



Grand Jurors Journal

An Association of Grand Jurors

Dec. 2000-Steven R. Phipps, Editor-P.O.Box 2072, Trinidad, CA 95570

President Jack Zepp Announces New Consensus on Goals, Membership....Celebration Fund Inaugurated

It is my good fortune and great pleasure to write at a time that our Association is taking the next critical steps in its development. As a result of the substantial efforts by both the old board and the present one, which was installed in September of this year, our Association is entering a new phase, one that will lead to greater presence, relevance and impact. Although your board will continue to work on details for the foreseeable future, we have confirmed broad goals and outlines of action that I hope will interest and excite you.

In advance of this year's Annual Conference the nominees for the new board of directors, which consisted of 14 prior board members and 10 new nominees, met in a two day retreat to plan the Association's future direction. The retreat was a "blank sheet" "bottom up" affair that involved constructive re-examination of past practices and much new thinking about our future course. By the end of the retreat we formed a broad consensus on goals, committee structures and assigned objectives, individual responsibilities and commitments and agreed general timetables. We replaced the prior structure, consisting largely of ad hoc committees formed around individual projects, with a system of the five standing committees under whose jurisdiction virtually all future projects will fall. Those committees and their

Chairs are shown in the accompanying sidebar. Over the following two months those committees defined and developed their goals and plans. At a special board meeting in November, each of the five standing committees presented to the board detailed statements of their prioritized goals, the benchmarks they committed to achieve en route to fulfillment of their goals and estimates of the human and financial resources which will be required. These multi-year plans and will be subject to continuous refinement going forward. However, the plans were sufficiently developed as of November 27 that the board approved them. They will be consolidated into a combined action program for the board's guidance as we move forward

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The mission of the California Grand Jurors Association is to promote government accountability by improving the training and resources available to California's 58 regular grand juries and educating the public about the substantial local government oversight and reporting powers these grand juries have.

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Highlights of the plans are briefly summarized below.

- Enhance the content, and increase the frequency, of our regional training by revising our training material, training new trainers and expanding our training sites to three in 2001 and more, as appropriate, thereafter; and oversee a long range effort to improve the quality of Responses to Reports.

- Monitor and respond as appropriate to legislation through a standing committee with individual monitoring and communication assignments and by a state-wide alert mechanism; maximize awareness of legislative developments by interested groups and individuals.

- Increase our membership (by at least 30%) and double the number of Chapters (to at least 12) over the next two years; improve and facilitate communications and relations among our members and Chapters and promote linkage among the Association, the Chapters and the various independent past grand juror associations around the state.

- Expand our presence and outreach to a broad constituency and the public by continuing to present quality Annual Conferences, updating and expanding the Compendium and our website, engaging in a proactive public relations program, increasing the frequency and distribution of our Newsletter and strengthening its content. Over a longer time frame we have defined and assigned projects to create an extensive central data base, revitalize the GRIP Project (the statewide indexing of grand jury reports), move towards the establishment of a Sacramento office and review and, if appropriate, revise our Bylaws and Policies and Procedures.

- Professionalize our financial record-keeping and procedures and devise and implement short and long term plans to obtain contributions, grants and other funding to help cover the costs of the expanded activities we contemplate.

These tasks and many others fall to the members of the standing committees. They have agreed to shoulder heavy loads for us and they deserve our deepest appreciation for efforts they have made to date and the commitments that they have made for our future.

You should recently have received a new Roster of our membership. We always lose some members each year and we are sorry to see them go. Also, our membership changes in

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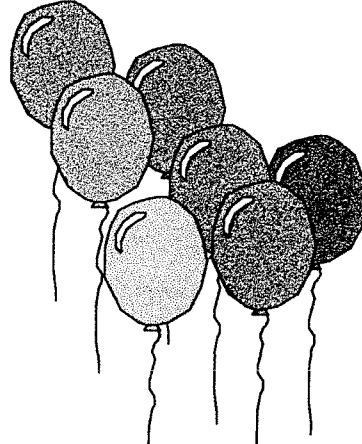
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minor ways from month to month. However, I am pleased to report that as of last month we have 80 new members for this fiscal year. On behalf of all of us I welcome them to our Association. Let me take this opportunity to remind all members that one need not be a director to be an active committee participant. Any member interested in working on any of the standing committees is invited to join a committee and help us move the Association forward.

