



2004-2005 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

GENDER GAP IN VOCATIONAL TRAINING AT ELMWOOD

Summary

Members of the Santa Clara County Civil Grand Jury (Grand Jury) conducted a tour of the Elmwood Correctional Facility (Elmwood) in Milpitas on August 9, 2004. During the course of this visit, the Grand Jury observed a disparity between vocational classes made available to male and to female inmates. As a result of this visit and a citizen's complaint, a team of Grand Jury members revisited the facility for an additional assessment and to interview those personnel involved in educational and vocational training. Milpitas Unified School District (MUSD), in coordination with the Santa Clara County Department of Correction (DOC), provides the majority of classes which are available only to minimum security inmates.

During the course of our investigation, the Grand Jury found the following:

- Male inmates are offered greater vocational opportunities than are female inmates;
- Access to classes funded through federal financial assistance is not equal for both genders. This disparity raises serious questions as to whether there is compliance with Title IX of the Educational Amendments of 1972, 20 U.S.C. § 1681;
- A DOC focus on substance abuse classes fosters an unbalanced approach to rehabilitation and results in the subordination of vocational skills training;
- A culture exists in DOC that places more importance on correctional concerns than on a balanced environment where concern for safety and security can coexist with equal educational opportunities for all inmates, regardless of gender; and
- The Inmate Welfare Fund (IWF), a fund established to benefit inmates, had funds used primarily to subsidize DOC salaries and overhead, at the expense of support for inmate programs (not funded by MUSD).

Background

DOC, established in 1987, is responsible for the care and safety of inmates housed at Elmwood. With a population of approximately 3000 inmates, 2500 male and 500 female, this facility is among the largest in California. Historically, the facility known as Elmwood held only male inmates, while female inmates were housed in the adjoining facility known

as the Correctional Center for Women (CCW). There is strict separation between male and female inmates at all times. The CCW is adjacent to the main complex, but it is separated by a fence and gates. In July of 2004, the administration of the two complexes was merged to improve efficiency and reduce overtime expense. Today, the combined facilities (known as Elmwood Correctional Facility) operate with a total staff of approximately 350, who provide security, medical care, and both educational and vocational instruction. A key component of DOC's mission statement states in part that they will "maximize opportunities for offenders to participate in programs that reduce criminal behavior and enhance the offenders' reintegration into the community."

Discussion

EDUCATION

MUSD, acting through Milpitas Adult Education, is the prime provider of the majority of educational and vocational classes at Elmwood. The curriculum consists of two groups of classes. The first group includes academic/lifestyle classes such as ESL (English as a Second Language), parenting, and substance abuse. The second includes vocational/industrial classes such as carpentry, welding, and cabinetmaking. These classes are more fully described in the referenced DOC Inmate Program-Unit Directory of Classes.

There is no cost to DOC for classes provided by MUSD since MUSD receives funding from the state and federal governments for Elmwood classes. State funding is based on the number of inmates participating in classes. According to interviews with MUSD personnel at Elmwood, each class must generally justify itself with a minimum attendance of 15 students or risk possible cancellation. However, classes in substance abuse have a much higher attendance (in excess of 15 students), and these higher figures are sometimes used to support lower attendance classes in the vocational/industrial area.

The financial report for the year ended June 30, 2003 shows that MUSD received \$183,500 in Federal Financial Assistance (FFA) funds for Adult Basic Education for Institutionalized Adults at Elmwood. Institutions receiving FFA funds for education are subject to Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, which states in relevant part: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." MUSD spends these FFA funds to provide educational instruction, both academic/lifestyle and vocational/industrial, to minimum security inmates at Elmwood. While DOC is not subject to FFA funding requirements, it is denying minimum security female inmates the opportunity to participate in almost 90% of the vocational/industrial classes offered by MUSD, solely as a result of the inmates' gender. Although MUSD is an instructional institution and recipient of FFA funds, the instruction in question is occurring at Elmwood, a correctional facility. In substantiation of the applicability of Title IX provisions to a correctional facility, the US Court of Appeals for the 9th Circuit, which includes California, rendered an opinion, *Jeldness v. Pearce* (1994) 30 F. 3d 1220. In this case, female inmates in the Oregon state prison system claimed that they did not have equal

educational and vocational opportunities when compared to the male inmates of the prison. In summary, the court held the following:

- Title IX does apply to correctional facilities;
- Title IX and its regulations do not require mixed gender classes or a one-for-one offering of identical classes;
- Title IX regulations have to be applied in the context of prison security concerns;
- Penological necessity is not a defense to Title IX, rather it is just one concern to be considered in how the equality principles of Title IX are to be applied in prisons; and
- Requirements of Title IX can be carried out without compromising any valid correctional concerns over security, order, and discipline.

