



# Grand Jurors' Journal



All the CGJA news  
that fits in print.

Volume 2 No. 9

An Association of Grand Jurors

April, 2002

## The role of the Foreperson

By Dan Taranto

Surely all foremen and forewomen give the role their best effort, generally doing a reasonably good job. The question at hand is precisely what is the foreperson's job? I have been impressed that each year some number of forepersons assume authority that has not been specifically assigned by the penal code nor directly conveyed by the grand jurors pursuant to Penal Code §916 (PC§916.)

The term "foreman" is mentioned a total of fourteen times in the statutes - which, in review, provide that the "foreman" is appointed by the court from the persons summoned to serve, that the "foreman" serves as the spokesperson for the grand jury, and signs documents as approved by the grand jury. No other special statutory qualifications or instructions with regards to the duties and abilities of the foreperson as distinguished from the regular grand jurors, excepting the sole specific assignment as spokesperson, have been found.

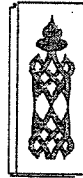
In the absence of written law, perhaps common law may have some bearing with regard to common usage of words: Webster defines foreman as "a member of a jury who acts as chairman and spokesperson" - and that a chairman is "the presiding officer of a meeting".

PC§916 provides that the grand jury, as a body, has the authority to make all decisions regarding rules of proceeding and all public actions. If the foreperson is the presiding officer, then the foreperson is obliged to preside according to the grand jury's approved rules of proceeding. The grand jury, by PC§916, is collegial rather than hierarchical. The term "collegial", for the unfamiliar, is defined by Webster as: "marked by power or authority vested equally in each of a number of colleagues; equal sharing of authority". The collegial nature of a grand jury is also supported by an appellate court decision, which held that the grand jury exists only as a body.

Sadly, there are randomly varying degrees of uninformed forepersons that presume executive unilateral authority without the deliberate and specific consent of the jury. Uninformed grand jurors do not realize that the forepersons do not have any unilateral power or authority over them. This can lead to serious internal problems when jurors later discover that their foreperson had preempted them in matters that the whole jury should have decided collegially. The root of the problem is one of ignorance.

*(Continued on page 3)*

## President's Message



Because my vacation schedule and the Journal deadline for April do not mesh, this is being written in mid-March and may well not be very timely when you read it. If there are significant last minute developments hopefully the Journal Editor will mention them. Grand jury reform proposals remain an area of concern to your Association. On February 25th I and Vice President Elwood Moger, on behalf of the CGJA, along with other representatives of past and sitting grand juries, the California District Attorneys Association, the California State Association of Counties and the Judicial Council of California met with Judge Quentin Kopp, Professor Clark Kelso of McGeorge School of Law, Senator Dick Ackerman and members of his staff, and others, for a discussion about grand jury reform issues.

There was little support for most of the reform proposals suggested by Professor Kelso and he has agreed to work on revising his proposals over the next few months. Senator Ackerman, who had considered introducing reform legislation at the request of Judge Kopp, has agreed not to introduce any grand jury reform legislation this year. Until we see Professor Kelso's revisions it is difficult to predict where "reform" may go. We remain concerned about the prospect of ill-advised legislation and will stay as closely involved in the process as we can. I am pleased to say that an item, which has been on CGJA's agenda for some time, received strong support: devising a means to make independent legal advice available to grand juries. This was not an element of Professor Kelso's proposal, and it has budgetary implications that require careful thought, but the concept is one we strongly support. Naturally we continue to be wary of any legislation that could, however unintentionally, create risk to the grand jury system, but a sound proposal to give grand juries meaningful access to independent counsel could be a great step forward.

Another suggestion that received wide support was that a uniform training curriculum should be established to include training standards for at least the following topics: investigation and interviewing; report writing; California law and other reference materials; and grand jury continuity. *(Continued on page 3)*

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**Contributions to CGJA**

Contributions from February 1,  
through March 31, 2002  
\* denotes member of the Board  
of Directors.

