

# THE BAR ASSOCIATION OF SAN FRANCISCO

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## MEMORANDUM

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*General Counsel*

March 1, 1973

TO: Board of Directors

FROM: Richard B. Morris

SUBJECT: Summary of Bar Association Activities  
During 1971 and 1972

### Introduction

This memorandum has been prepared as a result of President Traynor's January 19 memorandum to the Board suggesting that the Board review Association activities over the past two years. The period concerned begins about the time the membership approved (844 to 326) a recommendation of the Board of Directors that the Special Review Committee Report of June 5, 1970 be adopted and implemented. It is worth noting incidentally, especially in the context of a substantial deficit, that the voters were notified that the proposed action would result in a dues increase.

Because they are useful guidelines, the relevant recommendations of the Special Review Committee Report are attached as Exhibit A. The conclusion to this memorandum specifies several activities which executed or tended to execute the recommendations.

Relevant provisions of the Articles of Incorporation are:

"The specific and primary purposes for which it is formed are: To further the honor, dignity and public usefulness of the legal profession; to increase the profession's effectiveness in promoting the sound administration of justice; to

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act in the interest of maintaining a skilled, humane and independent judiciary...The general purposes are to serve the welfare of San Francisco lawyers by such means as from time to time may be appropriate and to provide an organization for collective action or expression in matters germane to the aforesaid purposes."

For the purpose of this memorandum activities listed have been selected primarily because they have to do with those aspects of professional interest which in general terms are also matters of public interest. I have, however, also listed some activities which relate to internal organization, especially when designed to strengthen membership support or organizational ability to act in the public interest. In selecting "public interest" activities I have erred on the side of inclusion, using the following categories:

1. Criminal Justice
2. Judicial Administration
3. Legal Services
4. Youth Education
5. Miscellaneous

I have also listed many decisions not to participate in certain activities which fall into these categories.

I have distinguished major and minor activities, usually according to the quantitative commitment of Association resources, i.e., staff and related overhead, officer and Board time, and member time. However, in some instances activities have been considered major because of their relative significance, e.g., continuous support for the O. R. Project, or the defense of Judge Weigel against a politician's criticism.

All activities listed are treated in minutes of Board meetings, frequently of several meetings. Therefore, work which did not come to the Board's attention, e.g., work of committee members especially in the substantive law areas, has not been included.

Barristers' Club activities have not been reviewed.

Many items, while theoretically important insofar as the purpose of this memorandum is concerned, have not been included in the interest of brevity, usually because little significant action was taken. For example, the Board considered action regarding pending death penalty cases on several occasions. Its only action was appointment of a committee, which itself accomplished little.

MAJOR ACTIVITIES

Criminal Justice

Support for Mayor's Criminal Justice Council.

Cooperation with Lawyers' Committee; correspondence with public officials; appearances at public hearings; meetings with agency and elected officials; President served on committee to select first Executive Director. Spring and Summer, 1971. (See discussion 58 A.B.A.Jo. 263, March, 1972.)

Support for O.R. Bail Project.

Board participation of Presidents-elect; appointment of Board members; repeated correspondence and meetings with public officials to gain permanent funding by the City; support for funding from CCCJ. 1971 to date.

Jails and Prisons.

1. Filed amicus brief in connection with litigation charging unconstitutional conditions in the City and County jails. July, 1971.
2. Filed amicus brief in connection with habeas corpus action in Supreme Court of California attacking money bail as denial of equal protection.
3. Approved report of special board committee approving certain items in jails budget; authorized communication to appropriate officials. March, 1972. Items requested were generally approved by Mayor and Board of Supervisors. May, 1972.

4. Penal Reform Committee.

At request of Sheriff this Committee examined conditions of local jails for pre-trial detainees. In November it issued a well-publicized report which had been first approved by Board of Directors. June--December, 1972.

5. Metropolitan Correctional Center.

Considered and approved Penal Reform Committee's recommendations for Association action in connection with proposed federal jail in San Francisco. September--December, 1972. Officers and staff participated extensively in developing and implementing recommendations.

10% Bail.

