

Grand Jurors' Journal

April 2004

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President's Message

CGJA's administrative committees are actively working on 2004 goals and committee chairs will update you under separate reports. It is important to note that a new California Senate Bill 1673 dealing with Grand Jury selection processes was introduced on February 20. Full details should be covered in a Legal Committee report.

The Internal Revenue Service has accepted our request to change our fiscal year to a calendar basis. My sincere appreciation goes out to Treasurer Marilyn Maxner and Finance Chair Jack Friesen for their hours of excellent work in producing numerous tax filings to accomplish this change.

Earlier this year, Marilyn expressed a need to cut back on her volunteer hours devoted to CGJA and we are currently seeking members with accounting backgrounds for appointment to the position of Treasurer. Appointment will also involve serving as a CGJA Director and attending bi-monthly Board meetings. Members with an interest and background should contact me directly.

As authorized by the Board of Directors, a small working group has been formed consisting of Dick

Nichols, Jerry Lewi, Joann Landi, Mike Casey and myself to prepare a proposal for updating CGJA's bylaws. A first meeting is scheduled for April 15 and it is my hope to have this effort completed by August. Members wishing to express points of view on association bylaws should contact me prior to the end of April.

A special thank you is extended to member Dwight Brown for his \$500 personal donation to CGJA and to Dick Boyd and members of our Sutter-Buttes Chapter for transferring over \$2,000 of cash and assets to CGJA upon their chapter disbanding.

On March 22, the Board of Directors adopted a new journal policy granting to the Editor total responsibility and authority for all content in this Journal. CGJA's President will now only be involved with the Journal to provide rebuttal to any article or letter that the editor wishes to publish which could be detrimental to the Association.

Elwood Moger

March 26, 2004

SB 1673 Heads Toward Hearing in Senate Judiciary Committee

With a remarkable lack of prescience, if not simple good sense, I wrote in the February Journal "it seems that the 2004 legislative session is unlikely to put the California grand jury system at risk." Wrong. As this is written (March 25) SB 1673 (Romero, D. Los Angeles) is heading towards a hearing in the Senate Judiciary Committee. As presently drafted the bill would require courts to create prospective grand juror lists from the trial juror random lists excepting only those who are incompetent or have a specified legal excuse. Those remaining who declare, "he or she will be available for jury service for the number of hours usually required of a member of the grand jury in that county" will become members of the pool from which the final grand jurors would be randomly selected. The bill would apply to all county grand juries, whether regular, "civil" or criminal. Of course, criminal grand juries composed by random selection from trial jury lists are already provided for by Penal Code Section 904.6, so the impact of the bill is on those juries performing the civil oversight "watchdog" function. It would eliminate volunteers and preclude judges from conducting the individual interviews now contemplated by the Penal Code. Although CGJA supports the concept of expanding the initial pool of potential grand jurors by using the trial juror lists and selecting only those who state that they have the time to serve, it believes that volunteers must continue to be allowed in the initial pool and that the courts must continue to have the ability to screen potential jurors for bias, agendas and the like. Please monitor the Legal Developments page at www.cgja.com for developments and for contact information for the committee members who will hear the bill.

Jack Zepp, Chair

Operations Committee

Operations, the committee that handles things no one else wants to, has updated its goals for 2004. Here are some significant items.

Website

We are going to attempt to improve our search capability of Grand Jury reports in conjunction with our goal to improve search capability on our website. We are striving to have our website be a significant resource for sitting Grand Juries as well as for those doing research on Grand Jury accomplishments.

Publications

Dan Taranto, Mr. Publications for many years, has stepped down from this position with my personal thanks for his hard work and dedication over these years. We are using the opportunity to transition this effort to improve the service by updating the list on our website and improving the response time to requests. Director Jeanne Forbes is the new Publications Coordinator with Director Linda Baker as her helper.

Research & Analysis

Elsewhere in this issue you will find articles on two new significant efforts by this sub-committee: Reinstatement of the excellence in reporting project and update of our survey of Grand Jury foreman and Court executive offices.

In summary, most of our efforts are directed toward improving the value of Grand Juries by documenting and publicizing the good works that Grand Juries do throughout the state.

Ventura County

In our last issue we reported on the excellent newspaper insert developed by the Ventura County Grand Jury and published in the Ventura Star. We have, in cooperation with that Grand Jury, sent copies to all Grand Juries. If you are currently serving and have not seen that document, please contact us, and we will see that you get a copy.

Membership Committee

As usual, we are off and running trying to figure what our members would like to see in our organization and how we can better help them through their year as a Grand Juror.

