

GRAND JURORS' JOURNAL

October 2002

PRESIDENT'S MESSAGE

I'm told that the Journal schedule is such that this will be the last President's Message to reach you before the Annual Meeting and Conference. As some of you know, I advised the CGJA board a few months ago that for personal reasons I was not going to seek re-election as President in 2002, as is now permitted under our new bylaws. Although I intend to remain active on the board and in other roles, by the time you receive the next Journal we will have a new President, some changes on the board and perhaps some other changes as a result of the board retreat that will precede Conference.

So let me say a heartfelt thank you for the opportunity I have had to serve the organization over the past two years and for the support and friendship you have given me. You and I, have been blessed with a marvelous group of volunteers serving as directors, committee members, trainers and in numerous ad hoc roles to advance the cause of the grand jury and the CGJA. I am proud of what we have accomplished under our standing committee system, new in 2000, which has made it easier to allocate projects, focus energies and monitor activities. To mention any of the great strides that have been made by this organization, and the contributions that have been made to it, over the past two years is to risk leaving out some that are every bit as important and impressive as those that are mentioned. In the hope that you will understand that no such omission is intended, let me just quickly summarize some high points.

We are first and foremost an educational non-profit. As such we train grand jurors to be effective in the unusual and little understood role of government oversight. This year we trained another record number of grand jurors from a record number of counties. Our training programs are very enthusiastically received. Sherry shared with you in the last issue of the Journal some of the positive evaluation comments we received this year during the course of our training cycle. Now that the cycle is over I would like to add one more that I received just this week by email: "I have seen many presentations and read much documentation on various subjects. However,I cannot ever remember being so totally impressed, educated, fascinated, or absorptive of presentations as I was at the recent CGJA Seminar in San Luis Obispo! The presenters were outstanding and the material was so relevant that I was eager to return to my GJ and get started ... however, part of me wished I could have stayed for a few more days just to ask questions and pick beautiful minds."

Over the last two years we increased the number of experienced trainers so that we may continue to expand the number of our seminar-style training programs; have implemented a specialty seminar in report writing given in the winter when most juries turn to that task; and have begun to analyze the use of electronic media and remote training vehicles to broaden our reach.

We also seek to educate government, the media and the public about the role and importance of the grand jury. Last year we made an extensive analysis of some pending grand jury reform proposals and commented, in print and in person, extensively on the weaknesses we saw in them. They were withdrawn for further consideration. Ultimately, this year, we published an article in a respected Law Review explaining our views on reform. Those views are now of record for all the world to see and consider and are, in my opinion, as good a statement as exists today about the state of the California grand jury system.

As you probably know, we have increased the frequency, and enhanced the content, of the Journal, each issue of which is mailed to 580 people, most of whom are CGJA members, although many are not but are interested in and/or involved with the grand jury system. Similarly, we have expanded and updated our web site and are considering another set of significant enhancements to it. Our Compendium of Grand jury Law has been brought current each year so that grand jurors throughout the state can

quickly inform themselves on the current state of the law governing grand juries. This year we also updated and released our Grand Jury Final Report Subject Index, bringing it current through 2001 for the 42 grand juries whose reports were available at the time of publication. Finally, as you know this year we saw the first role-out of a lesson plan to be used to educate high school students about the basic history and function of the California grand jury. Each of these activities directly advances our educational mission.

Indirectly we support that mission with many internal efforts designed to make the CGJA itself a better, more effective organization. As you know we revised our bylaws, our policies and procedures, our committee structures and our Chapter arrangements. Each of these activities was difficult, time consuming and occasionally contentious. Special thanks go to those volunteers, both on the board and not, who made the completion of those projects possible. We prepared, circulated and compiled the results of what we believe to be the most comprehensive survey of grand jury practices in this state in modern times. We are using the results to try to help grand juries help themselves by knowing what other grand juries do, and to further our public education efforts. We have also just completed a membership survey that, among other things, has identified a large number of our members who are interested in becoming more active in the organization. Efforts to increase their opportunities for participation are underway. We have increased membership and are supplementing (ever so slightly for now) the financial support we receive from our membership dues through the eScrip free donation program and the Tiny Tickets program. We now have pending our first grant application and are working on expanding that activity.

I hope you will join me in thanking all those whose energies, intelligence and commitment have made it possible for us to have achieved such positive developments. I look forward to seeing all of you at this year's Conference on November 15 and 16 in San Rafael California.

