

CALIFORNIA GRAND JURORS' ASSOCIATION



PROCEEDINGS
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ORANGE COUNTY
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Friday November 2, 2001

Opening Remarks

Jack Zepp: As you all undoubtedly know, this organization is structured with a large membership and then we have chapters and then we have a board of directors. At the bottom of that heap is me, and if you've got anything you don't like about what we're doing, let me know; that's my job. So if you've got complaints, I'm the one you can give them to. We have – the first item on the agenda is the approval of the 2001 agenda and the minutes of the 2000 annual meeting. I'd like to sort of reverse that order and ask if we –

Jodie Harrod: Do you want to welcome to Orange County first?

Jack Zepp: Well, I'd be happy to welcome Orange County. I have a welcoming speech later on, but –

Jodie Harrod: No, but I'm welcoming them.

Jack Zepp: Oh, Jodie, okay. Sure. Come on up.

Jodie Harrod: Are you sure? I can wait.

Jack Zepp: No, you come on up.

Jodie Harrod: I do want to welcome everyone to Orange County. Obviously, I am from Orange County and this is the first time this group has met in Orange County, and I'm thrilled to have you here. It is somewhat of a change because we had to change our dates because of the tragedy, but I'm pleased that so many of you were able to change with us and join us at this time.

Obviously, I am not Supervisor Coad welcoming you to Orange County. She was one of the speakers whom we've changed for various reasons. So if you're looking from the book you'll see an insert. On that insert is the different agenda slightly. And the speakers are different. We have Alan Slater from Orange County, the CEO, Court Executive Officer from Orange County speaking. Ron Overholt is not able to join us nor is Jose Guillen, but we have Pat Sweeten who will discuss court issues, Judicial Council, et cetera. So be sure you look at the insert. It will keep you up to date, hopefully, as to what will be happening. I do want to thank all of you for coming at the changed date. I also want to thank John Hackman and Ron Layman – John from Sutter County and Ron from Santa Clara. So I do thank you and I do want to alert you that even the insert is incorrect. As far as dinner is concerned, we will be in Bristol II and III at the lobby level and -- for dinner and the reception will be in the veranda outside those rooms. So we'll have goodies and a lovely dinner, and I hope to see you all there. And thank you again for coming.

Jack Zepp: Well, now that we have two different agendas I'm bound to really be in the wrong place. If somebody could just bring me dinner, I'd appreciate it.

Jodie Harrod: Oh, Jack, could you – I goofed. Our president of our association he would like to say a couple of words.

Jack Zepp: Sure. Come on up.

Jodie Harrod: John Baird, president of Orange County Grand Jury Association. We have approximately 200 members of our own association, so we're pretty proud of that. So John Baird, president.

Jack Zepp: Many of you may not have heard that, but Orange County has around 200 members. They are the people who got together and made this possible down here. They've done a tremendous job particularly given the fact that everything had to be changed as a result of September 11, and we're very, very appreciative of everything you've done, John.

John Baird: Thank you, Jack. Okay. I also want to bring from our association a welcome to each one of you from our board members and, as well as, the 200 members of our association. We've looked forward to this meeting for some time. We've had a very close relationship with the state organization. So it's been a great pleasure for me to watch Jodie and Rose do all the work to get this conference set up. I enjoyed that thoroughly. I have a couple of things I would like to do. First, we have a small memento there for a person who came from out of state to visit us as a former grand jury member from California, Anne Murphy. Is Anne here? As I recall you're from Sedona?

Anne Murphy: That's right, Sedona, Arizona. My pleasure. How nice. I'm a charter member of the organization. I don't think there's been too many meetings that I've missed.

John Baird: Congratulations. And one more. This is for a member, not a state board member, but a member who has come the farthest distance to our conference today, John Hackman. John?

John Hackman: You know me, I hope I don't have to share this.

John Baird: Not at all.

John Hackman: Thank you. Sutter County.

John Baird: As one final word, again, welcome from the Grand Jurors' Association of Orange County. I hope you find this a pleasurable and a knowledgeable meeting. I'm sure you will, and if we can help in any way, be sure to check with us, talk to Jodie or talk to Rose. They've got all the answers. Thank you again.

2001 Annual Meeting

Jack Zepp: If it makes you feel any better, I also attempted to get my board to approve our comments in the McGeorge proposals four hours early, so I tend to run a little ahead of myself from time to time. The next item on the agenda that I'm looking at is the approval of the agenda itself and of the minutes of the 2000 annual meeting. I'd like to ask Jane Naify, our secretary, to come up and read those minutes to you so that we can entertain a motion to approve them.

Jane Naify: Friday, September 22, 2000 CGJA General Membership Meeting. The meeting was called to order by President Les Daye at 1:30 p.m. Agenda of the 2000 meeting was approved. Minutes of the September 1999 General Membership Meeting were read by the Secretary and approved by the members present. Tellers: Clarence Dilts, Bob DeQuatro and Roger Loper were designated as tellers to count the mail-in ballots for directors. The tellers went to an adjoining room to count the ballots.

Officers' Annual Report to Members:

President Les Daye spoke of the focus and accomplishments of his term: Training programs for incoming grand jurors in LaVerne (south), Concord (central) and Yuba City (north). Legislative positions – support for raising grand juror and opposition to Baugh Bill. Tax-exempt status as a 501©(3) for the Association. Publications – Grand Jury Handbook, Indexing project and Compendium of Grand Jury law. Chapters – helping counties establish affiliated chapters now numbering six. Board activities – establishing and encouraging standing committees. Annual meeting – now attract outstanding speakers.

Dan Taranto, Vice President, Programs, covered the following programs of the CGJA: The quarterly newsletter may appear more frequently and be posted on the website. Requests for publications; institute of Governmental Studies has requested copies of conference proceeding. Judicial Council has requested copies of several of our publications. The publication list has grown and is available for purchase. GRIP; indexing of grand jury reports is proceeding but need more help. Generic handbook need volunteers to update. Compendium of grand jury law did not include case law or law journal; however, recent revision does include. Teleconferences; by locating a new “bridge” source with reasonable rates, it is now possible to have frequent teleconferences for both board and committee meetings. Training programs; LaVerne in 1999 and in 2000 held at Yuba City and at Concord. High school civics project; Clarence Dilts and others are developing materials for use in high school civics classes. The website has been expanded. Legislative program; association has taken a position on several bills. Governor Davis vetoed grand juror compensation increase. Chapters; committee at work helping counties interested in establishing chapters. Fund raising; not greatly successful, but we have received some contributions and gifts. Archiving; reports and other documents from grand juries are being accepted.

Linda Baker, Treasurer. Report, fiscal year ending June 30, year 2000: In the savings account \$5,703.58; in the checking account \$8,813.80. Mike Miler, Vice President, Membership. There has been a marked increase in membership with the number rising to around 300. Several members including Linda Baker, Sherry Chesny, Rick Ostler, Jack Kramp and others have made efforts and offered suggestions to attract new members. Request for additional ideas and help in further expansion of the membership.

Nominating Committee Report – Linda Baker, Chair. The nominating Committee, Linda Baker, Sherry Chesny, Susan Haas, Janet Praria, Mickey Strang and Phyllis Webster. 24 candidates were nominated; 263 ballots were mailed with 108 returned. Two of the returned ballots were received after the September 5th deadline and so were not counted. Announcement of new directors – Les Daye. The Tally Committee reported the following count: 112 ballots received; 81 positive votes for the new directors; 8 late or otherwise voided, and 8 write-ins.

Committee Reports:

Conference Committee, Elwood Moger, Chair. The Conference Committee composed of El Moger, Linda Baker, Les Daye, Jodie Harrod, Mike Miller, Dan Taranto and Jack Zepp met nine times planning the conference. The objective of the conference was CGJA's membership with the annual membership meeting moved to Friday and with emphasis on recognizing and honoring chapters. Conference registration for 2000 included: 47 CGJA members (8 of whom are currently sitting grand jurors); 1 Associate member; 14 non-member sitting grand jurors; 2 guests; 64 registered attendees; 11 spouses and significant others, bringing the total to 75 in attendance. The 2001 Annual Conference will be held in Orange County with the Orange County Grand Jurors Association under the leadership of Jodie Harrod as host.

Training Committee, Sherry Chesny, Chair. Sherry provided a brief history and background of the CGJA training program and a reminder of the 1997 legislative mandate that each county is to ensure that the grand jury receives training. She covered the goals and objectives and outlined training guidelines that are the focus of the workshops. She also provided specific information about the training seminars held at LaVerne Law School in August of 1999; Yuba City, August 7 and 8 of 2000; and in Concord, August 21 and 22 of 2000.

Chapter Reports:

Los Angeles County, Audrey Lynberg, President. The Grand Jurors' Association of Los Angeles became the first chapter of the CGJA in April 1999. Chapter activities include: luncheon program meetings three times a year. February, presentations from various county departments; June, annual luncheon featuring high profile speakers; and October, presentation from most recent grand jury on their past year of service. Participation in a docent program to help incoming jurors. In 1998 and '99 prepared a judicial survey to provide information on judges in contested races. In 1999 helped to coordinate and host CGJA training program at LaVerne College of Law; and have compiled mailing list of former grand jurors.

Marin County, Jack Olive, Director. A steering committee headed by Bob Abeling, the forepersons of two prior grand juries and several others took the initiative in organizing a group of former grand jurors who paid the requisite dues, elected officers and applied for status as a chapter. Accomplishments for the year included: Setting up a Finance Committee. Establishing a Public Relations Committee as an outreach to the public. This committee has sent out letters to various organizations; speaking engagements across the county; setting up tables at farmer's markets; future plans include writing articles for local newspapers and letters to the editor. Records and Archives Committee that has indexed grand jury reports back to 1980-81; unearthed and made available various library materials; established a website; shepherded filing of reports and responses with state archives. The Implementation Committee has worked on procedure for follow-up where remedial action has been agreed to. Training Committee, in cooperation with the Administrator of Courts, has devised, organized and supervised a week training session for incoming jurors and has also worked with sitting grand jury in updating the manual for grand jurors. The Social Committee organized picnic for members and guests.

Monterey County, Joe Tacker, President. In an August 1999 meeting attended by former grand jurors, it was agreed to make applications to the CGJA for a charter. The application was approved in October 1999. In subsequent meetings, committees were established and began making reports to the membership. Working with the Superior Court, they were able to send information and a meeting notice to some 169 past jurors. Action so far: Established a system for collecting and preserving press coverage of grand jury activities. Reviewed the draft of the County's responses to the 1999 and informed the County of deficiencies of responses under the Penal Code. Prepared a detailed analysis of responses to the final report of 1999 grand jury which was presented to the County Board of Supervisors and to the 2000 Monterey Grand Jury. Provided speakers to two local service organizations to describe the functions and activities of the Grand Jury. Future plans include: to take positions on legislation such as opposition to any reintroduction of Baugh Bill. Establish and staff a booth at the Monterey County Fair to provide information about grand juries. Develop analysis of responses to grand jury reports in the form of a newsworthy press release. Prepare summary of Monterey County Grand Jury inquiries for past ten years to see what public bodies have received attention from the Grand Jury and which ones have not; and to formalize the Speakers' Bureau arrangements and produce outlines for the use of the speakers.

Solano County, Don Enneking, President. A kick-off meeting was held in June 2000 where it was agreed to seek a chapter status in CGJA. This petition was approved in July. Invitations were sent to 109 former and current grand jurors; 16 attended the formation meeting and another 10 former grand jurors who were unable to attend expressed interests in participating. The membership is interested in pursuing the following activities: The existing grand jury office building will be demolished for construction of new county administration facilities. The chapter will coordinate with county officials to ensure adequate new offices for the Grand Jury. Pursue a city of Vacaville location for future grand jury training. Pursue impanelment of the incoming Grand Jury as early as possible to allow them to take advantage of training as soon as available. Pursue legislation to require that all cities and counties be required to retain adequate records of all expenditures made.

Sutter-Butte Chapter, Diane Westmoreland, President. The chapter was started in 1999 and became an accepted CGJA chapter in April of 2000. The Sutter-Butte chapter has voted to donate \$250 to the CGJA. Our goals (some accomplished and some for the future) are: To promote community education as to the duties of the grand jury. The chapter has produced a video called "What is a Grand Jury?" Arrangements have been made to have the video shown on local TV four times a year last year and several times this year. The video is available for use by schools and civic groups. Copies are also being given to the CGJA and to all chapters. Provided assistance to the state association for the training seminar that was held in Yuba City by helping with registration and preparing 200 gift bags for the participants with donations from local businesses. To have a booth at the Yuba/Sutter County Fair to share information about the Grand Jury; and to promote grand jury education through the schools and colleges.

Tulare County, Phyllis Webster, Vice President. The Tulare County Grand Jurors Association was organized in 1989 but became dormant in 1994. In January 2000 past grand jury members met to reorganize; meetings in February, March and April included revising by-laws, electing officers and meeting requirements to qualify as a chapter of the CGJA. Currently the chapter has 20 members and ten of them are members of CGJA. Goals for the chapter include: to increase public awareness of grand jury functions; to update "Your Tulare County Grand Jury" brochure; to keep close watch on legislation aimed at weakening the grand jury system and in supporting legislation that strengthens the system.

Membership Comments to the Board of Directors:

Les Daye has learned much from newsletters of local associations.

Bud Alne from Santa Clara; need to look at intent of 925, not being followed, need to define jurisdiction of grand jury.

Lou Phillips, Solano County; no state laws that require proper spending procedures other than what rules they set.

Peymon, San Diego; this is a common complaint – obstruction of grand jury work.

John Woods, Foreman of current Solano County Grand Jury, wants ideas on creating new facilities.

Emma Fischbeck, Los Angeles; Los Angeles chapter has done survey of judges – asked what are your qualifications and who is supporting you.

Audrey Lynberg, Los Angeles, spoke about problems with the new criminal/civil grand juries in L.A. Also spoke of problems of disagreements on CGJA Board of Directors and suggested that membership keep up with what the Board is doing.

Marianne Jameson, Secretary. Meeting adjourned at 5 p.m.

Jack Zepp: I'd like to entertain a motion that those minutes be adopted except – they need to be changed in one respect – Peymon is from Orange County, not San Diego. With that change, can we get a motion to adopt the minutes? Oh, and I'm sorry. Roger Lopez is Roger Loper, having recently moved here from Mexico. All right. Do I have a motion?

Audience member: So moved:

Jack Zepp: A second?

Audience member: Second.

Jack Zepp: All in favor?

Audience: Aye.

Jack Zepp: Opposed? Abstentions?

The next item on the agenda that I'm working from which might not be quite the same as the one you're working from is approval of the current agenda. Now it's obvious to me that the agenda that's in your green – in this document is not quite the same as the agenda we're actually using which is this green handout, so I'd like to entertain a motion to approve the agenda as set forth in the green handout.

Audience member: So moved.

Jack Zepp: Second?

Audience member: Second.

Jack Zepp: All in favor?

Audience: Aye.

Jack Zepp: Opposed? Abstentions? Thank you.

I think we're up to the officers' report, and I believe mine is the first. I'd like to start it by reading a letter that was sent to me by Pat Yeomans with a request that I read it to this group. It's brief.

It says:

Dear Jack,

Greetings to you on your first California Grand Jurors' Annual meeting. I'm sorry I cannot be there to welcome you and the grand jurors on September 14th. My husband who is 91 years old endured two emergency operations on his legs in June and August for aneurysm of the femoral arteries, and I came down with benign vertigo three weeks ago. It's not very benign to have dizzy spells every time I stand up, and I don't feel quite recovered enough to drive down to Costa Mesa. I would love to hear about the three training sessions and learn what would be the outcome of the grand jury reform proposals. Thank you and the CGJA for the lifetime achievement award in 2000. It was a surprise and a delight to receive it. Now it's your turn.

Pat, as most of you in the room probably know, has been a driving force of this organization for many, many, many years.

I would like to thank all of you for making the effort to attend this conference after we had to reschedule it at the last minute due to the unfortunate events of September the 11th. Those horrible events and the destructive aftermath have cast a pall over just about everything, but I do want to report that we have some good news about the association.

In the course of any year we engage in many activities all done on a shoe string by fantastically dedicated volunteers. A primary activity of late has been in training bringing high quality training and diversity of use to counties around the state to our regional training programs. The programs were successful again this year in a three day – three two-day training programs we brought together over 370 jurors at three locations to learn the basics and share the individual county experiences that they have had among each other. We also trained new jurors, new trainees this year so that now we can continue to expand our training efforts without exhausting the few who have been doing it all for so many years. These regional training programs rely heavily on support and assistance from the local chapters and the past grand jurors. We are indebted to them for the invaluable support. We are beginning to look at new delivery mechanisms; audio and video tapes, close circuit TV, web base training, et cetera. If you have any thoughts about these methods, please let us know. We really need our expertise in expanding this project.

Our member and chapter relations continue to be good and are getting ever better. We have four new chapters, making a total of ten; and some are experiencing with new and exciting ways of functioning in their communities and helping their sitting grand juries. Our membership is up and hopefully will continue to rise. We have launched a revised more frequent and hopefully more informative journal of itself the primary benefit of membership in this organization. We have established new printing methods, bulk mailing capability, and through email in particular we are now receiving and processing and publishing a lot more information than we used to be able to do. Our website is improved and draws attention whenever a grand jury event makes the general media.

I will mention to you that when the grand jury was asked to investigate Jerry Condit, we got a burst of email inquiries and website tips from the news media because they look for grand jury and we show up, and so they come to us to ask us what does a grand jury – what do they do. Despite serious and, I think, unintended legal obstacles that are creating a gap between the courts and the regular grand juries, we are working towards a rapport and hopefully some joint projects with the Judicial Council and its administrative office of the courts which is the body that oversees the courts in the state. And we are trying to maintain our traditional ties between the courts and the grand juries. That's going to be a subject that will come up a lot over this weekend.

One of the things we're really, really trying very hard to do is keep the link between the courts and the grand juries, and as you'll learn over the weekend right now as a result of legislation and a Supreme Court decision that basically they're out of the grand jury business, and we're trying to bring that connection back. We have just completed the initial analysis of an ambitious survey we devised and sent to all 58 regular grand juries. As of right now 76 percent of the grand juries have already responded to that survey, and we're seeing some very fascinating data which El Moger is compiling and is very familiar with and if you have any questions about that, you ought to seek out El and talk to him about that.

The summary of those results are set out in the October Journal. If you haven't read them, I suggest you do so. They're really quite interesting. We have copies of a more extensive report on the survey which is available on the publications table, assuming it got set up; I didn't see it when I came in, but presumably sometime during the weekend there will be a publications table out. Dan, is it out there right now?

Dan: No, I don't see it.

Jack Zepp: Okay. It'll be out there tomorrow? Okay.

The divergence and the support budgets and the practices of the grand juries is a mess. We kind of knew that. We have no idea how diverse they really were. We now have a pretty good handle on that. We believe that that divergence is going to have to be taken into account in connection with any effort to reform the grand jury system, which as you all know is currently in the works as a result of the McGeorge proposals. And we're trying to make sure they understand as we now do how different these organisms are that they are deal with a one-size-fits-all kind of reform.

We've been playing and continue to play a serious role with respect to the Grand Jury Reform proposals. We will release our responses to those proposals as soon as this writ is done. We'll be discussing them later in our conference. The Board has already approved a set of – a 30-page response to the proposals. We want to have a conversation with you all about them before we release them and then they'll be revised according to what the Board has asked us to do in terms of revisions, and they'll be sent to McGeorge.

I believe those are also going to be available on the publications table, once we have one. Our structural reorganization, which I'm sure you remember, we undertook last year, bringing -- taking a consolidated organization and trying to revise its basic operating rules and policies and procedures is well underway. The Board approved brand new by-laws an hour or two ago which I think will be very beneficial to the organization. We have a very comprehensive set of new policies and procedures that Roger Lopez – I'm sorry – Roger Loper drew up for us that will probably be approved over the course of the next months. Policies and procedures are not easy to get a 24-member board behind, but we'll get them done sometime in the next year, and they will give us our – I think they will be appropriate to the organization you now have and I hope you'll be supportive of them once we adopt them.

We're bigger than we used to be. We're getting better. We're growing. I think that's all good news. We are currently viewed as the voice of the Grand Jury in California. If something happens that involves a grand jury, we're the ones that get the call from the legislative analysts or the press or whoever is interested in that. And I think our star is rising, and I think we are definitely becoming accepted in the community as the legitimate voice of the Grand Jury in the state of California. And I thank all of you for that because you're the ones that made it possible.

Next off is we have a report from Elwood Moger, our vice president. Elwood reminds – thank God for El or this organization would be in chaos. El reminds me that I'm supposed to delegate the tellers to count the ballots. The people who have already agreed to do that are: Mike Miller, LaTonia McDaniels, and Dotty Coplen. They are the people who are going to -- when Barry Newman gets done with his comments they will take the ballots and go off and count them. Thanks, El.

Elwood Moger: Well, welcome to the 20th annual conference of the association. It's awful good to see a lot of faces here we've seen in the last several conferences and some new faces, and it's

encouraging. I'm here today to give you a short report on our operations and some of our major functions that have been going on over the last year, and to make some introductions.

One of our major functions this year and major efforts is the annual conference, and this conference for 2001 was chaired by Jodie Harrod. I'd like to have Jodie stand for just a moment. Could you stand in the back of the room. And there's another lady here that has helped immensely and that's Rose Moreno. Rose, are you here? She's outside; so we can recognize her when she comes back in. Can you get her, Jodie? She's gone, unavailable. Out working on the conference.

As a state association we're awful pleased to have this wonderful relationship with the Orange County Association. And for many people at Orange County – I know that Jodie has mentioned in her thank-you note Sheldon Singer, John Baird, Carol Morales, Jim Nolan and Jim Quiros who put a lot of extra work in. And I know in talking to Jodie in the many operations committee meetings we've have – here she is in the back of the room. I just want to recognize this lady. Come in here now, come in here. This is the lady that did all of the little things that you have with great comfort here, your name tags, all the badges, the registration and all. Rose, thank you so much. Thank you so much for all your wonderful work. So there were a lot of people at Orange County Association that have participated, and it's a wonderful feeling to have this bonding with this wonderful historic association in Southern California, and we thank you very much for hosting this conference.

Next year in our planning we're going to have our 2002 conference up in Marin County, and I'd like to introduce Bob Abelung, if he's here, who's going to be the conference chair. Bob, if you could just stand up? He's going to have all the headaches next year. We're pleased that the Marin chapter of our association is going to be the host for next year's conference.

Another major effort this year was our journal. Jack mentioned it in his comments. We're fortunate to have a team of Ourania Riddle as our editor and Bob DeQuatro for design and layout. And we've expanded trying to get closer to our membership and keep you informed and the many outside publics informed about our issues, and so we've gone to eight issues in a year from the quarterlies that we've had. It takes a lot of effort by our officers, our committee chairs, our chapters and a lot of individual writers, but hopefully you're finding it rewarding as you're getting it in the mail as members or our association.

We've had several new functions in 2001. We started a central data base under Clif Poole who was – had the talent and came forward, and we now have in a computer program all of our membership, all of the presiding judges, all of the grand juries, all of the court executive officers throughout the state of California. And Clif has done a wonderful job in that regard, and next year our goal is to put all of the legislators in so we can cross reference our members with our legislators as we need it down the road. As Jack has said, Roger put in loads of time – Roger Loper – to the policies and procedures. We're on our fifth draft of that, and he's got a subcommittee working on that. It's a major effort that we've undertaken.

We have done a number of centralized mailings. We found that a bulk mail permit would help, so we are mailing out bulk in California. Mike Miller will be also using a bulk mail permit out of San Mateo area. That means the mailings are a little slower sometimes when you're doing the bulk mail, so sometimes our members get a little concerned they haven't gotten it right away. The bulk mail system does take a while, but it saves us loads of money. An issue also came up this year about our archives, and the operations committee looked into that and we've resolved that our archives at the start will be our board minutes, everything in those packets will go to the

boards, and Jane Naify, our secretary, is going to watch over that for us. So we're starting some historical references for our association.

Continuing functions that we've had this year is the update of the compendium that Jack Zepp has done with his legal background. Les Daye has continued to energize the grand jury report indexing project. That was started back, Les, what, in '93 we did a shot at that and then were trying to get that going again. So we're going to be calling upon our chapters around the state and the members to help us with that. It's a vital project. Les did a nice inventory with Dan Taranto at the state capitol on what's in the state archives as such. We're continuing to maintain our teleconferencing under Dan Taranto's leadership where we have all of our board meetings on a teleconference and our committee meetings on a teleconference. And that's how we communicate around the state. It's very effective. And Jack has mentioned our website that he continues to watch over for us.

We had a couple of special evaluations in 2001. We looked at a Sacramento office and we looked at an 800 number for our association. Both evaluations proved that we're not ready as an association for that, but all the research that Jane Naify has done is there. And as we grow as an association we have a lot of good background if we want to create an office in Sacramento or an 800 number. We also looked at some liability insurance, and we had a problem with this conference. The hotel here wanted to have a million-dollar binder for a liability for this conference. Jodie was able to get that removed so we didn't have to go to retaining our own liability insurance.

Lastly, I'd like to recognize some people that are here today from our chapters and our independent associations. Later on in the program today we're going to have a little feedback session, a little round table with our independent associations and with our chapters as we go forward. Clif Poole is the chair of our membership and chapter relations. Could you just stand up, Clif, so everyone can recognize you. Thank you. And he's going to be working through his committee on a strategy for our chapter relations and our membership expansion as such. But as Jack has said we have four new chapters. Mendocino has come in with a chapter; Napa, Placer and San Mateo. San Mateo is a standing independent association that switched over to a chapter of our state association, and so we're pleased to have them come in.

There are some introductions that I'd like to make just so you see some names and as you talk amongst yourselves you can recognize, and if you could just stand. Roger Loper is the president of our Monterey chapter. Roger, thank you. Louise Whittle – is Louise here – from Tulare. Louise in the back of the room from our Tulare chapter. And we have Jack Friesen from Marin. Jack is over here from Marin County as the host for next year's conference. And we have Dotty Copen – is Dotty here -- from Mendocino. She has come all the way from Mendocino County. And we have Clif who was introduced earlier from our Solano chapter, and Jeanne Forbes is here from Tulare also. So we'd like to welcome all of our chapters here.

Audience member: And also coming very far is Jim Kelly, chair of the San Diego chapter.

Elwood Moger: Oh, I didn't know he was here. Please stand up, Jim. We're awful pleased to have you. I didn't realize that. Thank you. I stand corrected.

We do want to recognize our independent associations. And John Baird who was here – would you just stand up – our host association for this – awful pleased to have you. Is Ormand Colbert here from Riverside. Ormand's in the back. He's always here. It's always good to see you, Ormand. And of course Barry Newman and John Kelly. Barry is the vice president and John is

the president down in San Diego. And lastly we have Boyd Horne who is the vice president for San Luis Obispo. So we're awful pleased to have him.

We're looking forward with real excitement to energizing our relationships with our associations, the independent associations and the chapters. As Jack has said, it's very important to band together as a family, and so we're pleased to have this relationship with Orange County, and we're looking forward to furthering it with Boyd and the people in San Diego and throughout the state. Because if we stay together we're going to have some recognized powers so and we're pleased to see the turnout of the officers and the people from the associations and the chapters. And so with that I'll turn it back to Jack and –

Jack Zepp: Thank you, El. I appreciate it. Janet Praria, our treasurer, is going to give you the treasurer's report.

Janet Praria: The financial report was published in the September journal, and I'm hoping that everyone had a copy of it and read it. Does anyone need a copy to look at now? Boyd had some extras if you need them. Also, there was a note for the budget which is on page 5 that if anyone needed an expanded copy of the budget those were available. I got no requests so I guess everybody's happy with the approved budget and also with the financial statement. I would like to mention that the net worth of the California Grand Jurors' Association has an increase of 59 percent. I'm quite proud of you for doing that. Also, we have kept our committees to frugality so we're showing some progress. And I – let's see. Although the California Grand Jurors' Association is – reports on a cash basis, to give accurate accounting for both training and for the conference, we accrue -- if the balance sheet looks a little bit different than it always does it's because we have accrued those expenses for this year so that we have an accurate, accurate accounting for what this conference costs and what our training expenses and income actually are. So that's the only difference that we've made this year.

As I said, our committees are being very frugal. They're really toeing the lines and – but still getting things done. And most of it – a lot of it, I should say, not most of it – but a lot of it is through the contributions of the board members themselves. They have very – have contributed quite a lot that we don't see. And I would like to remind each of you as my parting memo, you have 58 days left to get tax deductible contributions to California Grand Jurors' Association because we are a tax exempt, tax deductible organization. Thank you very much.

Jack Zepp: Thank you, Janet. Now Jodie, if you would stand by the door and nobody gets to leave unless they make a contribution. Barry Newman is the chairperson of our nominating committee this year. He's been asked to introduce the committee members and turn over the ballots.

Barry Newman: This is now the official part of the meeting. Mr. President, pursuant to the instructions contained within the ballots provided to all members of the CGJA, I was the individual to whom ballots were to be submitted which ballots were required to be postmarked prior to 1 September 2001. I hereby certify that I've received 113 ballot envelopes which were postmarked prior to the designated date. All but one of which are here being submitted to you received, stamped and unopened. The first one of which was unfortunately opened by mistake. On 21 August I received an email from a member of the association which is enclosed which requested that I change his ballot by deleting one candidate and writing in another. Being unable to, A, either identify his ballot since none were open or carried identification, or, B, even be sure I had received one from him, I was required to refuse his request. There are also 15 ballot envelopes received by me with either postmarks later than the designated date and/or in non-

provided envelopes. One of these 15 is an envelope from the Monterey County chapter. As required, as I understand it, under the instructions I hereby challenge the 15 envelopes and request that the duly appointed counters either confirm my challenge or validate these ballots if in fact that is what they contain. Thank you. If you would give that to Mike Miller. And Mike and Tony and Doty if you would adjourn to – I assume it's the – Jodie, is it the Santa Maria room or – where are they supposed to count the ballots? Sherry, would you give the report on the training committee please?

Sherry Chesny: You can tell the training committee is of high priority. That's why they keep me hidden back here in the corner. Actually I'm back there trying to learn how to work the sound system. I've learned one thing so far; it's very complicated, much more than I thought originally. If it's up to me to do it, they're going to have to hire somebody to do it. Luckily for us Ron from Santa Clara County stepped forward and filled in that void.

Okay. On the training report. I'm happy to report that our training seminars continue to grow. The first one – CGJA got involved in 1999 the first time conducting a regional training seminar. We have one in LaVerne at which we had 50 jurors attend. And 2000 we had two regional training seminars; one in Yuba City, which is in the Sacramento area, and one in Concord, so the Bay area. There we had 315 jurors attend. Quite a leap. This year in 2001 we've expanded to three seminars. At Sacramento, one in Concord, and the third location was in Bakersfield. Sacramento we had 180; in Concord we had 125; in Bakersfield we had 70. This is a total of 375 jurors at the regional training seminars this year. They represent jurors from 34 different counties. So that's quite a few out of 58 counties. I think that's very good.

In addition this year in addition to what we trained at the usual training seminars, we also sent our trainers in to individual counties to do some training in specific circumstance. So there were three counties that were impaneled too late to attend any of the seminars. And a couple of those counties we have sent our trainers in. We have also done some training with the calendar year grand jury. Of the 58 counties, three counties are on calendar year. That's Sonoma, Monterey and Madera. So that would include a number of grand jurors that were trained by us going to them which would probably be about another 55 total. So that would bring the total up to 430 grand jurors in 2001. So, I mean, we're pleased with that number. We think it's growing. It's doing some expanding and we're happy about that.

For those who are here for the first time and they're not – they've never attended a training program or not familiar with it, I'm just going to give a brief overview of what it entails. First of all, it's a two-day training program. A full two days. We work you hard. Some of our former members are here and they can attest they're pretty tired at the end of the second day. The main part is what we call our core program, and that is our basic subject. These are interviewing, investigations, report writing, grand jury statutory authorities, the law and another one called grand jury organization and continuity. Those five subjects are taught in small group sessions. We take the large group, 150 people there, we divide them into five, segment the people up from different counties and we get to know people from other counties. And we have five groups of 30. And they are on a rotating schedule so that each person gets all five seminars – or all five subjects.

We found that by doing these basic subjects in smaller groups rather than in large groups gives us a lot more opportunity for interaction, a lot more opportunity for questions and answers in small groups. So it's more work for the presenters because they do the same thing five times in a row, but it works out because it's much more effective. In addition to that in our large group session we have a series of panels. Some of our panel discussions have been – we have a panel

for the forepersons and forepersons protem to share information and discuss their unique views of the leadership. We also have a panel called “Grand Jury’s Pitfalls and How to Avoid Them.” We have panels on handling news media, those types of subjects; getting started, being organized.

