



# Grand Jurors' Journal

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Newsletter of the California Grand Jurors' Association June, 2005

President's Message.....	1
Regional Training Seminars: .....	2
Summary of Board Actions .....	2
Membership Chapter/ Relation.....	3
Operations.....	4
Training.....	4
Annual Report.....	5
Thank You .....	7
Grand Juries in the news.....	7
Grand jury finds Elk Grove Council Members, violated state law.....	7
Grand Jury report cites gender inequality among inmate programs. ....	9
Climate Of Fear For County Staff High Turnover Of Employees Led To Grand Jury Probe.....	10
Police chided on overtime, comp time Grand jury report says city spends too much on extra pay .....	11

## **President's Message**

By Jerry Lewi

President, California Grand Jurors' Association

Once again, I regret having to announce a Board resignation. Clif Poole has decided to step down from the Board and his position as Chair, Membership, and Chapter Relations.

Clif's participation as a Board member was well documented in his highly deserved Angelo Rolando award at last fall's conference in his home Solano County. I am hard pressed to add additional praise other than to offer him my personal thanks for his support and his work with me as a member of the Operations Committee and as last year's conference chair.

But, with all due respect to Clif, we will miss his wife, JoAnne's, incredible support to maintain the membership and contact database. As I understand it, Joann did all the real work with great expertise and always in a timely fashion. I hope to meet JoAnne at the Solano Chapter Barbecue in May (see elsewhere for details) to personally thank her.

The good news is that we welcome Mike Miller (San Mateo) back to the Board and in his former position as Membership & Chapter Relations Chair. Mike and the committee are struggling to find a way to replace the strong support from Team Poole, but we will succeed.

Thanks also to Les Daye for accepting the position as Operations Chair. Les has appointed Serena Bardell as Vice-Chair. I believe this committee is in capable hands.

An exciting product of our Public Relations Committee, under El Moger is a 30-minute video that will be shown on as many PublicAccess and Public Broadcasting System Television stations that we can convince to show it. El and his team have spent countless hours with the strong support of the Soroptomist (Chapter of Novato, Marin County). The purpose of this tape is to publicize the work of Grand Juries in California and help local counties recruit new volunteers. I believe we do a pretty good job of publicizing what Grand Juries do within what I call the Grand Jury community that consists of all current and former Grand Jurors, Grand Juries, key legislators, the Judicial Council, Presiding Judges, and Court Executive Officers, but not such a good job with the general public. This video is one attempt to improve that.

Your Board of Directors is planning a face-to-face meeting on May 16 in conjunction with the Solano barbecue. We normally meet in this fashion only once a year at the annual conference. By meeting a second time within the year, we hope to improve our working relations and get a lot of internal business taken care of in order that we focus on the real work of the organization.

### **Regional Training Seminars:**

The Training Committee has selected the following dates and sites for the July-August 2005 Training Seminars.

Sacramento July 25-26  
Holiday Inn Northeast

Redding July 28-29  
Holiday Inn Redding

Walnut Creek August 1-2  
Embassy Suites

Visalia August 8-9  
Visalia Convention Center

### **Summary of Board Actions**

The CGJA Board of Directors took the following actions at the January 24, 2005 Board meeting:  
The 2005 proposed budget was approved by voice vote.

A motion for the authorization to pay Diepenbrock Law firm for charges in regards to Roberts' Rules letter, counselor referrals and bylaw issues was approved by voice vote.

The recommended action that the Compendium be distributed free of charge to all current Grand Juries annually was passed by voice vote.

Approved Training committee's 8 goals by voice vote.

Approved Legal Committee's goals by voice vote.

Accepted Directors and Officers Insurance progress report. The motion to instruct President Lewi to provide all members of the Board of Directors with copies of all letters from attorneys Grimm and McBride and President Lewi's letter requesting the attorneys refrain from communicating with each other was passed by voice vote.

