



***2011-2012
ALAMEDA COUNTY GRAND JURY
FINAL REPORT***

ALAMEDA COUNTY BOARD OF SUPERVISORS

District One – Scott Haggerty

District Two – Vacant

District Three – Wilma Chan

District Four – Nate Miley, President

District Five – Keith Carson, Vice President

ALAMEDA COUNTY GRAND JURY

1401 Lakeside Drive, Suite 1104

Oakland, California 94612

Phone: (510) 272-6259

FAX: (510) 465-9647

E-Mail: grandjury@acgov.org

WEB: www.acgov.org/grandjury

*Cover photograph courtesy of Seth Gaines, Germantown, Maryland.
[Used with permission.]*

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Alameda County
Grand Jury

1401 Lakeside Drive
Suite 1104
Oakland, California 94612

510.272.6259
fax 510.465.9647
www.acgov.org/grandjury

June 25, 2012

Honorable C. Don Clay
Presiding Judge
Alameda County Superior Court
1225 Fallon Street, Dept. One
Oakland, California 94612

Dear Judge Clay,

The members of the 2011-2012 Alameda County Civil Grand Jury are pleased to submit our final report to you and the people of Alameda County. Established as an arm of the court by the California Constitution, grand juries in each county serve as watchdogs investigating the operations of the county, cities, and special districts. Members are nominated by superior court judges and then selected for one-year terms in a random drawing.

The 2011-2012 Alameda County Civil Grand Jury investigated citizen complaints and other issues that it considered to be most important to the proper and efficient functioning of government. We received in excess of 70 citizen complaints. While we acknowledged the receipt of all complaints, not every complaint was investigated. Some were not within our jurisdiction and some were not pursued given time, staffing or resource constraints. During this session the jury received testimony from 105 witnesses and reviewed approximately 10,000 pages of documents. While California law requires all complaints and our deliberations to be confidential, this report will be posted on the internet along with each jurisdiction's responses to the recommendations at www.acgov.org/grandjury.

During the 2011-2012 session, the Grand Jury was comprised of five committees that conducted investigations and made recommendations. New to the report this year is the Response Committee's report. This committee evaluated the responses submitted by various agencies to the 2010-2011 Final Report and suggested additional follow-up as deemed necessary. The Grand Jury members served on the following committees and made recommendations on the following topics:

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Law & Justice Committee - Jail Inspections in Alameda County; Crime Labs in Alameda County; and County Contracting Policies
Health & Social Services Committee - Berkeley Rent Stabilization Board; and Community Based Organization Oversight
Education & Administration Committee - FAME Charter School; and Risk Management/Workers' Compensation
Government Committee - Special Districts & Joint Powers Authorities; and Oakland Community Housing, Inc.
Response Committee - Review of Responses to 2010-2011 Final Report

City and county officials face many challenges, and the Grand Jury would like to acknowledge their commitment, dedication, and impressive effort to serve the people. This jury investigated citizen complaints, but also looked for ways to make various agencies more effective.

During this session the Grand Jury found a common theme throughout our investigations. That theme was "lack of accountability." Accountability is a term to which our public servants and the public that elects them should be continuously dedicated. This lack of accountability manifested itself at every level from the oversight by various boards (including the Board of Supervisors) to the lack of management oversight at the executive director level, and to the management of multi-million dollar contracts. Additionally, this report identifies an area of concern to the voters of Alameda County. Joint Powers Agreements and Special Districts have either elected or appointed boards that essentially have no oversight other than the voters. They operate outside the controls of most county and city governments, and most voters do not recognize that they are the only people who can hold them accountable. The most notable example reviewed by this Grand Jury was the now closed Associated Community Action Program (ACAP), which failed to provide effective financial accountability.

Government entities are increasingly challenged with declining resources and increasing demand for services. In this environment, managers need to ensure the taxpayers that they are actively using their resources as efficiently as possible. The challenge to effectively manage current resources, develop additional funding, and work efficiently and effectively requires greater accountability and oversight. The Grand Jury found a common issue throughout many of the investigations relating to oversight and accountability in contracting policies and implementation. This theme becomes apparent where agencies are administering large dollar contracts, which have little or no evaluation of performance as it

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relates to renewal of a contract, and in some cases, the agency contract administrator for multi-million dollar projects has little training in contract administration. The Grand Jury found in some cases, combining services across city and county entities would create a much more efficient and cost beneficial operation. Some solutions involve the implementation of better software tracking and others would benefit from the shared use of existing resources. Many agencies seem to be working independently and the citizens would be much better served by greater collaboration.

