

21-401. Definitions

In this chapter unless the context otherwise requires:

1. "Alternate grand jurors" means the additional grand jurors who are selected at the time of impanelment but who are not administered the oath unless a duly impanelled and sworn grand juror is permanently excused by the presiding judge of the superior court.
2. "Grand jury" means a body of the required number of qualified persons who are duly convened and impanelled by the presiding judge of the superior court and who are sworn to inquire into public offenses that may be tried within the county, including corrupt or willful misconduct in office of public officials within the county.
3. "Indictment" means an accusatory statement that is in writing, that is presented by the grand jury to the superior court and that charges the commission of a public offense that may be tried within the county.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-402. Calling grand jury

A. In a county with a population of two hundred thousand persons or more a grand jury shall be called every four months each year by the presiding judge of the superior court. Each grand jury shall sit until a new grand jury has been impanelled to replace it or until its term expires pursuant to section 21-403. Additional grand juries shall be called on petition of the county attorney stating the reasons therefor.

B. In a county with a population of less than two hundred thousand persons the presiding judge of the superior court may call a grand jury either:

1. If, in the judge's sole discretion, the judge determines the public interest requires a grand jury.
2. On petition of the county attorney.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-405. Change in presiding judge or county attorney; effect

Neither the term nor the powers of a grand jury shall be affected by the fact that a different individual or individuals shall occupy the position of presiding judge or the office of county attorney from time to time.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-407. Duties of grand jurors

A. The grand jurors shall inquire into every offense which may be tried within the county which is presented to them by the county attorney or other prosecuting officer at the request of the county attorney, or by the attorney general as a special prosecutor appointed by the presiding judge of the superior court for the purpose of proceedings under section 21-408, subsection B, or section 38-344, and shall have access to all jails, public institutions, and public records.

B. If a grand juror knows of or has reason to believe that an offense which may be tried within the county has been committed he shall report such knowledge or belief to the county attorney or to the presiding judge of the superior court. If an investigation of such alleged offense is undertaken under a charge to the grand jury as provided in subsection B of section 21-409, the grand juror may be sworn as a witness.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-408. Attendance of prosecuting attorney

A. The county attorney or other prosecuting officer shall attend the grand jurors when requested by them, and may do so although not requested for the purpose of examining witnesses, in their presence, or of giving the grand jurors legal advice regarding any matter cognizable by them. He shall also, when requested by them, draft indictments and cause process to issue for the attendance of witnesses and other evidence.

B. If a charge against or an offense personally involving the prosecuting attorney, or an assistant prosecuting attorney or any one employed by the office of the prosecuting attorney is being investigated by the grand jury, neither such prosecuting attorney nor anyone employed by the office of such prosecuting attorney, including such person or persons under investigation, shall be allowed to be present before the grand jury when such charge is being investigated other than as a witness. The person under investigation after making an appearance as a witness shall leave the place where the grand jury is holding its session.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-409. Duties of court; examination; charge; advice; appointment of foreman

A. When a grand jury is summoned and appears, the court and the county attorney or other prosecuting officer shall examine the jurors regarding their qualifications as such jurors.

B. After the grand jury has been sworn and impanelled the court on advice of the county attorney shall charge it concerning the matters that may be considered by it and concerning the duties of the grand jurors in respect thereto.

C. On request of the grand jury, the court shall advise that body at all reasonable times regarding their legal duties.

D. When the grand jury is sworn and impanelled, the court shall appoint one of the jurors to be foreman, and another juror to act as foreman in the absence of such foreman.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-410. Swearing of witness

A. The foreman or acting foreman shall administer an oath or affirmation in the manner prescribed by law to any witness called to testify before the grand jury.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-411. Appointment of reporter; transcript

A. The presiding judge of the superior court shall appoint a regularly appointed court reporter to record the proceedings before the grand jury, except the deliberations of the grand jury. The reporter's notes containing the proceedings from which an indictment is returned shall be transcribed and filed with the clerk of the superior court not later than twenty days following the return of the indictment, unless the court otherwise orders. Such transcript shall be made available to the prosecuting officer and the defendant. The transcript or a portion of the transcript may be denied to a defendant by the court upon a showing of extraordinary circumstances by a prosecuting officer. The reporter's notes which are not transcribed as provided in this section shall be filed with the clerk of the superior court and impounded and shall be transcribed only when ordered by the presiding judge of the superior court.