Authorized Association participation in State Bar legislative program to obtain passage of legislation implementing Conference of Delegates' resolution regarding 10% deposit bail. Through Association contribution of staff, related overhead, and work of certain members statewide support for the bill was developed, although it was not sufficient to get it enacted. 1971 and 1972.

Police Firearm Regulations.

Publicly supported Police Commission's proposed regulations of the use of firearms by San Francisco police officers. Chief Scott expressed appreciation of this support. December, 1971.

Marijuana.

Authorized and conducted a membership plebiscite regarding legalization of possession of marijuana for personal use. April, 1972. Plebiscite results: 1,133 for, 502 against.

Judicial Administration

Special Courts Committee.

Authorized by Board action in January, 1971. Complete Annual Reports of Committee for 1971 and 1972 are in Association files. Specific achievements of Committee include:

1. Established working liaison with Superior and Municipal Court Judges.
2. Established working liaison with other local bar organizations.
3. Recommended administrative changes which reduced Adult Probation misdemeanor caseload.
4. Developed Certificate of Readiness Calendar Management system, presently being implemented by Superior Court.
5. Recommended changes which expanded availability of judges to set bail in non-court hours.

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6. Supported federal grant to create traffic commissioner in Municipal Court.
7. Studied operations of Probate and made appropriate recommendations.
8. Analyzed and recommended changes of Presiding Judge selection system. The Municipal Court adopted the changes; the Superior Court did not.

This proposal received separate consideration of the Board of Directors and was supported by the Board.

9. Cooperated in development of plan to arbitrate P.I. cases in lieu of trial.

### Lawyer Courtroom Conduct.

Authorized President to reply publicly to criticism that Bar Association fails to police lawyer conduct which allegedly disrupts court proceedings. September, 1971.

### Defense of Judiciary.

Authorized public position defending Judge Stanley Weigel against attacks related to Yerba Buena and school district litigation. January, 1972.

### Bench-Bar Work to Improve Judicial Administration.

Arranged special luncheon to recognize improvements to judicial administration. Chief Justice Wright spoke to well attended meeting, co-sponsored by most local bar organizations. March, 1972.

### Judicial Elections.

Raised approximately \$6,000 to finance campaign for judges endorsed by Association plebiscite. June, 1972.

### Judicial Review.

Approved press release supporting State Supreme Court's power to decide death penalty issues. March, 1972.

Special County Clerk's Committee.

Authorization of study of County Clerk's office. August, 1972. Ultimately appointment of a Special County Clerk's Committee was authorized to make extensive study, relying in part on volunteer management consultants from Arthur Andersen & Co. September--December, 1972. Reports have been submitted to City and Court officials, but the matter is still pending.

Internal Organization

Employed a General Counsel.

Board action initiated selection process in January, 1971, which ended in June.

Public Relations.

Authorized employment of public relations coordinator. Subsequently, she was assigned special additional duties to assist Youth Education Committee. April, 1971.

Public Position Guidelines.

Preparation of guidelines for taking public positions and for filing amicus briefs. 1971-1972. (Tax opinion re consequences of implementation of these guidelines is being prepared by members of Taxation Section.)

Judicial Plebiscites.

Adopted new by-laws to govern plebiscite in connection with election of judges. March, 1972. Conducted membership plebiscite under different circumstances. Subsequently appointed special committee, chaired by Robert H. Fabian, an officer and director, to consider amending plebiscite procedures, and the question whether to have a plebiscite. June, 1972. (Work of Committee proceeding.)

Legal Services

Lawyers' Reference Service.

Adopted new rules intended to improve quality of services, following board committee review of Lawyers' Reference Service Committee's recommendations. March, 1972.

Judicare.

Authorized President to take necessary action to insure that proposed \$2.5 million Federal legal services experiment for poor persons be governed by a non-partisan board, including broad representation of bar and intended beneficiaries. Continued action of officers, board members and staff throughout 1971 and early 1972. Developed coalition of all major bar organizations in the State to seek same objective. Worked closely with representatives of Board of Governors. Continued correspondence and discussions with appropriate public officials. (This program has not as yet been implemented.)