**\$00-99**

Dotty Coplen \*  
Joanne Johnston

**\$100 -249**

Roger Loper \* Celebration Fund  
(In celebration of 18 years  
dedicated service to CGJA by  
Michael Miller as Membership  
Chairman)

**Welcome to New and Sustaining Members:**

Mark Vinas, Monterey Chapter  
Margaret Sherrill, PhD,  
Monterey Chapter  
Robert Mires, Grover Beach  
Evangeline Walker, Fairfield

21st Annual Membership  
Conference  
November 15 - 16, 2002  
San Rafael - Marin County

[www.cgja.org](http://www.cgja.org)

## President's Message

(Continued from page 1)

This is in lieu of the "pilot project" McGeorge had proposed. Those who are familiar with CGJA training will recognize the list of topics as the "core" topics on which CGJA trains. CGJA has long espoused the idea that the Judicial Council should adopt training standards as rules of court to implement the courts' training obligation under Penal Code 914. Whoever establishes the standards, we hope that the Judicial Council will endorse them.

The views of the CGJA on the original version of the McGeorge reform proposals are scheduled to be published this summer in Volume 35, Issue 3 of the *Loyola of Los Angeles Law Review*, a publication of Loyola Law School. It will be available in law libraries throughout the state should you wish to read it.

More and more Final Reports are being released as we move nearer to the end of most grand juries' terms.

If, as and when your county's grand jury releases Final Report(s) please send us a copy of the report or a URL citation where we can find the report on the web or, at a minimum, mail, fax or email us the Subject(s)/Topic(s) of the report.

Written material can be sent to Dan Taranto, 890 Cloudswood Road, Fieldbrook, CA 95519-9771 and electronic information can go to Jerry Lewi <lewijb@aol.com>.

Either can also be sent to Les Daye, P.O. Box 632, Lewiston, CA 96052 <bearpaws@sunset.net> or to me.

Because it is so important, and responses have been generally poor, I want to repeat something I said in the last Journal:

"At this time of legislative concern we especially need not only your county's Final Reports but any press they receive and any evidence of the good they have done. It can be expected that CGJA representatives will be asked to explain and justify the conduct and reports of grand juries from all over the state as we seek to educate our state officials about grand juries

and the need to approach reform cautiously. We need information from you to do this job well and unfortunately cannot access many of the reports and media articles without your help. The only safe assumption is: if you haven't told us, we probably don't know."

Related to that request please let me direct your attention to the Excellence in Reporting Program Nomination Form that appears in this issue. This program, which we began last year, is designed to recognize and honor excellent grand jury Final Reports and excellent media coverage of grand jury matters. The program is only as valuable as your input. If you worked on or have seen a grand jury report that you think deserves recognition please let us know by filling out and returning the form. Similarly, if you have seen excellent media coverage of grand jury matters, including a present report or follow up on a prior report please let us know.

There was no board meeting in February so I have nothing to report to you on board activity in that month.

I will be in Britain for the next month. I hope you enjoy the month as much as I will.

Jack Zepp, President

## The role of the Foreperson

(Continued from page 1)

The only remedy is complete information and training to familiarize *all of the jurors* with the full meaning of PC§916 as early in their service as practicable. Well meaning, but overzealous forepersons can and should be quickly called to account and clearly instructed by the jury of any specific duties and roles the jury as a whole has decided it would like to assign to the foreperson in addition to spokesperson. The jury also instructs the foreperson as to when to be the spokesperson and what to say in the jury's behalf on those occasions.

So, the exact power of the foreperson is that of an equal among

equals, and the role of the foreperson is to be responsive to the will of the jury.

*Editor note: Dan Taranto's involvement is impressive.*

- > CGJA president 1996-1998
- > Presenter at Annual Regional Grand Jury Training Seminars 1990 to present
- > Holds secondary and community college teaching credentials
- > 20 years active appointive public service experience.



## Committee Reports

### Financial Development

Included in the significant opportunities brought about by the legislation enacted by Congress in May, 2001, were reduction of income, gift and estate taxes.

Understanding how the changes will affect you and your financial planning will be vitally important to maximizing the benefits to which you are entitled under the terms of the new legislation.

*Always*, check with your tax and financial planning advisors to assist with determining the exact effect of these changes on you and your loved ones.

