

Grand Jurors' Journal

June 2003

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President's Message

Association efforts have been both challenging and rewarding since the last issue of the Journal.

A special welcome is extended to Joann Landi, CGJA's newest Director and Association Secretary. Joann brings much needed professional experience to the Office of Secretary. She co-owns a clerical and financial services business and is retained as Independent Clerk to the Board of Directors of the Bayshore Sanitary District in Brisbane, California.

Joann's appointment was made possible by the resignation of Mike Miller, a CGJA Founding Member and long time dedicated Director. Mike has served our Association in variety of roles. He will remain active as a member of our Public Relations and Training Committees.

Composition of our Board of Directors continues to evolve with several Directors leaving for health and time commitment reasons. Members with time and experience to offer the Association are invited to contact me directly relative to service on our Board of Directors.

I am pleased to report that two California legislative bills, Senate Bill 307 and Assembly Bill 312, both damaging to Grand Juries, have been deferred until 2004.

Jack Zepp, Legal Committee Chair did an excellent job in coordinating CGJA's efforts in meeting the challenge of SB 307 and AB 312. Directors Bob Geiss and Richard Nichols testified at a hearing on AB 312 while all members of the Legal Team worked analysis and response efforts. Our San Mateo and Solano Chapters actively worked the challenge with strong assists from the Kern, Orange, and Placer County Grand Juror Associations.

Vital to deferring each bill to 2004 was the involvement of many CGJA Members in educating their state representatives. It is clear many in the legislature lack knowledge of the functions and contributions of Grand Juries. The need for further education is far from over as we await 2004 hearings. Our Association is most appreciative to the dedicated and excellent efforts of Jack, Bob, Richard, and the many others who worked on meeting this important challenge.

While our Legal Committee was hard at work in meeting the legislative challenge, it continued to answer a number of inquiries from sitting Grand Juries and analyze two Court cases reported in this issue by Richard Nichols. Remaining Committees of the Association worked their respective disciplines, each in a dedicated manner. Our Training Committee screened new trainers and advanced preparations for three New Juror Training Seminars, a major effort of CGJA in 2003. Membership Relations worked Chapter issues, prepared for membership renewals, and tested a member email advisory program.

The Operations Committee continued its advance planning for the Annual Conference; creation of a new publications policy; while continuing to work upgrades to our Journal and website. Our new Public Relations Committee initiated an effort to build a network of representatives in all California Counties to facilitate CGJA and Grand Jury communications to the public. Our new Finance Committee held its first meeting in March and set a number of goals for improving our internal financial systems. On balance, the CGJA Team is working well on its many diverse objectives.

CGJA's Marin and San Mateo Chapters have each announced the creation of new websites for the purpose of educating and better servicing the interests of Grand Juries within their respective counties. You can find these new sites on CGJA's website www.cgja.org at the links page or by direct contact on the Internet for Marin at www.mgja.org and San Mateo at www.co.sanmateo.ca.us/grandjurorsassoc. Watch for exciting updates to all websites in future Journal issues.

We continue to welcome new member resources to actively serve our expanding efforts. If you have some time available, please consider filling out the "Membership Interests Summary Form" contained in this issue.

If you have suggestions for improving CGJA or questions about our Association, I encourage you to contact any of our Officers, Directors, or Committee Chairs and always feel free to contact me directly.

Elwood Moger

May 12, 2003

Recent judicial decisions

By Richard Nichols

GRAND JURIES AND CONFIDENTIAL RECORDS Two recent judicial decisions impacting whether, and if so how, grand juries may obtain otherwise confidential information have been issued. This article will describe them, and a legislative "fix" that is pending with regard to one of them. The first decision was issued by the El Dorado County Superior Court. The El Dorado County Grand Jury had requested, in connection with an investigation concerning the treatment of probationary employees of the County, that it be supplied with the personnel records of ten named county employees, including managerial, supervisory and probationary employees. After initial disagreement, the Grand Jury and the County reached a compromise agreement on procedures. The County Employees' Association and some of the named employees, however, objected to the release of the requested information, and sued both the County and the Grand Jury for injunctive and declaratory relief precluding the County from turning over to the Grand Jury, and the Grand Jury from obtaining, those records. On March 3, the Superior Court ruled that (1) the Grand Jury can request confidential personnel records and need not subpoena them, (2) upon

