accompanying report makes several recommendations that address both immediate term considerations that are intended to improve the operations of the existing grand jury and a longer-term recommendation involving the structure of the grand jury. Some of these recommendations are addressed to county departments and some are intended to assist the court and the grand jury in fulfilling their responsibilities to the residents of Los Angeles County.

As always, the Commission remains available to contribute in anyway possible and looks forward to working with the Board, the court and the grand jury to assist the grand jury in whatever way is deemed appropriate.

Sincerely,

Robert H. Philibosian
Chairman

C: Each Supervisor



SPECIAL ACKNOWLEDGEMENT

THE CITIZENS' ECONOMY AND EFFICIENCY COMMISSION
WOULD LIKE TO APPLAUD THE COOPERATIVE EFFORTS OF
THE JUSTICE SYSTEM AND THE ADMINISTRATIVE SYSTEM
OF LOS ANGELES COUNTY.

IN MEMORIUM

HONORABLE STEPHEN E. O'NEIL
JUDGE OF THE SUPERIOR COURT, (1945-2001)

THE CITIZENS' ECONOMY AND EFFICIENCY COMMISSION
WISHES TO ACKNOWLEDGE THE VALUE AND INSIGHT
PROVIDED BY JUDGE O'NEIL TO THE
COMMISSION AND ITS MEMBERS
THROUGHOUT THE YEAR.

“COMMITMENT IS WHAT TRANSFORMS A PROMISE INTO REALITY.”
ABRAHAM LINCOLN

REVIEW OF THE EFFECTIVENESS OF THE LOS ANGELES COUNTY GRAND JURY

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EXECUTIVE SUMMARY

Primarily in an attempt to respond to concerns raised regarding the diversity of the grand jury, the Los Angeles County Superior Court bifurcated the 2000-2001 Grand Jury into its criminal and civil functions. As a result of this bifurcation several problems arose that required increased attention by both the court and the grand jury. These problems included facilities management, training, morale, ability to indict, costs and recruitment. To assist the court in their efforts and in response several specific concerns, the Economy and Efficiency Commission undertook a review of the grand jury to consider these difficulties in the context of the operations and effectiveness of the separate functions into which it has been divided.

In the course of this review, the Commission found several areas in which improvements could be achieved. The areas that were identified included:

- (a) the need for the county to give increased attention to grand jury recommendations to provide effective monitoring and follow-up;
- (b) the numerous instances within the grand jury report format and approach, which could be improved to assist agencies and jurisdictions in the implementation of recommendations;
- (c) the determination that some departments were reviewed very often, while others had not been reviewed for some time; and,
- (c) the potential for improvement in both the organizational structure and operational components of the grand jury that would meaningfully contribute to the organization's success.

The analysis conducted in the course of this review was used as a basis for developing the recommendations that are presented below. The majority of these recommendations address issues that can be accomplished in the near to intermediate term to facilitate the operations of the existing 2001-2002 bifurcated Grand Jury. In the longer term, the Commission is recommending a return to the one grand jury model for reasons that are presented in the body of the report. The Commission believes that it is possible to reinstitute the single grand jury system during the 2001-2002 Grand Jury session.

ECONOMY & EFFICIENCY COMMISSION RECOMMENDATIONS

1. *Direct the Auditor-Controller to provide departments responding to grand jury recommendations with a standard format that complies with the requirements of the California Penal Code.*
2. *Direct the Auditor-Controller to insure that the county responses are submitted in a manner that enables the reader to clearly identify the actions that are taken, or not taken, on a particular recommendation, together with the value to be gained through its implementation.*

3. *That the grand jury could become increasingly effective in its recommendation process by considering the potential impacts of its recommendations on the agency it examines (e.g. costs, personnel, etc.).*

4. *That the grand jury consider, within the course of its investigations, identifying those areas that it considers to be particularly effective in managing or operating a program. This approach would enable an agency to capitalize upon the benefits that could be accrued and to provide other departments and agencies with the possibility of implementing a similar approach to also achieve these benefits. It should be explained during grand jury instructions that expanding upon excellent business practices can often save as much money in correcting problem areas.*

5. *Direct the Chief Administrative Officer to enter into an agreement with the grand jury, either through contract or through employee assignment, to provide a policy/operational advisor to assist in understanding the structure of the county. This governmental policy/operations advisor should be familiar with government programs and operations, have experience in program evaluations, the planning/conduct of studies and professional audits. The position would function in an advisory role that is similar to that of the current legal advisor.*

6. *That the grand jury give consideration to establishing a grand jury report format and an official agency comment process and follow-up reporting. This would provide for consistency that promotes a comprehensive response to civil grand jury report findings and recommendations. In the creation of a style guide the grand jury should consider a format that will facilitate the agency's response. This process could incorporate the use of an electronic copy of the report to encourage effective responses from agencies.*

7. *That it would be more effective for the grand jury recommendations to be directed to operating departments when the recommendations are operational. Recommendations should only be directed to the Board of Supervisors in those instances where the Board has responsibility, e.g. budget, personnel.*

8. *That the grand jury insure that the recommendations are clearly stated with the objective of precluding the possibility for misinterpretation or an unclear or inaccurate response from the department. For example, to "urge" action does not provide a department/agency with adequate direction. Specific direction would be more helpful and would insure that the intent of the recommendation was understood.*

9. *That the grand jury insures that in the development of recommendations for the County that they consider any controlling legislation that may restrict or prohibit the implementation of a recommendation. In these instances, the recommendation should be to propose a change in the legislation.*

10. That the grand jury develops a list of study priorities that identifies those areas that were considered for study, but either as a result of time or resource constraints, they were unable to undertake. This information would then be provided to the incoming grand jury to be used as an additional tool in the development of their work plan.

11. That the grand jury develop a "schedule of past audits" which informs incoming grand juries of those departments, organizations, jurisdictions, or functions that have been examined, the length of time since the last investigation of each reviewed department, organization, jurisdiction, or function, and the major recommendations as a result of any investigation.

12. That the grand jury creates an historical, electronic, and searchable file that will allow an incoming grand jury to easily review the work, recommendations, and conduct, where deemed appropriate, follow-up of previous recommendations and agency responses.

13. That the grand jury/courts establish an ongoing speakers bureau to provide for the continual distribution of information on grand jury service and issues.

14. That the jury commissioner, through the use of a paid or unpaid advisor, continues efforts to develop an outreach plan that will insure an effective means by which the public can be informed of grand jury service. This plan should be designed to reach every area and segment of Los Angeles County society.

15. That the jury commissioner improves the access to the grand jury for the residents of Los Angeles County. This access would enable residents to gain additional information or to enable them to submit a citizen complaint.

16. Direct the Chief Administrative Officer to provide for increased input by the grand jury in the development of the grand jury budget.

17. That the jury commissioner conduct a training session with the members of the grand jury pool to assist them in further understanding the responsibilities that they are about to undertake and to enable them to quickly become more effective if selected.

18. The instructions for the civil grand jury should:

(a) Include an explanation of the purpose and functioning of the civil grand jury, an explanation of how local government functions, and methodologies that would provide the grand jury with the means to examine local government policies and operations.

