



Grand Jurors Journal

An Association of Former Grand Jurors

May 1997 - Howard Rien, Editor 925 Dowler Drive, Eureka, CA 95501-1216

Message from the President

The hearing on AB 829 scheduled for April 23 was pulled at the last minute; we were not informed, so we sat there all morning. We had contacted Thomson's office the day before for confirmation - at that time her staff said it would be heard. Clarence and Hilda traveled to Sacramento and sat all morning to find the bill had been pulled at the last moment. CGJA has been trying to schedule a meeting with Thomson; so far, no luck.

Helen Thomson amended AB 829 on April 24. Numerous changes have been made that are represented as "technical corrections recommended" by the Legislative Counsel. The problem is that many of these "technical corrections" substantively change policy, which the Legislative Counsel reportedly does not do. Hence, either the Legislative Counsel has made several serious errors or has acted at the specific instruction of Thomson and CSAC. To misrepresent a policy change through the Appropriations Committee as mere "technical cleanup" raises ethics questions.

These new policy changes will allow the Board of Supervisors to evade responding to the grand jury report at all and emplaces a loophole to circumvent the Brown Act - no public agenda item - no open information to the public. And all this in the name of helping the grand jury system work better! The bill was scheduled and pulled for May 7, and pulled again on May 14. As of today, AB 829 is scheduled before the Assembly Appropriations Committee on May 21 with more new amendments. Our team will be there!

On the brighter side, on April 29 the Legislative Counsel (responding to a CGJA request through Senator Kopp's office) opined that AB 829's 18-month provision was unconstitutional. The Presiding Judges Advisory Committee and the Court Executive Officers Advisory Committee both voted to oppose AB 829, followed by the Judicial Counsel vote to oppose AB 829 on April 30. The California Judges Association is also reportedly prepared to oppose the bill if it makes it to the Senate. On May 12, (thanks to Hilda) the San Francisco Board of Supervisors passed a resolution opposing AB 829. The CGJA is no longer alone in opposition to this ill-conceived bill.

Working together, we have succeeded in having the "shall verify" and the "18 month term" provisions removed from AB 829. However, as per the foregoing, CSAC and Thomson have inserted some new problems. The fight is not over yet. More letters need to be sent to the Senate Judiciary Committee, Chair John Burton (SF), with copies to us for our files. All your letters are helping. Please keep them coming.

The August Asilomar conference is rapidly approaching. This will be an important opportunity to explore needed reforms in the grand jury system. Register early!

The CGJA is open to both current and former grand jurors. We need new blood - that means you! We are an unfunded volunteer organization and we need your support to exist. Consider the private CSAC corporation funded by tax revenues to the tune of millions of dollars per year. We need your membership! Please fill in the form and join - or renew - today. And, if you want some action, give me a call. I mean it!

Dan Taranto
President, CGJA

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Early Edition

Hopefully this edition of the *Journal* will arrive a little bit early. There is a reason. A lot has been happening, so much that I get the feeling our organization is really coming to life. Since its conception in 1982 it has

grown and blossomed from an infant to adulthood and is now being heard, not as the whimpering of a baby, but as the authoritative voice of a mature adult. We are being listened to, and our advice is being accepted as coming from mature experience.

As this is being written our troops are in the trenches trading salvo for salvo with CSAC and those who still support AB829. We have not won the war but we are scoring many victories. I was just informed that the City and County of San Francisco has come out in opposition to the bill. I hope this is true as it sure could help persuade other counties. I don't have a recent total but the number of counties in opposition is growing. Have you stressed the importance of opposition to this so-called Grand Jury Reform and Training Bill to your Supervisor??? Every voice counts.

New bylaws have been written and will soon be in the hands of the membership for approval. This was necessitated by our becoming a 501(c)(3) organization that will provide tax advantages for some.

You will note that an envelope is included in this edition for you to send in your renewal. Please use it promptly to help keep us strong. While you are at it, why not make copies for friends to they can join, either as former grand jurors or as associates. Remember, there is strength in numbers.

