



Grand Jurors' Journal



All the CGJA news
that fits in print.

Volume 2, No. 10

An Association of Grand Jurors

June, 2002

Mendocino County Alliance seeks to quash grand jury's subpoena

By Ourania Riddle

In its efforts to investigate the Mendocino County Alliance (MCA), the Mendocino County grand jury has been accused by Alliance members of engaging in a "fishing expedition."

The grand jury has served the Alliance with a subpoena seeking a broad array of financial documents.

Because the Alliance has not turned them over, Assistant District Attorney Myron Sawicki, acting on behalf of the grand jury, has ordered it to show cause, or face the possibility that it could be found in contempt.

The Alliance has long asserted that the grand jury lacks the legal authority to investigate it, and is seeking to quash the subpoena on that basis.

In documents filed by its lawyer, David J. Rapport, the Alliance is defined as "an association of associations," made up of six local Chambers of Commerce, the Mendocino Winegrowers Alliance, the Mendocino County Lodging Association and the Mendocino Farm Bureau, "organized as a California mutual benefit corporation." Its activities, Rapport continues, "are designed to benefit the residents of Mendocino County by increasing jobs, income and the county tax base." Elsewhere he cites Penal Code 933.6, which states, in part, "A grand jury may at any time examine the books and records of any non-profit corporation established by or operated on behalf of a public entity ... " "While MCA is a nonprofit corporation," Rapport argues, "it was not established by the County and is not operated on behalf of the County."

While its relation to the county may be in question, no one disputes the fact that the Alliance receives county funds. According to Sawicki's filing, MCA received "approximately \$505,000 from the Board of Supervisors" in the fiscal year ending June 30, 2002.

In defending the grand jury's subpoena, the assistant district attorney concludes, "The reason for requiring a detailed tabulation is that public funding of an enterprise for the public's benefit is the public's business. They have the right to know and to make comment on each line item."

Both sides are to present their arguments in court in an effort to determine whether the Alliance is in contempt. The judge may or may not also hear the motion by the Alliance to quash the grand jury's subpoena.



President's Message



There has been no activity on the grand jury "reform" front since the last issue of the Journal. Whether or not any revised reform proposals will be forthcoming remains to be seen. I have just finished a final edit on the CGJA's Comments on the old McGeorge proposals in preparation for their publication in the Loyola Law Review and I must say I think we made an awfully compelling case that any reform activity must proceed slowly and carefully. Rereading all of the potential problems that the McGeorge proposal could have created reminds me again of the need for all interested parties to participate actively should the debate be renewed.

As those of you who were at our 2001 Annual Conference in Orange County may recall the California First Amendment Coalition (CFAC) has been conducting "compliance audits" of local government agencies to determine whether they comply with the California Public Records Act. CFAC, which works with the news media in promoting the people's right to know, found that 77% of legitimate requests for public records were initially denied by local agencies. Even when pressed agencies denied 53% of the requests.

This has two obvious implications for our members. Those who are grand jurors can expect frequently to have to threaten to use, or use, the subpoena power to access materials that anyone is entitled to access as a matter of right. Those who are not jurors, but are concerned citizens interested in the conduct of local government, can expect to be denied access to information necessary to be an informed citizen. It is worth noting that often the refusals result from ignorance, not malice, but a refusal is a refusal. CFAC conducts its audits using, among others, college students, to make the requests and keep records of the responses.

CFAC provides a list of documents to ask for and the agencies to ask, a form request letter, and a Report Form to record responses. Those of you currently on a jury might want to consider having your jury do a compliance audit of some of your local agencies. Those no longer serving might want to conduct your own audit or start a compliance project in your Chapter or independent association. Based on the CFAC results I suspect you will be surprised. If you would like the CFAC audit materials you can obtain them from Kent Pollack, Executive Director of CFAC, 2701 Cottage Way, Ste 12, Sac., CA 95825-1226 or me.