Anytime we publish our Roster errors creep in and contact information changes without our being aware of it. Please review your entry in the Roster to see if it is correct and let Mike Miller know if your information requires correction. We will print corrections in the Newsletters so that the all of our members can keep their Rosters current.

Significant changes are contemplated for the Newsletter beginning in 2001. Our quarterly Newsletter has been successful and well received and on behalf of us all I thank Steven Phipps for his able leadership that made it possible. Next year we will begin more frequent publication, probably starting with a six-week or two-month cycle at first and then increasing the frequency as we gain experience and have a better feel for the sources of content. Our new features are still under consideration but two that are likely to be included are reports from our Chapters and summaries of the quarterly board action minutes. I urge you to give to our new Editor, Joe Joynt, your thoughts as to what you

Announcing the CGJA Celebration Fund



Now that you know of our exciting plans and some of the challenges that await us, I hope you will join us in celebrating our new momentum by using the enclosed envelope to make a tax-deductible year end donation. We are creating a "Celebration Fund" for the receipt of unrestricted donations made in celebration of any event you feel like celebrating: release of a grand jury report, a grand jury inspired change in local government, a retirement, birthday or anniversary, or other memorable event. Each of your board members has agreed to contribute to this fund and we invite you to join us in getting it off the ground with a celebratory bang.

would like to see in the newsletter and what content you are willing to provide. We want to make sure the Newsletter is relevant to you. To do

so we need input from you, especially accounts about your county's grand jury, activities of your Chapter or Past Grand Jurors' Association, news of general interest to our members, any political, historical, legal and social commentary you may care to pass along about the role of grand juries, news of issues of

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interest to grand jurors elsewhere.

The Association had a successful Annual Conference in Rancho Cordova this year. Proceedings were tape-recorded and will be transcribed and available in a booklet later this year. It is worth mentioning now, however, that one of our speakers may be leading an effort for grand jury "reform". Clark Kelso, Professor of Law and Director of the Institute for Legislative Practice at the University of the Pacific's McGeorge School of Law, spoke generally about criticisms of the grand jury and possible areas of improvement. Professor Kelso heads a group at McGeorge that is studying possible legislation to effect grand jury reform. CGJA representatives were invited to, and did, participate in a preliminary roundtable discussion on grand jury reform at McGeorge in June of this year. We could not discern then, and have no better idea now, what "reforms" might be proposed, but we do have the sense that some proposals will be forthcoming. We have been promised an opportunity to comment upon any legislation proposed by Professor Kelso's group before it is introduced. Naturally this is a matter to which we will pay close attention and we will keep you apprised of any developments as we learn of them. I suggest you monitor the CGJA's website (www.cgja.org) for legislative updates.

I mentioned that we have many new directors. Sadly, that means we have many who, having given graciously of their time and energies in the past, are no longer serving in that capacity. We will miss them on the board and I'm sure we all join in wishing them well and in hoping that they will remain active in the Association. Our new directors will face, on average, a more active routine than has been the case in the past. The board will have teleconferences monthly: business (action) meetings will

continue to take place in January, April, July and October, and during each intervening month there will be an informational teleconference to discuss committee activity, general planning matters and subjects of general board interest that do not require formal board action. Every director will serve on at least one committee and committees meet, by teleconference or in person, at least monthly. In addition, the committee chairs meet among themselves by at least once a month. Add to that preparation time and the normal communications that occur on an as needed, especially during periods of heightened activity, and it is obvious that you have a board composed of hard working and dedicated members.

Wishing all of you a happy holiday season...