receipt of such a request the County is required to notify the affected employees of the request, (3) the employees can then either waive their privacy rights by not objecting to the request, or they can object to the request, and (4) if they object, the Court will determine on a case-by-case basis whether the records should be turned over to the Grand Jury. This was essentially what the Grand Jury and the County had agreed upon in their compromise. In this particular case, however, the Court declared that the Grand Jury had not made a showing of good cause sufficient to require that the records be turned over. No injunction was issued because, in the interim, the Grand Jury had obtained the relevant portions of the records through an alternative proceeding. Accordingly, the Grand Jury is unlikely to appeal this decision. The second decision was issued on March 26 by the California Court of Appeal, Fifth Appellate District (Fresno), on appeal from the Tulare County Superior Court. The Tulare County Grand Jury had sought certain records from the Juvenile Court, pursuant to a petition procedure authorized in the California Welfare & Institutions Code. That authorization is limited to a list of twelve (12) specified types of recipients, and grand juries are not specifically included in the list. The Tulare County Superior Court denied the Grand Jury's petition on that ground, and the Court of Appeal affirmed the denial. The Court of Appeal also noted that, in addition to not being included in the list, the Grand Jury had not presented any rationale, other than its status as a grand jury, why it should be entitled to such confidential information. California State Senator Dean Florez had introduced Senate Bill 653 to address this problem. Among other things SB 653 would specifically authorize grand juries to inspect such files, by adding grand juries to the list of authorized entities under the Welfare & Institutions Code. The bill would also amend Penal Code §929 to impose specific restrictions, in reports, upon the use of names or other identifying information concerning witnesses, or persons named in documents, obtained pursuant to the bill.. Common to these two decisions is the proposition that, where grand juries are seeking documents that are of a confidential or privileged nature, and are unable to do so without judicial proceedings, they should be prepared to present to the Court a showing of why the requested information is relevant to their investigation, and, perhaps, why the information cannot be obtained through other means. A mere assertion that "we're the grand jury, and what we are investigating is none of your business!," based on claims of grand jury confidentiality, will not win the day, under these decisions. There may be situations in which, for specific reason, it would be counterproductive to the investigation for certain individuals to be given notice of requests for information. The El Dorado County decision does not address that issue. In the opinion of this writer, however, grand juries should proceed in such a situation by seeking a sealed subpoena from the Superior Court rather than by way of simple request, and that the subpoena request be supported by a specific affidavit showing good cause therefor, and for the issuance of an order to the responding county that the request for and delivery of the subpoenaed documents not be disclosed to the specified individual(s).

From the Mail Box

Editorial Vacaville Reporter

Guarding the grand jury - Absurd legislation could threaten a thorough system

As much as we believe in reporting news and information, we realize that there are some areas where disclosure could be detrimental.

Grand jury investigations fall into this category.

A bill introduced by Assemblyman Todd Spitzer, R-Orange County, would require grand juries to hand over evidence used in their investigations to the agencies under scrutiny,

once the review was complete.

The bill, which is scheduled for a hearing Wednesday in the Assembly's Local Government Committee, is ludicrous.

Why would anyone come forward if their well-being or livelihood could be threatened? It would be naive to think that agencies under the scope are above retribution.

Evidence used by grand juries commonly includes sensitive testimony from witnesses, as well as public and private documents in regarding inquiries into operations of county jails, juvenile halls, the registrar of voters among other agencies.

There are good reasons why grand juries closely guard their rights to secrecy. In fact, under current provisions, jurors who discuss evidence used in their investigations can be slapped with a misdemeanor offense.

Much as a newspaper reporter would protect their sources, so must the grand jury if it is to be responsible and capable of effecting positive change.

We join with members of Solano County's grand jury and the Solano County Chapter of the California Grand Jurors' Association in denouncing this shoddy effort to diminish the power of grand juries across California.

We also question the validity of SB 307 proposed by Sen. Dick Ackerman.