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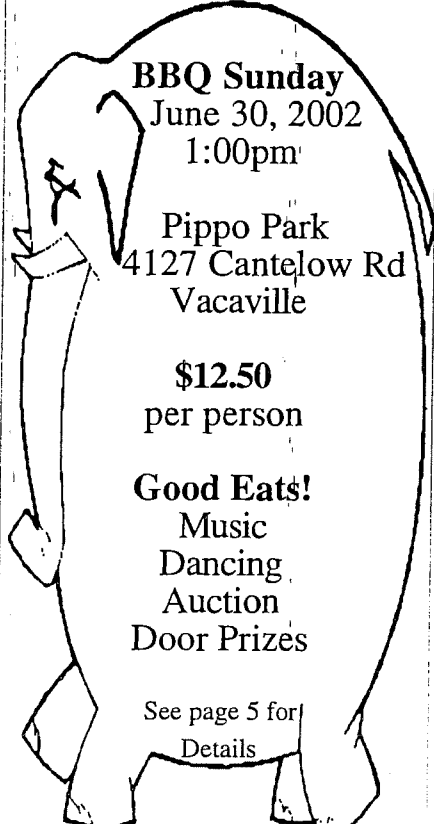
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BBQ Sunday
June 30, 2002
1:00pm

Pippo Park
4127 Cantelow Rd
Vacaville

\$12.50
per person

Good Eats!
Music
Dancing
Auction
Door Prizes

See page 5 for
Details

21st Annual Membership
Conference
November 15 - 16, 2002
San Rafael - Marin County

Visit our Website
www.cgja.org



President's Message

(Continued from page 1)

The CGJA Journal is provided, free, to all sitting forepersons so that it can be shared with the sitting jurors. Occasionally we hear that jurors are unaware of the Journal. May I request of all forepersons that you make the Journal available to all members of your jury, whether by distributing copies or just making the original available in the jury room and calling it to the attention of the other members. Thank you in advance for your cooperation.

CGJA's fiscal year ends June 30. I encourage you to make a generous, tax deductible, donation to your organization before then. As I'm sure you know, we are member supported and rely on donations to function.

Following are excerpts from your board's minutes for;
March 25, 2002 Regular Meeting.

Changed the date of the April board meeting from April 22 to April 29.

Adopted new Policies and Procedures.

Authorized the Membership and Chapters Committee to begin a dialogue with the Chapters and proposed Chapters regarding membership of Chapter members in the CGJA directly.

Approved CGJA membership in eScrip program.

Approved purchase of general liability and property damage insurance.

Quarterly financials, subject to audit, are as follows as at March 31, 2002:

Assets, Liabilities and Capital - \$25,276.62
Income - \$51,418.61
Expenses - \$49,300.27

The above minutes refer to the adoption of new Policies and Procedures. Although the Policies and Procedures are an on-going project, subject to amendment and revision from time to time, the

adoption in March of the new set marks the culmination of a mighty effort by a subcommittee headed by Roger Loper, to whom we owe a debt of gratitude.

I hope to see all of you at the Bar-B-que hosted by the Solano County Chapter on June 30th in Vacaville.

Jack Zepp
May 10, 2002



**Committee Reports
Government Relations**



The CGJA Government Relations Committee met on April 1st and May 6th. By agreement, and at the request of the Training Committee, Dick

Nichols and Dotty Coplen were selected for the Grand Jury report responses subcommittee. Section 933.05 of the Penal Code is an important component to assure meaningful responses to Grand Jury recommendations contained in Final Reports.

We continue to monitor active bills in the current session of the California Legislature. **AB363 (Steinberg)** continues under judicial review, as amended, for possible Judiciary Committee activity. **SB1316 (Escutia)** and **SCA7 (Burton)** have hearings scheduled during mid-to-late May in the Appropriations and Governmental Organization Committees.

Please check our web site at < www.cgja.org > for updates. Finally, the Government Relations Committee is in the process of readying for Board of Directors consideration, a publication which chronicles important "good works" that have actually been implemented throughout California based on the Final Reports of California Regular Grand Juries.

Les Daye, Chair

Operations



At our May 13th Operations meeting, Bob Abeling, 2002 Annual Conference Chair, reported that a number of speakers have been firm-ed up for our November 15-16 Association Conference in San Rafael.

Bob's team has currently lined up Cynthia Murray, President of the Marin Board of Supervisors; Bill Larson, Santa Clara District Attorney's Office; Joe Nation, California Assembly Member; Dick Spotswood, San Francisco Media; and John Montgomery, Court Executive Officer of the Marin Superior Court as guest speakers. Arrangements for additional speakers are pending.