--Jack Zepp
President, CGJA

CGJA MEMBERSHIP CHAIRS

-SHERRY CHESNY

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-LES DAYE

Governmental Relations

-BOYD HORNE

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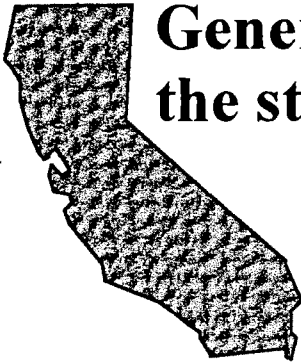
-ELSWOOD MOGER

Operations

-DIAN PICONE

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reserves the right to reject, edit, not
print, or not accept any submitted text.*



General Interest Items from around the state.....

REGULAR GRAND JURY OVERSIGHT OF THE CALIFORNIA YOUTH AUTHORITY

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Penal Code §919. Authorization to inquire about prisoners not indicted and duty to inquire as to county prisons and corrupt misconduct in public office.

(a) The grand jury may inquire into the case of every person imprisoned in the jail of the county on a criminal charge and not indicted.

(b) The grand jury shall inquire into the condition and management of the public prisons within the county.

(c) The grand jury shall inquire into the willful or corrupt misconduct in office of public officers of every description within the county.

A San Luis Obispo Superior Court recently examined (August 2000) whether or not the California Youth Authority facility at Paso Robles was a public prison within the meaning of P.C. 919(b) quoted above.

In *In Re Grand jury Subpoena of Medical Records (Misc-C 60) County of San Luis Obispo* the Attorney General through his Deputy Robert Wilson argued in essence that, "Our position is [CYA at Paso Robles is not] a prison, under Section 919(b) of the California Penal Code."

Although the decision has no value as precedent and may not be cited as legal authority, the judge stated "I think it would be hard for me to see CYA as other than a prison, a public prison, and a public prison within the county." The county grand jury had been accused of attempting to "micromanage" the Paso Robles facility, which apparently prompted the necessity for their request for a subpoena and the subsequent legal action.

At press time the Attorney General had declined to appeal the judge's finding.

...The more things change, the more they remain the...

Notes discovered from a 1982 report on the founding of the CGJA reveal that the concerns then are the same as concerns now: difficulties with implementation of recommendations, problems finding how different county grand juries function. The report's writer did recommend "(a) Health Tests (b) Senility Tests (c) Attention Span Tests" for potential jurors--a recommendation that might be somewhat politically incorrect today.

URLs requested from Regular Grand Juries

County regular grand juries and other interested parties are requested to contact the CGJA at <http://www.cgja.org> to arrange Links where your local grand jury report and responses can be accessible to persons visiting our site.

Address Changed?

—contact Michael Miller
39 De Sabla Road
San Mateo, CA 94402-1207
[650] 344-1074
okmiller@pacbell.net



Please consider a gift to help inaugurate our CELEBRATION Fund...An envelope is inclosed for your use

Tobacco Settlement Funds: what role--if any--does the grand jury play?

Your county's use of Tobacco Settlement Funds may become of interest to your local county regular grand jury.

While every grand jury obviously decides for itself what it wants to do with its time and resources--and obviously each county may be dealing with the prospect of Tobacco Settlement Funds differently-- CGJA thought a "heads up" might be in order.

In brief, as part of the national settlement of tobacco litigation, all California counties are entitled to a future stream of payments of potentially significant funds. Most, if not all, counties are currently deciding what to do about, and with, those payments.

Some may wish to borrow against the possibility of future payments; others may want to sell bonds now to be repaid later. Either choice involves paying a premium to receive now the value of the a future settlement payments.

Other counties may wish to wait and receive the payments as, and if, the tobacco companies make them, thus accepting the risk of diminished payments or no payments at all. In addition, some counties may chose to spend the monies-- however and whenever received-- on anti-smoking matters, education and/or health care; while others may choose to put the money into the general fund for street repair, tax reduction, etc.