B. The reporter and typists who transcribe the reporter's notes of grand jury proceedings shall be sworn by the foreman or acting foreman not to disclose any testimony or the name of any witness except to the county attorney or other prosecuting officer or when testifying in court.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-412. Evidence on behalf of person under investigation

The grand jurors are under no duty to hear evidence at the request of the person under investigation, but may do so. The person under investigation shall have the right to advice of counsel during the giving of any testimony by him before the grand jury, provided that such counsel may not communicate with anyone other than his client. If such counsel communicates with anyone other than his client he may be summarily expelled by the court from the grand jury chambers. The grand jurors shall weigh all the evidence received by them and when they have reasonable ground to believe that other evidence, which is available, will explain away the contemplated charge, they may require the evidence to be produced.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-413. Indictment upon probable cause

The grand jury shall return an indictment charging the person under investigation with the commission of a public offense if, from all the evidence taken together, it is convinced that there is probable cause to believe the person under investigation is guilty of such public offense.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-414. Number of grand jurors necessary to indict

- A. An indictment shall not be returned without concurrence of at least nine grand jurors. When an indictment is returned, the foreman or acting foreman shall endorse it a "true bill" and sign it.
- B. An indictment shall not be dismissed on the ground that one or more members of the grand jury were not legally qualified if it appears that nine or more qualified jurors concurred in returning the indictment.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-415. Presentation of indictment

The indictment shall be presented by the foreman or acting foreman to the court in the presence of the grand jury.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-416. Failure to indict person in custody or on bail

If the defendant is in custody or has given bail on a charge investigated by the grand jury and nine jurors do not concur in finding an indictment, the foreman or acting foreman shall so report to the court in writing forthwith.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-417. Discharge of grand jury

The presiding judge of the superior court shall discharge a grand jury upon the expiration of the term of such grand jury unless the term is extended as provided in section 21-403.

21-421. State grand juries; impaneling; term

A. Upon written application by the attorney general there shall be a state grand jury with jurisdiction extending throughout the state impaneled each year by any superior court judge designated from time to time as a state grand jury assignment judge by the chief justice of the Arizona supreme court. Such assignment judge shall serve at the pleasure of the chief justice. A state grand jury shall be impaneled within the county in which the assignment judge is serving.

B. Whenever the attorney general determines it to be in the best interest to convene additional state grand juries, he may apply in writing to the chief justice of the Arizona supreme court for the designation of an additional assignment judge and the chief justice shall designate an additional assignment judge in accordance with the provisions of this article. Such assignment judge shall serve at the pleasure of the chief justice. Such assignment judge may, for good cause shown, impanel an additional state grand jury in accordance with the application, in which event such state grand jury shall have statewide jurisdiction. In making his determination as to the need for impaneling an additional state grand jury, the assignment judge may require a showing that the matter cannot be effectively handled by a county grand jury or an existing state grand jury. At no one time shall more than three state grand juries be impaneled.

C. The regular term of the state grand jury shall be six months. The term may be shortened by the assignment judge at the request of the attorney general. The term may be extended by the assignment judge for a specified time period upon a verified, written petition by the attorney general stating that an extension is needed to conclude a grand jury inquiry begun prior to the expiration of its term.

21-422. Powers and duties

A. The law applicable to county grand juries, including their powers, duties and functions, applies to the state grand juries except insofar as it is in conflict with this article. The supreme court shall adopt rules to govern the procedures of state grand juries.

B. The state grand jury shall investigate and return indictments for only those offenses or violations of law arising out of or in connection with:

1. The determination or collection of state taxes, the registration or failure to register securities, the offer or sale of securities, the offer or sale of interests in land, the formation or operation of banks, insurance companies, pension funds, labor unions, professional sports enterprises, corporate enterprises, or business enterprises, the making or collecting of loans, events leading to receivership or declaration of bankruptcy by a business enterprise, the sale or purchase of goods or services by or for the state or political subdivisions, bribery, obstruction of justice, hindering prosecution or any form of intentional, knowing or corrupt misconduct involving any person compensated by public funds.

