



Grand Jurors' Journal



All the CGJA news
that fits in print.

Volume 2 No. 8

An Association of Grand Jurors

March, 2002

(GJ Journal Note: Dr. Jameson is a current member of the CGJA and a former Director and Secretary of the Association. We have excerpted a second portion of her paper because of its length, and we will attempt to print portions in the Grand Jurors' Journal periodically as space allows.

Part 1 was printed in the October, 2001 issue.)

The Grand Jury - Part 2 A Brief Historical Overview

By Marianne Jameson, Ph.D. Political Science
Contra Costa County Grand Jury Member: 1989-90
Foreperson: 1990-91, Member, 1996-97

CALIFORNIA GRAND JURIES

In California today, the grand jury is required by provisions of the Penal Code to

- (1) to make an annual examination of the operations, accounts and records of the officers, departments or functions of the county, including any special district for which officers of the county are serving as ex-officio officers of the district;
- (2) inquire into the condition and management of prisons within the county.

The grand jury may investigate or inquire into county matters of civil concern, such as the needs of county officers, including the abolition or creation of offices and the equipment for, or the method or system of performing the duties of the several offices.

Other powers permitted to the grand jury include

- (1) free access, at reasonable times, to public prisons;
- (2) the right to examine all public records within the county;
- (3) the right to examine books and records of (a) any incorporated city or joint powers agency located in the county; (b) certain redevelopment agencies and housing authorities; (c) special-purpose assessing or taxing districts wholly or partly within the county; & (d) non-profit corporations established by or operated on behalf of a public entity;
- (4) the authority to investigate and report on operations and methods of performing duties any such city or joint powers agency and to make recommendations as deemed proper;
- (5) the ability, with permission of the Superior Court, to hire such experts as auditors and accountants;
- (6) the right to inquire into the sale, transfer and ownership of lands which might or should escheat to the state.

The grand jury is also likely to receive a number of citizen complaints, many of which involve operations of county, city or special districts. (Cont. on Page 9)

President's Message



At the time this is written we understand that professors Kelso and Vitiello are revising their grand jury reform proposals in light of the comments they have received. Although we cannot know at this time,

I expect that their revised proposals will be less sweeping than the original ones.

By letter dated January 3, 2002 William Vickrey, Administrative Director of the Courts of the Judicial Council's Administrative Office of the Courts, indicated that any "revised draft will be widely circulated for comment" and that the "comment period should occur in Spring 2002."

Today Senator Ackerman announced a meeting of interested persons to be hosted by his office on February 25th in Sacramento. We do not know if revised proposals will be available for discussion by that time. We do know, however, that Senator Ackerman seems committed to avoid hasty action. We have been promised by his office that "no grand jury reform legislation will be introduced by Senator Ackerman this year."

Judge Kopp has a continuing interest in certain areas of grand jury reform and is, along with CGJA and others, coordinating with Senator Ackerman's office.

CGJA is continuing to educate the likely principal "players" regarding grand jury reform and we believe we have effectively conveyed the message that we believe that there should be no sweeping reform introduced as legislation unless and until there is an informed, broad and deep consensus formed among those affected.

We appreciate the assistance to date of all — members, Chapters, Independent Associations, jurors and individuals who have echoed this message. I wish to express special thanks to the Grand Jurors Association of Orange County which, being composed of constituents of Senator Ackerman, has been especially supportive and helpful. Incidentally, Senator Ackerman is running for statewide office (Attorney General) this year and may be expected to have a keen interest in the views of citizens regardless of their county of residence.

CGJA has expressions of interest in forming Chapters from five new counties and we hope that our Chapter growth will continue at last year's pace. The most common question that arises in, and comes to us from, Chapters and potential

(Continued on Page 3)

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Editor's Comments

The Roster of the California Grand Jurors' Association was inserted in the January Journal. Please review it and notify the editor for any corrections to your address, telephone number and e-mail. We appreciate your cooperation in providing accurate data to our members.

Please amend your roster with the following correct information.

