

2014-2015 GRAND JURY REPORT

County of Riverside Riverside County Office of County Counsel

Background

The Riverside County Office of County Counsel (County Counsel) is a law office that handles civil matters for the County of Riverside (County). County Counsel defends and prosecutes cases and renders legal advice and litigation support on issues of vital concern to the County and its residents. This involves health care, public safety, child welfare, land development, environmental protection, public finance, taxation, elections, and other various areas. County Counsel's primary clients are the Riverside County Board of Supervisors (BOS), elected officials, county agencies, departments, commissions, and officers. Under certain circumstances, legal services may be provided to other public entities within the county, including schools, and special districts. County Counsel does not provide legal services to private citizens. In addition, pursuant to California Penal Code §934(a), County Counsel may be called upon, at all times, by the Riverside County Grand Jury (Grand Jury) for legal advice regarding civil matters.

The County Counsel is appointed to serve at the pleasure of the BOS at a published salary of \$246,735.84. County Counsel's office has approximately 70 authorized positions with a Fiscal Year 2014-2015 budget of \$5,880,000. Prior to his appointment on July 29, 2014, Gregory P. Priamos was the Riverside City Attorney.

Office of the Attorney General, State of California, Opinion No. 93-505, August 25, 1993, states, in part:

...In California, unlike some other American jurisdictions, the grand jury's role as a vigilant 'watchdog' over the operations of a variety of local governmental activities has a long and well respected heritage. (1973 Grand Jury, supra, 13Cal.3d 430, 436, for omitted.) (Id, at 61170, for. omitted.)...

Methodology

The following documents were reviewed:

1. California Penal Code §939.22(a)(c)
2. California Penal Code §934(a)
3. California Penal Code §891
4. California Penal Code §924.2
5. McClatchy Newspapers v. The Superior Court of Fresno County 751 P. 2d 1329 (Cal.1988)
6. 2012-2013 Grand Jury Report, City of Riverside, Office of the City Attorney
7. May 20, 2013 – Letter of admonishment from the prior County Counsel to City Attorney for the City of Riverside
8. May 21, 2013 – Letter in response to the admonishment letter from the prior County Counsel
9. January 8, 2015 – Letter to the Riverside County Grand Jury from the current County Counsel
10. July 10, 2013 – Response to the 2012-2013 Grand Jury Report: City of Riverside, Office of the City Attorney
11. California Penal Code §925(a)
12. Email – Thursday, December 4, 2014, 8:33 AM to: Department Heads – Subject: RIVERSIDE COUNTY CIVIL GRAND JURY INQUIRIES— request to advise County Counsel as to any recent inquiries to County Departments
13. U.S. Code Title 18 Part 1 Chapter 73 sub section 1503
14. American Bar Association – Model Rules of Professional Conduct, Legal Careers Definition: Conflict of Interest, California State Bar – Current Rules of Professional Conduct
15. County of Riverside, California – Board of Supervisors Policy Number C-35 Subject: Standards of Ethical Conduct to Address Fraud, Waste and Abuse

16. Acknowledgement of Policy C-35
17. Office of California Attorney General Opinion 02-1108 June 6, 2003, and 93-505 of August 25, 1993
18. California Government Code §995.2(a)(c)
19. Business and Professions Code §6068
20. California Grand Jurors' Association – Frequently Asked Questions
21. County Counsel PowerPoint presentation
22. Facsimile from Riverside County Information Technology to the Grand Jury dated January 21, 2015
23. *Upjohn Co. v. United States*, 1015.Cl. 677, 449 U.S. 383 (1981)
24. California Public Records Act (Govt. Code §§6250-6276.48) (PRA)
25. *Monroe v. Garrett* (1971) 17 Cal.App.3d 280, 284 [94 Cal. Rptr. 531]
26. Riverside Superior Court Case RICMISC20151
27. Conducted interviews with:
 - Members of the Riverside County Board of Supervisors
 - Riverside County District Attorney
 - Riverside County Deputy District Attorney
 - Riverside County Auditor-Controller

