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GRAND JURY

County of Yolo

P.O. Box 2142
Woodland, California 95776

Hon. David W. Reed
Judge, Superior Court of California
1000 Main Street
Woodland, CA 95776

Dear Judge Reed:

The 2016-17 Yolo County Grand Jury is please to present our Consolidated Final Report to you and the citizens of Yolo County.

This year, the Grand Jury received and reviewed 17 citizen complaints—an increase from the 13 received in 2015-16. Of these complaints, six were referred to Grand Jury Committees, and 11 were declined. Some complaints were received too late in the term to be investigated by this year's Grand Jury and will be referred to the 2017-2018 Grand Jury.

The Grand Jury produced six reports from its investigations. Not all investigations resulted in a Grand Jury Report. The six reports include one report on the County Detention Facilities as mandated by the California Penal Code, one report was based on citizen complaints, one report expanded on a report produced by the 2015-2016 Grand Jury, and three reports were based on Grand Jury-initiated investigations.

The 2016-17 Yolo County Grand Jury is composed of a diverse cross-section of 19 committed and hard-working individuals from throughout the county. One of the many challenges faced by this year's Grand Jury was a number of juror resignations during the year. I wish to express my sincere gratitude and admiration to all those who took on extra work and to all the alternate jurors who joined the Grand Jury late in the term and jumped right into the process. This Consolidated Final Report is a testament to their dedication and diligence.

The 2016-2017 Grand Jury would like to thank all the Yolo County employees and officials, as well as those in Jury Services, who provided us with outstanding support and guidance throughout the year. We could not have done this without them. It has been our honor and privilege to serve the citizens of Yolo County.

Henry M. Rivera-Benavidez

Henry M. Rivera-Benavidez, Foreperson
2016-2017 Yolo County Grand Jury

The 2016-2017 Yolo County Grand Jury

Henry Rivera-Benavidez, *Foreperson, West Sacramento*

Jill Pascoe, *Foreperson Pro Tem, Davis*

Ann Birkhaus, *Davis*

Steve Blake, *Woodland*

Kenneth Bryant, *Woodland*

Barbara Burr, *Davis*

Tabatha Chavez, *Woodland*

John Clark, *Davis*

Lynn DeLapp, *Davis*

Thomas Evans, *Woodland*

Judith Givens, *Woodland*

Catherine Handy, *Davis*

Marie Kearney, *Dunnigan*

Scott Keilholtz, *West Sacramento*

Teri Krug, *Woodland*

Mohamed Elfatih Sidahmed, *Davis*

Alvin Wilder, *Davis*

Kenneth Wilson, *Woodland*

Judy Wohlfrom, *Woodland*



ABOUT THE GRAND JURY

The United States Constitution's Fifth Amendment and the California Constitution require that each county appoint a Grand Jury to guard the public interest by monitoring local government. Per California Penal Code Section 888, the Yolo County Superior Court appoints 19 Grand Jurors each year from a pool of volunteers. These Yolo County citizens, with diverse and varied backgrounds, serve their community as Grand Jurors from July 1st to June 30th. The Yolo County Grand Jury is an official, independent body of the court, not answerable to administrators or to the Board of Supervisors.

FUNCTION

The California Grand Jury has three basic functions: to weigh criminal charges and determine whether indictments should be returned (Pen. Code, § 917); to weigh allegations of misconduct against public officials and determine whether to present formal accusations requesting their removal from office (Pen. Code, § 992); and to act as the public's "watchdog" by investigating and reporting on the affairs of local government (e.g., Pen. Code, §§ 919, 925 et seq.). The purposes of any Grand Jury civil investigation are to identify organizational strengths and weaknesses and to make recommendations aimed at improving the services of county and city governments, school districts, and special districts under study. Based on these assessments, the Grand Jury publishes its findings and may recommend constructive action to improve the quality and effectiveness of local government.

Recommendations from the Grand Jury are not binding on the organization investigated. The governing body of any public agency must respond to the Grand Jury findings and recommendations within 90 days. An elected county officer or agency head must respond to the Grand Jury findings and recommendations within 60 days. The following year's Grand Jury will then evaluate and report on the required responses.