Ask your advisor about "split interest" gifts; gifts of stocks, mutual funds and certain other assets that have increased in value since the original acquisition, which can be testamentary (in a will) gifts as well as present day gifts.

Charitable gifts continue to be wholly deductible under the terms of the new bill. Each person's tax status is an individual computation and it is best to consult your own tax/financial planner to ascertain the best program for you.

Janet Praria, Chair



The CGJA thanks you for your tax deductible philanthropic efforts!

Committee Reports

(continued from page 3)

Government Relations



The CGJA Government Relations Committee met on March 4th. Our Special Committee re Reform Legislation representation at the legislative

"working group" in Sacramento on February 25th was reviewed. With no new legislation going forward this year, further input may be sought at any future meeting(s), dates to be determined later.

We are continuing to monitor SCA7 (Burton) and SB1316 (Escutia) in the current session of the California Legislature. Please check our web site at [www.cgja.org](http://www.cgja.org) for the latest developments.

Thanks are due to Dick Nichols for providing continuing background information on AB363 (Steinberg). The California Supreme Court, with the encouragement of the State Bar of California, is in the process of determining the extent to which public agency attorneys can act as whistle-blowers without jeopardizing their law licenses. AB363 is currently not active, pending the further clarification of California Rules of Professional Conduct and application of Section 6068(e) of the Business and Professions Code.

Jeanne Forbes has reported that four Tulare County high schools will teach the Grand Jury Institution Lesson Plan beginning in April over a two semester span.

History of the Grand Jury and current Grand Jury activities (Final Report subjects) are the main thrust of learning.

Your continued support and feedback is appreciated on all matters related to the California Grand Jury system.

The Grand Jurors' Journal is the foremost voice of CGJA, but be sure to visit our web site for new and important CGJA information. < [www.cgja.org](http://www.cgja.org) >

Les Daye, Chair

Membership & Chapter Relations



We're still at it. The CGJA is still here, alive and well. More and more counties are considering forming

a CGJA Chapter.

Many questions have come to our minds as to what does a chapter do, what projects are proper for them to take on, how much time does it take, etc? I know I am not ready to dedicate as much time to a chapter as I did to the County Grand Jury that I served on.

A CGJA County Chapter's activities are limited only by its members' imagination. The chapter can be strictly a social type of club, breakfast, lunch or dinner once a month or quarter, and just keep in contact with people who, like you, dedicated so much of their time to improve their county. It can be semi-active, only keeping up the matrix of what departments have been investigated and when along with identifying these departments that haven't been looked at in years; giving this list to the new grand jury at the beginning of each session.

The chapter can be very active, like some of our present chapters who are working hand in hand with the courts, the county and the current grand jury to be supportive in whatever way possible. As you can see, what a chapter is, is totally up to its membership. They can have fun, help their county and/or just fade into the sunset.

How do you form a chapter? Find at least five former Grand Jurors in your county who want to form a chapter and contact me.

What are some of the benefits to forming a chapter of the CGJA, as opposed to just forming a little organization?

- You would be supporting the Grand Jury system throughout the state.
- 501-(c)(3) non-profit status.
- Not having to file chapter in-

- come taxes in certain conditions. The CGJA files for the chapters.
- Being able to receive donations that are tax deductible
- Sharing of statewide information (coming out of vacuum).
- Availability of knowledgeable speakers.
- Best source of Grand Jury information in the state.

Remember, even ants form colonies to bring down the rubber tree.

Clif Poole, Chair

Operations



The Operations Committee presented its findings and recommendations to the Board of Directors on March 25 relative to CGJA

obtaining two insurance coverages.

The Board approved obtaining a \$1,000,000 General Liability Insurance Policy and a \$3,500 Property Damage Policy from Nonprofits' Insurance Alliance of California to be effective July 1, 2002.

The General Liability Insurance will cover CGJA for its membership conferences and regional training events. In recent years, a number of hotels have demanded that the Association obtain liability insurance for its events. We have resolved such demands by paying the hosting location extra fees for adding CGJA to their policy coverage.

The Property Damage Insurance will cover CGJA's sound amplification and recording equipment which was obtained in 2001.