Findings

Conflict of Interest and Secrecy

1. AB 622 became law in January 2012. The law added Section 939.22(a) to the California Penal Code. County Counsel has interpreted this law, and applied the new law to allow him to represent the officials and employees of the County as to County civil matters brought before the Grand Jury, and to be present at all interviews of County employees that are to be interviewed under oath. County Counsel has attempted to attend one interview and directed, on three occasions, a Deputy County Counsel to represent County employees who have been called to give testimony in Grand Jury interviews. This presents a conflict of interest due to the incompatibility of the professional duties of the County Counsel to

represent the County and the Grand Jury in the same matter. This is a direct violation of California Penal Code §934(a). Conflict arises when County Counsel acts in a dual representative role.

The County Counsel's primary duty is to the BOS, not the employees. This conflict places an onerous and improper burden on the witness, because such witness is not at liberty to speak openly and candidly while giving testimony. The witness faces retaliation or discipline by his/her department supervisor or manager due to the County Counsel's presence (referenced in *McClatchy Newspapers v. The Superior Court of Fresno County* 751 P. 2d 1329 (Cal. 1988)). It makes County Counsel cognizant of the nature of the Grand Jury's inquiry and the areas being reviewed, as well as, exactly what testimony was given by the witness. A witness could believe that such information may be relayed to the employee's department or managers. Even though County Counsel is admonished not to reveal the nature of the Grand Jury interview, the secrecy and integrity of the proceedings has already been compromised by County Counsel's mere presence, which taints the integrity of the interview.

The Office of the Attorney General, State of California, in an Opinion issued June 6, 2003, (02-1108) stated, in part:

...We believe the Legislature's policy of preserving the secrecy of grand jury proceedings is not only applicable when a grand jury is performing its criminal indictment function, but also when it is performing its civil watchdog function. In McClatchy Newspapers v. Superior Court, supra, 44 Cal.3d 1162, the Supreme Court observed:

The importance of secrecy is well established in the context of the grand jury's criminal indictment function. By the same token, when the grand jury conducts a watchdog investigation of local government operations as in the instant case, secrecy appears equally vital. Compared with indictment proceedings, the efficacy and credibility of watchdog investigations no less require that witnesses testify without fear of reproach by their peers or their superiors. Though the watchdog investigation and report serve a different social purpose than the criminal indictment, eliciting candid testimony is obviously critical to both functions of the grand jury.

Significantly, the separate and distinct functions of watchdog and indictment grand juries are sometimes intermingled, in the sense that watchdog inquiries into alleged corruption may involve the weighing of possible criminal indictments against county officials and others being investigated.... Whether or not a watchdog grand jury actually undertakes the weighing of indictments, secrecy

'provides the proper atmosphere in which to generate uninhibited testimony from county employees who might otherwise be intimidated by political and employment considerations.' [Citations.]

"Secrecy also serves to protect the reputations of those who may be unjustly accused during the course of a watchdog investigation. 'Grand jury secrecy...is "as important for the protection of the innocent as for the pursuit of the guilty."' [Citation Omitted.]' [Citation.]" (Id.at. pp. 1175-1176.)

Transparency and Accountability

2. County Counsel has advised department heads, on or about January 21, 2015, to delay release of information to the Grand Jury, which is a violation of the California Public Records Act (Govt. Code §§6250-6276.48) (PRA). County Counsel's actions obscure the transparency and accountability throughout the County.

As the court in *Monroe v. Garrett* (1971) 17 Cal.App.3d 280, 284 [94 Cal.Rptr.531] observed:

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 picture of crime and the operation of government relating thereto 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, such as the one before us, would provoke could lead only to a better understanding of public governmental problems. They should be encouraged and not prohibited.