(b) Emphasize in any instruction that jurors utilize the resources available to them to review issues for relevance and propriety, have factual questions answered by governmental organizations; and, if necessary, ask appropriate questions of agency officials.

19. *The Unified Court System should:*

(a) Develop a comprehensive training program for grand jurors that will address the needs of the new members of the grand jury. Such training should include at a minimum, committee work, successful meeting management, conducting audits, developing research design, interviewing techniques, examining documents and analyzing data.

(b) Prepare a Civil Grand Juror's Handbook that explains the responsibilities of grand jurors. The handbook should be written in layperson terms and cover the administration of the grand jury system, the purpose, and the functioning of the civil grand jury.

(c) The Unified Court System should consider acquiring or producing a civil grand juror orientation film.

(d) The Court Administrator should conduct a pilot project to evaluate the feasibility of providing the initial orientation material during the summoning process.

(e) A task force should be appointed, perhaps composed of former grand jurors, to review the civil instructions given to grand jurors during their orientation to determine if the presentation can be made clearer for the jurors. This examination should review what information should be given to jurors, when it should be given, and by whom.

(f) The grand jury foreperson should be given additional instructions from the court as to their role and responsibilities.

20. *That the Superior Court return as soon as possible to the one panel grand jury model. The Economy and Efficiency Commission believes that it is possible to reinstitute the single grand jury system during the 2001-2002 session.*

REVIEW OF THE EFFECTIVENESS OF THE LOS ANGELES COUNTY GRAND JURY

INTRODUCTION

In one form or another, the concept of a grand jury has existed in western law for more than 800 years. It has been considered to be such a fundamental right that it was incorporated within the United States Bill of Rights. The most fundamental purposes of this institution are to protect and defend the freedoms provided to the residents of the United States and, as importantly, to provide a mechanism to limit the power of government. In recognition of the importance of these purposes the courts and the Congress have historically defended the grand jury system and its ability to bring an indictment against any interference with its structure or operations.

Even though the objectives of the grand jury are fundamental and critical to the operation of a democratic government, the grand jury system, as it had been structured within Los Angeles County, has not been without its critics. These critics have claimed that the institution has not been reflective of the population and, as a result, can no longer be effective in accomplishing all the purposes for which it was established. The implications of this argument result in the contention that the grand jury was being used as tool of prosecutors and, by inference, as a means of government oppression. Although none of these challenges have been upheld, the Superior Court of Los Angeles County decided that beginning with the 2000-01 session the grand jury would be bifurcate into its criminal and civil oversight functions. The action of splitting these functions has resulted in the implementation of a grand juror selection process that appears to be responsive to the diversity issue. As a result, this organizational approach has enabled the court to address these concerns and eliminate them as a basis for a constitutional challenge.

The creation of a bifurcated system, while addressing the diversity issue, has created other difficulties that required attention to insure that the fundamental purposes for the existence of a grand jury were being fulfilled. For example those indictments sought by the District Attorney that require extensive investigation and review (i.e. Belmont Learning Center or the ongoing Rampart investigation) will require some form of organizational accommodation under the bifurcated structure. Clearly, such an extensive investigative commitment is not consistent with the current 30-day term of the criminal grand jury, nor is it possible within either the present structure or oversight responsibilities of the civil grand jury.

As a result of the court's action to bifurcate the grand jury and the consequences of this action on other law and justice departments within the county, it is both reasonable and appropriate to raise some fundamental questions regarding the effectiveness of this action and to consider how this action has impacted the accomplishment of the purposes for which the grand jury has been created.

SCOPE OF THE STUDY

The Economy and Efficiency Commission recognizes that:

“The grand jury is an instrumentality of the courts of this state, and as such is charged with a quasi judicial inquisition into the conduct of citizens and of public institutions and officials, and it is to be as fully protected in the exercise of its powers and functions in that regard as the courts themselves. Whatever, therefore, manifestly tends and is intended to constitute an interference with the proper exercise of the duties and functions of a grand jury while engaged in the consideration of such matters as may properly come before it would obviously amount to a contempt of court.”¹

This review is not intended to constitute any interference in the actions taken or proposed by either the court or the grand jury, but is rather intended to assist, in an advisory capacity, in improving the efficiency and effectiveness of the grand jury. To date, most of the research on grand juries has focused on the exercise of its criminal responsibilities, with little attention given to how well it functions in carrying out its civil oversight function. The bifurcation of the grand jury facilitates both the independent consideration of the two functions and how the current structure responds to the requirements of the courts, the law and justice agencies, the county, and the residents of Los Angeles County.

To accomplish the objectives of this review, the Grand Jury Task Force of the Economy and Efficiency Commission conducted interviews with numerous individuals within the justice system and the administrative system of Los Angeles County. The Task Force also undertook limited research into the operations and structural issues of the organization with the purpose of establishing a basis for making recommendations to improve the Grand Jury System within Los Angeles County.

GRAND JURY CIVIL OVERSIGHT

Legal Authority

In California the grand jury's oversight function, which is accountable for reviewing local governmental operations, has a long and respected history. As early as 1880, the State Legislature assigned to the grand jury the responsibility of making “a careful and complete examination of the books, records and accounts of all offices of the county, and to report thereon.” Over the years, the Legislature has expanded the grand jury's oversight responsibilities even further.

¹ In re Shuler (1930) 210 Cal. 377, 292 P. 481.

California courts have repeatedly recognized the unique and invaluable role a grand jury fulfills in carrying out its oversight duties. In 1971, a California Appeals Court opinion read:

“In our system of government, a grand jury is the only agency free from possible political or official bias that has an opportunity to see the operation of government on any broad basis. It performs a valuable public purpose in presenting its conclusions drawn from that overview. The public may, of course, ultimately conclude that the jury's fears were exaggerated or that its proposed solutions are unwise. But the debate which reports provoke can lead only to a better understanding of public governmental problems.”

The current California Penal Code defines the grand jury's investigative authority as follows:

“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.”²

In 1990, the voters of California adopted Proposition 115. Among other things, this proposition made lawful the use of grand jurors in criminal cases without the requirement that there be a preliminary hearing following the return of indictment. More recently, grand juries were given the authority to inquire into the fiscal affairs of incorporated cities. Although all of California's 58 counties are required to have grand juries, recent changes (AB 607) in the California Penal Code³ provide that, at the discretion of the Presiding Judge of the Superior Court, each county may have two grand juries, one “regular” grand jury and one “criminal” grand jury.

² Section 925 of the California Penal Code

³ Section 904.6 (1991) of the California Penal Code

A dual grand jury system raises questions as to whether this structure would enhance the ability of the regular (civil) grand jury to carry out its function or whether the needs of the prosecutor would be adequately served by the special (criminal) grand jury. It is clear that there are a new set of challenges facing the dual grand jury system, not the least of which is the increased demands being placed upon the juror selection process and the infrastructure of the court system, for example, the duplication of meeting facilities.