We also have a lot of individual speakers. We have guest speakers that come in and speak on a specific topic that all goes to grand jury work. We have presentations by county council; untangling the maze of local government where they look at different layers of government, who’s responsible for what. We have a – these are some of what we’ve done in the past –one on management auditing. If there’s any field in the private sector that’s most similar to grand jury work I think is management auditing. And they share with the grand jury on what to look for. We had consensus. We had how to investigate law enforcement taught by a former juror who has 34 years experience in law enforcement who’s also an attorney. We’ve really had some really good quality presenters with a variety of subjects. So you bring a variety of guest speakers to round out the program.

One of the things that we intended was being able to meet the other grand jurors from other counties. They feel they can learn a lot from other counties. It’s an opportunity to exchange information about grand jury practices and procedures. And it’s always amazing to realize how different the 58 counties operate. Which is fine. But this allows an opportunity to share some good ideas. I’d like to say this too about our training program. It is very complementary to county training programs. Most counties do some sort of a local training program. Some not so quite extensive, some are. But our training program is very complementary. If there’s not in place a county program, there should have. We like to see both. We feel that both is beneficial to grand jury.

It is interesting to me El’s committee has done a comprehensive survey on grand juror’s practices in which 44 counties did the survey of 100 questions. In the section on training and of the 44 counties that responded, 27 of those counties send some of their jurors to a CGJA regional training seminar. Of those 27, 22 use it in conjunction with their own training program. So it’s very compatible with county programs and a lot of the counties from Marin, San Francisco have very good training programs do send their jurors to CGJA training programs as well. The cost of the seminar is \$75 for a two-day seminar which is very reasonable. Back in the late ‘80s, early ‘90s I worked for another nonprofit corporation that would provide their training programs in the state of California; they charged \$250 per juror for a two-day training seminar. So the fact that we’re this much later in time, with inflation, we’re doing it for \$75 I think says a lot.

It’s kind of indicative of what I love about CGJA because CGJA is basically a group of former grand jurors trying – that are dedicated to improving the grand jury system. They’re not trying to build – we do need money, but money is not the prime focus. There is no self-gain at all. It’s strictly a dedication to helping the grand jury system throughout the state. And that’s one of the things that I’ve always loved. And we try and keep our price down as low as we possibly can, the directors to the board to the training committee, the seminars; don’t go in the red, try and stay in the black. But, you know, just make a small profit, if any. Break even or make a small profit with that small profit going back in improving training and developing materials and expansion. So, you know, I think that that’s very healthy. We really appreciate that. And extended that spirit of cooperation and dedication, it stems from our chapters. What we have found very helpful in doing these seminars because there’s a tremendous amount of manpower there before, during and even after the seminar to implement from beginning to end.

Our chapters have really helped us out with a lot of volunteer manpower and this year the Placer County chapter they did all the registration. We had all the volunteer help we needed at the local site. In Concord it was the Solano County chapter. And in Bakersfield the Tulare County chapter. So that's been very helpful to us. We are -- as our training seminars go forth we have to add more and more training. We added some last year and will continue to add trainers. I would love to see it eventually get to the point where we have groups of trainers throughout the state of California.

We are also looking at other methods to provide training in addition to seminars while we have a subcommittee that is working on this. One of the things I'd like to acknowledge too at this time is this audio/visual system. One thing in training, when you put on a training seminar in a hotel, to rent the AV system cost usually around \$600 to \$700 per seminar. So we have three that's just a little over \$2,000 just for that one year just the rental cost for the equipment. Last year through the Val Cavey fund they gave us -- they purchased a new AV system -- a used AV system for \$1800. We used it at the seminars this year and we're using it here today. So it has more than paid for itself in one year. And to that end Bob Headland in the back; I'd like to specifically thank Bob Headland. He was a major contributor to this fund and is chairman of the Val Cavey fund. So thank you, Bob, for everything.

I also want to tell you that the audits of the training committee have been completed. Janet has that. I don't want to go through the figures; you can get that from Janet to get copies or whatever. There's some things that we need that you could really help with. First of all, if you know a former juror that you feel would be a very good trainer, let me know. I'm always collecting names. We have application forms. I can give you more information, whatever. I will put on this white board I will put my name. I will be here until 5:00 tomorrow, but later than that; I have to help pack up the AV system. But also I'll put my email and my phone number so you can contact me later if you can't do it while you're here. I'm trying to develop a list statewide of possible guest speakers. So if you know of someone with an area of expertise or someone that has a very, you know -- you feel they'd be a good presenter for a specific topic, let me know. We also could use somebody that could help -- people who are computer savvy to help us do presentations and other things. So that's it. Thank you.

Jack Zepp: Before I introduce our speakers who I believe are both here right now, I want to follow up on something. Sherry said about the training program and the fact that one of the things it does is provide people from different counties to get together and find out how things are done in other counties. This can sometimes be a real eye opener. I'd like to sort of move that idea one step further and ask each of you here to try to make the effort to meet one or two people from different counties than your own county during the course of the weekend. It's one of the ways we can try to bring ourselves together as a group, and I also I think we could spend a little time talking to people from other counties. You'd be very impressed with how differently things are done in various different counties.

Speakers—Alan Slater and Pat Sweeten

Jack Zepp: Now I'd like to introduce our speakers, but I find I do not seem to have their resume -- oh, okay. It's missing the green sheet that I keep forgetting. Okay. Our next speakers are Pat Sweeten and Alan Slater who are going to speak to us together. Pat is the Assistant Division Director of the Trial Court Programs division in the Administrative Office of the Courts, which I think you all know is the staff agency for the Judicial Council which is in turn the constitutional agency that oversees the courts in the state of California. Pat has been employed by the AOC

since May 2001. Prior to that she spent three years as the Assistant Executive Officer and CFO with the Superior Court of Alameda County and ten years as the Assistant Executive Officer of the Superior Court of San Diego County. So many of you here from San Diego probably know Pat. In addition to her court experience, she has extensive experience in the fiscal management field, having worked for various county agencies, including the Chief Administrative Office of San Diego County. Ms. Sweeten attended the University of California at San Diego.

Alan Slater is the Chief Executive Officer and Clerk of the Court and Jury Commissioner for the Superior Court of Orange County. Orange County has 143 judicial officers and 1600 employees – pretty big organization – Mr. Slater has primary responsibility for all of the administrative, non-judicial functions of this metropolitan court. He currently serves as an advisory member of the California Judicial Council and as Chair of the Judicial Council’s Court Executives Advisory Committee. Mr. Slater is a member and past committee member of the Forum on the Advancement of Court Technology. He holds master’s degrees in judicial administration and business administration from the University of Southern California and a bachelor’s degree in business administration from Rutgers University. I think we’re going to very much enjoy what both Pat and Alan have to talk to us about. So I’d like us to welcome them to the dias up here.

Alan Slater

Thank you so much for inviting us here. We appreciate the opportunity to talk with you. One of the things I think we want to do is to hear from you and to know what your issues are so that we can assimilate them into our program and try to answer any questions about our respective agencies to the administrative courts and the superior courts. One of the things that I just have had the honor of becoming is the chair of the court executive advisory committee in the Judicial Council, and as also an advisory member of the Judicial Council it gives me the opportunity to provide information about the issues and the needs of our various constituencies and that includes of course our grand jurors. Many of you don’t know me; I know some of you do. I’ve been involved in the courts for 29 and a half years. I have had quite an experience working with and impaneling grand jurors during all of that time.

In fact, my first experience was in 1972 when what we had to do was actually impanel a grand jury and hold it over for an 18 month period because of a huge situation with political corruption indictments in Orange County. So we went through that kind of period and they ended up with an 18 month grand jury, which of course many of you know means you have to do another 18 grand jury to get you back on year to year cycle. We’ve done that twice in my career. Once due to the bankruptcy more recently and that time back in 72-73 period and so we’ve had – I think I’ve had a tremendous experience and I think an affinity for the tremendous work that the grand jury does for the citizens of our county and I think for the citizens for the state of California. So I am just very, very pleased to be here.

I thought I would mention a couple of things that I think are important in terms of continuing critical relationship, in my opinion, between the Superior Court and the Grand Jury in each county and I think this is a role that the Grand Jury as a part of judicial part of government needs to remain very strong and needs to remain a component of the judicial branch under the wing of the Superior Court. Now that we have a single trial court and there’s only a Superior Court in each county, I think it makes it easier also to have a process in place that involves all of the judges of the county in the ability to recruit and select and orient the grand jurors. And just as an example and I left on the back table there for those of you who would like it – Orange County Superior Court has launched its 2002-2003 Grand Jury recruitment process. We launched it on

the first of October. It's the earliest we've launched it before, but we find we increasingly need more time because our recruitment efforts keep getting more and more comprehensive. And we're actually really proud of that. We have a flyer back there with materials behind it about grand jury service, very thorough called, "You Can Make a Difference." Don't miss the chance to submit an application to be a member of the 2002-2003 Orange County Grand Jury. It includes an application form and information about grand jury service.

We have, obviously, hotlines. Many of you know that November is our grand jury awareness month. We make a big, big effort to communicate with the public in Orange County during that time. We have a short form invitation to participate in the Orange County Grand Jury flyers that we get out and send out to a large volume of people. We have solicitation letters that go out in the thousands to former grand jury applicants to companies and community groups of all varieties again in the thousands and to minority organizations to all kinds of media organizations for the purpose of getting the word out. So our recruitment efforts are very substantial. Every year the presiding judge appoints a grand jury recruitment selection committee. There's as many as 30 judges on that committee.

And it's -- to some extent it has changed quite substantially over my career. In the old days it used to be that we created a panel of 30 based -- of people who knew a judge. Every single one of them was a judicial nominee who was intimately known by one of the judges. There was no public recruitment. That recruitment was internal to the judges, and that panel of 30 that the judges formed would then go through the random selection process. Now what we hope to do is to get 250 or 300 applicants. We then go through an application screening. And when we put out that application process we say what the criteria are by which the judges will evaluate qualifications of grand jurors -- prospective grand jurors. And then the judges themselves on this grand jury selection committee will review those, and we hope to then call it down to about 90. And every one of the 90 selected by the judge's panel will go through a process where they are interviewed, not by one but by two, judges. It used to be by one, but we now have kind of a team interview with two of the judges on the committee.

In addition to that I think we've professionalized the process of doing grand jury background investigations. We work very closely with the Orange County sheriff. And back there I have a brochure that looks like this that those individuals who are being -- who were selected in this final group of proposed grand jury panel of 90 will go through this background investigation. This tells all about it, exactly what's going to happen, what the checks are. So there's no mystery. I think we really professionalized that. I think we made it easier for the prospective grand jurors to feel comfortable with the background investigation. And so I've left you some of those on the back for your information.

We also have kind of a short form information sheet that we send out. We have a hotline and we have information about grand jury service on our website. And this year I'm proud to say that you can actually fill out the grand jury application online and give it to us online. That's the first time we've been able to do that, but I'm very pleased that Orange County Superior Court's able to do that. I know a number of other courts have been working on that as well. But this short form will go out just as an interest in order to encourage people to become involved, promote sound governance, observe government firsthand and make policy recommendations on behalf of their community. So it lists all of the duties and responsibilities and the application process, and there's a little thing you can fill out and send to us if you're interested in getting the full application process.

So just some of the other – those are some of the things that we do to try to make the recruitment and selection process successful within Orange County. And I want to acknowledge right now that probably our best, in my experience, recruitment selection partner is the Orange County Grand Jurors' Association. I can't tell you how critically important the community knowledge and involvement of the grand jury service is and the outreach that the Grand Jurors' Association provides to the court as a partner in the ongoing recruiting selection process every year. So it's critically important to us. We get tremendously good responses from those who are our former grand jurors who are out there in the community who intimately know what grand jury service is all about and really help us by recruiting good prospective grand jurors.

And I want to really emphasize how important that is. In that way, for example, we always have a representative from the Orange County Grand Jurors' Association at our orientation program. So we have an orientation meeting. All of our applicants come in prior to finalizing the group of applicants. And we have the sitting grand jury. Membership, leadership, the foreperson talked to them. Our presiding judge and our supervising judge of the grand jury and our Grand Jury selection committee members talked to them. Also, key is the Grand Jurors' Association kind of orienting them and to know that there's life after grand jury service and involvement after grand jury service so that it's not just the one year and out kind of commitment, but you're really representing the communities that we all serve as part of a key part of government.

I wanted to let you know about that. I am very, very proud of the orientation process that our court has put in along with the help of the sitting grand jury each year and the Grand Jurors' Association. We believe it's an excellent program. And I have to tell you. One of the proudest things I think we've done in the last few years is to make the board of supervisors aware of the need to compensate grand jurors appropriately. And for those of you who don't know, we were able to get them again with the help of the sitting grand jury to – the board of supervisors raised the compensation to reflect the real value of the job – I'm not saying fully, but – we now are compensating a \$50 a day for up to a full five days a week, so up to \$250 a week; and mileage at the going county rate that they paid county employees for the mileage. And not only that, but the board of supervisors also agreed with us that prospective grand jurors that are coming in to service that are going through the orientation process for ten days or so would be also similarly compensated. So I think that's just a huge, huge difference that I know many of you did not have access when we were grand jurors. And I think reflects the fact that the court and the grand jury working together have made the board of supervisors aware of the importance of this tremendous community service. And while even \$50 a day is not a huge amount of money, but it does actually reflect the ability to take care of expenses and kind of make it a little bit easier to put in that full week of grand jury service. So I'm very proud of that.

And I think the professionalization, if you will, of grand jury service and of the way that we're doing the orientation has proven itself very well. We have been – had the opportunity to be involved I guess at the state level in a lot of the discussions about grand jury reform. And we know there's a lot on the table about grand jury reform. And one of the early, you know – I should say more recent reform measures was to kind of focus on the fact that the court had responsibility to make sure the grand jurors were oriented. We just didn't impanel them and then let them off on their own without orientation. And also for the importance of – because the presiding judge is ultimately responsible for the grand jury process, and has the responsibility to review reports and to make sure that what the grand jury is doing is appropriate, and that kind of adds some legitimacy to the process knowing that there has been kind of a review by the court because the grand jury is an arm of the court in the functions that it is performing.

So that's one of the things it has kind of developed over the last few years. I know that there are a lot of other reform measures, and I'm happy to talk about any of the ones that you might want to talk about. We've been able, I think, through, you know, the good offices of the former grand jurors through the association, the current sitting jury, and the court to, I think, have a very good response from the Orange County Board of Supervisors to our outreach and our initiatives to make grand jury service work for the citizens of Orange County. So that's kind of what has, I think, been a very good – been a partnership in making grand jury service really work for the citizens in Orange County.

So I would like to be available to answer any questions, and I'll kind of turn some time over to Pat, if you'd like to talk about any of the statewide issues, kind of what the AOC is doing in this area.

Pat Sweeten

Well, for those of you who don't know me, my name is Pat Sweeten. I'm the Assistant Division Director of Trial Court Programs Division of the Administrative Office of the Court. I think probably what primarily has the attention of this group is the Kelso Report. And at the invitation of this group I just have a couple of updates actually. On one is that late last May – twice a year actually the presiding judges have a conference in which they talk about court business and court issues, and one of the subject matters that we had a little work group on was the administration of the grand jury.

And I think at that point it was brought to the Administrative Office of the Court's attention that there really isn't a manual or any kind of training for presiding judges on what they're supposed to do or what their responsibilities are with respect to grand juries. And at that point they also recognized that everyone's doing it at different lengths. They're all getting funded at different levels depending on what county they're from. The level of support provided to grand juries is different in each county which led us to, at least, some initial research, if you will.

At that workshop we made a commitment to send out surveys to counties and the courts to find out what the funding levels were and exactly how they could help the grand juries and who acts as council for the grand juries and provide overall direction in terms of legal affairs. So that is something that we're doing now. The other thing we said we made a commitment that we would do is to develop a reference manual for presiding judges on what their responsibilities are and for what things they're responsible for doing throughout the year with the grand jury. And so that's in progress now. What we've done is we've gathered manuals from different counties that have them, that have developed them themselves and are doing a certain amount of research on all the laws that affect the grand jury. We're hopeful that will come out probably within the next six months for review and then finalization.

I know that there – I have received a lot of correspondence from a number of county grand juries with respect to the Kelso Report and the recommendations made in there. The AOC and the Judicial Council at this time have no position on the recommendations that have been made in that report, and I know that the presiding judges have discussed it. Where we are on that is at this time we really don't have – this is kind of a new project and we don't have any resources in terms of staff to dedicate to that issue at this time, although we are moving forward with a budget request to staff to kind of look at the overall issues and kind of go through the statutes that exist today and try to make some determination. That will probably not occur until probably next year, if at all. If, in fact, we do receive resources or decide that it is a priority sometime during that

time we will be working in trying to do a joint project with the California association of counties in doing this together because I think that they have a stake in it as well as the D.A.'s association and any other interested stakeholder. So we want to do a joint examination of any reform measures or any statutes that require some – any kind of an amendment.

But that's kind of where we are at this time. We hope to have a draft manual out very soon, as I said, and we will certainly forward it to the association for their comment and review as well. And so that's pretty much where the Judicial Council and the AOC is at this time. If I can answer any questions, I'll be happy to do so.

Alan Slater: Let me take one second to comment on the fact that we have a situation where presiding judges now serve – now that we have a unified court system for a minimum of two-year term. That's a really good thing because at least it gets the presiding judges able to function well over a period of time and try to maintain some institutional continuity. Most of the larger courts also have an assistant presiding judge. And the effort to create a reservoir of information about all the cases and all the issues surrounding grand jury selection, recruitment, service, confidentiality, you know, conflict of interest, and other issues that might be – that a presiding judge might come into contact with in regard to the grand jury is a really important thing because I know in my situation, you know, an issue might come up every three, four, five years and then we have to hit the books and do the research because we've kind of lost some of the experience with that. And so it's always helpful to have a binder, have an access to the cases, and it just helps us deal with the issues. Sometimes not the same issue will – you know, the same issue won't come up for, you know, once in a decade or something. But I think in my 29 plus years I think we've seen just about every kind of issue come up with regard to the grand jury. So we've had that in our background and, you know, we've always, I think, been able to deal with those issues as they come up. And it's nice now that the duties and responsibilities of the presiding judge including as it relates to the grand jury are now enumerated in the California rules of court so that every presiding judge as they come in know exactly what their responsibilities. So we'd love to take your questions and get into the issues that you might want to get into.

Emma Fischbeck from Los Angeles County: I would like to say that Los Angeles County Association has for the past several years done a survey of judges who are polled on the ballot, and we sent out a questionnaire to them asking them what their background is, training, and who supports them, organizations that is. We do not request that they give us a long list of individual names because we don't have to pay for that kind of stuff. So they send that back to us; we compile it and check with them and then send it to the local newspapers. Now our problem is this: Number one, the public doesn't have any information about these judges. And number two,

the newspapers will not print the information that we provide them even though we have the backup material with the judges that sent us in their own handwriting. And so how do we get the information to the public? That's what I want to know.

Answer: Well, I think you've hit upon obviously a topic that's very – that is a little bit controversial. And that is, does the grand jury have a role within the governance of the courts. Case law seems to point that the grand jury as part of the judicial branch is not empowered to investigate the judicial branch, and I think therefore while the issue of elections is not quite the same thing as the grand jury doing an investigation, it has the sense that there is, you know, a provision of information coming from the grand jury it has kind of a context to it. That's what makes it, I think, very controversial. It's coming from within the judicial branch even though I know that the independence of the grand jury is one of those things that the citizens recognizes

as one of its hallmarks. So I'm not sure I have an answer, but I guess I can understand why that becomes a pretty controversial issue.

The issue of how do we get information about judges who are up for elections to the public is also kind of a parallel of debate. Obviously the media believes they take that role to some degree, and I think that judges themselves are aware now that in the fishbowl that they sit in that it is critical to be able to do some outreach and provide some information about what the court does as a whole. The background of individual judges, I think, is somewhat problematic and especially now again with unification we have all of the judges are of a superior court. They run countywide. In Los Angeles County how you reach that huge group of voters even in a contested election which we still have for trial judges is a huge endeavor. I don't know how you would even have a candidate who would want to run – take on the job of running countywide in Los Angeles County and raising hundreds and hundreds of thousands of dollars to have a, you know, \$133,000 judgeship. So I think it's a really difficult area. While I understand the question, I'm not sure I have any answers, but I think it's kind of a difficult role for the grand jury to play that role within its context as a part of the judicial branch itself.

Question: I was triggered by what Alan said regarding the relationship between the courts and the grand jury. I think the terms used the grand jury's an integral part of the court, that the presiding judge has the responsibility for the grand jury, that it's an arm of the court and it's part of the judicial branch. But there's two areas that the grand jury has dependence on; the county with the budget, the county with the facilities. This seems to me inappropriate, and I wonder if Pat has a response to that particular area in terms of the responsibilities of the courts for the jury. Let me quickly ask a second question, Pat. You're going to ask, you have a budget request for addition in staff to review these reform proposals. We have a new legislative session coming up and we haven't taken a position on reform proposals. But have you taken a position to defer legislative action until you have an opportunity to have staff and do a review. Two questions. Thanks, Pat.

Answer: Well, I'll take your second question first. The issue has not gone to the council as a formal body or a formal recommendation. So they have no position with respect to a reform or to defer action at this time. In fact the position to move forward with the budget proposal to request staff to kind of expand on this issue is a recent one, I guess as recent as September. So we haven't really gone that far yet. With respect to your first question, the role of the grand jury with respect to courts is one that we would hope to come to some determination in this examination. As you know, trial court funding explicitly leaves grand juries out of the definition of court operation with respect to budgets. There are a number of things that the courts still have to spend monies on throughout the year that are outside of court operations that we're trying to clean up or examine. So it's still a contention between me and Alan.

With respect to facilities – so grand juries that's clearly the delineation that we're in right now the situation with respect to law. With respect to facilities the counties are still responsible to our court facilities as well. And that's becoming a huge problem if you can imagine since we're a state-funded agency now. And so even though we're state-funded, in terms of any new facilities and maintaining facilities we have to look to the counties. And that's the huge frustration for the courts and the counties because it's not money that Cal. Court funding can be spent on and it's completely unallowable. And so the courts themselves at the local level are caught between the state and the county, neither of which are – the counties don't want to spend any more money on court facilities given the fact that they're hoping the state will take over court facilities. And yet the state is not in a position to take it over nor does the law provide that we can spend any money on them at this time. So that's a huge dilemma for the courts that we're trying to work through

right now. In fact have a task for it working on court facilities and legislation and trying to look out recommendations to the state legislature on.

Hi, I'm Jack Zepp from Marin County: I think what I heard both of you say is very encouraging. First of all, Pat, when you say you want to get information from the stakeholders with respect to whatever you may do with respect to the proposed legislation, do you consider us to be a stakeholder?

Answer: Absolutely.

Question: Great. Great. That's wonderful. We're happy to inundate you with information. The second thing is, I'm not quite clear – and I think I know why, but I'm not quite clear where you guys are with respect to calling a grand jury part of the judicial branch and dealing with Rule 810 in the Trial Court Funding Act. Could you expound on that a little bit? Are you going to try to bring the grand jury back into operations, or what do you think is going to happen?

Answer: We're hoping that that's something we will determine in this process. We're not in a position now to make that determination. And so, no, nothing is happening. And it would first have to happen with the legislature where they clearly define within the government code. At the time that state trial court funding was adopted by AB233, it was a kind of a sensitive negotiation between the counties and the administrative office of the courts and the judicial council and the CSAC state association of counties and legislatures. And one of the things that happened around that negotiation was in order to get their arms around things, there was some arbitrary decisions made to leave things out of trial court funding even though they fell within the judicial branch of government. Grand jury was one of those and there were a number of others. Therefore Rule 810, which is the rule of California rules of court which determines what is in the state-funded portion of our budget, is limited to those areas and excludes a number of things.

A number of things in security, a number of things in facilities, some of which make absolutely no sense at all. I think grand jury is one of those areas. It just was unable to be tackled by this first attempt at state trial court funding. There is, I think, a tremendous need for the cleanup that trial courts, all of us and the 58 counties want that to occur. We want to solve some of the anomalies of Rule 810, and problem is that we haven't seen a way to do that piecemeal. So there's been an ongoing effort to try and get our arms around all the things that are missing from Rule 810 and find a way for the legislature to adopt that. The counties on the other hand they're happy to give up their responsibilities, but they don't want to give up any money as a result of the state taking over responsibility. That state doesn't want take over responsibility without somehow adjusting the role of the counties with regard to the funding. So if you end up sometimes and I think that's what's happened in the last few years in the legislature, when some of these issues fomented into legislation it just kind of got stuck. And so there's an ongoing effort to deal with that. Security is a big one. Frankly the total grand jury costs probably in the neighborhood of – our budget's around a little over \$500,000. I would guess we're about ten percent of the state in that regard so maybe we're talking about \$5 million. We're talking about a whole lot more than that in security so it's – the security budget is so big that the effort to try to resolve those issues – facilities also. I mean, we're talking about a \$6 billion issue in terms of facilities. So I think the grand jury issue kind of gets tucked in under those, and if we can resolve some of those bigger issues I think the grand jury budget issues will come along with that because I'm hoping that they will. I think that's appropriate. It does relieve some of the tension sometimes that occur between the county and the court with regard to the grand jury.

My name is Bud Alne from Santa Clara County: Mr. Slater, you mentioned, I believe, that the court established that the grand jury work is appropriate. Can you confirm for me that after the judge charges the jury and until he receives their report, he has no involvement with the grand jury?

Answer: That has been far from the case in our county. Presiding judge and the supervising judge of criminal has been designated by the presiding judge and supervising judge there. He has quite a bit of contact with the grand jury, and so has my office on many occasions. Sometimes it's to help; sometimes it's staff issues; sometimes it's, you know, we don't have enough money in the budget and we've got to get another auditor, and how do we negotiate that with the board of supervisors to get more money just for this year. We had an ongoing tremendous issues –

Question: I think in every example you had there it would have been preceded by a request from the grand jury. I said absent an invitation from the grand jury, can you confirm for me that the judge has no involvement with the grand jury after he has charged them and until he receives their report?

Answer: Absent a request and absent a report, yeah, I think that's true. The presiding judge does not get involved in what the grand jury is investigating unless there's a question or issue or report or we have kind of a communication with the foreperson on what I would call administrative issues, facilities issues and other kinds of things. You know, the ability to install computers to help was a big issue for us not too long ago in our grand jury. Those kinds of issues which I don't think are related to investigation. But I guess I would agree with you. We don't meddle into grand jury investigation.

Bob Johnson from Stanislaus County: I'm a present member of the county grand jury. And on the heels of last year's county grand jury report which included a hard-hitting report about a county elected official, some of the responses that this elected official obtained from community citizens really questioned the independence, the autonomy and, if you will, how the grand jury sets its procedures as are mandated by the penal code. Could you address that issue as to how that is handled in Orange County?

Answer: Well, obviously prior to the grand jury report being issued, I think it's handled extremely confidentially between the grand jury, supervising judge, or the presiding judge and the appropriate members of the grand jury in terms of their going through something that involves a particular official in the county. In terms of once the report is issued, I think it's concurred or permitted to be – depending on how you see it – issued by the presiding judge. I don't think we have really a role other than to receive the responses. We don't comment on them. We don't get involved with the press in that regard. I think we've tried very hard to guard against doing that, and one of the reasons is that the canons of judicial ethics really prevents a court and a judge from getting involved in issues that may come before the court. And obviously some of those issues that the grand jury's take in are issues particularly political corruption issues are political -- other political related issues that may come before the court in litigation. So the court has a very tight line, I think, to walk in that regard. I know having sat down with judges doing at the time that they're doing it that they know how to do it. Our presiding judges, our supervising judges they know where that line is and they can walk it very well. I've had numbers of my times I've had my two orders in terms of arguing on behalf of the court with the press how to address the inquiries that were getting and how to keep the arm's link between the press and the court with regard to a grand jury report and to avoid the appearance of commentary on the report. So I just think we just take care to follow along to keep the court being a party so to speak to the issue that's before the public when the grand jury report becomes public.

Question: I'd just like to say it's probably a good idea that most grand juries don't understand the power they have once they've been sworn in.

Answer: Well, I think that sometimes the tendency and I've been involved with that in the past where the court to try to almost make the grand jury charge be kind of a rote process. In the last, oh, five, ten years I -- our court particularly we have tried to make it of more significance. I think we've also tried to establish that the charge itself doesn't tell enough of a story, that we have to develop an orientation program -- and we have -- to really fully allow the outgoing grand juries and the court to orient the incoming grand juries so that they can do their best to hit the ground running. There may be issues that have gotten to a point where unfortunately the outgoing grand jury had to give them up without being done, but they sure want that incoming grand jury to know where they are. And they also need to know what perimeters are with attacking the issues and their role in developing them to the point where they can actually issue a report and vote on them and so forth. So I think we've done a much better job in recent years, but I know that has been a concern. I really do think we've improved it quite a lot in our orientation efforts.

Dianne Hoffman, Orange County: I'd like to go back to the Kelso Report and get a clearer understanding on Ms. Sweeten's organization's involvement in that and what -- who are the stakeholders that you are gathering input from and then what will you do with it when you get that?

Answer: It's our intention to go through all of the statutes that have anything to do with grand jury from beginning to end and to look at the recommendations in relationship to those statutes. It would be our intention to if we don't have a complete list of stakeholders to find out who they are. But we first want to make sure that we have an agreement with the California state association counties to conduct an examination of that together because they being the funding agency have a major stake in those as well as the district attorneys.

Alan Slater: I think the Grand Jurors' Association and sitting grand juries are really obviously a part of that information gathering that we need to do. I know the perspective of beefing up the civil watchdog functioning that's kind of articulated there is one that is important. I think it also emphasizes the fact that, however, in doing so the professionalization of that effort needs to be considered. That may take more money, but it's something that really needs to be done so there are appropriate perimeters under the court's wing, I hope, to be able to have that function operating well. I happen -- knowing I was going to come here, I said to Steve Zaley who is the director of the county -- of CSAC -- California State Association of Counties. Steve, if you were -- I said, "If you were addressing the Grand Jurors' Association of California, what would you want to throw out and react to with regard to these grand jury reform proposals." And I think their feeling is they shouldn't really get into substantive issues of things like whether an accused should have counsel in a grand jury room, that kind of thing. It's a one-way street. The counties will certainly issue a response, and then it's up to succeeding grand juries to either look at it or see that it's an issue or the grand jurors' associations to kind of watch that.

But the formality of the organization of government in addressing that sometimes gets lost. And I think his feeling was that one of the things that might work -- it might make both the grand jury's process and the county's process of responding better would be for the Grand Jury to go through a process of putting out a interim report before a final report so that there would be, you know, and obviously sometimes time gets short. But the idea of issuing a report to the appropriate -- to the county and then having the appropriate responders respond to you in a more formal way will give you an opportunity to consider the response before the final report gets to be final, which

doesn't – I mean, you take testimony. You can obviously have those people come before you. The formal recommendation and then the formal response doesn't really get assimilated into a final grand jury report. This feeling is that it would do the public a good service to then see a final report that actually did have the comments of the appropriate commenter and not just – because very often there's the grand jury report, and then 90 days later after that grand jury is long gone there's some comments that's put out by the responders. And they don't necessarily tie together. The press doesn't get to pick them up together and sometimes unless it's a very high public interest, sometimes it gets lost. So there is that suggestion on his behalf, and I think we certainly like to hear – I'm sure Pat and the Administrative Office of the Courts would like to hear what the Grand Jurors' Association would think about changing the process to put that step in their interim report. Just like we do it, by the way, we have that process within the judicial branch of the adoption of rules, both local and state rules. It's mandated. We have to put it out for public comment and then we get those comments back and then we finalize the rule for the public. So I wanted to throw that out to you because it's one that came from a competent source, I think.

Question: In our training seminars and report writing we do tell grand jurors that if it works out for them whether it is appropriate for them, to try and issue a report during the year so that they have the 60 days, you know, that it will come back to them instead of to the succeeding grand jury. And it is definitely a healthier way to go. We don't call them interim reports. As far as we know, there's no such thing allowed as an interim report. We called it final report. We say final report part one, final report part two, final report part three. And the end of the year you gather all these reports that were released early and you do issue a final report that includes everything.