Bachmann, Marcy, correct e-mail: marcyba@pacbell.net

DeQuattro, Bob, correct area code is 530

Palmquist, Richard, correct e-mail: rpalmq@charter.net

Riddle, Ourania, correct Fax Number is 707.678.9468

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

Visit the CGJA web-site
www.cgja.org

President's Message *(Continued from page 1)*

Chapters is: "What can Chapters do to help the grand jury system and themselves stay healthy and grow?" CGJA has a short publication, available on request, titled "Things For Chapters To Do" that lists 12 worthwhile projects Chapters can undertake. In addition to those items, some Chapters are helping CGJA directly on statewide projects such as hosting Conferences, distributing the Journal and supporting regional training programs in their area. Others are exploring ways to assist sitting grand juries to review and react to the publicly filed Responses to Final Reports which the jury receives and to monitoring the progress of any implementation that is promised as a result of Final Reports. Our experience is that the more meaningful work a Chapter takes on, the healthier the Chapter and the more rewarding membership in it is.

As I believe you know, one consequence of the recent amendment to CGJA's bylaws is that the office of Vice-President, Membership has been eliminated. The membership duties so long and so ably handled by Mike Miller have passed to the Membership and Chapters Committee chaired by Clif Poole. On behalf of the entire board I want to express our sincere appreciation for all the effort Mike has put in over the years on membership matters.

We have a new webmaster, director Jerry Lewi of Ventura County. Jerry has agreed to take on this important function and I think we can expect that, as a result, our site will be more complete and timely than it has been on my watch. Thank you Jerry.

Under our new bylaws the board has agreed to have regularly scheduled monthly, not quarterly, teleconference meetings. Although the monthly meetings are scheduled in advance to insure that everyone has the date saved, the board has also agreed not to have any given meeting if it is not needed. For that reason there was no December 2001 meeting. The summary below of the January 2002 board minutes will, therefore, bring you current.

As you will see in the summary of minutes below we are continuing our efforts to index the grand jury Final Reports from around the state. Obviously we can only do so if we are aware of the subjects of the Reports. Many grand juries already have early Final Reports out. If, as and when your county's grand jury releases a Final Report(s) please send us a copy of the report or a URL citation where we can find the report on the web or, at a minimum, mail, fax or email us the Subject(s)/Topic(s) of the report.

Written material can be sent to Dan Taranto, 890 Cloudswood Road, Fieldbrook, CA 95519-9771 and electronic information can go to Jerry Lewi <lewijb@aol.com>.

Either can also, or in addition, be sent to Les Daye, P.O. Box 632, Lewiston, CA 96052-0632 <bearpaws@sunset.net> or me.

At this time of legislative concern we especially need not only your county's Final Reports but also any press they receive and any evidence of the good they

have done. It can be expected that CGJA representatives will be asked to explain and justify the conduct and reports of grand juries from all over the state as we seek to educate our state officials about grand juries and the need to approach reform cautiously. We need information from you to do this job well and unfortunately cannot access many of the reports and media articles without your help. The only safe assumption is: if you haven't told us, we probably don't know.

January, 2002 Board Meeting

Approved outsourcing the compilation of an index of grand jury reports at a cost of \$200. (This project is part of the continuing Grand Jury Report Indexing Project mentioned above.)

Approved a survey of CGJA members' views and interests.

Authorized exploration of external funding possibilities to defray the cost of periodic in-person board meetings.

Accepted Quarterly Financial Statement as of December 31, 2001

Assets, Liability and Capital.....	\$33,652.76
Income for six months ended 12/31/01....	\$49,388.74
Expense for six months ended 12/31/01....	\$42,873.69



Jack Zepp, President
February 15, 2002

Contributions received by the CGJA from September 16, 2001 through January 31, 2002.

* Denotes member of the CGJA Board of Directors.

The CGJA thanks you for your tax deductible philanthropic efforts!



\$00-24
James Taylor

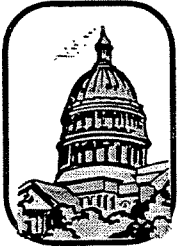
\$25 - 99
Wolfgang Haas, Judi Lazenby, Janet Praria,*
Otto Schmidlen

\$100 -499
Bob Headland, Val Cavey Fund; Jerry Lewi *
Jack Zepp, * Celebration Fund

Janet Praria, Treasurer

Find us on the web at < www.cgja.org >

Committee Reports Government Relations



The CGJA Government Relations Committee met on January 7th and February 4th, 2002. Among the current activities are legis-

lative monitoring, Special Committee re Grand Jury Reform Legislation and Grand Jury institution lesson plan for high school students.