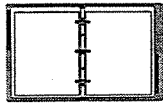
The Board also approved revisions to the Association's Policies and Procedures at its March 25 meeting. The Policies and Procedures are contained in an Interim

(Continued on page 5)

**Operations Committee**

*(Continued from Page 4)*

Edition dated December 31, 2001, which was developed by a subcommittee of Operations under the leadership of Roger Loper. Roger's committee will work this year on further refinements to the Policies and Procedures format and hopes to have a polished format to the Board by year-end.



Bob Abeling, Chair, of the 2002 CGJA's 21st Annual Conference is close to wrapping up a hotel contract with Embassy Suites in San Rafael, California, for CGJA's 2002 Annual Conference to be held on November 15 and 16. We have had difficulties with the hotel relative to the number of rooms they will allow at a reduced conference rate of \$94 per night.

We currently have a block of 56 rooms for the conference. When we reach the number of rooms blocked, the hotel will review releasing blocks of 5 additional rooms at the reduced rate subject to the hotel's occupancy levels.

Those planning to attend our 2002 conference are encouraged to reserve early to take advantage of the lower room rates. Once we sign a contract with the hotel, we are obligated to pay the hotel for rooms in the block. I expect Bob will be announcing details of the conference in the next issue of the Journal and plans to mail registration forms to all members in the June/July time period.

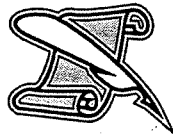
Jerry Lewi is looking at ways to expand our website [www.cgja.org](http://www.cgja.org) and would appreciate any suggestions from members. Log on to the website and feel free to send Jerry an email with your thoughts.

Our 2002 CGJA Membership Survey has been mailed to our members and Chapters. A pre-addressed envelope to return the survey was included. Chapter Members will be receiving the

survey through their Chapter Presidents. This is the Association's first attempt to gain comprehensive feedback from its membership and we encourage all members to respond.

Elwood Moger, Chair

**Training Committee**



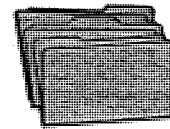
Each new grand juror that attends a CGJA Training Seminar will receive a copy of the CGJA Training Seminar Manual. Last year's manual contained approximately 180 pages assembled into a 3-ring binder. Planned changes for the 2002 manual are to use double-sided printed pages and to add tab dividers. These manuals are only distributed at our Training Seminars and are not offered for sale as a CGJA publication.

In addition to a Glossary and an Appendix with a variety of helpful, supplemental information, the manual contains an outline for each of the basic subject workshops: Investigations, Grand Jury Law, Interviewing, Writing Final Reports and Grand Jury Continuity and Independence.

Each of these outlines are filled-in with narrative text to reinforce what the new jurors learned at the training seminar and so each juror can use the manual for reference all year long. The manual can also be used as a training tool for replacement jurors who come on the jury later.

The training seminar presenters review their outlines and propose additions, deletions, updates or other changes to the Training Committee. All members of the committee are asked to read each outline from the perspective of a new grand juror to test for clarity. They also check for accuracy

and proofread for typos or formatting errors. The Training Committee has four outlines to review and discuss at our April meeting.



After the Training Committee members approve an outline it is sent to our volunteer editor,

Ourania Riddle, who also proofreads it and makes the approved changes on our master disc. The final step is to print out a master copy, which will be sent to the printers.

This annual review and update of the training manual is time consuming but very necessary to maintain the quality of the manual. Each presenter, committee member and past and present volunteer editors deserve a great big **Thank You!** for their efforts.

Sherry Chesny, Chair

**2002 Training Seminars**

**Sacramento** - July 29-30, at the Doubletree Inn

**Concord** - Aug. 14-15, at the Concord Hilton

**San Luis Obispo** - Aug. 26-27 at the Sands Suites

**21st Annual CGJA Membership Conference**

November 15 - 16, 2002

San Rafael - Marin County

**"Official" CGJA Merchandise**

There wasn't space in this issue of the Grand Jurors' Journal to run the ad listing all the *great* products that are available to buy. See the January and March 2002 issues.