The findings in this document report the conclusions reached by this year's Grand Jury. Although all the findings are based upon evidence, they are the product of the Grand Jury's independent judgment. Some findings are the opinion of the Grand Jury rather than indisputable

statements of fact. All reports included in the document have been approved by at least 12 jurors. Any juror who has a personal interest, or might be perceived to have a personal interest, in a particular investigation is recused from discussion and voting regarding that matter. All reports are reviewed by the Grand Jury's legal advisors to ensure conformance with prevailing laws.

While the Yolo County Grand Jury's primary function is civil review of government agencies, it is also called upon to participate in criminal indictments, usually based on evidence presented by the District Attorney. On its own initiative, the Grand Jury may investigate charges of malfeasance (wrongdoing), misfeasance (a lawful act performed in an unlawful manner), or nonfeasance (failure to perform required duties) by public officials.

The Grand Jury investigates complaints from private citizens, local government officials, or government employees; initiates investigations based on ideas generated from the jury; and follows California Penal Code that requires it to inspect the county's jails.

Copies of the Grand Jury's comprehensive final report, consisting of each year's individual reports on departments and agencies and responses to the prior year's report, are available in hard copy at the courthouse, in all public libraries, and on the Grand Jury's website, <http://www.yolocounty.org/grand-jury>. The report may also be obtained by contacting the Yolo County Grand Jury at 530-406-5088 or at P.O. Box 2142 in Woodland, CA 95776.

Grand Jurors and all witnesses are sworn to secrecy and, except in rare circumstances, records of meetings may not be subpoenaed. This
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ABOUT THE GRAND JURY

Secrecy ensures that neither the identity of the complainant nor the testimony offered to the Grand Jury during its investigations will be revealed. The Grand Jury exercises its own discretion in deciding whether to conduct an investigation or report its findings on citizen complaints.

HOW TO SUBMIT A COMPLAINT

Complaints must be submitted in writing and should include any supporting evidence available. A person can pick up a complaint form at the county courthouse, the jail, or any local library; can request a form be mailed by calling 530-406-5088 or by writing to the Grand Jury at P.O. Box 2142, Woodland, CA 95776; or by accessing the Grand Jury's website at www.yolocounty.org/grandjury. Complaints should be mailed to P.O. Box 2142 in Woodland or sent to the Grand Jury's e-mail address, grandjury@sbcglobal.net. It is not necessary to use the printed form as long as the essential information is included in the complaint. Complaints received after February, when the Grand Jury's work is coming to a close, may be referred to the next year's Grand Jury for consideration.

REQUIREMENTS AND SELECTION OF GRAND JURORS

To be eligible for the Grand Jury you must meet the following criteria:

- You must be a citizen of the United States.
- You must be 18 years of age or older.
- You must have been a resident of Yolo County for at least one year before selection.
- You must be in possession of your natural faculties, of ordinary intelligence, of sound judgement and fair character.
- You must possess sufficient knowledge of the English language.

- You are not currently serving as a trial juror in any court of this state during the time of your Grand Jury term.
- You have not been discharged as a Grand Juror in any court of this state within one year.
- You have not been convicted of malfeasance in office or any felony.
- You are not serving as an elected public officer
- In addition to the requirements prescribed by California law, applicants for the Grand Jury should be aware of the following requirements:
- Service on the Grand Jury requires a minimum of 25 hours per month at various times during the day, evening and weekend. During peak months, 40 hours a month is typical, with more hours for those in leadership positions.
- Jurors must maintain electronic communications to participate in meeting planning, report distribution, and other essential jury functions. Such communications can be supported by computers at local libraries or personal electronic devices.

Each spring, the Yolo County Superior Court solicits applicants for the upcoming year's Grand Jury. Anyone interested in becoming a Grand Juror can submit his or her application to the Court in the spring, usually in April. Application forms are available at the courthouse or from the Grand Jury's website at www.yolocounty.org/grand-jury. Applications are managed by the Jury Services Supervisor, Yolo County Courthouse, 1000 Main Street, Woodland, CA 95695, telephone 530-406-6828. The Court evaluates written applications and, from these, identifies and interviews potential jurors to comprise the panel of nineteen citizens. Following a screening process by the Court, Grand Jurors are selected by lottery as prescribed by California law.