Jerry Lewi, Ventura County: This time you hit a subject that I'm very passionate about, and I actually did that in my service as a grand juror. So I totally agree with that idea. But my comment it's more of a suggestion to Ms. Sweeten based on something that Mr. Slater said in their original presentations. One of the things that's been a great mystery to me in our county is what are the selection criteria that panel judges use to screen the total pool of applicants down to the 30. And Mr. Slater defined a process by which those screening criteria are known to applicants. I would like to recommend to Ms. Sweeten that you take that into consideration in this manual you're putting together for presiding judges and make it maybe not mandatory but darn near a very strong suggestion that that information be made available to prospective grand jurors to have some idea what it is that judges consider to be important.

Answer: We'll certainly do that.

My name is Bob Headland. I'm from San Diego: I had a chance to go over this application from Orange County back here on the back table, and I would recommend that people look at it. I have two questions. One of them asked information about person's spouse and today, you know, that's sort of seems to be out of order when people have significant others and they have live-in girlfriends and boyfriends. So I was wondering how in the evaluation process the spousal information is used. Also, it asked whether a person is a citizen – or not a citizen – is a registered voter. And I wondered if that's actually a qualification.

Answer: There is a requirement for residency which is the way we check that is through the voter's registration. So citizenship and residency are requirements. And in terms of the spouse, I think one of the things that is a concern is the avoidance of conflicts of interests. There is – and I certainly understand, you know, today's different situation – but there's still the legal issue for spouses that is part of the law, and I think the court is concerned in reviewing grand jury

applications that there is no built-in legal conflicts that might occur which might prevent an applicant from becoming a viable prospective grand juror.

Clif Poole, Solano County: And one thing I think may be very important to consider; remember the function and the purpose of a grand jury when you start looking at it. There are a lot of special interests, us included, who are out there to protect ourselves. CSAC who says get out of my hair; don't bother me kids. The judge who say, hey, what do I have to do with this. And somebody else who says, okay, now that you guys have done played, who's going to pay for it. Okay. There is one function our there which is the purpose of the grand jury. There's only one police officer out there, the grand jury, that watches the different governmental offices and officials throughout the state. And if you want to get rid of your police force it's very nice to play around with the rules, but I think that that should be the paramount concern of both the judges, CSAC, and anybody else that gets involved into it is to retain the grand jury system in an effective and efficient manner. And I think you have -- one of the best ways to do that is as somebody else suggested is you talk to the grand jurors themselves as to what they need. Then, yes, you can toy around with how you make that come about. But if you start taking away the protections of the citizens, you make a lot of people happy, but you sure cost a lot of money. Thank you.

Question: Regarding your interim report, I think it would give the – an agency being examined would view that as a wonderful opportunity to negotiate the grade. And teachers at the end of the term don't negotiate. They simply issue the grade and go home. I think that's what the grand jury ought to do. Answer: Duly noted.

Jack Zepp: Pat and Alan, on behalf of the whole group I'd like to thank you very much for coming down and talking to us.

Grand Jury Reform Panel

Seated left to right: **Sherry Chesny** (Training Program), **El Moger** (First Vice-President), **Dan Taranto** (Past President), and **Richard Nichols** (new Director).

Jack Zepp: I'd like to get started with the Grand Jury Reform Panel. I'll start off by saying that the board today – I'm sorry – yesterday approved about a 30 -- I think it's a thirty-two or three page set of comments to be directed to Professor Kelso and the authors of the grand jury reform proposal. We obviously intend to send it as well to the people we know are interested in the subject like the judicial council, the AOC, the presiding judges, the CEOs, the chapters and the independent associations. The report breaks down into a couple areas, and I'll just give you the highlights and let the panel talk about them. But the first area is we expressed concern, and those of you I think maybe just heard our speakers talked about the fact that the Trial Court Funding Act and Rule 810 basically say that grand juries are not part of the operations of the courts. And we are very concerned about what the implications of that may be. That's the first area that we address.

We address the individual statutes that McGeorge would propose be moved over to the government code. And the primary focus of our commentary on the statutes is don't move that statute because if you do it's going to be presumed that the legislature thought that was a good statute. And as you all know there are some really, really bad statutes in the Penal Code that relate to grand jurors. So our suggestion there is if you're going to do this, fix the statutes first

before you move them. We also have an independent section on training because frankly we think we know more about training just about anybody else, certainly more than McGeorge does. And so we want to give them the benefit of our thinking of grand jury training. We have a section which is fairly brief, but a section that basically says if we're going to have grand jury reform in addition to mucking about with the existing statutes, there are some areas that actually need some legislation. And so we suggested some additional legislation in those areas.

To give you an overview context for all of this, what you need to know is that conceptually what we are dealing with and responding to this proposal is a combination of the Trial Court Funding Act and Rule 810 which both say that the courts are not permitted grand juries as part of their operations and a supreme court decision called *Daily Journal vs. Superior Court* which can easily be read, and I think only fairly be read, to say that courts do not have inherent authority over grand juries. They only have the authority the legislature gives them. So many of our suggestions are along the lines of, we know this works. It's been going on for 150 years, but it's not authorized. We now have a decision that says it has to be authorized. So legislature, you need to enact legislation that will permit courts to do things vis-a-vis grand juries that they've been doing forever. Because otherwise at some point somebody is going to challenge it, and if the *Daily Journal* decision holds up the person who challenges the action of the court is going to win. And so something someplace along the line it is going to come into question.

Now, the fact of the matter is as we all know it's only in the criminal context that people routinely challenge what grand juries do because they're going to go to jail as a result of it. Civilly it's pretty infrequent that people will challenge grand jury conduct. It doesn't hit them in the pocket book. It doesn't send them to jail. But we do think it's appropriate to have the law be consistent with what everybody understands courts and grand juries do rather than create a situation where what a grand jury has done and subject to challenge by somebody if the stakes get high enough, like the Orange County bankruptcy situation, for example, where the stakes were fairly high. So that's what we're trying – we're trying to work within the context of those limitations that have recently – these are both recent, the *Daily Journal* decision of 1999; Trial Court Funding Act is 1988 and it didn't really kick in until about 1996 when the courts had to stop putting grand juries in the budgets and start charging the counties for everything that they did. I think I'll ask Dick to start us off with some comments about some of the specific laws that we have been referring to and suggesting changes in, and then we'll just go down the panel. I know each of these people has different area – actually I think I'll start with El because El is the guy who compiled the results of the survey that we did, and although we started writing our comments before we had the survey results, they certainly are supportive of what we're saying and in many instances are illustrative of the kind of concerns that we have. So I think I'll let El walk us through at the outset a little bit of what we have found out in our survey of the 58 county grand juries.

Elwood Moger: Okay. Thank you, Jack. When we first started to look at this issue, it was very clear that Kelso and his friends at McGeorge had not done a lot of research. They had a round table discussion, had a few grand jurors in, and had taken some responses from district attorneys and county counsels. But we decided as an association that we should embark upon an extensive review and try and make it comprehensive. So the Board of Directors authorized that we put out an eight-page survey of practices of grand juries throughout the state of California. We sent it to all 58 counties to the current foreperson and the immediate prior foreperson just to try and get as comprehensive a look as possible.

I'm pleased to report that we had 44 counties respond. In ten of those counties we had duplicate responses, that is, from the current foreperson and the prior foreperson. So we accumulated loads

of data. When you just take the counties we had, we had something like 352 pages of raw data. So we've got a wealth of research information now available to us. We found some very interesting results, I think, in compiling all of this. And we put an issue in our journal. It's so very interesting to see the major difference that's occurring between the rural counties and then the middle counties and then the highly populated counties in the state. It's just very, very dramatic.

When you come to issues like budgets you start at Alpine with something like \$5,000 for a grand jury budget, and then you turn and you look at Los Angeles County at \$1.2 million. So it's very, very dramatic and it's a very serious thing to consider when you look at this entire system that we have for grand juries in this state. We wanted to find out how many were really using an additional grand jury or criminal jury, and it came out to about 50 percent of the group were using criminal grand juries. It was surprising to find out that indictments are rather low. There's only five counties really in the survey that were reporting upon indictments. I think Orange County reported something like 30 in a two-year period. So the indictment process is quite low.

We surveyed where the people are coming from for the grand juries. And 55 percent are volunteers. Another 9 percent come from nominees and only 18 percent are coming from the petit jury roles. And the rest are combinations of sources for their grand juries. The juror carryovers was very interesting. We found it very prevalent. 86 percent of the counties that responded are using carryovers. And there's a lot of very definite feelings. I think the people from San Diego, I mean they just prohibit carryovers. So there are distinct differences and practices throughout our state depending on the counties, if you look at it.

We were pleased to find that almost a hundred percent, 98 percent of the counties that responded were reporting they had some form of orientation or training for their grand jurors. The one county said they didn't, at least they sent their foreperson to a CGJA training program that Sherry runs. But what was very interesting is that a lot of people are doing some form of training, but when we surveyed the components of training they people are doing in the state, great variances. A few counties maybe will do something on investigations and interviewing. It's a variance. Some counties are very, very comprehensive. Orange County here where we're sitting today, they're very comprehensive, very detailed training program where others are doing a bare minimum or not even a bare minimum to train their grand jurors as such.

It was interesting to find that everyone has a jury handbook to speak of. It's something that Dan Taranto tells me several years ago was not that frequent, but now everyone's reporting they have some type of reference book of such. 66 percent of the juries are reporting they have a dedicated and secure room. But it was pathetic when you looked at some of the exceptions that other 33 percent they're meeting in hospitals, they're meeting in road-side warehouses. They're all over the place. They're meeting in libraries. One just keeps floating through courtrooms in a courthouse. So there's a lot of difference and a lot depends on the county. If you go to someone like Ventura County they have 4,000 square feet of secured space. San Diego, I believe, has a whole computer network for their grand jury. Very elaborate and very good system.

I was a little surprised to see the advisors. We asked them how they ranked, who their primary advisory was. And 50 percent, approximately 51 percent said that the judge is their primary advisor. 42 percent the county counsel was their primary advisor and 7 percent said the district attorney. So we found a lot of interesting practices that were occurring, and the impression we had is that it's varying. One closing point on accusations. It was a whole series of questions on accusations, and many of the respondents said they had no training on accusations; they would

have to go look at a handbook. They were given no guidance and no knowledge in that area. And only five counties reported accusations in recent years.

We found that almost two-thirds of the counties had some type of final report they're issuing during their term so that's becoming a more prevalent practice of such. About two-thirds are on the Internet with their final report. But what did all this tell us? I think it told us that there's a need before you touch these statutes and before you start into grand jury reform, you better understand what you're facing in this state. It's a very, very diverse state and conditions are very different. So with that I can take questions later on and now, Jack, whatever you prefer, but that is a little bit of a kick off.

Jack Zepp: I think maybe what we should do now is keep moving along with the panel and then we'll open it up for questions. Just made a note to myself when you were talking, the Alpine County budget of \$5,000; that's \$4 a person as compared to about 15 cents a person in L.A. Dick, would you like to give the membership view of some of the major legal points.

Richard Nichols: There were – El has touched on one thing, the matter of accusations. The existing statute pertaining to accusations is in the Government Code rather than the Penal Code. Nevertheless there are number of sections within that chapter that provide that the procedures for pursuing an accusation shall be handled as is. They were the procedures used for pursuing an indictment. So there's a good deal of confusion as to exactly what an accusation is and how it is to be pursued. There have been some questions about whether particular statute should be in the Penal Code or moved to the Government Code or to some other code, and there's a good deal of uncertainty as to what the significance of a particular codification means. That's a subject that needs to be looked at. AB1161 which recently was passed and upped the per diem effective this coming July was nice, but it did not answer a number of ambiguities which continue to remain; one of which is that it provides for X dollars for, quote, attending court, unquote. Well, most of our grand juries do not sit in the courthouse, and there's question about whether attending court refers to attending where the grand jury in fact sits. There's another question about whether it applies to committee meetings and to investigations that are not even at the location of the grand jury headquarters site. That's a matter that needs some looking into and review.

As I think El may have indicated, there is a great divergence in the selection processes for grand jurors, not just screening but whether the grand jurors are volunteers, whether they are conscripts, whether they're taken from a trial jury pool which requires random selection. And there does not seem to be much consideration having been given to the different functions and the different time commitments between trial jurors and grand jurors. There is reference to the question of staggered terms of grand jurors and also a reference to carryovers. And there seems to be some inconsistency in the recommendations between what I consider to be related matters. Most of my colleagues disagree with me on that subject, but in any event there's a lack of clarity.

There are contradictions in the oath that we are commenting on. Some portions of the oath require that we look into criminal matters, other portions of the oath, and some instructions from some district attorneys tell us that we are prohibited from doing so. That needs to be clarified. There's also questions with regard to the confidentiality obligation. Each of us as members of a grand jury is under the strictures of the confidentiality requirement that prohibits us on commenting on our investigations other than through our reports. And yet the witnesses who come before us it is not so clear that they are prohibited or that they can be prohibited from commenting on what they say to us or alternatively what their opinion on a particular subject is regardless of whether or how they said it to us in our investigation.

There's uncertainty with regard to the definition – or the Section 919 which has to do with the obligation to inspect the public prisons within each of our jurisdictions. Does that obligation refer to jails? Does it refer to juvenile halls? Does it refer to mental institutions in which perhaps the criminally insane may be held? To the extent that we can look at, quote, public prisons, unquote, within our respective counties does that include state prison? If it does include state prisons do we have the authority to require the state to respond to our reports that we issue as a result of those investigations?

There is reference to the fact that the current statute provides that the – if the county is owed money that is not voluntarily paid, the grand jury can refer the matter to the district attorney to file suit to collect those funds. District attorneys for the most part wouldn't know the inside of a civil courtroom if they fell across it. That's a job for the county counsel, but the statute which was written back in the late 1800s was written at a time when county counsels did not exist. So that needs to be updated.

There's ambiguity with regard to the reporting requirements in response to final reports. As you all know, the boards of supervisors and the boards of trustees of other public entities within the county have 90 days to respond. But there's also a provision requiring some responses from some people within 60 days. Those responses include elected officials and department heads, and there is an ambiguity as to whether the elected refers both to officials and department heads or only to elected officials

Implementation review is touched on in the comments the prior speakers talked about that, and I won't go into that further. Finally we point out a need – a very serious need in my view for grand juries to have independent counsel. There is a flagrant conflict of interest between county counsels whose primary duty is to represent the county agencies and county employees in actions that are brought against them. And given that primary obligation, the county counsel simply cannot give grand juries independent legitimate advice without having to at the same time try to cover their agencies and attorneys who they have to represent if they are hauled into court. So most of us, I think, feel fairly strongly that there needs to be some provision for the establishment of an independent counsel procedure for the representation of grand juries.

In my own county, for example, we were given information by representatives of the county that we believed not to be true, and we wound up in litigation with the county. And we've established some pretty healthy law in favor of the grand jury. For example, the attorney-client privilege cannot be raised against the grand jury in endangering investigations. That happened because we were able to act on legal advice other than the legal advice that we would have gotten from the county counsel. And in my view at least all counties need the benefit of that. I'll pass it on to my colleagues.

Jack Zepp: Thanks, Dick. Sherry, would you like to talk about training and what the proposals we're making in that regard.

Sherry Chesny: I'll try. First of all, most of their proposal dealing with training we found hard to respond to because there's nothing substantive there. There's a lack of information to really respond to. So we had more questions than we did a response. Basically they are proposing that it's an arm of– the Kelso – or the McGeorge Law School. IAJ was at the – Administration, something – Institute of Justice, something. They apparently have a contract with the state to provide training to I think it's health – social health care or something or some kind of training officers of the state. They would propose that this entity take on a test project of training grand jurors. It would be a \$300,000 grant to the McGeorge Law School and they would – the fee

would be \$1,000 per juror. They would train up to 250 jurors. I assume the other \$50,000 would be for their time to develop a curriculum and the evaluation procedures.

The state would – this would be coming from the state legislature. If it was successful, they would go to the legislature to ask them for their money statewide, throughout the state. Which, you know, \$1,000 per juror with 1100 jurors you're looking at well over a million dollars per year the state would provide for training. Actually their program as they're proposing it what they say they would cover would be – it's interesting because it varies, but they say they would cover interviewing, examining witnesses and report writes. Now examining witnesses and interviewing are much for grand jury work are one in the same. It does not say anything about statutory law. They do not say anything about how to conduct investigations or any of the other many things that are included in the typical grand jury training program. The method they want to use is simulation for, like, interviewing, like, mock interviewing. That's a good teaching technique. It takes a lot more time. They're proposing a five-day program. What they are not taking into account is the cost – if it's a five-day program and it's conducted at McGeorge Law School. There's going to be travel expenses for the jurors. There's going to be lodging expenses for five nights, and we projected the cost would be double, well over \$2 million.

Our questions are, is it likely that the state would be willing to come up with this money, and if they did we have questions about, would those funds be secure? Would they be guaranteed year after year or are you going to have to go begging to the state every year for funding for grand jury training? Would they come with strings attached that would have a negative impact on grand jury independence. So we have a lot of questions about that. We felt that the scope of instruction seems very incomplete and very limited. I am not at all convinced that a law school can develop a comprehensive grand jury curriculum. I think that, yes, as far as certain aspects, statutory authority certainly, but unless you've served on a grand jury, been inside that room, seen how it operates, it would be very hard, I think, to come up with a comprehensive program. I think involving former grand jurors in developing any kind of training program is very necessary.

Their proposal would be – they have nothing in here at all as to how this project proposal could be turned into a state-wide program. We don't know whether they plan to use – to centralize it there, whether they were asked to have other law schools become involved, either how it would be transformed into a state-wide program. No mention of that at all. That's a big unknown. They want to – after the pilot year is over when they've trained 250 grand jurors, they would then do an evaluation and compare the work product which I assume would be the final report of those that receive training against similar grand juries who did not receive the training. Well, we have a lot of questions there.

They want to establish how effective – the effectiveness of the grand jury that received the training. First of all, how do you determine effectiveness in a grand jury? Even if you are planning to judge that between seemingly identical counties – and I don't know if you can find two identical counties, to tell you the truth – one of which gets the training and one doesn't; you need to establish how to measure effectiveness. What any grand jury has to deal with is largely situational. That what is currently happening in a county many highly effect reports dependent on a particular situation that came to the attention of a grand jury. Regardless of how similar two counties may be, if they have similar and simultaneous happenings is unlikely.

Of course it's also presupposed to other things. Is it possible to match county grand juries adequately if each of these counties would be able to recruit similar jurors. We just don't think this is highly realistic. And then also we have questions on who is to perform this evaluation?

Will they be independent to know the design and implement the program so that there'd be no vested interest in what the results are? They say they want comparable county grand juries that does not receive the training. How are you going to find a comparable county grand jury that does not include any training with 98 percent of the counties are doing some kind of training? Does that mean if you were selected as a comparable grand jury you would not be allowed to train at all in the county that year or to receive any training? So there's just a lot of questions in this, more questions than imagined. It's just not enough there to really respond to.

We have concerns about the five-day thing. From what we find in a two-day seminar people are pretty tired at the end of two days. We see more and more juries where their jurors are working full-time. They're meeting at night. How can they arrange to take five days off? We run into that in the seminars. A lot of them come for one day because they can only take one day off work. There's just a lot of questions on this overall.

Dan Taranto: A couple of highlights. I come from at least the past ten years' experience in having actively hands-on on a number of bills that achieved degrees of grand jury reform. Since 1991 starting with the second grand jury process to provide for more specific responses to grand jury report findings and recommendations. The Woods Bill that provided for access to the attorney general. The passing of information on to succeeding grand juries and archiving of grand jury reports by the state archivists. As well as the most recent increased compensation to grand jurors. During the course of that experience I've learned the great pitfalls that you face when you try to reform the grand jury through the legislative process. It can be a very exhausting, expensive fraught with peril kind of experience. You can go in there with the best intentions with the best ideas and come out with something that's totally horrid. By example, in 1995 when Senator Kopp was persuaded to introduce the response format bill because so many juries around the state were expressing frustration with lack of comprehensive responses and considered responses to their findings and recommendations, we introduced a bill that had been an ordinance in Humboldt County since 1989.

Something that we legislated on a local level that it went into the legislature. It was going along fine. It wasn't finding any real resistance. We were assured it was going to sail right through so we stopped showing up to the hearings. In this very last hearing a bunch of amendments came in and totally messed the bill up so bad that we found ourselves opposing our own bill. It's this kind of rapid fire reality in the legislature that I find very scary, and then along comes McGeorge Law School basically operating on two anecdotal debacles of grand jury process in San Diego and Orange County. And this is it of the McGeorge motivation as seeing two places where grand juries didn't work as well as they might have and then extrapolating that out to the whole grand jury system across the state. These are all stale anecdotal examples at this point. There has been no further research done around the state with regards to the successes and failures of the grand juries. And the McGeorge report itself admits it doesn't have the time or the funding to do a thorough piece of research in advancing its proposals.

And so it seems to me unbecoming of an institution of higher learning to propose such a complete across-the-board messing around with all of these statutes even though we can agree that many of them have vague and fuzzy aspects to them. But taking the whole body of grand jury law and smudging it around like a finger paint based on such a flimsy basis of research is somewhat irresponsible and scary. It seems to be much more appropriate to treat an institution as time honored and significant and important as the grand jury institution with the regard it deserves by approaching reform with a very careful sure-footed painstakingly review and research piece of work before you dare step foot into the legislative process. In my limited experience it seems to be that the most appropriate place for such a thorough reform process to

occur would be under the auspices of the Judicial Council which has an established process for creating task forces that have very broad base representation from across the state. And as it's been presented to us in previous conferences by former Judicial Council members that the Judicial Council does a very slow approach to the kinds of reforms that it likes to do. And so it would take perhaps two or three years soliciting and examining and thoroughly reviewing what's going on throughout the state of California before it jumps into such comprehensive package of grand jury reform as being submitted by McGeorge Law School.

And that's focusing mostly in response to the McGeorge proposal. I think that it's fraught with peril to submit such a comprehensive package that has had insufficient time to be thoroughly and very carefully sifted out and considered through legislature. And just on that basis alone it should be, you know, highly suspect and opposed. I can say a lot more about other things regarding a grand jury reform, and in just a general sense that there are a number of things that across the state the survey shows and for those of us who've been in training seminars for the past decade can give you numerous examples of what the great disparities are between the various counties in their grand jury processes. There's virtually no two counties the same. And that's partly because the law schools are not providing the future offices of the court with any training whatsoever with regards to what their duties and responsibilities might be should they at some point in their careers find themselves as a presiding judge or district attorney or a county counsel. And so each of the county counsels and district attorneys and judges that find themselves in these positions of advising grand juries are all winging it. They're winging it from their own personal individual dead reckoning, and that's why to some degree there is such a disparity from county to county on what a grand jury can and can't do or what the advisor would or would not advise. And it would seem to be more becoming of McGeorge Law School to apply itself to this issue rather than trying to rebottle the grand jury process ala a notion he has from a vantage point that is somewhat estranged for any real hands-on immersion in the process itself. So I'll leave it at that and turn it back to Jack.

Jack Zepp: Okay. Thanks, Dan. Just following up on that winging it remark, the reason we're so concerned about the Trial Court Funding Act in Rule 810 and the Daily Journal decision is that collectively they may be telling the courts they can't wing it anymore, and if that happens, there's nothing out there to fill the void. We are all as grand jurors the beneficiaries of the fact that our presiding judges or supervising judges have been winging it; they've been doing a pretty good job by and large. But if you pull that authority from them, we're out there with essentially no guidance and totally dependent upon the very people we're investigating to provide us with funding. So that's one of the reasons we're so – I'm sure you've gathered we're not particularly supporting the McGeorge proposal. That's one of the reasons we're not terribly in favor of it. I would like to hear from anybody in the audience though who has any input for us on what you think about the proposal, what you think we ought to be doing with it.

John Hackman, Sutter County: I'm a sitting juror and from what I hear you saying I think your first training focus should go to the 58 judges, not the 1740 prospective jurors. You have better control; you can ease them into it earlier than you can a jury. That's my only comment.

Response: Just so you know, John, about a year ago I did talk to the fella who was then who had the position that Pat Sweeten now has about us getting involved in training the presiding judges. He then left the position and went to a different job, and I don't know where that stands right now. They know that we have made the offer. I think also that Nzinga who's back there is working on some materials for the judges from the Judicial Council to help them become more informed about grand juries. I mean, you're right; if we can get the presiding judges college –

you know, the judges have a college – we'd love to get there to try and help them see it from our prospective.

Barbara Dabul, San Luis Obispo County: And in looking at the last sentence about training where it says, Would determine if grand jurors are trained and perform more effectively than those without training. I took this to be not juries comparing county juries to each other but jurors using jurors on their own panel as control subjects. I'm very troubled by that because we were encouraged by the training given by you all to share our training and to therefore the entire jury should be functioning better, not just one juror compared to somebody else who didn't get the training. So that's bothering me.

Comment: My comment is this: That in 1988 the Los Angeles County Grand Jury was presented a case by the public defender's office that produced a conflict of interest between the county counsel and the district attorney and everybody that we could not resolve the thing. So after much ado going back and forth between every office we could think of, we finally got permission to petition the attorney general. And he after much consideration – this took like months. So this is not just an overnight thing. It was months and they dragged their feet the whole way – the attorney general finally appointed a special prosecutor, and he charged the county over \$250,000 for his work.

I'm Karen Evarts, Orange County: Could you tell us where the Kelso provision stands in the legislative process? I'm unclear. I know it's a response period. But has the response period been extended and also if memory serves me, isn't it true that just California and Nevada continue to have a grand jury such as this? In other words they were done away with a hundred years ago in other states. Is there an agenda? Is there an elephant standing in the room? I mean, I'm aware of how annoyed Scott Baugh became by our own Orange County and I'm aware of the San Diego. Is there an agenda maybe to emasculate the grand jury further?

Jack Zepp: Before you do, I've been asked to tell people who you guys are. On the far right is Dick Nichols, the new director of the association; Dan Taranto is next to him wearing a matching shirt. Dan is a past president of the association. Next to him is El Moger. El is our first vice president. And next to El is Sherry Chesny who is in charge of our training program.

Response: Okay. If I can recall the question, it was basically, is it in the legislative process yet; no, but I think there's some intent and design to submit it to the legislative process should it not be facing any serious opposition. We really don't know what Kelso's motives are, if he's just simply being playful in toying with the process to see what comes out of the bushes or if he's really sincere about trying to introduce and shove this package of proposals through the legislative process. I think it would be very interesting if it shifts to the legislature because it's going to be quite, I think, a maelstrom of comment before the legislature. And what that – that's what's so dangerous about it is because some elements are likely to survive in which who knows all the different interests will come into play and it can get pretty confusing. But so far it has not been introduced to legislation and it's a proposal to legislation. It's just very comprehensive and it comes from a fairly influential place. So if it is introduced I think we're going to have one heck of a fight on our hands next year. So for those who are concerned about the grand jury process I think it's very important that you get to know this and start to sharpen your tools of legislative interaction because we've got a big tussle ahead.

Response: I think it would be a shame if it did get introduced legislatively. Mainly because there are so many entities that would love to get their teeth into a subject such as grand jury reform and basically take a lot of our capabilities away from us. I mean, you look at all the associations

there are from CSAC to League of California Cities to California Special Districts Association, and even just like water districts have the Aqua Association. All these big associations have paid lobbyists on their staff. And believe me, they have a lot more political clout than we have than even -- you know, grand juries are nothing as far as legislative clout. Let's try and keep it out of the legislature if we can. It's to our benefit to keep it out of the legislature. I'd rather see this worked on and hopefully the process will improve grand juries overall. But it needs to be done in another form than the legislature.

Question: It would seem logical to conclude that Kelso and company have a rather heavy vested interest in what they have going here. And I have two questions. Is there any possibility that we can be persuasive enough to cause him and his tribe to change their minds? And if that's not possible can we be a credible adversary?

Response: I'm not sure he has that much vested in this. This was started by a now-graduated law student, Stephanie Doria. You remember Stephanie? This is all the result of what she did to get, you know, her credits on the law review. Clark doesn't know anything about grand juries. I mean, he's perfectly willing to admit that. Mike Vitiello who was the foreperson of the Yolo County grand jury has dropped out of the project. He doesn't seem to be involved anymore. I think that at the time Professor Kelso did this, he may have thought this was a fairly easy quick hit, and I think -- I'm hopeful -- I could be wrong -- but I'm hopeful when he sees -- you know, he's already got seven sets of comments; none of which like what he's doing. I think ours, which will be hopefully the most comprehensive of them, will make him realize he's actually in over his head. I don't know if he wants to spend the time to really understand this, and he's got other things he can do. So I'm sort of hopeful that we can persuade him that while reforming a grand jury system is not necessarily a bad idea; it's going to take a lot more energy than he's willing to put into it. And that he may drop it as a consequence or at least cut it down to the point where he's introducing specific limited legislation. As far as the question, whether we can be a credible adversary, the answer is no. We are going to have to do some organizational changing if this gets to the legislature because we can't lobby. That's why we're fighting so hard to keep this where it is away from the legislature. If it goes as a bill, this organization is going to have to do something; we're going to have to create a PAC. We're going to have to create a 501C4, something, so we can lobby because right now we are -- our bylaws and the IRS limit us to any lobbying activity.

Barry Newman, San Diego County: I just want to raise another perspective. I think that everything that Jack just said is correct, but then the question has to be asked, whether or not as a result of the compilation and identification of our recognition that there are an awful lot of things in the statutes that really are either unclear that do in fact show weaknesses of the process. I think we have to ask the question that even if we do make Clark decide that it's not worth the candle, whether or not the effort having started ought to be at least considered to be continued. Because I think that one thing has come out of the process as far as many of us are concerned is this compilation of lack of clarity and things that need to be addressed. And that's not going to change if Clark goes or stays.

Boyd Horne from San Luis Obispo County: What occurs to me and I think it's been alluded to by others, but I made notes about this assessment. These reform proposals are perfect except they totally lack clarity; they're contradictory; they're incomplete. They don't address certain issues. They're not based on good legal research. They're not based upon the knowledge of existing grand jury operations, and they're not based upon specific factual foundation of problems and opportunities. It leads to a conclusion -- and others have said this that it might be a mistake, and I think Barry was alluding to it -- it might be a mistake to react specifically to these reform

proposals. It would be better if we could possibly go strategically to disavow the entire operation. I understand that's difficult to do. But the moment you begin to address specific proposals and the other party begins to agree with you to some degree, all of a sudden you have a compromised set of reform proposals that does lead to legislation, and you are in a difficult position to disavow what you have helped create. A better approach -- and I don't know if it is possible; you know better than I -- would be to set in motion a totally different project. And in my judgment a judicial council has that responsibility, and they should undertake that with or without additional staff. And another idea for you is that I think there's an entity in the state that also has responsibility here, and that's the little Hoover Commission that is supposed to examine state operations that need fixing. But I'm just raising a question about the strategy that you use in addressing these reform proposals.

I'm Robert Myers and I'm also from San Luis Obispo County: What I have to say is a bit suspect, but for once I agree with Boyd. It seemed to me like Boyd's on target that if you're going to go to the Kelso people and say, your project is all wrong because, because, because; you'd be in a position where it's apt to get into legislation. And I was going to suggest if I had the mike first that a better approach might be to decide to gear up and try to stop the thing totally. Like Jack said earlier, you don't fix a piece of legislation like this by rewriting it and putting it somewhere else. First you address the statutes as they are and get those right, and then when you get the statutes that exist right, then you want to put it somewhere else and perhaps you could rewrite them. I have taken bills through legislation a number of times myself and I know the process. It gets very scary. And I'm part of the committee. I am the committee that responded to this when we hired a local group. I wanted to know about with a suggestion about what should or shouldn't be done as to this legislation or would you like for us to respond and say it's a terrible place and why don't we just get rid of it. And we can work up a corporate response either way that makes sense. And so we're looking for some direction from the board as how we as a local group might respond.

Response: Thanks to both of you. To answer that last point we have made a concerted effort not to try to tell anybody else how to respond. So even in our own chapters we haven't -- they haven't seen what we're working on. We haven't really discussed it with them. The reason for that just so you know is because we thought it would be more useful to get the different divergent views that might come out of the different groups than if we went out try to get a bunch of people to support our view. I mean, you know what our view is; you heard it. But we haven't made any attempt to try to get other people to support it. As far as Boyd's comment, I mean, I agree with you. The way we have set this up, we basically start out by saying, do nothing with legislature; this is a ticket to disaster. But if you're going to do something at least for God's sake fix the stuff that's really wrong. Don't just reintroduce this stuff into the Government Code when it's all screwed up. We will obviously talk about your comment. My inclination is that we probably feel we have to do both. We can't just stop and say don't do legislation because I'm afraid the guy will do it. He's got the -- the placeholder bill is there. All he's got to do is drop this stuff in and then we're dealing with a legislation which is tough, a lot tougher than where I think we are right now.

