



Grand Jurors' Journal



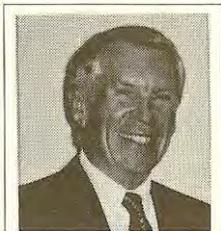
"All the CGJA news
that fits in print."

VOLUME 4 No.2

CALIFORNIA GRAND JURORS' ASSOCIATION

APRIL, 2003

Special Website Edition



President's Report

By Elwood Moger

The first two months of 2003 have been an active time for CGJA. Internally, we have added six new and highly qualified Directors to our Board, created a new Standing Committee, developed a second new subcommittee, and brought on new member resources to several Association committees. Externally, we have seen the introduction of two new bills in the California Legislature dealing directly with Grand Jury Law. Both bills represent concerns and challenges as we enter 2003.

A special welcome is extended to new CGJA Directors, Kent Foster, Jack Friesen, Barbara Guzzetta, Jack Jackson, Marilyn Maxner, and Richard Ruth. The Board ratified the appointment of Directors Jackson and Ruth at the January meeting while Directors Foster Friesen, Guzzetta, and Maxner were ratified at the February Meeting.

Jack Jackson brings to CGJA a wealth of personnel and training experience having retired from federal government service as Personnel Officer for HUD Western U.S. after 36 years of service. Jack has already taken up the leadership role of Chair of our new Curriculum Subcommittee to our Training Committee.

Richard Ruth is a retired executive of LockheedMartin in Sunnyvale and President of CGJA's Santa Clara County Chapter. Richard will be taking up the important role of Coordinator of Chapter Relations for our Membership Relations Committee. We expect Richard's management skills to add value in promoting improved communications and relations with current and future Chapters.

Kent Foster brings to our Association over 37 years of professional financial management experience as Chief Financial Officer for a number of companies in Northern California. Kent will be Chair of CGJA's newly formed Finance Committee.

Joining Kent in the leadership role of Vice Chair of Finance is Jack Friesen, a retired Partner of Deloitte & Touche a national public accounting firm. Jack joins us with over 33 years of public accounting experience and we look forward to his contributions in our financial areas.

Barbara Guzzetta brings to CGJA experience and talent needed for starting our Public Relations efforts. Barbara has years of experience in national sales, public relations and served for 12 years as General Manager of Lewis & Young Productions, producers of Broadway shows in the Sacramento area. Barbara will be Chair of our new Public Relations Committee.

Marilyn Maxner rounds out our new class of Directors bringing to our Association years of experience in managing the business side of law firms in the Monterey area. She has held the position of Treasurer with several organizations in Monterey and has been appointed as CGJA's new Treasurer. Marilyn is talented, dedicated and we look forward to her contributions in the office of Treasurer.

Our new Directors represent years of professional experience needed by our Association. I am convinced that each will contribute significantly to CGJA's future.

Our bylaws allow the President to appoint up to three additional Directors to the Board based on special skills and experience beyond our normal compliment of 8 Directors from each geographical region. Directors Barbara Guzzetta and Kent Foster hold such Presidential Appointments base on their specialized experience and service as Standing Committee Chairs. Both reside in the Association's South Region.

At January and February meetings, the Board approved my recommendations to form a Finance Committee with Financial Development as a subcommittee. As we grow, it is clear that we need improved internal financial systems, better auditing, and dedicated planning for our financial development. I expect this committee and our financial development efforts to expand with new member resources once we get organized.

I am very please to report that our internal development continues in our training area with the creation of a Curriculum Subcommittee lead by Director Jack Jackson. Joining Jack on this committee are CGJA Members from the counties noted: Ted Freeman of Marin, Jane Hebler of San Francisco, Beverly Hill of Lake, Dianne Hoffman of Orange, and Ron Miguel of San Francisco. We have talented members on this committee with years of professional experience in education and training. I have great hopes for this new formation as it allows us to refine our current seminar curriculums and research new methodologies for advancing CGJA training programs into both rural and urban counties with a need.

Les Daye's Subcommittee of Operations dedicated to Grand Jury Final Report Index is now up and running with CGJA Members Dick Boyd of Yuba, Barbara Dabul of San Luis Obispo, and Beverly Hill of Lake. With additional resources, we look forward to an expanded edition of this year's Final Report Index. I am encouraging additional subcommittees as we gain additional member resources and grow our efforts in expanding CGJA's support of California Grand Juries.