Also in this edition is another application for your attendance at Asilomar in August along with some information about the program. Check the line-up for the program. Your President and Conference Committee have outdone themselves to bring you all an exciting and thought-provoking line-up of knowledgeable speakers. This is *the* conference that you do not want to miss, especially during this critical time when the grand jury system, as we know it, is so under attack. Get your reservation in ASAP!

Howard

Something to say?

If you've got a letter to the editor or an article, write, fax or e-mail it to Howard for inclusion in the next *Journal*.

From the South

First Vice President South says . . .

First of all, the State Association has taken care of legislation. Southern Region has voted to help carry out the mandates to oppose some of the bills. The Southern Region is in step with the Northern Region and State Association. The reason for this is very obvious. Provisions in these bills hobble and, in some cases, destroy the independence, integrity, and ability of the Grand Jury to function. Keeping tabs on legislation is more than a full time job for more people than are on the Board of Directors. We need everyone's support. This is a member service of the California Grand Jurors Association.

The State Grand Jury idea appears dormant at this time. Actually, the County Grand Jury is a State Grand Jury as a result of the extension of the Constitutional powers from state to counties. This is done to provide the public of the state with state services without having to always go to the State Capitol. The primary reason is to serve the public better. Nothing, however, is absolute. Death, taxes and change may be exceptions. At least for the time being, the idea appears dormant.

I wish to point out why one should attend the State convention. We amass the "best experience" in the field. A question-and-answer period is usually provided at the end of each session. In addition, one whole session is being provided near the end of the convention. This has been particularly valuable for sitting grand jurors. Nowhere else can one obtain uninhibited information from this level of state leadership, both public and private. One will be able to observe and compare the different points of view "in the light of day". The State Convention is probably the cheapest method by which to obtain orientation, and, possibly, the most accurate.

I cannot impress upon one enough the necessity for joining the county Associations. The California Grand Jurors Association and attending the State, Regional and county meetings, especially the State Conventions. It is a means by which to keep opponents from pushing the Grand Jury into oblivion - after over a thousand years of protecting the public good. There are a number of others, but space and time have limitations.

The California Grand Jurors Association activity to preserve the Grand Jury System is a **MEMBER SERVICE** and, beyond that, it is a **PUBLIC SERVICE**.

Jerome Johnson



[**Editor's note:** There's a registration form for the conference in this *Journal*. Anyone who's not yet sent in a registration and can find the time to attend should get that form off today to Michael Miller, Conference Chairman, forthwith. The Facilities at Asilomar are beautiful - the company will be stimulating - the conference memorable. Remember, it'll be August 22, 23, and 24.]

Restructuring Underway

The CGJA Restructure Committee, consisting of Audrey Lynberg, Les Daye and George Ogawa, Chair, has been working hard so that (1) we may obtain a 501(c) (3) status with the Internal Revenue Service, (2) we will have a modern set of Bylaws that are in compliance with state laws for not-for-profit corporations, and (3) we will have integrated Policies and Procedures into either the Bylaws or into a separate document called the Standing Rules.

We will be sending a draft copy of the proposed Articles of Incorporation, the Bylaws, and the Standing Rules to the North and South Vice-Presidents for comments. After we get back the comments, the Committee will meet on June 1st to consider all comments and make changes. About the middle of July, we will mail a copy of the Articles and Bylaws to all members. Finally, all members will have an opportunity to approve or amend the documents at the statewide conference at Asilomar in August. A ballot will be mailed to those who cannot attend.

George Ogawa, Chairman
CGJA Restructure Committee



Gloria Allred to be speaker

The Grand Jurors' Association of Los Angeles County announced that the featured speaker for its 42nd Annual Luncheon will be noted attorney Gloria Allred.

The meeting will be held on Monday, June 16 at the Salvatori Room of the Dorothy Chandler Pavilion of the Los Angeles Music Center at 135 North Grand Avenue, Los Angeles. A highlight of the meeting will be installation of the 1997-98 officers of the group. Members of the 1996-97 Los Angeles County Grand Jury will be present, as will various Los Angeles County officials and special guests.