The Grand Jury would like to express our appreciation for the valuable assistance of Deputy District Attorney Rob Warren who served as our legal advisor, and Cassie Barner of the District Attorney's Office for her efforts in scheduling, her institutional knowledge, and assistance in writing our report. The last two years have seen an increasing workload for this office and they are true professionals. Finally, I appreciate all the hard work by the members of this Grand Jury, who come from various backgrounds, but truly want to make government work better and more effectively. Their cooperative effort, inquisitive nature, and willingness to donate long hours to this effort is commendable. We all appreciate the opportunity to serve.

Sincerely,



RUSSELL G. MILLER, Foreman
2011-2012 Alameda County Civil Grand Jury

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2011-2012

ALAMEDA COUNTY CIVIL GRAND JURY MEMBERS

JUROR	SUPERVISORIAL DISTRICT/CITY	NOMINATING JUDGE
William Biddell	District 2 – Hayward	Judge Jon R. Rolefson
Laura Brody*	District 5 – Piedmont	Judge Jon R. Rolefson
Launa M. Craig	District 2 – Hayward	Judge Jon R. Rolefson
Barbara Dabney	District 2 – Hayward	Judge Jon R. Rolefson
Candace Fitzgerald*	District 3 – Alameda	Judge Jon R. Rolefson
John L. Goodman	District 2 – Hayward	Judge Jon R. Rolefson
Robert P. Greene	District 5 – Oakland	Judge Vernon Nakahara
Richard Hausman	District 5 – Oakland	Judge Delbert Gee
James M. Lee	District 3 - Alameda	Judge Jon R. Rolefson
John F. Maher	District 4 – Castro Valley	Judge Jon R. Rolefson
Dale Rogers Marshall*	District 5 – Piedmont	Judge Yvonne Gonzales Rogers
Russell G. Miller*	District 1 – Pleasanton	Judge Vernon Nakahara
Fred Parker	District 2 – Hayward	Judge Jon R. Rolefson
Anita Ramlo*	District 4 – Oakland	Judge Jon R. Rolefson
Lloyd L. Rash*	District 3 – San Leandro	Judge Jon R. Rolefson
Baron Jon Rickman	District 4 – Castro Valley	Judge Jon R. Rolefson
Brenda J. Starr	District 3 – San Leandro	Judge Jon R. Rolefson
Jack S. Summerfield	District 5 – Piedmont	Judge Jon R. Rolefson
Gregory Swetnam	District 1 – Livermore	Judge Jon R. Rolefson

*Jurors held over for a second term by Presiding Judge Jon R. Rolefson.

**2011-2012 ALAMEDA COUNTY GRAND JURY
OFFICERS & LEGAL STAFF**

OFFICERS:

FOREPERSON: Russell G. Miller

FOREPERSON PRO TEM: Lloyd L. Rash

SECRETARY: Laura Brody

SECRETARY PRO TEM: Brenda J. Starr

SERGEANT AT ARMS: Jack S. Summerfield

SERGEANT AT ARMS PRO TEM: Robert P. Greene



LEGAL STAFF:

Robert L. Warren, Deputy District Attorney

Cassie Barner, Legal Assistant

**2011-2012 ALAMEDA COUNTY CIVIL GRAND JURY
COMMITTEE ROSTER**



LAW & JUSTICE

Launa M. Craig - Co-Chair
Lloyd L. Rash - Co-Chair
William Biddell - *Secretary*
Candace Fitzgerald
Robert P. Greene - *Secretary Pro Tem*
Richard Hausman
Fred Parker
Baron Jon Rickman
Brenda J. Starr

GOVERNMENT

Anita Ramlo - Chair
William Biddell - *Chair Pro Tem*
Launa M. Craig
John L. Goodman
Robert P. Greene - *Secretary*
Fred Parker
Brenda J. Starr - *Secretary Pro Tem*
Jack S. Summerfield
Gregory Swetnam