CGJA members are invited to complete and return the Membership Interests Summary contained in this issue of the Journal and return it to Vice President Roger Loper. Many of our programs are just getting organized and member talent and a willingness to help in a variety of our newly formed or expanding functions are needed. All forms of skills and help will be looked at for a match. Members with questions on actively serving CGJA should always feel free to call or email officers, committee chairs or Roger Loper directly.

We currently have one vacancy on our Board for a Director residing in our North Region and I have been advised of a planned resignation coming from a Director in our Central Region. Directors serve by geographical region and most spend in excess of 5 hours per month working on Association business. Email is used extensively for Board communications. Individual Members with time and interests to serve on the Board and one or more of our expanding committee efforts are encouraged to complete the Membership Interest Summary and express their interests in serving as a CGJ A Director.

Our Legal Committee has been very active and engaged since our last Journal issue with 2003 planning, a number of inquires from sitting Grand Jurors, legal developments and the introduction of two new bills in the California Legislature. Dick Nichols writes on a significant opinion by the California Attorney General relative to Grand Juries investigating nonprofits doing business with a county. Jack Zepp writes on the introduction of CA Senate Bill 307 and CA Assembly Bill 312.

Both of these bills are very troubling and concern us greatly. Our legal team will be analyzing and meeting with each author's staff as we formulate our positions in protecting and furthering all county Grand Juries. I invited all CGJA Members, CGJA Chapters, and Independent Grand Juror Associations to work in unison with our Legal Committee as our action plans evolve. Now is the time to assess relationships with elected legislative representatives within our respective districts. Watch our website for developments and contact Jack Zepp with your inputs. Our Training Committee has received approval from the Board to begin planning for three 2003 Training Seminars in Sacramento, Concord, and Visalia. We are grateful to our Solano Chapter, Tulare Chapter, and the Placer Grand Jurors Association for their early confirmations of support for this year's seminars. Additional groups are being contacted to support training of new Grand Jurors statewide.

Our Membership Relations Committee continues to address questions raised by our Chapters and promotion of a closer relationship with all Independent Associations. Our membership base is at an all time high and we look forward to building a chapter in all California counties. We view the local relationship of a county chapter or independent association invaluable to CGJA as we address statewide issues and challenges to our Grand Jury system.

Look for a listing of CGJA financial contributors in this issue. With the death of our Treasurer in late 2002, we are attempting to reconstruct our contributors listing. Donations in celebration or memory are so noted. Please contact Treasurer Marilyn Maxner if you have donated since July 2002 and your name does not show up on the list. I, along with our Board am grateful for any financial donation and want to acknowledge such by recognition in this Journal. We are bringing talented and dedicated members onto the CGJA team. Our many changes for better service and support of all Grand Juries are just getting started. We have many challenges before us but we are planning for significant accomplishments in 2003. If you have suggestions, questions, or care to offer your personal time or financial support, I encourage you to contact any of our Officers, Directors, or Committee Chairs and always feel free to contact me directly.

A Recent California AG Opinion

By CGJA Director Richard W. Nichols, Esq. who served on the El Dorado County grand jury 2000-01 and 2001-02. He is a retired attorney who formerly practiced law in the Sacramento area.

On February 20, 2003, the California Attorney General issued an Opinion, which reached the following conclusion: "A county board of supervisors may contract with a nonprofit mutual benefit corporation to promote tourism and commerce even though a court has ruled that the corporation would not be performing a 'function' of the county and would not be operating 'on behalf of the county as those terms are used in the statutes governing the investigative authority of a grand jury."

A nonprofit corporation, as an independent contractor, contracted with Mendocino County to advertise and promote the county's agricultural products and tourism industry. "Substantially all" of the corporation's income was generated from this contract, and specifically from funds appropriated by the Board of Supervisors to implement it. The County had three representative positions on the corporation's 18-member board. In a proceeding before the Mendocino Superior Court, however, it had previously been ruled that the Grand Jury lacked statutory authority to examine the books and records of the corporation, because (i) the corporation was not performing a "function" of the County, see PC §925, and (ii) the corporation was not acting "on behalf of" the County, see PC §933.6.

The Attorney General concluded, nevertheless, that the County had authority to contract with the corporation for the specified services, because a "public purpose" was being served. For this reason he found it to be "unnecessary to address additional questions presented concerning the constitutional prohibition against the making of gifts of public funds."