**Visit the CGJA web site**  
[www.cgja.org](http://www.cgja.org)

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**Sutter-Butte Counties Chapter**  
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**Tulare County Chapter**  
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**Chapter News**

**Solano County Chapter**

Come one and all!!! The Solano County Chapter of the CGJA is sponsoring a BBQ Sunday, June 30, 2002.

The BBQ will start at 1:00 P.M. with food (steak or chicken) served at 3:00 P.M. We will have an auction at 4:00 P.M. and music throughout the afternoon. There will be a door prize, dancing and

pleasant company. The cost is \$12.50 per person, with 80% of any profit going to the CGJA, with the remaining 20% going to the local chapter's activities. The place is Pippo Park located at 4127 Cante-low Road in Vacaville, California. (The ranch is approximately four miles from the famous landmark in Vacaville the "Nut Tree" on Inter-state 80.)

All you need to bring is yourself and your significant other (if they are nice to you or if they are the "force" behind the throne).

The challenge: Do you know how to have fun? Which County will have the most tickets sold? Which County will travel the furthest to attend?

Tickets will be available from Ourania Riddle (707) 678-9468, email <Ourania855@Hotmail.com>

The BBQ is open to all current and past Grand Jurors and their families. Local chapters of the CGJA may invite their county support staff (Presiding Judge, District Attorney, etc.)

Reservations are limited to the first 500, so get your tickets early. Even if you can't attend, consider buying a ticket in support of the CGJA and their activities to protect and promote the state's Grand Jury system through education and awareness.

Clif Poole, Chair  
 Membership & Chapter Relations

O	<b>BBQ SUNDAY</b>	O
	<b>JUNE 30, 2002</b>	
	<b>1:00PM</b>	
	<b>PIPPO PARK</b>	
	<b>4127 CANTELOW RD</b>	
	<b>VACAVILLE</b>	
	<b>\$12.50</b>	
	<b>PER PERSON</b>	
	<b>GOOD EATS</b>	
	<b>MUSIC</b>	
	<b>DANCING</b>	
	<b>AUCTION</b>	
	<b>DOOR PRIZE</b>	
O		O

**Management Styles Matter**

*By Mickey Strang*

Management style is critical to accomplishing the goals of any organization, but nowhere is it more important than in dealing with a volunteer group such as the grand jury.

The military can order its members to do certain things in certain ways, and the only answer on the part of those ordered is "Yes, sir!"

Some corporations and businesses treat their employees in the same way. They then are amazed when it's possible for headhunters to raid the ranks and pick off the best-qualified workers. A military managerial style may work when jobs are tight, but, equally, when the job market opens up, there'll be a lot of defections despite bonuses or good pay.

A few corporations have decided to let employees have input on the way that business is run or operations are carried out. These might be beneficial suggestions programs, or even "quality circles" in which various problems are addressed, with the workers selecting the problem to be discussed and then possible solutions.

The most effective management style, however, is one that is collegial, in which employees are included in the information loop. Such businesses and corporations flourish because the minds of a great many people contribute to their growth and operation.

Heads of volunteer groups have a double challenge: the need to get tasks accomplished and the need to deal with volunteers who can quit if they get dissatisfied. Collegiality is the only way to function. And nowhere is it more important than in a grand jury.

A foreperson chosen by a judge (often merely because that individual is the only one the presiding judge happens to know) then has the task of welding a disparate group of 19 individuals into a

(Continued on page 7)

**Management styles do matter**

*(Continued from page 6)*

smoothly operating whole and getting tasks accomplished in a limited amount of time.

Jurors are people of widely differing backgrounds, different ages and professions, differing financial status, race and religion. The variances in themselves can make the group more efficient, provided the foreperson has sufficient skills to draw each individual out and allow the group to gain from discussing alternate points of view. The jury's final reports, the only contact it has with the public at large, are presented as the work of the jury as a whole. These reports will be best if they really do represent the opinion of everyone. Nineteen minds operating in consensus are better than one.

With collegial management, tasks get done by asking rather than ordering. Each juror gets to volunteer to do which he or she wants, and then the remaining jobs are fairly delegated. The skills of everyone are utilized.

When a foreperson doesn't have a collegial style, resignation rates among jurors soar. Investigations and reports tend to be poorly done. The jury becomes ineffective.

