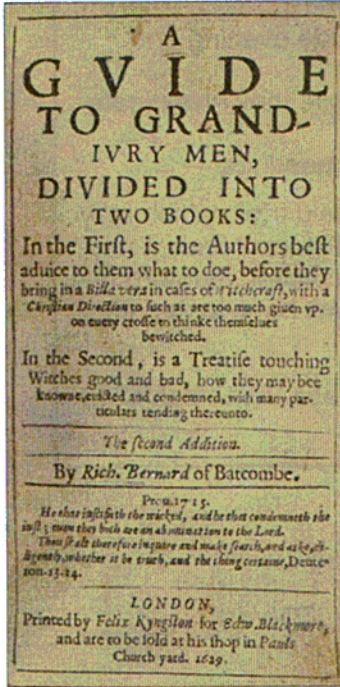


Transcript

The California Grand Jury – Orange County

By Elizabeth Harmon



Each of the 58 counties in California is required by law to establish a Grand Jury. The counties create a list of up to ninety applicants who will be interviewed and from this list a diverse group of 18 or 23 qualified citizens will be selected to serve as grand jurors.

California Penal Code section 893 states that a person is competent to serve if they fill certain requirements:

- They are a citizen of the United States and are at least 18 years old.
- A resident of the state and of the county or city and county for

one year immediately before being selected and returned.

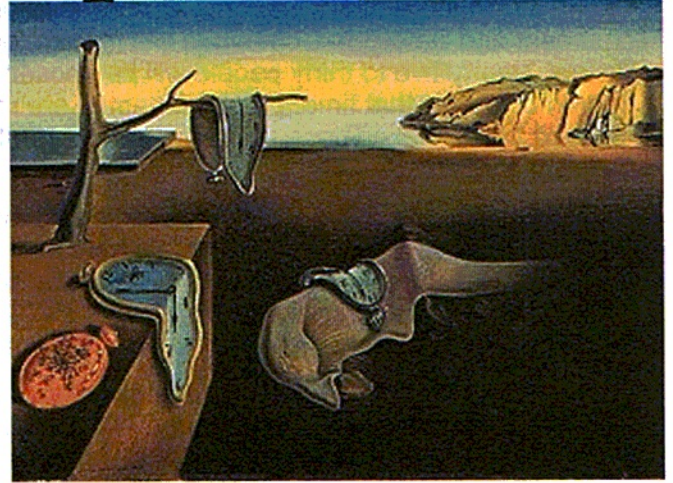
- They possess their natural faculties, are of ordinary intelligence, of sound judgement and of fair character.
- They possess sufficient knowledge and understanding of the English language.

However, they are not competent to serve if:

- They are serving on a trial jury in any other court in this state.
- They have completed service as a grand juror in any court of this state in the last year.
- They have been convicted of malfeasance in office, any felony or other high crime.
- They are serving as an elected public official.

In Orange County the Grand Jury Recruitment and Selection Committee is composed of Superior Court judges. The potential jurors are screened according to who is most qualified, interested, and available while

(Continued on page 2)



Salvador Dalí, 1931, Museum of Modern Art, New York, NY.

Right to be Forgotten

By Mora Prestinary & Molly Solazzo

Salvador Dalí's painting *The Persistence of Memory* is a classic and enduring surrealist painting. But suppose Dalí wanted the world to forget it existed?

In 2014 the European Court of Justice ruled in favor of a Spanish man who was embarrassed by an archived newspaper item that contained public details about a repossessed property used to pay his debts. The Court, which is charged with interpreting E.U. law, determined that under the 1995 [Data Protection Regulation](#), Europeans had a "right to delist," meaning that individuals, corporations and even government officials could request that material be removed from Google's search results, if deemed "inaccurate, inadequate, irrelevant or excessive," and not related to discourse regarding the public interest.

Although commonly called the "right to be forgotten," it is really a right to be delisted from Google, as Google can't tell websites to remove the offending information.