Organization of the Los Angeles County Civil Grand Jury

The Grand Jury of Los Angeles County was bifurcated on July 1, 2000, from a unified structure that undertook both the criminal indictment function and the civil oversight function, into two grand juries that now have specific responsibilities in each of those functions. The regular grand jury (civil) has been empanelled for a one-year term. A new special (criminal) grand jury is empanelled every thirty-days (30) for the purpose of issuing indictments. The special (criminal) grand jury is drawn from the master jury pool that meets the diversification criteria, thereby nullifying any constitutional challenges on that point. The regular (civil) grand jury is drawn from a pool of individuals who have applied, been nominated, interviewed and randomly selected. The use of these procedures appears to have negated any legitimate challenge regarding the issues of diversity.

To fulfill its civil oversight responsibilities the Los Angeles County Grand Jury establishes committees, each of which concentrates its attention on the investigation of certain departments or functions of city or county government, or that of special districts, including school districts. The audit, citizen complaints, and jail committees are considered essential by most grand juries because of mandates to audit the county, examine citizen complaints and inspect the jails. In addition, an independent auditor is normally hired by the grand jury to assist in examining the financial records and the methods of operation for specific city, county or special district departments or operations that are selected by the grand jury. All committees visit various facilities, meet with officials, and develop recommendations for improvements. Furthermore, all jail facilities in the county are personally inspected.

The Grand Jury Civil Function

The civil oversight function of the Grand Jury System within California is defined in Section 888 of the California Penal Code as:

“Each grand jury or, if more than one has been duly empanelled 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.”

Acting as an investigative arm of the people, the civil grand jury, as it is currently structured by Los Angeles County Superior Court, helps gather evidence on issues concerning the effectiveness of governmental operations by calling witnesses, conducting investigations, and, in extreme conditions, issuing subpoenas to compel the production of documents⁴.

If the grand jury determines a problem exists within the governmental structure, it has various options available. The most frequently used alternative is the presentation of a report outlining the grand jury's findings and recommendations⁵. A grand jury report must be responded to in specific ways by the agencies or elected officials reported upon⁶. Except where an investigation is mandated⁷, the grand jury, in its sole discretion, decides whether and what to investigate when performing its civil oversight function.

Depending on the nature and severity of a problem that a grand jury finds in its investigations, it can, in addition to releasing a report, request a number of actions:

- (a) It can ask the District Attorney to pursue the matter criminally.
- (b) It can issue its own accusation to remove an offending official from office⁸.
- (c) It can order the District Attorney to sue to recover monies the grand jury has determined are due to the county⁹.
- (d) It can order the commencement of escheat proceedings to recover land¹⁰.

Collectively, the preparation of reports and these additional powers are frequently referred to as the civil function of a regular grand jury.

ANALYSIS OF PREVIOUS RECOMMENDATIONS

Overview

The grand jury report is issued each year with a set of recommendations to the county, its departments or to other agencies and jurisdictions within the county. Upon receipt of this report, the agency has ninety-days (90) in which to respond to the grand jury on whether it concurs or does not concur with the recommendations and what actions have been taken or are anticipated as a result.

⁴ Section 921 (related Section 939.2) of the California Penal Code

⁵ Generally, Section 925-933.614 of the California Penal Code

⁶ Section 933.05 of the California Penal Code

⁷ E.g., Section 919(b) of the California Penal Code

⁸ Section 922 of the California Penal Code and Article 3 (Commencing with Section 3060-3075), Chapter 7, Division 4, Title 1, of the Government Code. Note: The grand jury's independent authority to investigate official misconduct and find accusations is equivalent to its independent authority to investigate public offenses and indict. *Bradley v. Lacy* (App.3 Dist. 1997) 61 Cal. Rptr. 2d 919, 53 Cal. App. 4th 883, review denied.

⁹ Section 932 of the California Penal Code

¹⁰ Section 920 of the California Penal Code

Requirements in Responding to Grand Jury Recommendations

To further clarify the requirements for the organizational responses to recommendations made by the grand jury, the following are the applicable sections of the California Penal Code:

- (a) For purposes of subdivision (c) 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 therefore.

- (b) For purposes of subdivision (c) 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 thereof.

- (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 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.¹¹

¹¹ Section 933.05 of the California Penal Code

Format for County Reporting of Recommendation Status

In an effort to follow-up on the status of the grand jury recommendations for this review, county departments, with direction from the Auditor-Controller, submitted a response using the following indicators of status: I (Implemented), PI (Partially Implemented), NI (Agree, But No Action), NA (No Longer Applicable), and D (Disagree). The category No Response was added in this analysis to indicate a department's failure to respond to the Auditor's request. (Table I) These reporting categories established by the Auditor-Controller do not appear to fully conform to those designated in Section 933.05 of the California Penal Code. Two responses: I (Implemented) and D (Disagree) do correspond to the requirements of the code. The PI (Partially Implemented) response corresponds somewhat to the requirement of "...not yet implemented, but will be implemented in the future...". The responses of NI (Agree, But No Action) and NA (No Longer Applicable) do not appear in the code section. Furthermore, the response category, "...requires further analysis", is not an option that was presented to the county departments. Even though this was not an option, in several cases departments responded by indicating that further analysis was required.

Grand Jury Session	Implemented		Partially Implemented		Agree, But No Action		No Longer Applicable		Disagree		No Response		TOTAL	
	County Response	Follow Up	County Response	Follow Up	County Response	Follow Up	County Response	Follow Up	County Response	Follow Up	County Response	Follow Up	County Response	Follow Up
1996-1997	91	123	34	8	45	1	0	12	26	9	5	48	201	201
	45%	61%	17%	4%	22%	-	-	6%	13%	4%	2%	24%		
1997-1998	22	34	14	1	23	2	5	8	5	2	17	39	86	86
	26%	40%	16%	1%	26%	2%	6%	9%	6%	2%	20%	45%		
1998-1999	44	50	45	16	22	0	2	4	5	1	31	78	149	149
	29%	33%	30%	11%	15%	-	1%	3%	3%	-	21%	52%		
1999-2000	31	N/A	11	N/A	9	N/A	5	N/A	11	N/A	46	N/A	113	N/A
	27%	-	10%	-	8%	-	4%	-	10%	-	41%	-		

Note: Percentages may not add up to 100% due to rounding error.

It has been noted, that in responding to implementation status requests, departments will often state agreement with the recommendation(s) of the grand jury, while claiming that they do not have the resources available to comply with the recommendation. There are no evident processes in place to provide for tracking the potential, either present or future, value of implementing such recommendations, and by implication, whether providing sufficient funds for implementation would be of benefit to the county. In the case of other recommendations, it appears that they have been ignored or given only the

slightest attention by the department or the organization toward which the recommendation was intended. Being able to effectively establish the cost/benefit of a recommendation could well result in significant savings or more effective delivery of service. By not having a process in place to make a cost/benefit determination, the county diminishes the contribution that is made by the grand jury.

The Commission understands that tracking of the status of grand jury recommendations may necessitate the incursion of additional costs, but the potential benefits that could be achieved as a result of this type of follow-up could be significant in both monetary terms and in the increase in the accountability and oversight of county departments.