During the conference, the Marin Chapter will be hosting a tour of the Marin Civic Center designed by Frank Lloyd Wright. Please mark your calendars now for an exciting 2002 Annual Conference on Friday, November 15 and Saturday, November 16, 2002. Registration forms are scheduled to be mailed to all members in June or July.

The Operations Committee has started its advance planning for the Associations' 2003 Annual Conference. CGJA Directors have been invited to submit suggestions for conference locations and Chapters have been invited to express their interests in hosting a 2003 conference. Four members of the Operations Committee are currently working on hotel availability at a variety of locations throughout California. Members, with suggestions for a 2003 Conference, should forward them to the Operations Chair for evaluation by the Operations Committee.

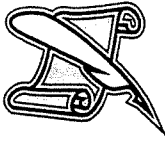
Early response to our 2002 Membership Survey has been very encouraging with over fifty responses. Input from our membership is important. This is CGJA's first attempt to compile membership resources and views of the

(Continued on page 4)

Committee Reports

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Training Committee



The Training Committee recently acquired a new member, Bob Geiss. Bob is a former

Orange Co. juror, is actively involved with the Orange County Past Grand Jurors' Association and is a new director on the CGJA Board.

The 2002 training seminars for new grand jurors will be held in:

- Sacramento, July 29-30, at the DoubleTree Hotel
- Concord, Aug. 14-15, at the Concord Hilton
- San Luis Obispo, Aug. 26-27, at the Sands Suites

Informational packets and registration forms will be mailed to all counties in June. CGJA Chapters and other past grand juror associations in the areas of the seminar sites provide volunteer help for each of the seminars. This year the Placer Co. Chapter will help staff the Sacramento seminar.

The Solano Co. Chapter will provide volunteers for the Concord seminar. Contra Costa Co. is currently in the process of forming a Chapter and may be able to send a few volunteers to help at Concord.

Three groups are joining together in San Luis Obispo to provide volunteers: the Past Grand Jurors' Association of San Luis Obispo Co., members of the current San Luis Obispo Grand Jury and the Monterey Chapter of CGJA who will also try to send a few volunteers. Don Blythe, Foreman of the current San Luis Obispo Grand Jury, said the jurors are also planning to have a wine and cheese reception at the Sands Suites for all the new jurors attending the seminar.

The CGJA certainly appreciates all the efforts of these Chapters and

Associations to assist us with the seminars. They exemplify one of the basic principles of the California Grand Jurors' Association, that of former grand jurors helping the new grand jurors

Sherry Chesney, Chair

Who Asked the Question?

By Mickey Strang

Midterm elections loom and contentious issues are being debated in House and Senate. Result: pollsters are swarming like a hive of bees.

As the talking heads appear on Sunday morning shows, each side proclaims that polls show the American people agree with his or her position.

Overwhelmingly, yet.

I take the most of these claims with a double handful of salt. Before becoming a believer, I want to know several facts

First of all, who sponsored the poll? If a soap company sponsors an opinion poll regarding which soap consumers think is best and asks only its own customers, we're not amazed that it rates highest in popularity. Unfortunately, some pollsters ask only members of the group they represent. (What's interesting to me is that even there they sometimes do get disagreement.)

Also, is how many people were asked? Ask four people total, and, if they agree, you can say you got 100% agreement.

Second, who wrote the questions? Who decided how these should be phrased? Was there any quality control to indicate that the phrasing didn't encourage one answer rather than another? I've had to write surveys during my working life - and I generally knew precisely how they'd come out because of the questions asked and how I put them. Intellectually honest? No. But practical if you want to prove some point or another.

Third, how long was the survey? People generally don't answer a

long questionnaire as honestly as a short one. Or a long survey as carefully as a short one.

Fourth, how quickly after a speech or an event was the survey taken? If you ask someone about a speech who's just listened to a golden-tongued orator, you'll get a much more positive response than if you give the individual a day or two to think about what was said and, maybe, to hear the other side.

Or to forget where the applause occurred (especially if the applause may have been rigged.)

What application does this have to the grand jury? Unfortunately, in some cases, a lot. Grand juries, like the rest of America, often uncritically use survey results to prove their point. Grand juries are given survey results by those they may be investigating - or they may themselves decide to poll the opinion of some group. They're just as apt to fall into the above traps as the general public.