Unfortunately, we've all known juries like that. What the solution is - other than possibly allowing the jury to choose its own foreperson a month or so into its term - I don't know. But that would, in my opinion, at least help.



**Grand juries in the news**

**Santa Clara County Grand Jury**

**The corruption trial of Mountain View City Council member began**

The corruption trial of Mountain View City Council member Mario Ambra began Monday March 25th with Santa Clara

County Superior Court Judge John Herlihy calling opposing lawyers into his chambers for a meeting that lasted more than two hours.

The Santa Clara County Grand Jury accused Mario Ambra, an elected official for the City of Mountain View, for willful and corrupt misconduct in office.

Santa Clara County prosecutors dropped three of the four corruption charges against Ambra, a decision cheered by his defense attorney. However, Ambra still faces trial for allegedly violating the city charter by threatening to have the city manager, planning director and police chief fired. The penalty Ambra, now a city councilman, faces if convicted of the one remaining charge is the same he would have faced if found guilty on all four charges: removal from office.

Deputy District Attorney Bill Larsen moved on March 26th to dismiss the three counts alleging Ambra used his official position to influence city decisions on land where he had a financial interest. Larsen believed that count four -- now the sole count remaining against Ambra -- was the strongest arrow in the prosecution's quiver.

Much of the evidence the prosecution used to bring that charge stems from conversations Ambra allegedly had with various Mountain View city officials, who told of those conversations during grand jury testimony in October.

Among those conversations was one following an alleged 1998 dustup between Ambra and police officers looking for a car theft suspect who the officers said had fled onto the then-council member's property.

Ambra barred the officer's entrance, and when they returned with a search warrant, a "very angry" Ambra contacted City Manager Kevin Duggan, asking why he hadn't been warned that the warrant was being issued, according to Duggan's grand jury testimony.

When the city manager explained that it would be illegal to warn him about a pending police search, Ambra insisted the city manager "fire the police chief, and

if I didn't fire the police chief, he would get him fired in some other way," Duggan testified.

City Attorney Michael Martello told the grand jury that last June, Ambra told him he was "disgusted" with City Planning Director Elaine Costello, who had approved a building on property next to Ambra's family home that the mayor had long coveted. Ambra's attorney Robinson noted that the law required jurors to view conversations that were not recorded or documented with caution.

Robinson exhorted Judge Herlihy to bar some of those conversations altogether, arguing that the statements would prejudice the jury against his client more than they would help prove the prosecution's case. Herlihy however, rejected Robinson's request to limit evidence.

*Editor's note: Because of March 29 Journal deadline we are unable to provide you with the outcome of this trial.*

**Our Readers Read**



*Editor's note: Our membership probably reads a lot; certainly some of our directors do. Given our common interest it is likely that we read some books that can be expected to be of likely interest to former grand jurors: history, civics, government, law, human interaction, etc. We are asking our members to tell us some of the books they think would be of interest to other members.*

**Nibble at either The Federalist or The Constitution**

*By Mickey Strang*

Politicians often invoke the Constitution in arguments about what they can or cannot do or be expected to do. Periodically these arguments actually hit the courts. If there is a constitutional question, the Supreme Court is called upon to make a decision. (Our government and its system of governmental checks and balances is one of the

*(Continued on page 8)*

**Our Readers Read**

*(Continued from page 7)*

few in the world that has such a decision making body.)

While most of us read the Constitution during our school years (though it bears regular re-reading!), unless we're attorneys, we generally haven't done more in-depth study regarding the role of the Supreme Court. For instance, **The Federalist** is seldom on any high school or college required reading list, although it's prime to understanding the Constitution.

This set of 85 essays, written by Alexander Hamilton, John Jay and James Madison, discuss in depth the proposed Constitution and why the new government was structured as it was. The essays were written to encourage New York to ratify the then new document, but their ideas are still applicable today. Written by men who were both students of governance and practical politicians, they show amazing foresight - as well as blind spots. While they were advanced thinkers, they did still have the value systems of their time.