All persons interested in the grand jury as well as members of the Grand Jurors' Association of Los Angeles County are welcome.

An 11 a.m. reunion will be followed by a 12 o'clock lunch, with adjournment scheduled for 1:30 p.m. Parking is free at the Music Center for this event with either the invitation or identification as attending the lunch.

The luncheon is \$25 per person.

Reservations for the annual luncheon meeting are required. They can be made by getting in touch with Pat Yeomans, 515 Lillian Way, Los Angeles, CA 90004, (213) 465-1669.

Orange County group meets

"The State of the County" will be presented by Jan Mittermeier, Orange County C.E.O., to the Grand Jurors Association of Orange County on Thursday, June 5.

The lunch meeting begins promptly at 11:45 a.m. at the Phoenix Club, 1340 S. Sanderson Ave., in Anaheim.

The lunch costs \$15 per person, and reservations are mandatory. They must be made by Monday, June 1, by telephoning Claire Dufflé, 528-5475 (Placentia); Jodie Harrod, 720-1020 (CdM); or Corralee Arnold, 855-6732 (MV).

Reservations not canceled by June 1 will be billed.

Sixteenth Annual CGJA State Conference

August 22, 23, 24, 1997

ASILOMAR

Grand Jury Reform will be the focus of the annual CGJA State Conference to be held at the Asilomar Conference Center. Asilomar is part of the California Park System at Asilomar State Beach on the Monterey Peninsula, Pacific Grove, CA. On-site lodging requires early registration. Nearby off-site lodging is also available on much shorter notice. The registration form in this *Journal* gives price information for lodgings for those who'd like to stay at the conference site.

An outstanding program is being prepared including, among others, such noted presenters as:

Senator Quentin L. Kopp, champion of SB 1457

Gerald Ulman, Professor of Law, Santa Clara University

Jeanine English, Executive Director, Little Hoover Commission

Scott Thorp, Deputy Attorney General

Jerry Coleman, California District Attorney's Association

Also, there'll be the Friday Afternoon Open Podium during which anyone can query grand jury issues with the panel of experts. In the past, this has proven especially helpful to sitting grand jury members.

Available to all will be the *Compendium of Grand Jury Law*, prepared by the Governor's Office of Planning and Research, and the *1997 Index of California Grand Jury Reports*, prepared by the CGJA GRIP Committee. Also ready for unveiling at that time will be the *Generic Grand Jury Handbook*, a procedural manual for grand juries throughout the state that may not have their own handbooks or may want to update the handbooks they currently use.

Where is Asilomar?

The closest large city to Asilomar is Monterey, one of California's vacation destinations. Located on State Highway 1, it's 115 miles south of San Francisco on the coast. (Drivers going north will find the best road Highway 101, and then turn to the coast at Salinas. Highway 1 through Big Sur is more spectacular, but slower driving.) Commuter flights are available from Los Angeles International Airport, Orange County, and Sacramento. If you prefer larger aircraft than the standard commuter flight, conference planners suggest flying into the San Jose Airport and renting a car for the drive south to Monterey. The magnificent scenery of this part of California's coast is worth a visit - as is the Monterey Aquarium for any who'd like to spend an extra day.

THINKING LIKE A LAWYER

I'M OK - YOU'RE NOT OK

I don't feel very okay toward the California State Association of Counties (CSAC) these days as that organization's Thomson-introduced AB 829 makes its way through the legislature, still presenting a threat to the independence of the grand jury system with its proposed PC 933.05(e). That section would require a grand jury to meet with the chief executive or department head prior to final approval of the report to discuss the nature of the investigation and receive comments from the executive or department head.

My point of view as a former grand juror is that such a requirement begs for argumentation, invites writs of mandate from executives or department heads not satisfied with the extent of discussion, and runs the risk of being potentially intimidating to grand jury members.

