



Grand Jurors' Journal



All the CGJA news
that fits in print.

Volume 2 No. 7

An Association of Grand Jurors

January, 2002

Executive Summary of CGJA Comments to McGeorge School of Law Proposals on Grand Jury Reform

Cover Letter for the Comments to Professors Kelso and Vitiello

November 29, 2001

Professor Clark Kelso
Professor Michael Vitiello
Capital Center for Government Law and Policy
University of the Pacific, McGeorge School of Law
3200 Fifth Avenue, Sacramento, CA 95817

Re: Grand Jury Reform Proposal

Gentlemen:

Enclosed please find the Comments of the California Grand Jurors' Association on the grand jury reform proposals issued by the Capital Center for Government Law and Policy of the McGeorge School of Law.

As you will see, the CGJA is very concerned that damage may well be done to the California grand jury system if broad legislation of the type contained in the McGeorge proposal is introduced without it being the result of a broad, deep and substantial consensus of all affected interests. We conceive that those interests clearly include, at a minimum, the courts, the counties, grand juries, and the Judicial Council as well as McGeorge and the CGJA. In our Comments we renew our proposal that a Task Force created under the auspices of the Judicial Council is the best way to draw the various interests together and achieve the necessary consensus.

You will also see that the CGJA is concerned about the future impact of the Trial Court Funding Act, Rule 810 and the *Daily Journal v. Superior Court* decision of the California Supreme Court which, collectively, appear to portend the end of the grand jury's historic status as an "arm of the court." Loss of that status will throw the grand juries into uncharted waters and will clearly require some corrective actions by the legislature.

You may also find interesting the results of CGJA's recent survey of the California grand juries which is Attachment 3 in the enclosed. The divergences among the grand juries are striking and informative. The information contained in the survey results (collectively 352 pages of raw data) was provided to the CGJA voluntarily by sitting and immediate past forepersons. We believe more, and even

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President's Message



Despite having to be rescheduled at the last minute and the uncertainties many had about traveling, our Annual Meeting and associated Board Retreat and Membership Conference went off well this year.

A report on the Conference is located elsewhere in this issue so I won't repeat. I do want to again thank the Grand Jurors Association of Orange County, and especially its members Jodie Harrod and Rose Moreno, for their tremendous efforts in making the event a success. I also want to thank our speakers, Marilyn Brewer, Hon. Wayne Peterson, Kent Pollock, Alan Slater, Pat Sweeten and Gaddi Vasquez. Their positions and backgrounds are summarized in the Conference report; individually and collectively they were very interesting and helped us to understand the various perceptions of grand juries and their role that exist within the state.

The membership elected thirteen directors, who are identified in the Conference report. Seven of them are new to the board, although one, Mickey Strang had served as a director in prior years. The seven additions are: Dotty Coplen, Jeanne Forbes, LaTonia McDaniel, Deborah Nagle-Burks, Dick Nichols, Phil Norton and Mickey Strang. We look forward to working with them and to the insights and diverse views they will add to our board.

After extensive discussion at the Retreat, the board at its November meeting adopted a set of revised bylaws. The old bylaws which were adopted in 1997 required that they be reviewed in three years. A special committee composed of three non-directors at the time, Wes Huss, Clarence Dilts and Mickey Strang and directors Barry Newman and Clif Poole (Chair) conducted that review over an extended period of time, produced numerous drafts for board review and comment and ultimately devised a product with which the board is very pleased. We are deeply appreciative of their efforts. I expect that by the time you read this the new bylaws will be available on our website (www.cgja.org) at the "Online Publications and General Information" page. They are also available in hard copy from the CGJA Secretary, Jane Naify (916.961.9220; jnaify@aol.com).

We also had extensive discussion at the Retreat about CGJA's comments in response to the McGeorge School of Law's grand jury reform proposals. We sent in our comments, at the

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Editor's Comments

The Grand Jurors' Journal is the communication tool between the California Grand Jurors' Association and its members. In order to publish CGJA's comments to the McGeorge School of Law's grand jury reform proposals and to report on the annual Conference that was held in Costa Mesa we had to postpone publishing the November issue. Instead, we provide you with this special issue. We hope that you missed the Grand Jurors' Journal and that you will enjoy all the news. Happy reading!

Setting it Straight

An article in October's Grand Jurors' Journal titled, **Government Code 6253**, incorrectly identified our own Les Daye as the author of this article. Actually, the information was provided by the California First Amendment Coalition.

Also, the Placer County Chapter news was written by Alice Grotty not Dwight Brown.

We regret the errors. Thanks for keeping us in line.

View our website at
www.cgja.org



President's Message *(Continued from page 1)*

end of November under cover of a letter to Professors Kelso and Vitiello, a copy of which appears in this issue. The comments contain an Executive Summary, which is reproduced in this issue and is on our website via a link on our "Legal Developments" page. At this writing we have not received comments from any of the copied recipients. It is worth emphasizing that the McGeorge proposals were in the form of public comment drafts; they have not been introduced as legislation. For that reason we have not undertaken to educate legislators about them or our views of their weaknesses. Indeed, as you can see from the cover letter and Executive Summary, a key point that we made was that there should be no legislation introduced unless and until there is broad based consensus from those familiar with grand juries as to what any such legislation should say.

As you know from prior issues of the Grand Jurors' Journal, we have suggested that a Task Force that is convened by the Judicial Council (which oversees California's courts) would be the best forum to explore views and see if such a consensus can be developed. Although the state's budget for its courts is tight, and a budget increase is unlikely, we are pleased to report that the Judicial Council's Administrative Office of the Courts is making a budget request to increase staffing relative to grand jury issues. I summarized for you in the October Journal the comments we had received from others on the McGeorge proposals. Since then we have received comments from two more grand juror associations and from the California District Attorneys Association. Their views are consistent with the others we have received and our: they do not view the proposals favorably. As I said previously, we of course do not know if others have commented and, if so, what their views are.

We intend to run excerpts from our comments in the Grand Jurors' Journal over the next months, but if you wish to obtain the complete comments in hard copy you may do so by ordering them from Dan Taranto (707.839.4844; taranto@htan.org).