At its board meeting of July 22 the board:

- Approved the appointment of Prof. Joseph Probst (Los Angeles) as a director;
- Authorized the Executive committee to agree to amendment language to SCA 7 (Constitutional Amendment) if timing so required (it did not);
- Adopted new Chapter Bylaw requirements, adopted timetable for existing Chapters to make conforming amendments in their existing bylaws and approved bylaws of Marin, Contra Costa and Santa Clara Chapters subject to review and correction of any deficiencies;
- Ratified the Excellence in Reporting decisions and the appointment of the Angelo Rolando Award Committee;
- Acknowledged the Financial Development Committee's comments on funding sources.

Jack Zepp
September 27, 2002

OPERATIONS COMMITTEE

The Operations Committee completed its advance planning for the Association's 2003 Annual Conference with approval by the Board of Directors for CGJA's 2003 Annual Conference to be held in Ventura, California. Director Jerry Lewi has been designated as 2003 Annual Conference Chair. Two hotels are under active consideration and we expect to announce a hotel selection before the end of this year.

Lacking a chapter host, Jerry is seeking volunteers to assist him with the 2003 Conference. Since many conference activities can be done out of a member's home, living close to Ventura is not a prerequisite to work with Jerry on our 2003 conference. If you have an interest in working on conference registration processing, arranging for program speakers, designing program booklets for printing, nametags, or the conference reception/dinner, please contact Jerry at 805-492-0122 or via email at <lewijb@aol.com>. This is an excellent opportunity for members with skills or interests in meeting planning to get involved.

The program for our 2002 Annual Conference has been finalized with Jeanne Woodward, Warden of San Quentin California Prison as our dinner speaker. Registration Chairs Sue Haas and Reva Saper recently sent the entire Conference Program and a second registration form to all members. Registration forms were due by October 1 but late registrations will be accepted. The \$94 hotel conference rate may not be available for late hotel reservations.

Bob Abeling, Chair of our 2002 Conference has done an excellent job in planning this year's conference with assistance from CGJA's Marin Chapter, which is acting as this year's conference host. We are expecting an exciting conference and look forward to seeing you in San Rafael on November 15 and 16, 2002.

Members of the Operations Committee have been busy in a variety of areas since our last Journal report. CGJA's computerized database of contacts has grown to 1400 with Clif Poole's dedicated leadership. Clif continues to respond to inquires from Grand Juries and others for contact information. Ourania Riddle and Bob DeQuattro have been authorized by the Operations Committee to develop alternate printers for our Grand Jurors' Journal and the Association's increasing printing tasks. As noted by Jack Zepp in the September Journal, Les Daye teamed with Dan Taranto to produce a 2001-02 Subject Index of Grand Jury Reports. Roger Loper has prepared drafts of changes to CGJA's Policies & Procedures, which will be taken up by the Board of Directors this fall. Jerry Lewi is currently evaluating ways to improve our website and expects to report his findings to Operations on October 9.

We have received 63 responses to our 2002 Membership Survey. At its September 23 meeting, the Board of Directors approved a recommendation by the Operations Committee for a Member Resources Plan. The Operations Committee will develop a Member Resources Form to be distributed by the Chair of Membership and Chapter Relations each June with the Association's invitation for membership renewal. All new members will be sent a copy of the form. Input and active participation by our membership will assist us in expanding current and establishing new CGJA programs. Members, who have not responded, are urged to complete the survey form and return it to the Operations Chair at their earliest convenience.

Names of members responding to the survey and expressing an interest in one or more CGJA activities will be referred to Standing Committee Chairs during October. CGJA's Board of Directors will be provided with a full report of survey responses at its 2002 Board Retreat, which is scheduled for the day and a half immediately prior to the start of our Annual Conference. With a large response from members expressing an interest to actively work on Association activities, I expect this year's Board Retreat to review committee structuring for expanded programs.

If you are interested in serving in a CGJA activity and plan to attend our Annual Conference, please feel free to discuss your interests with CGJA Directors, Standing Committee Chairs, or Officers. Our conference provides an excellent opportunity for all of us to exchange views and interests in a direct and personal manner.

Elwood Moger, Chair

GOVERNMENT RELATIONS COMMITTEE

The CGJA Government Relations Committee met on Tuesday, September 3rd. With passage of the State budget bill completed, other legislation being monitored has moved to the final determination point, the Governor's desk.

SB1316 (Escutia) was enrolled on 9/3/02, approved by the Governor on Sept. 21st and chaptered by the Secretary of State on 9/22/02 (Chapter 784, Statutes of 2002).

AB363 (Steinberg) was enrolled on September 10th and sent to the Governor. At this writing, the Governor must veto the legislation or let it become law. The Attorney General has continued to oppose the amended and diminished bill.

SCA7 (Burton) did not get language necessary for the bill to reach the November, 2002 ballot as a Constitutional Amendment. By agreement, the next session of the Legislature will revisit this Open Government bill and aim for language which can appear on the ballot in 2004.