ECONOMY & EFFICIENCY COMMISSION RECOMMENDATIONS

- 1. Direct the Auditor-Controller to provide departments responding to grand jury recommendations with a standard format that complies with the requirements of the California Penal Code.*
- 2. Direct the Auditor-Controller to insure that the county responses are submitted in a manner that enables the reader to clearly identify the actions that are taken, or not taken, on a particular recommendation, together with the value to be gained through its implementation.*

Analysis of Reported Implementation Status

As noted above, the county's Auditor-Controller periodically conducts a follow-up survey to determine the implementation status of each of the recommendations to county departments made by the grand jury. The information presented in Table I was developed from information provided in a special survey conducted by the Auditor-Controller. This survey asked affected county departments to provide an update on the implementation status of the recommendations made by the 1996-97, 1997-98, and 1998-99 Grand Juries. Since there was not sufficient time available in this review to have departments provide a follow-up on the recommendations of the 1999-2000 session, the data set presented in Table I reflects only the initial ninety-day county response for that session. This initial county response for the 1999-2000 session has been consolidated with the initial response data for the previous three sessions. Additionally, since a limited number of recommendations were made to other public agencies during these periods and due to the fact that the information on their implementation status was not available, no attempt was made to consider the status of the recommendations made to them.

Table I is designed to provide information on the implementation status of each session's recommendations. The first line for each session includes the initial county response (ninety-day) on the implementation of recommendations and the responses to the follow-up implementation status requested by the Auditor-Controller. On the second line of each session the chart includes the percentage of the total that each category represents.

Even though the recommendations made by earlier grand juries are older and thus would allow the department/organization a longer time for implementation, no attempt was made to evaluate this time component. Thus, to some extent, the responses in the follow-up status documents were open to some analytical interpretation, however every attempt was made to limit this subjectivity.

It is impossible, without a significant research effort, which is beyond the scope of this review, to make any judgement concerning the monetary value of any recommendation or set of recommendations. Using the baseline data from which Table I was developed, it is evident that grand juries rarely attempt to quantify the impact that any recommendation may have on the management, operations, or costs of the county or its departments. The Commission does not consider this to be the most effective approach to this process since quantifying a recommendation would provide both the grand jury and the county with a significant level of information that could be very useful in both initiating action and in identifying the level of implementation that is expected. Although not as effective as cost/benefit information, the identification of non-quantifiable impacts (e.g. societal, operational, etc.) would also serve a valuable purpose by providing the county with an improved level of directional information that could be used throughout the implementation process.

Table I indicates that, during the most recent three-year period, the percentage of implemented recommendations for each session was within a range of 26% to 45%. This level of implementation in the ninety-day response period, together with the corresponding increases in the percentage of recommendations implemented that were reported in the follow-up reports (33% to 61%), seem to indicate that these recommendations have had a meaningful impact on the management and operations of the county. Again, without being able to identify the cost improvements that result from the implementation of these recommendations, it is impossible to identify the specific monetary impacts, or, for that matter, any impacts upon the county. Although the percentage of the recommendations being implemented, as indicated in the ninety-day implementation report for the 1996-97 session, was considerably higher relative to other sessions (45% of the recommendations being implemented), it is impossible to determine whether such a percentage would result in a greater impact without being able to identify and measure the outcomes.¹²

¹² It is interesting to note that it is also in this year that the largest number of recommendations, within the sample of sessions considered, was made. This represents a 35% increase over the next largest number of recommendations (98-99) and a 134% increase over the lowest number of recommendations (97-98). Although interesting, such information, due to some of the issues raised in this report, does not provide the reader an ability to make a determination of the relative value that this set of recommendations has versus a set that may have a significantly fewer number of recommendations.

This implementation percentage differential continues to be statistically significant in the follow-up status reports, although one could expect that departments, in having additional time to implement recommendations, would be able to implement more of them, or even implement revised or modified recommendations that would meet the objectives of the original grand jury recommendation. When one considers a combination of the “Implemented” and the “Partially Implemented” classifications (a reasonable combination, since the department is proposing that, ultimately, the full recommendation will be implemented), the percentage comparisons between 1996-97 (62%) and the percentage in 1998-99 (59%) becomes, for the most part, equivalent. The implementation percentages for the 1997-98 (42%) and 1999-00 (37%) sessions, even though the relative impacts of the county cannot be established, support a contention that the recommendations that are made by the grand jury do have a meaningful impact on the operations of the county. The quest for the grand jury may well be to continue to track this implementation data to enable it to focus its efforts on the means by which the implementation percentage can be improved and to revise its means of presenting its recommendations so that anyone would be able to clearly identify its ability to impact the county, or any other organization that it chooses to review.

In the course of this review it was found that, often, the format of some of the grand jury recommendations was difficult to follow. To the extent that this difficulty exists, it may result in the organization, or individual towards which the recommendation is directed, not being clear as to what is being recommended. Grand jury final reports that had an internally inconsistent style made them particularly difficult to follow and, by extension, to monitor. Also, confusion is created when recommendations are repeated in the report (Example: 96-97 Grand Jury Report, 3-18 - Recapitulation of Recommendation from Proposal). It appears that the methodology used by the grand jury may get in the way of undertaking an adequate level of communication and coordination with the departments, functions or programs being examined.¹³

Review of the data from which Table I was developed also indicates that the county responses to grand jury recommendations are often vague, either in the action anticipated or in modification to, or expressing disagreement with, the recommendation. In addition, the organization to which the recommendation is addressed is often not the organization that would be responsible for the implementation of the recommendation. This appears to be particularly true of those recommendations made directly to the Board of Supervisors. It would be appropriate to make recommendations to the Board only in areas over which they have direct authority, e.g. budget, personnel. The role of the Board is to provide oversight, whereas the role of departments is to implement, operate and monitor the programs that the grand jury is investigating.

¹³ A form of this position also advocated by the California Grand Juror's Association - <http://www.nvo.com/cgia/advoc/>

The predisposition of the grand jury to address recommendations to the Board could result from not fully understanding, within the constraints of the limited grand jury term, the operational responsibilities of county departments. If the grand jury were provided an independent policy/operational advisor that would function in much the same role as the current legal advisor, this tendency would be minimized and the efficiency and effectiveness of the jury would be improved. This approach would go a long way toward reducing the learning curve of the incoming grand jury, enabling it to become operational in a shorter period of time. It would also provide the grand jury with an additional resource to assist in the development of an improved investigative process that could, as mentioned previously, identify impacts and assist in establishing accountability measures in the implementation of recommendations.

ECONOMY & EFFICIENCY COMMISSION RECOMMENDATIONS:

3. That the grand jury could become increasingly effective in its recommendation process by considering the potential impacts of its recommendations on the agency it examines (e.g. costs, personnel, etc.).

4. That the grand jury consider, within the course of its investigations, identifying those areas that it considers to be particularly effective in managing or operating a program. This approach would enable an agency to capitalize upon the benefits that could be accrued and to provide other departments and agencies with the possibility of implementing a similar approach to also achieve these benefits. It should be explained during grand jury instructions that expanding upon excellent business practices can often save as much money can be saved in correcting problem areas.

5. Direct the Chief Administrative Officer to enter into an agreement with the grand jury, either through contract or through employee assignment, to provide a policy/operational advisor to assist in understanding the structure of the county. This governmental policy/operations advisor should be familiar with government programs and operations, have experience in program evaluations, the planning/conduct of studies and professional audits. The position would function in an advisory role that is similar to that of the current legal advisor.