We are monitoring two active bills in the current session of the California Legislature. **SCA7 (Burton)** concerns open access to governmental information. Favored by the California First Amendment Coalition, it is within the State Senate Governmental Organization Committee and may be acted upon at any time. **SB1316 (Escutia)** is a court unification cleanup bill introduced in January residing in the Senate Judiciary Committee and is likely to be acted upon after February 24th. No amendments have been made yet to Sections of the Government Code dealing with Trial Court Funding. Check our website at < www.cgja.org > for any news on the legislative front.

The Government Relations Committee has encouraged efforts of the Tulare County Chapter in presenting to about four high school civics and/or history classes, a document highlighting the role of the regular Grand Jury in California. Based on expected feedback over a two semester period, results of classroom experience might lead to a future recommendation that CGJA seek to expand this effort in other classrooms. We'll keep you informed.

The Grand Jurors' Journal is your voice on issues of importance to the California Grand Jury system in all fifty-eight counties. Comments and facts relevant to successful implementation of Grand Jury recommendations contained in Final Reports are always encouraged.

Les Daye, Chair

Membership & Chapter Relations



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 gather enough signatures for a proposed initiative to qualify for the November ballot 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 was 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 or current 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, Chair

Operations



At the January 28th meeting of CGJA's Board of Directors, approval and direction were provided to the Operations Committee for conducting a 2002 Membership Survey.

This first formal survey of our membership will attempt to assess and record member skills and interests, which should prove helpful as the Association expands its programs in the years ahead.

Individual members should be receiving the survey questionnaire in the mail some time in March. A Chapter membership survey will be sent to Chapter Presidents for distribution to all members of our Chapters. The Operations Chair has been designated to receive, compile, and summarize member responses to CGJA's Board of Directors.

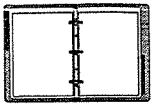
Chapter Presidents will receive summarized reports for their respective Chapter memberships. Members are strongly encouraged to respond to our 2002 Membership Survey. Your support, no matter how small, will help to form our future.

The Operations Committee spent considerable time at its February 11th meeting reviewing a yearlong study conducted by its subcommittee for Policies and Procedures. Roger Loper, Subcommittee Chair mailed a 64-page copy of proposed revisions to all

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Operations Committee

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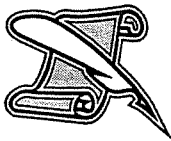


Committee members in December 2001, which permitted detailed advance review. Our Board of Directors will be taking this matter up at their March meeting based on a recommendation from the Operations Committee.

Research continues on liability and property insurance coverage for the Association. The Operations Committee has targeted March for concluding its research with a recommendation to the Board.

Elwood Moger, Chair

Training Committee



The Training Committee recently completed their selection of sites for the 2002 training seminars for new grand jurors. A letter announcing the seminars will be mailed soon to each grand jury judge and foreperson.

The dates and locations are:

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

Another goal of the training committee has been to develop other methods of training in addition to the seminars. In the past we have sent trainers to individual counties to do on-site training where needed such as juries who were impaneled after the seminars were over. We had also discussed the concept of having one-day, single-subject workshops to allow time to have more in-depth training. This recently became a reality.

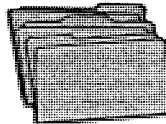
CGJA had a one-day workshop on Writing Final Reports on January 16 as a pilot project. It was held at American River College in Sacramento and participation was limited to no more than thirty-five.

Jurors from nine counties in the Sacramento area participated.

There were three main segments to the program:

- 1) Discussion of the elements of a final report
- 2) Analysis of actual grand jury reports with discussion of their strengths and weaknesses. The name of the county and other identifiers were removed in the eight sample reports analyzed.
- 3) Working in small groups of 5 or 6, the jurors were given a summary of a fictitious grand jury investigation. Each group developed their own set of findings and recommendations and then made a presentation to the class.