Youth Education Committee

--Established Board committee to consider staff needs of this Committee. July, 1971.

--Authorized development and preparation of "Youth and the Law" booklet. Largely through the work of Luther Avery, this Committee was able to raise \$10,000 to publish 50,000 copies of this booklet for distribution to San Francisco senior and junior high school students. 1971-72.

--Assisted State Bar and San Francisco school district establish State Bar's in-service teacher training course as part of the former's Law in a Free Society program.

Miscellaneous

Discrimination by Private Clubs.

Established special committee to study discrimination by private clubs on the basis of sex and to recommend appropriate Association action on behalf of women attorneys. This committee found discrimination to exist in several clubs and attempted to bring about changes of discriminatory policies through a variety of techniques. 1971-72.

Public Relations.

Arranged meeting of media personnel and Association representatives to increase media understanding of bar work, and lawyer understanding of media viewpoint and practice. October, 1971.

Speakers Program

Developed program of almost weekly addresses by lawyers to youth and adult groups on legal subjects of interest to the groups. Sara Muir, 1971-1972.

MINOR ACTIVITIES

Criminal Justice

Attorney General's Legislative Proposals.

1. Attorney General Younger's proposals for criminal procedures reform. 1971-1972. Recommendations of the Criminal Justice Section and certain members were considered by the Board, positions taken, and appropriate correspondence transmitted to the Attorney General and the Legislature.

2. Re-stated 1971 position regarding Attorney General Younger's proposals to improve criminal procedures. January, 1972.

Staffing of District Attorney.

Support for Juvenile Court's request that District Attorney staff be provided to represent Juvenile Probation Department. Correspondence to appropriate officials; staff needs ultimately supplied. March, 1971.

Committee on Crime Reports.

Creation of a special board committee to consider these reports and recommend appropriate Association action to the Board. June, 1971. This Committee made several recommendations to the Board, many of which have been acted upon in various ways, e.g., by action of the Criminal Procedures Subcommittee of the Special Courts Committee, and by action of the Penal Reform Committee.

Mass Arrest Procedures.

Approved a Barristers' Club report recommending procedures for mass arrests. September, 1971. (Action to gain Court adoption of recommendations proved unsuccessful, in part because of loss of interest by Association members.)

Criminal Contempt Powers.

Refused to join several lawyers' groups in amicus brief on summary criminal contempt citation of an attorney. February, 1972.

Public Inebriates.

Authorized support for special program to provide medical facilities to receive and treat public inebriates in lieu of jail. June, 1972.



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### Grant Proposal.

President authorized General Counsel to draft grant proposal to support expanded staff for Association's criminal justice work. October, 1972.

### Ballot Propositions.

Decision to take no action with reference to Propositions 17 (Death Penalty) and 18 (Obscenity). October, 1972.

### Secured Ward.

Following report of Criminal Procedures Subcommittee urged Mayor to establish a secured ward for prisoners at General Hospital. November, 1972. (Ward was ultimately established.)

## Judicial Administration

### Federal Courts.

Support for proposal to use former U. S. Mint building to house Tax Court and Court of Claims. Correspondence with appropriate public officials. 1971-72.

### Hall of Justice Courtrooms.

Endorsed the courts bond issue. August, 1971.

### Court Unification.

Submitted a Judicial Council questionnaire on court unification to selected Association members. September, 1971.

### Fair Trial--Free Press.

Adopted general principles of State Bar Committee on this subject. Ultimately appointed local representatives and urged participation of Lawyers' Club and Lawyers' Guild. No material results, however, during 1971-72. (The program is moving at this date.)

Select Committee on Trial Court Delay.

Submitted extensive comments on Report #2, Select Committee on Trial Court Delay. March, 1972.

Special Courts Committee.

Board considered personal report of John A. Sutro, Chairman, Special Courts Committee. March, 1972.

Domestic Relations Calendar.

Consideration of Family Law Section's objections to changed domestic relations calendar. Communication with Presiding Judge, Superior Court. June, 1972.

Judiciary Committee.

Communication with Senators Cranston and Tunney regarding services of Judiciary Committee in connection with selection of local federal judges. June, August, 1972.