Inaccurate, Incomplete, and Misleading Statements

3. The 2012-2013 Riverside County Grand Jury Report, which reflected the time period when the present County Counsel was then City Attorney for the City of Riverside, indicated the reason he revealed confidential information, was "to make them aware of what the Grand Jury was doing." On May 20, 2013, he was admonished in writing by County Counsel. (See Attachment #1)

In a letter of reply dated May 21, 2013, from Riverside City Attorney, to the County of Riverside County Counsel (see Attachment #3), he excused his actions with the following statement, in part:

...The reference to the nature of the pending Grand Jury Investigation was made in order to assist the District Attorney, County Counsel, and the presiding judge in their evaluation as to the appropriateness and legality of the Grand Jury's conduct.

In a letter to the Presiding Judge of the Riverside County Superior Court dated July 10, 2013, the then City Attorney responded to a 2012-2013 Grand Jury Report by inaccurately stating, in part:

...As the court is aware, the Grand Jury is not a wholly independent body. Rather, it is under the control of the Superior Court and its Presiding Judge...

The Grand Jury is an investigative arm of the superior court and has judicial, as well as, investigatory and inquisitional responsibilities and powers as defined in California Penal Code Sections 888 through 945. Once the Grand Jury is duly impaneled and sworn, its functions are conducted as a separate and independent body, acting apart from the jurisdiction of the court, beholdng to no one body, entity or court.

A letter from the current County Counsel to the Grand Jury dated January 8, 2015, misstates the Penal Code by omitting words, "at all times," intrinsic to the Penal Code §934(a).

Obstruction of the Grand Jury

4. The Grand Jury has a twelve-month period to complete its work. Delay can effectively foreclose Grand Jury scrutiny, and a strategy of delay is apparent in the conflict of interest with County Counsel who is a legal representative of both Grand Jury and the agencies it seeks to examine. County Counsel has made numerous attempts to thwart the Grand Jury's investigations of departments of the County. This obstruction included attempts to block access to information, delaying the Grand Jury's hearings, by requiring subpoenas, making access to witnesses and records difficult and invoking attorney-client privilege to protect the 18,000 plus County employees when such privilege may not exist rather than the legitimate interests of the 2.2 million County residents.

County Counsel has devised a plan, as evidenced by an email dated December 4, 2014, (see Attachment #2), to hamper the process of the Grand Jury's pursuance of its legal and authorized duties granted them under California Penal Code §925(a). County Counsel's scheme of

orchestrating this plan is accomplished by advising department heads, in staff meetings, by email, and by PowerPoint presentations. This PowerPoint presentation contains significant references pertaining to Criminal Grand Juries, which does not apply to Civil Grand Juries.

His plan of action has the effect of disrupting the Grand Jury's mission by weakening and delaying the normal process of the Grand Jury's legal authority as outlined in California Penal Code §888 through §945. County Counsel's actions not only attempt to gain unauthorized information and insight into the areas being reviewed, but also in effect, to usurp the legal process for which the Grand Jury exists.

County Counsel's efforts to circumvent the Grand Jury's legal domain over its legal duties and jurisdiction constitutes an obstruction of the operations of the Grand Jury.

County Counsel's response to Grand Jury inquiries are designed to obstruct transparency, protect the BOS, County agencies, and the Office of County Counsel from scrutiny, rather than to cooperate with the legitimate intergovernmental fact-finding and investigative functions of the Grand Jury. This finding discusses a few specific instances which are typical of the resistance the Grand Jury is encountering.

Evaluative techniques lead the Grand Jury to conclude the County Counsel and Executive Officer, using the email of December 4, 2014, that stated: "We will then coordinate with the affected County Department and Executive Office on the appropriate response in order to properly **protect** the interests of the County, its officials and employees," expressed plans to **protect** the BOS from another controversial Grand Jury Report, such as the 2013-2014 Grand Jury Report on Political Reform concerning CID funds. County Counsel has either been directed to, or on his own as evidenced by his current actions, chosen to ignore California Penal Code §934(a), which states, in part:

...Unless advice is requested, the judge of the court, or county counsel as to civil matters, shall not be present during the sessions of the grand jury.