Over the years I have heard expressions of interest from some of you about the possibility of a state, as opposed to county, grand jury. CGJA has no position on the wisdom of creating a state grand jury, but I want to alert those of you with an interest in the idea to a citizens' initiative which may well be on the November, 2002 ballot and which would require a state grand jury. In its present form, the draft initiative calls for thirteen regional grand juries to investigate inter-county matters and exercise oversight over all law enforcement authorities. At this writing the initiative has not been cleared by the Attorney General's office so that signature gathering can begin. The current version of the draft initiative (SA2001RF0026) can be found at:

< <http://caag.state.ca.us/initiatives/activeindex.htm> >

For the reasons stated by our editor, Ourania Riddle, elsewhere, publication of this issue of the

Grand Jurors' Journal was delayed until January. That of course had the effect of moving our annual request for year-end donations into the next year. I hope you will not be deterred by that timing from making a donation now. Our need for your generous support is unaffected by tax considerations and, as you will see in the Financial Development Committee's request elsewhere, the need is real. While our financials look adequate now, they do not reflect the fact that we incur our biggest expenses in the fall in our training efforts.

We intend to expand our training activities again in 2002 and must expect to fund any expansion from our resources. I'm sure you, like I, are constantly hearing that, because of the September 11 tragedy and its aftermath, donations to small non-profits are down very substantially. I'm also sure that you have all contributed generously to other non-profits this year, but I hope you will remember the CGJA as well. Thank you in advance for your support.

Inasmuch as this is written in mid-December, I want to close out 2001 by bringing you up to date on our board minutes. Hopefully events will permit me to be more timely in reporting board actions and financial highlights to you in the future.

August 27, 2001 Special Meeting.

Approved the appointment of, and welcomed, new director Richard Nichols of El Dorado County. Discussed at length, and tabled for further discussion at the Annual Retreat in Costa Mesa, proposed revised bylaws.

September 24, 2001 Special Meeting.

Amended existing bylaws to permit rescheduling the Annual Meeting to November and reducing the quorum for action at that meeting in light of the September 11 events and subsequent uncertainties. Deferred approving Napa Chapter bylaws pending investigation and report of IRS requirements regarding Chapter bylaws. Discussed, without action taken, proposed new Policies and Procedures.

October 22, 2001 Regular Meeting.

Approved Treasurer's Quarterly Report 9/30/01
Assets. Liability and Capital \$37,698.02.
Income for three months ended 9/30/01: \$45,912.
Expenses for three months ended 9/30/01: \$14,805.71
Rescheduled November board meeting to avoid Thanksgiving conflict.
Requested insurance proposal from Operations Committee for theft (training equipment and sound system), liability and D&O.
Approved investment of \$5000 in CDs with staggered terms.
Discussed, without action, Special Committee's draft of CGJA's comments on McGeorge grand jury reform proposals.

November 19, 2001 Special Meeting.

Approved CGJA Comments on McGeorge grand jury reform proposals as revised per discussion at the Costa Mesa Retreat.

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President's Message

(Cont. from Page 3)

November 19, 2001 Special Meeting, Continued

Approved immediate distribution of approved draft to all Chapters and independent grand jury associations to see if they have strong views before release to McGeorge and the public. Approved distribution, by mail, of CGJA final Comments to, inter alia, all Presiding Judges and sitting grand juries. Approved revised bylaws as revised per discussion at Costa Mesa Retreat. Approved mailing of new Membership Roster to all active members; Roster to be prepared and distributed by Membership & Chapter Relations Committee. Approved an Annual Meeting policy (such meetings to be in late October or early November). Approved regular monthly board teleconference meetings. Canceled December board meeting.

Thank you all for your interest, support and concern for the California grand jury system and CGJA.

I hope you will enjoy a wonderful holiday and a peaceful, prosperous and happy new year.

Jack Zepp, President

Cover letter

(Continued from Page 1)

better, data can be obtained from the courts and suggest that the Administrative Office of the Courts pursue the survey of the courts which we and they began work on in the spring of this year. One piece of data that particularly surprised us is that in a majority of counties the Presiding Judge, not the County Counsel or District Attorney, is viewed as the grand jury's primary legal advisor. We are therefore very pleased that the AOC is working on a manual for Presiding Judges relative to grand juries.

Although the CGJA cannot support the present proposals, we do not wish to appear negative for the sake of negativism. We have tried to point out where statutes would benefit from corrective amendments and where new legislation would, in our view, be appropriate. We stand ready, willing and able to work with anyone interested in making constructive changes to preserve and enhance the California grand jury system.

We do, however, insist that the risk of approaching the legislature with a bill(s) that does not have real consensus from all those affected far outweighs any possible benefit that might be achieved.

Sincerely, Fredric J. Zepp, President California Grand Jurors' Association

cc w/enclosure:

- Ms. Lesley Duncan, Mr. Jose Guillen, Hon. Quentin Kopp, Ronald G. Overholt, Ms. Pat Sweeten, Presiding Judges, California grand juries, Hon. Ronald M. George, Hon. William Harrison, Ms. Nzinga Nyagua, Hon. Wayne Peterson, William C. Vickrey, CGJA Distribution

Comments of the California Grand Jurors' Association on the Tentative Recommendation on the "Reform" of California Grand Jury Statutes By the Capital Center for Government Law & Policy University of the Pacific, McGeorge School of Law

EXECUTIVE SUMMARY

The overarching concern CGJA has with the wide-ranging "reform" proposals McGeorge has released for public comment is that they should not be introduced as legislation in their present form and that no significant revisions to the statutes related to the California grand jury system should be proposed without a consensus of all affected constituents.

Those constituents include: grand jurors, Judges, District Attorneys, County Counsels, Court Executive Officers, the California State Association of Counties, the League of California Cities, the California Special Districts Association, California Statewide Communities Development Authority, California Society of Municipal Finance Officers, California Municipal Treasurers Association, members of the CGJA, members of independent associations of former grand

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Executive Summary *(Continued from page 4)*

bers of independent associations of former grand jurors, representatives of law enforcement, grand juror trainers, the media, taxpayers' associations and the general public¹

The CGJA believes that the California Judicial Council should create a Task Force, open to all affected constituents, for the purpose of studying the possible need for changes to the grand jury system and, if the need is found to exist, building broad and strong consensus on how best to address it.