These decisions are legislative ones and obviously are not of themselves the purview of grand juries. However, the decisions are potentially very important and can affect county finances for years to come. Grand juries can play a legitimate role to assure that the county's decisions in this complex area are:

a) lawful under the California Constitution (which has provisions regulating governmental borrowing activities), the law generally and, if applicable, the County Charter; and b) taken in compliance with the Brown Act. Information which may help grand juries decide whether the matter is of interest to them can be found on the web.

Tulare county's grand jury has done two related reports which can be found at

http://www.co.tulare.ca.us/documents/superior_court/millinniumfinal.pdf

http://www.co.tulare.ca.us/documents/superior_court/copfinalreport.pdf

A recent article of general interest can be found at

<http://www.sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/2000/10/27/BU90500.DTL>

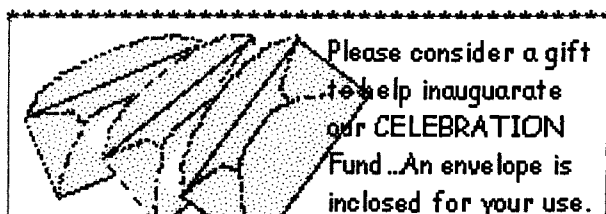
An overview of the securitization process can be found at

<http://www.californiahung.org/spotlight/securitizing000710.html>

A description of some of the debates that are underway and how some counties are acting can be found at

<http://www.cacities.org/doc.asp?intParentID=916>

CGJA itself has no expertise in, nor views on, this subject other than to note that it is a significant one which some grand juries may find of interest.



Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Grand juries began in the British Isles because the people were suspicious of their government. Or, rather, of the leaders of their government and the representatives of these leaders. These same notions on the part of the colonists resulted in the institution of grand juries and other elements of British law moving across the Atlantic to form the American legal system. The two governmental systems have evolved somewhat differently since, however, and, in my opinion, I think the American is considerably better.

Take, for instance, our written American Constitution with its Bill of Rights.

Especially the First Amendment in the Bill of Rights.

Currently there's an uproar in the British papers and the British government about trying to codify - get officially in writing - some of the same rights we take for granted.

Separation of Church and State? I don't think there are any restrictions against any group practicing its own beliefs in England, but, equally, there are ties between the Monarchy and the Church of England historically and in practice today. Certainly-- if you can judge by dress of people on London streets-- Moslems, Hindus and others of various Indian groups, Orthodox Jews, even Rastafarians seem to live contentedly there. Do they enjoy the same freedom of belief we have in the States? Probably - but I don't think it is guaranteed.

The right to peacefully assemble seems to cause no British any problems, nor the seeking of redress of grievances. At least, none that are obvious to a watcher from across the Atlantic.

The most important thing, however, is that the British don't have the same right of Freedom of Speech we enjoy. Yes, speakers can blather at

Hyde Park corner about whatever they wish (more or less). And there seems no especial effort made to keep any nutcase group from assembling and listening to whomever. However, freedom of speech involves much more.

Do British papers have the right to print whatever they wish? No - probably not-- whether by fiat or by pressure to agree not to publish. (Closing off print these days is much more difficult, however, than it used to be. The British public, for instance, didn't know anything about the royal romance between Edward and Wallace Simpson until close to his abdication. Pages of articles about it were torn from copies of American magazines shipped in; the British press said nothing. Now, however, with the Internet and satellite television, such censorship isn't as possible.)

The very biggest abuse of freedom to speak and write, however, comes from the British Official Secrets Act. Anyone who takes any sensitive job for the government signs this swearing he or she will publish nothing about anything learned on the job without prior official approval. Sounds like a protection for official secrets all right; however, the problem is what those secrets might be.

Such protection means that whistleblowers can't function without exposing themselves to prosecution. In the United States, there would have been no Pentagon Papers publication, no information out about the White House plumbers during the Nixon administration, no investigation of Iran-Contra - and, equally, no publication about the expensive toilet seats, coffee makers, and wrenches that plagued both administration and aerospace industry. Any administration could do anything it wanted to without fear of getting caught or embarrassed, no matter how corrupt or venal its actions were.