INVESTIGATIONS

2016 – 2017 YOLO COUNTY GRAND JURY FINAL REPORT



YOLO COUNTY ELECTIONS OFFICE INDISCRETIONS AND CULPABILITY

SUMMARY

The 2016-2017 Yolo County Grand Jury (YCGJ) received a complaint against the Yolo County Assessor/Clerk-Recorder/Registrar of Voters, regarding operations of the Elections Office for the period of July 1, 2005 to December 31, 2015. The scope of the complaint and the fact that the subject of the complaint was an elected official (EO) were significant.

In addition, the YCGJ received a copy of a Special Review of the Elections Office covering the ten-year period from 2005 through 2015, during the tenure of the then sitting Assessor/Clerk-Recorder/Registrar of Voters, pinpointing three major areas of concern:

- Misuse of funds
- Conflict of interest
- Undue influence

The Elections Office holds a unique position within the Assessor/Clerk-Recorder/Registrar of Voters Department, because a flurry of activity happens on and near election dates, and the activities most noted in this report were occurring during those times. Operations involving misuse of funds, hiring practices that bypassed the Human Resources department, and use of payment cards for questionable purchases were prevalent. During investigative interviews, the YCGJ was informed that the EO believed elected officials are not responsible to anyone at the County level and can run their offices any way they see fit. Prior practices within this office reflected this attitude, which was passed along from the outgoing officials to newly elected officials. This attitude had been supported by the County's overbroad interpretation of a May 3, 1994, Opinion issued by California Attorney General Daniel E. Lungren, regarding an elected official's budget distribution.

During the investigation, the Grand Jury found that inadequate or no training was provided to any elected or appointed officers of the County; office staff acknowledged that they were not familiar with County policies and procedures; the County Board of Supervisors did not provide adequate supervision as directed by the State Constitution based on the 1994 Opinion from the State Attorney General; and the Elections Official fostered and perpetuated an atmosphere of entitlement and sole management authority. The Grand Jury recommends closer supervision of elected officials as well as mandatory training for those officials and their staff to ensure adherence to Federal and State laws as well as County policies and procedures.

BACKGROUND

The complaint from the public presented a broad range of issues including:

- Misuse of public funds

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- Non-compliance with County policies and procedures
- Conflicts of interest
- Poor leadership
- Nepotism: whether the EO hired a close relative to a senior management position in the Elections Office
- Cronyism: whether the EO showed undue favoritism toward those with whom the EO had friendships

As these concerns involved Public funds and possible impact to implementing appropriate and sound election results, the Grand Jury chose to investigate the complaint as cited in the California Penal Code, Section 925:

“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 and districts.”

METHODOLOGY

During the investigation, the Grand Jury interviewed members of the Yolo County Elections Office managers and staff, the Yolo County Chief Financial Officer, the General Services Director and the Manager of Internal Audit, and consulted with the Yolo County District Attorney. In addition to the interviews of six witnesses, the Grand Jury reviewed and researched the following documents:

- County of Yolo Fiscal Year 2015-16 Budget Instructions
- Chart of Accounts Income Statement
- Budget Preparation Manual
- Countywide Control Self-Assessment Questionnaire
- County of Yolo Assessor/Clerk-Recorder/Registrar of Voters budget documents for the years: 2004-5, 2005-6, 2009-10, 2010-11, 2013-14, 2014-15
- Internal Audit ‘Final Elections Review Result, Findings and Recommendations Management’ letter issued April 28, 2016
- Corrective Action Plan (C.A.P.) for the current Election Division issued June 9, 2016

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- Correspondence from Best, Best & Krieger Law Office regarding Statutory Authority of the County Board of Supervisors Over County Officers issued February 5, 2016
- California Constitution, Article XI Local government [Sec.1-Sec.15]
- Opinion issued May 3, 1994, by Daniel E Lungren, Attorney General, State of California:

Opinion No. 93-903 by Daniel E. Lungren, Attorney General as requested by the Honorable Richard K. Rainey, member of the California Assembly to address, “Does a county board of supervisors have the legal authority to govern the actions of an elected sheriff concerning the manner in which the sheriff’s budget allotment is to be spent, including the manner in which personnel will be assigned?”

