



GRAND JURIES

July 2018 Interim meeting of the Judiciary Interim Committee

Prepared by the Office of Legislative Research and General Counsel



Constitutional Context



- Federal 5th Amendment requires that federal charges for capital and infamous crimes be brought by an indictment returned by a grand jury.
- Requirement for grand jury does not bind the states
- Utah Constitution provides:

Article I, Section 13. [Prosecution by information or indictment – Grand jury.]

Offenses heretofore required to be prosecuted by indictment, shall be prosecuted by information after examination and commitment by a magistrate, unless the examination be waived by the accused with the consent of the State, or by indictment, with or without such examination and commitment. **The formation of the grand jury and the powers and duties thereof shall be as prescribed by the Legislature.**

History of Utah's Grand Jury System

1896 constitution allowed offenses to be prosecuted by information or indictment, no grand jury unless in the opinion of the judge of the district, public interest demands it

1948 to 1967 constitution amended to allow the Legislature to regulate the formation of a grand jury, the Legislature kept the original constitutional scheme: a single district judge could summon a grand jury if determined it was in the public interest

1967 to 1980, the judges of each district to sit en banc at least once every other year to hear citizens' requests for grand juries, to summon a grand jury if found "reasonable cause" to believe that law enforcement had failed or that calling a grand jury was in the interest of justice

1980 to 1990, biennial hearings required, but district courts no longer required to sit for hearings en banc, the standard changed, judges should summon a grand jury if there was "reasonable cause"

1990, present system established in which a single statewide panel of five district judges can summon a grand jury, procedures established by which prosecutors could formally request a grand jury, whether prosecutors request a grand jury or not, a grand jury may be summoned if the panel finds "good cause"

General Timeline

Source: State v. Christiansen, 2015 UT 74, ¶¶ 14-23, 365 P.3d 1189, 1192-94

Grand Juries in Other States



- No consistent patterns
- Examples of when convened:
 - *Process dependent on population size of county*
 - *Convened at certain frequencies*
 - *Court orders (single judge, majority, different levels, etc.)*
 - *Request by governor, prosecuting attorney, county attorney, district attorney, etc.*
 - *Pursuant to adopted plan/rules*
 - *Petition of electors*
 - *Multiple methods*
- ABA states that only about half of states currently use grand juries

Further
research
needed

Sources: Criminal Laws, Criminal Procedure, Convening of Grand Juries (Statutes), Thomson Reuters (Oct. 2017), FAQs about the Grand Jury System (ABA 3/24/2010) (<https://web.archive.org/web/20110424124519/http://www.abanow.org/2010/03/faqs-about-the-grand-jury-system/>)

Questions