A motion that (1) the "Board shall engage the services of outside counseling to determine board interaction problems and define solutions and (2) The Board shall conduct its next regular meeting face-to-face in early April near Oakland or Concord, was amended. The amended motion to eliminate the counseling component and to hold a face-to-face Board meeting in conjunction with the Solano barbecue in May was passed by voice vote.

A motion that the "Board of Directors provide no later than February 25, 2005, to Director Baker a complete copy of the tape recording of November 30, 2004, Board of Directors meeting. This copy shall include, but not be limited to, the statement by Director Chesny that she could not give Director Baker copies of the 2004 training evaluations as she had shredded them," failed to receive a majority vote.

A motion to (1) Request and direct the Bylaws Revision Committee to define the term "Corporate Records," and to report its recommendation as to such definition to the Board; and, separately, (2) Request and direct the Operations Committee, AFTER the term "Corporate Records" has been defined by the Bylaws Revision Committee and approved by the Board of Directors, to establish procedures for the retention and destruction of "Corporate Records" as so defined, passed by voice vote.

### **Membership Chapter/ Relation**

Michael Miller, Acting Chair

The highest accolade CGJA has should be rewarded to Clif and JoAnne Poole for doubling this Organization's Membership in just three years. It proves an impossible job can be completed when given to the right person.

Years ago, Dan Taranto casually mentioned that I had served on the CGJA Board longer than anyone else had. Regretfully, he was not able to add "with distinction." Thus, I offered my resignation to the President in hopes of getting new blood on the Board.

Yet that seemed to have lead to lots of bloodletting, and what we gained in quantity we may not have retained in quality.

I joined CGJA in 1982 as a Charter Members aspiring to be a dues paying inactive supporter. I have yet to attain that goal. A few weeks ago, someone with a lot more pull than I asked that a cup be taken from him, but if it didn't work for him it isn't going to work for me.

As Acting Membership Chairperson, I will try to maintain Clif and JoAnne's great progress, and with the help of all of you, CGJA will continue to grow. Hopefully the next real Chair will try

to surpass the outstanding record established by the Poole family.  
My real goal is for all of us to work together with respect for each other and have the betterment of the CGJA as our sole objective.

## **Operations**

Les Daye, Chair

"Plans are in full swing" for the 24th annual conference on October 27-29, 2005 at the Burbank Hilton according to Andrew Bliss, CGJA Director and Chair of the conference planning committee. Security and safety issues, from first responders and all of law enforcement, is the theme.

The popular "Open Forum" on regular grand juries will be back for a full two hours of spirited discussion. Further details will be forthcoming at the CGJA website, [www.cgja.org](http://www.cgja.org) and in summer editions of the CGJA Grand Jurors' Journal.

The Excellence in Reporting (EIR) award program for 2005 has been announced, including submission criteria, in a news release to statewide newspapers, according to Earl Heal, CGJA Director, and Chair of the Subcommittee.

The program seeks to recognize notable contributions to better government from the final report recommendations of regular grand juries throughout California and media coverage of these improvements. Validated results of implementation is a significant measurement in determining recipients of these awards which heighten public awareness of the regular grand jury system in California.

As current Chair of the Operations Committee, I am particularly pleased that Jeanne Forbes, CGJA Director and publications tour de force, has undertaken the latest effort to locate and document past grand jury reports in Tulare County (1950-1997).

The GRIP project, highlighted in the last issue of the Journal, is an ongoing effort to preserve and accentuate the history of grand jury activity since the inception of the State of California.

If you like history and sleuthing for documents in out of the way places (attics, basements of old courthouses, historical society vaults), consider downloading a field workbook from our website or request one by mail and get started on the quest!

Remember that this Grand Jurors' Journal, CGJA website and other organizational efforts and events are your outlet to make a difference in preserving, protecting, and effectively communicating about our grand jury system. Involvement counts... contact an officer or director of CGJA today.

## **Training**

Sherry Chesny, Chair

The Training Committee has selected the following dates and sites for the July-August 2005 Training Seminars.