I'm Bob Geiss from Orange County: I agree with Jack's last comment. We have to do two things. What a reeking pile of garbage this current Kelso Report is and talk to our assembly people before it goes anywhere so that it can be sat on and squelched before it gets anywhere. And unfortunately we can't stop there. That's being too reactive. We have to be proactive. What should we be doing then? I suggest we've got to take a look, see what has to be fixed in the Penal Code and push for that and where it ends up after that, I think we can do that without going to lobby. Thank you.

Bob Abeling, Marin County: And I know, Jack, you just mentioned that we cannot lobby legally, but I'm sure that McGeorge School of Law has a board of directors or a board of trustees probably. And if those people are contacted informally and mentioned ahead of time that there is going to be a great resistance from this organization and probably others that they might get to Kelso under the table or by just discussion purposes maybe you better rethink this and let's try to be cooperative. And it's only for suggestive purposes. Politics does work.

Jim Kelly, San Diego County: While the state organization perhaps can't function as a lobbyist, individual members certainly can. Shortly after our grand jury left office the subsequent grand jury came under some fire at an attempt to present an accusation against the mayor with the result that the press was highly critical, portrayed the grand jury as a bunch of clowns and so on. Several members of my grand jury I had the honor of serving as foreman that year went around and spoke to each member of the assembly and the senate from our county educating them on the functions of the grand jury, the good works that the grand jury does, and urging that bills and any subsequent bills might be filed by looked at very, very carefully. That's what some of the problems that earlier legislation had caused. We had our own ideas on reforms that were necessary and they included the qualifications that members the screening process by the presiding judge and the need for independent council and also some form of continuity, a longer term. As you know in San Diego there's no carryover permitted at all. So individual members can do a lot of damage control by visiting each member of their state's legislative and delegation and educating them on things they want them to know about the grand jury.

Response: That's a very good point. Those of you who are from counties like Orange, Los Angeles, San Diego, where you have half of a legislature in your county, you can make a big difference. Some of us who are from smaller counties like myself can't make a huge difference, but if you're from a big populated county, if you can get to your elected officials, you know, you've got a heck of a lot of clout you can bring to bear.

Chapter and Independent Association Activities

Elwood Moger: What we want to do in this segment of our program is to just have a roundtable session back and forth of relationships, and the people that are here from our chapters we'd like to hear from you as to how you feel it's going and people like Jim Kelley, the people from Orange County; they're a lot of you here, as to ways that we could relate better to the Independent Association. What I'll do is walk around and what I have assembled here is Jack and Clif Poole, the new chair of our membership and chapter relations committee and Dian Picone was the chair and is leaving office, but she has a lot of good experience in this area. And there may be people in the room. I know I've talked to several that have some thought processes of maybe forming a chapter. So if you have some questions, this would be the time with the experts, our president and two membership people to maybe kick some things around. So are there some thoughts you may have. Let me kick it over to you, Jim, as to how you see the relationship between the Orange County Association and CGJA. You have any thoughts?

Response: I was really surprised when I saw in the first grand jurors' newsletter that Monterey was in Southern California. I think that's one of the areas. It just seemed to me that maybe Southern California isn't given quite as much chance to work within the state as some of the other areas. And this is just kind of off the cuff but at least that's what it looked like to me.

Question: Is there any thought you have as to how you would like to – what role you'd – more participation?

John Baird of Orange County: I think from what you're seeing today quite a few members of the present and past Orange County grand jurors who are here today, and I think they're showing some developing interest. To be quite frank with you, I really didn't know a great deal about the state organization until about two years ago. And as a grand jury member in 93-94 I never heard of the organization and even after I became a member of our Orange County Association I'd never heard of the state organization. I just think there – someplace along the way the publicity is slipping up a bit.

Jack Zepp: That's part of the reason that we've gone to eight journals a year as opposed to four in mailing them out and trying to get the communication out there as best we can. That's also part of the reason we're here today asking for how can we work better with you, you work better with us and how can we make the associations, the chapters whatever you want

to call them all one big family so that when we speak to Clark Kelso or when we speak to Gray Davis or whoever we are speaking with a force that is second to none and with the experience and the knowledge that is out there. It's unreal the amount of talent that is sitting out there in the Grand Jurors' Association.

John Baird: Well, we agree with you on that. There's no question. But we look at our organization with 200 members and then begin to compare it with the state organization which has, what, 350 total. I think we are or certainly boast to being the largest association in the state of California. There again that's why we feel that we'd like to be able to do a little more and be accepted a little better by the state organization.

Jack Zepp: Well, I don't – I'm not exactly sure what you mean, but I'd be happy to talk to you at any point in time on the specifics on what you're trying to get to. And I have no problem with carrying on the purposes or the banner of the CGJA as determined by the entire membership, whether it be 200 in Orange County, 350 in all of the state or 550 between the one organization. I've got no problems with that. Whatever the majority wants of whatever is in the organization.

John Baird: Well, obviously we need to work together a lot more closely than we have in the past.

Jack Zepp: Now you're speaking the words that I have longed to hear. Ever since I joined this organization I've heard about south, north and middle west, wherever that happens to be. Folks, there's just one.

Jack Zepp: I can't tell you how important it has been to me to try to reach back out to the south. For whatever historical reason we do not have the best relationships with the large southern counties. It's the uppermost thing on my agenda to try to reestablish that connection.

Emma Fischbeck, Los Angeles County: I think the best thing that the organization could do would be to have more members. In order to have more members you need to encourage them to join the local association and incorporate the dues to have it a joint thing where when they join the local association if there is one in their county that part of that association money that they pay at that time then goes to the California State Grand Jurors' Association. And a more nominal figure such as \$5 for the state association with 200 members that would be, how much, a thousand dollars.

Clif Poole: Emma, you and I were discussing this a little earlier. We probably won't come to mind, but it's something that the board and the committee is going to have to – they're going to have to face as we go down the line. We were going through some of those figures in the board. Right now we are spending over \$10 per member just to get the information out in the journals. And that's fine, because we think that that is necessary in order to communicate with and keep a part of. As far as the local chapters we encourage chapters. We do not want to get from what I understand -- and I'm speaking as a new individual within the last year -- no past histories, et cetera. We do not want to get in the position of telling chapters how they run their local organization or telling members that you have to belong to a chapter. What we want is the support, and, yes, the numbers are great. But if somebody wants to get in for two cents a day versus a nickel a day, which is what I pass back to you, six cents a day I throw that down the tubes most of the time amounts to \$20 per month. Now somewhere along the line somebody is going to have to help support an organization they believe in. Your group, L.A. and Orange County, I have no doubts that you meet three, four times a year. I have no doubts that you meet for dinner, and I have no doubt that you probably leave a tip bigger than that on the table.

Emma Fischbeck: Well, we do not meet for dinner.

Clif Poole: Well, lunch or whatever. And we do the same thing. I'm not singling you out to say your group is extravagant or my group is or that group, whatever. What I'm saying is that there has to be reasonable number, and, yes, generally speaking the money goes to a state organization with most organizations then they rebate back to the chapters, et cetera. However the mechanics of those type of things get worked out, they can be worked out. Those are everyday mechanics. You have to agree first that you're going to have to have more power and more strength and more force and more voice with more people agreeing. We're all trying to do the same thing or we wouldn't be sitting in this room, but we've got our two separate corners sitting out there from what I've seen and it's silly.

Emma Fischbeck: If you want more people, you lower the dues. If you want to get the information out to them you send the journal to the association, and the journal distributes the association newsletter to their members. You don't have to worry about the charge of the journal for people who are members of an association. It's only the people who do not have the privilege of having an association in their county or in their area or don't care to be in one.

Clif Poole: Well, Emma, I would be happy to present when our committee gets back together your view point, and I'm sure that most of your committee is sitting around here hearing your view point. I will tell you ahead of time that I will probably disagree myself personally with your view point. We probably will never come to an agreement on it, but I certainly respect what you're trying to do. And the \$5 or the keeping the dues to an absolute minimum you and I both agree on that. The number that is able to be attained and what you cut out, that is where the disagreement comes in because I feel that it is absolutely essential that if you have somebody supporting your cause and they got in there and started your membership because they supported your cause, that you keep them informed of the Kelso proposals, the actions of grand juries throughout the state, what the chapters are doing and so on.

Elwood Moger: I failed earlier today when I was introducing some of the officers of the chapters to recognize a new person here, and that is LaTonia McDaniel. I'd like to have you stand up. She's the vice president of our Los Angeles. I failed to introduce her and I apologize.

Jerry Lewi, Ventura County: When I joined the association and then finished my grand jury service, I thought, well, gee, it might be a good idea to try to form a chapter in Ventura County, perhaps Santa Barbara-Ventura joint chapter. And as a matter of fact I spoke with past grand jurors from Santa Barbara County. And I talked to Audrey Lynberg who gave me good advice and gave me good support and some materials to go forward so the idea was – and I had some informal support from some of my fellow grand jurors who thought it was a good idea, although they're not members of the association. So I wrote a letter to the presiding judge who wrote back, said, Great idea but I'd like you to work with the sitting grand jury. For two consecutive years the sitting grand jury said, we don't want any part of it. I'm totally frustrated because I don't see how a local chapter can function in terms of what I hear local chapters do without some interaction with either the sitting grand jury or the court or the county. And failing to get that, I just stopped my effort. So I relate that to the benefit of anybody else who's thinking about doing the same thing, and perhaps to seek some comment from other organizations, other chapters who have formed perhaps in a similar circumstance. In other words, how do you overcome that serious resistance other than to keep griping about it?

Response: Serious resistance I look at it's a challenge if you believe in what you're doing. I heard the gentleman up front here from Orange County say, I was three years into the association before I heard of the CGJA. And that may be the same thing with the sitting grand jury that you've got. Maybe they haven't heard of CGJA nor maybe they haven't heard of the works of CGJA and maybe we haven't been that efficient in the past.

Jerry Lewi: They won't even give me the courtesy of coming in and trying to explain it to them.

Response: The other possibility, Jerry, I really don't know if this is true in either Santa Barbara or Ventura, but there are counties where the advisors to the grand jury tell them to stay away from us. So they could be being told that they're not supposed to involve themselves with the state association.

Elwood Moger: Is there any thought on Orange County as to how you relate with your grand jury that you'd care to share with them?

John Baird: Well, we have members of our board who go down and confer with the foreman and with the grand jury. I get down there with some regularity just to check to make sure they're getting along all right. And also to go down to see the administrator, Mary Hennessy. So those of you from Orange County know what I mean. But seriously I think we do have a good working relationship with them. The members of our board meet at orientation meetings. When the selection is made we are asked to come in and give information and speak to them. Quite a few of the sitting grand jury members attend our luncheons. We meet four times a year at functions. And we do normally get several of the sitting grand jurors. So I think we've been very comfortable with our relationship with the majority of the sitting grand jury.

Comment: From what I've heard from you and the speakers up here it sounds like you have one of the ideal relationships with the courts.

Response: We do. That's what we've been trying to tell you all these years.

Elwood Moger: James, do you have any thoughts? You've got a big association down in San Diego County.

James Kelly: To be honest we don't really maintain a lot of contact with the sitting grand jury. We each year have the outgoing grand jury come in and constitute the program for that month's meeting. The foreperson is our speaker. We do have the presiding judge as a speaker frequently perhaps what I mean by that, it's about once a year. But we try and keep out of the hair, if you will, of the sitting grand jury. We try to recruit all of them at the end of their year. I do, however, as president this year and my predecessors have called the foreperson have told them of our existence, told them where we meet. Given them some telephone numbers and said that we would be at their disposal if they need some advice, if they want to know how something was done once in the past or if they want details on the functioning of our county implementation committee, which as you may know is a part of our association. The gentleman that was sitting to my right, Jack chairs that committee. We meet each month with the county and review outstanding recommendations. So we maintain that contact with the county. But again our emphasis has been to try and stay out of the way of the sitting grand jury. If we feel they're under attack in the press of course we'll jump in there with the defense of the grand jury process in general.

Comment: See, now, you mentioned something that your county has that probably some people from Northern California have never heard of, okay. And those are the true benefits of bringing everybody into the same room into the same thought. Just that one comment was probably worth the trip down here for some people from Northern California to bring it forward. And that's what CGJA tries to do. Now as far as your grand jury down there, CGJA actually sends a journal to every sitting foreman and the past foreman for one year. We just started that practice this last year. And it carries news of the chapters should your chapter be in there. It keeps them updated of what's going on. It also keeps them updated as to what CGJA is doing. So we're trying to accomplish some of the things you're saying and working in hand with the association or chapter.

Hi. My name is Pat Bishop. I'm from Santa Barbara County. And I'm new. I'm on the present sitting jury and a lot of this information is new to me. I'm not familiar with this current issue you were talking about Kelso. But it concerns me greatly that we don't know about it. I can see how it's a threat to the juries and I can see the major benefit of having our grand juries have the freedoms they have. And I don't know anything more than to say I feel we need more communication. We'd like to start a chapter. We've talked about a chapter in Santa Barbara and that's one of the reasons I'm here. I think I'm the only juror from Santa Barbara. And so I was curious as to how to start this and so I'd like to talk to someone about that.

Response: That's great, Pat. I gave you my name and email so that you can get hold of me and we can get some down to you.

Cheryl Brothers and I'm from Orange County: First of all specifically to the gentleman from Ventura, you know, judges have been ignored before and that's all it is to you as a past grand juror's advice. And I can't imagine for a moment why he sent you to the sitting grand jury. That's the last body I'd go to for forming a group of past grand jurors. In my opinion it only takes two or three people from a panel to decide they're going to be a chapter and start meeting and start doing something interesting and good and you will attract new members. Also one of the things Orange County does is our membership year is a calendar year. Of course grand juries are on a half fiscal year. So at the end of a sitting panel jury duty we give them six months membership. So they get our newsletters and they are invited as a member to our luncheons and many of them get interested during that time and then do renew at the end of the year. Also as just a perk, we actually invited them to our lunch in June, which is their last lunch opportunity and we host them for that lunch. So one last time we get them there for free and we got to give

them the pitch. Also in Orange County because we are very involved I promote our group to anybody in the county who wants to listen that we are an impartial panel that can still be solicited for duties. One of the things we do is help select the oversight committee for our Measure M, which is a transportation pact. So we actually still serve our county, and once you can do that I think you become a magnet for past grand jurors. They want to still be involved. When I came on in '93 the comment I heard was, oh, God, if I join that they just meet for lunch. That's not all we do anymore. We do a lot more and so we are a magnet.

Jack Zepp: El, if I could just follow up on that comment. We're going to have a speaker here tomorrow from the California First Amendment Coalition. I've talked to him and I think he's going to be talking about the following among other things which is an idea that I want to suggest to all of you. The fact that you're not on a grand jury anymore does not mean you have to stop being an actively involved inquisitive citizen. The Public Records Act is such that you can get to just about every piece of information the grand jury can get to. The only thing you can't do is subpoena people. If you have an issue you had it on the grand jury or even if it comes up after you're on the grand jury, there's no reason you can't pursue that issue just as you would have as a grand juror. One of the things that I would like to see the chapter and the independent associations do is focus on the fact that there is that ability and put some energy into the people who are in the chapter or the association who care about the report they wrote which didn't get acted on or the county said would implement it and didn't, or what have you. I mean, you have 95 percent of the ability you had as a grand juror you have as a private citizen to follow up on that, and I think it's one of the things that would increase. As you said, it's the magnet to keep people interested and keep them going is the ability to keep pursuing local government which is why you got in this in the first place

Ormand Colbert, Riverside County: For one thing we have an opportunity to address the sitting grand jury shortly before their term was over. We can do this in recruiting at that time, tell them what it is that we do and suggest that they might want to be members. We also have an opportunity at that time – and this may be of interest to you – that we also talk the California Grand Jury on what it does. And that you don't necessarily have to be a dual member or anything, but that there are two and they do serve similar but different functions on what they can do. We also send a newsletter. In fact for the first six months to all of the going out grand jury, and they're allowed to be an associate member for that six months and they get a newsletter. So, yeah, we unfortunately we've had a secretary who felt – that is, a grand jury secretary – that felt they were the grand jury and these other people just come and went. She was not necessarily in favor of the association. She seemed to pretend she was, but she wasn't. And she gave us a lot of negative publicity to the grand jury that was going out. I think, however, some of that's been corrected.

Response: You say similar but different purposes. And I don't look at it as similar but different purposes. I think we're doing the same thing as I see chapters and associations. You think what works best in your community the things that we look for in the CGJA are the numbers as Emma mentioned a minute ago. We look for the support and we look for the 501C3's so nobody fouls up the charitable organization. And we look for the input of ideas so that we can share. What you have done I want to share with Northern California. I want to know about it. That's what's made our grand jury system good is when all of a sudden they find out that they're not locked into a individual counsel. Okay, county counsel, city counsel, city attorney, or whatever that they have some other ways of finding out what they can and can't do. How many of you have gone to a conference as you have started to serve on a grand jury and all of a sudden found out that, my God, the next county doesn't do it the way we do it? How come? Is that legal? And how did you find out? Did you find out by staying within your own county? Absolutely not. You found out by

talking to somebody else moving down the line or going to a conference. That's what this whole thing is about. And the more we can bring people together and the more we can share information, the better off everybody is.

Comment: Last year I spend most of my time just assembling a chapter package to help facilitate chapter formation, but you all have so many different ideas on what chapters can do, how they can operate, whether you're independent associations or chapters. And this is illustrative of where our communications may be improved considerably by getting your ideas, getting your information and helping to disseminate to the other chapters, other associations.

My name is Pat Cunningham. I'm from Santa Clara Grand Jury. We came down here today. We are sitting jurors. We had absolutely no idea who you were, what you were, what you did. I'm so happy to hear you say you'd like to let Northern California know what you do. We'd like to know. Many times I'm sure all of you being previous grand jurors there's times where we feel we are inventing the wheel. And we're all here and we would just like as much information about what you do as a body like this and in your chapters. I know we don't have one. If we do no one has mentioned it. So any help that you can give and suggestions thank you very much.

Jack Zepp: Bud Alne, who's sitting right in front of me here is trying to form a Santa Clara chapter. So you need to just talk.

Elwood Moger: I'd like to ask Boyd who's coming from San Luis Obispo his thoughts on how we could better relate as a state association and individual association and strategically bring our thinking together so we're powerful within the state.

Boyd Horne: I apologize for suggesting additional burdens for the association. Someday I'll get back and volunteer and help. But one thing that occurs to me is that I've seen this association in the little time I've been in contact to address the communication problem and the liaison problem. First with sitting juries and then with certain large associations and then going to chaptering and then recognizing independent associations. What occurs to me is a logical extension of that evolution is by various ways and means establishing a connection with every one of the 58 counties. And what I mean by that is if there is one interested party a previous juror in the county, that's a beginning and that individual could be on the mailing list as far as this association. And one person becomes two, and two becomes ten, and ten becomes 50 and the independent association becomes a chapter, et cetera. But the first step and I realize this would be very significant burden but would be to actually recruit somebody to represent the association in every county. And that's communication by sitting juries. It's a necessary and desirable communication. Sitting juries have a useful life of one year and if they break any kind of interest with the association after that, then it's over. But a chapter or an independent association or one person provide – it's a life term. After you've served on a jury, it's a life term. In terms of the kind of presumably the kind of interests that you develop. So I'm just thinking the future of the association is going to be predicated on establishing a connection with each one of the 58 counties.

Comment: And I think I have to agree with you. As a state association you're not going to be able to stand alone. You've got to bring many of the associations, chapters, counties everything together. That's the way that you're going to create the power. We have a – been -- all of a sudden the state association has been gaining respect amongst the state, amongst the officials, and we're gaining more and more every day for the work we're trying to do. There are different associations right behind us. And as you say you have to get into all 58 counties. And it's going to come by one by one by one. But the first thing that we've got to do is try to pull together

where everybody is agreeable on a basic set of rules or a basic concept. Okay. But the more rules you write as you go down the line, the more you're going to divide so that's why and as I first started off, my thoughts were, as few rules as you can to be part of the CGJA. Allow the freedoms of the chapters, the associations as much as possible to do their thing as long as it does not affect CGJA and yet come to an agreement as to a common purpose and allow the entire state to dictate how CGJA goes ahead. So I think we're seeing the same thing. It's a one by one, but it's trying to keep a lot of things together right now.

Comment: Yeah, Boyd, since you were on the board I'm pleased to report that we now have the ability to communicate with all 58 counties. We didn't even have that ability previously. Clif has created a data base that now let's us get to all every foreperson in all 58 counties. Which is the first time we've ever been able to have a reasonable expectation to be able to communicate into some of these counties.

I'm Jack Friesen from Marin County: And have enjoyed some of the information that I've gotten from the different jurisdictions. I would say just a couple of things about reaching the sitting grand jury and so forth. I went on the grand jury and was the foreperson for the term that just ended last June. And for part of that time I had absolutely no knowledge about the grand jury in general but certainly not about the chapter or the state association. But the Marin chapter provided the orientation and training which was an extremely effective way to make their usefulness know not only to myself but certainly to the rest of the jury. And then throughout the year I became more involved in the process and the support that I received from the then president and other committees on continuity and implementation issues and so forth kind of made the whole idea about continuing on as a member of the chapter when my term ended a no-brainer. And I think if the various chapters that have chapters that are having difficulty in recruiting members and being an integral part of the process would be more hands on as opposed to hands off in providing discreet support not intrusive support. I think that goes a long way. Our chapter also – well, first of all the county itself paid the dues of the sitting jurors to be members of the chapter for the year they were on the jury, and then the chapter recently enacted a proposal which was adopted to provide free membership for the first succeeding year after the year went out of office to further cement the relationship. And I think the reason the state association provides the foreperson for a year of free membership probably is another step to have some sort of linkage to a state association that should be considered and perhaps never get to the former foreperson the journals and so forth in the succeeding year and forming a chapter for those that don't already have one. So these are just random thoughts, but it's been a very effective learning process for me.

Comment: I have one more comment. To cement the relationship I invite you all to attend our hospitality room. It's just off the lobby I believe. Hors d'oeuvres and friendly conversation. So please join us.

Comment: I had just one last comment to make. You have a lot of information that would be so useful to a new chapter or someone starting a new chapter. If any of you are willing to share that information and want to contact us so that we can get your email or your names and addresses or telephone numbers. I think so often when you're beginning a chapter, talk to someone who's had experience who knows the answers to those odd little things that come up. That would be enormously helpful.

Elwood Moger: Okay. I think we can wrap it up now. If there are any other questions or points of view. I think we have a nice start to try and open some dialogue with our chapters and with our independent associations, and let's try and continue as we go forward to keep that

communication flowing. If the independent association or the chapters have a problem, let us know. Please let us know. And let's see if we can work it out and let's plan ahead when we have a problem and work together. So thank you all for taking the time to giving your comments. See you down at the reception.

Saturday November 3, 2001

Welcome by CGJA President

Jack Zepp: Okay. Now, it may seem odd to you that we're half way through the conference and I'm only now welcoming you to the conference, but I think that's because of the sequence of events that we have. As you all know, we had a board retreat that went from Thursday and half of the day Friday, and then we roll out of that into the beginning of our conference yesterday. And then into our dinner. But this is the first time that we have any reasonable expectation that everybody that's going to probably be here; as a matter of fact, it looks like a lot of people have not made it here yet. But that's the reason I held all these remarks off until now.

We did have a very early breakfast this morning at which we awarded excellence in reporting awards to a reporter from the Sacramento Bee and the Placer County Grand Jury respectively for a newspaper coverage of a grand jury event and report that they issued. For those of you who were able to make that, and I know not many of us were able to get up at 6:30 in the morning, but for those who were able to make it, I appreciate your insight as to whether we should continue. That's a new event this year. As you'll find out later today, one of our speakers is from the California First Amendment Coalition which is basically the media's lobbying arm. But one of the things we're trying to do is develop a closer relationship with CFAC and with the media so the grand jury can get better coverage on all the good they actually do, most of which goes unremarked.

The CFAC itself is in a process of converting its own organization from what has essentially been a lobbying arm for the media to a public interest outreach organization. And they are the experts in this state on the Brown Act or Public Records Access and so forth. And they are very good about answering inquiries of citizens. So if you have any questions about the Brown Act or the Public Records Access or anything in general, CFAC is a very good place to go. I want to say, once again, how deeply appreciative we are to the Orange County past Grand Jurors Association for making this possible and to Jodie Harrod and Rose Moreno; two individuals that carried the laboring oar on this. They've done a fantastic job. I'm just extremely appreciative of everything they've done.

Speaker—Marilyn Brewer

Jack Zepp: I'd like to introduce to you now our first speaker of the day, Marilyn Brewer. Marilyn Brewer was elected to the California Legislature to the 70th Assembly District from 1994 to 2000. She served as executive assistant to an Orange County Supervisor for eight years and has served as subcommittee chair for the South County Task Force on Gang Awareness and Prevention. Ms. Brewer has served on the Orange County Grand Jury as well – although I don't have the years. You might mention, Marilyn, when you come up what year you served on the grand jury – so I give you, Marilyn Brewer.

Marilyn Brewer: Okay. The year was 82-83 on the Orange County Grand Jury and I am a proud caring member of this association. I have always maintained my active status. I want you to know that I'm very pleased to be here. If it wasn't for the Orange County Grand Jury and my experience there, I would have never had ascended, if you will, to the California State Assembly as the assemblywoman of this district. I served from '94 to 2000 and it was a great six years and

it's all because of the grand jury. I had been in business prior to that. I left that business and went back to college, and after I graduated I was looking through the paper and saw that they were accepting applications for the grand jury. I had no idea what I wanted to do with the rest of my life. And I submitted an application and, very fortunately, was accepted the first time I ever applied. And I loved being on the grand jury. I loved public policy and the whole process. And somebody said to me – a friend said to me, well, I knew such and such through the grand jury and she was able to parlay that into this great job. And then I'm going to be watching closely to see what you're going to do with it. And I said, "Oh, great, you know, now what?" And then I was able to parlay that into the position with Supervisor Tom Riley who represented this very area that you're sitting in and was very renowned and respected in Orange County.

I was able to parlay my grand jury experience into a position in Tom Riley's office. And I really thought it was the opportunity of a lifetime because I was too old to get involved in politics. I had not gone up through the ranks. And I got in on the inside for eight years. And once I was in the inside I said, "This is not brain surgery." This is a business approach to what they're doing. And as a result of that kind of thinking I decided that I would run for the state assembly. And you can't imagine what an experience that was. I was an underdog. I was a dark forest. I had never held political office. And let me tell you, based on what I know now, that was a very ambitious agenda to undertake. But my secret of success was I ran it like a business, so that's what I knew best. And I started with really good people. And I kept my finger on the pulse of the money. I always knew how much money we had and were able to spend.

I knew that running for office – and I share this with you, because maybe for you it's not the state assembly, but it might be a school board or water board or your city council. It's a wonderful way to give back and it's very rewarding. And I knew that running for office was going to be a tremendous experience and have a tremendous impact on my life. It was about winning and I wanted to win. I was fully emerged in the experience and I knew that I would be different after it was over. And it's incredibly different to work on someone's campaign versus being in it. And so I would highly recommend it to each and every one of you.

I want to thank you and, specifically, Jodie Harrod for inviting me. I love coming back and speaking to the grand jury because I'm indebted to what the grand jury process provided me and you certainly sent the right messenger when you sent Jodie Harrod. There was no way I could say, "No," to Jodie. Thank you very much. I enjoyed very much my interaction with Dan Taranto. Dan and I talked on the phone and I want you to know that a great service he has provided to this organization is the guidelines that he has drafted. I don't know if you have seen this document, but you need to. It's called "Guidelines to Legislative Action." This is a great document. And if you wanted to make some money you could sell it to other groups; it's that good. It's very precise and really could show the way on how to be effective.

When I talked with Dan we talked about what kind of a presentation I should do today and what the topic should be. And three that we came up with was mapping out the state capitol, how to be a Sacramento success without a powerful lobbyist, and effective lobbying by former grand jurors. I hope to cover all of those topics in my time; I'm scheduled for an hour. If I talk about lobbyists for an hour we'd all go to sleep. So I'm going to talk about the legislative process and how to lobby and then I would like to show you kind of the inside view of Sacramento and the up and coming election, the November election. And then of course I will take questions. Any questions that you want to ask.

According to the dictionary, to lobby is to attempt to influence the votes of the legislature. And when I first went to Sacramento, I heard about the lobbyists, professional lobbyists. And it was

like it was a dirty word. But the reality is this: I have many good friends, even today now that I'm out, amongst the lobby corps and they're people just like you and me and they're doing their jobs. One of the very first things I trained myself to do when I got to Sacramento and hoards of people come to your office especially when you're brand new, they want to acquaint themselves with you. It's so overwhelming and you don't know whom you've met and whom you didn't. And the day would start like at 7:00 a.m. with breakfast and at 9:00 o'clock you're finally winding down. And I finally figured out that if I was going to tell the guys apart on the same day I had to study the ties they were wearing. So if I saw the same tie twice I knew I'd seen it at breakfast or at lunch or wherever. It really got that bad.

But lobbyists, they're just people and that's their profession. And, yes, they're hard core and, yes, they fight for whatever issue they're fighting for. That's what they're paid to do. And so very early in the day when anyone would come to my office whether it was a lobbyist or it was someone from my district, a fellow legislator, the first thing I would ask myself is, "What is their agenda; what are they here for?" Everybody has an agenda. They want something. That kind of demystifies the process and it also neutralizes the meeting that they were there to represent their point and their concern. And when you lobby in Sacramento, that's exactly what you're doing. You, too, have an agenda. We all do.

There are pros and cons to lobbying. And John F. Kennedy, our president, once said, "To lobby is to speak to the very functional interest of this country, serve a very useful purpose." And indeed they do. As a legislator I thought it was my responsibility to have an open-door policy and to meet with lobbyists and to hear their side of it. I also have a responsibility to meet with the opposing factions and hear their perspective. Everybody has their own agenda. My job is to gather information and then reach a decision based upon that. And I think that when you're in Sacramento that's how most legislators approach it. We talk to both sides. We hear pros and cons. We have neutral parties--our own staff and state--that research it and provide information and that's how we proceed.

There was another president who was against the lobbyist. Herbert Hoover said, "Our representatives can be defeated by pressure groups, pressure groups whose concerns are not in terms of the needs of the whole people." And that's certainly true, you know. You heard stories. We have read stories. There are politicians who are insistent because they succumb to the pressure of special interest groups. But that's why you accept it, to weigh it all and to stand on your integrity. I think the best quote I ever heard in politics is that the process for democracy is not a spectator sport. If you want to expect a change, the most important thing is to have a place at the table. Now, that's not easy to do. Number one, you have to fight for that place at the table. Legislation can only work if the people make their views known.

Number two, sometimes you are a lone voice at the table. But there's a great deal of, A--courage, B--satisfaction, and having that place at the table and to be able to affect a change. And what I found because I am a mainstream conservative Republican which means I am very fiscally conservative and moderate on social issues and I had wonderful relationships across the aisle in both tasks.

But what I found was when I would find my voice and speak out that often sitting at that table is someone else who feels the same way as you and did not have the courage to speak out. But once you have spoken out and presented a different viewpoint, that then they would often side with you. So there is nothing more important than having a place at the table even if you're an adversary. And I guess I will once again get to experience that. About six or eight months ago speaker Robert Hartford appointed me to a state commission entitled "Tax Record for the New

Economy.” And because of the energy crisis, Gray Davis has not made his appointment. And I was in Los Angeles yesterday and he with Bill Rosenthal who does *The Week in Review and Beyond the Beltway* on cable TV. It’s an Adelphia show. He has been named chairman of this commission. And also Gray Davis has appointed Lenny Goldberg who’s my actual nemesis. I have done battle with Lenny many times, and the best way to describe him is that there never was a tax he didn’t like.

So it’s going to be a very interesting commission. And once more I may well be the lone voice at the table. I don’t think so. I was heartened after talking with Bill Rosenthal. He does have an agenda. He is very open-minded about it. And there are going to be public hearings throughout the state. So if that’s an area that you’re interested in, you might watch that.

Here is another point. Who is your enemy today will be your friend tomorrow when you’re working in Sacramento. It’s always in your best interest to temper adversarial comments with dignity and with courtesy because at some point in the process even though you’re this far apart you may be able to come together for a common goal. And the reality is, we’re all in this together. The legislative process can only work if people make their move known. Now the legislative process is overwhelming. It’s intimidating and it’s threatening. It’s a foreign atmosphere. It’s a very confusing process. Sometimes I think that’s why the senators and the assembly members feel power if you don’t fully understand what’s going on. But it’s not that hard to understand.