The measure would let local governments choose their method for selecting the juries.

One method, the so-called "representative jury," would impanel grand jurists from a random pool.

That's asking for trouble.

In Solano County, grand juries are created from a group of volunteers who are ready, willing and able to serve for a full year. How long would it take in the random pool process to find such individuals?

From Bette Grace

Dear Members of the California Grand Jurors' Association:

As you are aware, when our mother, Janet Praria, CGJA Treasurer, passed away, we elected to have contributions made to the CGJA. This choice was made because, at the time of her death, mom was very excited about a contribution that had been received for the development of the La Verne video-training program. She discussed the program and the contribution received with me, and I have also read the letter she wrote to the contributor. It was obvious that this was a project that was near and dear to her. It is the wish of the family that the memorial funds CGJA has received be used to fund the production and distribution of the grand jury training seminar held in 1999 at the University of La Verne College of Law. If funds are available, it would be nice to have the training videos sent to each of the grand juries in California. We appreciate your support of our decision to continue a project that our mother isn't here to see completed.

Very truly yours,

Bette F. Grace

Training Committee

The 2003 Training Seminars for new grand jurors will be held on the following dates:
July 28-29 **Visalia** –at the Visalia Convention Center and Radisson Hotel complex
Aug. 4-5 **Sacramento** – at the Holiday Inn Northeast at I-80 and Madison Ave
Aug. 11-12 **Concord** – at the Concord Hilton

***Check our website www.cgja.org for additional seminar and hotel information.*

Registration packets will be mailed to every county grand jury in June so that the carry-over jurors or outgoing foreperson can give it to the new grand jury. We have a very short time frame for registration between date of jury empanelment and the seminar dates so it is very important that they have the registration packets early.

New for the 2003 seminars will be a series of presentations that are more specific to the common grand jury committees: City Government; Special Districts; Jails and Prisons Inspection Guidelines; Understanding Budgets and Financial Records and other topics. We will have four or five presentations that run concurrently and will repeat a second time. Each juror will attend their choice of two presentations.

There will also be some new faces at the 2003 seminars. We have recently added ten former jurors to our training team and they will be working with our current trainers in the core workshop program as follows:

G.J. Law: **Alan Parker**, Placer Co. G.J 2002-03. Alan has served as Assistant Attorney General of U.S. Dept. of Justice; Chief Counsel, House Judiciary Committee; Legislative Director for Assoc. of Trial Lawyers of America and Adjunct Professor of Law at Georgetown Law Center.

Investigations: **Dianne Hoffman**, Orange Co. G.J. 2000-01. Dianne is self-employed teaching computer applications. She is retired from many years in the telecommunication field where she had extensive experience in training.

Interviewing: **Barbara Guzzetta**, Nevada Co. G.J. 2000-02, currently resides in Orange Co. Barbara has a strong background in training employees and in public relations working for several large national companies. She was also the General Manager of the Sacramento Light Opera Association and Sacramento Music Circus for 12 years.

Dr. Barbara Dabul, San Luis Obispo Co. G.J. 1999-01. Barbara is a speech-language pathologist and has served as an Associate Professor at several universities and worked as a speech pathologist at various medical centers and school districts.

Writing Final Reports: **Bob Geiss**, Orange Co. G.J. 1998-99. Bob has degrees in Metallurgy, Astronautics and an MBA in Business Systems. He is a retired Lt. Col. with 20 years in the Air Force plus a 22 year career in the aerospace industry working as program manager for various classified defense programs such as the Tomahawk Cruise Missile.

Dr. Jane Hebler, San Francisco G.J. 2001-02. Jane is a retired Professor of Teacher Education at CSU-Hayward. She served three years on the California Commission on Teacher Credentialing and she has taught English writing for graduate students. Jane was Chair of the Editorial Committee for the grand jury.

Dr. Stuart Brown, Marin Co. G.J. 2001-02. Stu spent 30 years as a Product Development Chemist for Chevron Oil. He gave frequent presentations both internally, within Chevron Oil, and externally, to customers. He has very strong writing skills and served as Editorial Chair for the grand jury.