A voicemail received by the Grand Jury foreperson on March 19, 2015, at 1:15 p.m., from County Counsel's Administrative Assistant, stated, "we don't represent the Grand Jury anymore," is also a violation of California Penal Code §934(a), which states, in part:

The grand jury may, at all times, request the advice of the court, or the judge thereof, the district attorney, the county counsel, or the Attorney General...

Choice of Having Counsel

5. California Penal Code §939.22(a) permits a witness giving testimony under oath to have counsel present during a Grand Jury interview. It allows the witness to make the determination whether or not to have counsel present. It is not the determination of County Counsel. It is inappropriate for County Counsel or a Deputy County Counsel to represent the witness who is a County employee, when the Grand Jury is investigating a County department because; it violates the secrecy and confidentiality of the Grand Jury sessions.

County Counsel has advised County departments and special districts, if they have been contacted by the Grand Jury for information or to give testimony under oath, to then contact County Counsel for representation. This has given the impression County Counsel must be used by County employees, when in fact, said employees, if they choose to have representation, may bring an independent attorney.

The Grand Jury does not object to the County employee witnesses having counsel represent them, pursuant to California Penal Code §939.22, so long as it is not County Counsel pursuant to California Penal Code §934(a).

California Penal Code §939.22(c) states:

Nothing in this section shall be construed to grant a witness a constitutional right to counsel under the United States or California Constitutions nor grant any right to discovery for the subpoenaed witness.

Violation of Board Policy C-35

6. The BOS established Policy C-35 and implemented it on September 1, 2009. This policy addresses the Subject: Standards of Ethical Conduct to Address Fraud, Waste, and Abuse. This policy applies to all County employees and officers.

Section 7 of Policy C-35 addresses: Acknowledgement in writing of this policy by all current and future employees as evidence of receipt.

Whereas this policy in Section 4 l, states that county employees have a duty to identify, report, and work to eliminate fraud, waste and abuse.

Section 4 m, highlights the duty of every employee to cooperate in an investigation involving a violation or an alleged violation of this policy.

Section 4 n, addresses the prohibition from attempting to identify or intentionally exposing the identity of any party making an anonymous report or complaint pursuant to this policy.

Employees have expressed concerns to the Grand Jury that the investigative process, intrinsic to the Speak-Out Program, has not always maintained the anonymity required to protect the employee from retaliation by supervisors or managers. Secrecy is the paramount reason they come to the Grand Jury.

The result of this practice by the County Counsel curtails whistle blowing and transparency within the County. Employees have the right and protection of Policy C-35 to speak up. This precludes any retaliation for doing so.

This Grand Jury has discovered County Counsel is actively issuing directives to all departments of the County to notify his office in advance, if ever requested to appear as a witness to any Grand Jury investigation or interview. These directives have the effect of not only violating the secrecy of the Grand Jury; it also violates the provisions of anonymity as stated in multiple sections of County Policy C-35. County Counsel is actively disrupting the Grand Jury's investigations by screening documents the Grand Jury has sought. This is an unwarranted impediment of the Grand Jury's legal duties, as well as, a violation of the California Public Records Act. County Counsel should be aware of this because he was one of the authors of "The Peoples Business: A Guide to the California Public Records Act."

County Counsel's claim that every employee of the County is entitled to his representation during investigative sessions of the Grand Jury would violate California Government Code §995.2(a)(c). As an example, any employee of the County alleged to be engaged in fraud, waste, or abuse could not rely on the County Counsel for his/her defense.

The Grand Jury has been asked by a County agency to provide questions in writing before an employee is interviewed pursuant to the advice of County Counsel. Providing questions in advance by the Grand Jury is prohibited by California Penal Code §924.1. It is improper for County Counsel to advise a County agency to make this request.