Yet, surveys and opinion polls can be useful and helpful. Take, for instance, the long-running Gallup Poll that tries to select on a random basis by age and economic status a cross-section of the public to query.

These polls also list the likelihood, within a certain percentage point range, how accurate their results are apt to be. To get that degree of accuracy, however, takes a lot of thoughtfulness and care and expertise - so before you believe what a pollster or what a survey tells you, look for how it was done, by whom, and with what axe to grind.

In other words ...

Our Webster's University Dictionary, Foreign Words and Phrases Chapter, produced the following:

cheval de bataille [Fr.] War-horse: standard argument; favorite topic.

eppur si muove [Ital.] And yet it does move - *Attributed to Galileo after being forced to recant his theory that the earth moves around the sun.*

fiat justitia, ruat caeleum [Lat.] Let justice be done even if the heavens fall.

gnothi seauton [Grk.] Know thyself.

hoc opus, hic labor est [Lat.] This is the work, this the labor: the real difficulty.

in vino veritas [Lat.] In wine there is truth; a drunken person always speaks truth.

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Tulare County Chapter
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Chapter News

Monterey County Chapter

The third quarterly meeting of fiscal year 2001/2002, of the Monterey County Chapter of CGJA met at the Crossroads Community Room in Carmel, California at 7:00PM March 28th. Roger Loper, President of the Chapter introduced the speaker for the evening, James J. Colangelo, Assistant County Administrative Officer for the

County of Monterey.

Mr. Colangelo has over 20 years experience in local government, having worked in Los Angeles, Orange and Monterey Counties. His responsibilities with Monterey County include oversight of the Environmental Resource Policy Division, Capitol Projects Division and Office of Emergency Services. He also oversees the County's General Plan Update, Fort Ord Reuse efforts, as well as its Redevelopment, Economic Development and Housing Programs. He worked as Executive Officer of the Los Angeles Local Agency Formation Commission (LAFCO) for approximately 7 years. Also, he has overseen the production of numerous reports and studies on local government efficiency, including processing 9 city incorporation proposals.

Mr. Colangelo presented an in-depth hour program regarding Monterey County's General Plan including time lines and dialogue, both in favor and against the General Plan. His presentation was quite informative and he answered many questions posed by the audience.

President Loper offered appreciation to Mr. Colangelo for the time he took away from his family to present this informative program to our members.

The next Membership Meeting will be held at the Salinas Elks Lodge on June 23rd from 3:00 PM to 6:00PM

Placer County Chapter

The Placer County chapter has been quite busy the last two months. Our speakers' bureau has spoken at two events and had a third scheduled for the end of May. In addition we have written a guest editorial for one of the local newspapers, and press releases to all others in the County. An extensive recruiting campaign was planned with two information sessions. So far the Chapter has handed out approximately 50 applications.

Two members attended the "regional" chapter meeting in Vacaville to discuss the proposed

by-laws for chapters and the possible requirement of all chapter members being members of the state association. Additionally, members received information and tickets for the CGJA picnic planned by the Solano County Chapter for Sunday, June 30th.

Talley Wade

Solano County Chapter

All Former and Sitting Grand Jurors, their families and friends are invited to our first annual Bar-Be - Cue.

Did you get your tickets yet? June 30th is fast approaching!

The Solano County Chapter is sponsoring the Bar-Be-Cue.

It will be held at Pippo Park, 4127 Cantelow Road, Vacaville, on Sunday June 30, 2002 at 1:00 PM.

(The Park is located approximately four (4) miles from the famous landmark in Vacaville, the "Nut Tree" on Interstate I-80.

Sixty(60) miles East of San Francisco, Thirty (30) miles West of Sacramento)

Dinner (steak or chicken) will be served at 3:00PM, with an auction at 4:00PM. There will be door prizes, music, dancing and, of course, pleasant company.

The cost is \$12.50 per person.

The challenge:

- Do you want to have fun?
- Which County will have the most attending?
- Which County will travel the furthest?