Legal Services

CRLA.

Support for refunding of CRLA; Correspondence with public officials. January, 1971.

Committee on Legal Services.

Approved appointment of Joint Committee on legal service programs with Barristers' Club, membership not to exceed 50 persons. February, 1971. (Committee never formed.)

SFNLAF.

1. Support for refunding of SFNLAF. 1971 and 1972. Appropriate correspondence to public officials.

2. Reviewed and approved special committee report recommending support of new SFNLAF program to provide legal assistance for indigent immigrants. May--November, 1972.

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National Legal Services Corporation.

Support for creation of a National Legal Services Corporation. Appropriate correspondence with public officials. 1971 and 1972.

Youth Law Center.

Endorsed Legal Aid Society's request for continued operations as Youth Law Center. June, 1972.

Lawyers' Reference Service.

Authorized temporary hiring of law student to advertise existence and services of Lawyers' Reference Service. November, 1972.

Legal Ethics Committee.

1. Approved this Committee's recommendation against creation of a new committee to consider grievances against lawyers. April, 1971.

2. Accepted this Committee's report regarding questions of ethical practices brought by the Chicago Bar Association regarding a San Francisco firm. September, 1971.

3. Accepted this Committee's report on ABA's proposed Canons of Judicial Ethics, and forwarded Committee's comments to ABA. September, 1971.

Lawyers' Reference Service.

Approved 6 "scholarships" for Barrister panel members to attend ABA Lawyer Reference Workshop. February, 1971. (Mortimer Herzstein and Sue Malone participated as panelists.)

Internal Organization

Research Staff.

Authorized hiring full-time research assistant (\$100/monthly) for General Counsel for summer months. April, 1972.

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### Conference of Delegates.

Board consideration of nominees to Conference of Delegates, and of resolutions to be submitted to Conference. 1971 and 1972.

### Membership Committee.

Special appropriation to this Committee to increase members who are in public practice. April, 1971.

### Student Membership.

Following studies, adopted By-law changes to permit law student membership. October--December, 1971.

### Board Elections.

With candidates' consent, developed guidelines for campaigning in contested elections for Board of Directors. 1971-1972.

### Publications.

Established Publications Board to coordinate and improve Association publications. Constructive results have been attained. 1971-1972.

### Membership.

Approved and authorized funding for brochure explaining purpose and advantages of membership.

### Miscellaneous

### Special Committee on Law of the Seas.

Approved joint committee with Barristers' Club. February, 1971. This Committee has been one of the more active Association committees, and still exists.

Environmental Law.

Approved elaborate resolution regarding certain legislation and a special committee to consider appropriate Association action regarding environmental law. March, 1971. (No significant action appears to have been taken to implement this resolution.)

School Integration.

Authorized President to discuss with Mayor the Association's concern that pending school integration order of court be obeyed. August, 1971. (Subsequent events made implementation unnecessary.)

Law Library.

Approved board committee report recommending support of library fees increase. April, 1972. Implementing legislation passed.

Paralegals.

1. Considered and commented upon proposed City College program to train paralegal professionals. May, 1972.

2. Establishment of a special committee to consider programs relating to paralegal professionals. October, 1972.

Equal Rights.

Approval of Equal Rights Amendment. Communications with Legislative officials. June, 1972.

City Retirement Board.

Extensive work of President-elect Traynor and David Heilbron to advise Mayor reappointment to Retirement Board. October, 1972.

Bar Examination.

Considered personal report of Francis Marshall re status of bar examination.

Approved communication to Chief Judge, District Court, requesting acceleration of calendar for two cases involving thousands of dollars of tax refund checks. November, 1972.

ABA.

1. Reviewed report of President regarding mid-year ABA Convention. 1972.

2. Hosted meeting of bar presidents of larger metropolitan bar associations during August ABA Convention to discuss common problems.

Conclusion

The foregoing summary shows that in the past two years the Association has substantially fulfilled those recommendations of the Special Review Committee which are listed in Exhibit A:

--Recommendations 1 and 2 have been fulfilled with the hiring of full-time staff and public relations staff as well as expanding related clerical support.

