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Grand Jurors' Journal

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INSIDE THIS ISSUE

THE LLRC YEAR IN REVIEW	2
USE OF A GRAND JURY SUBPOENA	3
GRAND JURY PER DIEM SURVEY	4
CHAPTER NEWS FROM AROUND THE STATE	5
BOARD ACTIONS	6

Board Adopts Goals *By Karen Jahr, President*

Each year, the Board of Directors adopts its annual goals. On January 15, the Board held a four-hour retreat via video conference, during which it developed its goals for 2016 and discussed other topics such as CGJA communications, e-commerce tools, and committee viability. The retreat also served as a means for the Board, which includes several new members, to get better acquainted.

This year, the Board's goals are focused primarily on growing and supporting CGJA's chapters. The Board also carried over one of the goals from 2015, increasing our individual memberships.

These are the goals that were formally adopted at the Board's regular meeting on January 26:

- 1) Increase the number of CGJA chapters and the number of CGJA members in each chapter.
- 2) Enhance the resources and support CGJA provides to chapters.
- 3) Retain current CGJA members and increase the number of introductory members who convert to voting members.

In future communications, we will keep the membership informed about our progress towards meeting these goals.

Chapter Resources

We have opened up a new folder on our website, **Chapter Resources**, under **Member Business/Chapter/Association Information**.

Our initial postings include "Suggestions for Chapters' Grand Juror Recruitment Activities" and several documents on grand jury orientation.

In last month's *CGJA News*, President Karen Jahr invited members to contact her if they wanted information on how chapters can help the court recruit grand jurors. Three of our members responded.

In response, Karen prepared this document, which contains over two dozen recruitment ideas gathered from the minutes of regional meetings and from the recruitment program developed by her own Shasta County Chapter (which works very closely with its court). You will see that the document also discusses two related topics: how a chapter can help the court screen applicants, and the steps a chapter can take to build a working relationship with the court.

As time goes by, we will upload all kinds of documents that chapters can use when helping the courts with grand juror recruitment (such as sample display ads, letters to the editor, and speakers' bureau presentation outlines). We will also post useful documents on other topics, such as chapter-sponsored orientation program outlines and recommendations for implementation review activities.

This is only a part of our effort to continue to develop and make available a range of resources for use by our various constituencies – grand juries, courts, chapters, and individual members.

The LLRC Year in Review

By Larry Johnson, LLRC Chair

The Legal and Legislative Resource Committee (LLRC), a standing committee of CGJA, includes seven individuals experienced in grand jury issues and committed to assisting grand juries and grand jurors throughout the state.

Last year was a productive year for the LLRC. We formally responded to more than 25 requests for “best practice” advice from people in 18 different counties. In addition, we responded to an inquiry from a department of the State of California, issued two detailed opinion memos at the request of the CGJA Training Committee, provided informal responses to a number of inquiries from grand juries’ legal advisors, reworked the Frequently Asked Questions on the CGJA website, and contributed several articles to the CGJA Journal.

The LLRC realizes that to be a reliable resource, it must respond promptly to the inquiries that it receives. It has been our goal to issue formal responses to inquiries within one week. Last year, the average time for issuing a formal response has been five days. Where appropriate, we refer to the CGJA Training Manual.

We covered a wide variety of subjects in the LLRC’s formal responses. The most common inquiries concerned the grand jury’s procedures, such as the scope of grand juror recusals, proxy voting by grand jurors, or interviewing individuals outside of the county of impanelment. Others involved the entities investigated by the grand jury, such as the alleged violations of the Brown Act and the violation of the admonition given an individual who appeared before the grand jury.

The LLRC also addressed questions concerning the retention of grand jury files that were not specifically passed on to a succeeding grand jury and the propriety of grand juries from different counties joining together to conduct an investigation of a local entity over which both grand juries have jurisdiction.

A “hot button” topic that has resulted in the addition of a document to the CGJA website concerned the use of a subpoena to compel a witness to appear before the grand jury. That issue came to the LLRC when we learned that a county counsel insisted upon appearing before a grand jury to represent a county employee called to be interviewed. For more information regarding this issue and where to find the “grand jury subpoena,” see Use of a Grand Jury Subpoena article on page 4 in this edition. By using this subpoena, and refraining from placing the interviewee under oath, the grand jury can prohibit the presence of anyone other than the interviewee during an interview.

Inquiries to and responses from the LLRC often find their way onto the CGJA website’s [Frequently Asked Questions](#) page. The LLRC is exploring the possibility of archiving significant inquiries and responses in a searchable format. Such an archive would help identify recurring issues and ensure consistent responses to those inquiries.