Our concern in that regard is prompted by two primary considerations. First, we think the proposals are not well researched nor fully thought out and, if they were to be adopted in present form, would cause far more harm than good. Second, and every bit as important, CGJA recognizes that any comprehensive legislation such as these proposals that do not come to the legislature with a strong supporting consensus from all or nearly all affected interest groups are subject to being distorted and manipulated through amendment, often at the last minute and before the true consequences of such action can be considered.

Given how few, in or out of the legislature, understand the grand jury system, it is quite possible, indeed in our view even likely, that a "reform" package that lacks a compelling consensus will be attacked piecemeal, even by the well intentioned, to address small, specific, concerns advanced by different interests without consideration of the entire matrix or any understanding of how one "adjustment" in one section of the codes can affect others.

Changes to the grand jury statutes have practical, financial, legal and possibly Constitutional issues that must be surfaced, analyzed and resolved before any effort to legislate change is initiated. Although the CGJA is focused on the civil function of grand juries and professes no expertise with respect to the criminal indictment function, we believe that any changes in the criminal function must take into account how they might impact the more common, and we believe more critical, civil function.²

At the outset the fundamental relationship of the grand juries to the courts and the counties needs analysis. Two recent events, one legislative and one judicial, have created uncertainty and confusion regarding the funding of grand juries and their continued relationship with the courts. Any analysis of grand jury reform must start with an understanding of the implications of the Brown-Presley Trial Court Funding Act² and the California Supreme Court decision in *Daily Journal v. Superior Court*³. Together these seem to end the traditional role of the grand jury as an "arm of the court"⁴ and may eliminate much of the ability of courts to "supervise" grand juries in ways other

than that authority would significantly change the day-to-day relationship between courts and "their" grand juries. This concern is discussed in section 2 and throughout these comments.

One aspect of California's grand jury system that has understandably not received much attention is the tremendous diversity in the practices followed by the 58 counties with respect to their grand juries. So far as we are aware the reason this diversity has gone largely unremarked is because no one has ever comprehensively surveyed the field.

For that reason the CGJA recently did so. We sent an eight-page written survey to the current and immediate prior Forepersons of all fifty-eight counties' regular grand juries. We sought detailed information in five areas: grand jury types and selection processes, orientation and training, resources, advisors and guidance and specific grand jury practices such as witness admonishment, accusations and Final Reports.

We have received to date responses from forty-four counties (76%). The resulting 352 pages of raw data have been compiled in summary form and are discussed in section 3 of these comments. As part of our specific statutory comments discussed below we made frequent use of the survey results in analyzing the practical effects of specific code sections as they are varying applied around the state.

Although we firmly believe that it is premature to contemplate specific legislation before the consequences of the Trial Court Funding Act and *Daily Journal* are understood, and in any event we oppose wholesale, wide-sweeping "reform" in the absence of substantial consensus, we do offer numerous detailed suggestions with regard to existing legislation. The statutes governing grand juries are concededly incomplete, inconsistent and confusing. In some measure they have been tolerable because the courts have been able to work with them using their "inherent authority" and if that authority is lost there will be a need for much work on the statutes. Based on the experiences of our members, all of whom have been grand jurors, information we learn at our Annual Conferences and during our annual training programs and the results of our recent grand jury survey, we have commented on the numerous ways in which existing statutes cause confusion and/or are inappropriate to the civil function of today's regular grand juries. We detail those comments on a statute-by-statute basis in section 4.

In section 5 we note the existence of many proposals that would nominally affect only the criminal function of grand juries and note our concern that they not be permitted to weaken or interfere with the civil functions of the regular grand jury. We specifically object to the proposed bifurcation of grand jury powers and the mandate that every county have a standing "representative" criminal grand jury which might supplant the regular grand jury.

As the McGeorge proposals acknowledge, the CGJA trains new grand jurors around the state in

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Visit our Website < www.cgja.org >

Executive Summary (Continued from page 5)

regional training programs. Our trainers have been training new grand jurors for up to 13 years and we feel we understand the training needs of grand jurors better than anyone else does.

Although the McGeorge training proposal has no detail sufficient to permit specific comment, we do question some of its assumptions. We also wonder how the proposal to create "objective testing procedures" to determine whether jurors trained in the proposed pilot program "performed more effectively" than those without training could possibly work. There is implicit in that notion a view that grand juries, grand jurors, the situations they investigate and the expert and legal advice they receive is much more standardized from county to county than is actually the case.

In any event, although we unequivocally support the best training for grand jurors, we urge that this aspect of the McGeorge "reform" package be given far more thought and analysis than the proposal currently reflects. Our concerns and suggestions are contained in section 6.

With the caveat that we *do not* advocate any grand jury reform being proposed to the legislature which has not resulted from a broad, deep and strong consensus of all constituents, in section 7 we suggest five areas which, if legislation were to be proposed, we believe should be addressed. Regular grand juries should be provided better access to independent counsel.

They should be provided with access to technology on par with the technology available to those they oversee. Careful reconsideration of the confidentiality rules as they apply to the civil function of the grand jury is called for. Minimum Training Standards should be developed and we offer our view that doing so is an apt function for the Administrative Office of the Courts. Consideration should be given to requiring each county to have an "Implementation Review Committee" to review whether or not grand jury recommendations, the implementation of which has been agreed to by the affected agency or official, have in fact been implemented.

Finally, we conclude by urging the California Judicial Council to convene a Task Force on grand jury reform so that the broad, deep and strong consensus we believe is so important in this area can be forged.

1. This list is by no means exhaustive. There are of course many associations and other organizations that represent those with interest in grand juries as well as numerous officials and agencies that are the subjects of grand jury oversight, and their organizations.

Although some have provided us with copies of their comments on the McGeorge proposals (*see* footnote 11, *infra.*), there may be many of whose comments we are unaware.

The CGJA notes that the California Law Revision Commission currently has pending an inquiry relating to the

possible amendment of certain Penal Code sections affecting grand juries, including section 933, and may be presumed to have some interest in coordinating amendment proposals.