Ninety percent of the attendees turned in their evaluation forms and the overall rating for the workshop was 4.3 on a scale of 1 (poor) to 5 (excellent). We feel it was very successful for a pilot-project. We will be making some modifications and improvements and we hope to offer this workshop in other regions of the state next winter. The Training Committee is also exploring the possibility of doing an Investigations - Interviewing one-day workshop. I would like to thank those that worked to make the Writing Workshop a success. The curriculum was developed by Talley



Wade, a CGJA Report Writing Trainer; Phil Norton a seminar presenter on Law Enforcement, CGJA Board Member and a retired college instructor; and Nancy Gregori, a CGJA Member who is a retired school administrator. All three are members of the Placer Chapter of CGJA which also provided the additional volunteer assistants. Helping with the small group instruction and various other duties were Loren Poore, Stan McClung, Terry Crouson and Kirsten Sullivan. Alice Crotty handled the registration and organization. Clif Poole of Solano Co., a CGJA Report Writing Trainer and Board Member also served as a volunteer assistant. We were very pleased to have our CGJA President, Jack Zepp, attend the workshop.

Sherry Chesny, Chair

Shining a light

By Mickey Strang

Thomas Jefferson said "I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform (them)."

Shining a light into the dark corners of government is the basic role of the California regular grand jury. The people have a right to know how their elected and appointed officials and their local governments function.

Other than possible real estate purchases or on-going litigation, why would any public entity try to hide documentation of its activities and actions? While many public documents are theoretically available to all citizens under the state's Public Records Act, seldom does the average person have the time and knowledge to find out what's going on.

The grand jurors do have the time to examine and report on government activities, and the mandate to report to the citizenry what they've found. Even they sometimes have to resort to subpoena power to get the information needed. And officialdom seldom is happy to discover that what it either is doing or has done becomes public knowledge.

Just as a business has a duty to report to its stockholders honestly and openly about what it's doing with their investment, so does officialdom have a responsibility to report to its stockholders - the taxpayers - where their money is going and how it is being used. A grand jury investigation can achieve the same end. Only when the people realize what their government is doing can they exercise their right to make needed changes.

But isn't it sad that more documents aren't open for the scrutiny of one and all? That public officials can hide behind a variety of excuses when the public not only wants but also should have a right to know?

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 Tel/Fax 562.498.1761.

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 email < calkurz@aol.com >

Mendocino County Chapter
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Monterey County Chapter
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Napa County Chapter
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Placer County Chapter
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San Mateo County Chapter
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Solano County Chapter
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Sutter-Butte Counties Chapter
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Tulare County Chapter
 Jack Mann, President
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Chapter News

Placer County Chapter

The Placer County Chapter is busy getting on with the goals originally set and adding new ones at our monthly Board meetings. It is so exciting getting together monthly and having open discussion about what we can do.

We had our first speaking engagement and it went extremely well. Phil Norton and Talley Wade

went to a Men's group at Del Webb Sun City in Lincoln. They didn't pay a whole lot of attention to Phil's history of the Grand Jury, but they loved everything Talley said ... They passed out several applications to people that had an interest in being on the Grand Jury.

One of the members of the Chapter, Kirsten Sullivan has compiled a list of other possible groups that we could speak to in the future.

We heard that some other Chapters hold yearly reunions for past Grand Jurors' and we are thinking about doing that also.

Alice D. Crotty, Treasurer

San Mateo Chapter

Grand jury earns its pay

Last year's San Mateo Grand Jury looked into the financial outlook of the Harbor district. In the course of the investigation it was determined that the District was paying substantial sums for their elections. The Grand Jury's investigation revealed that there were refunds available for election costs incurred based on legislation relating to the number of absentee ballots in an election as compared to a base year in the past.

This was brought to the attention of the Harbor District. The general manager of the Harbor District reported that as a result of the Grand Jury's findings the District will be receiving a refund of \$52, 665, based on the November 2000 election which cost \$184,576.

Thought you would be interested in hearing the news and knowing that we earned our pay last year.

Mel Pincus, San Mateo Grand Juror

Solano County Chapter

Sunday, June 30, 2002

We all remember January 1st, July 4th and December 25th each year. Possibly after this year (2002) we will all remember the last Sunday of June, which this year is June 30th. Sunday, June 30, 2002 will be the first Bar-B-Que (of many we

hope) for current and past Grand Jurors throughout California. It will be held in Solano County and sponsored by the Solano County Chapter of the CGJA. Tickets should be ready by mid-March as details are now being finalized.

All you have to do is bring yourself (and guests). Please encourage other current or former Grand Jurors from your county to join in the fun too. There will be a choice of steak or chicken (with all the trimmings) and music will be provided to dance by or just listen to in a beautiful park in Vacaville.