In its continuing effort to assist sitting grand juries, their legal advisors, and CGJA members with “best practice” suggestions on a wide range of issues, the LLRC invites readers to suggest broad interest topics as subject matter for future CGJA Journal articles. Those interested in do so can submit suggestions directly to the [LLRC](#) through the email address on the CGJA website.



Annual Conference Save the Date

By Lloyd Bell, Annual Conference Chair

This year’s annual conference is now tentatively set as a one-day meeting on November 5, 2016 at the Crowne Plaza Sacramento, 5321 Date Avenue. Arrangements will be made for the annual Chapter Officers meeting and a Board of Directors retreat. The meeting will feature a prominent guest speaker, but will focus on the CGJA Annual Meeting, including election of officers.

A Message to Grand Juries

The Public Relations Committee would like to know if grand juries are receiving our journal and if they are finding it informative and useful. Therefore, we would appreciate answering these questions:

- 1) Are you receiving the Grand Jurors’ Journal six times a year?
- 2) Are jurors reading the journal and finding it informative?
- 3) Any suggestions for improvements?

You may respond by email to publicrelations@cgja.org Just number your responses to match the questions. Or mail a reply to the address on the last page of the journal. Or you may complete the form on our website at: www.cgja.org/form/journal-survey



Ask the Trainer

By Marsha Caranci, CGJA Training Chair cjatraining@cgja.org

This regular column allows the CGJA Training Team to share with Journal readers our responses to some of the questions we receive from grand jurors. Please remember the following: Our trainers are happy to answer questions in their areas of expertise and may be contacted by using the information in Tab 8 of our training manual; you may not take any response as legal advice; and you should contact your local legal advisors to answer any question that might divulge confidential information. Please submit your questions to the Journal Editor or me. The Training Team's response to your question might appear in a future edition of the Journal.

Questions submitted recently by jurors:

Q. Our Special Districts committee is preparing for an interview and has a question. Is the grand Jury entitled to request copies of a board of directors closed session minutes?

A. While PC §921 would seem to allow access to the minutes (it allows "free access ... to all public records within the county"), the Brown Act, the state's open meeting law, restricts access to the minutes of closed sessions to the members of the board itself and to the court. There is no express authority for the grand jury to review the minutes. Also, the Brown Act contains no requirement that the governing boards even take minutes during closed session.

Q. Can a grand jury use the cloud to store and access documents such as minutes, draft reports, and interview questions?

A. We know of several grand juries that are doing so. There are many options for cloud file sharing, including Drop Box, Google Docs, and others. Your county's own-shared drive may also be available to you. Consideration must be given, of course, to security issues such as limiting access only to current grand jury members (and sometimes legal advisors) and to the technology tools and knowledge your jurors will need in order to be able to access the documents. You should also discuss any security concerns with your legal advisors before proceeding with the use of such storage systems, and should consider a policy for when and how the information is to be deleted at the end of your term.

Q. Can the files from previous grand jury terms that remain in our grand jury office (either in file cabinets or on our computer) be accessed by this year's jury? Do the rules of confidentiality apply here?

A. We believe that Penal Code sections 924.1 (a) and 924.2 prohibit the release of investigative information by a grand juror to anyone outside of the currently seated grand jury, including to subsequent grand juries, unless the grand jury votes, pursuant to Penal Code section 924.4, to "pass on and provide the succeeding grand jury with any records, information, or evidence acquired by the grand jury during the course of any investigation conducted by it during its term of service..." The statute limits the type of documents that may be viewed by the succeeding grand jury and does not authorize subsequent juries to have access to any confidential records. We do not believe that minutes of grand jury meetings are included within the type of documents that may be passed on.



Use of a Grand Jury Subpoena

By Marsha Caranci, Training Committee Chair

During our training seminars, we are often asked if the grand jury can issue a subpoena requiring someone to appear before the jury to give testimony. The simple answer is yes. Penal Code section 939.2 allows the district attorney or a judge to sign and issue a subpoena requiring the attendance of a witness before the grand jury.

However, we teach in our class on conducting grand jury interviews that rather than serving a subpoena, it is usually better to invite the interviewee to meet with the grand jury. This less adversarial approach is likely to make interviewees more comfortable about answering the grand jury's questions. Getting them to appear is one thing; getting them to tell you what you need to know is another.

Continued on page 4

Continued from page 3

If on occasion the grand jury does find it necessary to issue a subpoena, the jury should understand that this does not mean it has to put the witness under oath. Most grand juries elect not to put a witness under oath because of the requirement under Penal Code section 939.22 that allows any witness who is called to testify under oath to have counsel present.

Because testimony in a regular civil proceeding (a lawsuit) is almost always proffered under oath, the form used for subpoenas for civil proceedings inform the witness that he or she will be sworn. So it is important when using a subpoena for a grand jury proceeding to use a different form. An example of a grand jury subpoena can be found on our website at <http://cgja.org/grand-jury-sample-documents>.