The Attorney General referred to Government Code §26100 and §31000 for the proposition that counties have authority to enter into such contracts, and to Revenue & Taxation Code § 7280 for their appropriations authority. He concluded that the statutes limiting the authority of grand juries to investigate county functions and certain nonprofit corporations did not preclude the County from entering into such contracts.

He concluded that the term "functions," as used in PC§925, is limited to "the usual purposes and services for which a county exists." Footnote 3. In summary, he stated: "We reject the suggestion that a county may contract with the corporation in question only if the corporation is performing a "function" of the county (PC§925) or is being operated "on behalf of" the county (PC§933.6) for purposes of a grand jury's investigation authority."

The Attorney General distinguished situations where a nonprofit corporation (i) is staffed by county employees, or (ii) is performing functions mandated to the County by a state agency, or other "essential" or "basic" functions, or (iii) has control over the actions of the corporation, not just its results, or (iv) was itself created by the County, or (v) had a member of the County Board of Supervisors on its Board.

One tiny morsel of grand jury authority was conceded, however. The Attorney General stated, in footnote 4: "Of course, a grand jury 'may investigate and report on the operations ... of the officers [and] departments ... of the county (PC§925) that are responsible for negotiating the contract with the corporation in question."

It appears to be only that tiny morsel that constitutes any brake on the actions of county decision-makers in contracting with favored nonprofit corporate entities to perform non-essential business on behalf of their counties.

Grand juries may wish to keep that "morsel" in mind!

Grand Juries do their job ... sooner or later

By Ourania Riddle

Recent headlines in local newspapers made me chuckle. Sooner or later I thought. Sooner or later!

On May 12, 2000, the Solano County Grand Jury issued a report about the County Library System. As a member of that grand jury I remember vividly the report and in particular the findings and recommendations for the Dixon Public Library.

"Dixon Public Library Facilities are antiquated. The basement is unusable because of a water seepage problem," the report said. "Dixon Library should investigate joining the Solano County Library system, and Solano Napa and Partners (SNAP) to better serve the community," it was recommended. The response was, as you would expect it. We know too well what the agencies will say. "We were disappointed in the incompleteness of the report. The grand jury's call for the Dixon Library to spend more to join the Solano County Library system was fiscally irresponsible," were phrases that caught the eye. And "in order to counteract the grand jury's findings and recommendations" 20+ pages of supporting documents were included with the response.

However, the latest newspaper headlines vindicated the 2000 grand jury's Dixon Library Report.

Vacaville Reporter February 25, 2003: "Administration of the Dixon Public Library, historically independent from the Solano County Library system, could join that network with the idea of obtaining powerful professional and technical specialization and more services to the community. Also, library commissioners recently approved joining Solano, Napa and Partners (SNAP) which provides a multitude of automation services, resource sharing and delivery services to the library five days a week. SNAP will be available to Dixon users in July."

Freedom

By Mickey Strang

Trying to decide which of our First Amendment Freedoms is the most important is like trying to decide which is the most critical leg of a three-legged stool, but I'd nominate freedom of press.

Speech is important, though ephemeral. While some speeches - Lincoln's Gettysburg Address, for instance - have echoed across decades, that's because they were written down. We now have tape and film, but even these don't come through as well as written material that can be re-read and pondered.

Freedom of religion is also vital. The difference here is that while the trappings and rituals of worship can be forced on an individual, belief is internal and uncontrollable by others. Awkward, certainly, if one does not believe in an officially sanctioned religion, but still possible to hold one's own opinion. (Especially if willing to give lip service only when questioned, or to go along with the trappings. The Afghani women wearing burkhas, for instance, were merely surviving rather than necessarily believing.)

But no free country can exist without freedom of the press.

Does that mean that the tabloids and scurrilous papers should be permitted? Certainly. Anyone with taste can ignore these. And, if no one buys them, they go out of existence. Papers with opinions opposite to our own? Vital. Only by having opposing views presented can we examine these to see if perhaps there is something to that opinion. This, of course, doesn't mean that we have to accept anything just because we saw it in print. (That most assuredly would lead to belief in all sorts of conspiracies, space aliens and the imminent end of the world, as per the grocery store rags.) With a free press, one can always find opposing views and should seek these rather than accepting a homogenized version of truth according to the powers-that-be. See what others think and say; this takes effort but is truly worthwhile if one is to learn anything.

As Thomas Jefferson said in a letter to Colonel Edward Carrington in 1787, "The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter." Considering how unkind the press was to Jefferson - this being before the days that libel suits were common - that's quite a statement.