Sacramento	July 25-26	Holiday Inn Northeast
Redding	July 28-29	Holiday Inn Redding

Walnut Creek August .1-2      Embassy Suites  
Visalia August 8-9  
Visalia Convention Center

The registration fee for the two-day seminar is \$75, which includes a 2005 Training Manual for each registered juror.

A letter about the seminars was mailed to the presiding judge in each of the 58 counties in March. A brochure about the 2005 seminars and training program will be mailed to each grand jury soon. Bob DeQuattro, a former juror from El Dorado Co. and long time member of CGJA did the brochure layout for us and delivered it to the printers.

We certainly appreciate his volunteering his expertise to help us with the brochure.

The registration packets will be mailed out in June. We will also have all seminar information posted on our website [www.CGJA.org](http://www.CGJA.org) along with a registration form that may be downloaded.

Currently our main project is developing the 2005 Training Manual. Each of the five workshop teams: G.J. Law; Investigations; Interviewing, Report Writing and G.J. Continuity are revising and updating their outline for inclusion in the 2005 Training Manual. Our Curriculum Subcommittee serves as an edit committee and then each outline is reviewed and approved by vote of the Training Committee. I want to thank Ted Freeman, Chair of the Curriculum Subcommittee and a member of the Marin Chapter, for his help in the manual development process and Debbie Heller, a member of the Nevada County Chapter, who has volunteered to put the entire 2005 Training Manual on a disk for us.

We recently added three new trainers to our workshop teams:

Lew Avera, current Foreman of the Orange County Grand Jury, will be on the G.J. Law team.

Duane Mason, a past Foreman of the Shasta Co. Grand Jury, a CGJA Board Director and Training Committee member has joined the G.J. Investigations workshop team.

Linda Pryor, who has served on the Nevada Co. Grand Jury seven times, will be on the G.J. Continuity workshop team.

If you would like any additional information about the training program or our regional training seminars for new jurors, please contact me at [sherryc@JPS.net](mailto:sherryc@JPS.net)

**Annual Report**

**Annual Report  
Balance Sheet  
Un-audited Financial Statement**

	2004	December 31, 2003	Increase (Decrease)
<b>ASSETS</b>			
Cash in Checking - unrestricted	\$15,582	\$ 5, 144	\$10,438
Cash in Certificate of Deposit unrestricted	20,521	25,164	(4,643)
<b>Total Cash— unrestricted</b>	<u>\$36,103</u>	<u>\$30,308</u>	<u>\$5,795</u>
Cash Checking—restricted	\$ 6,060	\$ 6,058	2
Property & Equipment	\$ 6,660	\$6,660	0
Less Accumulated Depreciation	\$-3,400	\$1,200	\$(2,200)
<b>Property &amp; Equipment - net</b>	<u>\$3,260</u>	<u>\$5,460</u>	<u>\$(2,200)</u>
<b>Total Assets</b>	<u><b>\$45,423</b></u>	<u><b>\$ 41,826</b></u>	<u><b>\$3,597</b></u>
<b>Members Equity:</b>			
Retained Earnings - Unrestricted	\$39,363	\$35,768	\$3,595
Retained Earnings - Restricted	6,060	6,058	2
<b>Total Members Equity</b>	<u><b>\$45,423</b></u>	<u><b>\$41,826</b></u>	<u><b>\$3,597</b></u>