How much of the work of the California regular grand jury involves investigating governmental practices and procedures that may be flawed? And without the ability to investigate, which means employees can speak freely, how many inept or corrupt operations would exist just in California today?

Equally, how many grand jury investigations have been triggered by what some snooping reporter discovered and printed or broadcast?

And are not the citizens better protected because such reporting and investigation is legal?

Certainly some secrets should exist. As a former employee of a research and development establishment in the Department of Defense I do declare that.

However - there is a difference between classifying weapons information and classifying information that merely leads to embarrassment. Plenty of the latter has gone on; probably it still does. Yet, that type of classification is sufficiently tenuous that word does get out often on those items classified merely to prevent administrative embarrassment. Result: those in charge do behave with more circumspection than they otherwise would.

Not that I would ever be asked, but I would surely recommend to British citizens they fight for codification of something like our Bill of Rights and its First Amendment. An Official Secrets Act ensuring that no one can speak out freely about what is happening in government does not belong in a free society. The press - regardless of how distasteful some of it may be - also needs to be allowed to publish anything not libelous.

"No government ought to be without censors; and where the press is free no one ever will", said Thomas Jefferson in a letter to George Washington, 9 September 1792. Despite his troubles with the press of the day (and he had plenty of them), he also said in a 16 January 1787 letter to Colonel Edward Carrington, "*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.*"

-- Mickey Strang



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A PARTING SHOT

As I prepare to leave the production of the newsletter in the able hands of Joel Joynt and Marcy Bachmann, I note that some persons in government seem to feel that grand juries should somehow "justify" their existence. When Jack Zepp recently e-mailed me a question as to how I might respond to such a request I answered with the following:

Grand juries need not justify their existence or be worth the expense. The government is not a company, not a corporation. Government is not about cost-benefit analysis. In theory, once upon a distant time, the government was us, about us, about us deciding what was best--not best for big business or business or special interests--about what was best for us. And what is best for us is to know what is going on. And since we set the whole thing up anybody who wants to know what is going on is entitled to know. Which means the most barely literate adult can get on a grand jury and root through the root cellar of government and publish to the rest of us what he finds among the spiders and the files....so that we can decide whether or not we want it to be that way. I don't expect grand juries to make recommendations or get "results". I don't expect them to do anything. The owners of the firm can do with it as they please. The agents of the owners--the ordinary citizen grand juror (who in the ideal world would be drawn by lot and given a living wage for a year)--don't need to

justify to anyone why they should exist. It's our house and we can play in it to our heart's content.

Justify! The thought of attempting to "justify" the existence of a grand jury irks me.

I have high hopes for our organization. I believe that under our new leadership and with the new sense of purpose I feel developing that we will play an even more valuable part in educating the public about the role of the grand jury and in preparing grand jurors for their tasks.

I do not know whether I have similar hopes for our democracy. As I write the Presidential election remains unsettled. It will be settled peaceably and according to law. But this election and every major election seems increasingly unimportant--merely a game played between persons of ego but little substance. One wonders how Washington and Jefferson and Lincoln would have....but they were politicians too, you say...Yes. They were. But they did not *spin* things. They at least pretended to the virtues of plain speaking. They had actually been born to other purposes and found their place as leaders through the call of the people.

Well. I hope to have the privilege of contributing to the newsletter in the future. Meanwhile, it has been a privilege to be your editor. I wish you all well.

--Steven R. Phipps



Have you joined the CGJA? Does your membership need to be renewed?

Membership in the California Grand Jurors Association is open to all present and former regular grand jurors and associate membership is available to all interested parties.

----- cut on dotted line -----

name _____

street /p.o.b. _____

city _____ *state* _____ *zip* _____

phone [_____] _____ *e-mail* _____

county served? _____ *year (s)* _____

\$25 [] regular membership or \$25 [] associate membership

**MAIL WITH CHECK to Michael Miller, Membership Chairman,
39 De Sabla Road, San Mateo, CA 94402**