*Grand Jury
Continuity &
Independence*

Beverly Hill, Lake Co. G.J. 2001-03. Bev is currently serving as Foreman of the 2002-03 Grand Jury. She is a legal researcher currently working as a Senior Litigation Legal Assistant for a Santa Rosa legal firm. Bev also teaches a course on medical malpractice at Sonoma State University and has worked as a medical editor and writer for U.C. San Francisco Medical Center.

Jerry Lewi, Ventura Co. G.J. 1998-99, Jerry has a Master of Engineering degree from U.C.L.A. He worked for Litton Industries in the Guidance & Control Systems Division with marketing, program management, engineering and manufacturing positions; principally in military communication, navigation and identification systems. Jerry has experience giving presentations at conferences, customer briefings and testimony to legislative bodies.

Ted Freeman, Marin Co. G.J. 1998-2000. Ted has a BA in Political Science, a General Secondary Teaching Credential and graduate work in Political Science. He is a retired high school teacher and taught primarily US History, Government and Economics. Ted has published several articles and recently wrote a high school teaching unit about the grand jury system that the Marin Chapter of CGJA is using to make educational presentations to their local high schools.

Collectively as a group, these new trainers bring a wealth of knowledge and experience to help CGJA provide quality training programs to new jurors throughout the state.

Sherry Chesny, Chair
CGJA Training Committee

Introducing CGJA's Legal Team Members

CGJA's Legal Team lead by Jack Zepp did an excellent job in coordinating CGJA's efforts in meeting the challenge of SB 307 and AB 312. Following is a biography of each of the Legal Team members. Member Dian Picone, because of a busy schedule, was unable to provide a biography by the deadline. It is my pleasure to introduce to you the members of our Legal Committee.

Fredric ("Jack") Zepp, Chair

Fredric ("Jack") Zepp received his BA and JD, with honors, from the University of Illinois. He was Editor-in-Chief of the Illinois Law Forum and clerked for then Chief Justice Roger Traynor of the California Supreme Court upon graduating law school.

In 1969, at the conclusion of his clerkship, Mr. Zepp joined Latham & Watkins where he practiced for thirty years specializing in corporate defense and securities litigation. He practiced with the firm based in Los Angeles during 1969-87, New York during 1987-94 and San Francisco during 1994-99. He co-chaired the firm's national litigation department while in Los Angeles and chaired its New York litigation department while in that city.

Mr. Zepp founded, and served for many years as chairman of, his firm's Ethics Committee. He served as President of the Los Angeles County Bar Association Ethics Committee, as President-Elect of the California Bar Association Ethics Committee until moving to New York and as a member of the New York City and New York County Bar Associations Ethics Committees. Over the years he has also served on various committees evaluating judges and judicial applicants and on State Bar disciplinary committees.

For eighteen months during 1998 and 1999 Mr. Zepp was a member the Marin County grand jury where he served as Editorial Committee Chair and a member of the Law & Justice Committee.

The immediate past President of the CGJA, Mr. Zepp has been a Director since July 1998 and has served as a presenter at CGJA's regional grand juror training programs since 2000.

Mr. Zepp is presently retired and devotes his time to the CGJA and matters involving grand jury law.

Barry I. Newman

Barry Newman received his BA from Alfred University and his JD from NYU School of Law. He is an active member of the bars of California, New York and Ohio. A retired banker, he was the past Chairman, President and CEO of the Security Pacific Finance Group (headquartered in San Diego); and was Senior Executive Vice President and Chief Lending Officer of Great American Bank. Since 1988, he has been a solo legal practitioner with a professional practice focusing on general business transactions and commercial arbitration and mediation, and is a Judge Pro Tem for the Vista Branch of the San Diego Superior Court.

Presently Mr. Newman serves as the President of the County Civil Service Commission; and Chair of the San Diego County Treasury Oversight Committee. President of the Past Grand Jurors¹ Association of San Diego County, he is a member the City of Escondido's Planning Commission; and serves on the Board of the San Diego Foundation. He is also a Past President, and current member of the executive committee, of the San Diego County Taxpayers Association.