2. Indictments appear to be infrequently used in any event. *Bradley v. Lacey*, 53 Cal. App. 4th 883, 893 (1997): "In California, relatively few prosecutions are commenced by indictment. The great majority are initiated by information." *See also* CGJA survey results referenced in footnote 36, *infra.*

3. Government Code Section 77000 *et. seq.*, hereafter the "Trial Court Funding Act". *See also* Rule 810, California Rules of Court.

4. *Daily Journal v. Superior Court*, 20 Cal. 4th 1117 (1999).

5. *See, e.g., McClatchy Newspapers v. Superior Court*, 44 Cal. 3rd 1162, 1171 (1988) "the grand jury is fundamentally a judicial entity, 'an instrumentality of the courts of this state'".



Highlights of the 20th Annual Conference

The California Grand Jurors' Association held its 20th Annual Conference at the Costa Mesa Hilton Hotel in Costa Mesa, California on November 2 & 3, 2001. This year's annual conference had 75 registered attendees from 24 California counties. Attendees included 20 Sitting Grand Jurors and 15 former Grand Jurors from independent Grand Juror Associations.

The Grand Jurors Association of Orange County was host for this year's conference and did an excellent job in making our 20th Annual Conference a real success. All of us at CGJA want to sincerely thank the Grand Jurors Association of Orange County for their many efforts and contributions to this year's conference.

CGJA Director Jodie Harrod, Conference Chair, delivered a stimulating conference under very trying circumstances. The conference was originally scheduled for September 14 & 15 and the tragic events of September 11th forced a rescheduling to the November dates. Jodie proved to be a worthy leader most capable of handling the many challenges present in 2001.

Rose Moreno, Secretary of the Orange County Association, acted as the Conference Registration Chair and assisted Jodie with endless hours of behind the scenes work to make this year's conference happen.

John Baird, President of the Grand Jurors Association of Orange County, along with Orange County members Carol Morales, Jim Nolan, Joe Quiros, Sheldon Singer, and others filled important support roles with the many details required for a successful conference. Jodie, Rose, John, and the many key contributors, Thank You, for helping to make our 20th Conference a big success. CGJA President Jack Zepp opened this year's conference with a brief welcome followed by the Association's Annual Membership Meeting.

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the Association's Annual Membership Meeting. After the President's State of the Association address, (complete text follows this article) and delegation of tellers to count ballots for the election of 2001 Directors, reports were given by Elwood Moger on CGJA's Programs and by Sherry Chesny on CGJA's highly successful Regional Training Programs. Officers and representatives of CGJA's Chapters and Independent Grand Jurors Associations were introduced during the Annual Meeting.

Alan Slater, Chief Executive Officer, Clerk of the Court, and Jury Commissioner for the Orange County Superior Court, opened the afternoon program of outside speakers with overviews of the functions and issues of the local county Superior Court. He was joined on the program by Pat Sweeten, Assistant Division Director of Trial Court Programs, California Administrative Office of the Courts, who briefed attendees on state-wide Court issues.

A Grand Jury Reform Panel, moderated by Jack Zepp, and CGJA Directors Chesny, Moger, Nichols and Taranto followed the Court overviews. Conference attendees were briefed on CGJA's response to McGeorge Law School's recommendations for Grand Jury Reform; including findings of our 2001 Grand Jury Practices Survey, implications of the recommendations to our Regional Training Programs, and the legal implications of McGeorge's reform proposals on Grand Jury law and practices. Following the opening statements, conference attendees enjoyed a healthy exchange of views, which were generally negative on the research foundation and factual implications of the McGeorge proposals. President Zepp noted that CGJA was close to finishing its response paper to McGeorge on Grand Jury Reform and would take into consideration the many points presented on the subject.

The afternoon session closed with a roundtable discussion of updates from CGJA Chapters and four Independent Associations present. A panel of Jack Zepp, Clif Poole, Chair of CGJA's Membership & Chapter Relations Committee, Dian Picone, former Committee Chair, with Elwood Moger as moderator clarified CGJA positions during the roundtable discussion. There was a general consensus that closer working relationships among all California Grand Juror' Associations and Chapters will be increasingly important in the years ahead.

Prior to Friday night's Annual Conference Dinner, the Grand Jurors Association of Orange County hosted an informal conference reception with a variety of hot and cold hors d'oeuvres. During the Conference Dinner, President Zepp announced the election of Sherry Chesny, Dotty Coplen, Dick Nichols, Phillip Norton, and Mickey Strang, as North Region Directors; Bob Abeling, Linda Baker, Deborah Nagle-Burks, and Jane Naify as Central Region Directors; and Jeanne

Forbes, Jodie Harrod, Roger Loper, and LaTonia McDaniel as South Region Directors. He explained the irregular number from the North Region represents a correction to an inadvertent error made during the 2000 Director Election and CGJA's intention to elect twelve Directors each year for two-year terms. Clif Poole presented Certificates of Chapter Recognition following the election announcements. Mendocino, Napa, Placer, and San Mateo Chapters were recognized as CGJA's newest Chapters. CGJA Founding Member, Jack Kramp opened the Angelo Rolando Award presentation by introducing Sherry Chesny, Chair of this year's nominating committee. Sherry presented the 2001 Angelo Rolando Award to Elwood Moger for his dedicated service to CGJA.

A 7:15 a.m. Breakfast opened Saturday's program with recognition awards for Excellence in Grand Jury Reporting made to Ryan McCarthy, Neighbors Staff Writer for the Sacramento Bee, the Placer County Grand Jury, and the Monterey County Grand Jury.

Marilyn Brewer, Former California Assemblywoman, 70th Assembly District, and a former Grand Juror provided Saturday attendees with informative insights of the California Legislature, its inner workings and the importance of citizen input.

The Honorable Wayne Peterson, Presiding Judge, San Diego Superior Court, provided comments on his experiences with Court changes and state funding of the trial courts. Judge Peterson included in his remarks first impressions of Grand Jury Reform and some considerations for modifications to the Accusation Process

Following a buffet lunch, Gaddi Vasquez, former Orange County Supervisor provided us with an overview of the purpose and workings of the California State Association of Counties from his perspective as a former Director. Gaddi was recently nominated by President Bush to be the new Director of the Peace Corp and was leaving from our conference to travel to Washington D.C. for his Senate confirmation hearing.