DISCUSSION

The Grand Jury identified several areas of concern with the EO’s mismanagement activities and practices, which did not follow State law or the Yolo County Codes of Governance. The California State Government Code, Section 25303, states in part:

“The board of supervisors shall supervise the official conduct of all county officers, and officers of all districts and other subdivisions of the county, and particularly insofar as the functions and duties of such county officers and officers of all districts and subdivisions of the county relate to the assessing, collection, safekeeping, management or disbursement of public funds. It shall see that they faithfully perform their duties, direct prosecutions for delinquencies, and when necessary, requires them to renew their official bond, make reports and present their books and account for inspection.”

Yolo County Department of Financial Services Special Review

The Department of Financial Services (DFS) conducted a special review of the Elections Office for the period of July 1, 2005 to December 31, 2015. This review was for the purpose of helping management identify areas that should be reviewed and changes that should be implemented. As a result, a corrective action plan was developed and the current EO, who was appointed to complete the term that was vacated by the previous office holder, began to implement some of the recommendations. The DFS review revealed several issues:

- Agreements were initiated with outside parties, current and prior County employees, previously elected officials and other entities regarding election activities that did not follow the County’s contract and procurement policies or were not reviewed or approved by the Board of Supervisors or County Council. These agreements included services for web development, design, and monitoring, voter outreach, research, polling, and other arrangements for services with communications and data network vendors. As a result, the EO obligated the County with various agreements that were unknown to the County that may not have been necessary, or not at the appropriate rate of payment. In addition, potential conflicts of interest were ignored.

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- The EO relied on Election Code section 14100 that provides exemptions for Election Day materials and supplies. This code was referenced to avoid County procurement policies, even outside of election years. EC 14100 does not provide such exemptions for emergency services.¹
- Hard drives, smart phones, iPads, iPhones and laptops were purchased with purchase cards held by staff in the office, rather than purchasing through an open county purchase order that provides for group discounts. Purchasing in this manner circumvented County inventory control.
- When staff from the Elections Office transferred to other departments, they maintained their Elections Office purchase cards and continued to use them to book unauthorized expensive travel for training that was no longer necessary to perform their duties. This included airline tickets, hotels, parking and monthly cell phone bills.
- Staff were directed (on paper only) to add layers on the organizational chart in order to evade the County's hiring policies, including hiring relatives.
- Pay rates were granted that were above the standard rate of pay for extra help positions.
- Permanent Full Time vacant positions were reallocated to at-will positions in order to hire staff who did not meet the minimum qualifications of the permanent positions.
- At-will staff were hired who were found unable to perform their duties, or work well with staff, even when they were moved or shuffled to other offices.
- Several extra help positions, that were hired due to a related party relationship, were made permanent employees, prior to the official's resignation.
- Over ninety percent of poll workers are returning poll workers. To pay the poll workers, the Elections Office entered up to 400 names, without social security or federal tax ID numbers, onto a spreadsheet and processed them through the Department of Financial Services as one time payments. The checks were sent to the Elections Office to be distributed. Because there were no social security or federal ID numbers attached once the checks leave DFS, the checks can be endorsed and deposited into anyone's bank account. This practice invited fraud and misuse of public funds.

The Department of Financial Services required immediate improvements and the development of a Corrective Action Plan (CAP) to include the finding(s), recommendations, action steps to be taken, and the expected completion dates. The DFS stated it would follow up every six months to determine whether the CAP was implemented and effective.

¹ Elections Code Section 14100 states the following: The County elections official, in providing the materials required by this division, shall not be required to utilize the services of the County purchasing agent.