HEALTH & SOCIAL SERVICES

Dale Rogers Marshall – Chair
Laura Brody – *Chair Pro Tem*
Barbara Dabney
James M. Lee
John F. Maher - *Secretary*
Anita Ramlo
Lloyd L. Rash
Jack S. Summerfield
Gregory Swetnam – *Secretary Pro Tem*

EDUCATION & ADMINISTRATION

James M. Lee – Chair
Laura Brody
Barbara Dabney – *Secretary Pro Tem*
Candace Fitzgerald
John L. Goodman
Richard Hausman - *Secretary*
John F. Maher
Dale Rogers Marshall
Baron Jon Rickman - *Chair Pro Tem*

RESPONSE

Dale Rogers Marshall - Chair
Laura Brody
Launa M. Craig
Candace Fitzgerald
James M. Lee
Anita Ramlo
Lloyd L. Rash



2011-2012 ALAMEDA COUNTY GRAND JURY

Standing, left to right:

Candace Fitzgerald, John F. Maher, James M. Lee, Laura Brody (Secretary), William Biddell, Dale Rogers Marshall, Richard Hausman, Russell G. Miller (Foreman), Anita Ramlo, Robert P. Greene (Sgt. at Arms Pro Tem), Lloyd L. Rash (Foreman Pro Tem), Baron Jon Rickman, Brenda J. Starr (Secretary Pro Tem), Barbara Dabney

Seated, left to right:

Launa M. Craig, Judge C. Don Clay, Jack S. Summerfield (Sgt. at Arms)

Not Pictured:

John L. Goodman, Fred Parker, Gregory Swetnam

PRESIDING JUDGES OF THE ALAMEDA COUNTY SUPERIOR COURT



Honorable Jon R. Rolefson
July 1, 2011 – December 31, 2011



Honorable C. Don Clay
January 1, 2012 – Present

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INTRODUCTION TO THE ALAMEDA COUNTY GRAND JURY

The Alameda County Grand Jury is mandated by Article 1, Section 23 of the California Constitution. It is constituted and operates under Title 4 of the California Penal Code, Sections 3060-3074 of the California Government Code, and Section 17006 of the California Welfare and Institutions Code. All 58 counties in California are required to have grand juries.

In California, grand juries have several functions:

- 1) to act as the public watchdog by investigating and reporting on the affairs of local government;
- 2) to make an annual examination of the operations, accounts and records of officers, departments or functions of the county, including any special districts;
- 3) to inquire into the condition and management of jails and prisons within the county;
- 4) to weigh allegations of misconduct against public officials and determine whether to present formal accusations requesting their removal from office; and,
- 5) to weigh criminal charges and determine if indictments should be returned.

Additionally, the grand jury has the authority to investigate the following:

- 1) all public records within the county;
- 2) books and records of any incorporated city or joint powers authority located in the county;
- 3) certain redevelopment agencies and housing authorities;
- 4) special purpose assessing or taxing agencies wholly or partly within the county;

- 5) nonprofit corporations established by or operated on behalf of a public entity;
- 6) all aspects of county and city government, including over 100 special districts; and,
- 7) the books, records and financial expenditures of any government agency including cities, schools, boards and commissions.

Many people have trouble distinguishing between the grand jury and a trial (or petit) jury. Trial juries are impaneled for the length of a single case. In California, *civil* grand juries consist of 19 citizen volunteers who serve for one year, and consider a number of issues. Most people are familiar with *criminal* grand juries, which only hear individual cases and whose mandate is to determine whether there is enough evidence to proceed with a trial.

This report was prepared by a *civil* grand jury whose role is to investigate all aspects of local government and municipalities to ensure government is being run efficiently, and that government monies are being handled appropriately. While these jurors are nominated by a Superior Court judge based on a review of applications, it is not necessary to know a judge in order to apply. From a pool of 30 accepted applications (an even number from each supervisorial district), 19 members are randomly selected to serve.

History of Grand Juries

One of the earliest concepts of a grand jury dates back to ancient Greece where the Athenians used an accusatory body. Others claim the Saxons initiated the grand jury system. By the year 1290, the accusing jury was given authority to inquire into the maintenance of bridges and highways, the defects of jails, and whether the sheriff had kept in jail anyone who should have been brought before the justices.