Representative recent past activities include having served for 8 years as Treasurer of the Episcopal Diocese of San Diego; Foreman Pro Tem of the 1999-2000 County Grand Jury; Chairman of the Board of the California Center for the Arts - Escondido; Director of the California Grand Jurors' Association; Vice Chair of the Regional Metropolitan WasteWater Programs Oversight Committee; President of the University Club of San Diego; Chair, for 14 years, of the San Diego County Capital Asset Leasing Corporation ("SANCAL"); and finally, Chair of the San Diego Region Citizens¹ Commission on Local Government Efficiency and Restructure ("SANCoGER").

Robert C. Geiss

Robert C. Geiss: 20 year service in USAF as: combat crew member (Korea), Strategic Air Command and Military Airlift Command navigator; maintenance officer: Space Systems advanced planner, research and development officer, project manager for classified USAF programs. Retired 1971 (LtCol).

22 year career in aerospace industry as engineering systems analyst, program development manager, and program manager for various classified defense programs such as Tomahawk Cruise Missile for Rockwell International and then McDonnell Douglas Corporation. Retired in 1993.

Education: BS, Metallurgy (Massachusetts Institute of Technology); MS, Astronautics (Air Force Institute of Technology); MBA, Business Systems (California State University); plus several service and industry schools and seminars.

Mr Geiss wrote several undergraduate and graduate theses. Co-wrote the USAF Space Planners Guide which incorporated and summarized key issues for the planning, implementation and usage of space satellite operations; wrote many industry technical and management proposals which collected, collated and summarized many disparate facts; conducted several key military and industry systems studies.

He prepared many industry technical and financial proposals and documented results of experiments and studies and analyses which depended on the gathering and accurate interpretation of many and sometimes apparently contradictory technical, financial and managerial facts.

Mr. Geiss researched and wrote theses for undergraduate and graduate schools; wrote many successful technical, financial and management proposals for industry; compiled and wrote technical and management interim and final reports for industry. Active in writing monthly reports for my volunteer assignments as secretary for: flying club, and Friends of the Library associations. Authored 5 reports for which were approved and published by the 1998-99 Orange County Grand Jury. (Orange County and the Year 2000 Problem; Leaf Blower Hazards in Orange County; Safety Concerns at the Orange County Emergency Operations Center; Land Lease Compliance in Dana Point Harbor; Orange County Transportation Authority and Light Rail Planning) Committee Work:

Chairman, Concerned Citizens Committee of Orange County;
Steering Committee, Orange County Committees of Correspondence;
Treasurer, Friends of the El Toro Branch Library;
Director, Grand Jurors Association of Orange County
Director, Drivers for Highway Safety

Les Daye

A native Californian, Les Daye received his BA from the California State University with emphasis in administration and communications. Since 1976, he has been an independent consultant to small business clients, making numerous appearances before city, county and regional bodies.

A certificated Attorney Assistant since 1993, Mr. Daye has done specialized research for a large law firm, aerospace company and medical provider. Les also did commercial auditing for a professional services firm.

The youngest member of a 1990-91 County Grand Jury, he served on the Criminal Justice and Government Operations Committees and chaired two ad hoc committees. Les organized the continuity file folder for incoming grand jurors and was main writer and editor for three committees whose findings and recommendations were in the Final Report.

Current Director and Past President of CGJA (1998-2000), Les was on the inaugural GRIP Committee, member of the 501(c)(3) Restructuring Committee and chair of the Audit Committee. He also was a volunteer presenter and facilitator at the 1996 and 1997 annual Grand Juror training seminars in Yuba and Sutter Counties, and the initial CGJA collaborative training in August, 1999 at the University of La Verne School of Law.

Mr. Daye currently serves as President of the Governing Board for a K-8 school district, charter member of a Trails Committee, past member of the Chamber of Commerce Sesquicentennial.

Richard Nichols

Richard W. (Dick) Nichols' biography is highlighted in the Director Biographies column that follows.