YOLO COUNTY ELECTIONS OFFICE INDISCRETIONS & CULPABILITY**Human Resource Practices**

Yolo County Human Resources Department (HR) functions are to recruit, develop and retain a high-quality workforce. Its responsibilities include labor and employee relations, recruitment, classification and compensation, risk management, and training and development. While the mission of the Yolo County HR is “To provide collaborative human resource services and to preserve the integrity of the personnel system consistent with county values ...,” the Grand Jury found this mission to be inconsistent with the past HR practices in the Elections Office during the ten-year period covered in the investigation, 2005-2015. As confirmed by the Election Office staff, the Manager of Internal Audit, and Finance Department personnel, the EO routinely did not consult HR when hiring potential candidates to fill vacancies within the Elections Office or advise HR of staff movements or changes, promotions, evaluations or disciplinary actions. The EO decided these employment actions exclusively. HR acted primarily in an advisory role or on an “as requested” basis.

HR did not provide proactive oversight of County policies and procedures for personnel within the Elections Office when they became aware of new hires or staff movements within three different departments under the management of the EO. HR and other County departments practiced a “hands-off or non-interference” policy toward elected officials and their departments as explained by the Chief Financial Officer on November 21, 2016, again based on the May 3, 1994 Opinion. The harassment and ethics training related to State law and compliance are currently online course offerings which have not been revised or updated in over 10 years and do not allow for employee input or feedback.

The Grand Jury learned that Assembly Bill 1234 (AB 1234) periodically requires local officials to receive training on public service ethics laws and principals. This training was mandated in January 2006 by the State of California, Office of the Attorney General, directed by the Fair Political Practice Commission and is required for all appointed and elected officials every two years. The law requires that upon completing the training, a Proof of Participation Certificate be signed and maintained on file. Although the County HR is responsible for countywide organizational and staff training programs, there is no method to track staff training nor records of the State-mandated training for appointed and elected officials.

The Grand Jury ascertained that due to the lack of training in both County policies and procedures, the Elections Office staff was unable to properly code expenses or question contracts or salaries, as illustrated during a review of Accounts Payable documents provided by the Elections office. These practices had been followed in the previous administration, and the EO perpetuated the same atmosphere of unilateral authority causing:

- The use of nonstandard agreements and contracts for services
- Equipment and supplies purchased without accountability
- Expenses and purchases including meals, spouse’s travel, furniture, art work, children’s books and greeting cards that may not be appropriate

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- Used one time claims to bypass County procurement policies and procedures
- Employees directed by EO to perform non-work-related activity on County time
- Service agreements and contracts with former employees and previously elected officials raised an issue of conflict of interest or undue influence
- Hiring and promotions circumvented County HR policies and procedures have an appearance of nepotism and/or cronyism

The Grand Jury found, through interviews with administrators and managers, that all Yolo County employees are evaluated for job performance. Elected officials within the County are not evaluated for job performance. The Assessor/Clerk/Recorder/Registrar of Voters is an elected official.

The County Administrative Officer (CAO) has a 360-degree evaluation for all appointed department heads. These evaluations encourage input and feedback from peers, constituents and members of the Board of Supervisors which would formally establish a mechanism to assist in setting goals, and would provide a useful means for improving the quality of work, and self-correction. Elected officials are excluded from these evaluations and are therefore not held accountable.

FINDINGS

The YCGJ found acts of nepotism, favoritism, and management by intimidation, lack of or ineffective training, poor morale, and out of policy accounting practices:

- F1. Favoritism, nepotism and preferential treatment of employees have adversely affected employee morale of the Elections Office, as cited in the County's Special Review and from interviews with Elections Office staff. These practices by the EO involved hiring and promotion.
- F2. During the period reviewed, the EO created provisional or extra help positions to employ friends and relatives as cited in the County's Special Review and by interviews with Elections Office staff.
- F3. The EO failed to observe County Code Section 2-6.44 (Nepotism Policy) by hiring immediate family members and determining salaries, promotions and assignments.
- F4. During the interview with the Manager of Internal Audit, it was noted that the County Board of Supervisors had failed to monitor and audit the Elections Division compliance with Federal and State Laws and County Codes and Policies and Procedures.