Tickets are available from Ourania Riddle (707) 678-9460, e-mail < ourania855@hotmail.com>

Send your check to Ourania at 855 June Court, Dixon, CA 95620

She will mail your tickets or save them to be picked up at the door. **Reservations need to be confirmed by June 23, 2002. So, hurry get your tickets NOW!**





Grand juries in the news

Santa Clara County
Grand Jury

City Council member found guilty of violating MountainView charter

Mario Ambra's conviction on a misconduct charge after a three-week trial will cost him his seat on the Mountain View City Council. The Santa Clara County Grand jury accused Mario Ambra for willful and corrupt misconduct in office. However, the jury did not find Ambra guilty of the more serious charge of corruption but of violating the city charter. The jury concluded Ambra's behavior was not corrupt, but that he did exhibit willful misconduct by bullying city employees over land use issues.

Ambra had no comment on his future and did not say whether he would appeal the verdict or resign before being forced off the council. Ambra never faced jail time in the case based on a rarely used state law that governs the conduct of local elected officials.

"We are gratified that the jury did not find him guilty in terms of any corruption," said Ambra's lawyer, Ken Robinson. "It makes a difference in how the citizens of Mountain View view him and how he views himself. He never believed this was a corruption case, and he was vindicated on that."

Ambra had originally faced four corruption charges, but three were dropped before testimony began in the three-week-long trial.

"In the real world it means absolutely nothing" that the jury didn't find any corruption, said prosecutor Bill Larsen. "The public official has been found guilty of misconduct." Larsen said the result showed the public won't tolerate self-serving back room politics in Santa Clara County.

Ambra had pleaded not guilty to an accusation that he violated the city charter by breaking the chain of command spelled out in the city charter and ordering city employees to do favors for him. Witnesses for the prosecution have

testified that Ambra repeatedly berated city employees and tried to use his influence to push his neighbors into selling their land to him.

Larsen said the jury had reached a "reasonable" result in finding that Ambra "knowingly and willfully" violated the city's charter. Even though he continues to believe Ambra's actions were corrupt, he speculated jurors must have been unable to unanimously agree "beyond a shadow of a doubt."

Santa Clara County grand jury points finger at Orchard School District

By Kate Folmar - San Jose Mercury
News

In blunt language, Santa Clara County's civil grand jury on Friday blasted the Orchard school board for allegedly neglecting a festering budget crisis, flouting the state's public meetings laws and abdicating much of its responsibility to a former superintendent.

The grand jury's seven-month investigation of the troubled North San Jose school district also detailed point-by-point how Orchard's finances crumbled, how parents were disenfranchised and how poor record-keeping made it impossible to tell even when or how former Superintendent Terry Jones' contract was extended last year.

In addition, the report found that trustees did not keep track of "prodigious" credit card purchases, heeded a January 2001 audit that warned of financial problems or ensure that board agendas were posted on time and accurate minutes of meetings were kept.

At Orchard School District, "a careless board and an autocratic administration created an environment ripe for disaster," reported the 19-member grand jury, which is charged with overseeing how local government functions.

The grand jury may suggest that a governmental agency make specific changes, but it cannot demand them. However, the Santa Clara County District Attorney's Office also has been investigating Orchard.

And a detailed state audit is due later this spring.

The report followed a year of parent complaints and Mercury News revelations about unchecked spending in the district. Under Superintendent Jones, who resigned in late December, Orchard purchased a \$79,856 BMW for the superintendent's use (which it later sold), racked up a crippling deficit and failed to follow state policy on competitive bidding when it bought a \$400,000 phone system.

Late last year, the Santa Clara County Office of Education declared Orchard in a state of "fiscal crisis" and ordered intervention by state auditors. The school board is cutting next year's expenses by increasing class sizes and letting go more than a dozen teachers.

Auditors and district officials are crafting a three-year recovery plan to help the district avert a state takeover.

According to the grand jury, Jones -- who has shouldered much of the blame for the district's mess -- did not create the problems alone but was aided by a board that appeared not to understand its responsibilities and "exhibited gross negligence" in financial oversight.

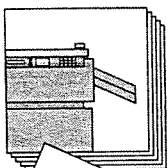
"The superintendent admittedly contributed to a chaotic situation at the district; however, it was the board's irresponsible performance that allowed the situation . . . to reach a catastrophic level," the grand jury said.

The grand jury recommended that Orchard: develop a better plan to train trustees, particularly on financial matters; review the legal requirements for school board members and consult with lawyers to make sure they comply; regularly distribute information to parents about the state's open meetings laws; and make a clear plan of objectives and priorities for its next superintendent.