--Recommendations 3 and 4 were observed in connection with the Judicare Program, statewide bail reform, the report of the Penal Reform Committee and the many public positions which have been taken.

--Recommendation 5 was implemented by plebiscites with respect to marijuana and adoption of the Special Review Committee report itself. In fact, the very consideration of the record over the past two years so as to discuss it with our membership are consistent with this recommendation.

--Recommendation 7 has been implemented by the Special Courts Committee.

--Recommendation 9 has been fulfilled primarily by fact finding in connection with Judicare, the County Clerk's office, conditions for pre-trial detainees, and the Metropolitan Correctional Center.

While active in connection with such matters as legal services and problems of individual rights and responsibilities, the Association has yet to develop coherent, continuing programs in connection with recommendations 6 and 8.

In summary, it seems fair to affirm a consistency of Association purpose in terms of these 1970 recommendations and subsequent work during 1971 and 1972.

As to the correspondence associated with the preparation of this report, in the interest of economy of time and fairness to the authors, I have decided to simply let the correspondence and the record speak for themselves.

Finally, for those compelled to look for results (for Clifford, "meat and potatoes," for Nixon, "grabbers") the historical record shows, inter alia:

--Change system for selecting presiding judge? Superior Court, no; Municipal Court, yes.

--Change County Jails?

Consolidation 6th and 7th floors: pending.

Food, bedding and clothing: yes.

Visitation improvements: yes.

Secured Ward: yes

Amicus appearance in jails suit: case still pending

--Civil Calendar Management, adoption of Certificate of Readiness system? yes.

--O. R. Project: funding by City? Almost, but not quite yet.

--Statewide bail reform? Failed in a close one; less chances this year. But convinced many that local bar associations can be important for legislative program of State Bar.

--Federal jail: in or out? Recommended citizens study committee. Mayor acceded, and two association members on the committee.

--Police firearm regulations? Police adopted.

--County Clerk's office improvements? Helped get additional staff; little success overall.

--Judicare: Appointment of "representative" board? Pending; outcome uncertain, and may ultimately be no board at all.

--Youth education? A core of untiring, high achievers (Brandel, Forsyth, Rosenthal, Aikman and Muir) ran probably the best youth-law program in the United States, and raised \$10,000 to publish an excellent booklet, with special thanks to Luther Avery.

--Bail litigation amicus appearance? Lost.

--Mayor's Criminal Justice Council? Created by City pretty much in form recommended by Association. So-so results achieved by Council to date, notwithstanding substantial efforts by Association officers, members and staff.

--Lawyers' Reference Service? Reorganized with intention of substantially improving service and public recognition of availability.

It is not suggested that those of the foregoing objectives which came to pass came about only because of Association support and advocacy. It is fair to say, however, that Association support was generally a material element leading to the result.



## Summary of Committee Recommendations

### General.

1. The Bar Association should call upon the resources of its members to improve and extend its public services.
2. The Bar Association should retain a professional full-time staff.
3. The Bar Association should consider the full range of actions appropriate to a particular issue, e.g., asserting a public position and following it with publicity, lobbying, or litigation as appropriate; or sponsoring public forums on an issue; or fact finding or study by a team of lawyers.
4. The Bar Association should consider joint efforts with other lawyers and non-lawyer groups on public interest issues.
5. The Bar Association should consider new ways of dealing with the problems of consensus and divergent membership opinion, including a broadly representative Board, and discreet use of plebiscites.

### Administration of Justice

6. A special committee to study the matter of providing adequate legal services to low and middle income persons should be created and funding for staff sought, if necessary.
7. A special committee of lawyers and judges should be appointed to find long-term solutions to the problem of over-loaded criminal and civil court calendars, and funding for staff sought, if needed.
8. A special committee similar to the American Bar Association's Section on Individual Rights and Responsibilities should be established to serve on a continuing basis.

### Other Critical Areas of Public Concern

9. With respect to other critical areas of public concern, other than those conventionally considered under the heading "the administration of justice," the Bar Association should:
  - a) Exercise continuing responsibility to assure that legal representation is available in connection with legal