Director Biographies

Dan Taranto

Dan graduated from Humboldt State University in 1971 with a MS in Biology and lifetime teaching credentials. Consequent to building his home he became an active reformer of building codes for self-help owner-builders, co-founded United Stand of Humboldt in 1975-1988, which successfully legislated for alternative housing innovations including solar. For 20 continuous years he was appointed and re-appointed to chair the 21 member County General Plan Housing Element Revision Committee, and was appointed to a series of other committees to develop a Citizen Participation Plan, Board of Supervisors Public Video Access Program, Firesafety and Housing Regulations, Permit Fees, and County Budget Task Forces. Over the years he drafted and processed numerous county reform policies, resolutions, and ordinances, and was involved in several state administrative and legislative housing and grand jury law reforms. He was a two term grand juror 1989-1991. In 1989 Dan founded "Friends of the Watchdog" (FOW) advocating legislation friendly to the grand jury. He's most gratified with the introduction/passage of several senate and assembly bills such report response reform, which it was drafted by the FOW and adopted as a Humboldt County Ordinance, mandated GJ report & response filing with State Archive; and GJ compensation. Dan fought to delete the onerous out of AB 829 (1997) and defeat of SB2210 in 1998 (exempting law enforcement from GJ investigations) amongst others. This will be Dan's 15th year training Grand Jurors. He joined the CGJA in 1990; elected to the Board of Directors in 1992; President North Region 1994-96; and President statewide 1996-1998. Dan developed and produced the CGJA Publications Clearinghouse and developed the tele-meeting system. He served as CGJA's conference program chair 1993, 1995 and 1997. Collaboration with the governor's office to produce the first GJ Law Compendium; and the 1999 La Verne University Grand Jury Seminar and video project. R

Richard W. (Dick) Nichols

Richard W. (Dick) Nichols, a member of the Bars of the United States and California Supreme Courts and of all federal courts in California, received his BA in 1958 from Stanford University and his JD in 1961 from the University of California, Berkeley. He served as a law clerk to a United States District Judge, spent ten years in the Office of the United States Attorney in Sacramento, and for more than twenty years was a shareholder in Sacramento's largest law firm, McDonough, Holland & Allen. He is presently semi-retired, and is Of Counsel to that firm, limiting his practice to Indian Law.

Mr. Nichols has served as Chairman of:

1. The Advisory Committee for the Development and Implementation of a Civil Justice Expense and Delay Reduction Program for the United States District Court, Eastern District of California, and a member of the Court's Judicial Advisory Group;
2. The Court's Advisory Committee on Revision of its Local Rules;
3. The Court's Merit Selection Panel for Recommendations Concerning the Appointment of a United States Magistrate Judge;

4. The Court's Advisory Committee on Lawyer Discipline; and
5. The Court's Federal Indigent Criminal Defense Panel in Fresno, prior to Congress' enactment of a Federal Public Defender program. Mr. Nichols has also served as an Evaluator in the Court's Early Neutral Evaluation program, and is a Master of the Bench, Emeritus, of the Anthony M. Kennedy American Inn of Court. He is also a founding and charter member of the Eastern District of California Historical Society.

Mr. Nichols served on the El Dorado County Grand Jury in 2000-2001, and as a carryover grand juror in 2001-2002.

Director Beverly Benedict Hill

In the current chapter of her life, Beverly finds herself serendipitously in Lake County, a Grand Juror, and a Director of CGJA. In July 2001, she began a two-year educational odyssey through the arcana of county government, city administration and special districts and never felt so unqualified for any task before. She fortunately was exposed early the first term to the resources and expertise provided through the CGJA training seminars. After being appointed to the Board of Directors in 2002, she was assigned to the Training and Operations Committees. As her term as Foreman of the Lake County Grand Jury is drawing to a close, she is looking forward to becoming a trainer with CGJA and to bringing to fruition the many projects targeted by the Research and Analysis Subcommittee, which she chairs, and the Curriculum Development Subcommittee.

Beverly was raised and schooled in New York/New England and lived in London, Baltimore, and New Orleans before reaching the Golden State in 1968. The first 20 years were spent at the University of California, San Francisco Medical Center ("UCSF"), where she first became an editor/writer for the surgical services at three UCSF hospitals. She concurrently served on the Institutional Review Board and Risk Management Committee and volunteered for the American Trauma Society. She then became a research assistant for an forensic psychiatrist at UCSF who was also a medical anthropologist. After two years of law school, she worked as a medical analyst for a large San Francisco law firm before yielding to the allures of Wine Country living in 1990. Since then she has continued to do medicolegal research and writing for attorneys, and, each fall, teaches a medicolegal elective at Sonoma State University.