I always felt during my tenure that part of my responsibility was to demystify the process. There’s no magic to politics, and, as I said earlier, it’s not brain surgery. It really is understandable. The capitol varies that pace so if you don’t understand what’s going on, it becomes overwhelming and daunting. And it’s very demanding because everything is time certain. And what happens more times than not is everything languishes in the early part of it, and when it gets close to the deadline it just goes at a great speed. So you have – your job if you’re lobbying is to stay abreast of what’s happening. And you’re like in training for the big win so that when it becomes fast paced you have a game plan and you’re ready to execute that game plan and go with the flow which will be very fast and things can happen very quickly. Or worse case scenario, you think a bill is dead and suddenly in the very last day, sometimes last hours of the session, a bill is resurrected. We saw that very, very often.

Now, there certainly are paid – you can have a paid lobbyist and you can have a volunteer lobbying force. And what are the pros and cons of each? Well, if you have a paid lobbyist – well, if you have volunteer lobbyist you feel like you have no guarantee of the outcome. The reality is, if you have a paid lobbyist you have no guarantee of the outcome. There are no guarantees. Yes, a paid lobbyist knows the pitfalls. They know where the land mines have been. They know who to work with, where they can go to get votes. But if you were to establish a legislative committee as part of the Grand Jury Association they too could begin to build those relationships, and the outcome could be just as effective with a volunteer lobbying force. A paid lobbyist is time-consuming because you have to educate him or her about your issue. Well, you have to educate yourself about the issue, too. So in educating yourself, educating the lobbyist, you can take that information and you can use it to your own vantage.

I’m not saying that there may not be a time that you’ll need a paid lobbyist, but my sense is for the types of issues that you’re going to be dealing with it’s really not imperative that you have them

unless you get into a really volatile issue. It's costly to have a paid lobbyist. They're well paid and they certainly don't donate their time. In the cost of volunteer lobbyists, of course, there's your time and your effort. Either way whether it's a paid lobbyist or a volunteer lobbyist you are involved. You have to be involved in the process for it to be successful.

Okay. So how do you lobby effectively on a miniscule budget and not paid at that? One of the most important things is to pick your battle. You're not going to win every battle that you're engaged in. I seemed to learn that in Sacramento. I learned to conserve my efforts and to focus on what was really important. And I think a great example of that is AARP. They started out, you know, they're a national – when they started out and they were concerned with issues for older Americans. In the last year or two that I was in the assembly they would appear in different committees that I served on, and I wanted to say, “What are you doing here? Why are you testifying for or against an education bill?” Unless the education credits the seniors or something, they have no business there. So what I'm saying to you is concentrate your focus. Don't dissipate on what you set out to do. You are the Grand Jury Association and your legislative lobby efforts should be focused on issues that affect the grand jury system.

If you have an interest in other issues then form a sub group or find another group that has credibility and clout in that area and go work with them. But don't contaminate what the grand jury needs to do with other issues. You really dissipate credibility in Sacramento. And that dissipates your efforts too. So what kind of a strategy would be developed if you had an issue in Sacramento? What I – when you look at the whole process it's overwhelming. Okay. So a bill is introduced in the assembly. So then it has AB number. If it's introduced in the senate it has an SB number. And what that means is that is the house of origin. It goes through that house's process. You have to be voted on by the entire senate body or assembly body and then it comes to the opposing house, the opposite house. And it goes through then the other house. If it started in the senate it comes over to the assembly and it goes through the process. It goes to the committee hearing. It's set for a committee. This is public notice. It has to be set 30 days before it can ever be heard. It gets set for a hearing. This is all on the Internet. You don't need a paid lobbyist to tell you this. All this information is on the Internet. It goes then to the assembly house. We make additions, changes, amendments to the bill. We pass it off our floor. It goes back to the senate and they have to concur on any changes that we made before it ever goes to the government step. That's the tail end of the process.

So when I say to you, “Divide and conquer,” this is what I mean. While I was in the assembly, Scott Baugh, the assemblyman from this district, felt that he had been maligned by the Orange County Grand Jury because he had gotten into some political escapade. And so the least effective members of the legislature are those who come with a personal agenda and they have a single focus. Well, Scott Baugh had an agenda because he had harpoons with the grand jury, and he introduced legislation that was counter to what the grand jury needed to function. So when that happens – what do I mean when I say, “Divide and conquer?” This is what I mean. That bill started in the assembly. It was AB such and such, three or four numbers. All right. You first learn of the consensus what you want to establish if you don't have already a legislative committee that's going to look at this and report back to the body and say, okay, this presents a problem; a bill is coming up and we need to do something.

So you appoint a committee and you appoint a chairperson. And they should first for the life of the bill and their responsibility is to understand the process and become more skilled. Now we get to the divide and conquer. When you look at the whole process it's overwhelming and you think you have to write to the governor and write to your legislator. You start this letter writing campaign. No, you don't want to do that, not at the get go. You divide and you conquer. Your

first line is to contact the author of the bill. And you want to make friends with their staff that has been assigned to that bill. Okay. And you don't want to go into the adversarial or controversial; you just want to gather knowledge. You want to find out what is their thinking behind the bill? Is someone acting to sponsor it? Was it his own idea? Was there another group that came to enact and introduce the bill? That's how bills come about.

When we had a Republican governor you're often asked to carry an administration bill or piece of bill. So you want to find out the genesis of that bill. Whose idea was it? Your best source is the author. You do not need to meet with the legislator himself. You can meet with his staff for fact-gathering information. You want to establish a rapport with that staff because they're a source of information for you. Then if you have real concerns about it, you go away and you have your own little caucus about it and you want to see how you can make this better. Chances are, he's not going to want to withdraw the bill especially early in the process. That bill can die at any time in the process. And so we're not likely to kill off the bill in the early process. In fact the reality is for political reasons the process is you like to keep a bill alive all the way to the end of the process even though we know we're done with that bill but we're not going to carry it further. Why, because when you get to the end of the process a lot of games are played in the last stage of the session. And often you can take a bill that is in the same category of something else and take everything out of that bill, use the same bill number, and amend it and it's back in as whole totally different bill. So it becomes a vehicle for other acts, if you will, other bills in the legislature.

So just because a bill does not die doesn't mean that if they tell you that that bill is dead that it is dead. Part of this is just being in the process and getting a sense of what's going on. And that can only happen if you've been to Sacramento. If you go there you get a totally different feeling about how laws are made and what happens than when you're going to read a book on *Participating on the Legislative Process, a Citizen's Guide*. You can read this book and you can understand it. You're going to get a totally different sense of it. So you go to the author to the bill. You talk to the staff that's assigned. You have your own caucus. You decide – you can go back to that staff and tell them what you think is wrong with the bill to see if they will listen. And, yes, my staff is great in listening and presenting to me points that people made about legislation while we're sharing. And part of their charge was to talk to agency staffers to get their input so that – the staff is obligated in my opinion to present the pros and cons to their members so that we can make a good decision. I am very open to input from organizations, lobbyists, and lobby groups. And that's important.

Then you need to solidify this by then writing a letter to the author. And it makes sense. You don't need to be adversarial at this point. You don't need to be controversial. The time for battle has not yet arrived. This is kind of peace talk. You want to see if you can come to a peaceful accord. And let's say that you can't. And often that happens and I'll tell you why. You've been overall elected and you bring your own biases, principles, personality, agendas to the job. I say that all the good things I learned about politics I learned from Supervisor Tom Riley. He's a wonderful mentor. And his philosophy was always maintain an open-door policy. And that was one of my very basic philosophies. I always maintained an open-door policy. And it was very disarming when I was called the adversary of my bill, and sometimes it works and sometimes you get a real shouting match over a bill, but, you know, you just let it vent. The bottom line is this, I was the author of the bill. I had complete control over that bill, and don't forget that. They have complete control over that bill. They don't have to meet with you. They don't have to listen to you.

Well, what if that happens? The battle is still not over. And the battle has really not yet begun. Before the first committee meeting you want to contact the committee staff. There is a staff. There is an insurance committee -- there is a Democratic committee staff; there is a Republican committee staff. There is an insurance chairman staff. We have three committees for every damn committee there is. Why, because Republicans don't trust the Democrats; the Democrats don't trust the Republicans. There's a Democrat analysis; there's a Republican analysis. If you're fighting for a bill if you can get hold of both analyses. That's going to tell you which way the vote will go.

If the Democrats are in control, which they are and will be for some time, then the committee staff itself is Democratic. And that's the slack you're going to get. That's why I say you want to know the agenda, you want to know the atmosphere. We're in a Democrat controlled environment and we will be for the next ten years. You need to know that. Then you need to say to yourself, what's a Democratic approach to this bill? What's their position on it; how do they view this. And that's what the recommendation going to look like. Not to say that they're not going to be reasonable, but that reflects back on what I said earlier. Know their agenda. Their agenda is neither good nor bad. It's just different view points. And very often we both want to get to the same coin; we just had different ways of getting to it.

And I can say that grand jury issues are more neutral than a lot of other issues that they deal with. And because it's more neutral and less controversial, you may have trouble getting people to focus on it. Not to say that you can't, but don't take it personally. It has nothing to do with the organization, the bill, anything else; it's just the nature of the beast that you're dealing with. Okay. So then you want to find out recommendations from the staff if you can get hold of the Republican analysis or the Democrat analysis then you want to do that. How do you do that? You make sure that your representation on this lobbying committee is made up of Democrats and Republicans from the organization, and is made up of people from different areas of the state. Why is that important? Because you're creating a two or three front defense here. If the author of the bill is from San Mateo and you have someone in the organization who's acting from San Mateo, then that's a natural link. That's the person you want to involve. And you got to get him to go to the author of the bill.

Nothing is more powerful to me than someone who's come in and said, "I'm from your district and I'm from an organization and we have 35 members or 350 members and we're all active." It's got my attention. When we would tally letters of protest on a bill or letters in favor of, they would tell me, "Oh, my God, we got 350 letters." And I'd say, "Oh, okay. How many of them are from the district?" And see, that's a legislative agenda. How many are from the district because that's who votes for it. And so that has a lot of clout. So, we still have this big picture and this big process and we want to divide and conquer. You've talked with the author. You're getting nowhere. Now your staff is getting a sense of what's going to happen. Your next charge then is to look at the committee makeup.

They could be anywhere from 7 members to 17 or 21 members. They're always uneven numbers and a reigning party will have the majority of the members. That's where you start. You start with letters to the committee, and those letters need to get there before the first committee hearing. If it's an important issue to you, you can follow up with a phone call to the staffer who verbally registers your opposition or support of a measure. If it's a good measure, you need to weigh in and say this is what's important. You also want to find out who supports and who opposes the measure. So who are your natural allies that you can align with. I know that in the past we've worked with CSAC and California Organization of County. There are some natural

allies and your magnitude and influence strengthens – there is strength in others. So you want to know what their thinking is and you don't want to duplicate efforts.

If they are collecting this data, then why should you go to the bother if they're willing to share it with you. If you want an analysis, then it is very easy for any member to call their seated senator or assembly member and ask the staffer if you can have a copy of the Republican or Democrat analysis. They will share with you if you ask. It's not readily available, but it's not classified information. So you lobby the chair. If it's a huge issue you go to the chair of the committee and you get an appointment and you lobby him. And if you can't, then you meet with the staffer, make an offer – the members of the grand jury who are going to serve on a lobby committee need to go in and have a face-to-face visit with their own representative or the senator or assembly member. You want to have a person with them. Will they remember you? They meet hundreds of people, but when you go to Sacramento to lobby and you're able to say, "Well, I don't know if you remember, but I was in your office last April and we talked about it." At least you were there and of course he's going to believe that you were. But it solidifies your position. And when you meet up with your legislature or assembly people that you're working with, reintroduce yourself. Don't expect that they're going to remember your name. But just say, you know, I'm so and so. I'm with the California Grand Jurors' Association. It's a courtesy and it helps.

And it just escalates. By this same process what will happen – once it goes to the committee it will go to the floor. If it's a big issue then you do want to do a mass letter writing campaign to every member of the assembly, which numbers 80, and write your opposition to the bill. It will probably get passed anyhow and it will go out of the assembly house and it goes to the senate. And then you keep getting the same process all over again. It will be assigned to a senate committee and begin the same process on the second run through. You once again have the opportunity to change that legislation. And you have to look at a victory. If it's a bad bill and you get amendments in it, that makes it more palatable to the group. Believe me, that is a success.

Part of this process will be you think you're done because you've called all those people, but not true. If you really believe in it and you're willing to make the fight, then you want to testify before the committee hearing in both processes, but we're just going to concentrate on this here. You go to staff to find out when that bill is set for hearing. And you go to Sacramento to testify. How do you prepare for that? On cable TV on Channel 3 public access. They televise committee hearings, and it would be in your best interest to watch them. I watch them, but, you know, I'm an old hack at this. I'm still addicted to that. I watch them from time to time. They are dry and boring, but it's going to give you a sense of what the process is like, how the legislature operates, how specific – if you're going to be before a judicial committee, you want to know the personality and the tempo of that committee chair and how they react so that you're not blindsided when you get there. And what do I mean by that?

One of the most prestigious committees to be on is appropriations committees, and I'm going to brag a little bit and tell you that I served on Appropriations for the entire six years that I was in the assembly. It's a wonderful committee. Almost every bill goes through on Appropriations. For two years I served as vice chair. And the chair of the committee for the past four years had a very adversarial personality. Her name is Carol Migdin and she's from San Francisco. So she's to the left of left of left. But a bright, bright woman, and she's from New York. So she has a very abrasive demeanor about her. And if you had never experienced her and you went to this committee for the first time, you would be so turned off by politics and so affronted by her behavior that you'd say, "Hell, I'm not doing this." And she is that abrasive and she would refuse

to let people talk or she would interrupt--okay, fine. That's enough. I've heard enough. She was just over the top, but she was a reasonable woman.

There were times when I would say to her, "Carol, let the man speak." And she would. So, but if you don't know that, it's a big turnoff. So you need to know the nature of the beast that you're dealing with. And you all bring a different demeanor to the proceedings because that's who we are. And this is her personality. And she knew us, but hey; she's just too old to change. I'm too old to change. And she would make it up by trying to bend over backwards other times to be nice. But that doesn't serve a citizen who's coming to Sacramento for the first time. So you need to know that. When you testify they don't want long testimony. They don't want a lot of detail. They have a whole packet of backup information. Their staff has briefed them. My staff went over every bill of any merit and sometimes the packet was this big.

So be concise, be tactful, be brief. Watch legislative hands on cable so you're aware of what the process looks like. And here's something important; know your testimony well enough so that you can speak it, not read it, because I'm going to tell you quite honestly. If you're going to read something to me, my mind is off somewhere else. I'm looking through my packet of bills. My staff has sent me a note; I'm looking at the note. I'm reading a clip. I'm not listening. You have to be able to – if you believe in something enough to be there to fight for it, then be able to talk about it extemporaneously. We're not looking for the most proficient speakers. We're looking for people to give us information. If you have a real life story that ties into it, then you want to tell that.

Here's another thing; expect delays. If that committee meeting is set for 10:00 a.m., don't think that you're going to be heard by 10:15 and be on the noon flight back home. That's not going to happen. If the legislator has legislative business or he has to be back at the district or something, he bumps you and he gets to present his bill before you. Sometimes we get called into special meetings and so the committee meeting is delayed. So just expect the unexpected. Don't be disappointed if things don't go your way. It's just the first round. You're going to get a second fight with this. There's going to be a second committee hearing often or a bill to find two committees. It's going to go to the assembly floor and it's going to go to the other house. You can't affect a change if you don't have a place at the table. That's the most important thing. If you want your voice to be heard you have to be involved. I would like now to take any questions if you have any about the legislative process.

Jim Kelly, San Diego: How can you effectively lobby and still preserve your 501C3 status?

Answer: I don't know the answer to that, to be honest with you. I don't know. And that would be a good question to set down. That's why I'm saying, I think if you lobby on behalf of the grand jury issues only that should become. . . . but I really don't know.

Question: Ms. Brewer, how do you see the efficiency of a legislature since they established term limits?

Answer: Like many of you in this room, I voted for term limits. We have done ourselves as private citizens a great disservice. There is from Northern California a person called the dean of assembly he has served before and came back because he hasn't served under term limits and now he's serving six years. He's a very powerful man, very verbose. And he introduced legislation each and every year to overturn term limits, to expand it. I have advice about the initiative process and that is this. If the initiative process is to serve the people, and time and again we have seen and this is what we've heard before and supported not carried out over term.

And I think goes against the rules of people. And term limits was put in by the initiative process. I don't think as an elected official I have the right to undo that. That needs to go back to the vote of the people. And the best would be if there wasn't term limits, but term limits came about for one reason. Because Willy Brown had been there for 30 years and there was no way to get rid of him. And here's the irony of it, okay? Willy Brown's term limited out. He gets himself elected mayor of San Francisco. He's term limited out there the same time John Burton Senate Protem President has almost as much power as Gray Davis right now, but term limited out at the same time. So they're going to get Willy Brown back. So much for that.

At the very least term limits need to be extended. Six years in the assembly is not enough. I was greatly enhanced because I spent eight years at the county level and 20 years in private business. And my campaign slogan was that I could hit the ground running because I understood the process. And that was really true. Most of us spend the first year looking for the bathroom and the chambers and that's all they can handle. And the reality is at my fifth year I was much more productive. I knew the ropes. I knew how to really work the system and be effective and I'm term limited out. A proposal that will be, I believe, on the March ballot or the November ballot will be to extend term limits, I think, to extend them to 12 years. And you can serve in either house for 12 years or you can divide it between the two. That serves the people of the state much better.

Question: Do we as individuals interested in the grand jury system dilute at best or destroy at worst our effectiveness in educating, not lobbying, educating legislators? If local organizations say things different than the state organizations, wouldn't we not be more effective if we figured out how to speak with one voice?

Answer: Absolutely. If you have the Orange County Grand Jury Association lobbying in opposition to what the state organization believes in and you're going in and you come into my office, I would say to you, get it together. Because one group from the same organization saying one thing and this group over here is saying something else. What do you really want. You have to speak with one voice. There is strength in numbers and you solidify and hand position it if you are united. You know, that's like a family fight. So go to the dining room table and hash it out and come out as one group.

Question: In describing the process you didn't mention the office of the legislative analyst or the state department of finance and I was just wondering about that.

Answer: I didn't, did I. Because – well, you always want to get their take on it and they'll provide you with their analysis. And they're going to be somewhat biased. Here again, it's like knowing everybody's agenda, and if you have a Democrat governor then the head of the department of finance is put in by a Democrat. And so it's going to have a Democrat plan. If the governor supports the measure, it's probably going to be favorable. They'll reduce and allocate the cost of that program. The legislative analyst, Elizabeth Hill, a very bright woman and very neutral. She is nonpartisan, and I think she is very bright and I have a lot of respect for Elizabeth.

Question: I'm an Orange County High School graduate. You mentioned that there are analysts on both the Democratic and the Republican side. When we made a trip there this year to testify we spoke with analysts who were employed by either the house or the state assembly or the senate, where do we get in touch with these people? Is it through the legislator itself?

Answer: Yes. Here's how you get in touch with these people. As I said there's three sets of staff. I mean, talk about duplication of services, but the Republicans don't trust the Democrats; the

Democrats don't trust Republicans; and there's a committee staff. So how you contact these people is if it's a bill that's before the judiciary committee, you find out who is the vice chair – we're under a democrat regimen – so the chair will be a Democrat. That's a given, okay? The vice chair is the Republican. They are the lead Republicans on those issues. So you go to that vice chair's office and ask for the number of the insurance staff, and that's how you get in contact with them. And you would ask them also for the analysis.

Question: One of the points before you go to Sacramento is to recognize there are local staffs of every legislature, and that's a very good place to start because that's where they're in contact with the Sacramento office all the time. And if you get them to approve a reform with your local people, you've got the first entry into the office.

Answer: Then you have an identity with their own legislator. That's very important. And also, let me say this in regards to that issue. The Sacramento staff is like the home office, and that's where all the legislation is done. And the district office is like a grand office. The primary purpose is constituent service and community gathering. And, yes, they are very aware of the legislation. It's a very important first step; that's right.

Emma Fischbeck, Los Angeles County: A few years ago I went up to Sacramento to speak to the redevelopment committee concerning something that didn't have anything to do with the grand jury, but I was amazed at the rudeness of the members of the assembly. And I wondered if there's any way we can suggest they go to school and learn how to be decent to the people who come and spend their money to appear before them.

Answer: Well, and I kind of touched on that with Carol Migden. I don't mean to pick on Carol. There are other people who are really – that's the part where I say everybody brings their own personality and persona to the job. And probably they were rude at home. But in their defense, let me say this. You have no clue, no idea of how demanding the job is. I certainly didn't. I was termed out November 30th. It was March or April and I said to myself, oh, my God, I guess I'm old because I wake up every morning and I'm still tired. And the reality was I just realized in June or July that I finally got over being tired. Just that my body was worn down. Our days up there start on Monday morning I was up at 5:00 and on the 7:00 a.m. flight to Sacramento. We had sessions on Monday morning and committee meetings in the afternoon. We have constituents or groups that come in and meet with you. You have your own bills that you have to keep going. That evening there are three receptions and guess what. People from your district are at that reception and they expect you to show up. And it is like being in a squirrel cage. You go and you go and go. You're just plain tired. I'm not making excuses for them. It's just very demanding and it's intense. I was told more than once that I was far too serious. You take this far too serious. Well, you're damn right I do. I was studying the policy and direction of this phase and what we do there affects us for many years to come. So it's very intense and sometimes there's a lot to do.

Dick Nichols from El Dorado County: What can we do to protect ourselves against the amendment act that you've described?

Answer: Good luck. Good luck. That happens and the most onerous part of that is very late when it's done and it's done by the party in power because they have the ability to do that. If you remember a couple of years ago, there was a big issue called the big box bill and it had to do with penalizing Costco and, you know, and this – we'd never heard of this bill all year long and it's like we're going to adjourn in two days. This bill did not exist. They gutted a bill and they put all this in it. It never went to a committee hearing. And it's presented it's 11:00 o'clock at

night and it's presented on the assembly floor. Folks, we had been there since 10:00 o'clock in the morning and we're working the whole time. I mean, this is not – we are working. There are tons of bills. This very bombastic assemblyman from San Pedro area gets up and presents the bill. My whole agenda – because we all have our agendas – for Sacramento was pro business. I wanted to support and be the voice for small businesses in Sacramento because it's unheard and unheralded. Most of the people there are attorneys, former staffers.

You know that in '94 there were four manufacturers out of 120 members, all of them from Orange County. They don't have a sense of what it takes to run a business. So this bill comes up and it's very big discussion. It has never been in our committee. We used every process and procedure we knew to thwart the bill. The Democrats were in control and it was steam rolling through. And the guy that was the author of the bill, a very pro union guy and very bombastic. So maybe I went too far because I asked to be recognized and I stood up. I just stood there because the room got quiet and I said, I don't know whether to address you as colleague or comrade because this is breaking democracy. You know, it's not whether you're for or against the bill; it's about thwarting the democratic process. And that's what happens. And I'm not telling you Republicans haven't done it. But because my philosophy and principles align with theirs, it's more palatable because it's more in the interest of the people. This is self-serving. And I'll tell you. So what happened it got out of our office. The discussion ended shortly after. This guy came out and he wanted to choke me. He's always very bombastic and he thought he was cute. He would tell people that we were engaged. I said, "I guess engagement's off, huh?" But I tell you, by 11:00 or 12:00 o'clock at night that's not going away. I fought each and every year. There was some story like that. We had spent one whole year working on a compact with the Indians casino bill. This was two years before the agenda. Bill Eisenberg spent hours and hours and hours and months and months and months. It went out of our house like at a quarter to 12:00. Bill last year did not want that bill. You know what he did? He adjourned the senate and ended the session, and there was good along with the bad.

Jerry Lewi, Ventura County: How do you feel about a unicameral legislature?

Answer: I'm opposed to it. I'm very opposed to it and I'll tell you why. Before term limits the senate was the more august body. They were much less cantankerous, bombastic, argumentative because they knew the ropes. With term limits what happens is that you get someone who's elected and had six years in the assembly and have been there a year and a half, and their senator's term is down. They know nothing about the process. They have not sat in on negotiations. They have not carried substantive legislation, but they're going to run for the senate because if they don't they don't have an opportunity for eight more years. That's the down side of term limits. It's pitting Republicans against Republicans and Democrats against Democrats. But having said that, when you have that situation, you have checks and balances, it moves slowly. You know what they could ram through if it was a joint body. We lose control. We lose democracy. Any other questions?

Question: I have one I can ask you, and I understand you may not even know about this. But right now there's an initiative pending in the attorney general's office for legal review before it's released that will be on the November ballot in 2002, the essence of which is to create a state grand jury consisting of 13 regional grand juries that would be charged with overseeing all law enforcement and intercounty activities. If you are familiar with that initiative, would you care to comment on it?

Answer: I'm not familiar what they are. What's the grand jury's position on it?

Question: We haven't taken a position. Actually the people in this room just saw it this weekend.

Answer: I'm not familiar with that and decline to comment.

Question: I understand that.

Answer: In conclusion let me say that it was intense, exciting, exhilarating in Sacramento; but I would say I was there during the best of times and the worst of times. In four years I served with Governor Pete Wilson who did a great job. I served under Willy Brown who was masterful, say what you will about Willy. And what I respected most about Willy Brown is he maintained his decorum and protocol and prestige of the house and that's so very important. When you go to Sacramento and you see the chambers you really get a sense of our heritage and the legacy. And I remember the first day I walked in there, and I said to myself, "Marilyn, don't ever lose sight of the charge that has befallen you and don't lose sight of what this represents." And I tried not to. And Willy Brown did a great job at maintaining that decorum. He's a brilliant man, and he had his own agenda. It was very difficult – I served under Curt Pringle, the first Republican speaker of the house in 30 years. I was part of his leadership council. That was January 12, 1996. We hit the ground running because we had already decided a new and developed what a policy would be. Our feet didn't touch the ground for 90 days and so intense. It was a wonderful nine months and what did we accomplish? We accomplished the largest tax cut in California history. Because we started out at the beginning of this year with a \$20 billion surplus and now we have a \$10 billion deficit. That's \$30 billion any way you add it together.

I think Gray Davis is in trouble. But the reality is politics is very dynamic and he is a very cunning politician. And so he's going to be very cautious in what he does. And here again I don't have to tell you what I really think, I don't think there are Republicans who're smart enough to elect Richard Riordan, but, in my opinion, that is the only hope for the Republican party in the state. The numbers in the assembly are 30 to 50. That means any 41 vote bill you're insignificant. Which means on the two-thirds vote bill they only have to find four Republicans.

The highlight of my last year was campaigning for John McCain. I had the privilege and the pleasure of campaigning with him up and down the state of California. And so, "Is there life after the legislature?" You bet there is. I'm having a great time. I'm serving on a couple of nonprofit boards. Yesterday I did a TV show with Bill Rosenthal who does *Capital Week in Review* on Channel 3. I also do my own cable TV show. It's formatted like *Meet the Press* with two on the right and two on the left. It's Orange County's McLaughlin Group. Thank you very much for your attention and for having me.

Speaker—Judge Wayne Peterson

Barry Newman: Ladies and gentlemen, you can read the specific details about the impressive career of our next speaker in the middle pages of the conference proceedings in your packet. However, just a few additional comments may help flesh out the factual frame. First, the San Diego Superior Court is the third largest trial court in the country with 128 judges, 25

commissioners and referees, 1600 employees, and a budget of \$140 million. Our speaker has been presiding judge of this court for over three years and has consistently exceeded all of the communities' and the courts' expectations during one of the most tumultuous periods in the court's 150 year history. Hear the words of one of his judicial colleagues: "He's displayed flexibility and an understanding of where the courts have come from, yet has taken the courts to where he sees them going." Friends, this is leadership. On his watch he faced two revolutionary measures--trial court funding and court unification. And everyone in San Diego agrees that and I quote from one activist: "He was the right person with the right vision to implement the significant and dramatic changes swiftly and effectively." And I think that one of the more interesting compliments was that our speaker brought to the presiding judge position a business-minded philosophy.

As we all know in government agencies, there are people ingrained in the way they have always done things. Our speaker brought a business point of view, not business as usual. If this is all in the background our speaker reflected today, he would be eagerly welcomed and equally critical is that both as assistant presiding judge and as presiding judge, Judge Peterson has dealt directly with at least five different grand juries. It was this experience, and his effectiveness in relating to totally disparate panels, his can-do, will-do attitude, his comfort in dealing with change, and his firm unstated belief that if you're going to make change, you might as well make change for the good. And it is this that has made us so thrilled that Wayne Peterson has accepted our invitation to speak to us today on the subject of the grand jury, where we are today, and where are we headed? Please join me in welcoming the Honorable Wayne Peterson.

Honorable Wayne Peterson

Grand juries have served their purpose. They are a throwback to the dinosaur age. People who served on grand juries are power hungry. People who serve on grand juries have agendas. Grand juries are served by people who know nothing about what they are doing and attempt to tell those who are experts how to do their job. Judges are power hungry. Judges are arrogant. Judges are corrupt. Even we have a public relations problem, don't we? There are those who perceive grand juries as I have just described them, and there are those who see the judiciary as I have just described it. And those of us who work in the grand jury system both as members of grand juries and judges who supervise or work in concert with grand juries know different. We suffer the same kind of public image that legislators do. Most will tell you that politicians are corrupt, lazy, and respond only to the mother's milk of politics, contributions to their campaigns, but we re-elect our respective representatives time after time. Now who can explain that conflict between perception and reality?

I think it's simple. We are suspicious of institutions, but we are trusting of individuals. The grand jury is an institution. And its primary chore, task and responsibility is to ferret out negligence, corruption, incompetence, malfeasance, nonfeasance, misfeasance. Who'd expect you to be popular? Judges deal with all the problems of the world. One of the most pleasant, indeed, the most pleasant thing I have ever done as a judge is to grant orders of parents who want to adopt children. Everybody is happy. But it's not so in virtually everything else I do. A minimum of 50 percent of people are unhappy to the point of being extremely critical and derogatory about judges; half of the other half don't like the result even though they won, therefore they are over in the disgruntled column with the other 50 percent who lost, and what are we to do? Well, who cares what we do? Most particularly, who cares what grand juries do?

Grand juries have no teeth. You labor hard for a year, do the best job you can, put out reports to the best that you can draft, ferreting out wrongdoing, negligence and so forth and then you leave. And within 90 days somebody writes a report telling why your report had no merit. And you are done. So why do it? Well, I am here today to give you my impression of why you did it, why you should be willing to do it again if you see fit to make application of the same tasks and why others who have not done it before you should be encouraged by you and by me to do it themselves. I don't have any prepared remarks; I never had in my life prepared a speech because I have an aversion to sitting down and putting my thoughts on paper. Now, the one time I tried it, I didn't follow my script and got all tongue tied. So I am kind of the person who wings it. So you may find my remarks disjointed, and I apologize to you for that. But I am here at the invitation specifically of Barry Newman who served with distinction on the third grand jury of which I had the pleasure to work with in San Diego. And I'm not sure why he asked me, but I think we agreed on the subject matter which was basically to give you my musings about my experiences. And I think it is only fair to you to tell you a little bit more about my experiences because it goes beyond the county line in San Diego. I have been blessed over the past three years to be involved statewide judicial matters. And I chose the word "blessed" by design because I truly believe that that was my benefit.

I was elected – tell you a little bit about the governing structure of a superior court, and I will use San Diego as an example because it has become somewhat of a model for what courts do these days to govern themselves. San Diego Superior Court historically has been governed by the presiding judge. Many years ago we started electing an assistant presiding judge and to have an executive committee of 11 other members over whom the presiding judge has authority. Indeed in San Diego the presiding judge has extraordinary authority. The presiding judge appoints more than a majority of the members of the executive committee and the ballots are elected by the judiciary at large. And when I ran for election the Trial Court Funding and Trial Court Unification were not reality. And I feel like I got blindsided. And it was a double whammy because within four months after I began my job as assistant presiding judge typically a two-year term in San Diego followed by two years as presiding judge, my predecessor was appointed by President Clinton to the federal bench and I assumed the role of the surrogate while he went through the arduous process of being investigated by everybody before being confirmed to his appointment later in the year.

As a matter of fact, on Monday it will be his third anniversary as a federal judge and my third anniversary as the official presiding judge at the San Diego Superior Court. About from the summer months of '98 until November 5th of '98 I pretty much acted in his stead as he was dealing with the rigors of going through the federal judicial appointment process. And that led me to meet people like Jim Kelly who's here today who was foreperson of the 97-98 grand jury and the first jury which I worked and his or what was the grand jury that I cut my teeth on or they cut their teeth on. I don't know how it works. Of the five that I had worked with including the current grand jury in San Diego.