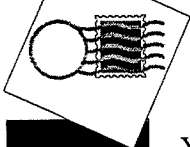
**21st Annual CGJA
Membership Conference**
November 15-16, 2002
San Rafael - Marin County

www.cgja.org

From the mailbox



A very appreciative member



Dear Editor:



Your April 2002 issue of the Grand Jurors' Journal listed a Celebration Fund contribution

from Roger Loper for the time donated by Michael Miller.

As all of you fellow CGJAs realize, there are numerous members that deserve this recognition much more than I. Yet any contribution to the CGJA for whatever reason is greatly appreciated. A grateful thanks to you, Roger.

If my meager contribution of time can be rewarded so generously, I know you newer members will be able to accomplish much more and be duly decorated. You will find that the talents you volunteer to CGJA will be paid back in satisfaction one hundred fold. Not a bad return in today's market.

Roger, thank you again from a very appreciative Mike Miller, and the CGJA.

Mike Miller

Editor's note: Mike Miller served as CGJA Membership Chair for many years

Under what authority can the judge "reseat" grand jurors?

Dear Editor:

First, thank you for the monumental time you spend on the compilation of the Journal. The news articles are definitely teaching tools. I have learned so much.

Some facts that come out in the "Journal" have been a great support to me this year and have helped me a lot.

I especially like to thank Dan Taranto for his article "The role of the Foreperson" in the last issue of the Journal. It was very enlightening. I will suggest that during the Training Seminars CGJA address this issue and make sure that forepersons understand their authority.

As Mr. Taranto said "uninformed grand jurors do not realize that the forepersons do not have any unilateral power or authority over them." So, overzealous, big-headed forepersons can cause "serious internal problems." It will be wise to re-print this article again after the new grand juries are impaneled.

I think we are given two years on the Jury so that we can learn the first year so we can be more effective the second year. I have watched and learned from others' work on committees. I feel qualified now to be a productive member next year. I have read the Grand Jury manual for the Penal Code that explains what criteria the judge may use to refuse to reseat jurors for the second year. I cannot pin it down. Can you be of assistance? Thanks,

A grand juror

Dear grand juror:



By law, grand jurors are empanelled to serve a one year term. There is no provision for two-year terms as such, nor for determining whether to "reseat" a grand juror.

In some, but not all, counties there is an informal practice of permitting, even encouraging, grand jurors to "hold over" after the conclusion of their one year term. In other counties "hold overs" are prohibited. Penal Code Section 901(b) provides that if the court so decides the presiding judge "may" name up to 10 regular jurors not previously so named, who served on the previous grand jury and who so consent, to serve for a second year.

Obviously such persons will have already met the requirements to be

grand jurors.

The "not previously so named" language limits holdovers to two consecutive terms, but there is no assurance that any juror will receive a second term. Whether the court wants to appoint any particular grand juror to "hold over" is in the discretion of the court. It is not a question of refusing to reseat but rather a question of electing to reappoint. Reasons to reappoint range from a belief that the juror has performed exceptional service to the need to do so in order to meet the 19 (or 11 or 23) appointment requirement.



Jack Zepp

Welcome to the California superior courts:

California has two types of courts: trial courts, also called superior courts, and appellate courts, which include the California Supreme Court and the six districts of the Courts of Appeal. Each county has one superior court to hear civil and criminal cases. The courts vary in size from 1 to 27 branches.

Your Rights in Court You have rights that are guaranteed by the Constitution and statutes of the United States and California. These rights include:

- to sue for money owed;
- to defend yourself against a lawsuit to be presumed innocent if charged with a crime
- to defend yourself against all criminal charges
- to a public and speedy trial by jury if you are charged with a felony or misdemeanor; and
- the right to an attorney at public expense if you are charged with a felony or misdemeanor and cannot afford an attorney.

Excerpted from a brochure published by the Judicial Council of California, Administrative Office of the Courts; "A Visitors' Guide to the California Superior Courts" Want to know more? Visit their web site, www.courtinfo.ca.gov including *Guides to California Courts*, a self-help center, a jury Web page, and much more.

Grand Jurors' Journal

An Association of Grand Jurors

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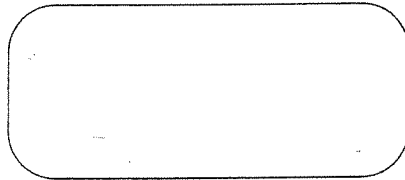
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