6. That the grand jury give consideration to establishing a grand jury report format and an official agency comment process and follow-up reporting. This would provide for consistency that promotes a comprehensive response to civil grand jury report findings and recommendations. In the creation of a style guide the grand jury should consider a format that will facilitate the agency's response. This process could incorporate the use an electronic copy of the report to encourage effective responses from agencies.

7. *That it would be more effective for the grand jury recommendations to be directed to operating departments when the recommendations are operational. Recommendations should only be directed to the Board of Supervisors in those instances where the Board has responsibility, e.g. budget, personnel.*

8. *That the grand jury insure that the recommendations are clearly stated with the objective of precluding the possibility for misinterpretation or an unclear or inaccurate response from the department. For example, to “urge” action does not provide a department/agency with adequate direction. Specific direction would be more helpful and would insure that the intent of the recommendation was understood.*

9. *That the grand jury insures that in the development of recommendations for the county that they consider any controlling legislation that may restrict or prohibit the implementation of a recommendation. In these instances, the recommendation should be to propose a change in the legislation.*

10. *That the grand jury develops a list of study priorities that identifies those areas that were considered for study, but either as a result of time or resource constraints, they were unable to undertake. This information would then be provided to the incoming grand jury to be used as an additional tool in the development of their work plan.*

ANALYSIS OF ORGANIZATIONS EXAMINED

Attachments I and II consider the nature and distribution of county departments covered by grand jury recommendations to identify specific organizations which has been investigated by previous grand juries. They have been used in developing the following analysis.

It has been identified that in the 1996-97 and 1997-98 Grand Jury sessions that two departments, the Board of Supervisors and the Department of Children and Family Services (DCFS), account for 61% and 44% respectively, of the total number of recommendations. This high percentage is likely reflective of two factors, the misdirection of recommendations to the Board rather than the appropriate department; and the media, and/or other emphasis at the time, on issues concerning DCFS. Based upon this same distribution consideration, the recommendations made in the 1998-99 and 1999-2000 sessions appear to have an increasingly broader organizational outlook with the top two organizations representing a notably lesser percentage (37% and 27% respectively) of the total recommendations made.

The total number of county departments examined during any one session ranges from 10 to 20 over the four sessions. Other organizations/jurisdictions investigated range from 5 to 12 over the same period. The total number of organizations, including non-county agencies, investigated over the period range from 16 to 27. The implication of the relative consistency in numbers of organizations investigated is that the grand jury appears to recognize that available resources limit its investigative capabilities.

An approach of identifying the organizations or jurisdictions that were reviewed over the past few years may provide the incoming grand jury with another tool in identifying which organizations it wants to consider investigating. It would be prudent for the grand jury to consider for review an organization or jurisdiction that has not been examined for a lengthy period of time.

ECONOMY & EFFICIENCY COMMISSION RECOMMENDATIONS

11. That the grand jury develop a “schedule of past audits” which informs incoming grand juries of those departments, organizations, jurisdictions, or functions that have been examined, the length of time since the last investigation of each reviewed department, organization, jurisdiction, or function, and the major recommendations as a result of any investigation.

12. That the grand jury creates an historical, electronic, and searchable file that will allow an incoming grand jury to easily review the work, recommendations, and conduct, where deemed appropriate, follow-up of previous recommendations and agency responses.

AVAILABILITY OF RESOURCES

Table 2 shows the fiscal resources made available to the grand jury over the past seven years. In some years the grand jury has had its budget reduced, particularly in an environment of countywide budget reductions. In some cases, those cuts were substantial.

It is reasonable to expect that cuts in budget have had an impact on the ability of a grand jury to fulfill its oversight responsibilities. Equally important is the impact these cuts have on the independence of the grand jury. Under these conditions, the authority granted to grand juries to hire outside auditors could become a meaningless grant of authority that may place a grand jury in the position of having to go to the Board of Supervisors to cover the funding for investigations requiring audits. Grand juries must be given adequate budgets to perform their mandated duties. Failure to do so jeopardizes not just their effectiveness and credibility, but their very existence. This doesn't mean to suggest that grand juries should have unlimited budgets, but rather that a level of funding necessary for them to fulfill their responsibilities be established. In recent years the importance of providing grand juries with minimum funding levels has gained greater attention. This should be recognized as an action that will enable the grand jury to function independently and effectively.

**Table 2
GRAND JURY SEVEN YEAR BUDGET SUMMARY**

Budget Year	Requested	Adopted	Actual	Adjusted Budget	Change from Adjusted/Budget
<i>1994-1995</i>	1,001,000	725,000	715,329	717,000	(35,000)
<i>1995-1996</i>	725,000	645,000	558,919	611,000	(72,000)
<i>1996-1997</i>	741,000	611,000	594,507	N/A	-0-
<i>1997-1998</i>	601,000	601,000	466,871	601,000	(10,000)
<i>1998-1999</i>	684,000	575,000	551,186	575,000	(26,000)
<i>1999-2000</i>	819,000	687,000	688,081	696,000	112,000
<i>2000-2001**</i>	780,000	1,189,000	N/A	N/A	493,000

** This may be explained partially by the creation of a second grand jury.

Source: Los Angeles County Final Budgets

INTERMEDIATE TERM CONSIDERATIONS

The Economy and Efficiency Commission recognizes that the bifurcated structure of the grand jury remains in place at the start of the 2001-02 Grand Jury session. The above recommendations and those that follow are an attempt to provide the court and the grand jury with recommendations that will provide near term assistance in their continuing execution of this organizational structure. The following sections identify issues that will not only be faced in the ongoing implementation of the bifurcated structure, but that will also require consideration in the future, regardless of the organizational structure that is utilized.

Grand Juror Recruitment

A practical consideration in the selection of grand jurors is that the demand for an expanded number of citizens to accommodate the empanelment of two grand juries places a significant strain upon the jury system. This situation dramatically illustrates the need for the court to develop a process that generates an increased number of individuals that have been screened and qualified for consideration to serve as grand jurors.

In terms of recruitment, the separation of the civil and criminal functions for the 2000-01 Grand Jury has resulted in the civil grand jury resenting the loss of indicting authority. It was likely that this authority held more interest for the jurors rather than the studious and perceptually routine work required in the study of organizational issues. The court has addressed this problem by insuring that each of the candidates for civil grand jury selection has been informed of the oversight responsibilities that they will be undertaking and their not being involved in any indictment activity.

It is clear that there is a need to inform the public about the functions, responsibilities and duties of the grand jury to insure that all citizens have been informed of their opportunity to be considered. This would also reduce any potential for anxiety in uninformed potential candidates. To advance this education the grand jury and/or the court system has held public meetings to inform and educate the public on the functions and responsibilities of the grand jury. Judges give of their own time to go into the community to improve communication.

To further advance this communication, the court has created a Court Grand Jury Committee designed to be reflective of the community. Its objective is to create a public education plan. It is also hoped that the Committee will also improve communication within the community. The Committee has stated that it is open to any option to inform the public on grand jury service. They are trying to expand their options by considering the possibilities available by partnering with other organizations, such as the Chamber of Commerce and/or the Los Angeles County Bar Association. Given their concern over the makeup of the grand jury, the Mexican American Legal Defense Fund (MALDEF) has offered the court their assistance. Other community participation options may include such things as, making applications available, not only at public meetings, but also at every possible venue, including on the Grand Jury Web Site, with the distribution of sample ballots and in county facilities with public access.