Trial Court Funding and Court Unification were clearly a one-two punch to the judiciary of California. As you may know, not all courts voted to unify even though Prop 220 passed by some 64 percent state-wide. And the last courts unified were courts both big and small. Los Angeles, which is the largest court in the world, some 450 judges and commissioners on an astounding budget. They pay more for security hiring a sheriff than most of the smaller courts in California have in their entire budget. They are indeed the largest court in the world. They make us the second court in California – second largest court in California is very much the third largest in the nation. By the way Cook County, Illinois is the second largest court in the nation. New York doesn't count because they're built in the burrows. But that was an outstanding

evolution to make up the judiciary. I found that interesting – and I'll say this in spite of the fact that my remarks are being recorded – I find it astounding that the legislature found it necessary to institute a proposition designed to reorganize a third branch of government. One would think they should have started from home. But be that as it may, they told us that they thought we should become more efficient and economical and we responded in San Diego, immediately the judges in San Diego voted to unify in August of '98 after their proposition passed in the June ballot in '98. Los Angeles Superior Court is the last court to unify. They took three votes over almost two years for them to come to grips with the concept of unification. And then we had a couple of other courts, San Bernardino and Monterey that had some serious voters rights issues that had to be approved by the U.S. Department of Justice before they can formally unify and they did so earlier this year. And now all 58 county courts have unified.

And when we reduce power made up from over 220 presiding judges and executive officers down to 58 presiding judges and executive officers, you can imagine the efficiencies which result from reducing your organization from literally an unruly mass but disjointed and convoluted organizations down to a manageable number like 58. With that – and I'm getting to my point in a minute – with that the presiding judges of California who had been unable to formulate a focus to advance any common agenda when they numbered over 220. At the time of – at the end of '98, the beginning of '99 the presiding judges were beginning to form a coalition they called the conference of presiding judges. The chief justice stepped in and began to negotiate with the presiding judges as it became clearer and clearer that we were all going to be unified in the near future. That with a smaller number of judges it was unnecessary to create this conference of presiding judges and thereby perhaps engender some conflict between the Judicial Council and chief justice chairs and this group of presiding judges over here who were feeling somewhat left out in the mix. As a result of negotiations the chief justice and the presiding judges now numbering 58 agreed that a committee would be formed composed of all 58 presiding justices – judges with a governance committee, an executive committee with a chair picked by the chief justice. And that that chair would sit on the Judicial Council as a non-voting member. As a result of those negotiations, I ended up being chair of the presiding judges advisory committee and with that I began to sit on the Judicial Council a year and a half ago in the spring of 2000. And then sitting on a very important committee called the Rupro Rules and Projects that passed on all changes of rules and regulations having to do the operations of judiciary judge throughout the state of California and pass on those and make recommendations to the Judicial Council.

I'm telling you all this for two reasons. My work as a presiding judge – excuse me, chair of the presiding judge advisory committee has put me in touch with virtually all 57 other presiding judges. I have had many contacts with them across the spectrum of common interests including, and some would say most particularly, grand juries. Every presiding judge has a story to tell about their experience with grand jurors. Some funny, some horrific and by the same token the concept and the experience of going through court unification I can tell you from my experience and I've had many experiences that are in that concept. But as you view the role of grand jurors and you work with the Professor Clark Kelso and you work with Pat Sweeten and Ron Overholt and the AOC and the chief justice and the Judicial Council, do not resist change. Attack your job with an open mind. Be fair to yourselves, to your constituency and to your mission.

The biggest problem we had with getting judges to accept the fact that the role of the judiciary in the year 2000 or 2001 would remarkably change, remarkably change. Is to tell them, do not view change in a negative way. That is the knee-jerk reaction of human beings. Change is always viewed negatively. I stand before you today having lived through the three years of revolutionary change in the judiciary. The most sweeping changes in 150 years brought about by trial court

funding and unification that it is for the good. You must accept the challenge of making changes that are inevitable. Changes are inevitable. It is your obligation to make the change productive, beneficial and done for the right reason. And I'll give you some examples of that.

Let me do so by telling you the kinds of things that I've heard other people disclose about the relationships with grand juries. I think there is some degree of both mutual respect, mutual deference and mutual suspicion between PJs and grand jurors. They are two powerful forces riding the same horse unsure at times who's holding the reins. And sometimes the two riders are facing in opposite direction. And why is that? Each comes to the task, mounts the horse believing they know best which direction to go and how hard to ride it and sometimes ego and mission and sense of self worth gets in the way. I can tell you from my experience with five grand juries in San Diego. That although there have been some highs and lows on balance it has been extraordinary, extraordinary in the positive sense. Five grand juries means I have had the opportunity to work with almost 100 citizens in San Diego over the last four years who felt that they were going to provide a – fulfill their responsibility in citizenship by applying for and serving on and doing well as a grand juror. And I applaud them. Some have been standouts because they have been extraordinary in the task. Others have been standouts because they had great disappointments in the task. But those represent the two extremes.

Grand juries shape up like any other organization. And in the center is the mass of people who come in the task, do the job and then leave the task feeling hopefully that they have spent their time well. It has been meaningful. It has been a learning experience. Indeed frustrating at times, disappointing to some, but hopefully fulfilling for everybody in their own way. Let's talk about change for a moment. I have read the Kelso proposals. I have spoken with Professor Kelso. I've spoken with presiding judges as I have told you around the state. I have spoken with presiding judges whose attitude it is to swear in and give the charge to the grand jury and then never ever in the next 12 months speak to any of them. I was astounded by one of the presiding judges who wants nothing to do with the grand jury after it was sworn in. And in some counties presiding judges delegate responsibilities for interaction with grand juries to another judge. I was astounded to learn that.

I felt at the time I became first the surrogate PJ and then the PJ that one of my most responsible obligations was vis a vis the grand jury. And I have been, I think, a proactive presiding judge working with the grand jury while understanding that we each have different responsibilities and functions but, nonetheless, having to ride the same horse in the same direction each of us holding onto the reins. Professor Kelso has made some proposals, and I have read some objections to those proposals. I believe even if my memory serves me right, I have read a letter from this organization and a letter from your Orange County chapter critical about a proposal from Professor Kelso and his committee. I would urge you not to be so critical. Those are in my judgment at the worst good talking points, at the best good ideas. For example, let me tell you about how the grand jury operates in San Diego because like so many things in San Diego I think we do it as well as anybody and perhaps better than most. I say that without any fear of being criticized by being biased. We do things really well in San Diego. We have become a model court in the last three years. We're one of the few courts in the nation that has a five-year strategic business plan. How many of you investigated a government entity that has a business plan, let alone a five-year one and is reevaluated every year to see if you're on track?

We have been visited by judges from other states, Turkey, Egypt, India, Singapore, Mexico. Why do you think they're coming to San Diego? The word is out that San Diego runs probably one of the most efficient lean, mean governmental machines known to government and I'm proud of that. And I will blow my horn – our horns because nobody else will. But I tell you that

because I believe you need to know where the speaker is coming from so that you can evaluate whether what they're saying is worth remembering or deserves to be tossed out of your memory bank immediately. We have tried to do everything the right way in San Diego. We've made some mistakes. But we have been honest enough to correct those mistakes when they had been determined to be, in fact, mistakes. And we altered of course.

So with respect to Professor Kelso, his colleague and the report. One of the things we do in San Diego that he recommends is that you deal with two separate grand juries. The so-called civil and the criminal. Now the outcome of doing it with two grand juries was the result of some cases that were heard ten years or more ago where there was criticism about the makeup of the grand jury in terms of its diversity and if it's going to indict individuals for criminal offenses. It was surprising to me when I received a visit – actually a telephone call from the presiding judge in Los Angeles. How are you doing with your criminal indictments in San Diego? We're getting a lot of heat from the defense bar out here because our grand jury is viewed as being for one, lacking in diversity and maybe not passing a constitutional test for issuing indictments against alleged defendants. I said, "Simple." We pulled our criminal grand juries from our panel whenever the D.A. has a need to seek an indictment. He said, "How did you do that?" I said, "Come down. I'll be pulling a panel out next week, and watch how it's done." And so he came, he saw, he left, and I suspect they're changing the method of operation in Los Angeles to mirror what we do in San Diego.

The defense bar years ago hit a lot of home runs knocking indictments out because we struggled in getting the right kind of a makeup in a grand jury, a single grand jury, that also issued or occurred for criminal indictments. I am a real disciple of splitting the function of the grand jury. And frankly at the risk of offending some of you I am in favor of taking what's left of the indictment process for a civil grand jury and making it a responsibility of both the civil grand jury and the criminal grand jury. And I use civil in a literal sense. I know that term is not found in the code, but for our discussion let me use that term. I think it's appropriate that the civil grand jury in the course of its investigation of matters under its authority that uncovers misfeasance, malfeasance, nonfeasance, for example, that it believes is occurring in the public official to raise the specter of whether or not an indictment ought to issue or an accusation against that individual. It reaches that plateau then you transfer to the criminal grand jury to proceed on that level to avoid the grand jury from being accused of being on a witchhunt.

Why do I feel that way? What do you have? What do you own that gives you the power to make people worry about your work product? You have one thing. The trust of the people in your community. If you do not have the public trust, you don't have anything. You are a body that functions and you file your reports after doing investigations and you move on and 19 other follow you and they do their reports and they make their recommendations and they move on. Our country now more than ever functions best with a view that all the citizens trust those with the hand on the power switch. If we don't have the public trust, you as a member of the judiciary, you as members of grand juries, if we don't have the public's trust, we are useless. We are worse than that. You can lose that public trust if the public doesn't think that your work has been done adequately, responsibly, thoroughly and with validity.

So if you bifurcate the responsibility of taking on a public official a task in any circumstance, you build public trust as saying we will give up the ultimate authority to pursue an accusation or indictment by working it up to a certain level, building the proper foundation, and then leaving it to another agency or a sister grand jury to put the nails in the coffin. So I support the concept of a bifurcating grand jury. Furthermore, if you're going to do the civil part, the government oversight part as well as you possibly can in the brief period of time you have to do it, you don't

have time to do the criminal investigations. In San Diego the D.A. calls my clerk, says we need a criminal panel. My clerk calls the jury commissioner. Jury commissioner within certain period of time sends 36 to 40 people to my courtroom. I take the bench and I first interview the D.A. and find out what the case is about. I want to know a little bit about it without going into details so that I can make inquiry of some substance in meeting others who are going to be voir dired. And then I take the bench and call the 19 and I ask them questions and I make sure there is at least the appearance of proper selection both in the makeup of those who join the jury at that moment in time and I get a chance to look at them. And we give them a finite period of time. The D.A. says I need a panel for a week, I need a panel for two weeks. It's an insurance fraud case. It's as boring as it can be. It's a numbers crunching case, but, you know, so I ask these people what they're about, whether or not they have any accounting background or any investigatory background, insurance background. And I try to pull people out of that 40 who might have something to bring to the table or for that case without offending the constitution that the people who are selected represent the diversity of our citizens that will withstand scrutiny and the defense attorney wants to tackle that issue somewhere else down the road.

In the meantime where leaving the civil grand jury to the point of its function. And what I believe to be and those of you who have served in San Diego can validate this or not, are the nicest grand jury facilities anywhere in the state. And I'm proud of our grand jury system. So on the issue of bifurcation, I support Professor Kelso's beliefs. I don't buy into the recommendation of putting a lawyer in the room on the criminal side. And for those of you who serve on grand juries who hear both criminal and civil issues, Professor Kelso and I would kind of be parting the ways about that. But again on other respects he and I see eye to eye. So as you view these proposals once again I would ask that you do so with an open mind. I'd also support work groups education process.

I think – I'm one of those judges who initially thought that there should be no 18-month terms and no periods. I've come to change my mind after working with five grand juries for this reason. The grand jury a couple of years ago went to extraordinary lengths to develop a process designed to encourage citizens of San Diego to apply for and serve on grand juries. And I commend them for that extra effort. It wasn't part of their regular responsibility, but they did it and they did it very, very well. The remarkable thing is the implementing those suggestions. This year we had one of the poorest responses to our request for applicants in the 17 years I've been on the bench. Interestingly enough in talking with other presiding judges around the state, they complain the same thing. One county had a little over 70 applicants for the grand jury out of the population base that would have suggested far more applicants.

So there's a serious issue with respect to public participation in the grand jury process. Education is a lot of that. Today as I mentioned to Professor Kelso in our conversation I had with him recently I told him that I believe that a presiding judge shouldn't – as I believe it could have already forgot us, but I think it needs to be rethought. But in light of the diminution in the number of people who are willing to step up and do this job, the presiding judges ought to pay closer attention to whether they ought to carry control over or not. Now I can give you arguments why it shouldn't happen, and I would have made those arguments vigorously four years ago and I can now give you arguments why it should or under what circumstances it might be a part. And I'd be willing to discuss those issues with you in detail if you choose.

Here's what I think, and Professor Kelso doesn't address this and I suggested his work do so. Grand jury reports need teeth. I don't think it's fair to ask you to devote a year of your time or in the case of this association more than a year of your time to producing reports that politicians love to shelve. They will look you in the eye; they will write you warm and fuzzy letters telling

you thank you very much for the work you have done and the report that you have provided and we are going to think seriously about your recommendations. But guess what? They never get implemented. There has to be a way to make grand jury work more an obligation on the part of those investigations to exist. I'm not sure how that works. But it needs serious study. In San Diego the county has an implementation committee. The city has been resistant to developing an implementation committee, but I can tell you the number of reports that are written periodically every three years, every four years by this year's grand jury followed up on what the 1992 grand jury did and find the same ills exist today as existed in 1992.

Well, isn't that a waste of time? It seems to me it would be better if there were some way of making a recommendation that was valid and appropriate in 1992 implemented. No ifs, ands or buts. But I would suggest working down in that area. I would suggest that the code be divisions that affect grand juries in a variety of codes. You consolidated the government code. Don't be afraid of that. Don't be resistant to that. The court system is driven by laws and rules and standards. It doesn't affect our existence. It doesn't diminish our purpose. It doesn't frustrate our past. It is a reasonable thing to do to consolidate the statutes that support the grand jury system. And I think the government code is indeed the appropriate place to put it and it will make your existence more authentic by having a collection of statutory schemes that devotes itself to the function and purpose of the grand jury. I believe it will bring you greater credibility than it is in legal form.

And I as I say I would support removing the accusation or indictment process from the civil side to make a final step to function as a criminal grand jury even though it calls only for a civil itself; that is to say the removal of a politician from models. But those are my thoughts. And they are indeed the musings of a curmudgeon who is about to leave a job. I was privileged the other night to be honored by the San Diego Bar Association. I don't know if they were as happy that I was getting out of office as I was, but we had a nice reception in San Diego on Thursday evening. By the way, yesterday the governor declared that it was Judge Peterson day in the state of California and I suspended all taxes for the day. So if you paid any yesterday you get a refund.

What you do is so important. But it's only as important as those who are the recipients of your work product, those who are the targets of your recommendations implementing, respecting, and honoring. And your focus, in my opinion, should be on what you can do as a body to make your work product meaningful. In my view it's meaningful only if people are subjected to implementing your valid and righteous recommendations based upon your investigation. And in order to do that the greater credibility the other main focus needs to be on education. I think it is a shame that we take lay people and put them into a task, give them a cram course on investigations and public findings, technology and all this stuff and tell them to go get them, but you got to go get them in the next few weeks and you got to be done getting them in the next few months because your work's going to be over and everybody's going to file your reports and thank you very much.

A better way to counter that is the educational process. And this group is well equipped to provide that kind of an educational process. You're never going to get the same, never in a million years, to fund a state wide training program for the grand juries. It's going to be up to the counties and in that anything that smacks spending a nickel these days is dead on arrival on the interest rate. I can guarantee it. But maybe it won't always be that way, but you and I probably won't be around in that cycle of burgeoning treasury bumpers. So that's my message, folks. And I'm willing to answer any questions you ask so long as you don't embarrass me.

Question: My question is: What would you suggest for education for these jurors?

Answer: I hate to sound derogatory to you to a specific issue. Computer skills are I think becoming more and more paramount. Even this current grand jury in San Diego is populated with individuals who have never turned on a computer, and, I think, the use of computers and word processors has helped a lot to accelerate the ability to producing reports. But in the old days before computers our grand jury coordinator had to produce these things and it was a monumental task, particularly when all the reports are coming in the last quarter of your term. It's terrible. I think there are certain subjects that need particular attention with people. I think investigating techniques need to be taught. I think questioning skills need to be honed. I think computer technology familiarity is mandatory. There needs to be people on the grand jury who understand public finance and can help educate their colleagues in that. I think people who understand the government's structure and line of authority if not known to certain members needs to be taught to them. You need to understand the environment you're investigating. If you don't have a clue about the organization that you're investigating, a lot of mischief can go on without you ever knowing it or detecting it. Or determining whether a complaint is valid.

The problem is there's so much to learn in so little time in which to learn that you get conflicted. You've got this responsibility to produce this stuff – and by the way, I am not an advocate that the more reports the merrier. I am a strong advocate that of all the complaints that you did and you spend considerable time investigating the merits and then you take on the most egregious allegations of wrongdoing or negligence or malfeasance or whatever. Which raises another issue. I don't think judges ought to be locked in to selecting the people who simply apply and then depend on the spin of the wheel whether they get selected or not. I would lobby to allow judges to go out and select people they believe come to the table with some of this basic talent, knowledge and experience so that you minimize –you either have to expand the learning curve by extending the term or you have to bring people in who don't need such a long learning curve. And when you rely on random selection, particularly in an era where the applicants are being reduced in size and sheer number, what is the harm in judges who -- in a court our size, 128 judges. We know a lot of people. I know a lot of people who know a lot of people – who would be willing to serve but want to do so in a meaningful way and they don't want to go through this application process and come down there and watch us pull and pick names out. Why not pick retired accountants and schoolteachers and government employees and people who have some clue what they're doing rather than relying on a turn of the wheel. If you do not use a grand jury for criminal indictments you remove the need or by diversity other than to give trust and confidence in a population that there is diversity on your grand jury to represent all people.

I don't mean by that to abandon diversity, not by any such communication. As a matter of fact, I think we get better diversity. By the way an unusual paradox for this year. Even though we had the smallest number of applicants in years for the standing grand jury, we had the highest degree of diversity on our grand juries than we've had in a number of years. But, you know, why leave it to chance? Getting back to my opening remarks. I think judges can be trusted to do the right thing. I know it sounds anti-American, but it's true. Judges – not all judges are created equal. And so some never participate. They come into work every day. They put on their robe. They go on the bench. They do six hours of trial. They take off their robe and they go home. Other judges come into work early, do extracurricular work. Take the bench. Go to meetings at noon. Go back on the bench in the afternoon. Go to meetings after court closes in the afternoon and go home late in the evening. You've got to trust those kinds of judges to say, I think the grand jury process is worthy, meritorious, and deserves our support. I am willing to go out and cherry pick individuals that have some talent and interest and knowledge and time to apply all of that to the grand jury function. And we can bring in persons from all ethnic regions and geographical

locations and all the rest. Judges are fully capable of doing that and it would uphold the public trust and responsibility.

Question: Isn't everything already in place? Suppose for instance that you had a grand jury and you had to carry over five people with the idea in mind that they would become – that they were nothing more than implementation from the previous grand jury, that would be a committee that would be their total commitment to make sure that they follow up on everything from the previous grand jury of which they were a part of.

Answer: Well, that would work perhaps in some of the bigger counties, but what happens when you get the smaller counties and you struggle every year to pull together a grand jury. And to get five people to carry over might be a monumental impossibility. All I'm telling you is anecdotal information I get from other PJs from smaller counties that is to populate those grand juries and keep them going. Some counties I have been told the grand juries don't make it through the year. They fold before the year is over. And so I get back to the selecting process rather than a random selection. In my opinion would be a more effective way to populate a grand jury.

Question: I find great disparity in the way the grand jury is run from county to county and how various county counsels provide advice to the grand jury. And apparently none of the law schools provide any training to teach the officers of the court with regards to the possibility of being involved in a grand jury. Would you agree that there should be some training program for district attorneys, county counsels with regards to continuity in this measure?

Answer: The older I get the more convinced I am that the power of education is the ultimate power. Ignorance is the bane of the growing society and that is true of individuals who hold themselves out to be advisors to others. So the short answer to your question is, yes. Getting the cooperation of county counsel and district attorney might be difficult. I can tell you on the judge side of the equation, one of the things that has grown out of the creation of the presiding judges advisory committee is we hold three conferences a year. And the last two conferences we've had we had breakout sessions on grand jury issues. Some call it misery issues. But we make a point of not having to go in that direction but rather to assist PJs in issues that seem to be coming up county by county and thereby have some commonality on how to deal with those issues. Keep in mind now we also had just changed the rules. A new rule has been promulgated and adopted by the Judicial Council that was preliminary not – omnipotent authority to the presiding judges to run a court system. And with that came the recognition that unified courts are much more complex governmental entity than they ever were before, and the old practice of one-year terms for PJs was crossed out. And now presiding judges in every county in the state must serve a minimum of two years. And one of the reasons for that was that there's also a learning curve for presiding judges. Not all counties have an assistant presiding judge like San Diego, L.A., Riverside, and some bigger so-called big nine counties where you serve as an APJ for two years and theoretically learn how to work with all these issues including grand juries. But the PJs advisory group has put grand jury issues on the radar screen and will continue to do so and I hope that you will not find that proof to be included in your question the next time you might return to ask it.

Question: Judge, I'd like to go back to your response to the first question with regard to screening and complications of prospective jurors and the judge's role perhaps in identifying skills that are useful for civil grand jury. You might recall that our grand jury went through seven jurors here in the course of the year. And the result of that experience was to recommend in our final report that consideration be given to changing operating perhaps to very modest qualifications that are contained in the Penal Code of the grand jurors and emphasize some of the

skills that might be required in researching and writing reports. What are your thoughts with respect to possibly seeking to change those past qualifications in the Penal Code to reflect some of the skills that are needed by civil grand juries?

Answer: Well, interesting that you raised that point. This PJ rule that I just mentioned to you, although first adopted in January of this year just underwent its first revision, and the major change was in the need to define qualifications desired in a presiding judge. No longer is the most popular judge deemed to be the most effective judge. And in the way in which judges make assignments which no longer deem to be based on seniority alone, but there are a variety of factors set forth in the rule that a PJ must be used in making assignments and the bench as a whole should consider in electing a PJ, which is not that much different in your suggestion or your question with respect to statutorily defining the qualifications of a juror. For every point there's a counter point, I believe, in just about everything. It gets – A, I think that's a good idea, B, it focuses on the areas that people need to be acquainted with or experienced in in order to do the job instead of just some person having a brainstorm, "Gee, I'd like to be a grand juror." You know, maybe they have zero qualifications, literally zero qualifications. But to statutorily define them would focus on the nature of the work to be done. The counter point to that is this old bugaboo about getting people willing to step up to the plate and do these kinds. People will find a million excuses to turn a judge down who approaches them and says, I'd like to nominate you to the grand jury. Well, what's the job all about? You give them some literature; you talk to them about it. They will ferret out some criteria that you stress as a reason not to do the job. And so if you statutorily create the criteria, I think you may run the risk of building in a bunch of excuses, but the question is on balance, is that a better thing to do? Do we focus on requirements that people have a minimum? So that's going to be up to the legislature to decide.

Question: Our association for the past several years has been getting information out to the public. We keep trying on judges who are in contested election. And I wonder if you have any suggestions on how we can just do that because the public is uninformed in most cases of who to vote for their re-election of judges.

Answer: And what is the grand jury involved in that?

Question: No. Just the association. The past grand jury.

Answer: Oh, well, the only time I hear from a lot of friends is during judicial elections. Hi, haven't talked to you in four years. I see his name on the ballot. It's the person I should vote for. I mean, you're right. The point is, the public has virtually no knowledge of us judges. I don't know the historical basis for this, but you might know that judges are the only group of elected officials who do not appear on the ballot if they are uncontested. I have never appeared on a ballot and yet I've been elected, I think, three times in the past 17 years. And only in contested elections you had it or when there's an open seat and you've got the candidate running. I don't think it is – and in some counties bar associations give recommendations as to newspapers. I don't think that's any different for an association like grand jurors who have interaction with judges to express their views about a judge who's running in a contested election assuming they're going to get on the ballot. Judges would argue that the only time they're going to do that is when you have some effect or relationship with that judge and you want to get even. I don't think that's a fair assessment. Giving you deference to the body of people who make up grand juries as a whole, I mean, I think there's a specific responsibility, and I think that if you give responsibly you provide information based that otherwise is not available to the general public.

I'm Gerald Tolson and I'm a current grand juror in San Luis Obispo County: And you might want to talk to San Luis Obispo County as to how they pick top grand jurors because I think they're all good. I think a third of them or less do not have very good knowledge of computers or anything. But the comments I want to make is to the past 20 years I have read the evaluations where you have to respond and I don't think you're going to get much more effort by going in and getting findings grand jurors in the past have made. The reason is that as an investigator you're very disadvantaged because you don't know as much about the organization as the people in the organization, plus the fact, there's a lot of animosity just because you're investigating them. But what I found in the past is that a lot of the recommendations and so forth that get turned down by auditors, eventually get implemented. So people make an initial really bad reaction, but what you're saying is think about it a little bit and maybe two or three years you'll find the same thing. And I don't know of any way of . . . that you can't abide by the findings of the grand jury. I think if you go that way, you're asking for a lot trouble.

Answer: I don't disagree with that at all. But I think you also make the same argument as to why should the grand jury exist? I mean, how many states have grand jury systems? Nine? Two? You know, you might look at that and say – and believe me, I have heard a lot, a lot of deep resentment and sharp criticism of grand juries from elected officials across the state. And the first thing they will say -- I obviously thought it was more than two – but the first thing they will say is, you know, it's a dinosaur. Getting back to my opening remarks, most of the other states in the United States don't have grand juries. What function do they serve? What purpose do they meet? Why should we devote tax dollars and provide facilities for a group that has investigatory powers by laypeople? Your remark about when you're criticizing professionals and therefore shouldn't be forced to accept your recommendations because they know more about the grand jury than you do. See, I think that can be sharpened. I think the function of the grand jury can be upgraded. The skills of the members of the grand jury can be honed and the product made more valid to lend more credibility to that work product supported by the public trust that those who have it are doing it the right way and have the skills with which to do it such that government agencies are required in focused areas to implement the recommendations. So I think your argument or your comments represented a two-way sword and I would be comfortable debating either side of it frankly.

Your Honor, Les Daye: I'm very pleased to have your comments here so that we can consider them and discuss them. I understand your thoughts on bifurcation. They're clear from the standpoint of the criminal side, but let me understand that your response for which you said. Do you have some thoughts that the legislative intent notwithstanding your experience with government Code 3060. Do you believe the legislative intent of 3060 is just taken away and given to the criminal side because that is not my understanding.

Answer: I'm not sure I heard and understood the question. I tried to fake it through this without declaring my diminishing hearing capability, but you've got me.

Question: Okay. Just simply, you've stated that you want to put both the Government Code Section 3060 and the grand jury's ability to indict on the criminal side, and it's my understanding the Government Code Section 3060 and its legislative intent is clearly civil and whether it rises to any type of criminal thing is not the issue, but it's the grand jury the regular grand jury purview to investigate corrupt elected officials.

Answer: I have no problem with the investigatory role of the civil grand jury to do that. I'm just saying there's an argument to be made that once the investigation's done, a recommendation be made to indict by either the D.A., the attorney general, or the criminal grand jury. I don't want to

remove – I’m not suggesting we remove the investigatory responsibility from the civil grand jury. It ought to raise the level of consciousness of any wrongdoing by public official through its investigatory powers, but I think it inures to the benefit to the grand jury by fostering public trust in its function it – the ultimate responsibility for prosecuting it goes to another.

Jerry Lewi, Ventura County: This question had nothing to do with grand jury business and the answer may be more complicated than the time we have. Why is it in California some new judgeships are created by election, sometimes competitive, and some new judgeships are created by appointment?

Answer: Politics. We have – let me tell you an interesting story and I won’t divulge names. We had a judge in the recent past who attempted to negotiate with the governor the conclusion of his career. And here’s how it went. Governor, if you’ll – let me set the stage. At this very moment in time is a critical time for judges. In San Diego out of 128 judicial positions, 59 are up for election in March. They must declare, they must pull their papers, file their filing fees, pay their filing fee, and file their declaration of candidacy by Monday – no, by Wednesday, the 7th. They will then if they are not challenged and others have to file by the 7th as well, their name will not appear on the March ballot. If they are challenged by somebody who files also by Wednesday the 7th of November, then they will be on the March ballot. We have four offices in San Diego where the candidate sitting judges are not going to seek re-election. They can leave that seat before March 7, and Governor Davis can pull and the person would then immediately go on the ballot and would have to stand for election in March. If we had a judge who said to the governor, I’m going to retire and – but I’m going to let my term expire. And by letting my term expire I’m going to deny you the power to fill my position.

However, I’m a cheapskate. I don’t want to pay the filing fee to allow you to fill my position after I win election and then retire immediately thereafter. So if you’ll pay me from your slush fund the amount of money it’s going to – that I would lose in order for me to vacate my seat to give you an appointment, I will retire now. The governor told him to take a hike. And of course appropriately so. The constitution provides that every – judges are constitutionally elected judicial offices, but if a vacancy occurs in the course of a six-year term so long it does not occur in the last 12 months, then the governor has the power to perform. Most judges cycle of 20 years of age 65, the minimum requirements for retirement, occur in the course of a six-year term. So they retire, the seat opens up, the governor makes an appointment, that person has to stand for election for the next general election, and thereafter election every six years. So the constitutional basis – I mean, the election process is vested in the constitution. The appointment process is vested in practicality when a sitting judges vacates the position. The number of appointments far exceeds the number of elections, and it is less than one percent that a sitting judge is challenged by an attorney in a contested election. So for all intents and purposes, people rarely get to vote on a judge for office, which gets back to an earlier question about how individuals outside the judiciary system get pulled to be judge.

Jack Zepp: Thank you very much, Judge Peterson.

Speaker—Gaddi Vasquez

Jodie Harrod: It’s my pleasure this afternoon to introduce the young man whom I’ve known for 16 years or thereabouts off and on, Gaddi Vasquez, is now vice-president of public affairs for Southern Cal Edison. Gaddi was a supervisor here in Orange County from ’85 through ’93 or

thereabouts. Long time good supervisor. He's been appointed to commissions to the state by three different governors, the justice commission as well as human relations commission. I'm not going to take up the time; I want to introduce Gaddi Vasquez to you. Thank you.

Gaddi Vasquez

Thank you very much. It's a pleasure to be here today and the most important thing is to say welcome to Orange County. Hope you're having a good time here and hopefully you have found your path to South Coast Plaza. Spend your dollars early and often here. We want all the sales tax we can get. Certainly if you haven't been over there, I encourage you to take some time out and make that journey. I just overheard someone, not that I'm eavesdropping on conversations, but of course I being an avid Yankee fan and hoping this evening will be the culmination of the world series and that the Yankees will once again be the champs. Thank you. It is a privilege to be here with you today, and I've been asked to talk a little bit about CSAC and the relationship that CSAC has had with grand juries up and down the state and the Grand Jury Association.

And I want to qualify my comments by saying that my scope and understanding is limited to the extent that I was on the CSAC executive committee. I was the county's representative for CSAC and had a lot of interaction with CSAC as the county's representative. So I will try to put some perspective on the kind of relationships that CSAC had with the grand juries and the grand jurors association and particularly as it relates to some legislation that I found in my research and I had the opportunity to have some research done with the gentleman who was originally going to speak today but could not be here and I was asked to stand in. And so I was delighted to do so. And I will also just give you some general observations of mine personally of my years as the county supervisor and the relationship I enjoyed with grand jurors. And I will say that generally speaking I had very, very good relations with the grand jurors that were seated during the time that I was a member of the Orange County Board of Supervisors.

You need to know that I come from a point of reference of full disclosure and an open government. That's my personal and professional philosophy. I was the first and I believe still the only elected official to ever be elected to serve on the board of directors of the California First Amendment Coalition, known as CFAC. You may occasionally run across CFAC. It is an organization that is generally comprised of management of radio, television, and newspapers, print media. That organization typically and then individually sometimes litigates on the basis of California Public Records Act, the Brown Act, requiring full disclosure of reports, studies, analysis, and so on and so forth.