The Massachusetts Bay Colony impaneled the first American Grand Jury in 1635 to consider cases of murder, robbery and wife beating. Colonial grand juries expressed their independence from the Crown by refusing in 1765 to indict leaders of the Stamp Act or bring libel charges against the editors of the Boston Gazette. The union with other colonies to oppose British taxes was supported by a Philadelphia grand jury in 1770. By the end of the colonial period, the grand jury had become an indispensable adjunct of government.

Grand Jury Duties

The Alameda County Grand Jury is a constituent part of the Superior Court, created for the protection of society and the enforcement of law. It is not a separate political body or an individual entity of government but is a part of the judicial system and, as such, each grand juror is an officer of the court. Much of the grand jury's effectiveness is derived from the fact that the viewpoint of its members is fresh and unencumbered by prior conceptions about government. With respect to the subjects it is authorized to investigate, the grand jury is free to follow its own inclinations in investigating local government affairs.

The grand jury may act only as a whole body. An individual grand juror has no more authority than any private citizen. Duties of the grand jury can generally be set forth, in part, as follows:

1. to inquire into all public offenses committed or triable within the county (Penal Code §917);
2. to inquire into the case of any person imprisoned and not indicted (Penal Code §919(a));
3. to inquire into the willful or corrupt misconduct in office of public officers of every description within the county (Penal Code §919(c));
4. to inquire into sales, transfers, and ownership of lands which might or should revert to the state by operation of law (Penal Code §920);
5. to examine, if it chooses, the books and records of a special purpose, assessing or taxing district located wholly or partly in the county and the

methods or systems of performing the duties of such district or commission. (Penal Code §933.5);

6. to submit to the Presiding Judge of the Superior Court a final report of its findings and recommendations that pertain to the county government [Penal Code §933], with a copy transmitted to each member of the Board of Supervisors of the county (Penal Code §928); and,

7. to submit its findings on the operation of any public agency subject to its reviewing authority. The governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body and every elective county officer or agency head for which the grand jury has responsibility (Penal Code section 914.1) and shall comment within 60 days to the Presiding Judge of the Superior Court, with an information copy sent to the Board of Supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. (Penal Code §933(c)).

Secrecy/Confidentiality

Members of the grand jury are sworn to secrecy. All grand jury proceedings are secret. This secrecy guards the public interest and protects the confidentiality of sources. The minutes and records of grand jury meetings cannot be subpoenaed or inspected by anyone.

Each grand juror must keep secret all evidence presented before the grand jury, anything said within the grand jury, or the manner in which any grand juror may have voted on a matter (Penal Code section 924.1). ***The grand juror's promise or oath of secrecy is binding for life.*** It is a misdemeanor to violate the secrecy of the grand jury room. Successful performance of grand jury duties depends upon the secrecy of all proceedings. A grand juror must not divulge any information

concerning the testimony of witnesses or comments made by other grand jurors. The confidentiality of interviewees and complainants is critical.

Legal Advisors

In the performance of its duties, the grand jury may ask the advice (including legal opinions) of the District Attorney, the Presiding Judge of the Court, or the County Counsel. This can be done by telephone, in writing, or the person may be asked to attend a grand jury session. The District Attorney may appear before the grand jury at all times.

Under Penal Code Section 936, the Attorney General of the state of California may also be consulted when the grand jury's usual advisor is disqualified. The grand jury has no inherent investigatory powers beyond those granted by the legislature.

Annual Final Report

At the end of its year of service, a grand jury is required to submit a final report to the superior court. This report contains a detailed account of its activities, together with suggestions and recommendations. The final report represents the investigations of the entire grand jury.

Citizen Complaints

As part of its civil function, the grand jury receives complaints from citizens alleging government inefficiencies, suspicion of misconduct or mistreatment by officials, or misuse of taxpayer money. Complaints are acknowledged and may be investigated for their validity. All complaints are confidential. If the situation warrants and corrective action falls within the jurisdiction of the grand jury, appropriate solutions are recommended.

The grand jury receives dozens of complaints each year. With many investigations and the time constraint of only one year, it is necessary for each grand jury to make difficult decisions as to what it wishes to investigate during its term. When the grand jury receives a complaint for study it must first decide whether or not an investigation is warranted. The grand jury is not required by law to accept or act on every complaint or request.