Another fascinating book (and much livelier reading) is **The Constitution: That Delicate Balance** by Fred W. Friendly and Martha J. H. Elliott (Random House, 1984), published as a companion to a PBS series on landmark cases that shaped the Constitution as it is seen today.

The authors also speculate why the Court delayed as long as it did before taking up particular issues, and, then, why Justices felt that the time was right to rule on these.

Our government is a living entity whose health is essential to all of us and to our way of life. Just as we need to know how our own bodies function so we can keep them in good shape, we do need to know how to keep our governmental system equally healthy and operational.

Take a few hours and nibble at either **The Federalist** or **The Constitution: that Delicate Balance**. Both are rewarding.



CGJA President Jack Zepp told us that he recently enjoyed reading;

**Theodore Rex, A Trial By Jury, and John Adams**

**Theodore Rex**

"In this lively biography, Edmund Morris returns to the gifted, energetic, and thoroughly controversial man whom the novelist Henry James called "King Theodore."

In his two terms as president of the United States, Roosevelt forged an American empire, and he behaved as if it was his destiny. In this sequel to his Pulitzer Prize-winning biography **The Rise of Theodore Roosevelt**, Morris charts Roosevelt's accomplishments: the acquisition of the Panama Canal and the Philippines, the creation of national parks and monuments, and more.

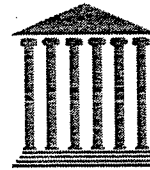
"Collaring Capital and Labor in either hand," Morris writes, Roosevelt made few friends, but he usually got what he wanted--and earned an enduring place in history". (Book review source, Amazon.com)

*The man who brought America of age and tamed its growing monopolies; even has a mention of the role of grand juries.*

**A Trial By Jury**

"Historian D. Graham Burnett writes about his experience as the foreman of the jury in a murder trial in New York City, what he calls "the most intense sixty-six hours of my life." There was nothing especially spectacular about the case; it was not a famous one, and while **A Trial by Jury** holds interest, it's not a John Grisham potboiler. Yet Burnett uses the experience to illuminate the heavy responsibilities of jury duty and all the maddening frustrations associated with determining something as deceptively simple as reasonable doubt." (Source: Amazon.com).

*Deals with a petit jury, but all of the emotion and difficulty of reach-ing consensus on a grand jury are displayed with passion.*



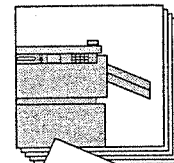
**John Adams**

"Left to his own devices, John Adams might have lived out his days as a Massa-

chusetts country lawyer, devoted to his family and friends. As it was, events swiftly overtook him, and Adams--who, David McCullough writes, was "not a man of the world" and not fond of politics--came to greatness as the second president of the United States, and one of the most distinguished of a generation of revolutionary leaders. He found reason to dislike sectarian wrangling even more in the aftermath of war, when Federalist and anti-Federalist factions vied bitterly for power, introducing scandal into an administration beset by other difficulties--including pirates on the high seas, conflict with France and England, and all the public controversy attendant in building a nation." (Source: Amazon.com).

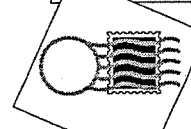
*Not only a story of a founding patriot, but an insight into group dynamics.*

*From the mailbox*



*Dear Editor:*

**Recommendations may not be "ignored."**



A bit of clarification seems in order re. Marianne Jameson's "The Grand Jury - Part 2 ..." which appeared in the March issue of the CGJA Journal. Although Marianne doesn't mention it, I believe that the County Clerk in each County is required to send a "true" copy of their the annual GJ Report and the Responses thereto, to the State Archivist who shall retain that report and all responses in perpetuity.

In her article Marianne says,

*(Continued on page 9)*



## From the mailbox

*(continued from page 8)*

"Government agencies that are the subject of reports are required by law to respond to specific grand jury recommendations ... many recommendations are ignored..."

Recommendations may not be "ignored." A respondent need not implement a Recommendation if the respondent feels that it "is not warranted or is not reasonable" -- but respondents who choose such a response must provide an explanation therefore according to Penal Code §933.05(PC§933.05).

Also, it is important to point out that respondents are required by law to respond to **both** Findings and Recommendations and to do so in accordance with the format specified in PC §933.05.