We once again call your attention to the Association web site at, <www.cgja.org> for CGJA Advocacy Positions. Your direct input as members to the Board of Directors, especially if you can attend the 21st Annual Conference on Nov. 15-16 in San Rafael (Marin County), will assure our strongest voice is heard on reform proposals, recruitment and selection and other issues of importance to the future success of civil grand juries in California.

Les Daye, Chair

TRAINING COMMITTEE

The 2002 training seminars for new grand jurors have set a new attendance record. We had a total of 436 jurors from 39 different counties: Sacramento had 210 jurors from 24 counties, Concord 146 jurors from 20 counties and San Luis Obispo, 80 jurors from 12 counties. (*Note: The jurors in 15 counties split their attendance between 2 or 3 of the seminars and therefore will be counted as a participating county for more than one seminar*) Our new record of 436 jurors is an 18% increase from the 2001 attendance of 369 jurors and an overall increase of 39% from the 314 attendance at our 2000 seminars. CGJA was extremely pleased to welcome jurors from five counties who attended one of our seminars for the first time and we hope those who attended from El Dorado, Mono, Riverside, Sierra and Stanislaus counties found the seminars informative and helpful.

The success for the seminars is due to the combined efforts of many people in three basic groups.

- 1) The members of the CGJA Training Committee devote many hours all year long planning the seminars, reviewing the seminar training manual and approving the curriculum guide outlines.
- 2) The group of trainers put forth a lot of effort presenting the material at the seminars with energy and enthusiasm. They also submit curriculum outline revisions and other suggestions to the Training Committee.
- 3) Volunteers from CGJA Chapters, local grand jurors' organizations, individual CGJA members and former jurors all help to provide support by assembling the manuals, organizing the registration and performing a variety of duties at the seminars.

Thank you to each and every person who helped with the 2002 seminars. You exemplify what I consider the best thing about CGJA – former grand jurors volunteering their time to help new grand jurors solely because you are dedicated to the importance of grand juries and their role in improving local government. In the last issue of the Grand Jurors' Journal I reported on the results for the first seminar but we had not concluded all of the seminars so I promised to give a report on all three in this issue. I am very proud of the scores and give credit to all of you who helped to earn them. Following are the average scores calculated from the evaluation forms completed by the jurors where they rate each presentation on a numerical scale of 1 (poor) to 5 (excellent).

Sacramento Seminar, July 29-30: 69% of the evaluation forms were returned.

There were eleven different presentations, workshops and/or panel discussions. The average scores for these ranged from 3.8 to 4.3 (4.0 = *Very Good*). The average rating for the CGJA staff and volunteers was 4.7 and the average "Overall rating for the seminar" was 4.4.

Concord Seminar, Aug. 14-15: 64% of the evaluation forms were returned. The average scores for the 11 presentations, workshops and/or panel discussions ranged from 3.6 to 4.3. For CGJA staff and volunteers the average was 4.6 and the "Overall rating for the seminar" averaged 4.4

San Luis Obispo Seminar, Aug. 26-27: The return rate for evaluation forms was 74%. The average scores for the 10 presentations, workshops and/or panel discussions ranged from 3.4 to 4.3. The CGJA staff and volunteers scored an average of 4.5 and the "Overall rating for the seminar" averaged 4.2. Another highlight was the very nice wine and cheese reception hosted by the 2001-02 San Luis Obispo grand jurors.

In addition to the numerical ratings the jurors also write in suggestions which we do review as a committee in our effort to continually improve the seminars and they also write in additional comments. I shared several from the Sacramento seminar in the last article so here are some from the Concord and San Luis Obispo seminars:

"Thank you so much for this very informative seminar. The wisdom, knowledge and experience of all the instructors was of great value to me."

"I wish I could have attended this seminar prior to starting my service. It was far superior to the training session we were given which was good but not as informative as this one. Thanks for a great job."

"Extremely well organized. I wish local government worked so well."

Sherry Chesny, Chairman

MEMBERSHIP & CHAPTER RELATIONS COMMITTEE

Here I go again, preaching to the choir.

The Grand Jury system of California is under review and if we are not careful and pro-active it can be damaged to a point of being useless.

What one County's Grand Jury has been told by their legal advisor is that they can't investigate a specific issue. Another County's Grand Jury has been investigating the same issue in their county for years with the blessings of their legal advisor.

Ralph Morrell of Dixon (e-mail Radsig@AOL.com) is currently attempting to create a state Grand Jury system in California (CGJA has not taken a position yet).

How many of you were aware of these things prior to CGJA bringing them up through meetings, news letters and every other possible means of communication?

If you, as an individual, or as a local group are trying to influence the outcome of any of these items, how much effect do you think you will have? Wouldn't you have more influence if you were part of a larger number of people? Wouldn't you have even more influence if your group were statewide?