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- F5. Yolo County HR manages harassment and ethics online training courses for all employees to comply with Federal and State laws. These outdated and repetitious trainings are found to be inadequate and ineffective.
- F6. The CAO conducts a 360-degree evaluation for all appointed Department heads. This evaluation process currently excludes elected officials.
- F7. The Yolo County Board of Supervisors has not provided supervision or monitoring of elected county officials as directed by the California State Government Code Section 25303.
- F8. The Assessor/Clerk-Recorder/Registrar of Voters office has taken steps to implement a Corrective Action Plan in 2016 as directed by the County Auditor to the interim “appointed” Assessor/Clerk-Recorder/Registrar of Voters as of April 29, 2016.
- F9. The Election office staff made purchases outside the County’s policies and procedures according to the Finance Procurement staff. It was noted that the purchases were made at the direction of the EO under a general rule of “if you need it, get it.”
- F10. Electronic equipment, purchased by the Election staff, was not included in the General Service Department’s inventory. Tracking would have facilitated accountability, program updates, replacements and recyclability.

RECOMMENDATIONS

Due to the retirement of the EO, a change in administrative management, the implementation of corrective actions by the new administration, and the lack of any cost-benefit to legal actions, the Grand Jury makes the following recommendations:

- R1. Elected officials must follow County policies, procedures and practices in the execution of their duties and responsibilities.
- R2. Elected officials and all employees shall be trained in appropriate use of County property and equipment, not limited to purchase cards, cell phones, computers, etc.
- R3. All authorized County purchased equipment shall be issued with an inventory tag. All electronic equipment shall be purchased through the General Services department and inventoried annually.
- R4. The CAO and HR Director shall review and revise the County’s mandated training requirements and compliance with the State of California Public Services Entities as directed by the AB 1234 timeline.

YOLO COUNTY ELECTIONS OFFICE INDISCRETIONS & CULPABILITY

- R5. The Departments of Administration and Financial Services along with the Department of Human Resources shall create a standardized training for County Policies and Procedures to ensure all administrators, supervisors, directors, and department heads, elected or appointed, are familiarized with current Federal and State laws and County government policies and procedures. An annual review of all new policies and procedures shall be conducted for elected officials and all employees, and records ensuring compliance shall be kept.
- R6. The Department of Financial Services shall provide training to all accounting personnel in policies and procedures related to accounts payable and receivable and all department contracts.
- R7. The Department of Financial Services shall create records to ensure compliance of the employees who are required to attend training in financial practices.
- R8. The Department of Human Resources shall ensure that all job titles within the County Assessor/Clerk-Recorder/Registrar of Voters office have job descriptions and that all current and future employees have titles complete with job descriptions and responsibilities. The Elections Office, in collaboration with HR, shall review and revise the evaluation standards used for all current and future job classifications to establish a fair and objective set of guidelines.
- R9. The Department of Human Resources shall annually review hiring practices to eliminate instances of nepotism within all departments to ensure that ethical standards are maintained and that a procedural firewall exists between familial related employees. This annual review shall be presented to the Board of Supervisors with findings and recommendations no later than December 1, 2018, and each following year.
- R10. By December 1, 2018, HR shall review and update the Harassment and Ethics online training programs and implement a training program that includes classroom (in-person) training.
- R11. Prior to the 2017 evaluations, the CAO shall revise and extend the current 360-degree evaluation process to include all elected officials and department heads.

REQUIRED RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

From the following elected officials or elected agency heads:

- Assessor/Clerk-Recorder/Registrar of Voters – F8, F9, F10, R1, R5 and R8,

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From the following governing bodies:

- Board of Supervisors – F4, F7, R1, R4 and R9

From the following governing bodies:

- Human Resources Director – F1, F2, F3, F5, R1, R4, R5, R7, R8, R9 and R10
- Chief Administrative Officer – F4, F8, F9, R2, R5, R6 and R7
- Chief Financial Officer – F4, F8, F9, R2, R5, R6 and R7
- General Services Director – F10, R2 and R3

The governing body listed above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.
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