In order to maintain the confidentiality of complaints and investigations, the Alameda County Grand Jury only accepts complaints in writing. Complaints should include the name of the persons or agency in question, listing specific dates, incidents or violations. The names of any persons or agencies contacted should be included along with any documentation or responses received. Complainants should include their names and addresses in the event the grand jury wishes to contact them for further information. A complaint form has been **included in this report, and is also available on the grand jury's website at www.acgov.org/grandjury.**

Complaints should be mailed to: ***Alameda County Grand Jury, Attention: Foreman, 1401 Lakeside Drive, Suite 1104, Oakland, CA 94612***, or faxed to (510) 465-9647. An acknowledgment letter is routinely sent within two weeks of receipt of a complaint.

How to Become a Grand Juror

Citizens who are qualified and able to provide one year of service, and who desire to be nominated for grand jury duty may send a letter with their resume or complete the attached Civil Grand Jury Questionnaire and mail it to:

Office of the Jury Commissioner - Alameda County Superior Court, Grand Jury Selection, 1225 Fallon Street, Room 100, Oakland, CA 94612. On the basis of supervisory district, six members from each district for a total of 30 nominees are assigned for grand jury selection. After the list of 30 nominees is completed, the selection of 19 jurors who will actually be impaneled to serve for the year are

selected by a random draw. This is done in late June before the jury begins its yearly term on July 1. For more information, please visit the Alameda County Superior Court website at www.alameda.courts.ca.gov and follow the link to “jury” then “grand jury.”

Qualification of Jurors

Prospective grand jurors must possess the following qualifications (pursuant to Penal Code section 893): be a citizen of the United States; at least 18 years of age; a resident of Alameda County for at least one year immediately before being selected; possess ordinary intelligence, sound judgment and fair character; and possess sufficient knowledge of the English language. Other desirable **qualifications include: an open mind with concern for others’ positions and views; the ability to work well with others in a group; an interest in community affairs; possession of investigative skills and the ability to write reports; and a general knowledge of the functions and responsibilities of county and city government.**

A person may not serve on the grand jury if any of the following apply: the person is serving as a trial juror in any court in the state; the person has been discharged as a grand juror in any court of this state within one year; the person has been convicted of malfeasance in office or any felony or other high crime; or the person is serving as an elected public officer.

Commitment

Persons selected for grand jury service must make a commitment to serve a one-year term (July 1 through June 30). Grand jurors should be prepared, on average, to devote two days each week to grand jury meetings. Currently, the grand jury meets every Wednesday and Thursday from 9:00 a.m. to 1:00 p.m., with additional days if needed. Grand jurors are required to complete and file a Statement of Economic Interest as defined by the state’s **Fair Political Practices**

Commission, as well as a Conflict of Interest form.

Grand jurors are paid \$15.00 per day for each day served, as well as a county mileage rate (currently 55 cents per mile) portal to portal, for personal vehicle usage.

Persons selected for grand jury duty are provided with an extensive, month long orientation and training program in July. This training includes tours of county facilities and orientation by elected officials, county and departments heads and others. The orientation and training, as well as the weekly grand jury meetings, take place in Oakland.

An application is contained in this report for interested citizens. Selection for grand jury service is a great honor and one that offers an opportunity to be of value to the community.

CITIZEN COMPLAINT FORM
Alameda County Grand Jury
1401 Lakeside Drive, Suite 1104
Oakland, California 94612
Voice: 510-272-6259 Fax: 510-465-9647

Date _____

Complainant's Name _____ Phone _____

Address _____

Email address _____

Your complaint is confidential. Disclosure of your complaint by the Grand Jury is a misdemeanor. A complaint should only be submitted to the Grand Jury after all attempts to correct the situation have been fully explored. This may include, but is not limited to appealing to a supervisor or department head and requesting intervention by the District Attorney or Board of Supervisors.

What agency, city, district or county department are you complaining about?

Is the complaint regarding a specific official or local government employee of a city, district or county department?

Official or Employee Name

Please explain the nature of your complaint providing as many details as you can, including dates, times, and places where the events you are complaining about took place. Describe specific instances instead of broad statements. Include any available photographs, correspondence or documentation supporting this complaint. Please attach additional sheets of paper if necessary.