A recent appellate decision, *City of Woodlake v. Tulare Grand Jury*, reaffirms the fundamental fact that a grand jury subpoena is not governed by the rules of the Code of Civil Procedure because a grand jury investigation is not a civil proceeding under the law.

In conclusion, in order to ensure that any witness who is served a subpoena to appear before the grand jury understands that this does not trigger a requirement to be put under oath, and therefore the right to have counsel present, we recommend that grand juries should use only a carefully worded “grand jury subpoena.” As always, the grand jury should consult with its own legal advisor on this and other legal issues.

Grand Jury Per Diem Survey

By Marsha Caranci and Jerry Lewi

In 2009, we published a list of per diems for those counties for which we were able to collect information. Last year, we were able to get updated information not only for the counties we surveyed in 2009, but also for every county. We are fairly certain our information is accurate but would welcome any updates. Our thanks to jurors and administrators who provided the data.

County	Per Diem 2015 (\$)	County	Per Diem 2015 (\$)	County	Per Diem 2015 (\$)
Alameda	15	Madera	20*	San Joaquin	15
Alpine	15	Marin	20	San Luis Obispo	15
Amador	15	Mariposa	15	San Mateo	25*
Butte	15	Mendocino	25*	Santa Barbara	25
Calaveras	15	Merced	15	Santa Clara	20
Colusa	15	Modoc	15	Santa Cruz	15
Contra Costa	15	Mono	15	Shasta	15
Del Norte	15	Monterey	15	Sierra	15
El Dorado	15	Napa	15	Siskiyou	15
Fresno	15	Nevada	15	Solano	20
Glenn	15*	Orange	50	Sonoma	15*
Humboldt	20	Placer	20*	Stanislaus	15
Imperial	15	Plumas	15	Sutter	15
Inyo	25	Riverside	25*	Tehama	15
Kern	30	Sacramento	30*	Trinity	15
Kings	15	San Benito	15*	Tulare	25*
Lake	15	San Bernardino	25	Tuolumne	15
Lassen	15	San Diego	25	Ventura	25
Los Angeles	60	San Francisco	15	Yolo	15
				Yuba	15

***Notes**

Glenn: One meeting per month
Madera: \$10 for committee meetings
Mendocino: \$25 for plenary, max 1 per month; \$10 for committee, max 1 per week
Placer: \$20 for plenary, \$10 for committee
Riverside: \$15 for less than 4 hours
Sacramento: Committee chairs get extra \$15 per meeting
San Benito: Plenary only
San Mateo: \$25 for plenary, plus \$15 for committee
Sonoma: Plus \$12.50 for additional meeting per day, maximum 2 meetings per day
Tulare: Just increased

CGJA Chapter News from Around the State *News for You and by You***Kern County Chapter** *By Lynn Runyan, President*

It is with deep sadness that the Kern County Chapter reports the passing of the 2015-2016 Kern County Grand Jury Foreman, Weslie Brown, on January 28, 2016. Wes served on the 2014-15 Grand Jury, was appointed Foreman of the 2015-16 jury, and was an active member in our association as well as many other local organizations - Wes will be greatly missed.

Our chapter, in conjunction with the sitting jury, is in active recruitment mode at this time; we greatly appreciate the sitting jurors' inclusion of the association in several upcoming events. Group presentations, TV and radio spots, and print media campaigns are planned and underway prior to our application deadline of April 1, 2016. In 2015, the grand jury's booth at the Kern County Home & Garden Show generated many applicants, several of whom are on the sitting jury. On February 19-21, 2016, the chapter will again help staff the grand jury booth at the Home & Garden Show and hopes for similar results.

On February 9 with the grand jury in attendance, the Kern County Board of Supervisors will proclaim the week of February 9-15, 2016, as Grand Jury Awareness Week. On February 10, the annual Grand Jury Awareness Program will take place at the Kern County Liberty Bell in front of the Superior Court Building. County, city and state dignitaries will speak including chapter vice president, Mike Elliott. Following the program, there will be a tour of the grand jury offices. The Kern County Chapter wishes all other counties a successful 2016-2017 recruiting period!

Shasta County Chapter Hosts Wine Social September 30th *By Diana Sturges, President*

In an effort to promote a spirit of camaraderie and fellowship, 40+ members, spouses, and guests of the Shasta County Grand Jurors' Association met for a wine social at the Behrens-Eaton Museum in Redding, California. Members of the Association donated all food and beverages that were served, and were able to raise in excess of \$200 to support the newly restored Victorian style home, formerly the home of Judge Richard Eaton built in 1895.

Attending the social were members of the Shasta County Chapter of CGJA, current Grand Jurors, former Grand Jurors, and the Presiding Judge for the Shasta County Superior Court, Judge Gaul.