Attendance will be limited to 500 participants, so don't be left out. Get your reservation in early.

Read your Grand Jurors' Journal for further details.

Clif Poole

Independent Associations of Grand Juries in the news

The Grand Jurors' Association of Riverside County

Orm Colbert, President of the Independent Association of Former grand jurors of Riverside County reports the following. "For those of you who think the Grand Jurors' Association of Riverside County is a place for a bunch of old people to get together to talk about how it used to be when they were on the grand jury, let me tell you what we really do. First, because of our involvement with the California Grand Jurors' Association, we are on the cutting edge of all that is new in grand jury law. Through the CGJA we review pending laws and determine how they effect the sitting grand jury and provide comments via the state association to the legislature.

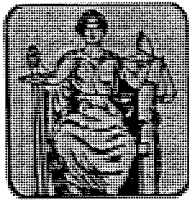
Our speakers' bureau is up and running again thanks to Kay McFarland and Bob Kozel. They spoke at their first meeting last month with more to follow. I understand that they even had two people interested in applying for next year's grand jury. We are

(Continued on Page 7)

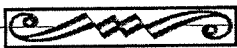
The Grand Jurors' Association of Riverside County (Continued)

working with the court system, Jose Guillen, to produce videotapes to be sent to all Libraries and High Schools in the County and to be shown on PBS about the time for Grand Juror applications. We are also working with the courts, Jose Guillen, to have a photo layout of the Grand Jury facilities with comments from the Foreperson. This is to be issued to the newspapers also about the time for Grand Juror applications.

The Grand Jury has always had trouble getting action on their reports. We, the Association have tried to get something set up so we could help solve this problem, but got nothing but the run around. Now we are going to do it anyway. Dave Howitt (last year's Grand Jury Foreperson) will chair a committee that will choose one of last year's recommendations and the agency's response. He and I will call on the responsible department and find out what has been done or get a time frame on when it will get done. Dave will invite members of last year's Grand jury to get involved. Now you see why we need your help."



Orm Colbert, President
Grand Jurors' Association
of Riverside County



Grand Jurors Association of Orange County

Excerpted from the February, 2002 "The Newsletter"

The Balancing Act

In recent years, much has been made of the difficulty of striking a racial, age, gender balance in the selection of a grand jury. Too often the panel becomes one dominated by white males in their 60s and 70s.

Orange County Superior Court has made a concerted effort to recruit grand jury applicants from

minority populations and has had some success. From 170 applicants, the 2000/01 panel was composed of 3 Latinos, 2 Native Americans, 2 Asians, and 1 Afro-American along with 11 Caucasians (14 men, 5 women). The sitting panel has 3 Latinos and 1 Asian, and 15 Caucasians (13 men, 6 women) selected from 173 original applicants.

This year, recruiting was slow - only 69 applications had been received by Christmas, just three weeks before the close of the program. But as the deadline approached, the number of aspirants rose to a final count of 222. Of that number, 150 are males, 72 females; 180 caucasians, 42 minorities of whom 23 are Latino. The average age of the pool is 65.75 years.

An indictment rejected

In Ventura County, things are different: A Santa Barbara County Superior Court judge has ruled that the neighboring county's grand jury did not present a fair cross-section of the community - too few women - and therefore overturned an indictment that was handed up last year. Only 49 people volunteered to serve on the Ventura County panel in 2000. Of those, 38 were caucasian, and 13 were female. The rape/murder case will now be handled as a normal arraignment-cum-preliminary hearing case, and while the grand jury selection process was deemed "defective," the judge found that there was no intentional discrimination.



Grand juries in the news

Mountain View mayor accused of land grab

The Grand Jury of Santa Clara accused Mario Ambra, an elected official for the City of Mountain View, for willful and corrupt misconduct in office. The corruption trial of Ambra, was originally set to begin Monday, February 11, 2002, in a criminal court, however, it has

been postponed a week and shifted to the civil courts, the prosecutor of the case said. The Grand Jury in November accused Ambra of abusing his power as a city council member in trying to use zoning decisions and city-code enforcement to pressure his neighbors to sell their land to him. He was ultimately unsuccessful, said Assistant District Attorney Bill Larsen.

