



## GJAOC News – 2017 First Quarter

February 2017

### President's Message



Welcome to the 2017 year for the Grand Jurors Association of Orange County. It is an honor for me to have been elected by the Board to serve as President for this year

A little about me...I am from Massachusetts. I graduated from Boston University with a BA in Economics/Labor Relations in 1964. I served in the United States Air Force for twenty years before retiring as a Lt Colonel in 1984. I came to California in 1991 and I was the Purchasing Manager at the Saddleback School District until I retired in 2009. I was Foreman of the 2011-2012 Grand Jury. I live in Mission Viejo.

I believe this will be a challenging, and eventful year for the Association. I think it is important to continue our focus on the Grand Jury system and to improve its relation to County government and to the Superior Court. There are several areas where the GJAOC focus could be beneficial. I want to explore how the GJAOC might assist the Jury and the Court in the recruitment and selection of jurors. I believe that a Jury's reports are the lasting effect of the jury, and that it is important that report recommendations be implemented or otherwise reconciled. I believe that it is important for the Court and the Jury to educate the public on what the Grand Jury is, on how it functions, and that it can be a very effective watchdog in County government. It is important for the Court/Jury system to be as transparent as possible.

The Board will do as much as possible to communicate to you what it has accomplished, or other matters of importance. We will use the newsletter to convey information to you. We will use e-mail as much as possible. We will continue our quarterly luncheons featuring interesting speakers. Please remember that this is your Association. We welcome your input as the year progresses. You can help achieve the Association's goals by participating. Volunteer to be Board member, or join one of the Board's committees. Communicate with the Board. We will work for you, and we would like you to join us in our efforts.

Thank you,

Roy Baker

President, Grand Jurors Association of Orange County, 2017.

## ***SB 1292: May It Rest in Peace....***

By Paul Borzcik

The California Special Districts Association (CSDA) is a not-for-profit association created by the Special Districts to advocate and promote the interests of over 1,000 public Special District agencies. The CSDA stated that they conducted a survey of their members in 2015 and concluded that 53% of the California Grand Jury (GJ) reports contained “inaccuracies”. As a result, the CSDA developed a plan to initiate changes to the GJ statutes to prevent these “inaccuracies”. The CSDA wrote language to modify Sec 933.05 of the Penal Code which would affect the operation of the GJs. CSDA lobbyists provided this language to California Senator Jeff Stone (R-Riverside) to introduce as a bill. SB 1292 was introduced on February 19, 2016 to the California State Senate.

As former members of the grand jury, all of you know that the California Grand Jury is authorized to provide independent reviews of local government agencies, which includes all of the Special Districts. As a result, the grand jury, on behalf of the citizens, is authorized to conduct investigations to review the Special Districts operations and provide findings and recommendations to the public.

The original SB 1292 bill contained language that would have had significant impact to the current grand jury process. The California Grand Jurors' Association (CGJA) took the initiative to work with the California Special Districts' Association (CSDA) to modify the bill. The CGJA was successful in eliminating several of the major issues in the bill such as to hold the final reports for 90 days and to insert the entities' responses into the report before release. SB 1292 was amended on March 28, 2016 to incorporate their recommended changes to the bill.

Our Grand Jurors' Association of Orange County (GJAOC) conducted an independent review of SB 1292. In spite of the progress made to mitigate the effects of SB 1292 by the CGJA, the GJAOC concluded that the bill, **as currently written**, was not in the best interest of the grand jury process. The primary concerns identified were:

- **Requirement to conduct an exit interview**
- **Requesting from the court, a copy of draft findings by the affected agency**
- **No penalty for agency disclosure of confidential information**
- **Preliminary response by the agency “with or in” the GJ report**
- **Brown Act waiver for preliminary responses**

For example, the current statute allows the grand jury the **option** (“may”) to conduct an exit interview; while SB 1292 would make it a **requirement** (“shall”).

Although it may seem like a good idea to require exit interview, the devil is in the details of the wording in SB 1292. The wording of this change in SB 1292 could have significant consequences to our grand jury process. If an entity's representative is unavailable or does not show up, the GJ report could not be released due to noncompliance of the law. This loop-hole could significantly impact the function and effectiveness of the GJ process.

The GJAOC communicated its concerns to the CGJA. It was agreed that among the key objectives of GJ Associations is to ***protect*** and ***improve*** the GJ process. A plan to better prepare for legislation challenges was developed. A joint subcommittee was set up to address the CSDA allegation that 53% of the GJ reports contained "inaccuracies" and to find statute clauses that could actually improve the grand jury process.

In order to address the allegations of "inaccuracies" in GJ reports, we obtained the summary review of 12 years (2001/02 to 2012/13) of OC GJ reports conducted by Nindy Mahal that concluded that the responses agreed with the findings 64% of the time and accepted the recommendations 72% of the time. The team also conducted a deep dive into five of the most recent reports dealing with Special Districts so as to look for errors of fact in the grand jury reports. This analysis concluded that there were not any relevant or significant errors of fact in those reports. As a result, it is now believed that the CSDA defined "inaccuracies" to be **disagreement with findings rather than errors in the facts**. Findings, as you know, are the conclusions drawn by the GJ based on their analysis and synthesis of the facts. The existing statute allows for the investigated entity to formally respond to the findings and state the reason for their disagreement.

In order to have practical recommendations for improving the GJ process in-hand, in the event another effort to update the GJ statutes arises, we requested ideas from the Association members. In this way, the Grand Jury Associations would be better prepared to incorporate them into the statutes. Some examples of processes in need of improvement that have been identified are:

- 1) Ability of the agency to disagree with a finding or recommendation without any authority for the grand jury to respond back**
- 2) Lack of formal response to the court when an organization states they agree with the recommendation and have completed their commitment for implementation, i.e. real closure**
- 3) Clarify the response option for "additional analysis required" in which they need to provide a plan, an end date for completion of the analysis, and a response after completion of the analysis**

These are just some ideas that have come forward based on the frustration of former grand jury members in obtaining results from their reports. We need our members to consider the full-range of GJ process issues that could be improved so as to be better prepared.

In May 2016, SB 1292 went into suspense in the Senate Appropriations Committee pending resolution of the incurred expense issue. On September 1, 2016, SB 1292 officially "died"

in committee. On October 7, 2016, the CGJA sent an email to CSDA asking them of their intent to reintroduce SB 1292. The response was that they did not intend to resubmit the bill this year but would continue to monitor the situation.

CSDA has the support and resources of all of the SDs. The California Grand Jury is one of the only organizations authorized to challenge the functions and operations of the SDs. It is the opinion of the GJAOC that the CSDA will most likely propose changes in the future to the statutes that govern the grand jury process which could limit ~~their~~ the Grand Jury's role as the citizens watchdog. This time, we need to be better prepared. Your support to the GJAOC can help us in this preparation.

## *And Before we go...*

By Michael Morris

An analysis of the categories of OC Grand Jury Reports produced between grand jury years 2002/2003 through 2014/2015.

