

This document is an extract of a larger publication.

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To Subpoena or Not to Subpoena

INTRODUCTION

The San Benito County Civil Grand Jury (Civil Grand Jury) term runs from July through June in conjunction with the City of Hollister (City) and the San Benito County fiscal year. Each year, there is a new Civil Grand Jury selected, with some members returning from the previous year. The Civil Grand Jury writes an annual report based on investigations conducted during the year. The City Committee of the Civil Grand Jury investigates any complaints or issues regarding the City of Hollister and the City of San Juan Bautista. It may interview city officials as part of its investigations.

The City administration staff has stated there is a policy that requires the Civil Grand Jury to obtain a subpoena for any and all requests for information, documentation, and for interviews of city staff and elected officials. Administrative staff stated that this is the only way to ensure that the information given to the Civil Grand Jury was relevant and within their scope of investigations.

METHODOLOGY

The 2025-26 Civil Grand Jury was sworn in June 2025 and began discussions on what to investigate during its term. Requests for interviews are sent directly to interviewees and scheduled by a Committee of the Civil Grand Jury. To interview city officials, a subpoena is required. To obtain a subpoena, a request must be submitted to the County Counsel, acting on behalf of the Civil Grand Jury. Then a subpoena is issued.

BACKGROUND

The Civil Grand Jury begins its term in July. The Civil Grand Jury Association provides training courses to help jurors acclimate and to orient new jurors. Topics include conducting interviews, writing reports, and a general understanding of what is expected during their tenure.

Subcommittees are created to disperse the workload. The Civil Grand Jury has five committees:

- City
- County
- Law and Justice
- Health, Education and Welfare
- Special Districts

The Civil Grand Jury has a year to meet, conduct investigations and complete the final report. Most of the investigative work is completed within six to eight months, leaving time to write and edit the final report. The challenge facing this year's Civil Grand Jury was that the City requires all interviews and documentation to be obtained via subpoena.

The process for initiating and sending a subpoena takes three to four weeks. Once issued, the affected party has 14-30 days to respond. This process adds a significant delay to the investigation process. Further, if an interview reveals that a document exists and should be reviewed, a new subpoena is required and the process begins anew. If the subpoena is ignored, it further delays the investigation process.

DISCUSSION

The City's requirement of subpoenas is allowed by statute. However, the City is the only agency within San Benito County with a specific policy requiring a subpoena for every request.

During the course of the year, the Civil Grand Jury issued 15 individual subpoenas to the City. The City's response to the subpoenas has been extremely poor. As an example, the Civil Grand Jury subpoenaed all City Council members and the interim City Manager. Only two Council members appeared at the appointment time. Others failed to appear at the agreed time. In addition, many of the elected officials failed to produce documents as requested via subpoena.

The lack of understanding of the gravity of a court-issued subpoena is surprising and frustrating. The Civil Grand Jury interview team was assembled and left waiting. Unfortunately, due to the Civil Grand Jury's short term, there is no time to pursue legal action to ensure compliance. The City has a policy to require subpoenas; however, several elected officials and the interim City Manager failed to appear as required without repercussions.

City officials are legally required to appear for interviews with a civil grand jury in California, under [California Penal Code Section 939.2](#). While the grand jury has the authority to issue enforceable subpoenas to compel the attendance of witnesses, including local government officials and department heads, it seems like an unnecessary step, except in extreme cases, as city officials are already required to meet with the jury.

The purpose of a city government is to manage the day-to-day affairs of a municipality. It serves as the level of government closest and most directly accountable to residents. The purpose of the Civil Grand Jury is to act as the public's watchdog by investigating and reporting upon the affairs of local government. The purpose of both entities appears to be in accordance with each other. The goals of the Civil Grand Jury are aligned with those of the City Council

FINDINGS AND RECOMMENDATIONS

F1: The subpoena process took an additional four - six weeks to complete and schedule interviews with City Officials.

R1: Remove the current blanket subpoena process.

R1A: Within the next six months, the City should adopt a policy that allows the Foreperson of the Civil Grand Jury (or designee) to contact public officials to schedule interviews.

F2: The subpoena process took an additional four - six weeks to complete to obtain documents.

R2: Remove the current blanket subpoena process.

R2A: Within the next six months, the City should adopt a policy that allows the Foreperson of the Civil Grand Jury (or designee) to request documents. Production of said documents must be timely in compliance with the California Public Records Act.

F3: A former interim city manager did not respond to a subpoena request for interviews. Four of the elected officials did not show for their initial scheduled interview. The Civil Grand Jury had to reissue subpoenas for those interviews.

R3: Within the next three months, the City Attorney must train elected officials on the importance and penalties associated with subpoenas.

RESPONSES REQUIRED

The following responses are required, pursuant to Penal Code sections 933 and 933.05, from the following governing boards within 90 days:

Hollister City Council

RESPONSES REQUESTED

Hollister City Manager

Hollister Police Chief

Hollister Finance Director