In addition to the actions taken by the courts, other organizations could be used in the effort to expand the availability of information to the public. Using the informative capabilities of other jurisdiction's public officials, perhaps through the use of some form of juror nominating process whereby each official has an opportunity to nominate two individuals to be included in the pool from which the grand jury is randomly selected. Additionally, resources may be available through the County's Office of Affirmative Action Compliance. This office would lend an increased sense of credibility to the information being distributed and to the diversity in the range of individuals that are being informed.

The media also has a role to play in educating the public on the issue of grand jury service. The use of articles, possibly highlighting the service of a local person may encourage others to consider the possibility of serving. The possibilities for information distribution is made a bit more difficult due to the nature of the duties and responsibilities of grand jurors, but imagination and creativity can overcome these challenges. Such an approach may well be facilitated through the use of an advisor, either paid or unpaid, to assist in the development of a grand jury marketing plan.

ECONOMY & EFFICIENCY COMMISSION RECOMMENDATIONS:

13. That the grand jury/courts establish an ongoing speakers bureau to provide for the continual distribution of information on grand jury service and issues.

14. That the jury commissioner, through the use of a paid or unpaid advisor, continues efforts to develop an outreach plan that will insure an effective means by which the public can be informed of grand jury service. This plan should be designed to reach every area and segment of Los Angeles County society.

15. That the jury commissioner improves the access to the grand jury for the residents of Los Angeles County. This access would enable residents to gain additional information or to enable them to submit a citizen complaint.

Term of Service of the Grand Jury

With the bifurcation of the grand jury, the term of service for the civil grand jury is one (1) year, with the jurors drawn from a pool that has been created as a result of nominations and volunteers. On the criminal side, the term is currently thirty-days (30), with the jurors drawn from the countywide master jury pool. Both of these selection processes have been able to stand the constitutional challenges concerning the diversity of the jury pool. Even though the diversity issue has been addressed, several other issues have been created that require attention on the part of the court.

A major concern expressed by the District Attorney, and recognized as a problem by the justice community, lies in the length of term of the criminal grand jury. Since the term is only thirty-days, it is difficult, if not impossible, for the District Attorney to use the grand jury as an investigative tool in those cases that require significant and long-term investigative resources.¹⁴ Two examples of cases requiring this kind of attention involve the Belmont Learning Center and the efforts that have been generated as a result of the Rampart Police corruption investigation. In addition to the caseload driven concerns, the District Attorney has created an Organized Crime Division and a section that addresses issues of public integrity. Given these organizational changes it is reasonable to expect a significant level of long-term investigations would be initiated. This further compounds the investigative difficulties facing the District Attorney.

¹⁴ It is important to note that the Superior Court has agreed to lengthen the term of the Criminal Grand Jury on as needed basis and, recently, allowed for the selection of a two month Criminal Grand Jury for an upcoming criminal investigation.

A further concern is raised by Article I, section 23, of the California Constitution, which provides that one or more grand juries shall be drawn and summoned at least once a year in each county. In 1973, California Penal Code § 905.5 was added providing that grand juries shall be empanelled and serve during the fiscal year of the county. Although that section has since been amended to authorize Boards of Supervisors to change the period from the county's fiscal year to the calendar year most, if not all, of California's grand jury terms coincide with the fiscal year. The result of this legislation is that jurors assume office in early July, and have little or no impact on the county's fiscal year budget hearings that are normally held toward the end of the fiscal year. Newly empanelled juries need time to get up to speed and digest and understand the amount of information that is provided to them in the first weeks and months of service. The last few months of the term time is spent preparing, editing and finalizing the final report. Because of this, grand juries have little or no time to understand, participate in or influence a county's budgeting priorities or activities in relation to developing a grand jury budget. Additional effort could be given to enable them to more effectively fulfill their oversight responsibilities and make reasonable proposals in the area of their own budget requirements.

ECONOMY & EFFICIENCY COMMISSION RECOMMENDATION:

16. Direct the Chief Administrative Officer to provide for increased input by the grand jury in the development of the grand jury budget.

Authority to Conduct Criminal Investigations

Relative to the exercise of its civil oversight responsibilities, it is generally accepted that grand juries provide a competent capability in the conduct of their investigation of local government. Certainly, one of the grand jury's major advantages rests in its ability to exercise the power to subpoena witnesses¹⁵ and to compel the production of evidence that may be otherwise unavailable. This power to force the production of evidence is a powerful tool in the search for government efficiencies.

In the exploration for a solution to the problem of applying resources to long-term investigations the question has been raised as to whether the civil grand jury is able to undertake a criminal investigation leading to an indictment. If such an approach would be possible, the District Attorney could then be able to pursue a long-term investigation using the civil grand jury in much the same manner as was done when only one grand jury was empanelled. Two opinions have been prepared addressing the possibility of this approach, one by the Superior Court Counsel¹⁶ and the other by the Appellate Division of the District Attorney¹⁷.

¹⁵ Section 939.2 of the California Penal Code

¹⁶ Memorandum prepared by Fred R. Bennett, Court Counsel, Los Angeles County Superior Court, RE: Civil Grand Jury Lack of Authority to Investigate Criminal Matters When a Second Grand Jury is Impaneled, March 22, 2001.

¹⁷ Memorandum prepared by William Woods, Appellate Division, Los Angeles County District Attorney, RE: Can a Civil Grand Jury Issue a Criminal Indictment, April 13, 2001.

Both opinions arrived at the same conclusion as is illustrated by that of the Superior Court Counsel, which states, in part:

“It is my opinion, consistent with that of the California Attorney General, that when a second grand jury is impaneled pursuant to Penal Code 904.6, the second grand jury has the sole and exclusive jurisdiction to investigate criminal matters and return indictments; and the civil grand jury has the exclusive jurisdiction to conduct civil investigations and to return accusations of misconduct by public officials.”

Since the use of the civil grand jury to conduct criminal investigations does not appear to be possible without some type of legislative remedy, there is currently no vehicle available with the powers of the criminal grand jury with which to undertake long-term investigations. This situation seriously compromises the capability of the District Attorney to undertake these investigations and potentially reduces the protection to the public that was the original intent for having a grand jury structure.

Need for Training

It is understandable that it has become increasingly difficult for the grand jury to have a meaningful impact on governmental operations. Government at every level is more complex, making investigations and the expertise to undertake them more burdensome. As a result of this increased complexity, it is clear that there is also an accompanying increase in the training requirement.

The premise for the existence of the grand jury civil oversight responsibilities is the argument that citizens are effective in investigating official corruption, and, possibly, that the presence of the jurors encourages witnesses to be truthful. This capability can be utilized only to the extent that the individuals involved have the tools available to them to effectively undertake and complete an investigation.