2. Any fraud, theft or possession, receipt, sale or transportation of stolen property or other contraband, or gambling or prostitution or narcotics, which occurs in more than one county or which occurs in one county and affects the residents of another county or which may be prosecuted by more than one county attorney.

3. Perjury, false swearing, unsworn falsification, or any violation of title 13, chapter 28 in connection with any state grand jury proceeding, committed by any person testifying before it or in any trial or other proceeding involving any indictment returned by a state grand jury.

4. Any perjury by subornation or attempted perjury by subornation relating to testimony before it or in any trial or other proceeding involving any indictment returned by a state grand jury.

5. Any violation of title 13, chapter 23 or section 38-421 or 39-161.

6. Any violation of title 13, chapter 35.1 if committed using a computer or network as defined in section 13-2301 and if any part of the conduct either:

(a) Occurs in more than one county, state or country.

(b) Affects the residents of another county, state or country.

(c) May be prosecuted by more than one county, state or country.

7. Any criminal wrongdoing that is referred in writing by a county attorney and that is accepted in writing by the attorney general.

C. If a state grand jury, pursuant to an investigation under subsection B of this section, learns of an offense for which it lacks jurisdiction to indict, the grand jury shall direct the attorney general to inform the appropriate prosecutorial authority.

D. Nothing in this article shall be construed to limit the jurisdiction of the county grand juries or county attorneys, nor shall an investigation by a state grand jury be deemed preemptive of a previously instituted investigation by another grand jury or agency having jurisdiction under the same subject matter unless good cause is shown.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-423. Jurors; judicial supervision

A. A state grand jury shall consist of the same number of members as a county grand jury. The residence and qualifications of the members of the state grand jury shall be determined according to rules adopted by the supreme court which, at its discretion, depending on the nature of the matters to be investigated, may permit the jury members to be residents of either one county or several counties.

B. The jury commissioner of the county in which the assignment judge is serving shall cause the panel members to be summoned for service.

C. Judicial supervision of the state grand jury shall be maintained by the assignment judge and all indictments, presentments and formal returns of any kind made by a state grand jury shall be returned to the assignment judge.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-424. Presentation of evidence to state grand jury

Presentation of evidence shall be made to a state grand jury by the attorney general or his designee.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-425. Designation of venue; consolidation

Any indictment or presentment by any state grand jury shall be returned to the assignment judge and shall include a finding as to the county or counties in which the alleged offense or violation of law was committed. Thereupon, the assignment judge shall, by order, designate the county of venue for the purpose of trial. The assignment judge may, by order, direct the consolidation of an indictment returned by a county grand jury with an indictment returned by a state grand jury and fix venue for trial.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-426. Duty of the attorney general to advise county attorney of investigations and indictments

The attorney general shall advise the county attorney in any affected county of the nature of the state grand jury investigation and of any indictments to be returned by the state grand jury unless such disclosures will create a substantial likelihood of a conflict of interest for the county attorney.

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
--------------------------------	-------------------------------	-----------------------------------

21-427. Attendance of prosecuting attorney; prosecution of indictments; issuance of subpoenas

A. The attorney general or his designee shall attend the state grand jury in the manner prescribed by section 21-408.

B. The attorney general or his designee shall prosecute all indictments returned by a state grand jury. The attorney general, at his discretion, may commence a prosecution by way of a complaint for any offense within the jurisdiction of the state grand jury.

C. The attorney general or his designee shall have authority to issue subpoenas in furtherance of matters cognizable by a state grand jury in accordance with the provisions of title 13, chapter 38, article 21, and for trials and other proceedings involving any and all indictments returned by a state grand jury.

21-428. Costs and expenses; state grand jury

A. In addition to the fees and amounts stated in section 21-221, persons serving on a state grand jury shall be provided by the county in which the assignment judge is serving with reasonable per diem expenses as established by the supreme court.

B. The costs and expenses incurred by a county arising out of or in connection with impaneling a state grand jury and for the performing of its functions and duties or arising out of the prosecution and trial of state grand jury indictments shall be paid for by the state out of monies appropriated to the supreme court for these purposes. The supreme court shall approve county requests for reimbursement after certification by the assignment judge that the amount requested is owed.

C. All costs and expenses incurred by the attorney general arising out of the investigation, prosecution and trial of matters cognizable by a state grand jury are payable from monies appropriated to the attorney general for these purposes.