**California Grand Jurors' Association**  
**Statement of Revenues and Expenditures (Unaudited)**

Year Ended December 31,

	2004	2003	Increase (Decrease)
	_____	_____	_____
Revenues:			
Training:	\$ 35,732	\$ 32,380	\$ 3,352
Membership dues	10,200	7,950	2,250
Annual Conference	6,285	7,408	(1,123)
Contributions	5,284	2,480	2,804
Publications sold	1,825	1,113	712
Interest Earned and Miscellaneous	385	79	306
	_____	_____	_____
	\$ 59,711	\$ 51,410	\$ 8,301
Expenditures:			
Training	\$ 29,409	\$ 21,230	\$ 8,179
Annual Conference	7,062	10,310	(3,248)
Legal	6,740	5,965	775
LaVerne DVD's	0	5,950	(5,950)
Journal	2,580	3,632	(1,052)
Publication	1,924	685	1,239
Supplies and Postage	1,668	1,752	(84)
Insurance	1,557	1,599	(42)
Board Packets	1,334	2,489	(1,155)
Teleconferencing	1,227	2,108	(881)
Credit Card Processing	896	840	56
GRIP	593	4	589
Website	526	421	105
Elections	140	312	(172)
Other Expenses	458	805	(347)
	_____	_____	_____
	\$ 56,114	\$ 58,102	\$ (1,988)
Excess of Revenues over Expenditures	3,597	(6,692)	10,289
Total Retained Earnings:			
Beginning of Year	41,826	48,518	6,692
End of Year	<u>\$ 45,423</u>	<u>\$ 41,826</u>	<u>\$ 3,597</u>

**THANK YOU**

Frank Flynn, Quintin Kopp, and Jack Zepp for your cash and in kind donations totaling \$265.13.

Your support is appreciated!

Every Dollar Counts.

Just remember, your donations are tax deductible!

**Grand Juries in the news**

**Grand jury finds Elk Grove Council Members, violated state law**

Despite findings, district attorney not filing any charges

*By Cameron Macdonald Elk Grove Citizen*

A Sacramento County grand jury conclude that City Council Members Michael Leary and Jim Cooper illegally participated in matters about the city's contract with the Sacramento County Sheriff's Department for police services. But, despite the findings, Sacramento County District Attorney Jan Scully said no charges would be filed against the two - who are also employees of the sheriff's department. Scully cited reasonable doubt in not indicting Cooper, a captain, and Leary, a sergeant, on the grand jury findings.

The grand jury released their investigative report that listed the conflict-of-interest violations both council members made and also offered recommendations to prevent such situations from occurring again.

While not recommending charges be filed against the two, the grand jury did offer several recommendations and a missive to the citizens of Elk Grove.

"We urge the citizens of Elk Grove to review our report in determining the adequacy of the performance of their elected and appointed officials," the grand jury report concluded.

Both Leary and Cooper said that they will not resign their positions and will continue with their leadership.

The issue centered on Government Code section 87101 that prohibits city officials from discussing or voting in matters that they have a financial interest in, and section 1090 - that forbids conflicting in making contracts. Hence, Leary and Cooper are generally required to abstain themselves from any city council discussions and votes on police issues. If convicted of breaking section 1090, they could have been banned from ever taking office again in California.

The city has spent more than \$36 million on its police contract with the sheriff's department between its incorporation and last year.

On the day after the city's incorporation election, March 8, 2000, Sacramento County Counsel Robert Ryan wrote to the county's board of supervisors and Sacramento County Sheriff Lou Blanas, and told them that if Leary and Cooper "directly or indirectly" participated in activities over the police contract, they would void any police contract with the city.

Between June 2001 and May 2004, Cooper voted or participated in city council matters over the police contract a total of 20 times, while Leary did so 16 times, according to the grand jury report.

Among the actions they voted on were the August 2001 approval of the police services plan, levying special taxes for police services, and adopting municipal budgets that included police services plans.

Both Cooper and Leary said that they were allowed to participate in the special taxing for police services decisions, and cited a January, 2005 memo from an outside law firm to city Attorney Tony Manzanetti.

The grand jury report noted that Cooper and Leary claimed that they always participated or recused themselves based on Manzanetti's advice. However, the grand jury investigation found that defense to be moot, a leader following an attorney's advice does not excuse him or her from following state law.

The grand jury cited that the attorney clearly explained the state regulations to them, which Cooper and Leary dismissed.

"In summary, Mr. Cooper and Mr. Leary exhibited a pattern of knowingly and willfully disregarding their responsibility to abide by the conflict of interest provisions of state law," the

report stated.

The grand jury also found fault with the sheriff's department for not confronting Leary or Cooper about conflict of interest laws until four years after the incorporation of Elk Grove. In December 2004, Blanas issued a written warning to Cooper on the matter, which was placed into his personnel file.