Given that the criminal grand juries now sit for thirty-days, it seems evident, that to maximize their effectiveness, it would be necessary to spend substantial time educating new jurors on their responsibilities and how to conduct themselves in the performance of their duties. Although the civil grand jurors have a one-year term, their training is no less important. Some may consider their training requirement to be greater, given their need to understand and their potential impact on governmental operations. The code section addressing this requirement states:

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) To 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 insure 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.”¹⁸

All new grand jurors should participate in training that prepares them to undertake their responsibilities conducted under the auspices of the Superior Court. This training should be substantive and provide these individuals with the resources, tools, and methodologies necessary to produce a meaningful product that will significantly improve local government operations and management.¹⁹ The court has recognized this need and the Court Grand Jury Committee has been tasked with considering whether this training can be conducted in-house.

Whatever approach is used to train jurors, attention should be placed upon maintaining the independence of the grand jury, avoiding time-consuming non-productive training time, providing the means for grand juries to quickly focus on what needs to be accomplished, avoiding annually “re-inventing the grand jury wheel,” and assuring consistency for follow-through on long-term issues. The process may include having county agencies and departments submit an overview of what they do and how they do it, perhaps through the material currently available in the County Public Information Office or generated by the agency or department, if necessary.

If the grand jury was interested in a more in-depth look at a particular department, it could schedule a special session for that purpose. The court has recognized this need for the 2000-2001 session and has taken steps to develop an effective training plan. The following recommendations are made with this initiative in mind. Although they may prove to be duplicative in nature to the actions already taken, they are made in an attempt to insure their consideration and to be supportive of these efforts.

ECONOMY & EFFICIENCY COMMISSION RECOMMENDATIONS

17. That the jury commissioner conduct a training session with the members of the grand jury pool to assist them in further understanding the responsibilities that they are about to undertake and to enable them to quickly become more effective if selected.

¹⁸ Section 914 of the California Penal Code

¹⁹ (Position also advocated by the California Grand Juror's Association - <http://www.nvo.com/cgia/advoc/>)

18. *The instructions for the civil grand jury should:*

- (a) *Include an explanation of the purpose and functioning of the civil grand jury, an explanation of how local government functions, and methodologies that would provide the grand jury with the means to examine local government policies and operations.*
- (b) *Emphasize in any instruction that jurors utilize the resources available to them to review issues for relevance and propriety, have factual questions answered by governmental organizations; and, if necessary, ask appropriate questions of agency officials.*

19. *The Unified Court System should:*

- (a) *Develop a comprehensive training program for grand jurors that will address the needs of the new members of the grand jury. Such training should include at a minimum, committee work, successful meeting management, conducting audits, developing research design, interviewing techniques, examining documents, and analyzing data.*
- (b) *Prepare a Civil Grand Juror's Handbook that explains the responsibilities of the grand jurors. The handbook should be written in layperson terms and cover the administration of the grand jury system, the purpose, and the functioning of the civil grand jury.*
- (c) *The Unified Court System should consider acquiring or preparing a civil grand juror orientation film.*
- (d) *The Court Administrator should conduct a pilot project to evaluate the feasibility of providing the initial orientation material during the summoning process.*
- (e) *A task force should be appointed, perhaps composed of former grand jurors, to review the civil instructions given to grand jurors during their orientation to determine if the presentation can be made clearer for the jurors. This examination should review what information should be given to jurors, when it should be given, and by whom.*
- (f) *The grand jury foreperson should be given additional instructions from the court as to their role and responsibilities.*

Coordination with the Economy and Efficiency Commission

Other than the requirement to respond to the grand jury report within ninety-days, there is no structured mechanism to monitor, or track, the status of grand jury recommendations. As appears evident from the sample of responses on the current status of recommendations provided for this review, it may prove difficult to determine the status of recommendations. Although this may not be done intentionally, when no mechanism exists to effectively monitor the status change, such a determination of status is difficult to discover. With no process in place, this situation can easily result in current or future grand juries repeating investigations, duplicating recommendations, or using their time in an inefficient manner, with the resultant waste of time and money.

As part of its mission the Economy and Efficiency Commission currently brings together professional and experienced citizens as commissioners to review, analyze, and enhance the implementation of the recommendations of the Los Angeles County Grand Juries. These efforts are undertaken to promote a policy regarding the implementation and follow-up of grand jury recommendations with a focus on improving the economy, efficiency and/or effectiveness of county government. The Commission routinely provides advice and recommendations to the Board of Supervisors and county departments on the process and the implementation status of selected grand jury recommendations, including the status of recommendation monitoring. Through these efforts, the county benefits by ensuring that departments respond to grand jury recommendations and are held accountable for their responses. The Commission will assist future grand juries in their development of a program that has continuity and a strategic view.

Commission efforts in this area are to:

- ◆ Review the final grand jury report.
- ◆ Review the county's response to the grand jury recommendations with the objective of providing an independent view of their appropriateness.
- ◆ After a review of the final report and the county's response and based upon available resources, the Commission establishes a priority listing of those recommendations that should be followed-up and when it is deemed necessary, considering both importance and urgency of the recommendation, issuing a report to the Board of Supervisors.

OTHER COUNTY GRAND JURY MODELS

Several other California counties were reviewed to assist in considering the structural options that may be available to Los Angeles County²⁰. Those counties fell into three model categories: Two Panels, Two Panels (Modified), and One Panel.

²⁰ Information gained from a memorandum from Sandra G. Harris, Special Assistant, to Steve Cooley, Los Angeles County District Attorney, SUBJECT: Grand Jury Systems in Other Counties, March 28, 2001.

Included in the two panel model are:

Riverside County has a sitting grand jury that hears civil cases and conducts civil and criminal investigations cases, although it does not issue indictments. The court, through applications, selects this panel. The members of a special grand jury, which has the responsibility for all indictments, are selected from the jury pool. From this pool, the presiding judge voir dres prospective jurors and randomly selects grand jurors from those that are qualified. The county reports not having a problem with their system.

San Francisco County provides the city attorney with a grand jury for civil cases. There is another grand jury for all criminal proceedings. This jury is empanelled once every four months. The jurors are obligated for two days per week for approximately 32 sessions. The members of a special grand jury, which has the responsibility for all indictments, are selected from the jury pool. From this pool, the presiding judge voir dres prospective jurors and randomly selects grand jurors from those that are qualified. The Chief Investigator of the District Attorney conducts background checks. Problems arise only when the cases are long, which creates the potential for the loss of a quorum.

Fresno County has a sitting grand jury that hears all civil proceedings and occasionally minor criminal investigative proceedings. The members of a special grand jury, which has the responsibility for all criminal investigations (except minor), are selected from the jury pool. From this pool, the presiding judge voir dres prospective jurors and randomly selects grand jurors from those that are qualified. A special grand jury is not held in constant session, but is rather empanelled on a case-by-case basis. Problems with this system result from it being used so infrequently, approximately 1-3 times per year.

Santa Clara County has a sitting grand jury that hears only civil proceedings. The members of a special grand jury, which has the responsibility for all criminal proceedings, are selected from the jury pool and no background checks are conducted. From this pool the presiding judge voir dres prospective jurors regarding hardships and qualifications. From this qualified group, individuals are randomly selected. Jurors usually commit three days a week for a period not to exceed three months. Occasionally, problems arise, but since the panel consists of 19 persons and only 12 votes are needed to indict, they are minimized. Overall they have had a positive experience with this approach.

