

THE TASK OF THE GRAND JURY

by Mark Adams

When Linda Gilcrest's name was drawn from among thousands for possible service on the county's most prestigious jury—the Grand Jury—she was mostly unfamiliar with its function.

"I recognized I didn't know a whole lot about it," she acknowledged. But feelings of public service prompted her to consider the Grand Jury. "From my vantage, I said to myself: 'Gee, I've been a registered voter since 21, and I believe in our government and system, maybe I should serve.'"

After an extensive screening process, several orientations and interviews, her name was among 30 others to be randomly drawn by the Superior Court Judges of Santa Cruz County.

A total of 19 names, minus a few hold-overs from the previous Grand Jury, needed to be selected.

Gilcrest, a Soquel resident, learned she would serve on the Grand Jury in the summer of 1990. A year later, she would serve a second term as foreperson. It was an experience well worth the effort, Gilcrest said.

Grand Jurors typically spend between 15 and 20 hours a week administering their duties.

For Gilcrest, it was a hectic period of her life. Gilcrest works as director of facilities development for Borland International, a Scotts Valley-based software company, and had to manage her work time around her duties as a juror.

"It was an incredible commitment," she said. "But there was tremendous value to it. The time I served on the Grand Jury I will look back on and see as an important part of my life."

People Power

The Grand Jury is one of the oldest civil institutions in the United States. Historically, the Grand Jury had two functions: to determine if an accused person should be brought to trial, and to investigate offenses committed by public officials.

Today, it is part of the judicial branch and its role has expanded.

The Grand Jury now has three areas of responsibility.

The first is to examine local government. The Grand Jury initiates and conducts investigations of city and county governments and special districts.

Oftentimes, the Grand Jury will contract the services of an independent auditor to evaluate the use of tax monies.

The Grand Jury also determines whether or not public officials are performing their duties

as prescribed in the bylaws of the body the officials serve.

The second function of the Grand Jury is that of ombudsmen. Citizens can register complaints with the Grand Jury concerning any aspect of government. All complaints are investigated. The identity of the complainant is confidential.

At the end of each fiscal year, the last day of June, the Grand Jury issues a final report and recommendations.

If requested by the Grand Jury, government agencies must provide written responses to the jury's report. The agencies can either deny charges, clarify issues, or concur with the Grand Jury's findings.

Additionally, the Grand Jury conducts criminal investigations. If the evidence is sufficient then the Grand Jury may issue an indictment in lieu of a preliminary hearing in Municipal Court.

Under current legislation, the County Superior Court can create two Grand Juries: one for criminal investigations and another for civil investigations. In Santa Cruz County, the presiding superior court judge has opted for this arrangement.

Members of the civil Grand Jury serve one-year terms; members of the criminal Grand Jury serve one-month terms. The jurors are randomly selected from a cross section of the community.

The Grand Jury is an entirely independent body. However, jurors may seek counsel from the district attorney, the presiding judge of the Superior Court, and the state's attorney general.

Those parties act in an advisory capacity.

Controversy Over Indictment Process

1978 was a year of change for the Grand Jury system in California. The State Supreme Court, headed by then-Chief Justice Rose Bird, issued a ruling that curtailed the use of grand juries for criminal investigations.

The impact of that decision lasted for more than a decade.

"The Supreme Court ruled that if you indict someone with the Grand Jury [then] they would still be entitled to have a preliminary hearing in Municipal Court," District Attorney Art Danner explained.

Since the Grand Jury indictment process and preliminary hearings served similar purposes—to determine whether a case should head to court or not—the Grand Jury's role became relatively non-essential, he said.



The 1991-92 Grand Jury examined operations at the County Jail following the escape of two inmates in 1991. The jury made several suggestions as to how the jail could prevent future escapes

Photo: K. McGrath

The Mighty Voice of Grand Juries Past

by Mark Adams

When the Grand Jury speaks, most people listen—others rant, some complain, and still others respond with indifference. Grand juries of yesteryear have stirred many passions.

"In past years they've been thought of as a Blue Ribbon commission that was able to announce judgments on government," District Attorney Art Danner said. "In the past it may have been more of a title rather than a functioning body."

Grand Juries began issuing reports and indictments in 1850, the year Santa Cruz County was established. In the early days, newspapers reprinted portions of a jury's report on the front page. When news was slow, the entire text of a jury's report was lavished across pages of print.

Grand jury reports stimulated both controversy and change.

During the Civil War era, grand juries spent most of their time investigating the movements of the local "Copper-heads," supporters of the Confederacy, local historian Phil Reader said.

In those days, the community was split over which side to support. Northern supporters, however, controlled the Grand Jury, Reader said, and therefore used it to their advantage.

In 1865, the Grand Jury indicted three local Californios for the killing of Jack Sloan, a Mexican-American War veteran. It was a tumultuous time for Santa Cruz.

One alleged murderer, Pedro Lorenzana, was killed by a mob. Another suspect, Jose Rodriguez, was freed because Lorenzana was the only witness against him. The third suspect, Faustino Lorenzana escaped, later to be killed in a shoot out with the sheriff.

Little came of that indictment.

In the 1870s, the grand jury went after local whorehouses, though, with little success. In a booklet published by Reader, *Harlots and Whorehouses*, Reader writes that the juries of 1872 and 1877 "showed more determination than usual in striving to shut down the brothels."

The grand juries adopted the motto, "Let the Augean Stables be cleansed," in reference to the mythical Hercules cleaning 30 years of refuse from the stables of Augeas in one day, he said.

