

# Grand Jury Beleaguered grand jury disbanded

## Internal conflicts lead to breakup

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SANTA CRUZ — The county's civil grand jury was disbanded last month for the first time in its history, leaving behind an unknown number of unfinished investigations.

Member after member of the citizen panel, a watchdog of government agencies, resigned amid disagreements over internal procedures, until finally there

weren't enough of them to meet the minimum quorum of 10.

The dissolution prompted court officials to re-examine the grand jury selection process.

And while grand jurors from previous years were disappointed, some say they saw trouble coming; the very problems noted in last year's grand jury report may have contributed to this year's demise.

According to a longtime observer of grand juries, this county's situation is a sad sign of the times — an example of the faltering influence of one of the oldest

### In depth

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and what is supposed to be one of the most hallowed institutions of America.

"When grand juries work well, they can make very significant contributions," said Bruce Olson, executive director of the American Grand Jury Foundation. "But the qualifying words are, when they work well."

### Dissension in the ranks

Every June, — except this one — the county's grand jury issues a final report on public agencies it investigated. The probes delve into current controversies and are prompted by citizen complaints.

The annual report is the only public

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proof of the grand jury's year-long work. Unlike the criminal grand jury, which hands down indictments, the conclusions that the civil grand jury draw do not necessarily yield immediate results.

By law, the 19-member panel is charged with evaluating whether public officials are doing their jobs right and making recommendations for changes. But government agencies are not required to follow the panel's suggestions, and sometimes — more often than grand jurors would like — the recommendations wind up being ignored.

Thousands of tax dollars (roughly \$20,000) and hundreds of hours are spent each year on the effort. The grand jury publishes the report, criticizing or exonerating public agencies; the local media reports its key findings; and the public officials who must answer to its findings turn in a written response. A new grand jury, including at least one holdover, is impaneled for the following year.

Grand jurors are sworn to secrecy. They are banned from discussing their investigations, votes, and deliberations. Even judges, who oversee grand jury operations, are not privy to their work unless procedural issues come to their attention.

As a result, much of the panel's work and sometimes heated debates are never known to the public.

But internal conflicts this year were apparently too much to bear. First, the foreperson resigned. Then others followed. Even with 11

functions. One is to issue criminal indictments. The other is to respond to citizen complaints about county agencies and be a watchdog over publicly funded agencies and organizations.

In Santa Cruz, like many other California counties now, the criminal and civil grand juries are separate.

The civil function is a check-and-balance, giving citizens the investigative power to see if taxpayers are getting their money's worth, if elected officials are doing their jobs, and if bureaucrats are obeying the law.

Though the grand jury has no enforcement powers at all, its potency lies in the fact that government agencies know they must ultimately answer to the citizenry, and that if they are doing something wrong, then the grand jury could reveal it.

Take, for instance, a bungled bond deal by Capitola's Redevelopment Agency that nearly put the city in default. The grand jury in 1994 affirmed reports of fiscal mismanagement and recommended a slate of changes — some of which have been adopted.

"Everyone was shining me on and saying, 'I don't know what Glenn's talking about,' until the grand jury said I was right," said city Treasurer Glenn Hanna, one of the first to publicly question Capitola's finances.

"The (grand jury) system works, and in Capitola's case, it did work," he said.

Then there are other investigations that seemingly lead to nothing. Grand juries have revisited

the grand jury varies from year to year, depending on the cohesiveness, dedication, intelligence and fair-mindedness of its members, and the leadership of the foreperson and the presiding judge.

The large time commitment also becomes a heavy strain.

Though they are warned from the outset that they should not be serving on the jury unless they were willing to spend an average of 15 to 20 hours per week for the entire year, some jurors still stay on only to quit later because they can no longer afford the time.

And the personality battles that this year's panel encountered were nothing new.

For various reasons, about 10 grand jurors resigned last year. But with the help of a few alternates, the grand jury squeaked by with enough members to issue a report.

"Quite a few people" also quit the year before.

"I'm not surprised at all," Trent Thompson, foreman of the 1993-94 grand jury, said of the disbanding of this year's grand jury. "But I'm sorry it did happen."

Santa Cruz County is one of a few in the state that relies completely on a random lottery system, and its civil grand jury has one of the highest turnover rates, according to a study of 42 counties that last year's grand jury conducted. Most counties had a combination of a lottery and a process where interested persons could apply to serve, said then-forewoman Lorrie Hoofard.

Judges in the county switched to a lottery system about two decades ago, court officials said. Before that time, judges were free to

choose whomever they wanted to serve on the grand jury.

"We actually thought we were in the modern era that we wouldn't have jurors here who were viewed as our group of people," Kelsay said.

Starting with a pool of 4,500 potential jurors, the county jury commissioner and the judges narrow down the list after sorting through questionnaires. Several hundred people are asked to attend an orientation meeting, and those who are still seemingly able or willing to serve, remain.

Cursory checks on the potential jurors' criminal backgrounds and qualifications follow. Sixty candidates are selected, interviewed, and then ranked by judges. Then from the top 30 — six from each of the five supervisorial districts — the judges select the 19 grand jurors and 11 alternates.

Thompson and other former grand jurors say they think the county's selection process is inadequate in weeding out people with hidden political agendas or people who are not capable of working with others.

"In my case, there were people serving on the jury who shouldn't have even been considered in the first place," Thompson said. "They had an agenda, or they couldn't handle it mentally."

Last year's grand jury report urged court officials to consider a more intensive process with more in-depth application forms, orientations and interviews with judges.