Her service activities include grief counseling through Hospice and Borzoi rescue, and she additionally works part-time for the SPCA in Lake County. Her passions are learning, fine wine and food, and sacred and secular music.

Another Bad Idea

by Bud Alne
Santa Clara County Chapter

At the CGJA's annual meeting in Costa Mesa in November 2001 the Presiding Judge from San Diego, the Honorable Wayne Peterson, and several other speakers spoke enviously of grand jurors selected based, in part, on their special talents or abilities. A juror with accounting experience would be quick to understand financial statements and be able to guide the jury panel

encountered in current investigations. So it would be for remaining jurors with backgrounds in law, engineering, medicine or other disciplines selectors think will be of interest to the jury.

I see two assumptions in this theory that are not well founded. The assumption that selectors can anticipate what disciplines will be needed on the panel cannot be true. The jury and only the jury can select the subjects for its investigations and no predictions can be made about the technical fields needed.

Also, it is arrogant to declare that certain expertise is required to serve because the methods employed by juries and the conclusions drawn do not require technical expertise.

Grand Juries do not conduct conventional financial or management audits. They may have some of the characteristics but the questions they ask, and the types of conclusions they draw, involve desires and intentions of the public that are not often addressed by professional audits.

An investigation starts by asking the following questions:

1. What does this organization do?
2. Why does this organization do what it does?
3. How does this organization perform its function?

They go on to ask a fourth and perhaps most important question:

4. Have the benefits, or services, provided been ordered or are they desired by the citizens who must pay for them?

Although each juror must make a significant effort to understand the organization, it is the responsibility of management to explain its activities in terms that make sense to the average juror. No matter how complex or difficult the organization the manager has to explain purpose and plans to superiors, and others, no more technically competent than the average juror. Stephan Hawking, in "A Brief History of Time," describes the broadest aspects of cosmology in terms that most of us can understand.

If the jury discovers the manager cannot explain satisfactorily why his organization does what it does, the jury must assume the organization is not necessary or the manager is not competent. Disconnects or conflicts may be kept hidden in one answer but is almost impossible to keep them hidden in all three. The last question evaluates the necessity of the work and do the results benefit the community.

It is here where common sense takes on a greater importance than technical competence. As an example, Stirling Moss, the English racing champion, had occasion to drive his granny to the family's home in Sussex. Stirling lived up to his reputation by negotiating the highways at speeds up to 100 miles per hour. Stirling arrived with his granny in high spirits after what had been an enjoyable ride. A family member looked at his watch, and after a quick time calculation, asked why granny was in such spirits after what must have been a hair-raising ride.

Stirling explained, "Zero to one hundred miles per hour in eight seconds is awe-inspiring but zero to one hundred in thirty seconds seems almost casual. I make sure my changes in speed and direction do not attract the attention of my passenger. I'm successful if Granny arrives in high spirits." Granny's technical competence has nothing to do with her being able to draw the only conclusion that counts.

The jury, on the other hand, uses much coarser tools and is likely to discover only problems of significant size. A ten-percent inefficiency may be of interest to the professional auditor, but it

may be in the band of acceptable discretionary decisions of that public official. The jury should be concerned only with those inappropriate decisions that can no longer be considered discretionary. Added jury expertise will only promote identifying problems better left below the jury radar level.

The method of selecting jurors that has been in use for generations should not be changed. Ensuring that the jurors truly represent the community may not be the most efficient course to follow but good representation is far more important than the technical expertise specially chosen candidates may bring. Technical expertise is not necessary and the proposed changes will result in a dangerous lowering of the public's confidence in this important institution. Mussolini did make the trains run on time but Italy paid a terrible price for reliable schedules.

Along with mandating the ethnic diversity of grand juries this another bad idea whose time must never see the light of day.