MUSD receives FFA funds to provide instruction at Elmwood; however it is DOC that has the final say in all class offerings and participation, regardless of the provider or the source of funds. As explained in the next section, these decisions by DOC cause MUSD to be in possible violation of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681.

VOCATIONAL/INDUSTRIAL CLASSES

Vocational/industrial classes at Elmwood are, with the exception of food safety and landscaping, taught by MUSD at no cost to DOC. MUSD teaches male inmates classes in blueprint reading, cabinetmaking, carpentry, computer training, industrial safety, upholstery, and welding. Mission College in Santa Clara provides a certificate program titled Food Safety Workshop for male inmates working in the kitchen. A landscaping class is taught by an outside instructor. Funds for these two latter classes are paid from the Inmate Welfare Fund. The only class in the vocational/industrial curriculum open to female inmates is computer training. Table 1 summarizes the vocational/industrial opportunities currently available to inmates of each gender:

Table 1 Vocational/Industrial Classes and their Eligible Participants

Vocational/Industrial Classes	Men	Women
Blueprint reading	X	
Cabinetmaking	X	
Carpentry	X	
Computer classes	X	X
Food safety	X	
Industrial safety	X	
Landscaping	X	Withdrawn*
Upholstery	X	
Welding	X	

* See section entitled Achieving a Balance

While securing a job upon release is important, it is not always the first priority for female inmates. As explained by Elmwood’s Rehabilitation Officer, many, if not most of the female inmates are single mothers and, while they have been incarcerated, their children

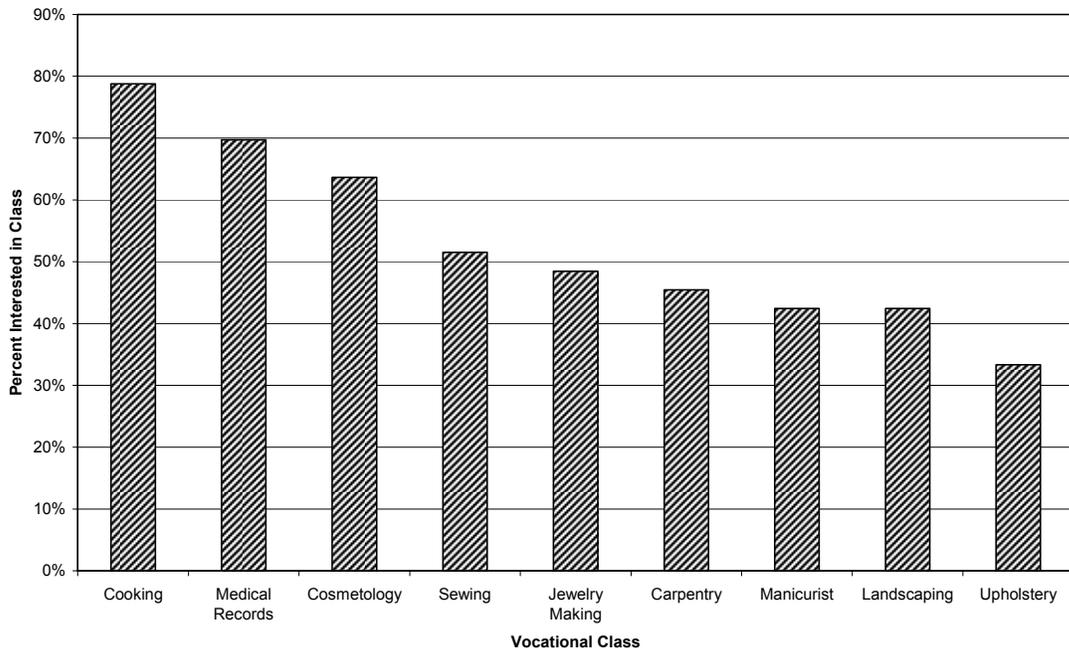
have been in interim care arrangements. Once they are released from Elmwood, the first order of business is the resumption of their parenting role and the establishment of a home.

However, key to the establishment of a home is the ability to secure meaningful employment. Typically, female offenders lack vocational skills and have higher than average rates of unemployment. Without rehabilitation services that speak to these issues, such as vocational or skills training and job preparedness, these individuals will be unprepared for the stresses of community transition and a competitive employment market.