"We found a serious need to address this maladaptive process and put forth a proactive plan to preclude the shortcomings of a process lacking in regular review for

effective performance and commitment to best serve the citizens of Santa Cruz County," the report stated.

Court officials say they can only do so much.

"They may want a blue-ribbon type group, but that's not what it's supposed to be," said court administrator Christine Patton. "It's supposed to be by your peers."

Added Jury Commissioner Deanna Lindgren: "Obviously, you don't want someone who has some kind of agenda and uses (the grand jury) for their own benefit. We try to look for that, and we ask those kinds of questions, but it doesn't always work. ... If someone wants to get onto here, they're going to tell us what we want to hear."

But in hopes of preventing another grand jury collapse, the judges recently decided to try a different selection process beginning with the 1997-98 grand jury. It will be a hybrid of random selection and hand-picking by the judges.

Each judge will nominate two people who will be entered into the semi-final pool of 60 candidates. "That way, it'll be salted with leaders in the community," Yonts said.

## No easy solutions

Because the grand jury resignations came late in the fiscal year, Yonts said the judges decided it did not make sense to try and find a few new jurors to complete the investigations and the report by the June deadline.

A spokeswoman for the Attorney General's Office said Santa Cruz County is not breaking any laws by dismissing its jury before its work was completed. As long as the county impaneled a grand jury

at the beginning of the year, it's fine, she said.

No agency keeps track of the state's grand juries, but Olson, who has been observing and training California grand juries for three decades, said he does not recall any other dissolutions in recent years.

"But statewide, there's been more explosions and blow-ups in the grand jury in the last five years than there has been in the past 30 years," Olson said. "We're just creating a nation of people who are just shouting at each other."

"What is needed to save the grand jury system is a recruitment pool of people who understand factual evidence, how to draw a reasonable conclusion, and how to document conclusions," Olson said. "And until then, I think the grand jury system will be in a continuing battle."

Olson could not pinpoint a perfect solution, however.

"With random sampling in any California county ... you run a risk stacking half of them who are really quite ignorant. Then if you try to get a blue-ribbon group, then you'll have people who know a lot about local government but are partial to the establishment," he said. "It's a tough one. It really is."

Despite the flaws, no one is ready to toss out the grand jury system.

"They skip judges, the DA, the board of supervisors," Yonts said. "They're an agency that can report and criticize straight from our citizenry — that's important."



But internal conflicts this year were apparently too much to bear. First, the foreperson resigned. Then others followed. Even with 11 alternates, there were not enough people left to fill the necessary slots.

Superior Court Judge Robert Yonts, who presided over this year's group, said he dismissed the remaining grand jurors in March. Just two months before, he had suspended the entire panel for one week for alleged violations of grand jury rules.

"You could call it a hung grand jury," Yonts said, declining to give any specific details. "I investigated all the contentions and talked to each member. They were in strong disagreement with each other on how to proceed."

With only general guidelines in the state Penal Code and occasional advice from the presiding judge, grand jurors decide among themselves how they will carry out their civic duty. This year's panel was fundamentally divided over what they perceived were appropriate grand jury rules.

According to several of those who served on this year's panel, members of the group disagreed over voting and investigation methods. One group clung to tradition. Another group wanted to tread on new territory. And one group sat on the fence.

Their primary task — government oversight — took a backseat to the infighting.

"It was just a big quagmire. Dissension in the ranks. People had bad feelings," said Julian White Eagle, one of the remaining jurors who was named foreman only to continue accepting incoming complaints.

The complaints, including the ones that were already under investigation, will have to wait for next year's grand jury. Whether any of them will be investigated will be up to the new panel.

"The agenda of some of the people really broke the grand jury," said Laura Jones, who felt she had no choice when she resigned as forewoman. "I feel very terrible that this happened on my shift."

### Advocates for change

The grand jury system dates back to the Magna Carta and is enshrined in the Bill of Rights. More than 40 states have some form of a grand jury. California law mandates that counties impanel private citizens every year.

Grand juries — an arm of the judicial system — serve two main

functions. The (grand jury) system works, and in Capitola's case, it did work," he said.

Then there are other investigations that seemingly lead to nothing. Grand juries have revisited the same agencies and made the same recommendations several years in a row to no avail.

Long before metal detectors went up at the courthouse last December, several grand juries had recommended beefed-up security there. Yet it took a suicide shooting in the courthouse parking lot, a package bomb at a lawyer's office, and a bomb threat to the judges and the District Attorney before the county put in the "single-point entry" that grand jurors had advocated before.

County Administrative Officer Susan Mauriello said not all grand jury recommendations go unheard.

Small, less visible changes, such as panic buttons, were installed at the courthouse after the grand jury first pushed for tighter security, Mauriello said.

But sometimes, Mauriello and other government officials agreed, there simply isn't enough money to do what the grand jury recommends. Sometimes their suggestions are not politically acceptable. Sometimes, they "don't make sense," Mauriello said.

And some things simply take time. "These things live longer lives than an individual grand jury. The fact that (a change) was not instituted the moment the grand jury makes a recommendation doesn't mean that the recommendation won't be considered later," Mauriello said.

Bureaucrats politely say they respect the grand jury and always cooperate — as the law requires them to — with its investigations. But they also say they sometimes think, especially when they disagree with the grand jury's criticisms, that the citizen panels do not conduct thorough investigations.

Neither do officials expect them to, given the limited budget and resources reserved for the grand jury.

Even judicial officers who administer the program admit they don't devote as much attention as they should to the group.

"It's a thankless job because government people think they're a pain in the derriere, but that's what they're supposed to be. They're an ombudsman," said Superior Court Judge Bill Kelsay.

### Problems with the process

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