Google revealed that since it began in 2014 almost 400,000 European requesters have sought

(Continued on page 3)

IN THIS ISSUE: [Can I publish my winning appeal? Ask a Librarian, pg 2](#) - [Looking at the Web, pg. 4](#) - [Spring display, pg. 4](#) - [A moment of Zen, pg. 4.](#)

Grand Jury
(Continued from page 1)

considering applicants from a cross-section of age, ethnic, social, and economic backgrounds. Once the required amount is selected, an extensive background investigation, by the deputies of the Orange County Sheriff's Department, will be conducted on each individual and submitted to the Jury Commissioner. The Recruitment and Selection Committee will then go on to screen the many applications to choose the nominees. By law, twenty-five to thirty people will be chosen for the Grand Jury Panel and they will be summoned to appear in court. At that time, nineteen names are randomly selected, and they will comprise the Grand Jury for the next fiscal year. Those names not chosen will be drawn, if needed, as alternates if there is a vacancy during the year.

Once impaneled, the Grand Jury are expected to work five days a week, which may include evening and week-end hours. The Jury has 2 basic functions:

- Civil – The Jury will spend about 80% of its' time acting as the public's "watchdog" while they investigate local government agencies and public officials.
- Criminal – The Jury takes part in issuing some criminal indictments and investigative hearings.

When conducting investigations and collecting information, jurors will take part in many field trips, which may include trips taken outside the county. Vacations, for the most part are discouraged but if a juror finds it necessary, they are requested to plan for 2 weeks or less. Orange County, with its large population, numerous agencies, and a wide range of facilities, presents many challenges, which means jurors will have to spend time and energy to meet the demands of their positions.

For more information on the California Grand Jury – Orange County: <http://www.ocgrandjury.org/geninfo.asp>



ask a
librarian



I have just won an appeal on a case, how do I get it published?

By Lu Nguyen

A According to the publication titled "California Civil Appellate Practice," 3d ed, published by CEB. (Main Reading Room, Floor 3, KFC1075.C32):

Section 21.7 C. Standards for Publishing Appellate Opinions (p. 21-6)

Cal. Rules of Ct. 8.1105 (c) provides that an opinion of a Court of Appeal or a superior court appellate division should be published if it meets at least one of the following criteria:

(c) Standards for certification

An opinion of a Court of Appeal or a superior court appellate division—whether it affirms or reverses a trial court order or judgment—should be certified for publication in the Official Reports if the opinion:

- (1) Establishes a new rule of law;
 - (2) Applies an existing rule of law to a set of facts significantly different from those stated in published opinions;
 - (3) Modifies, explains, or criticizes with reasons given, an existing rule of law;
 - (4) Advances a new interpretation, clarification, criticism, or construction of a provision of a constitution, statute, ordinance, or court rule;
 - (5) Addresses or creates an apparent conflict in the law;
 - (6) Involves a legal issue of continuing public interest;
 - (7) Makes a significant contribution to legal literature by reviewing either the development of a common law rule or the legislative or judicial history of a provision of a constitution, statute, or other written law;
 - (8) Invokes a previously overlooked rule of law, or reaffirms a principle of law not applied in a recently reported decision; or
 - (9) Is accompanied by a separate opinion concurring or dissenting on a legal issue, and publication of the majority and separate opinions would make a significant contribution to the development of the law.
- (Subd (c) amended effective April 1, 2007; previously amended effective January 1, 2007.)

(d) Factors not to be considered

Factors such as the workload of the court, or the potential embarrassment of a litigant, lawyer, judge, or other person should not affect the determination of whether to publish an opinion.

(Subd (d) adopted effective April 1, 2007.)



Right to be Forgotten
(Continued from page 1)

the delisting of about 2.4 million items (URLs). Google's criteria for delisting were met in 43% of cases. The ECJ ruling only enforced the right to erasure on search engines operating in Europe.

As a consequence of the age of the Internet, "delisting" is a brand-new legal concept.

The right to be forgotten is also known as the right to erasure. It gives individuals the power to request the removal of their personal data when there is no compelling reason for its continued use.

The General Data Protection Regulation (GDPR) came into force on May 25, 2018. It is the framework for European data protection laws and replaces the 1995 Data Protection Regulation. As announced in the Commission's 2012 press release, the GDPR aims to define personal data as "any information relating to an individual, whether it relates to his or her private, professional or public life. It can be anything from a name, a home address, a photo, an email address, bank details, posts on social networking websites, medical information, or a computer's IP address." Precise definitions are in Article 4 of the Regulation.