The grand jury investigation came at a time of political tension last year when the sheriff's department reportedly overcharged the city more than \$742,000 for its police services. The city council, sans Leary and Cooper, approved the city to hire the law firm Foley & Lardner to conduct an independent investigation to determine whether the two violated state conflict-of-interest laws. The firm's July 12, 2004 report listed their alleged violations. The district attorney's office findings concluded that confusing legal advice about conflict of interest laws misguided the actions of Cooper and Leary, and could likely lead a court jury to rule that the two did not knowingly break state law.

It is not clear if the Fair Political Practices Commission (FPPC) the state's agency whose mission is to interpret and enforce conflict of interest laws was contacted

### **Grand Jury report cites gender inequality among inmate programs.**

*By Jay Peeples—Milpitas Post*

A Santa Clara County Civil Grand Jury Report released last week found a disparity between the vocational opportunities offered to women inmates and men at Elmwood Correctional Facility through Milpitas Unified School District's Adult Education Department.

According to the report, male inmates are offered more vocational classes than women, raising questions about compliance with federal Title IX gender equality guidelines. Additionally, the report states that Santa Clara County Department of Correction focuses on substance abuse classes, which "fosters an unbalanced approach to rehabilitation," as well as identifying areas where Inmate Welfare Funds were used to support department salaries and overhead at the expense of inmate programs.

According to Department of Correction Chief Edward Flores, the Grand Jury report is being assessed, and a response will be submitted to "We're trying to come up with some creative ways to resolve the concerns with the limitations we have," Flores said.

According to Flores, vocational training is offered at Elmwood "as the physical plant allows us to." He said the jail is limited by the facilities it has to offer various vocational training. According to the Grand Jury report, male inmates can take training in blueprint reading, cabinetmaking, carpentry, computers classes, food safety, industrial safety, landscaping, upholstery, or welding, while female inmates can take computer classes. Landscaping was formerly offered to women also, but Flores said there was difficulty in garnering interest.

Of Elmwood's 2,500 male inmates, about 900 are eligible for vocational training, while 150 of the 520 women are eligible for the program. Flores said there are matching computer training classes in both the men's and women's facilities. But, he said all other vocational programs are on the men's side.

"We don't mix and match men and women," Flores said. "We'd either need to construct a facility or retrofit to do a cooking class."

According to a survey conducted by the Grand Jury, female inmates would be interested in taking classes in cooking, medical records, cosmetology, sewing, jewelry making, carpentry, manicuring, landscaping and upholstery. The report recommends working to fairly allocate available resources to achieve gender parity in vocational courses.

Flores said much focus is placed on substance abuse and parenting classes for female inmates. He said 60 to 80 percent of Elmwood inmates have some type of substance abuse problem, and explained that substance-abuse classes are often mandated by the court. The Grand Jury report agreed with the need for substance-abuse classes, noting that many inmates receive 15 hours a week in such classes. However, the report said there needs to be a balance between such classes and vocational opportunities.

"A consequence on the strong emphasis on substance-abuse classes has unfortunately been the reduced opportunity for female inmates to participate in vocational/industrial training," the report states. "With regard to the report's finding that Inmate Welfare Funds were used to support DOC salary and overhead expense, Flores said the positions paid with the funds "all support in one way or another the inmate programs."

Expenses for inmate programs, classes and activities not funded by Milpitas Unified School District or a volunteer organization, decreased from \$1,690,935 in 2003, to \$512,314 in 2004, a 70 percent drop.

Milpitas Unified School District Superintendent Karl Black said he has directed administrators to confer with Department of Correction officials to find a solution.

Black said the only recommendation by the Grand Jury that applied to the district is to work together toward a solution, which he said is already underway. The school district receives state funding earmarked for educational programs at the jail - \$2 million last year. That money can only be spent on educational and vocational programs at Elmwood, he said.

Chief Flores said the Department of Correction will respond to the report, but pointed out that budgetary constraints have had a major impact on staffing in the jail. With the issue of staffing and adequate facilities exacerbating the issues identified by the Grand Jury, both Flores and Black agree creative solutions will have to be explored.