Elmwood has made tremendous strides in recognizing the importance of substance abuse programs for male and female inmates. In addition, male inmates enjoy a variety of instruction centered in vocational/industrial classes. However, the lack of any vocational training in the female inmate area is especially troubling. As previously indicated, many of the female inmates are single parents. According to Elmwood's Rehabilitation Officer, the added burden of caring for their children, together with the demands of seeking meaningful employment and other pressures upon their release, has been instrumental in many of them resuming some of the old habits that led to their original incarceration.

In an effort to understand and determine the level of interest by female inmates in vocational/industrial classes, members of the Grand Jury conducted a survey while visiting Elmwood. A class of minimum security female inmates was visited, and the inmates were asked in which classes (not currently offered to females) they would have an interest. In addition, copies of a written survey with the same questions (see Appendix A) were placed in a female inmate area. The total sample size was 33 inmates with 70% of the responses coming from the class visit. The inmates could indicate interest in as many classes as they wished. The results are shown in Figure 1.

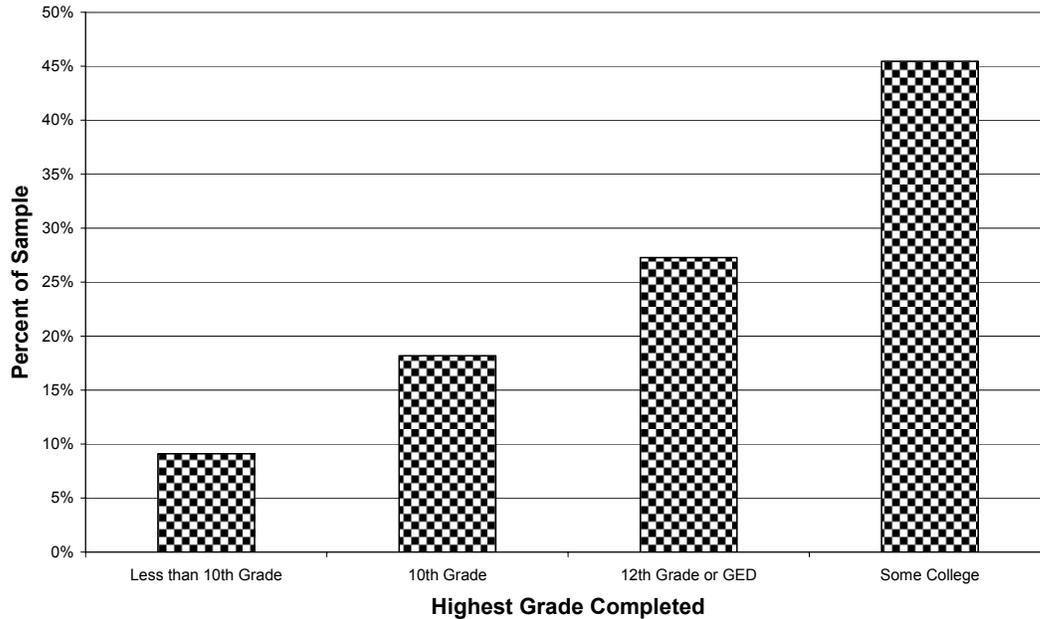
Fig. 1 Elmwood Female Vocational Class Interest Survey



Of the respondents, 79% indicated that they would attend a cooking class. This was followed by medical records at 70% and cosmetology at 64%.

Members of the Grand Jury also sought to determine the educational level of these same inmates and found the following, as displayed in Figure 2.

Fig. 2 Educational Level of Female Inmates Surveyed



Clearly, even though the sample size is limited and not randomized, it appears that many of the respondents are educated individuals who exhibit an interest in learning vocational skills.

Data on the effect of vocational training on recidivism of inmates is sparse. However, a referenced report by Saylor and Gaes, researchers at the Federal Bureau of Prisons, on male inmates indicates that those with vocational training have a lower tendency to re-enter the prison system than those who had none. They found that after three years the recidivism rate was 40% lower for those who received vocational apprenticeship training while incarcerated.

Based on such research, if the rate of recidivism is to be reduced, there must be a more balanced approach in offering vocational/industrial instruction to provide inmates with marketable skills, in addition to providing treatment for substance abuse. While not the only variable that impacts recidivism, having vocational skills would greatly enhance both male and female inmates' chances of becoming productive and contributing citizens.