There is no purpose in trying to reinvent the wheel. The CGJA is a statewide organization with a growing membership and one goal – the betterment of the California Grand Jury system.

You, as a past Grand Juror in your County, have given of your time and talents to make your county run more effectively and you must have many of the same beliefs the CGJA does. The CGJA needs your support and involvement in order to make sure the Grand Jury system in California continues to be effective and continues to grow. If your time schedule doesn't permit involvement at this time, won't you at least support us by joining the CGJA.

The CGJA is a 501(c)(3) non-profit organization with no paid officers or directors. We are all strictly volunteers, so all monies received are directed directly to the betterment of the California Grand Jury system.

Please take the time to fill out the application in this Journal and send your check to join in the efforts to protect one of the few watchdogs of government we still have.

Clif Poole
Chairman, Membership & Chapter Relations Committee
(JCSwimm@AOL.com)

GRAND JURIES IN THE NEWS: REPORT CITES COUNSEL CONFLICT HERCED CIVIL GRAND JURY RECOMMENDS THE USE OF INDEPENDENT ATTORNEYS

by Mike Conway, Modesto Bee

It is awkward to investigate an agency when it is represented by your attorney, the 2001-02 Merced County civil **grand jury** has concluded.

Jurors recommend using outside, independent lawyers rather than the county counsel's office.

"We felt very often it was a direct conflict of interest," jury 2001-2002 Forewoman Kay Chapman said. "The office of the county counsel are the legal counsel for county departments and elected officials," Chapman said.

But those are also the people and agencies that the **grand jury** investigates. The outgoing **grand jury** looked into the county jail, district attorney's office, road division and the department that hires county employees. It also investigated complaints against a high-ranking Sheriff's Department employee and a county supervisor.

Chapman said the county counsel's office "is very up-front that their primary client is the county. They told us how they could help both of us to the best of their ability.

"We talked to several people in the court system who felt it was a direct conflict of interest," she said.

County Counsel Dennis Nyers said there should not be a problem because the **grand jury** has several sources for advice: the county counsel's office, the district attorney, the state attorney general or a Superior Court judge.

"They can contract with a private lawyer, but to do so they have to give notice to all parties involved and show why each one of them has a conflict," Myers said.

Chapman said the jurors did seek help from all of those sources.

"You cannot just pick up the phone and call the (state) attorney general's office. If it's a very general thing, the presiding judge can give you advice, but often they don't want to know the specifics because it might be something they are dealing with later."

District Attorney Gordon Spencer said the grand jury contacted his office on several matters.

Spencer said this year's grand jury was not the first "to express the view that, if we look at a county agency, how can we expect county counsel to both assist the agency and assist us."

Spencer added: "I don't think the judge is supposed to provide legal counsel; he's supposed to oversee the operation and not issue any legal opinions.

Chapman said she would like future **grand juries** to have a small budget to use for outside legal advice when needed.

"I would think locally there would be some resources, perhaps a retired attorney or a retired judge, or someone who has dealt with the **grand jury** in the past who could help," she said. "It would be nice to have someone else available."

SOLANO CHAPTER ON THE MOVE

The Solano Chapter of the California Grand Jurors' Association is meeting each month with a breakfast get-together (4th Wednesday, 10:00 a.m.) at Marie Calenders in Fairfield....all current and past grand jurors are invited to join us. We are currently planning our calendar for the year and are working on putting together a Christmas social to kick off our membership drive. We all were pleased to hear the good report of the Concord training --(as volunteers we received 4.6 out of a possible 5 rating for our organization of the seminar.) Congratulations and thank you to all the volunteers who helped make the event run smoothly and successfully. We are also planning to sponsor another picnic for all CGJA members, chapters and their families to come and enjoy. We hope you will meet with us for breakfast and share your ideas and input to help make our Chapter grow. If you are a Solano juror--past or present- and want more information about the function and fellowship of our group, please call me at (707) 678-4059.

Wanda Kiger Tucker, President

FROM THE MAILBOX

Destroying of records

Dear Editor

I was wondering about evidence that a grand jury collects during investigations and the destroying of those records. Do you know, or can you direct me on where to find the information regarding this statute?

A juror

Dear Juror

Unlike the old days, when grand juries were required to destroy all materials at the end of their term, they can now pass along to subsequent grand juries such information as they chose. Penal Code (PC) 924.4. The only required record retention of which I am aware is the five year requirement of PC 933, which relates only to Reports and Responses. A very cautious approach, which does not seem to be required by the Codes, is to keep evidence underlying a Report for the five year period required by PC 933 for keeping the Report itself. See PC 916 which arguably could mean that for so long as the Report must be kept, the evidence to support it must be kept as well, but it clearly does not say that.

Jack Zepp