Threatening to fire anyone who crossed him, and according to testimony Ambra bullied city officials to kill development projects on the property he wanted and to run a neighbor's recycling operation "out of business." He is accused of strong-arming city employees and threatening to get them fired, although individual city council members lack that authority. Ambra has repeatedly denied the accusations.

His lawyer, Kenneth Robinson, said Ambra will most likely testify in his own defense -- where he will be speaking about the case in public for the first time. If found guilty, Ambra would be removed from office, where he has three years left on a four-year term.

He does not face jail time.

Need your help!!

Your Grand Jurors' Journal staff Bob DeQuattro, design and layout, and myself your editor met with Elwood Moger, Operations Committee Chair to discuss the Grand Jurors' Journal's year in review. What have we accomplished, are we happy with the results? How can we improve? Can we provide our membership with more information and coverage through out the State? Yep, we are doing a good job, we were told, but we need some help.



We are as good as our coverage. How can we know what is going on in Southern California if you don't tell us?

The Grand Jurors' Journal is the communications tool between the CGJA and its members but we can't

(Continued on Page 8)

Need your help!!

(Continued from Page 7)

be every where. Please send us any information of interest. Does your local newspaper report on your county grand jury? Tell us. Does your chapter plan special activities? Did you elect new officers? Are you planning a picnic? Tell us.

Any articles of interest to our membership are welcome. Please follow the standardized format, printed elsewhere in this Grand Jurors' Journal, and e-mail the information to:
< ourania855@hotmail.com >

Inquiring minds want to know

By Ourania Riddle



From time to time I will be alerting the CGJA membership on issues of interest. In the January 2002 issue of the Grand Jurors' Journal I commented on SA01RF0026 a Citizen Initiative to establish a State Grand Jury. Signatures are currently being sought on a petition to put on the November 2002 ballot a Constitutional Amendment to create 13 "state grand juries". For more information or to get a copy of the initiative call Ralph Morrell at 707.678.2543 or e-mail to: < radsig@aol.com >

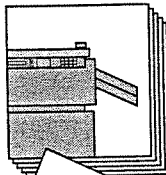
CGJA has taken no position on this initiative.

In this issue I will be alerting CGJA members about a Constitutional Amendment (SCA7) that has been introduced by Senate President pro Tem **John Burton** (D-San Francisco). This amendment is aimed at giving the state's voters the chance, on next November's ballot, to add open government rights to the California Constitution. The amendment would have to pass both houses of the legislature by a two-thirds margin, but would not require the govern-

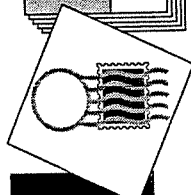
or's approval. Once on the ballot, it would likewise need two-thirds voter approval to become law. For more information log on to: < www.cgja.org > and click on Legal Developments.

CGJA has taken no position on the proposed amendment.

From the mailbox



Editor's note: Following is a question and answer that CGJA President Jack Zepp was asked to respond.



Dear Editor:

May the jury turn over evidence to the District Attorney?



Dear Foreperson:

To follow up on our telephone conversations, let me state your question as I understand it and the views I have expressed. Your grand jury is a regular grand jury that does not do criminal work. It has conducted an investigation during the course of which it sought the advice of the District Attorney who, at the time, did not feel that the matter warranted a criminal referral to his office.

Subsequently your grand jury issued a final report on the matter of the investigation. Based upon that report the District Attorney now believes the matter warrants review by his office as a possible criminal matter. He/she has asked the grand jury for all its files and evidence so as to make that determination. You, as foreperson, ask whether the jury may turn over those materials.

It seems to me that you probably can turn over evidentiary

material, although it is not clear. I believe it is clear that you should not turn over material that indicates what grand jurors said or how they voted. Such information is irrelevant to the issue whether a crime may have been committed and is at the heart of the confidentiality obligation.

(Penal Code Sections 924.1(a), 924.2; see 924.4 permitting certain transmission of evidence, but not other matters protected by 924.1(a) and 924.2.)

The basis for making evidentiary material available on request to the District Attorney seems to be that doing so is the logical result of the grand jury's right to seek the DA's advice at any time (PC 934) and the DA's right to appear before the grand jury to render advice (PC935).

Competent legal advice cannot be rendered without access to the factual information to which it relates. Further, in most instances it is the DA who brings the evidence to the grand jury and he/she must therefore know what it is.