ACHIEVING A BALANCE

While substance abuse instruction is an integral part of each class at Elmwood, there are also 15 classes where it is the only subject. Minimum security inmates of both genders spend three hours a day, five days a week in substance abuse classes and may receive additional instruction on this subject in other classes they are attending. This focus is appropriate as 85% of incoming inmates test positive for drug use. The Program Manager

at Elmwood asserted that in the past a greater variety of classes was offered, but the curriculum has been restructured to provide an increased emphasis on substance abuse. Many studies indicate a strong correlation between substance abuse programs and lower recidivism. Dr. Harry K. Wexler, a leader in prison reform, found that inmates who participated in a prison/correctional facility substance abuse program with aftercare had a recidivism rate of 27% as compared to a rate of 75% for those not involved in any type of treatment program during incarceration.

Judges in Santa Clara County (County) are actively involved in the sentencing and rehabilitation of inmates at Elmwood, especially for drug abuse and domestic violence cases. Working with the Elmwood Program Manager and Rehabilitation Officer, judges emphasize the use of substance abuse classes in conjunction with jail time and possibly probation to achieve a customized sentence. Reviews of inmate activity are ordered after 60 or 120 days to gauge progress in classes and to determine if time should be added to or deducted from their sentence. A consequence of the strong emphasis on substance abuse classes has unfortunately been the reduced opportunity for female inmates to participate in vocational/industrial training. While this is a problem for both genders within Elmwood, the effect is exacerbated as a result of the smaller population of female inmates. For example, in the last two years several attempts have been made to establish a landscaping class for female inmates. However, these attempts have failed primarily because female inmates were withdrawn from the class in order to attend substance abuse classes, jeopardizing the viability of the landscaping class. The essence of rehabilitation does not consist of just substance abuse education and assistance to facilitate drug-free lives. Instruction and training classes should also be provided for new or improved job skills that can lead to inmate employment after reintegration into the community, thus achieving a balance.

INMATE WELFARE FUND

A source of revenue for inmate programs, including academic and vocational/industrial classes, is the Inmate Welfare Fund (IWF). The purpose of the IWF, per California Penal Code § 4025, is to allow the County to establish, maintain, and operate a store/commissary and vending services at Elmwood, with the commissions from sale proceeds being deposited into the IWF. In addition, this statute requires that any money, refund, rebate, or commission received from an inmate telephone service provider be deposited in the IWF, provided that the proceeds are attributable to utilization by the inmates of pay telephones. A key provision mandates that IWF money and property are to be expended primarily for the benefit, education, and welfare of the inmates. The DOC IWF Committee, which has the responsibility for the appropriate allocation of funds, is composed primarily of DOC command staff. After reviewing the DOC Inmate Welfare Fund Comparative Financial Statements for the years ended June 30, 2003 and 2004, several actions and decisions by the IWF committee were noted that may merit additional review:

- The IWF Committee decided to shift more of the burden for payment of DOC salaries and benefits from the General Fund to the IWF. As a result, IWF expenditures for salaries grew from \$1,698,871 in 2003 to \$3,550,531 in 2004, an increase of 109%. Comparing this expenditure to IWF revenues, it amounts to 45% of 2003 revenues and jumps to 99% of 2004 revenues.

- Expenditures for inmate programs (classes and activities not funded by MUSD or a volunteer organization) decreased from \$1,690,935 in 2003 to \$512,314 in 2004, a 70% reduction.
- In conjunction with securing a new inmate phone system for Elmwood, including the pay phones used by the inmates, an initial signing bonus of \$150,000 and an additional bonus of \$200,000 were paid by the vendor to the County General Fund, rather than to the IWF. In addition, the County is to receive a bonus of \$200,000 from the vendor for each of the next five years, again to the exclusion of the IWF. DOC sought and received a legal opinion from County Counsel's office before entering into this arrangement.

The DOC states that the decisions above are within the legal parameters of the IWF. The Grand Jury is making no finding with regard to the legality of the IWF expenditures. However, there is the appearance that inmates' interests and needs are subordinate to the maintenance of DOC staff levels. In addition, the makeup of the IWF Committee is concentrated in command staff personnel with no specific representation for inmate programs.

This Grand Jury recognizes that budget pressures on County agencies are real and enormous. These concerns have forced managers to focus on short-term fixes instead of long-term solutions. In the IWF situation cited above, it was decided to reduce inmate program funding instead of cutting DOC personnel. The long-term effect of this action may be more inmates returning to the correctional system and costing taxpayers more money in the long run. For each inmate in jail today, according to Langan and Levin, statisticians with the United States Department of Justice, the chance of his/her returning is greater than 60%. If this number could be reduced, it would save future money that would have to be expended by police, courts, DOC, and victims.