CSAC feels that discussing the report before final approval would make it more likely for the report to be "accurate" and that discussion would aid in implementing recommendations.

The fact that we differ in our opinions concerning AB 829 matters very little.

What is interesting is the fashion in which we communicate with each other. . . how our ideas appear to each other. What is interesting in a larger sense is attempting to determine the actual meaning of communications which occur between governmental and quasi-governmental bodies and the citizens who employ them.

What is interesting are the "transactions" that citizens have with government. The word transaction is a word of art employed by the psychiatrist Eric Berne (*Transactional Analysis in Psychotherapy*, Joel Harris' *I'm OK - You're OK*) to describe and explain interaction between a citizen and the government.

It was Berne's contention that everyone adopted either a Parent (P), Adult (A), or Child (C) psychological state when engaged in a transaction. (No other person need be present at a transaction; the other person may be imagined.)

In the manner in which I am employing Berne's structure, even the government is conceptually divided according to P-A-C. The Parental side of county government might be represented by the sheriff's department; the library might represent the Adult part, while all the elected officials represent the Child part. This is to say no more than that as all of us possess in our psyche urges to instruct and protect (as our parents taught us to instruct and protect) (P), that we - unless we are ill - are able to communicate information and observations straight-forwardly (A), that we are sometimes splendidly creative or splendidly spoiled (C).

Assuming then, the following imaginary dialog between CSAC and myself.

CSAC: Say, Steve, did you know that the California citizenry more and more turns to leaders and administrators of local government for answers and solutions to their problems?

Me: No, no I didn't, but just let me say how fortunate we citizens are to have such leaders and administrators capable of providing such answers.

Ostensibly this could be labeled as an Adult-to-Adult (A-A) transaction with CSAC providing information and me providing appreciation for receiving the information. Actually, it is a Parent-to-Child transaction wherein CSAC as knowing parent provides reassurance to a helpless child seeking assistance. Providing that I play my part correctly and give the correct response, both CSAC and I will be able to agree that we "are communicating effectively."

Suppose, however, I should offer a different response to CSAC. . .

Me: No, no I didn't. What studies are you referring to when you state that more people are turning to leaders for solutions? How are problems defined? Why are administrators lumped together with leaders as if the two were equal?

Should I offer the above response, the result will be what Berne called a "crossed" transaction. Either he or Harris illustrated the classic crossed transaction by the example of two persons conducting a P-P transaction by a bus stop. One person comments (P) that "it's terrible how the buses always run late." The other person responds (A) that he has noticed buses only run late ten percent of the time. The first person expected a P-P transaction with the second person perhaps commenting something to the effect that, yes, it was terrible how late the bases ran. When the second person responds Adult, the expected P-P transaction is disappointed by the crossing effect of the Adult-Adult remark.

When transactions are crossed, everyone feels very irritated, misunderstood, or angry.

Berne believed, as do I, that most of the problems between individuals and, therefore, most of the problems between political entities and their citizens were the result of such crossed transactions.

Berne believed, as do I, that most humans were doomed to a history of crossed transactions that would inevitably prevent them from achieving what he called intimacy, the ability to communicate clearly and plainly one's feelings about one's condition.

As our government inevitably lapses into becoming a bureaucratic state, I am not sanguine about the prospects of regaining the intimacy of the village democracy. But if the citizen is to successfully communicate with government, if grand juries are to conduct successful investigations, then I think it is useful to understand Berne's admittedly pragmatic way of understanding transactions. . . essentially people behave as their parents taught them to behave - especially when they are put in a position of making rules and holding power. To fail to understand that the communications which they address to the citizenry are seldom really Adult-Adult but are actually Parent-Child is to disadvantage oneself in the process.

Government makes rules for the best and most benevolent of reasons: it believes it knows the answers. That is why I, like Berne, hold out little hope for mankind, though like him I think "there may be hope for individual members of it."

- - *Steven R. Phipps*

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(The opinions herein are those of the author, a California attorney, and do not necessarily reflect those of the CGJA.)