The fact that I had the privilege of serving on that board as an elected official in the midst of media folks who typically had a rather adversarial relationship with the people in elected office I think as a commentary about the kind of openness that I believe is important. But I also recognize and understand that as an elected official we have sometimes situations that put us in difficult positions to not necessarily be able to divulge, discuss or disclose sensitive matters and most of them hopefully most of them fall within the realm of what the law allows you or restricts you to do in cases of litigation, personnel and so on and so forth.

But I'd like to just make some general observations, some that you may know so I apologize if they're redundant to you, but they caught my eye because even after years and years of being in government and teaching government at the university I continually continue to learn some interesting facts about grand juries and the function of these organizations. If you didn't know,

there are approximately 7,000 local entities that can be investigated by the civil grand juries in California. 468 cities, 58 counties, 5,000 special districts, 370 redevelopment agencies and an unknown number of elected officials, not because they're unknown, I hope, but because I just didn't have time to put all the numbers together. The California Supreme Court has confirmed the independence of the grand jury and the inherent value of final reports that grand juries issue. I want to read a quote. "The final report containing the grand juries findings and recommendations on the subject of its investigations is the normal end product of its watchdog functions and is the only formal means by which the grand jury can hope to effectuate its recommendations." That was in 1988 Superior Court in a newspaper, Superior Court 44 Cal.

Again as pointed out in the report, California's grand jury system also has its detractors. Many detractors believe that civil grand juries are not useful, that have lost much of their credibility by issuing inaccurate and unnecessarily secretive reports. Anybody surprised? In 1996 the grand jury – the American Grand Jury Association reported that only 30 percent of all civil grand jury reports ever resulted in any tangible change. Let me just inject a personal perspective here. I always found that my relationships with the grand jury members or the grand jurors who visit with me or when I visited with them in their chambers on occasion to provide reports and perspective on specific issues. But I think what is most important to me as former elected official and someone who spent considerable time with members of the grand jury is the importance of having a good mode or means of communication to ensure that you have open communication and that there is dialogue.

The spectrum of grand jurors ran from those who immediately felt empowered to basically look in every tent, under every stone, and in some cases intrude on the function of local government causing a negative sphere or animosity to set in almost immediately. To the grand jurors who very professionally solicited and asked for and sought face to face time with elected officials can dialogue about concerns and about issues and who sustained that communication throughout the course of the term of their service. That allowed for a positive relationship of communication recognizing that each of us has a job to do and that the grand jury has a charge. But as someone once said to me, you know, there's nothing wrong with leadership and authority, but what's more important is how you manage authority and leadership. And I think that is essentially the process on both sides because there were instances that we did find ourselves on opposite sides of the reporter's opinion and I for one, and I don't think I'm recorded anywhere in the media as having badmouthed or said derogatory things about the grand jury; might have disagreed on occasion or two, but never engaging in some of the rather nasty fighting dialogue that I've seen go on in public. It serves no one any kind of positive purpose. Because I think at the end of the day we all have the same desire, and that's hopefully to make a better government to have accountability to be able to provide the public with some perspective on how things can be done better and to ensure that there is accountability of government. For every detractor of the current system there is a person who deeply believes that civil grand juries serve a very important role in the protection of citizens from government ways and abuse.

I happen to be one of those who does believe that there is a very, very important function and that that needs to happen. In 1996 CSAC, the California State Association of Counties, formed the task force on grand jury reform and it consisted -- if you're familiar with this, I apologize if it is redundant – of supervisors from all over the state, a district attorney, a county council, a city attorney, a representative from the California league of cities, and three former grand jurors, one who was also a county supervisor. The CSAC intention in forming the task force was to bring all of the interested parties together to discuss and develop consensus on reform issues that could be advanced perhaps in the form of legislation. And the task force did recommend to CSAC a strategy for action.

The recommendations of the task force eventually found their way to the board of directors who introduced AB829 by Assembly Member Thompson, a former Yolo County supervisor. Specifically AB829 provides the following--requires that the courts provide grand jury training. The task force found that one of the principal criticisms of grand juries both by subjects of their reports and by jurors themselves is that many did not receive adequate training. The provision was to ensure that the court in consultation with the D.A., county council and at least one former grand jury would provide some manner of training for jurors within existing resources. This language gives local entities the flexibility to tailor the type of training they deem most appropriate and cost effective. And I think that's imperative because of the variation of counties that you have, urban, rural counties. And so consequently I thought that it would be appropriate was certainly critical to the process to have that kind of latitude.

The second major issue that was advanced in this legislation provided that for 45 days after the end of the term, the foreperson and his or her designee would upon reasonable notice be available to clarify the recommendations of the report. And so basically they were looking for an opportunity to be able to dialogue with the individuals or members of the grand jury who participated and developed -- now, I'm told here that some of the notes that were provided to me that there are new requirements that were enacted in the state senate which required that the subject of a civil grand jury respond to the findings of the report in a very specific manner. So it is important that the subject of the report have the ability to ask questions of the grand jury about the nature of its findings, and that was produced by the former State Senator, Clinton Kopp of San Francisco.

The third bullet then is the requirements for the Superior Court to arrange for a suitable meeting room and other support as the court determined is necessary for the grand jury. How many are for that? I notice in Orange County our grand jurors suffered for many years, and I think improvements have been made on parking fees, for parking in county structure no less and other unfortunate things that they had to endure during the term of service which I think has since been corrected. To that bullet, given the importance of the civil grand jury function to both tax payers and the oversight of local governments the task force placed a high emphasis on grand juries having a suitable place to meet. There's nothing better than having a suitable place to meet when you've got to endure long meetings, briefings and deliberations.

Fourth, required that the grand jury meet with the subject of a grand jury report regarding the report unless the court determines that such a meeting would be detrimental. AB829 carefully weighed the importance of a grand jury's sovereignty and its ability to perform civil watchdog functions against the need to have comprehensive grand jury reports that stand the change of implementation. Because grand juries often spend an entire year investigating including many personal hours and even more tax dollars in the interest of a well-balanced report. All parties agree -- this is again task force -- that it makes good sense that a grand jury call the subject of the report before at least one time during the investigation. And this was crafted and agreed upon by the Judicial Council of California and the California Grand Jury Association to provide courts with the ability to waive the requirement in the event that such a meeting would be detrimental to a grand jury investigation. So there are allowances made, provisions made, so that if it was detrimental then of course there would be no obligation to do so.

Generally speaking, CSAC continues to believe that additional improvement in reform of California's grand jury system is important. We believe that the best means of achieving -- and this is CSAC speaking -- of achieving anything in that reform is for meeting, negotiating, deliberation and ultimate consensus building among interested stakeholders. This principle ties

grand juries, counties and courts equally. For having said all this, CSAC is an organization that is in the midst of advocacy. Let me give you a personal perspective of the supervisors, the Orange County Supervisor. Make no mistake about it, you may have discovered this already. In California government counties are the absolute end of the food chain when it comes to funding in California. We agree on that. California counties are the absolute bottom of the food chain when it comes to processes of funding. So CSAC has become a viable and meaningful arm of advocacy for the 58 counties that make up California. And of course you have the key counties like Los Angeles, San Diego, Orange, San Bernardino, Riverside, San Francisco, Sacramento, the metro or urban counties, Fresno, Kern County. It is provided an opportunity for counties to be able to come together for the first time and advocate for funding, for programs, for understanding and fortunately for us term limits – this is my science professor hat now – under term limits the one upside is that there are probably more local elected officials and county supervisors serving in the state legislature today than ever before in the history of California.

I would submit that at the end of the day and ultimately that will go well for cities and counties so that cities and counties do not have to endure the kinds of raids -- my term – that we endured in the 90s when the state in the 80s was finding funding shortfalls and I know that given the predictions of the state budget deficit that are coming that cities and counties are hunkering down in a big, big way to try to ensure that they're not ready to begin or even talking about advancing an initiative to build some insulation for county governments and cities to be protected. Now having said that, having said that, let there be no mistake that the alliance between cities and counties is not above your chummy system, as I would define it, because today it's survival of the fittest. When they're going after my money I'm going to fight even if it means it's at your expense and so on and so forth. So it becomes an issue of local governments having to fight having to endure some very challenging times.

And CSAC is the opportunity that counties have to come together to advocate and to work together and to influence executive and legislative and judicial branches of state and federal governments. They are committed to promoting excellence in government. So I don't think there's any difference of opinion between the California Grand Jurors' Association and CSAC because I've been told that perhaps some are perceiving that CSAC is at odds with some of the work of the association or county grand jury. I don't believe that to be the case. How you get there may have varied opinions, but the fact of the matter is that we're all committed to excellence in county government because we were limited the way the county governments are limited. Obviously you have to do the best you can with what you have and try to make a go of it providing essential services to your constituents.

CSAC works to strengthen communication in consensus. They serve to educate the public about the value of challenges facing county programs and services. Whenever I speak to young people about government and how local government is structured I always say to them that county government is the government that most affects your life on a daily basis than perhaps any other level of government anywhere in the subject whether its weights and measures to the agricultural commissioner's office or the airport. I always tell kids the story of when you go to a restaurant to eat, you sit down and you order from someone you've never met who then takes your order to someone you've never met and you probably won't see, and you allow that person to cook the food, prepare it, serve it, not knowing what's going on in that kitchen or who it is in that kitchen. And then you proceed to eat that food, and not only do you eat it you pay for it. Give your mom a break. Give her some respect. At least you know who's making it and what you serve it in.

But the reason you can sit down and have a meal in a restaurant is because county governments hopefully have been through there and have inspected that kitchen. And that's my point to

illustrate that county government affects our lives. I say, how do you know that the pump at the gas station is giving you what that meter says on the dial? But you're betting the farm that you've been told, because the county agricultural commissioner has been through there with his weights and measures people to ensure that things are right. Or the airport. Here in this case the John Wayne Airport. It's the county that operates the airport. Health care systems and so on and so forth. And so we try to educate and CSAC tries to educate people to sensitize that and perhaps make it to some extent say some counties, you know, be a little bit more compassionate towards that because they have big responsibilities.

CSAC encourages and develops partnerships with local governments in the private sector, responds to the needs of members who specialize programming services. It facilitates intergovernmental problem solving. I remember many, many of times being at delegation meetings with former Governor Wilson fighting for county dollars to sustain our funding. And finally CSAC works to ensure efficient and effective internal operations. I thought it was important to read those bullets because I think at the end of the day when you put those next to the goals and purposes of the grand jury, I don't think there's too much that separates the two entities. But what I think can strengthen the process is communication and understanding and I would encourage you that as an association that you feel free to approach the CSAC senior staff and the leadership of CSAC particularly at the elected official level and interact with them and perhaps establish a normal time to have some dialogue and to have some communication so that communication doesn't just happen when legislation or proposals or changes are happening that are detrimental to either or both parties. And so I would encourage you to do that.

But I'll go back to my final point and summarize with this and then open it up to any questions you may have, and that is that communication and style and form of communication is imperative. I had one year – I will be honest with you – I had one year when on the board of supervisors I encountered one grand jury who was extraordinarily hostile, extreme outright hostile. This is after many, many years of good solid healthy communication with every grand jury prior to and after that particular – you know, I won't name the year, but I'll simply say to you that was not a good year. It was not a fun year because from day one from the very first meeting, the first grand juror asked me in very direct terms pointing her finger at me and said, Who are you accountable to?

Now, I didn't know whether to take that question seriously or come back with a one-liner or what. Well, I can tell you she was dead serious because the venom got even worse after that and it all went downhill from there. And it turned out to be one of the most turbulent years that I'd ever experienced with the grand jury because there was hostility that somehow been ingrained early on the process. I frankly don't think I could trust anyone, any of us anymore. What is important is to have the kind of communication that's constructive, is valued, is meaningful and so I think it is important to try to understand. And as I tried to do when I first became a county supervisor and I encourage people who serve on grand juries those that I've known over the years is to meet their business. Their business is really important because county government is a very, very complicated, a very complex system of governance that so much – and I can't speak for other counties, but I know that in Orange County a very large percentage of funding in nondiscretionary funding.

Federal and state dollars are all for programs and the amount that we can use with any kind of discretion is very, very limited. So consequently when you mix and match these dollars and so on and so forth, life becomes very, very complicated. Challenges that we face and counties will continue to be in the future. Even out of office I have great sympathy for my former colleagues and those who served in county government. Funding will continue to be a very, very critical

issue. The needs for services, particularly the health care area, as we become a more diverse state are going to be enormously expanded and county supervisors and CSAC and hopefully grand juries in concert will be able to work together to identify some constructive ways to deal and face the issues and the challenges that we face in this place we call the Golden State. We are blessed, I think, to live in the grandest state of America. What Jodie did not mention is President Bush has nominated me and I am scheduled for confirmation hearing on Wednesday to be the new director of the Peace Corps. And so I am hopeful the outcome will be positive on Wednesday and will be able to serve this great organization and our country.

But I think what I want to say with all of that is one of the greatness of the Peace Corps – and there are a lot of great things to say about of the Peace Corps, but a great aspect of the Peace Corps is its commitment to the core value of empowering people and making people, giving people an opportunity to make something of their lives and the very, very grass roots level. County government is a lot that way. It's about empowering people providing programs so that people can help themselves with social services, with health care, with child support under the kind of criminal justice system that is friendly so that all people have an opportunity to participate in our system and enjoy the fruits of the greatness that this state has to offer. And so I appreciate this opportunity to share this prospective. I hope it's on point to some of the issues that are of concern to you. And if I missed some, I'll be glad to address them to the best of my ability and thank you again for inviting me today. Thanks. Now's an opportunity for questions. Yes, sir.

Les Daye: Would you comment please on your understanding or your satisfaction otherwise, regarding your motion in March, 1994, to the county administrative office to have implementation and review of the status of recommendations made by the grand jury. I'll read it. Direct county administrative officer to meet with the sitting grand jury no later than January of each year to discuss the implementation status of the prior year's recommendation with which the board has concurred. Direct the county administrative office to provide the sitting grand jury with a written report summarizing implementation status and require these recommendations at least three days prior to the meeting. Direct the county administrative office to provide minutes of this meeting to the sitting grand jury and each of the board officers for informational purposes and direct the county administrative office to provide the sitting grand jury with any additionally requested follow-up to or clarification of the recommendations. Motion carried. What is your reaction? Have they done as you anticipated?

Answer: I'm not sure. My sense of what I've read in the paper and I have not stayed closely in contact with whether or not they have done that. My impressions are from some of the press reports and what not, and I guess I would gauge it by the absence of a lot of stories in the media since 1994 about any conflicts between the grand jury, unless I've missed a few. But I haven't seen any problems as far as it's suggested there's been a breakdown in communication and that those requirements are not being filled. I think the board in 1994 was committed to making sure that there was better communication, that reports were provided. My sense is that they've been providing that, but I don't have any evidence to totally affirm that.

Question: The Continuity Committee in Orange County says it appears that since that time no reports have been provided, no meetings have taken place. The 99/2000 Orange County grand jury believes that complying with directives of the board that lead to quicker and more complete implementation of responses and greater importance to grand jury recommendations.

Answer: I stand corrected, if I'm hearing you correctly. Well, I'm disappointed if that's the case because I think there was – I don't think; I know there was a serious commitment made and I

don't know why that commitment would not be. I would – again, I'm a little bit surprised because typically when those kinds of measures have not been complied with, usually we read about them in the press or the media, but if the grand jury's not feeling that those obligations are being fulfilled, but well they should be because there was a commitment made. And I think it's a healthy commitment. It goes back to when I started out at the beginning that as long as there's good communication and good dialogue there is an entitlement to information that grand juries should have and that's why I supported that particular program. And supported not only that but on occasion, I think one or two occasions, supported the standing grand jury, determined the grand juries because there was a need for the grand juries to continue their work and complete their work, and I think that was important. Now I understand some of you suggested that it ought to just be terminated and have that concluded. I couldn't tell you that because I felt it was important to finish the task. So I think if there's been failure to do that, then I do have some former colleagues who's still on the board and just plan to see. Thank you.

Dan Taranto from Humboldt County: And I was one of the three jurors that served on the CSAC task force in 1996. And I have to say I know that all three of the jurors opposed all of the work of the CSAC task force and that the task force itself was viewed somewhat as a bogus project because it represented itself as a state wide thorough top to bottom study when in fact there were only two meetings in a three-week period that lasted about two hours apiece. The proposed legislation was already written. There was no attention to the objections of the jurors in attendance of those two meetings about the many onerous aspects of that. We fought it tooth and nail all the way to the legislature. And you're right. There were a few residual benefits to that legislation. But it doesn't reveal that all of the onerous portions of the legislation were during the course of the legislative process, and basically the intent that CSAC of introducing AB829 is somewhat hostile to the grand jury process. And so this brings up the issue of accountability which I heard you reference in your talk. Grand juries really are about accountability. And it's real interesting to note as often as we've tried over the years since that date that it's real hard to determine exactly who CSAC is accountable to. It appears that CSAC is the best we can determine – I hope you can educate me and the others on this matter – it appears that CSAC is a private corporation that is funded predominantly by revenues generated by the various counties from the tax payers' pockets, that these monies are expended and allocated as a result of board of directors' decisions. The board of directors is made up of one supervisor from each county, meaning a 58 member elected official board. And they spend this money without any accountability to the public. There is no access to this decision making process. CSAC is totally unforthcoming with requests for information about other machinations within the operation of the CSAC process. And it remains a big mystery to those of us on the outside of the walls of the CSAC structure. So could you help me understand precisely who is CSAC accountable to and why is it that you have public officials making decisions on spending public money without accountability to the public?

Answer: Well, let me start by saying that I wish I could stand here and say that I still sit on that committee and I could provide you some commitment and I would go back to Sacramento and try to open things up so that there's dialogue and communication, but I can't for obvious reasons. But I will say your county board of supervisors can and I can say that if I were supervisor today and any member of the grand jury came to me and asked me for information about CSAC or what we pay, how much we pay, what the net benefits of being in CSAC are for the county and so and so forth, I would have absolutely no reluctance in sharing that information with you in great detail. I've never known CSAC to be covert or sub rosa about its funding or its agenda because the amount of dollars that are spent by the county that's part of the CSAC dues process is a matter of public record. And if it is in your county, then I'd be doing some other checking. Because the fact of the matter is that it is a matter of public record and I'm a bit surprised

actually by your description because I don't recall it being that way unless things have changed in the last five years to a rather substantial degree. But I will tell you this, and I'm going to notwithstanding my – now having the position formerly with CSAC I am going to communicate to some people what I've heard – with your position – communicate that back and basically convey the perceptions. Because I will. I will do it under the provisions of our corporate membership in CSAC and ask for some explanation because, sir, I don't believe in any way, form or fashion that you all should be denied access to that information. It should be very public information.

Dan Taranto: Now I appreciate your sentiments and I think that is the sentiments of most of the participants and I know they do many good things, but the way the agenda was run at that point this whole legislative matters that submitted a ballot not on the agenda for the CSAC general meeting in which it was rubber stamped and the supervisors could be informed as to what were the contents of that legislation, what the impacts of that legislation were and CSAC became progressively more amenable to amendments and the changes to that legislation, that they were really trying to jam this piece of legislation through to clip the wings of the grand jury process. And I think it's important that this be known because a lot of power and authority is invested in a few people and the big office building in Sacramento that put out their documents and their various position tables and all the kind things that they say they're doing. But from a hands-on experience as I saw CSAC doing, I found that this is questionable and that they are not forthcoming and there is no access and that they are considered a private corporation, a nonbody of government.

Answer: A final comment on this. While they may not be elected or governed by an elected body, the fact is, they are by direct association, in my opinion, an open body that required an openness about their records and funding and so forth because it is public funding that is going to pay for the membership. So I'm going to convey what I've hear here today, and I appreciate your making the comments. I really do.

Question: Rose Moreno. I am standing. Orange County. Sometime not that long ago before Orange County okayed a \$50 per diem for the grand jury members there was a board of supervisors meeting, and I attended that meeting. At that time three supervisors were ready to vote positively on the motion, but one of the other members said, "No". He did not want a vote brought to the board until someone went back to CSAC and got their opinion as to whether this was something that Orange County should be doing. Do you believe that that was appropriate?

Answer: Well, as long as I wasn't the guy who said that. That was awhile ago. I don't – I hope it wasn't me because –

Rose Moreno: No, you weren't. This was, maybe, about six months ago.

Answer: I know. I know. That's why it befuddles me because I don't ever recall any instance frankly where I can recall upon any issue with the board ever having stopped or delayed something to go check with CSAC to see what their position was because we had, you know, we had the legislative committee that did some of that review. But in terms of the court making policy of passing the kind of amendment you've just described, no, I don't. I wouldn't.

Rose Moreno: The rest of the board went along with it and they tabled it until the representative to CSAC could take it to CSAC and get CSAC's opinion. And to me that's totally wrong because we didn't elect 58 members to CSAC. But these are the type of things that are going down. And that I knew of firsthand.

Jack Zepp: I have a question, Gaddi. It's a little bit technical. I think I heard you say that CSAC would welcome the dialogue upon the grand juries, the courts and the counties with respect to grand jury issues. And my question is since I know that to some extent your working information you've got from Rubin. Was that a statement of Rubin's?

Answer: Yes.

Question: That's a CSAC statement. Answer: I'll give you a copy of the outline, too, to fix that because believe me, I am not coming here to have this go in the burning sunset. I'm going to have a conversation with him next week and give him feedback of what I've heard here today because I think it's relevant, it's important and it should be – I think I will be heard because I was respected during the time that I served in the organization and feel very strongly about what I've heard here today. Anyone else? Well, thank you very much.

Open Forum

Jack Vaughan (San Diego County), **Jerry Lewi** (Ventura County), **Richard Nichols** (El Dorado County), **Jack Friesen** (Marin County), **Jack Zepp** (Marin County)

Jack Zepp: The nature of this part of the program is to give you in the audience, so to speak, an opportunity to raise any grand jury related questions you may have or make comments you may think appropriately shared with the group regarding grand jury activities. The purpose of the panel is to provide the collective experience with the people on the panel in attempting to answer those questions. From the far left, Jack Vaughan is from San Diego County; Jerry Lewi in the middle is from Ventura County; Dick Nichols is from El Dorado County; if he comes back, Jack Friesen is from Marin County; and I'm from Marin County. So with that I think I'll just throw the floor open to whoever has questions or comments.

I'm Mike Harris from Orange County: There's been a great deal of discussion about – during this seminar about our implementation and follow-up committee. In 92-93 our grand jury submitted a report to the board of supervisors -- and Gaddi was a member of the board at the time – saying that we thought there should be an implementation committee, and it was based on information we obtained from San Diego County on their implementation. And we tried to follow it up somewhat. It was presented to the board. The board said it looked good and we'll turn it over to the CEO and we want him to come back within six weeks and tell us whether it's good, bad or indifferent. Six weeks later we were gone. The CEO as far as we know never came back with any report. And it died for a while, at least it died as far as the board of supervisors was concerned. We followed up through the grand jurors association. We did a lot of tap dancing. We eventually through Jan Mittermeier and members of our grand jurors association got the board of supervisors to approve us officially to do a follow up and implementation on reports from the grand jury. We started that and it was extremely successful. It took awhile. It just happened relatively recently. But that committee is in action. Part of our budget was usurped by the sitting grand jury because they said they wanted to do it and we don't have the ability to override them in their position. But that is going forward. It is something that the Orange County Grand Jurors' Association is doing, and it is not something that went by the board or has disappeared. It is in existence.

Jack Zepp: Thank you, Mike. While we're on the subject of implementation review committees, Jack, I know that your association is extremely proud of its implementation review committee. Would you like to say anything to the group in how it works?

Jack Vaughan: Yes. As a matter of fact I'm chair of that committee. Our organization was able to get it through and become an ordinance in the county and has continued on. It is extremely helpful to getting things done in the county and only for those which the county has agreed that they would agree to. We meet monthly. We look at each one of agreed recommendations and bring in people from the county organization, listen to what they tell us. In most cases they have got the situation going forward to clear up the problem. In some cases we have found they have done little or nothing. We lead them onto books and report that we are not satisfied with it. And they at a future time looked at it, even as much as three years later, and generally has gone very well. We are required to provide an annual report to the CEO and to the board of supervisors. That's done before the end of the year. And in general we have a face-to-face meeting with the CEO and go over the report. In most cases the CEOs have been very happy with our report and generally thank us for the work we have done.

Comment: I first learned of this process when I attended my first conference two years ago as a sitting grand juror, and I was very impressed with the process in both counties. So I attempted to do something similar in my county and I at least succeeded in getting the CAO office of our county to do their talking about the same event. I followed up recently to know how successful it is. I only mention that so that if all of you former jurors who are frustrated by this process would might learn a lesson from both the Orange County and San Diego County and try to implement something like it in your own county. I think it's a pretty good example of what this organization can do for all of us

Dick Nichols: I'd like to comment on the fact that this is not a procedure that is a one-size-fits-all situation. The currently sitting grand jury in El Dorado County within the last month issued a, quote, interim report commenting on the fact that neither the board or the CAO has responded to certain recommendations that were issued by the 1998 and 1999 grand juries on matters in which they had represented that they agreed with the recommendations and would implement them within a six month period of time. So we as a sitting grand jury issued a report saying you agreed to do it; you didn't do it; tell us why and tell us what you're going to do about it. And we have a new board of supervisors who is interested in working with us in a relationship of the type that Mr. Vasquez described and they have indicated to us that they will be back to us within a relatively short period of time, specifically a period of time during the continuance of this same sitting grand jury. So we will be in a position to see if they put their money where their mouth is. And the point of all of this comment is that you don't have to have a chapter or an association of former grand jurors to look at issues of implementation and continuity. Your sitting grand jury can do the same thing and ought to have some responsibility to do the same thing.

Question: I'm a standing grand juror from San Luis Obispo County and I just wanted to say that over the last few years our grand juries have had pretty good results with follow ups and so forth. I have heard the grand juries from the last time make a statement there were very few things that weren't done, and those few things were things that other things have changed in the meantime.

Jack Zepp: I think you all heard – I think it was Gaddi's comment on a study that determined that only 30 percent of grand jury recommendations were implemented. We keep trying to remind Professor Kelso and I just want to make sure that everybody here knows that that precedes the time when one had to respond to a recommendation. So that number in my mind is irrelevant to today's grand jury.

Hi, I'm Bob Geiss. I'm from Orange County: I have several comments I want to make. These meetings are great, but unless we agree to some sort of action to take after this meeting is over and get some assignments made and maybe some schedule set up, you know, we're sort of wasting our time. And I'd like to suggest and recommend that before we go to bed on this meeting that we do such a thing, on what sort of thing should we be proactive in the next six months, let's say. And toward that end I have about three comments I'd like to make. One is I think that right now we're in a reactive mode to the Kelso report. I suggest to submit that opposition and be proactive. We know their system is wrong where the Penal Code regarding grand juries. They know there's things that should be in it; things that should be out of it. I suggest we be proactive, get together with three or four folks, get together a package of things that should be done. Okay. Having said that then I think they have to improve and codify the tracking issues that have been discussed briefly. Right now we're sort of winging it, and that's right; there is no one size fits all. I mean for instance in Placer and Yolo County it's a different universe than Orange and Los Angeles and San Diego Counties, and therefore the tracking, say, in Yolo or Placer Counties could be a hand shake or a person to person thing. Well, out here it would be a little bit more formal. I guess my answer is, there is no such thing as a codified way implementing tracking committee except that it has to be done and it has to be done uniquely to each county. I'm going to saw on Jack there a little bit there and say that as we get into this and more of us get involved we'd better start thinking about this board meeting when the director election gets around here. Thank you.

Ormand Colbert, Riverside: Where do you start? Who do you get on your side in order to get this kind of a thing started? Who do you get on your side first and talk to who?

Jack Vaughan : Well, right now, San Diego County, since we've had this in place for quite awhile, is not concerned about it; however, we are beginning to work on having implementation review committee for the city of San Diego. And what we're doing is talking to the mayor and the city council somewhat informally trying to get their approval and at least move along with that.

Comment: I think I can answer his question. As far as Orange County Grand Jurors' Association is concerned, we had an informal implementation and tracking committee. Our organization goes back more than 25 years and one of my good friends was chair of that committee and he's since passed on. But he was chair of that committee for a number of years. And it was informal. They attempted to get the board of supervisors and to get the CAO at that time to authorize them formally to do it, but they went ahead. They were doing it anyway based on the fact that they knew many of the people in the county. Finally in 1992-93 jury wrote a report requesting that the board of supervisors authorize it. The board of supervisors turned it over to the CAO who buried it, which was not unusual, and then it was lost for a while. We were still shooting to get it done. But it starts with either the jury making a recommendation or it starts with the organization, the grand jurors association starting up a committee and then going to the board of supervisors and saying we want to be authorized to do this. You have got to start and you can start with your own organization, two people, three people; that's all it takes to start.

Comment: Jack, if I can make a comment on that. If you're in a county like mine where you don't have an association, an independent association or a local chapter, a person like you, what can you do? And I'm picking up on something Jack said and one of us said yesterday. You as an individual citizen as a former grand juror can go to your county and demand the information. And if you want to make a fuss of yourself you can do that. That takes, you know, a certain

amount of gall to do that and maybe you can align with what your other former grand jurors. But you might get something, might get some reaction, might get some process started. So there are many ways to try to get this started.

Barry Newman: This is really not so much a question as it is a comment and applies more to the larger counties. But let me tell you the weakness of the IRC in San Diego. It applies only to the county. We have 18 cities and the city of San Diego. We have dozens, if not, dozens of dozens of special districts all of whom could well be the subject of grand jury focus and none of whom are covered by Jack's IRC which is only empowered to address county. So, I think, that somewhere along the line when you start thinking about what we should be doing--one of the things we've talked about at least preliminarily is trying to get in the legislation for some county wide IRC capability which would allow that body to address any recommendation made by the grand jury to which an affirmative response has been made by the subject. Because one of the real frustrations in San Diego is we're dealing certainly with a large component of the focus of the grand jury but not the total focus. So when you think about particularly counties that have multiple cities and multiple special districts, keep that in mind as a limitation of the IRC.

Dick Nichols: Well, from a point of a small county such as El Dorado, that's one of the reasons why we feel that if the sitting grand juries have some moral or ethical obligation to follow up on the recommendations of their predecessors particularly those that were agreed to by the respondents. And that doesn't have to be limited, as in Barry's example, to the county. It can be all of the special districts or other noncounty governments. One particular issue within our grand jury has not been whether to engage in follow up but how to do so specifically. Whether to have an implementation review committee on the grand jury or to assign implementation review duties to each of the substantive committees of the grand jury who are likely to have more familiarity with the individual issue than a separate implementation review committee. We haven't come to an answer to that question as yet, but it is a question that is getting seriously debated.

Jack Friesen: Let me just piggyback on that comment too from a Marin County standpoint. We do much the same thing and have for several years. We actually do have what we call a continuity committee which takes the responsibility of least determining whether the response is in accordance with the grand jury code and then finding if there are some other action that may want to be considered in terms of the substantive nature of the response. It goes into the committee that has to piggyback on the previous committee and prior grand jury with an issue of the report to see whether they want to reinstitute a new investigation to further the cause or think that enough was done. But I think the feeling of my jury was and I was the foreperson in 2000, 2001 I think similar things are happening this year and it is believed that that was the primary responsibility of the sitting grand jury to take the responsibility for the follow-up process.

Ormond Colbert: Let me just say that we've done all of what you've mentioned including writing a letter to the council which in turn lost it apparently. Now I want to throw a can of worms out here. Suppose that I appoint a committee to just start following up on these things without talking to anybody. What's going to happen?

Jack Friesen: I think you can do that, but you'd be limited as a private citizen to bring those views to the governing body. I personally appeared in front of the board of supervisors myself after I was out of office because I was very unhappy with their response. And I got in the newspaper saying there may be something, but I think the best mechanism quite frankly is to still try to work with the sitting jury.

Comment: One of the things that we found in San Diego is the fact that each jury is significantly different and what they do. And some want to follow up on various of the recommendations; others they need to do only to check if there's a response. And so you can't depend upon the jury itself to do this unless you get some legislation put into place.

John Baird: I'd like to point out that when we were given permission by the board of supervisors to present this, our responsibility was not to the grand jury; it was directly to the board of supervisors. And we were to report to them on all of our implementation findings.

Dotty Coplen, Mendocino County: For the last two years we've had a standing committee on response review and developed a memo of understanding with the CAO's office who designated the CAO liaison with the grand jury who would create the table, responses, et cetera and then filled in on those responses getting back to the grand jury to follow up.