In September 2018 another case came before the European Court. In this case, the French Commission Nationale de l'Informatique et des Libertés (CNIL), has argued that if it upholds a complaint by a French citizen, search engines such as Google should not only be compelled to remove links from Google France but from all Google domains. <http://curia.europa.eu/juris/document/document.jsf?docid=195494&doclang=EN>

Otherwise, it maintained, inaccurate data is still visible to those who fake their IP address to pretend they are searching from a non-EU country; that the right to be forgotten will become worthless if not applied universally. Google objected on the grounds that it would set a precedent for authoritarian regimes to limit free speech. The European Court of Justice issued an opinion in December 2018 that the rule is limited to the EU. <https://curia.europa.eu/jcms/upload/docs/application/pdf/2019-01/cp190002en.pdf>

In 2013, California introduced Senate Bill 568, the "Privacy Rights for California Minors in the Digital World". https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB568

The law went into effect in 2015 and requires any operator of a website, online service, online application or mobile application to permit a minor who is a registered user of the service to remove, or to request and obtain removal of, content or information that was posted on the operator's service by the minor.

New York state has come nearest to an American version of a right-to-be-forgotten law. Assembly Bill 5323, introduced in February 2017, is titled "An act to amend the civil rights law and the civil practice law and rules, in relation to creating the right to be forgotten act". In 2018 it was referred to the Committee on Governmental Operations, where it sits today.

See NY State Assembly: https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A05323&term=2017&Summary=Y&Actions=Y&Committee%2526nbspVotes=Y&Text=Y

Some believe that a legally mandated American right-to-be-forgotten would violate the First Amendment.

"The deeper problem with the [New York] bill is simply that it aims to censor what people say, under a broad, vague test based on what the government thinks the public should or shouldn't be discussing. It is clearly unconstitutional under current First Amendment law, and I hope First Amendment law will stay that way (no matter what rules other countries might have adopted)." wrote UCLA law professor Eugene Volokh in *The Washington Post* in March 2017. <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/03/15/n-y-bill-would-require-people-to-remove-inaccurate-irrelevant-inadequate-or-excessive-statements-about-others/?noredirect=on>

He continued: "There is no 'right to be forgotten' in the abstract; no law can ensure that, and no law can be limited to that. Instead, the 'right' this aims to protect is the power to suppress speech — the power to force people (on pain of financial ruin) to stop talking about other people, when some government body decides that they should stop."


(Continued on page 4)

Right to be Forgotten
(Continued from page 3)

Apropos, the Law Day theme for this year is *Free Speech, Free Press, Free Society*.

For further research:

"Right to be forgotten: a legal research guide" by Carol A. Fichtelman, published by William S. Hein, 2018.
Floor A, K3264.C65 F53 2018 v.73

"The EU GDPR: General Data Protection Regulation: Answers to the Most Frequently Asked Questions" published by American Bar Association, [2018].
Floor A, KJE6071.A432016 Z48 2018 

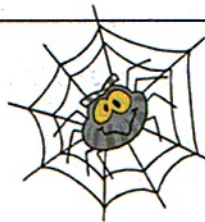
Spring Display: Disability Law

materials chosen by Mora Prestinary,
arranged by Elizabeth Harmon.



Looking at the Web

by Mora Prestinary



Grand Jury
Orange County Grand Jury: www.ocgrandjury.org
California Civil Grand Jury: www.courts.ca.gov/civilgrandjury.htm
California Grand Jurors' Association: www.cgja.org/

Right to be Forgotten
Electronic Privacy Information Center: epic.org/privacy/right-to-be-forgotten/
Wikipedia: https://en.wikipedia.org/wiki/Right_to_be_forgotten

Take a journey all over the world.

<https://geoguessr.com/>

The Library will be closed

Monday February 18
Monday April 1



Orange County Public Law Library

515 North Flower Street
Santa Ana, CA 92703
Civic Center Plaza, Building 32
Tel:(714) 338-6790
www.ocpll.org



Transcript Contributors:

E. Harmon,
L. Nguyen,
M. Prestinary,
M. Solazzo (Editor).

Copyright 2019,
Orange County Public Law Library.
Material may be reprinted with permission