Especially enjoyable was the fact that Docents of the Museum dressed up in period costumes and gave guest tours of the restored home and adjacent museums. This was the first social at the Behrens-Eaton House that the Museum had not sponsored. Docents said, "The guests asked the best questions they had ever been asked." For their part, members of the Association said, "Let's do this again".

The social event was a great opportunity for the chapter members to get better acquainted with past and current grand jurors. We recommend that other Grand Jury Associations try similar social events to encourage getting to know each other, support their community, and add to the education one receives due to service on your local Grand Jury.

San Luis Obispo County Chapter *By Edward Kreins, President*

At a meeting in February, the San Luis Obispo County Board of Supervisors will recognize the County Grand Jury and declare February as Grand Jury Awareness Month. This has been a tradition in the county for at least the past ten years.

The courts and CGJA chapters in many counties are having a difficult time recruiting grand jurors. Our chapter works closely with the executive officer of the Superior Court, and the jury commissioner to develop and implement measures to recruit applicants. In the past, we have spoken to civic organizations, run PSAs on local media, and published opinion pieces in local newspapers for at least two months before the application deadline.

Additionally, former grand jurors interview all applicants and submit a report with recommendations to the court. This has proven very successful in screening applicant and ensuring that they are fully aware of their duties and responsibilities as new grand jurors.

One of the more recent problems we face is the misunderstanding the public has regarding a sitting civil grand jury as opposed to a criminal grand jury. Recent publicity may have turned some people away from serving on a civil grand jury

because of the public debate about criminal grand jury proceedings. Our responsibility is to explain the difference, and we believe that the direct approach will be effective in accomplishing that goal. We recently found that a personal contact and an individual discussion with potential applicants have proven fruitful.



2015-2016 Tulare County Grand Jury with the Board of Supervisors receiving a Proclamation declaring February as Grand Jury month.

Tulare County *Gene Russ, President*

The Tulare County Chapter of the CGJA has been very active this year. The chapter hosted the Central San Joaquin regional meeting in September. The keynote speaker was Beate Boultinghouse, who delivered a presentation explaining the Mock Grand Jury program that is implemented at the high school level. The Visalia Unified School District superintendent has enthusiastically endorsed this curriculum, and we are currently working with one of the local high schools to implement it.

The chapter made a presentation to the Tulare County Board of Supervisors focusing on the role and function of the Grand Jury. February has been declared Grand

Jury Month, and a photo session was held with the combined groups.

Recruitment activities are ongoing. A pro bono booth has been provided for our use at the February Home and Garden Show at the Visalia Convention Center to inform the public of the opportunities for them to serve on this important jury. The grand jury foreman also has his own weekly local TV program that informs the public about grand jury service.

The chapter worked with the Tulare County Board of Supervisors to increase the per diem grand jury rate from \$15 to \$25. The Board approved the new rate; it is now in place.

Board Actions *By Jim Ragan, Secretary*

Regular Meeting, November 24, 2015

Ratified the President's appointment of Director Lloyd Bell to fill the vacancy in the office of Vice President.
 Ratified the President's appointment of Joann Landi to fill the vacancy in the position of Director in the Central Region.
 Ratified the President's appointment of Leslie Lea as Chair of the Annual Conference Committee.
 Ratified the President's appointment of Director Rich Knowles as Chair of the Membership Relations Committee.
 Established the temporary position of Assistant Treasurer and ratified the President's appointment of Dianne Hoffman to fill that position.
 Approved expenses that are over the Board approved budget for the 2015 Annual Conference.

Special Meeting, January 15, 2016

Ratified the President's appointment of Barbara Sommer to fill the vacant Director position in the Central Region (term ending November 2016).
 Adopted a position regarding the three parts of the proposal by the California Special Districts Association to amend Penal Code §933.05; authorized the President to negotiate with CGJA on statutory language; and authorized the President, if needed, to sign a retainer agreement to provide pro bono lobbying services to CGJA.

Regular Meeting, January 26, 2016

Approved the CGJA 2016 budget.
 Approved a Finance Committee expense that exceeded board-approved budget.
 Approved the transfer of \$10,000 from the General Fund to the Rainy Day Fund.
 Terminated the following inactive ad hoc committees: Fund Development, Education, and History and Archives.
 Ratified the President's appointments to the 2016 Nominations and Elections Committee.
 Adopted the CGJA Board of Directors' goals for 2016.

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Format for submitting letters and articles to the Grand Jurors' Journal

Articles submitted by e-mail should be saved in Rich Text Format (.rtf) and transmitted as an attachment to Jerry Lewi, editor@cgja.org
See more detailed instructions on our website, <http://cgja.org/submit-article>

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