Riverside County Executive Office

7. In an email dated December 4, 2014, County Counsel, at the direction of the Executive Office, issued a directive requesting departments of the County to advise the County Counsel regarding inquiries made by the Grand Jury. County Counsel has been directed "to establish a consistent and coordinated approach to handle these inquiries, and respond to requests for information." This is a concerted effort to breach the confidentiality of Grand Jury proceedings. (See Attachment #2)

Violation of Code of Ethics

8. County Counsel has a history of bias and contempt against the Grand Jury, as evidenced in a 2012-2013 Grand Jury Report, City of Riverside, Office of the City Attorney. The report detailed issues with the Office of the City of Riverside City Attorney, the position he occupied at the time. Hence, County Counsel has continuously interfered with the legal duties of the Grand Jury, and has violated the provisions of the Business and Professions Code pertaining to lawyers, Section 6068. This report has precipitated County Counsel to disrespectfully neutralize the Grand Jury from performing its legal and authorized duties.

Business and Professions Code Section 6068 states lawyers shall observe rules of law, including the California Rules of Professional Conduct and the State Bar Act.

Business and Professions Code §6068 states, in part:

It is the duty of an attorney to do all of the following:

- (a) *To support the Constitution and laws of the United States and of this state...*
- (d) *To employ, for the purpose of maintaining the causes confided to him or her means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law.*
- (e)(1) *To maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client...*
- (g) *Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest...*

Failure to Provide Upjohn Warning

9. The scope of attorney-client privilege in a corporate context was defined by the United States Supreme Court in *Upjohn Co. v. United States*, 101 S. Ct. 677, 449 U.S. 383 (1981). Since *Upjohn*, courts and commentators have discussed an *Upjohn* or Corporate Miranda warning. The need for such warnings stems from the fact that Corporate Counsel's client is the corporation and not the employees, officers, or directors of the corporation. If an *Upjohn* warning has not been given, an employee may believe that he or she is represented by Corporate Counsel.

Thus the attorney representing a governmental agency is best served to provide an *Upjohn* warning to the person consulting him/her to make the representation clear. This warning is generally given to an employee, officer or director before an interview begins.

An *Upjohn* warning generally consists of the following requirements:

- (1) *that the attorney represents the County, City or other unit of government and does not represent the individual personally;*
- (2) *that the communications between the attorney and the individual are privileged;*
- (3) *that the privilege belongs solely to the County, City, or other unit of government which may in its discretion choose to waive the privilege and disclose the communication to third parties; and*
- (4) *that so long as the privilege attaches, the employee may not disclose the communication to third parties.*

The *Upjohn* warning may be verbal, but the warning should be documented by a signed acknowledgement as a contemporaneous memorandum of the interview.

The Grand Jury has found no evidence County Counsel informed County employees with an *Upjohn* Warning that clearly states to the employee that County Counsel represents the government agency and not the employee, pursuant to (*Upjohn Co. v. United States*, 101 S. Ct. 677, 449 U.S. 383 (1981)).

Conversely, County Counsel has expressed to County employees that County Counsel is the legal representative of all 18,000 plus Riverside

County employees and that an attorney-client relationship exists between County Counsel and all employees in the County.

The result of County Counsel's/Executive Officer's directive, as outlined in the email of December 4, 2014, initiated a sequence that is designed to breach the secrecy provisions of the Grand Jury. All County employees are directed by County Counsel, to ask if the interview will be sworn or unsworn. He then informs the employee if the nature of the investigation is of a sensitive nature and the Grand Jury determines that sworn testimony will be necessary, then the County Counsel instructs the employee that County Counsel will be present at the interview. This act is a clear violation of California Penal Code §934(a), which states, in part:

...Unless advice is requested, the judge of the court, or county counsel as to civil matters, shall not be present during the sessions of the grand jury.

Employees are also directed to ask the Grand Jury to put in writing, what questions will be asked and or documents to be presented prior to the interview which is a violation. This would be a breach of the Grand Jury's sworn oath of secrecy pursuant to California Penal Codes §924.1.

Superior Court Case

10. In Riverside Superior Court Case #RICMISC20151 the 2014-2015 Riverside County Grand Jury raised the issue of a potential conflict between County Counsel and County employees they may be representing. The Riverside Superior Court Judge stated:

To the extent that that [sic] conflict exists, and there may be one, County Counsel, as with any other attorney, is obligated to properly advise its clients, employees about a potential conflict, and to obtain waivers appropriate or separate counsel if a waiver can't be obtained, but that's between the attorney and its client.