Included in the two panel model (modified) are:

Orange County uses one grand jury, unless they face unusual circumstances. Normally, they have a sitting grand jury that hears all civil and criminal proceedings. In unique circumstances, that have proven to be infrequent, they empanel a special grand jury.

San Bernardino County has a sitting grand jury that hears all cases, criminal and civil. A special grand jury may be empanelled, but infrequently. The special grand jury is generally used in criminal investigations or in cases that are lengthy and would encumber the sitting grand jury. The special grand jury has responsibility for all criminal investigations (except minor) and its members are selected from the jury pool. From this pool the presiding judge voir dres prospective jurors and randomly selects grand jurors from those that are qualified. A special grand jury is not held in constant session, but is rather empanelled on a case-by-case basis. Problems with this system result from it being used so infrequently, approximately 1-3 times per year.

San Diego County has a sitting grand jury for a term of one year. This grand jury, which is selected by the court through applications, hears all civil actions and complaints and investigates county government agencies. The members of a special grand jury, which has the responsibility for all indictments, are selected from the jury pool on a case-by-case basis. From this pool, the court randomly selects grand jurors from those that are qualified. These individuals will then serve until the completion of the particular case for which they were empanelled. The county has a problem with the grand jury's inability to handle long complex cases. Difficulties in the control of the civil grand jury have also presented themselves.

Included in the one panel model are:

Ventura County, Kern County, and Alameda County use the one panel model. The sitting grand jury hears all civil and criminal proceedings. Jurors are volunteers and are selected by the court. These counties have considered a two-panel system, but declined, citing concerns over the inability to ask perspective jurors in-depth questions and their ability to conduct background checks.

GRAND JURY MODEL

Considerations in Model Development

Due to its size, Los Angeles County offers special and unique problems in the development of any organizational model. Among these include:

Ability to Indict: As was mentioned in an earlier section, the bifurcation of the grand jury has created a problem in the conduct of long-term investigations. Since there is agreement that the civil grand jury is unable to return an indictment, any investigation lasting longer than the term of the criminal grand jury (30 days) would effectively be ruled out. Given the nature and scope of the law enforcement activities within Los Angeles County, the lack of the grand jury as an investigative tool severely limits the ability of the District Attorney to fulfill his responsibilities.

Diversity: Addressing the diversity issue remains a primary concern for the implementation of any approach. Recognizing this concern, the court has been actively engaged in outreach to the community.

It is recognized that if the pool from which potential grand jurors are selected meets the definitions established for a diversified pool, the grand jury itself, as a result of the random selection from that pool, is defined as being diversified. The Superior Court recently selected 50 prospective members from a pool of 96 people for its 2001-02 civil grand jury. From this pool the final grand jurors were selected. The selection processes used a scientifically recognized computer process called Marsaglia. Presiding Judge James Bascue oversaw the proceedings in his courtroom, along with official witnesses from the press. The court has made every effort to insure that a grand jury selected on this basis would be able to meet any constitutional challenge.

Facilities: It appears that the court has addressed the issues that have arisen in the past year that required the creation of separate facilities for use by the civil grand jury. Even though these facilities are adequate at this time, there is a possibility that in the future these spaces may be required for alternative uses.

Costs: Consideration should be given to the additional costs that are being incurred as the result of empanelling a second grand jury. Such costs may be justified if it can be shown that the resulting civil oversight product of the second grand jury was of a significantly increased value over that provided by the one grand jury model.

Training: Regardless of the model employed, the grand jurors should receive training to effectively undertake and fulfill their oversight responsibilities. In the instance of the two panel model, the training would presumably be separated into civil and criminal portions. In the case of the one model approach the training would be combined. The advantage of a combined training would lie in improving the individuals' capability to utilize the skills taught in one section to enhance their understanding of the skills taught in the second section. These combined methodologies might well prove to have significant value in the development of an understanding of any item that may be placed before them.

Recruitment: Using the two-panel model, recruitment becomes a consideration only in the case of the civil grand jury. Normally, individuals would be interested in the means and methodologies involved in addressing the organizational, policy and operational questions involved in local government organization and operations. Although many people are interested in this, one could conceive of the possibility that having an opportunity to investigate and indict criminals may offer, to many, an increased level of interest and enthusiasm.

Juror Morale: It was obvious from the reaction of the 2000-01 Grand Jury that the content of the material being considered by the grand jury can have a substantive impact on the morale of the group. Partially, the problem with the 2000-01 Grand Jury could be traced to the fact that they were not adequately informed as to the nature of the responsibilities they were to assume. It was reported by the courts that this situation was adequately addressed through in-depth briefings to the current set of civil grand jury candidates. In spite of these efforts by the court to inform them of their role, it seems probable that the involvement of the grand jury members in the investigation of indictable matters would have several benefits; maintenance of individual interest in the process by considering varied issues; the educational components that would accrue to the group by understanding the essential investigative tools required in both criminal and civil cases; a resulting lowering of turnover as a component of providing an increased level of interesting assignments; and an overall improvement in group morale.

Recommended Grand Jury Model

It appears that the primary reason that the Superior Court felt a need to change the grand jury from the one panel model to the current bifurcated system was the need to address the question of jury diversity. The current efforts by the court, such as advertising and making presentations to locally diverse groups and by ensuring that it used a scientifically recognized statistical process for the selection of the civil grand jurors, appears to have adequately addressed this issue. With this being the case, the question arises as to what further advantages derive as a result of remaining with a bifurcated system. The only remaining potentially positive consideration for remaining with a bifurcated system would lie in the possibility of an improved grand jury civil oversight report. Although it is too early to make a definitive determination as to the probability of such a result, it does not appear, based upon the nature and scope of past grand jury oversight reports, that the nature and value of such would be so far improved as to justify the increased costs that are being incurred and the increased potential problems that could develop within the grand jury itself.

It appears that a bifurcated grand jury model has numerous downside considerations, without the accompanying advantages that would justify its continuation. The Economy and Efficiency Commission has concluded that the one panel model offers such substantial advantages to the County, the courts, and the residents of Los Angeles County that it is recommending the return to the one panel grand jury model. Given the advantages of the one grand jury model, it would be prudent for the court to return to this structure as soon as is practical, if possible for the 2001-2002 Grand Jury.

ECONOMY & EFFICIENCY COMMISSION RECOMMENDATION

20. That the Superior Court return as soon as possible to the one panel grand jury model. The Economy and Efficiency Commission believes that it is possible to reinstitute the single grand jury system during the 2001-2002 session.

CONCLUSION

There are several conclusions to be drawn from the preceding analysis. Perhaps the most obvious is that the grand jury is needed more today than ever before in our history. It is one of very few institutions that provide the citizens of this community with the oversight capability that is proving to be an ever more necessary and valuable tool.

The grand jury is one of the important vehicles available to the people in exercising their control over government. In the final analysis, the strength of a grand jury lies in its independence and credibility. It is incumbent upon society to protect that independence and credibility and thereby assure the future of the grand jury.

A final conclusion is that the changes needed to improve the effectiveness of the grand jury may entail additional cost. The decision whether to pay those costs raises questions that may be more political and philosophical than legal.