



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**CRAWFORD C. MARTIN  
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July 20, 1972

Honorable George N. Rodriguez, Jr.  
County Attorney  
El Paso County  
City-County Building, Room 201  
El Paso, Texas 79901

Opinion No. M-1171

Re: Can a Grand Jury Investigate and report on non-criminal matters?

Dear Mr. Rodriguez:

You have asked our opinion as to Grand Juries making reports to the district courts not involving the return of indictments. Specifically you ask:

"Can a Grand Jury's report or recommendation, given to a District Court, not involving criminal matters, but of probable public interest, be disclosed, particularly when less than nine (9) Grand Jurors sign the report or recommendation?"

Grand Juries are authorized by the Texas Constitution of 1876 in Section 10 of Article 1, Sections 13 and 17 of Article 5, and Section 19 of Article 16. However, no constitutional provision sets out the duties or scope of inquiry of the Grand Jury.

The duties of the Grand Jury are described in Article 20.09 of the Texas Code of Criminal Procedure, 1965, as follows:

"The grand jury shall inquire into all offenses liable to indictment of which any member may have knowledge, or of which they shall be informed by the attorney representing the State, or any other credible person. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722."

Article 20.19, Texas Code of Criminal Procedure, provides:

"After all the testimony which is accessible to the grand jury shall have been given in respect to any criminal accusation, the vote shall be taken as to the presentment of an indictment, and if nine members concur in finding the bill, the foreman shall make a memorandum of the same with such data as will enable the attorney who represents the State to write the indictment. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722."

Article 20.21, Texas Code of Criminal Procedure, states:

"When the indictment is ready to be presented, the grand jury shall go in a body into open court, and through their foreman, deliver the indictment to the judge of the court. At least nine members of the grand jury must be present on such occasion. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722."

While certain other statutes require the filing of certain reports and information with the Grand Jury (i.e. Section 15 of Article 4590c-1, Articles 3896, 6714, and 7217, Texas Civil Statutes), it seems clear that the Grand Jury is to consider the reports to determine if any criminal violations are present or indicated. Note should also be made that the only reports to the district court covered by statute are the delivery of indictments as authorized by Article 20.21, Code of Criminal Procedure. (Article 19.38, Code of Criminal Procedure, does direct the Grand Jury to report to the district court where the Grand Jury bailiff violates his duty).

It is therefore evident that under the law of Texas, the power of the Grand Jury is limited to investigating possible criminal offenses and delivering any resulting indictment to the district court when nine members of the jury vote to return an indictment. Ex Parte Jennings, 240 S.W. 942 (Tex.Crim. 1922); Ex Parte Miller, 240 S.W. 944; (Tex.Crim. 1922); Alt v. State, 203 S.W.2d 53 (Tex.Crim. 1918).

There being no authority given to the Grand Jury to investigate civil matters or to make any investigation into circumstances where no criminal offense is suspected or alleged, no report or recommendation to the district court in such matters is

authorized, the only report being authorized by law being in the form of indictments where nine members vote to return the indictments: Rich v. Eason, 180 S.W. 304 (Tex.Civ.App. 1915, no writ).

As the court said in Rich v. Eason, supra, in construing the predecessor Grand Jury statutes:

" . . . The articles in our criminal procedure which define the duties of the grand jury are silent with respect to any report, such as is alleged to have been made with reference to the misconduct or moral character of the appellant, as claimed in this case."

And the court concluded that a Grand Jury report reflecting on the moral character of several county and city officers was not privileged (because there was no authority for the report) and so could become the subject of a libel action against the Grand Jurors.

The view expressed by the Texas courts is in accord with the rule of other jurisdictions. Volume 38; American Jurisprudence 2d pages 974-976; Grand Juries, Secs. 29 and 30, states the rule thusly:

"In the absence of special statutory authorization, grand juries cannot act in civil matters."

and

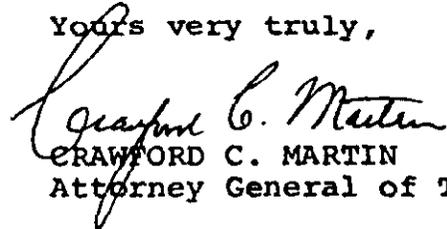
"In the absence of the statute, a grand jury has no right to file a report reflecting on the character or conduct of public officers or citizens, unless it is accompanied or followed by an indictment."

Accordingly, we are of the opinion that a Grand Jury can only investigate criminal matters with the end view being the voting of or rejection of an indictment. It follows that a Grand Jury has no authority to report on non-criminal matters and any such report should not be filed or disclosed by the district court.

S U M M A R Y

A Grand Jury can only investigate alleged criminal offenses and can only report as to indictments returned.

Yours very truly,

  
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APPROVED:  
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