County employee may have an attorney of their choice including but not limited to a private attorney, union attorney, etc., there is no mandate that the attorney has to be County Counsel.

The Grand Jury found no evidence that County Counsel has or had properly advised any County employee of a potential conflict and obtained any waivers.

Recommendations

**Riverside County Board of Supervisors
Riverside County Executive Officer
Riverside County Counsel**

Conflict of Interest and Secrecy

1. To maintain secrecy, County Counsel, or its Deputy County Counsel, shall not represent an employee of the County when testifying before the Grand Jury, pursuant to California Penal Code §934(a). Rather than protecting county agencies from the Grand Jury's scrutiny, County Counsel shall be receptive to such inquiries.

Transparency and Accountability

2. County Counsel shall advise department heads to allow access to all documents requested by the Grand Jury. The department shall provide assistance by helping identify records and information relevant to the request, which is part of the PRA, and suggesting ways to overcome any practical basis for denying access to PRA documents (see PRA §6253.1). Any denial of a request by the Grand Jury must be justified in writing, by demonstrating that the record is exempt or that the public interest in confidentiality outweighs the public interest in disclosure.

Inaccurate, Incomplete, and Misleading Statements

3. County Counsel shall refrain from making inaccurate, incomplete, and misleading statements.

Obstruction of the Grand Jury

4. County Counsel shall discontinue interference with the work of the Grand Jury. County Counsel shall be available to the Grand Jury to provide advice, at all times, as to civil matters as stipulated in California Penal Code §934(a).

Choice of Having Counsel

5. When a witness, who is a County employee, desires to be represented by counsel, in a matter regarding the performance of his/her duties, or the operations of his/her department, the County shall allow or provide an attorney not affiliated with the County Counsel, to represent the witness assuring his/her rights are not violated.

Violation of Board Policy C-35

6. In order to maintain the provisions of anonymity of Policy C-35, County Counsel shall not ask, or direct, County employees to notify him of their contact with the Grand Jury.

County Counsel shall complete appropriate training courses relevant to California Penal Codes and Government Codes governing the California Grand Juries. (This continuing education may assist County Counsel in understanding that the Civil Grand Jury is an independent and autonomous body beholden to no one.)

Riverside County Executive Office

7. County Executive Office shall cease from issuing these directives pertaining to Grand Jury requests. County Executive Office shall direct County Counsel to cease making presentations, forcing or advising County departments and special districts, and agencies, on how to coordinate their responses to the Grand Jury.

Violation of Code of Ethics

8. County Counsel shall adhere to the tenets of the Business and Professions Code §6068.

Failure to Provide Upjohn Warning

9. County Counsel shall refrain from misleading County employees into believing they may have protections when they may not. County Counsel shall inform all employees of the Upjohn Warning and shall have employees sign an acknowledgement form as proof they are aware of the Upjohn Ruling and circumstances. This policy shall be incorporated into County Counsel's policy and procedures manual.

Superior Court Case

10. County Counsel shall properly advise County employees of potential conflict, and to obtain waivers appropriate or separate counsel if a waiver can't be obtained. A County employee shall be advised that representation by an attorney is at his/her request and is not mandated that it be County Counsel.

Report Issued: 06/10/2015
Report Public: 06/12/2015
Response Due: 09/08/2015

FILE

PAMELA J. WALLS
County Counsel

ANITA C. WELLS
Assistant County Counsel

OFFICE OF COUNTY COUNSEL
COUNTY OF RIVERSIDE

3960 ORANGE STREET, SUITE 500
RIVERSIDE, CA 92501-3674
TELEPHONE: 951/955-6300
FAX: 951/955-6322 & 951/955-6363



May 20, 2013

Gregory P. Priamos
City Attorney for the
City of Riverside
3900 Main Street
Riverside, CA 92522

Re: Grand Jury Investigations

Dear Mr. Priamos:

In correspondence attached to your motion to modify subpoenas filed with the court, and in correspondence copied to City representatives and others, explicit reference was made to a specific Grand Jury investigation. Grand Jury investigations are confidential and should not be referenced in a document made available to the public. Persons appearing before the Grand Jury are admonished not to reveal to any person, except as directed by the court, any matter concerning the nature or subject of the Grand Jury's investigation learned during the appearance before the Grand Jury until authorized by the Grand Jury or the court. This admonishment would not prevent a witness from speaking with their counsel concerning their legal rights.