Lastly, in most counties that proceed on criminal matters by way of information or by indictment by a special (PC 904.6) grand jury, regular grand jurors are advised that, if they believe a matter they are investigating may involve a crime, they should turn the matter over to the DA; that is not very helpful advice if they cannot turn over the information giving rise to their concern.

Because, however, there is no clear statement permitting the jury to turn over the requested information, you may want to request that the DA give you a written opinion to the effect that you may lawfully do so. If there is any further doubt you could suggest that the DA attempt to compel the jury to make the material available and let the court resolve the matter, but this seems perhaps extreme.

These are my personal views only; the CGJA has no position on the question raised, nor may it render legal advice.



Jack Zepp

The Grand Jury - Part 2

California Grand Juries (Continued from Page 1)

The grand jury is also likely to receive a number of citizen complaints, many of which involve operations of county, city or special districts. Whether the complaint is civil or criminal, rules of secrecy apply, and the grand jury may not divulge the subject or methods of inquiry.

With so many possible investigations and a term limited to a single year, it is necessary for each grand jury to make hard decisions as to what it wishes to undertake during the term. Except for mandated duties to report on the financial condition of the county and on the conditions of county jails, the grand jury has great discretion in determining its agenda.

Most grand juries divide into committees for conducting investigations and for writing reports, but there seems to be a wide variation between counties as to the number and structure of committees; it is up to each grand jury to determine its own method of operation.

Law requires that each grand jury submit to the presiding judge of the Superior Court a final report of its findings and recommendations. In addition to the mandated reports on financial audits and the condition of adult and juvenile detention facilities, recent Contra Costa County Grand Jury Reports have covered such topics as the deterioration of county roads, reserves amassed by special districts, hazardous waste disposal, misuse of funds in a water district, redevelopment agencies and the selection of sites for a sanitary landfill in the county. A report, like an accusation or an indictment, must be approved by at least 12 of the 19 grand jurors (15 if it is a 23 member jury).

While surrounded by secrecy before publication, grand jury reports become public documents when signed by the grand jury foreman and the Superior Court judge. Copies are sent: to all targeted government agencies, to interested officials, to public and private groups and individuals and to the press. At the end of the year, bound or loose-leaf copies of all reports are placed in all public libraries. In Contra Costa County, individuals may request copies from the Secretary of the Superior Court in Martinez.

Government agencies that are the subject of reports are required by law to respond to specific grand jury recommendations. However, the grand jury has no enforcement power, and the agencies are under no legal obligation to carry out the recommendations. While many recommendations are ignored, others are followed, particularly those that suggest greater efficiency for operations and that do not require the expenditure of large sums of money. Grand jury criticisms of public officials and agencies frequently attract press attention, bringing greater community awareness of what is happening in the public sector. Many grand jurors believe that public officials tend to be more accountable when they know an impartial, outside body is looking over their collective shoulders.

The California Grand Jurors Association (CGJA), a statewide organization of former grand jurors has begun a program of identifying and indexing grand jury reports in each county with the hope of establishing a state archives of annual reports. The Association also monitors and occasionally proposes or endorses legislation to conserve and improve the grand jury as an important institution of local government.

They offer services to those grand juries that may request advice and help in preparing informational manuals and in providing orientation for incoming jurors. For a number of years, The American Grand Jury Foundation, a nonprofit corporation, held seminars allowing current grand jurors from over the state to exchange ideas and experiences to enable them to be more responsible and effective in their jobs. Some members of the CGJA now provide orientation programs for those counties that request this service.

Many California counties have local organizations of ex grand jurors that are active in civic affairs, including educating the public about the functions of grand juries and monitoring compliance with grand jury recommendations.

Citizens who are interested in learning about the grand jury are especially encouraged to contact the local association of grand jury alumni.



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California Grand Jurors' Association

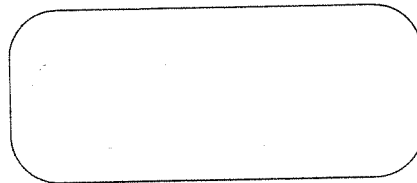
The mission of the California Grand Jurors' Association is to promote government accountability by improving the training and resources available to California's 58 regular grand juries and educating the public about the substantial local government oversight and reporting powers these grand juries have.

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