Kent Pollock, Executive Director, California First Amendment Coalition, was the last outside speaker to address the conference attendees. He spoke on the purpose and important role of the First Amendment Coalition.

CGJA's traditional Open Forum, which allows attendees to ask questions and address conference participants on Grand Jury topics of interest, closed out our 20th Annual Conference. Panelist for the Open Forum included Jack Friesen, Jerry Lewi, Dick Nichols and Jack Vaughn, with President Jack Zepp moderating.

A Conference Proceedings Document will be ready for release by early spring and release announcements will appear in later issues of the Grand Jurors' Journal.

Elwood Moger, Chair, CGJA Operations

The President's State of the Association Address

Presented at the 20th Annual Conference on November 2, 2001

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

In the course of any year we engage in many activities, all done on a shoestring by fantastically dedicated volunteers. Our primary activity of late has been training: bringing high quality training and diversity of views to counties around the state through our regional training programs. The programs were successful again this year. In three two-day training programs we brought together over 370 jurors at 3 locations to learn the basics and share their individual county's experiences and approaches. We also trained new trainers this year so that now we can continue to expand our training efforts without exhausting those few who had been doing it all.

These regional training programs also rely heavily on support and assistance from local Chapters and past grand jurors. We are indebted to them for their invaluable support. We are beginning to look at new delivery mechanisms: audio and videotapes closed circuit TV, web-based training, etc. If you have thoughts about these methods, please let us know.

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 experimenting

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 a primary benefit of membership. We have established new printing methods, bulk mail capability and, through email in particular, faster ways of receiving, processing and publishing information.

Our website is greatly improved and draws attention whenever a grand jury event makes the general media, such as the recent request that the Stanislaus grand jury investigate Gary Condit.

Despite serious, and I think unintended, legal obstacles that are creating a gap between courts and regular grand juries we are working towards a rapport, and hopefully some joint projects with, the Judicial Council's Administrative Office of the Courts, the body which oversees the courts, to try to maintain the traditional close ties between courts and grand juries.

We have just completed the initial analysis of an ambitious survey we devised and sent to all 58 regular grand juries. As I speak 44 of the 58 grand juries (76%) have already responded and we are seeing some fascinating data. The summary results of that survey was set out in the October Journal. If you haven't yet read them I think you will find it informative to do so. We also have copies of a more extensive report on the survey results available on the publications table for a modest fee. As we suspected, the divergence in support, budgets and practices of the grand juries is immense. We believe that the enormous divergence is going to have to be taken into account in any grand jury reform efforts and in future relations among the grand juries, the counties and the courts.

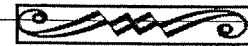
We have been playing, and will continue to play, a serious role

with respect to the grand jury reform proposals floated for comment last spring and will release our responses to them shortly after this conference ends. If you are interested in the reform proposals you may want to pick up a copy of the 2000 Conference Proceedings from the publications table. It contains the remarks of both Judge Kopp and Professor Kelso that previews some of their views on reform.

Our structural reorganization, undertaken at this time last year, is working and-for better or for worse-is permitting us to work harder but more effectively.

In sum, we are bigger, better and continuing to grow. We are viewed as the voice of the California regular grand jury and with your help will continue to advance the cause and the credibility of that wonderful and unique institution.

Thank you for your continued interest and support.



CGJA's 21st Annual Membership Conference Announced

Planning is now underway for CGJA's 21st Annual Membership Conference, which is scheduled to be held in San Rafael, California on November 15 and 16, 2002.

The conference planning is under the leadership of Director Bob Abeling, as Conference Chair, with CGJA's Marin Chapter as host.

Association members interested in working on the 2002 Annual Conference should contact **Bob Abeling**, at 415.897.1745 or < boba@cmc.net >

Mark your calendar!

21st Annual Conference

November 15, 16, 2002

San Rafael - Marin County

Excellence in Reporting Program Awards

Awards Presented at Breakfast Event

By Janet Praria

The inaugural program for the Excellence In Reporting Awards was recognized on Saturday, November 3, 2001 at the 20th Annual Conference of the California Grand Jurors' Association in Costa Mesa, California. Three awards were presented, honoring two County Grand Juries and one Newspaper.

The first place award was presented to Placer County Grand Jury for their 1999 Final Report on the Sierra Community College District Secret Settlement of Gender Discrimination Lawsuit Complaint. Sherry Chesny accepted the certificates on behalf of the 1999 Placer County Grand Jury.

Honorable Mention was presented to the Monterey County Grand Jury for their 1997 Final Report on the Governance of the City of Seaside. Roger Loper accepted the certificates on behalf of the 1997 Monterey County Grand Jury. Each member of the award winning Grand Juries will receive a certificate of the Excellence In Reporting Award.

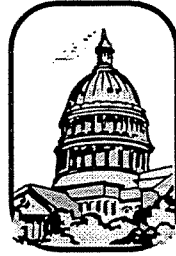
The Media award was presented to Ryan McCarthy, Neighbors Staff Writer for the Sacramento Bee for his coverage of the Sierra College Lawsuit. Elwood Moger accepted the award on behalf of Ryan McCarthy.

Appreciation to: Linda Baker, Chair of the Program and Breakfast Event; Robert DeQuattro for design and printing of the certificates and program; the Judging Panel of Linda Baker, Ormond Colbert, Robert DeQuattro, Janet Praria and Mickey Strang ... And, the members who entered their Reports for judging.

Nominations for the next Excellence in Reporting Award will be solicited in the March, 2002 Grand Jurors' Journal.

Committee Reports

Government Relations



The CGJA Government Relations Committee is pleased to welcome Dotty Coplen and Dick Nichols as members, effective at our last meeting on December 3, 2001. Both Dotty, from Mendocino County, and Dick, from El Dorado County, were active participants at the 20th Annual CGJA Meeting and Conference held at Orange County in early November.