One final comment. While I have not attended any of the annual training sessions put on by our Association, I do have a suggestion for inclusion in the curriculum: Provide every attendee with a copy of PC. §933.05 and suggest (strongly) that a verbatim copy of PC §933.05 be included as "Instructions to Respondents" as the introductory page in their Final Report. Respondents need clear, unequivocal direction on how to respond, PC §933.05 provides it.

Clarence Dilts  
Placerville, El Dorado County



*Editor's note: The following question was sent to the Grand Jurors' Journal and the answer is provided by CGJA President Jack Zepp.*

### Who responds to the response?

Is there anything in the California Code, Penal, Government or elsewhere that requires an answer from the investigated office? If so what is the close out procedure on the action? Does the following GJ check that all open items have been closed before proceeding?

For example, if a city is investigated and the previous Grand Jury finds the need for an emergency

evacuation plan. The City's response is received after the investigating Grand Jury has been replaced with a new Grand Jury. The City's response reads more like a Chamber of Commerce Press Release than an answer to the first Grand Jury's Findings and Recommendations. Is the new Grand Jury required to close out the responding documentation? For instance, by getting an updated evacuation or emergency services plan? Are the investigated activities required to respond?

*A Grand Juror*

*Dear Grand Juror*

The Code provision that requires responses to reports is Penal Code Section 933.05. The Code provisions that provide a direct remedy for willful failure to perform a required official act are Penal Code Section 922 and Government Code Section 3060.

You raise a couple of subsidiary questions: Who follows up? Ideally, the report was issued early in its term by the sitting grand jury, it gets the response and it follows up. More likely the response is received by a succeeding grand jury.

In that case it, in the sole exercise of its discretion, decides whether to follow up. CGJA recommends the early release of reports to minimize this problem, assuming early reports can be properly and fully researched, analyzed and written. Many on CGJA believe it to be a good idea for the past grand jury member(s) who did the research and authored a report "bird-dog" the response (which is public) and, as a citizen, urge the sitting grand jury to follow up if follow up is needed. In some counties that function is performed by an association of past grand jurors, many of which are Chapters of the CGJA.

There is, incidentally, an argument that, pursuant to Penal Code Section 933(c) it is the Presiding Judge who should follow up, most likely by directing the official-agency to submit a revised, proper,

response. We have learned by a CGJA statewide survey that most Presiding Judges (PJ) do not feel this is their job.

What warrants a follow-up? The easy ones are failures to respond at all. Here is where the PJ may be most helpful with a letter directing a response; the grand jury itself can issue such a letter as well.

Incomplete responses, in the sense that a writing was received but it does not comply with the specific directives of Penal Code Section 933.05(a) and (b) are likely, in most instances, to warrant a letter from the grand jury pointing out the technical failures and requesting revisions within a reasonable time. Incidentally, a good practice is to publish all responses so that the public may see the incomplete or evasive ones. Whether to follow up on any deficient response rests in the judgement of the grand jury then sitting.

Technically responsive "puff pieces" may or may not be deemed to warrant further comment.

The single "enforcement" mechanism, in my opinion, is for succeeding grand juries to make it a priority order of business to review the responses, or lack thereof, to their predecessor's reports and make those failures the subject of new reports, reports which point out the failure of government to comply with the Penal Code and provide proper responses.

After a few years of this public officials are likely to grow weary of repeated public exposure of their defalcations.

Except for the statement "CGJA recommends the early release of reports to minimize this problem, assuming early reports can be properly and fully researched, analyzed and written" these views are mine alone, not those of the CGJA.

Jack Zepp



# Grand Jurors' Journal

An Association of Grand Jurors

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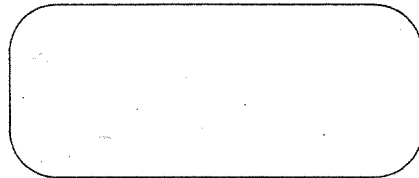
The mission of the California Grand Jurors' Association is to promote government accountability by improving the training and resources available to California's 58 regular grand juries and educating the public about the substantial local government oversight and reporting powers these grand juries have.

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