### **Climate of fear for county staff High turnover of employees led to Grand Jury probe**

*By Britt Retherford - The Union*

Nevada County's top elected officials have been charged with bullying county employees by demeaning them during public meetings and making them feel at risk of losing their jobs, according to a Civil Grand Jury report.

"A climate of fear exists when employees see managers being publicly demeaned by Board of Supervisor members, high-level employees leaving in significant numbers, and what they perceive as micro-managing occurring," reads one of the Grand Jury's conclusions.

"I compliment the Grand Jury on the fact they tried to be balanced," said County Executive Officer Rick Haffey. However, "there are some (findings) I did not agree with," Haffey said. "I personally know 80 to 90 percent of the employees and I don't see a lot of fear existing here."

Turnover of the county's staff in the past three years is what prompted the investigation by the Grand Jury, a group of 19 volunteer citizens that serves as watchdogs for the public.

The Grand Jury found that the exodus of almost two dozen county department heads and directors stemmed from:

- Their job duties becoming politically charged and uncomfortable.
- Retirement.
- Better opportunities arising.

Resignations have been accompanied by a variety of explanations, from "personal and professional reasons" to charges that the entire structure of county government is laced with micromanagement problems.

Hank Foley, who resigned last summer as director of the Community Health Department, said at the time that he was tired of the "county bureaucratic system. Micromanaging goes on endlessly in this county," he said in 2004. "They're continuously questioning and second guessing."

Haffey said the Grand Jury failed to look more seriously at factors such as demographics and an aging population that desires higher paying pre-retirement jobs.

The Grand Jury report criticizes Haffey and his predecessors for not acting as buffers between the employees and their elected supervisors. The political climate in the county has been heated at times during the past few years as board members reflected widely differing views in the county, often split on issues such as growth and property rights.

The report also found that the county is in sound financial health and that Haffey, department heads, and staffs "are to be commended for their hard work in streamlining many of the county's departments." Major budget cuts in the past few years have forced the county to eliminate 82 positions in the past two years, but there has been only one layoff that occurred because of a tight budget, the report stated.

### **Police chided on overtime, comp time Grand jury report says city spends too much on extra pay**

*by Bill Wallace - San Francisco Chronicle*

San Francisco is paying too much overtime and compensatory time off to city police officers and should renegotiate its contract with the police union to reduce these costs to taxpayers, the San

Francisco civil grand jury said in a report released last week.

In 2003-04, San Francisco police received more than \$27 million in overtime, a sum that represents nearly 11 percent of the entire police payroll, the grand jury said in its 18-page report,

"Compensation Issues in the San Francisco Police Department."

According to the report, only the Municipal Railway paid more overtime to its staff last year.

In addition to the overtime they earned, police officers also logged a total of 514,452 hours of compensatory time -- time off that is banked for future use at the overtime rate, 1 1/2 hours off for every hour worked.

Comp time is sometimes carried over until an officer retires, when it is paid off in cash at the officer's most recent rate of pay. Because of promotions, the rate at which comp time is paid at retirement is frequently much higher than the pay the officer received when the comp time was earned.

Despite new caps on compensatory time off that went into effect in July 2003, 80 officers who retired last year still cost the city \$1,082,023 in comp time payments, the grand jury report said. The 2004 payments compare to \$1,162,061 in comp time received by 87 city police who retired during 2002-03, the report said.

"Although there were only six months between these periods of time for the caps to demonstrate their effectiveness, we believe that increased costs per officer are not a positive indicator that comp time balances are being reduced, particularly by those nearing retirement," the report said. The report recommends that the city negotiate with the San Francisco Police Officers Association to eliminate overtime and compensatory time off benefits for managerial officers -- those at the rank of captain and above - and replace them with less costly alternatives such as limited administrative leave like that provided by other departments.

It also recommended tightening restrictions on the amount of comp time an officer can earn and suggested that comp time be paid out at pay rate that the officer was earning when the overtime was worked, in order to reduce the costs.