Our Member Relations Committee has started a teleconference with our Chapters to get feedback regarding their needs and to keep them informed of CGJA's projects. As I write, we have only had one Chapter teleconference, which everyone seems to think was very successful. Our second one will be prior to this article being printed. While our chapters do not represent everyone, they do represent a substantial portion of our membership. We encourage you to email any comments or suggestions to our Member Relations Committee and if you would like to start a chapter in your area please let us know.

It seems like just yesterday I was reminding everyone that our year is almost over and dues will be due on July 1 for 2004/2005. If you decide to pay early, just fill out the application in the Journal and make sure to let us know your \$25 represents dues for 2004/2005.

At our last committee meeting we decided to try to place helpful hints in this section - so here is the first one and if you want us to continue it, let us know.

Clif Poole, Chair

Training Committee

The dates and locations of the Training Seminars for the 2004-05 jurors is posted on the CGJA website www.cgja.org and additional information will be posted as it is finalized.

In early March, we mailed a letter announcing our 2004 Training Seminars to each presiding judge in all fifty-eight counties. The letter also gave an overview of our programs.

This month our major project has been the annual revision and updating of the Training Seminar Manual

that will be given to each juror attending one of the training seminars. A major portion of the manual is the five outlines for the workshops that comprise our core program: Grand Juries and the Law; How to Conduct a Grand Jury Investigation; How to Plan and Conduct Grand Jury Interviews; How to Write Grand Jury Final Reports and Grand Jury Continuity and Independence.

The CGJA trainers are divided into five teams and they work by email and teleconferences to update and revise the outline for their workshop subject. Each team submits a draft outline to our Curriculum Subcommittee who will function similar to an editorial committee for a grand jury. The Curriculum Subcommittee will develop the final draft of the 2004 Training Seminar Manual. It then is reviewed by the Training Committee and approved by vote before it is sent to the printers. After it is printed, volunteers in CGJA Chapters and/or county associations of past grand jurors help assemble the manuals into a three-ring binder.

Grand Jury Indexing Project (GRIP)

CGJA announces availability of the latest GRIP index. Grand Jury Report Indexing Project (GRIP) began in 1993 to create a user-friendly subject index of Grand Jury Final Reports. The 2001-2002 version, is cross-referenced for easy use and contains helpful information on report responses.

GRIP is also a field research function intended to document Grand Jury Final Reports throughout the history of California counties. For example, a team headed by Dr. Barbara Dabul of San Luis Obispo, is currently finishing their field workbook which is documenting the location and table of contents for Final Reports in their locale back to around 1950.

If you are into historical "detective" searches for archival Grand Jury Final Reports in your locale, please contact GRIP subcommittee chair, Les Daye, who can supply a field workbook and some resources to get your search started.

If you would like to obtain the latest GRIP index, see the CGJA website at www.cgja.org for current availability. Cost is modest, information is substantial!

Les Daye

Excellence in Reporting Program to Resume

CGJA is reinstating its annual Excellence in Reporting awards and is inviting both a) nominations for the award(s) to a grand jury for an exceptional written report that resulted in changes beneficial to the community and/or an excellent media report that highlighted the historic oversight role grand juries play in their communities, and b) expressions of interest from CGJA members in the northern, central, and southern regions of the state to assist in screening the nominations and selecting the winning entries.

Please contact Directors Les Daye bearpaws@sunset.net, Linda Baker (lostkeys@comcast.net), or Beverly Hill (bhill@abbeylaw.com).

CGJA Survey

The Research and Analysis Subcommittee has completed the question format for a survey of current and immediate past forepersons as well as the court executive officer in each California county. The survey

encompasses juror selection procedures, juror orientation and training, resources made available to the grand jury, legal advice and general guidance provided to each grand jury, and grand jury operating procedures. The previous survey three years earlier provided a good measure in that 44 counties responded. To encourage a goal of total participation and provide a valid comparison of trends the new survey addresses previous and current areas of concern while allowing for simpler and succinct answers. Distribution will be completed in May and return suspense will be July 20 to allow for analysis prior to the annual conference in October.

Earl Heal

Publications Clearinghouse

The CGJA Publications Clearinghouse has a new Coordinator, Jeanne Forbes. Jeanne reports that the Publications Clearinghouse completed the statewide distribution of the grand jury seminar video program produced in collaboration with the University of La Verne College of Law, in 1999. This video seminar offers 9 presentations in 8 hours on two DVD discs. Each disc has a menu of informational topics to select from. Presentations include history, communications, organization, investigation, law library skills, report writing, continuity and more. This two-disk set was produced through the generosity and support of the Helen Mieras Memorial Fund and has been distributed through the generosity of the Janet Praria Memorial Fund. As a result, sets of these DVDs are available to the public in all main County Libraries, UC and State University Libraries, community college libraries, county grand jury libraries, state libraries (including the Braille and Talking Book Library), and the Library of Congress.