FINDING 1

Access to the vast majority of the vocational/industrial classes at Elmwood is not available to female inmates. While the DOC Inmate Programs-Unit Directory of Classes indicates that classes are open to all minimum security inmates, the investigation has revealed that female inmates are not given the opportunity to participate in almost 90% of the vocational/industrial classes (see Table 1).

RECOMMENDATION 1

DOC and MUSD should work together to more fairly allocate available resources to achieve gender parity in vocational/industrial course offerings and access for all minimum security inmates.

FINDING 2

DOC does not allow female inmates equal access to vocational/industrial classes provided by MUSD, which is a recipient of funds for Institutionalized Adults at Elmwood. This denial is a possible violation of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681.

RECOMMENDATION 2

DOC should recognize MUSD's legal responsibility to conform to the provisions of Title IX and should provide the necessary resources and facilities to ensure compliance with Title IX.

FINDING 3

A disproportionate focus on substance abuse classes prevents female inmates from engaging in vocational/industrial classes.

RECOMMENDATION 3

DOC should work to balance the requirements of substance abuse programs, mandated by the courts, with vocational/industrial classes for female inmates. The existing richness of the course offerings and the balance between substance abuse training and vocational/industrial training for male inmates appears to be good. The program for female inmates should be upgraded to be comparable in all respects to the program for male inmates.

FINDING 4

Substantially more monies from the IWF were used in 2004 to fund expenses for DOC salaries and benefits than in earlier years. In FY 2003, the rate of salary/overhead withdrawals was 45%. This rate rose, in the Grand Jury's opinion, to an unacceptable level of 99% in FY 2004, resulting in a 70% cut in IWF funds for inmate programs and thereby jeopardizing their overall effectiveness.

RECOMMENDATION 4A

In fairness, the IWF Committee should limit salary and overhead withdrawals from the IWF to an amount not greater than 50% of the total income before expenses.

RECOMMENDATION 4B

Inmates should have greater advocacy on the IWF Committee. A representative from DOC involved in inmate programs or vocational/industrial training should be a member of the IWF Committee.

PASSED and ADOPTED by the Santa Clara County Civil Grand Jury on this 13th day of January 2005.

Michael A. Smith
Foreperson

References

Documents

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2. Directory of Classes, *Department of Correction Inmate Programs Unit, Santa Clara County*, 9 Aug. 2004.
3. DOC FAQs (Frequently Asked Questions) Summer 2004, Santa Clara County Department of Correction.
4. Schedule of Expenditures of Federal Awards for Year Ended June 30, 2003, Milpitas Unified School District.
5. Inmate Welfare Fund Comparative Financial Statements for the years ended June 30, 2003 & 2004, Santa Clara County Department of Correction.
6. Rules of the Santa Clara County Department of Correction Inmate Welfare Fund Committee, 24 May 2004.
7. Acting Chief, DOC, Memorandum, 19 Oct. 2004.
8. Deputy County Counsel, Memorandum, 23 Sept. 2004.
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16. Langan and Levin, Recidivism of Prisoners Released in 1994, Department of Justice, 2002. <www.ojp.usdoj.gov/bjs/pub/pdf/rpr94.pdf>, (Last viewed 29 Nov. 2004).
17. Recidivism of State Prisoners: Implications for Sentencing and Corrections Policy, Sentencing Project, 2002. <www.sentencingproject.org/pdfs/1064.pdf>, (Last Viewed 29 Nov. 2004).

Interviews

1. Principal, Milpitas Adult Education/Elmwood Corrections Program, Personal Interview, 3 Sept. 2004.
2. Sacramento County Grand Jury Foreperson, Telephone Interview, 6 Sept. 2004.
3. Elmwood Program Manager and Rehab. Officer, Personal Interviews, 17 Sept. 2004.
4. Commander, Elmwood Complex and Acting Chief, DOC, Personal Interviews, 30 Sept. 2004.
5. Building Operations and Support Services Manager, Personal Interview, 6 Oct. 2004.
6. Departmental Financial Officer, DOC, Personal Interview, 15 Nov. 2004.

Tours

1. Elmwood Grand Jury Tour, 9 Aug. 2004.

Appendix A

Interview Questions for Elmwood Inmates

1. How long have you been here?
2. What grade did you finish?
3. What was your occupation just before you came here?
4. Have you taken any classes? Which ones? If not, why not?
5. What classes would you like to see offered?
6. Would you take classes, if offered in:

Manicurist _____

Cosmetology _____

Jewelry making _____

Keeping Medical Records _____

Cooking _____

Sewing _____

Landscaping _____

Upholstery _____

Carpentry _____

Thank you for your time.