Reviewing our efforts from 2001, Committee member spoke in support of the Grand Juror compensation increase at a legislative hearing in April (bill signed by Governor in Aug.), the Grand Jury reform proposal was studied and responded to between May and November by a separate subcommittee and the Grand Jury system lesson manual for high school civics was adapted and completed through the considerable work of Jeanne Forbes and the Tulare County Grand Juror's Association. Additionally, El Moger compiled the data and readied the Grand Jury Practices Survey which yielded a wealth of information.

During 2002 the CGJA Government Relations Committee will continue to monitor relevant legislation, evaluate the Grand Jury system lesson manual from actual classroom exposure and keep the Association membership updated on issues related to Grand Jury continuity and Final Report responses.

Stay informed by reading the Grand Jurors' Journal regularly.

Les Daye, Chair

Visit us at our website
for very useful information
about the Grand Jury System
www.cgja.org

Operations



As we enter a new year, we look back with pride at several major Operational efforts during 2001.

A redesign and expansion of the Association's Grand Jurors' Journal under the able leadership of Ourania Riddle, Editor and Bob DeQuattro, Design & Layout. Six issues were delivered in 2001 and we hope to expand that number in 2002. Printing and mailing of the Grand Jurors' Journal is under the direction of Ourania, who was able to obtain a bulk mail permit to substantially reduce our mailing costs. We routinely print 500 copies of each issue and expect our print volume to expand in 2002.

A successful 20th Annual Conference held in Costa Mesa, California was delivered by the strong leadership of Jodie Harrod, with the very competent support of Rose Moreno and members of the Grand Jurors Association of Orange County. This year's conference proved particularly challenging with last minute scheduling changes caused by the September 11th attacks. Please review separate articles in this issue of the Grand Jurors' Journal for a full report on our 2001 Conference.

CGJA has its first centralized database thanks to the dedicated efforts of Clif Poole. During 2001, Clif designed a Microsoft Access database management system, which now contains in excess of 1100 entries. Services with an independent database management contractor were terminated at the end of 2001 and Clif will be working on system refinements and expansion of data entries in 2002.

Roger Loper led a time consuming effort to refine CGJA's Policies and Procedures Manual during 2001. Essential changes to our bylaws and response to the McGeorge recommendations for Grand Jury Reform delayed completion of the first phase of Roger's three-year goal for revising the policies and procedures until the 1st quarter of 2002. (Continued on Pg.10)

Operations *(Cont. from Page 9)*

Under the leadership of Les Daye, the Grand Jury Reports Indexing Project (GRIP) received new attention during 2001. Les, with Dan Taranto, visited the State Archivist in Sacramento to audit Grand Jury Reports on file in April. Les is currently working with our Marin Chapter and the Santa Barbara Superior Court on developing regional efforts for indexing Grand Jury Reports.

During 2001, Jane Naify put considerable time into evaluating an 800-telephone number and a Sacramento office for CGJA. Based on a needs-cost analysis, the Operations Committee voted to table further action on these efforts until the Association's needs fully develop.

The Operations Committee evaluated obtaining liability insurance for our Regional Training Programs and the Annual Conference in 2001. Based on cost estimates and resolution of contractual requirements, Operations did not recommend a separate liability insurance policy. With the Training Committee recently acquiring a sound projection and recording system, the Board of Directors directed Operations to study both liability and property insurance in the coming year.

During the first half of 2002, Operations will be evaluating, with Officers, Committee Chairs, and Directors, the value of a membership survey to develop an inventory of member professional experience and interest in serving on either Ad Hoc or Standing Committees as well as membership views on the Association's current programs.

Director Bob Abeling, 2002 Annual Conference Chair, will be leading our efforts on the 21st Annual Conference, which is scheduled for San Rafael on November 15-16, 2002. The Marin Chapter will act as host for our 2002 Conference. Bob joined Operations during the latter part of 2001.

I am pleased to report that Director Jerry Lewi will be joining the Operations Committee in January to lead our website efforts. Jerry has an extensive business background and we look forward to his contributions.

Your 2002 CGJA Operations Committee will be composed of Bob Abeling, Les Daye, Bob DeQuattro, Jeanne Forbes, Jodie Harrod, Jerry Lewi, Roger Loper, Elwood Moger, Jane Naify, Clif Poole, and Ourania Riddle. We welcome membership comments and/or interests to work on the Operations Committee. Please feel free to contact any of us at any time.

Elwood Moger, Chair



Membership & Chapter Relations



All of us have an interest and belief in the California Grand Jury System and most of us have donated a year or

more of our precious time to our county's Grand Jury.

I believe if it were not for special laws that mandate the Grand Jury System very few, if any, Counties would create such a powerful watchdog group to question their activities with our tax dollars. With the above in mind we must question how the California Grand Jury System continues to exist and why local governments have not tried to either eliminate or reduce the effectiveness of their local Grand Jury. I believe this is due largely to public support for the Grand Jury System.

As more Grand Juries become increasingly effective due to education and resources they will be perceived as a "pain in the neck" to some public officials who will

expend more and more effort to impede their effectiveness.

Now comes the notorious question: What can *I* do to support the Grand Jury System?

Members of a past Grand Jury Chapter or Association in your area can be very effective locally but still have minimal effectiveness statewide. With a statewide organization supporting the Grand Jury System, you accomplish the best of both worlds. The California Grand Jurors' Association is set up through its Bylaws to support the Grand Jury System statewide, so why reinvent the wheel.

Any organization is only as effective as its members want it to be. The CGJA has been very fortunate to acquire a group of people as members who support the same cause of continuing to have and improve upon the California Grand Jury System. Like all organizations, we have workers and supporters within our membership, and our total membership continues to grow. The CGJA has become a respected leader throughout the state when it comes to issues and training relating to Grand Juries.

After all of my ramblings I guess it's time for me to ask you to consider what I have said and if you agree and haven't joined the California Grand Jurors' Association yet, consider sending in your \$25 membership now and become a working member. If your workload doesn't permit you becoming a working member at this time, at least join and know you are a supporter.

Remember, in order to be effective within the political system we have to represent large numbers of people and we must speak with one voice. Different chapters or associations suggesting different solutions to the same problem will result in less effectiveness.