For further information on CGJA Publications contact: Jeanne Forbes 559.625.0960 or ggenie123@yahoo.com

Jeanne Forbes, Coordinator

Chapter News

Chapter representatives met again in a teleconference to discuss ways of better communication between the Chapters and CGJA. Anges Summers, representative of San Francisco, the newest CGJA Chapter, reported that their members are speaking to different organizations in order to recruit grand jurors. Their chapter will be interviewing prospective grand jurors.

Duane Mason from Shasta County is working to establish a chapter and he is looking for solid core members to accomplish this goal. Duane said that they have a brochure and are planning presentations to different organizations and golf clubs for grand jury recruitments. They will be meeting with the Presiding Judge and Court Executive Officer next week.

Lowell Smith from Marin said that his chapter created a committee to look into "Excellence in Government." The Committee will interview former and current government administrators in order to establish the criteria for evaluating performance in government with the possibility of an award.

Marin County Chapter

The Marin County Chapter has a website <www.mgja.org> and provides useful information about the Grand Jury system. Following are some of the reported accomplishments.

The Marin County Grand Jury investigates local government agencies and recommends actions to

improve their efficiency and services. This helps to solve local problems and save taxpayer dollars.

The Marin Chapter, California Grand Juror's Association was formed to increase the effectiveness of the Marin County Grand Jury. All Chapter members are past Marin County grand jurors. The Chapter joins with the California Grand Juror's Association to accomplish the following:

1. Provide the public with information about the California Grand Jury system, to help increase public awareness of the valuable role the Grand Jury plays.
2. Promote training and orientation for new grand jurors.
3. Promote adequate support for Grand Juries, including funding, office services and meeting facilities.
4. Preserve Grand Jury reports, both in counties of origin and in a centralized state archive accessible to the public.
5. Advocate publication of all Grand Jury reports and responses to reports in public news media, to inform the public about Grand Jury findings and recommendations and the official reactions to them.

CGJA Financial Report

(For complete Financial Statements, see our printed version of this Journal)

CGJA finished calendar 2003 in a strong financial position having over \$36,000 in cash and over \$5000 in equipment for total assets of nearly \$42,000. Operationally expenses exceeded revenues by \$6,700 as a result of unbudgeted expenditures of approximately \$12,000 related to the LaVerne DVD distribution project for which nearly \$10,000 in contributions were received and recorded in the prior year. The training committee again turned in a very strong performance with revenues exceeding expenditures by over \$10,000.

Juries in the News

Marin Independent Journal

'Dysfunctional' council blamed in 'Streetgate'

By Con Garretson

"Combine an overly reactive Public Works Department, poor communication and a dysfunctional Novato City Council and the result is the media circus known as 'Streetgate.'"

Thus begins a report by the Marin County Civil Grand Jury, released yesterday, about last year's street paving controversy involving a former mayor and a former member of the City Council and some employees on the city staff.

The controversy dubbed "Streetgate" involved Measure B road funds to pave city streets. In March 2000, city residents passed the measure which allowed for the sale of \$15 million worth of bonds to help complete 200 street improvement projects over the course of a decade.

In an Independent Journal story in April, critics contended that former council member John Mani misused his position to repave Celeste Court - where his son lives - using Measure B funds, and that similar favoritism resulted in the repaving of Estado Court, where former Mayor Frank U'Ren lives - even though the streets weren't on an initial Measure B paving list.

In the story, it also was revealed that the work on Estado Court was done after an unofficial inquiry by U'ren about whether the roadway should be on the Measure B list.

The Celeste Court repaving was ultimately done by city workers using Measure B money. The grand jury noted that the work occurred two weeks after a repair decision was made, was larger in scope than any such project public works crews had done in the past and was double the cost of similar work on Estado Court.

The project was not put out to competitive bid, as is city policy, and did not go before the City Council as it should have, the panel concluded.

Nevertheless, the grand jury found that "actions and decisions taken by individuals within the Public Works Department and the City Manager, who oversees the department's activities, are open to criticism."

However, the report continues, "... it is clear that no Measure B funds were used inappropriately, no undue influence was exerted on city staff and no laws were broken."

Had the City Council "been operating as it should have," that is, with its members not continually caught up in "multiple conflicts" and fractious behavior, "the public's trust would not have been breached and there would have been no need for investigations (by a) 'Blue Ribbon Panel' or this Grand Jury."