However, the jury's "Herculean" effort cleansed little and mostly brought embarrassment to many in the community, Reader reported.

Moving into the 20th century, the Grand Jury of 1913 issued a sweeping report concerning the county's schools.

"On February 12, 1913, we visited Live Oak school," the Grand Jury report read. "We found the ventilation and lighting arrangement very poor... We found fifty-two pupils crowded together in one small room. The whole school building is in a very dilapidated condition."

The Grand Jury's recommendations that year led to the revamping of education, Reader said.

The Grand Jury, over the years, has indicted a county treasurer (George Otto in 1879) and a district attorney (Charles Moore in 1956); it urged the recall of a supervisor (San Lorenzo Valley Supervisor Ball in 114), and has examined roads, the planning department, schools, hospitals, "speak easies," and much more.

Ironically, in many ways, some of these past problems still exist today. The Grand Jury has worked both effectively and ineffectively to affect change in Santa Cruz County.

Today, though, its functions are more refined, said Superior Court Judge Richard Kessell who presided over the 1991-92 Grand Jury.

"Basically it's a watchdog over government," he said, "and a necessary component of the judicial system." □

For more than a decade, grand juries scarcely issued indictments, Danner noted.

The 1978 decision clogged the courts since cases otherwise handled by the Grand Jury were now being heard by Municipal Court judges, he reported.

Danner recalled one murder case that in 1982 spent ten weeks in the preliminary hearing stage before heading to trial. "The most serious cases took a long time," he said.

Courtroom gridlock soon paved way for Proposition 115 on the 1990 ballot, which, upon approval by the state's voters, abrogated the Supreme Court's 1978 decision.

"Certainly the process of indictment was a welcome addition," Danner said. "I definitely support the Grand Jury process from that standpoint."

Danner noted though, that only very serious cases are heard by the Grand Jury. Indictments issued by the Grand Jury are also reviewed by a judge and a record of all evidence is made public.

Ironically though, the restoration of authority to the grand jury indictment process greatly increased the jurors workload. During the decade before the passage of Proposition 115, grand juries had taken on additional civil responsibilities.

"The civil or watchdog jury had expanded its functions to

the extent that they had a very busy agenda," Danner explained.

For this reason, the Santa Cruz Superior Court authorized the creation of two grand juries, he said. This decision was made in the final months of the 1991-92 Grand Jury.

There were other motivations for this arrangement as well, former jurors explained.

"The most effective thing about the Grand Jury is that it tells the average government head that somebody is looking over their shoulders."

—Judge Richard Kessell

"There was a big controversy on our jury because we wanted to hear the cases," former juror Jamie Marks said.

Marks said she and other jurors learned the judge's decision was partially a response to the public defender's concern that the district attorney was working uncomfortably close to the Grand Jury.

"I certainly didn't feel it was that way," fellow juror Gilcrest commented. "In fact I know it wasn't that way. However, views are based on perception... If that was in any way clouded, then I certainly agree [with the decision]."

When the Grand Jury Issues Reports

The civil Grand Jury is divided into four committees. They include:

- The Health and Human Services which reviews education, health, social services and special purpose districts;

- The Criminal Justice Committee which reviews jails and detention facilities, law enforcement personnel and court systems, and;

- The City and County Government Committee which reviews all aspects of local governments.

- The Continuity Committee manages the internal affairs of the Grand Jury. This group edits final reports, makes educational presentations, maintains a source library, and monitors responses to recommendations made by prior year's jurors.

Each year the Grand Jury issues a final report and recommendations.

The findings are covered in local newspapers, government agencies issue responses to recommendations, and the jurors head home.

Sometimes, agencies respond well to the Grand Jury's report, past jurors said.

Former Juror Bob Carol of the 1990-91 and 91-92 Grand

Juries said the Child Protection Services agency responded positively to the jury's suggestions made earlier this year.

"We found that they have followed all of our 20 recommendations," Carol said. "I'm very please with that."

One suggestion was for the county to establish a Court Appointed Special Advocates program to assist court-dependent children. This recommendation came to fruition earlier this Fall. The program will be operational in February, 1993.

Others, however, do not respond as well.

The 1991-92 Grand Jury conducted an extensive review of the Pajaro Valley Unified School District. There, Superintendent Merrill Grant promptly issued a scathing response charging the Grand Jury with impropriety. Few of the recommendations were ever implemented.

Ironically, a state budget review committee, recently called in after Pajaro tried unsuccessfully for several months to restructure its fiscal affairs, has made similar suggestions.

The criminal Grand Jury, with only one function, is not divided into committees. It meets in a court room setting—the foreman sits at the bench—and reviews evidence of alleged crimes.

If the evidence is sufficient,

the jury will issue an indictment and the matter goes to court.

Making a Mark

The Grand Jury is as strong as the jurors themselves, said Superior Court Judge Richard Kessell who presided over the 1991-92 Grand Jury.

"I think they are effective," Kessell stated. "A lot of these reports require a responses from the agencies... And that gets an agency's attention; they start fixing things."

"The most effective thing about the Grand Jury is that it tells the average government head that somebody is looking over their shoulders," he added.

Marks had another perspective.

"Governments don't respond well to grand juries," she said. "You can be very effective, however, by the way in which you do things and the kinds of suggestions you make."

Grand juries must work closely with the agencies in order to develop a strong rapport, Marks said. Conversely, if a grand jury fails to adequately investigate a case, then it is open to criticism, she said.

While views of the jury system differ, ultimately, the primary purpose of the Grand Jury is to empower the people. It is one of many "checks" in a system of "balances." □