Penal Code section 939.22 further prohibits counsel from disclosing or using anything heard in the Grand Jury room, other than in the representation of the witness he or she represents.

The purpose of this correspondence is to admonish you concerning the explicit reference to a Grand Jury investigation in public documents and to request that you refrain from doing so in the future.

Sincerely,

Handwritten signature of Pamela J. Walls in black ink.

PAMELA J. WALLS
County Counsel

PJW:ay

G:\Property\02-CORRESP\2013 PJW\051613 Lr-Priamos.doc

Attachment #1

FILE

From: Priamos, Greg [mailto:GPriamos@co.riverside.ca.us]
Sent: Thursday, December 04, 2014 8:33 AM
To: Department Heads
Subject: RIVERSIDE COUNTY CIVIL GRAND JURY INQUIRIES - - request to advise County Counsel as to any recent inquiries to County Departments

As you may be aware, state law provides for a civil grand jury to perform an oversight function into the operation of county and municipal governments. Each July, 19 citizens of Riverside County are sworn as grand jurors for 12 months' service ending June 30 of the following year. The Riverside County Grand Jury (GJ) is primarily a civil jury conducting general business meetings that include committee meetings inquiring into the operation of county and municipal governments. Conclusions of findings are developed into recommendations on how to improve county and municipal governments and presented to the Board of Supervisors and City Councils respectively. In addition, the GJ reviews complaints submitted by county residents.

More specifically, Penal Code section 925 provides that "[t]he grand jury shall investigate and report on the operations, accounts, and records of the officers, departments or functions of the county" The GJ's authority is however, limited to procedural matters and not substantive policy concerns. The GJ may not compel the disclosure of information protected by the attorney-client or attorney work-product privileges. The GJ is also not entitled to other materials or information protected by constitutional, statutory or common law privileges.

Given the potential significance of any GJ inquiry or investigation to the County, it is advisable to establish a consistent and coordinated approach to handling these inquiries and responding to requests for information. *Consequently, at the direction of the Executive Office, we are requesting that all County Departments and Special Districts immediately notify the County Counsel's Office by email to me and Assistant County Counsels Anita Willis and Jeb Brown of any pending or future inquiry from the Riverside County Civil Grand Jury. We will then coordinate with the affected County Department and the Executive Office on the appropriate response in order to properly protect the interests of the County, its officials and employees.*

Moreover, I will be making a presentation at the next Department Heads Meeting at the Carriage House on the Investigatory and Reporting Authority of Civil Grand Juries Acting in Their "Watch Dog Capacity". The presentation will

3

Attachment #2

FILE



Office of the
City Attorney

May 21, 2013

Pamela J. Walls
County Counsel
Office of County Counsel
3960 Orange Street, Suite 500
Riverside, CA 92501

Subject: *Civil Grand Jury Investigations*; Our File No: CA13-0765

Dear Ms. Walls:

Thank you for your letter of May 20, 2013. While I understand and respect the admonishment that was provided to me by the Grand Jury, please be advised that the specific reference to the pending Grand Jury investigation in my correspondence was derived from information obtained outside of the Grand Jury room. The reference to the nature of the pending Grand Jury investigation was made in order to assist the District Attorney, County Counsel, and Presiding Judge in their evaluation as to the appropriateness and legality of the Grand Jury's conduct.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory P. Priamos".

Gregory P. Priamos
City Attorney

Attachment #3

O:\Cycrom\WFD\post\0009\PO1500159517.D