Clif Poole, Chair

Current CGJA Chapters

Los Angeles County Chapter
 Maycie Herrington, President
 Tel/Fax 562.498.1761.

Marin County Chapter
 Cal Kurzman, President,
 email < calkurz@aol.com >

Mendocino County Chapter
 James Kenney, President
 email < jim-denny@saber.net >

Monterey County Chapter
 Roger Loper, President,
 gennieandroger@email.msn.com

Napa County Chapter
 Ed Scarboro, Chairperson
 email < emscarbo@napanet.net >

Placer County Chapter
 Dwight Brown, President
 email < diatsuncity@netscape.net >

San Mateo County Chapter
 Angelo Carmassi, President
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Solano County Chapter
 Don Enneking, President
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Sutter-Buttes Counties Chapter
 Diane Westmoreland, President
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Tulare County Chapter
 Jack Mann, President
 email < jacnorma@earthlink.net

Chapter News

Placer County Chapter
 The last few months we have been putting the final touches on the by-laws and they are now complete. A lot of hard work was put in by Phil Norton with encouragement from others.

We have been busy trying to get more names of former Grand Jurors and were able to get several past year jurors' names from the Secretary of the Court. It looks like we have a good core group that is very active and interested in going on the speech circuit. That will get going more next year, first we have the final report writing workshop

headed up by Talley Wade and Phil Norton, along with Sherry Chesny, and Nancy Gregori have put in a tremendous amount of work and time. I will take care of the paper work and money. There are several other volunteers that will help out at the workshop... Loren Poore, Kirsten Sullivan, Stan McClung, Terry Crouson and Clif Poole.

This is a first for this kind of workshop midway through a Grand Jury session. And hopefully this will be the start of a better training concept, by having one-subject intense workshops after the Jurors' are more familiar with their jobs.

Alice D. Crotty, Treasurer

The Placer County Chapter met on Nov. 13, 2001. Sherry Chesny, Chair, Training, presented the first "Excellence in Reporting" award to the Chapter on behalf of CGJA.

The 1999/2000 Placer County Grand Jury received the award for its report entitled "Sierra Community College, Secret Settlement of Gender Discrimination Lawsuit." This report was prompted by a complaint that a lawsuit involving allegations of gender discrimination was settled for an undisclosed amount in 1999, and the settlement had been kept secret from the public. The Grand Jury discovered that the lawsuit was settled for a \$300,000 cash payment and a \$250,000 annuity payable over a five-year period. Mr. Ryan McCarthy, a staff writer for Neighbors, Sacramento Bee, won the Excellence in Reporting Award for his newspaper articles generated as a result of the Placer County Grand Jury report.

Talley Wade, Member

Free Membership to Sitting and Outgoing Forepersons!

The CGJA Board of Directors have authorized a free two year membership for all sitting Forepersons and a one year free membership for all recent outgoing Forepersons.

Grand Jury Potpourri

In my opinion
 By Mickey Strang



Mark Twain remarked that "when politics enter into municipal government, nothing resulting therefrom in the way of crimes and infamies is then incredible."

Actually, however, the amount of crimes and infamies in local government is relatively small. Most of the local irregularities the California regular grand juries investigate are more inefficiencies rather than crimes and infamies. Still, a grand jury can investigate criminal actions and can bring an accusation (or inspire an indictment) against anyone who is cheating or defrauding the citizens or committing other breaches of the law.

Yet, in how few countries is such an examination of government by its citizen's possible? In the vast majority of the world citizens must accept whatever their government deems to tell them. In how few places is it possible for the maxim of the 1960s to apply - "question authority"?

In essence, that's exactly what a regular grand jury does: it questions authority. There's no crusade to find something wrong, but merely to investigate and see how the people's business is being conducted. Is it being conducted in the most efficient way possible? Could the operation be improved? Are all aspects and sides being considered and fairly represented?

All government needs oversight if it is going to adhere to the tenets of being a government of, by and for the people. Open laws and decisions; openly arrived at is the basis of a democratic system. This, for instance, is the reason for California's open meeting law, the Ralph M. Brown Act and for other Sunshine Laws.

Any ideas about changing the California grand jury need to be most carefully considered, especially in their ramifications.

(Continued on page 12)

In My Opinion

(Continued from Page 11)

The citizens have been well served for more than a century and a half by this oversight body. Were Mark Twain around today, he would probably be pleased by what the California Constitution wrought.

Editor's note: CGJA's Mickey Strang, a retired federal civil servant, served on the Humboldt Grand Jury from 1990-1992.

Mickey, who has taught the Final Report Writing segment of the juror training program, was recently retained by a sitting grand jury as a consultant on "Proper preparation of grand jury reports."



A State Grand Jury?

by Ourania Riddle

The following is the Language for the State Grand Jury Initiative. The initiative is at the office of the Secretary of State pending the collection of signatures.

932. (SA01RF0026).

State Grand Juries. Initiative Constitutional Amendment and Statute. Summary Date: 11/13/01
Circulation Deadline: 04/12/02
Signatures Required: 670,816

Proponent: Ralph D. Morrell

Amends Constitution to create state grand juries separate from county grand juries. Authorizes Chief Justice to impanel a state grand jury upon public interest determination, upon Attorney General's request, upon voter petition, or as authorized by statute.

Adds statutes to create 13 state grand jury districts.

Grants state grand juries jurisdiction over:

- (1) investigations of specified crimes or conduct that cross county

- lines;
- (2) criminal misconduct by law enforcement personnel; and,
- (3) incidents wherein a prosecutor or judge stopped a county grand jury investigation in conjunction with payment of money or property.

Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: This measure would result in significant, unknown state costs ranging from several million dollars to tens of millions of dollars annually for the operation and administration of the state grand jury system.



The Grand Jurors Association of Orange County

Excerpted From "The Newsletter"

CGJA Director, Attorney Barry Newman was the September speaker for the Grand Jurors Association of Orange County luncheon meeting. He is also a member of that organization and previously was on the San Diego County Grand jury.

He spoke to the audience of the controversial Kelso Report, which if enacted, would make some significant changes in the state's grand jury system.