In a report in August, the Blue Ribbon Panel, comprised of members appointed by the City Council, cleared all council members of any wrongdoing, and blamed mistakes made by city staffers that led to the street-paving controversy on communication breaches.

But, said the grand jury, "Had established policies been followed, this project would have been reviewed with the City Council prior to its execution, issues settled, and public controversy avoided."

Still, the grand jury noted that \$7,200 in non-bond money was used on the work, which was done in conjunction with other scheduled work nearby and "was an efficient use of the paving contractor."

To prevent future episodes of this kind occurring, the grand jury recommended:

- City staff should issue an annual report on street work status and funding.
- A process should be implemented where the public is aware of council members requests of city staff, a process that should not put undue pressure on staff members.
- Any Measure B changes should be made at City Council meetings.
- Communication within the public works department should be improved.

Mayor Pat Eklund said she is pleased that the independent investigation that she had called for was done and expects the council to address deficiencies pointed out by the grand jury "so this kind of thing never happens again."

Eklund agrees with the two former councilmen - Mike Di Giorgio and Mani - that the controversy played a role in the two men losing their council seats. Di Giorgio said the grand jury's findings "vindicate" Mani, who said efforts to elongate the controversy were politically motivated. He called Eklund the "queen of dirty tricks" and said her political style led the former city manager to take another job.

Contacted yesterday, former City Manager Rod Wood, who left Novato to take the city manager's job in Beverly Hills, said he had read the grand jury's report, found it accurate and agreed with its conclusions.

Wood said "Streetgate" did not influence his departure but said he could "not judge" what role Eklund played in his personal decision to leave the city, adding that other unnamed city workers cited Eklund among their reasons for leaving during exit interviews.

"I do believe one person's political agenda damaged another member of the council," he said referring to Eklund and Mani. "The reputation of the city would never have been damaged, and it was damaged."

Wood said Mani was not guilty of any undue influence and any mistake by Public Works Director Steve Wallace in getting the street work to be done was ultimately his fault. Wallace did not return a message yesterday.

"I blame myself for not having the process in place to have avoided this," Wood said. "An innocent councilman's name was dragged through the mud. It was my fault and I'll never be able to completely forgive myself for that."

As for all the hoopla, the grand jury concluded it is "time to put it to rest."

The 19-member panel of volunteer government watchdogs found no financial malfeasance but several problems with city policy and procedure that it determined should be patched up.

"I would do it again," Eklund said, referring to her request for a grand jury investigation. "I thought it was important that an impartial and independent body not connected to Novato look into this. I think we need to review the grand jury's recommendations and move forward."

Yesterday, Mani said Eklund "insisted that the grand jury investigate Novato street repair issues because she knew it would drag through the election cycle and prevent Di Giorgio and I from being reelected.

"I predict that Pat will not be voted back on the board in 2005. She led my name and that of my entire family to be dragged through the mud. Why would the citizens of Novato want someone who has done her dirty tricks? Why? Novato does not need people of that ilk representing them."

Added Di Giorgio: "I think it's clear from the grand jury report that the lack of civility on the City Council was caused by the bitterness of this debate and by Pat's refusal to resolve it prior to the election. I find it ironic that she want to make civility an issue of her mayorship and is playing a victim of the lack of civility that she caused."

Interim City Manager Mary Neilan yesterday declined comment, saying the report was directed to the council and not the city.

Grand Jury Funding by the Courts

Editor,

County budgets continue to shrink - and, along with those shrinking budgets, getting money for the grand

jury is going to be increasingly difficult. Since the counties are mandated to have a grand jury, eliminating this operation is not an option, but starving the grand jury is.

For instance, the Humboldt County Grand Jury was unable to scrape together the funds to print their final report in the local paper, although they've been doing that (and printing the responses, too) for more than a decade.

This shortage of funds by many counties is going to directly affect the training seminars. Some counties have already stopped all of what they view "non-essential" travel on county money. The bureaucrats who really generally aren't very fond of the grand jury certainly are not going to use tight county moneys to let jurors attend training and learn how to investigate and report!

Currently, although the grand jury is in the purview of the courts, the courts do not provide the funds. What I am proposing is that CGJA advocate a law that places grand jury funding under the courts rather than under

the counties.

As I see it, this would have two benefits. First of all, I think the juries could be assured of adequate operating moneys; and, second, if you provide the funding for an operation, generally that means you pay more attention to it. While many judges in the state respect and like grand jury operations, others neither understand nor welcome grand juries.

This might change if they were financially involved.

Mickey Strang