Walter Monasch from Marin: I'm glad that Jack mentioned the press because it seems to me and I was surprised that nobody else mentioned this incredible avenue of opening up information. Judicious news of information given to the press within the legal constraints that we have is to me an excellent way particularly if you don't want it all at the end of the year – spread it out throughout the year so that you've got – there always will be grand jury information. They would love to have good editorials and that's how you get – you know, the best pressure on an elected official is to get the electors to put pressure on them. The jury doesn't have to do it. You can get other people to do it and you got to give them the information. And the press will do it. It's obviously easier in a small county like Marin where we have one newspaper and that sort of covers everything. In Los Angeles it's a little bit more difficult to get the *LA Times* to take care of minor little details like this. But there are ways to do this judiciously and within a legal public framework.

Dick Nichols: In a procedure that Mr. Monasch just described is precisely the procedure that El Dorado engaged in a couple of months – about a month ago. And it made front page above the fold in the *Placerville Mountain Democrat* and we held a press conference when we released the report and it was big time news in El Dorado County.

John Hackman, Sutter County, sitting juror: I guess I'm missing the forest for the trees. I think that's the problem in some other counties. I've been looking at this application from Orange County for a prospective grand juror background investigations. If I were a considered juror here in Orange County I would withdraw. It offends me to think the grand jury has to know what my credit rating is to be a juror and I just want to say that personally. Now I heard talk about what about follow-up on the previous grand jury. We were different up north and what we did is we took all our chairman, we sat down and went across the last two years grand jury reports. Anything that had not been finalized we assigned to this year's jury priority one. We took it to the grand jury as a whole. It just takes a little bit of time, a little bit of reading to say, all right, this committee to complete that report or we ended up with a proper response, follow up on, it's your number one priority.

Question: Just briefly I just wanted to describe the system we use in San Luis Obispo because it is apparently successful. We send out – the current grand jury sends out a notice to each of the effected organizations; they send it back. It goes to the proper committee. The proper committee can verify in whatever manner they want to, and then that goes in to report as to the status.

Jack Zepp: Thank you. Do we have any other questions or comments from the floor? Do the panelists have anything they'd like to add to this discussion?

Jerry Lewi: I'd like to use this as a means of commenting on some things we heard earlier during the session, maybe a nice way to close off in some way. Judge Peterson commented that grand juries, quote, have no teeth, unquote. And I happened to discuss that over lunch. And I think the conclusion I heard is there's probably more teeth in the grand jury process than a lot of us realize and most sitting grand jurors because maybe they don't understand what's going on. And I think this whole discussion on implementation view is one example of that. If you have a strong implementation review while it hasn't addressed the issue of forcing the agencies to do what you recommend, at least you put some pressure on them to follow through on what they didn't do. I think that's a first good step. It isn't clear to me whether or not we have truly the teeth we'd like to have. I don't think we could ever get to the point where grand jury recommendation is mandatory. I think that would be unrealizable, but by the follow-up process some of you described as sitting grand jurors, as past grand jurors, of the association or a chapter or even a citizen are all vehicles any past juror could avail themselves of. And perhaps we have to do a better job of educating grand jurors that they have that ability. And by making grand jurors aware of that early on of some follow up or some continuity if necessary would allow us to take advantage and do that. We only have the teeth if we exercise them, and this whole discussion has been to that.

Jack Zepp: Thanks, Jerry. I have a couple of comments I want to make. First of all, I want to assure the representatives of the association, whether the chapters or individuals, who are in the room that, if and when, Mr. Vasquez gives me the response that he said he would provide after he talks to CSAC we will share that with the associations. I don't know in what form it's going to be, but worst case if it's a telephone call, I'll just type it up and send it out. If it's a really meaningful response and also I'm sure it will end up in the journal. I also want to thank Ronald Layman who's been doing yeoman's chores up here on the sound system, and I don't think he had any idea he was going to be asked to do that when he showed up, but we really appreciate the effort you put in to getting the sound system up and running. One other thing, I want to respond to Bob. I can't respond to all of what he said because I'm not sure we can actually go into what he – I mean if somebody wants to make a motion when Mr. Pollock is done, we could entertain a motion, I think, without any notice. I think we can do that. I'm pretty sure we can. But on the point of being proactive, just so everybody knows, because the board only the day before yesterday approved the substance of the comments they were making to McGeorge. Obviously you haven't seen them and of course that's your foreman's job is to do that. But they as I believe I may have mentioned they approved not only our overarching point that we think it's really, really bad judgment to throw comprehension of reform packages into the legislature where it's going to get ripped into shreds like a pack of lions on meat that hasn't been thawed out. And this clearly has not been thawed out. In addition to that every single section of the Penal Code that we know has a problem we have addressed and indicated how we think it should be fixed. In addition to that, we have made about six or seven affirmative proactive suggestions but without proposing actual legislative language. For example, we suggest that whoever openly has the final say on this act before it goes to legislature we are suggesting they consider a law that says you have to have a implementation review committee as a matter of state law. So we're doing a lot of what we're calling for proactive work. We may not get what everybody wants, but at least we're getting what the board thinks their – the people they represent want in the package. So with that, it's now 2:45. It's time for Mr. Pollock to enlighten us.

Speaker—Kent Pollock

Jack Zepp: Kent Pollock is the executive director of the California First Amendment Coalition. He is a longstanding media man, been in the press business, I guess, for most of his life. As I

mentioned to you yesterday, my understanding is that CFAC is trying to broaden its outreach and become more of a public service agency as opposed to a lobbying arm for media interests. And Kent is going to speak to us about relationships between the media and the grand jury; something that obviously has just come up here today. So, Kent Pollock.

Kent Pollock

Good afternoon. And I guess you're winding to the end of your meeting, so if I see a few people nodding off out there, I excuse you in advance. Before I get started I want you to really know that I truly consider it a privilege to be here today because I've long admired the work of grand juries. I've been a reporter for 32 years; *The Philadelphia Inquirer*, *Miami Herald*, *The Sacramento Bee*, and several other newspapers. I've also been the executive editor for a couple of newspapers; *The Anchorage Daily News* in Alaska and some others. At any rate, during my years as a journalist I have always relied on grand juries to inspect the communities that the newspaper was serving and with very few exceptions the grand juries have, I don't think, ever let the communities I was a journalist in down. But I do have some thoughts and ideas about why sometimes grand jury reports don't get the kind of attention or even respect that they deserve, and I will share some of those thoughts with you today.

Now your president and I had lunch about, I guess, it was almost a year ago, and I was telling him, kind of sharing my observations, that there are incredible parallels between the work of grand jurors and the work of journalists. And for the most part that's what I want to start off doing with you today, and in the process mention certain lessons I've learned personally about effective journalism. And I think some of those lessons are applicable to grand juries. I hope to give you some things to consider if you perform your incredibly important task of investigating problems in your communities. And finally I want to try to enlist you in my organization's mission of promoting open government law.

Let me tell you briefly about the California First Amendment Coalition. We've been in existence since 1988. We're a somewhat typical 501C3 public benefit nonprofit corporation. And we've been funded for years mostly by newspapers. We currently have 42 daily newspapers as members of our organization here in California, all of the major dailies, *The LA Times*, *The Orange County Register*, *Sacramento Bee*, *Mercury News*, the San Francisco papers, the Oakland papers, Santa Rosa, and on and on. We have 42 dailies and about a hundred weeklies, but what I'm trying to do with the organization is to move it somewhat away from the media and out to the people. If you think about it, open government laws were written for the people in the first place.

As a journalist I rarely need an organization like this California First Amendment Coalition to help me. Now I had very accomplished attorneys, you know, down the hall that could help when we got in a jam with regard to access to public records or access to open meetings. So I'm trying to move the organization more toward citizen organization and, I'm happy to say, I've had some success in that. There really are remarkable similarities in the process that's used by reporters and grand juries to investigate and report findings. Of course, there are huge differences, too, and, God help us all, if reporters ever get subpoena power. Seriously, both journalists and grand jurors strive for facts, search for elusive truths, and face the challenges of presenting their findings in a way that has meaning and ideally causes change and leads to improvements. Like grand jurors, journalists sometimes get frustrated when their stories fail to spawn any corrective

actions. And like grand jurors, journalists are often unhappy with the way the media portray the issues that they so carefully investigate and report.

Remember, if you're a member of the Philadelphia – let's stay in California, *The Sacramento Bee* and you do a big story or what you think is a big story, you hope as a journalist that other newspapers will jump on that story and through more and more public understanding of whatever issue it is that someone somewhere favorably it's a grand jury will do something about it. Now a lot of people think journalists write their stories to sell newspapers. Well, I can tell you that my bosses, the publishers might to some extent have that view, but the reporters and editors are truly not trying to sell newspapers. They're trying to inform the public. They're trying to care for their communities, and they're trying to get some action when they reveal wrongdoing or ineptitude by government.

In order to get the best coverage from the media, and I sense a tone here through conversations I've had with some of you that the Grand Jury Association and new grand jurors have some frustrations in some areas. But in order to get to that coverage I think you need to understand a little bit about what journalists are trying to do. And, you know, we're really a curious type: who else brags about being the first one on the scene of a tragedy or, you know, who else celebrates when they uncover corruption or when they – you know, a lot of journalists celebrate when they get some public official to say something that the public official didn't want to say. I would submit that journalism is somewhat unique in that regard. And who else thinks they've succeeded when both sides of the controversy are equally angry with them? You know, at the airport I was coming in and I heard these three surgeons arguing about well, what's the best type of person to operate on, and one of the surgeons said, "Well, it's a mathematician. You open him up, everything's numbered; it's easy to put him back together." The second guy says, "No, no, no. It's an electrician. You open him up and everything's color coded and you don't even have to know numbers to put him back together." The third guy says, "No, you're all full of it. The best person to operate on is a newspaper editor. They're heartless, they're gutless and their tops and bottoms are interchangeable."

But it's safe to assume that journalists understand larceny better than charity and, you know, we as observers of human behavior we've simply seen more greed than goodness. Journalists question authority. They were taught in school and in experience to distrust people, especially if they're politicians. In journalism school we were told if your mother says it's so, check it out before you print it. We're skeptics and we're not nearly perfect. Too many of us have confused the virtues of skepticism with the evils of cynicism. So when you approach the journalist with a grand jury report about your hard work, be aware that you'll be viewed with a skeptical eye trained to dismantle your message and expose its flaws if they exist. You need to patiently explain and document your position. At times it will take all your communication skills to achieve this goal, but it's always worth the effort. Even though reporters are supposed to be neutral, you need to persuade them to be on your side. Because of this need it's foolhardy to believe that you can simply issue a written report and let it speak for itself.

If you want to be satisfied with media coverage of your report, you'll need a spokesperson who can explain your findings and respond to your critics. I can't tell you how many times as a reporter or as an editor I have seen grand jury reports hit the city desk and no one will speak on behalf of the jury. Oh, the report speaks for itself. Well, meanwhile you have public officials, government officials who are used to pleading the press and very good at skewing what your message is. You have to take control to the greatest extent possible on how the media is viewing your message.

Public policy in government, community government has always fascinated me. But I've seen local government work marvelously and fail miserably, and I've had the opportunity to meet some amazing public officials who care and are dedicated and some scoundrels, liars and thieves. But after a while patterns emerge about these good and bad public officials and government officials. It seems clear after you spend years watching government that the good officials strive in openness. You had a fella speak to you earlier who used to be on my board, and if you were to look at his career you would see that he's always been a very, very open public official. And he's as a result in my view succeeded at all kinds of things that he would never have succeeded at had he been closed off like some of what I would characterize as your bad public officials. But you know the bad ones when I talk about patterns, they pursue their rotten plans in darkness and scamper like cockroaches when you expose them. And it seems to me that journalists and grand jurors have one very powerful tool in common. And a gentleman over here was talking about the value of the press. And that is the sunshine.

Both grand juries and journalism can place this disinfecting sunshine on public issues and make a huge difference. So as a journalist for years I know I would look for public officials that conducted themselves secretly and then I'd try to figure out why. Some of them are just plain shy, but an awful lot of those who do things secretly who violate the Brown Act, California Public Records Act, et cetera, you'll find that they're the ones who are also at least inept if not corrupt. And from a journalist's standpoint they're the ones who drew our attention and I would suggest that they should draw your attention. Can journalists write stories exposing wrongdoing or ineffective, inefficient government actions? As I said earlier, they have the same goal you have, although sometimes you folks are indicting people and getting them arrested. Once again, I've got to say, God help us all if journalists ever get that power. And journalists and grand jurors also share a critical need for credibility, the need to be believed and trusted so that those in a position to demand change will do so.

I believe the stories journalists publish, like the reports grand juries issue, succeed and fail based largely on their level of fairness. Good journalists learn quickly that for a story to be effective it must be fair. Fair not only because it gives the full and fair voice to the accused, but also fair because it doesn't skew reality with cleverly used facts. A story can be technically accurate and hopelessly distorted when facts and quotes are used selectively the same inaccuracy emerges. And you can say the same thing about grand jury reports. Frequently grand jury reports are written to convince people that something is wrong and I believe that in that advocacy sometimes at least grand jury reports go way too far over the line and are unfair. The most successful stories that effectuated change are those that are truly fair. And when we talk about giving the accused an opportunity to respond, I say you can give the accused an opportunity to explain. Huge difference.

Too often responses that are inserted in a story at the last minute and given little thought or analysis and too often the response is shaped to fit the story when it should have been used to help shape the story. And I just have to wonder out loud if sometimes that's not the case with your grand jury reports. The relationship between fairness and effectiveness is one of life's axioms that transcend public story the grand jury reports. Over the years I've seen many poorly balanced stories and poorly balanced grand jury reports fail to have any meaningful impact at all. Aggressive and unfair writing in journalism or in grand juries often spoils months of hard work gathering insightful facts. So today I ask, please consider the value of fairness when you write your reports exposing communities ills or wrongdoing. Not only because it's the decent thing to do but because it's also the most effective way to communicate your concerns.

Your reports will be more credible and more effective if they are more prone to explain and persuade than to attack. Remember, truth is an elusive beast that ultimately will be defined by the public as that which remains standing after close scrutiny by a variety of perspectives. There's always more than one perspective on any issue. Respect and include any other perspective in your report as you champion your own and your report will be more effective. Reporters and grand jurors need to approach their task with an open mind uninhibited by the barnacles of fixed ideas. It's not okay for journalists or to grand jurors to form their beliefs without talking to all sides of the controversy particularly listening to individuals accused of improper or inappropriate behavior. These individuals may not always be willing to explain themselves, but they deserve a chance to do so.

I know a local official who is the subject of a terribly unfair grand jury report who several times requested interviews with the grand jury that was investigating. He was denied time and time again. When the reports came out there were several avoidable misconceptions and inaccuracies and as a result everyone lost. The public official's reputation because of inaccurately and unnecessarily tainted facts and the grand jury report and its skewed facts became the media's focus of coverage. The jury's hard work was diminished, discounted and ultimately relegated to a library shelf where it now collects dust. I suspect some of you have been involved in similar episodes.

Grand juries have a remarkable capacity to make a difference, to correct community ills, to infuse public debate with energy, to bring back hope by giving voice to people otherwise ignored, by crying out for leadership and helping shape a vision for the community. It is in that spirit that I ask you to consider taking on the issue that is the focus of the California First Amendment Coalition-- that of open government. In California government business is public business. It's the law. The preamble to the Ralph M. Brown Act, the law that requires local governments to operate openly, states its purpose elegantly. Quote, "The legislature finds and declares that the public commissions, boards and councils and other public agencies in this state exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly."

Unfortunately many government officials routinely ignore this. Often through ignorance of the law, but sometimes through calculated deviance. Every day at California First Amendment Coalition's offices our telephone rings with news stories of open government law violations. Members of school boards, water district, city councils, boards of supervisors too often ignore open government laws. The governor himself has been found to have violated the law by concealing energy contracts from the public. It seems the public officials frequently forget the value of public discourse and public scrutiny after they're elected. We know from experience that a protective veil of secrecy often accompanies government wrongdoing and ineptitude. Not far from here is San Bernardino County. The county has arrested, I think, on nine occasions in the last two years people for refusing to give up the microphone at the county board of supervisors meeting.

One of the fellas who was arrested, a guy by the name of Jeff Wright, served 14 months in jail for that. He did it three times and they finally sent him to jail. He served 14 months. Now one of the times he was arrested he was arrested because he was pointing to a supervisor by the name of Jerry Eames. And he said, Mr. Eames, you should be arrested. You accepted a bribe from such and such billboard company. Jerry Eames had tried to gavel him down; ultimately Jeff Wright was arrested. Two years later Jeff Wright sat in jail serving his sentence. The federal grand jury indicted Jerry Eames for accepting a bribe from the same billboard company. A reporter for the Press Enterprise called Jeff Wright in jail upon the occasion of Jerry Eames' arrest. And

someone said, “What do you have to say about this?” and Jeff said, “Well, I hope they put him in my cell. Then I could talk to him some more than three minutes.”

Last year the California First Amendment Coalition conducted a California Public Records Act compliance audit. We used college students, and basically what we did is we sent them to various local agencies to request documents that are clearly a matter of public record. 77 percent of the time the initial answer at least was no. We had students who were asked to show identification and state their purpose. Not necessary under California law. We had one student asked to sign an affidavit that she had never been arrested in the county that she was requesting the information from. Clearly not allowable under the California Public Records Act. Then when the students went back and did a formal written request it got a little better. Got to, I think, just a little over half of the requests were denied.

But the California Public Records Act specifically says and a very recent appellate court decision validates that Public Records Act requests do not need to be made in writing. I can tell you from my experience if you were to go to somehow magically every public official in California and ask them if they believed that Public Record Act requests had to be made in writing, the vast majority of them would tell you yes. Now we don't do that because our fear is they'll change the law. But the truth is, you shouldn't have to put those kinds of written requests. If you're an individual who simply doesn't want the government agency to know that you're the one looking at it, you should have that right. You shouldn't have to state any reason why you need a record that's clearly public. But that situation just doesn't exist even though the law says it should.

We went to about 130 local agencies in Los Angeles, Orange, San Bernardino, San Mateo, San Francisco Counties and we had no reason to believe that it would have been different had we gone to the other the rest of the 58 California counties. And in fact now as a result some of my organization's actions, there are newspapers throughout the state conducting the same compliance audits. Many of you will be seeing newspaper stories within the next year about your own communities. But I'm asking you to consider doing it yourself as grand jurors. It's a relatively simple task that can yield valuable information about how a local government views its responsibility to serve its community. In a nut shell, you have the person request an inarguably public record from a local agency and document the response. Tabulate the results and you'll be astounded at the lack of compliance. I can almost promise and if not, you can applaud the agency for doing so well. In the process everyone wins. The community gets educated. The government officials get educated. And hopefully you begin to change the way the community and the government looks at government openness, transparency.

If you're interested in further details about CPRA compliance audits, please don't hesitate to get in touch with me. I'll happily share my business. And you can learn more about our organization on the Internet at HYPERLINK <http://www.cfac> -- as in California First Amendment Coalition – dot org. For those of you interested at keeping abreast both in government law I ask you to join CFAC and take advantage of our publications and training seminars. I've left some brochures in the back table by the water glasses that you can look at if you have interest. We at CFAC hope to change the culture in California to one where the public with its elected and appointed officials have an expectation of government openness and transparency. We strongly believe that laws ensuring access of government meetings and records are the spinal cord of participatory democracy, that the key to community functionality is open government. Elected officials and high level bureaucrats may set policy, but our cherished form of democracy is designed to be by, for and of the people. That's the end of my commercial. Thank you and I'd be delighted to answer any questions.

Marianne Jameson, Contra Costa County: Do you have any comments on the law that's about to go into effect on opening records and the requirement that public employees not only issue or allow you to the records but they actually help you?

Answer: There's a law that the governor signed a few weeks ago that requires local agencies to help people determine what it is – what records they are keeping and how to access them. In other words, it's meant to change the attitude of public officials that exist now where if you go in and you say I would like to see the record of all left-handed widgets. And the clerk says, We have none. But that doesn't tell you we do have right-handed widgets and we have widgets that are both right and left-handed and if you only look over here you can find this. So it's a new requirement; it takes effect January first. Both the California Newspaper Public Association and my organization worked hard to get that passed. It got watered down a little bit in the process; we all know about that. I understand your whopping raise got cut in half at some point, but we think it's a good law and we look forward to seeing how well it works.

Jack Zepp: Kent, with respect to that, we owe you an apology. You may not have seen it yet, but our latest issue of the journal has CFAC's report on that new law in it and due to an editorial error it got attributed to one of our members. We'll correct that in the next issue.

Response: No problem. The important thing is people hear it.

Jerry Lewi, Ventura County: On the subject of the Brown Act, I'd like to hear your response on it. Most typical violation of the Brown Act is discuss it on the agenda. The usual remedy is to move that item to the next meeting but they move it anyway. Second comment is, there's a perception that governmental agencies sort of encourage private organizations so they can make a deal behind closed doors. I know it's very difficult to prove, but that's the perception. I want to hear your comments about those issues.

Answer: Well, as you observed, it happens all the time. The Brown Act, it amazes me when public officials violate the Brown Act because the Brown Act has so many loop holes and little crevices that you can crawl into and still be adhering to it and meeting secretly that when people actually violate it, it's just amazing. I don't know if it's because they're so inept that they can't figure it out, but our biggest problem with regard to the second part of your question has been meetings where let's say, a county manager meets with the developer and one or possibly two members of the board of supervisors and they have this meeting and then the two members of the board of supervisors go out and then individually talk to other members of the board and create what the attorney general has defined as a serial meeting. But to enforce that is very, very difficult, and as you also observed about the best you can expect is to send them a true and correct letter or have the district attorney do it and then what happens is the body simply says, oh, excuse us.

We're now going to do this in open and we do the same thing. But even in that process I think you cause a greater awareness of the way things are supposed to be done and from a political standpoint, you know, if that happens time and again when it comes to election time some opponent is going to say, wait a minute; you know, you violated the law and had to correct yourself, you know, X number of times last year and I'm for openness. But the Brown Act is in horrible shape. It was a pretty good law when it was first passed, but through amendments and through court decision it's gotten horrible. If we had the resources we would be sponsoring a statewide initiative to move open government laws into the constitution where they couldn't be mucked around with so easily. But as you know, and we've given serious consideration to that and we're being told by people who know that it takes about \$3 million to get it on the ballot and

then, you know, it's only then the opposition really starts coming out. They like to spend your money before they rear their ugly head and then you've got it on the ballot and you don't have any money left. So it's about a \$7 to 10 million venture and I can tell you with our mere 5, 600 members we're in no shape to do that.

I'm Bob Geiss: I have a question or a comment, Mr. Pollock. It goes to responsibility. I'd like to turn that around and maybe question you on ethics and certain members of your profession, yourself excluded of course. But sometimes you'll have your own axes to grind and own agenda to bring to a so-called issue. Just comment, please.

Answer: There are good and bad journalists and probably more bad ones than the profession should have. I believe that over time those people get weeded out. I also believe that their reports become less and less credible to the reading public. The fella who – actually I think someone is here from the Placer grand jury. There's a reporter who went to the Placer grand jury with some complaints that the jury took pretty seriously and investigated and reported on it and that's all well and good. But that reporter, from a journalism standpoint, has pretty much been essentially run out of the Sacramento County area because he had an ax to grind, because he actually threatened people with exposures almost to the extent of blackmail. And so, I think, in time the bad ones can get rooted out, but I'm not going to stand here and tell you that we don't have serious problems. There are derelicts who continue to work who, in my personal view, shouldn't have the privilege of dealing with the press.

Question: I have a perception that certain developer agencies and child protective agencies and things of that nature keep their records hidden from the public and also from the Public Records Act. And I wanted to know if you had any comment or thought about could be done to get access to those records. My perception is these extend behind federal laws. Of course these sources are being funded with parts of the federal funds and therefore you can't get to them by subpoena. I request your organization look into that and, if not, I ask you to comment as to what you think may be a proper approach to that.

Answer: Back to the parallel between journalism and grand juries, those are some of the frustrations that journalists face as well. I found that the Federal Freedom Information Act is far more powerful albeit slow, probably too slow for a sitting grand jury. But in time the Freedom of Information Act seems to work. We have been at CFAC for three years have been working for one of our members to get records out of a national institute account about what amounts to research fraud on the part of the university here in Southern California. And on Monday or Tuesday we are told finally we are going to receive – and that's taken two years. And of course the grand jury will have come and gone by then. It's a tough one. I can tell you the reporters, as much as we talk about the California Public Records Act, the Freedom Information Act, et cetera, that is our last resort. I always got records from insiders who I learned were unhappy with the status quo and I guess some of the tactics I use, you probably couldn't use. Maybe you could.

But first I've always found that secretaries to be very powerful individuals who sometimes are tired of being treated the way they're treated and tired of seeing the things that they see. And I've had some wonderful secretaries who are just – Arlen Specter who's now United States senator was once the district attorney of Philadelphia, a good acquaintance of mine. And he was a tyrant when it came to his staff. And I can't tell you how many times I would call him on the phone and say, "Gee, yesterday when you talked to so and so and told them such and such, what were you thinking?" And he'd say, "Well, how'd you know that?" Well, it was in every case because the secretary Joanne told. I don't know where you draw the line with grand juries, but usually when there's wrongdoing someone who knows about it is not

happy with it. And then you need to simply convince them that the right thing to do is to reveal it. But I don't – you know, I feel your pain, if you excuse the phrase.

I'm Bob Abeling with Marin County: And I believe you just answered the question. But I do have a second question. Do you see in the future a need for amendment to the Public Records Act on account of let's say for lack of better words enraged persons going down and using the system day after day asking for volumes of information?

Answer: Well, I guess my quick answer is that no one said that democracy is going to be easy. But there will be abuses and abuses using the Public Records Act. Our biggest concern is an issue of privacy versus public access. I understand and sympathize with the problem of people's privacy being violated, but more and more and more records are being put in places where the public can't see them in the name of privacy. And if that continues over time, the only people who are going to be able to investigate some things are going to be the established government investigators. That, I believe, outside scrutiny is extremely important and valuable. I'm sorry, but I just don't think you can trust public officials. I hate to make an indictment that broad, but, in fact, let me change that. You can't trust many, many public officials to do the right thing when it comes to letting the public know what's going on. You know information is power and some of these people who hold the power don't want to share it. So they hold this information so close.

Walter Monasch: I'll just piggyback on that. Having been a public official most of my life, I probably know as many bodies that are buried than almost anybody, but I also know an awful lot of very, very hardworking, very honest, very dedicated public servants. And it seems to me the press as much as the grand juries should be able to stand on both feet to be able to point out obvious lousy things. But I would urge people to also look at when they find things that are being done well to say that. Now the press doesn't do that very often because it obviously doesn't make as a sexier story. But I think grand juries should also take it upon themselves that when they find things that are being done well, to point that out.

Answer: I absolutely agree. You know, it's not unlike a personal relationship. If you only call your so-called friends when you need help, you know, what kind of friend are you? You need to build a relationship over time. And a newspaper like a grand jury needs to be careful to portray the community tapestry accurately. And if you focus on the negative all the time then I think once again back to fairness you lose your credibility. And that's why frankly I think this public records ought to after – it's a good one because you will find many public officials that do adhere to the law. And you'll have an opportunity to highlight them. I stopped at a public records act compliance audit late last year and found horrible things. One hundred percent of the time in a variety of categories adhere to the public records act and it will make a story about that. I think that gave that overall series more credibility. And I think with grand juries, absolutely. You have to look at the ugly and the bad and, you know, no one wants the grand juries to stop doing that. But if in your travels you find someone who's exceptional, I see no reason why you shouldn't highlight it and reward it. Back in 1972 I did a series of articles at the *Philadelphia Inquirer* on police corruption, led to the arrest or firing of 32 policemen. The grand jury, the local grand jury had an association and they gave me an award. In fact I still have on my wall. And I've won – I'm going to let my ego go a little bit, but I've won more national journalism awards than you can imagine including the Pulitzer I've shared and I won't list them, but seven or eight national journalism awards. The award that I cherish the most is this little plaque from the Philadelphia grand jury association because it was recognizing what it believed was good work. And, yeah, when you said you wanted to listen to me, I urge you to reward people who do well because suddenly then you'll have allies instead of enemies.

Jeanne Forbes from Tulare County: We have a newspaper, oh, and you can't trust a thing except the comics and maybe Ann Landers. Anything else you just want to pass over. A lot of the letters are pretty interesting, but they just aren't fully out of it when it comes to local issues and our grand jury reports. We had a very powerful grand jury report in 99-2000 and they cut it up so badly that you would have thought we were playing checkers all day. So while the press does a wonderful thing and I certainly would not have it anything but free, I don't know what you do when you get a paper that just simply is in the board of supervisor's pocket and dirty pocket.

Answer: Couple of things. You publish your entire report in that same newspaper. And you let the readers of that newspaper see your work without the filter of those journalists of that paper that you feel are skewing the facts. And, you know, I don't know about grand jury financing and what you – now some of these newspapers will do that for you as a public service. I suspect those same newspapers you're concerned about will not, but whatever the expense would be worth it. Now if you can't do that because it probably is relatively expensive, put it on the Internet and do a marketing – do a public awareness campaign that is on the Internet and find a way to get your actual report into the hands of the people. Because this is still a democracy and when people read things and get upset about them and start talking to those public officials with or without your newspaper's help, you're going to see some actions.

Marianne Jameson, Contra Costa County: On the reports grand juries were told and sworn to secrecy because you can't reveal any evidence. How can grand juries or exgrand jurors help in public awareness that these are simply reports based on your facts?

Answer: There are greater sources of information on that question than I, and one of them is standing here in the center of the room. But I happen to believe that there still is a first amendment in this country and even grand jury rules, regulations and statutes cannot preclude you from speaking the truth. Now you may need to stay within the confines of your written report, but what happens is if you have an accused agency or a spokesman for an agency that is disputing what the report says, I don't believe there's any wrong that can keep the grand jury from saying, wait a minute. If you look on page 28 or if you look at footnote B on page 27 that answers that question, and here's this document and here's that document that is appended to the report; you know, you just have to make your report as complete enough to cover the anticipated slack that you're going to get.

Question: We have this decision in California saying that we cannot append anything, so.

Answer: I was not aware of that. So a grand jury report can't get on a, you know, if someone writes a letter to the grand jury about what happened, you can't put it in, you can't append it? Well, then you can certainly include it as part of the report but not as an appendix. Okay. I mean, can't you?

Jack Zepp: I think you'll find that there are 58 different answers to the question. 58 different county councils are telling 58 different grand juries that the rules are different.

Answer: Well, and therein lies part of the problem; you turn to the county counsel. Many of whom who have made a career out of basically telling government agencies and elected officials how to circumvent the open government law. I don't know how to answer that question other than to say you have a right to speak as a human being that exists in the United States of America and as long as you don't reveal truly confidential aspects of your investigation, I would – I can't

imagine you getting in deep, deep trouble for speaking the truth. And if you did get in trouble for speaking the truth, then I think it's time to go to court and take it out there.

Jack Zepp: I would mention to the group that this is one of the areas that we are addressing proactively in our response to the McGeorge reform proposals. This is one where we don't feel we have particularly clear guidance to whether what we're doing is actually going to be considered. The issue that has been raised by Senator, now Judge Kopp, is, does it make sense to be imposing the set of confidentiality rules that were intended for the indictment proceeding on a civil grand jury investigation? So that will be something we're going to try to bubble up. This has been a constant problem.

Question: We have found in our county anything that has a need to it and is important our county counsel is on that. He won't let us put anything that gives credence to what it is.

Answer: Well, I have to ask and it might be an ignorant question, but by what authority does a county counsel censor a citizen grand jury's report?

Jack Zepp: You have to remember that the grand jury doesn't have – I mean it's 19 people for litigation. They're pretty much a diversity. And incidentally one of the other things we're trying to do is get some form of independent legal advice available to grand jurors.

My name is Bob Headland and I'm from San Diego: I believe what you're working on is properly the people's right to know, but it seems to me that implies it's their right to know the truth. Now the media to point to the liberal media and conservative media, they take rather half truths and put them out there. That's what's happening is a lot of mistruths. There doesn't seem to be any way you can encourage them to get out of the public domain.

Ormand Colbert from Riverside: Many years ago I was in a hardware store, a very small one, and the owner of the hardware store made a comment to myself and another person. He said the trouble with this country is too many people can read. He said, but they don't understand what they read.

Jack Zepp: Do we have any other questions or comments? Kent, I have one for you and it's based on assumption. If the assumption's wrong, tell me the assumption's wrong. How do you lobby as a 501C3?

Answer: We don't. We testify. We help legislative staff track legislation, but we are not lobbying and we are not a registered lobbying organization. The luxury I have is in associations with the California Newspaper Association which is the lobbying organization. So we work hand in hand with them and to the extent that true lobbying takes place, we don't do it.

Jack Zepp: Anyone else have anything for Mr. Pollock? Thank you very much.

Conference Adjourned