The following article is copied directly from the GJAOC Newsletter:

"Recognizing a Major Contribution"

"To retiring board member Jodie Harrod go many Thank you's and sincere appreciation for her dedicated service to GJAOC. Jodie served on the 1987/88 and 1988/89 (GJ) panels and came onto the Board in 1995 when the association enacted term limits of 3 terms of 2 years each.

Ms. Harrod has faithfully served for six continuous years since

1996. Our bylaws require her to now step down for one year before becoming eligible for reelection in 2002.

Jodie has also been a member of the Board (of Directors) of the California Grand Jurors' Association for many years.

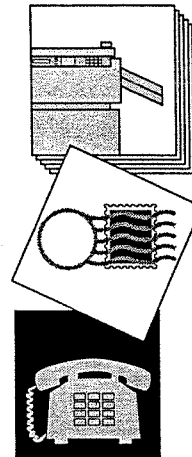
She was chair of the Arrangement Committee for the conference in San Diego as well as this year's conference in Costa Mesa.

Jodie has been appointed by our board of Directors as liaison to the CGJA for the year 2002."



From the mailbox

Dear Editor,



We would like to use the Grand Jurors' Journal to Thank all the Conference Participants

"Thank you for attending the 20th Annual CGJA Conference in Orange County.

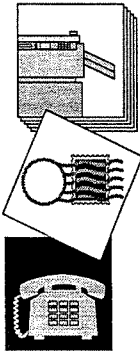
We enjoyed being able to host this conference for the first time. We appreciate your being so flexible and gracious about the postponement and all its subsequent changes. We had originally been scheduled to have all events on the same lobby level, but because the hotel had to squeeze us in where they could, we all got our exercise going from level to level and from room to room. Thank you for being so understanding. At least thank you for not grumbling too loudly.

We apologize to those of you who could not find the registration desk readily, but the hotel lobby echoed on Thursday when there were no other groups sharing the space. On Friday everyone and his calabash cousin descended and we had trouble finding ourselves.

(Continued on Page 13)

From the mailbox (Cont.)

We all agreed that the parking structure is strangely configured. We suppose the architect lifted his elbow once too often before drafting the plans. Jodie will get on her high horse-- and let the hotel know the difficulties some of you experienced, since it takes Rose too long to climb up on her "high horse".



For those of you who took the time to complete the evaluation forms, we want you to know that they *have* been tabulated and will be sent to next year's hosts. It really helps to get such evaluations so that each year's conference can be better.

It was a joy to meet so many new people and to re-acquaint ourselves with others. We hope to see many of you again at next year's conference in Marin County. Then you can recount your mishaps in Costa Mesa to us personally. You'll be able to laugh about them by then, won't you?

Special Thanks to John Baird, Joe Quiros, Carol Morales, Jim Nolan, Sheldon Singer, Cheryl Brothers, Bob Geiss, Royal Lord, Vern Martin, Karen Evarts, Dianne Hoffman, and all the members of the Grand Jurors Association of Orange County.

Sincerely, Jodie Harrod and Rose Moreno

PS: Thank you so much for that huge box of my favorite candy. You shared the top layer, but I got most of the bottom layer. Rose Moreno



Dear Editor,

God and Country.

I just spent two pleasant days at our CGJA 20th Annual Conference. It was well attended and a great conference. The committee is to be congratulated for a job well done. However, as one of the eight members still alive from the 24

who signed the original charter I was disappointed and ashamed of the organization I helped to found.

What happened to God and Country? When we started the California Grand Jurors' Association back in 1981, we always started every meeting with a prayer to a "Supreme Being" and Pledged Allegiance to the Flag of the United States of America. The flag was prominently and properly displayed. We were proud of "Old Glory" and for what it stood. Many of us had taken an active part in World War II and showing the "Colors" was important and patriotic.

Prior to this Conference, the last one I attended was in 1996 in Los Angeles, and we still respected God and Country. So, sometime after 1996 we started losing respect for our great Country. It may have been "Politically Correct," but it sure was not Patriotically Correct.

We are at War, maybe some of us do not want to accept this, but it is a fact. The Country is afloat with Red, White and Blue, but nary a Star was displayed at the CGJA Conference, **Shame on Us!**

This is not the time to point the finger of blame, the blame rests squarely on the membership because we allowed it to happen over the years and did not challenge our leadership. However, the rank and file does care and showed it, by the fact, that most of the members were showing the "colors" by wearing "Old Glory" lapel pins and jewelry- I would guess a good 90-95 percent. Hurrah for our side. God Bless America!

J.A. Kramp



Dear Editor,

Can the GJ investigate a volunteer fire Department?

I am on the Grand Jury in my county. We were told by the County Counsel's office that our investiga-

tion into local Volunteer Fire Depts. was limited to financial matters.

My read on Penal Code section 933.5 is that we can investigate almost anything, such as training, equipment, OSHA compliance, etc.

We would appreciate your opinion on this matter. Thanks,

A Grand Juror

Dear Grand Juror:

It is hard to say because I don't know the legal status of the volunteer fire department. If it is a county or city operation I should think you have the full range of investigatory powers provided by Penal Code Sections 925 and 925(a). If it is a special district you have the powers provided by 933.5, which expressly include investigating the "method or system of performing the duties..." as well as the right to examine all books and records. The same is true if it is a non-profit corporation established by or operated on behalf of a public entity. Penal Code Section 933.6

Of course if it is simply a private volunteer group you have no authority to investigate it directly, but then I don't understand why you would be told you could examine its financial records. Even if it is a private volunteer group, however, if it is receiving any money from a public body, such as the county, you have the right to investigate the public body's actions in providing the money and you may be able to get the information you seek by requiring that the public body, not the private entity, provide it to you. Any public agency funding should be subject to grand jury scrutiny. To pick an example from your list, if you want to determine if it is OSHA compliant but you can't investigate it, if it is funded by the county you can investigate whether the county is requiring that it be OSHA compliant and what the county has done to determine that it is.

These are my personal views only. CGJA has taken no position on the question you pose.

Jack Zepp

Grand Jurors' Journal

An Association of Grand Jurors

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California Grand Jurors' Association

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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