Please list other persons or agencies you have contacted about this complaint and the result.

What do you believe should be the proper outcome of the Grand Jury involvement in this complaint?

Provide names and telephone numbers of others who can substantiate your allegations or provide more information, including citizens and agency employees.

Attach additional sheets if necessary. All communications to the Grand Jury are confidential.

Signature _____

Please mail your complaint to:

**Alameda County Grand Jury
Attention: Foreman
1401 Lakeside Drive, Suite 1104
Oakland, California 94612**

Or you can fax your complaint to 510-465-9647

CITIZEN COMPLAINT GUIDELINES

The Civil Grand Jury welcomes communication from the public as it can provide valuable information regarding matters for investigation. Receipt of all complaints will be acknowledged. The information provided will be carefully reviewed to assist the Grand Jury in deciding what action, if any, to take. If the Civil Grand Jury determines that a matter is within the legally permissible scope of its investigative powers and would warrant further inquiry, additional information may be requested. If the matter is determined not to be **within the Grand Jury's authority to investigate (e.g., a matter involving federal or state agencies or institutions, courts or court decisions, or a private dispute)**, there will be no further contact by the Grand Jury.

By law, the Grand Jury is precluded from communicating the results of its investigation, except in one of its formal public reports. All communications are considered, but may not result in any action or report by the Grand Jury.

The jurisdiction of the Civil Grand Jury includes the following:

- Consideration of evidence of misconduct by officials within Alameda County.
- Investigation and reports on operations, accounts, and records of the officers, departments or functions of the county and cities, including special districts and joint powers agencies.
- Inquiry into the condition and management of jails within the county.

Additional information about the Grand Jury, including previous jury reports, is available on our website: <http://acgov.org/grandjury>

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA
Office of the Jury Commissioner
1225 Fallon Street, Room 209
Oakland, CA 94612
(510) 272-5003

CIVIL GRAND JURY QUESTIONNAIRE
(Please print or type)

Name: _____
(First) (Middle) (Last)

Address: _____
(Street) (City) (State) (Zip)

Contact Information: _____
(Home Phone) (Work Phone) (Cell Phone) (Email)

Driver's License No.: _____ Expire: _____

LEGAL QUALIFICATIONS

- | | | | | | |
|------------------------------|-----------------------------|--|------------------------------|-----------------------------|---|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | I am a US Citizen and at least 18 years old. | <input type="checkbox"/> Yes | <input type="checkbox"/> No | I am presently serving on a trial jury. |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | I will have been a resident of Alameda County for at least 1 year by next July 1. | <input type="checkbox"/> Yes | <input type="checkbox"/> No | I have been discharged as a grand juror within the past year. |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | I am in possession of my natural faculties, of ordinary intelligence, of sound judgment, and fair character. | <input type="checkbox"/> Yes | <input type="checkbox"/> No | I have been convicted of malfeasance in office or a felony. |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | I understand the spoken and written English language. | <input type="checkbox"/> Yes | <input type="checkbox"/> No | I am presently serving as an elected public officer. |

Education:

Highest Grade Completed: _____

List any degrees you hold: _____

Employment History:

Employer: _____

Occupation _____

If retired, please list occupation you retired from: _____

Have you held public office or been employed by a public agency? Yes No

(If "yes", please list all positions held)

Do you currently have plans to be absent from Alameda County for longer than four continuous weeks from July 1, 2011 to June 30, 2012? Yes No

(If "yes", please give details)

Are you interested in being appointed foreperson of the grand jury? Yes No

If you are employed, does your employer understand the nature of the duties of a Grand Juror and will he/she permit your participation as a juror, for the period that the jury shall be in session? Yes No

Grand Jurors are required to file "Statements of Economic Interests" which are intended to disclose financial interests that may create conflicts of interests. These are not confidential. Are you willing to submit such a statement? Yes No

If selected as a Grand Juror, you will be required to swear to or affirm an oath. Have you any objections to taking such an oath or affirmation? Yes No

How did you hear about the grand jury? _____

What can we do to assist you if you have any physical disability that might restrict your service as a Grand Juror? _____

Briefly state your reasons for wishing to serve as a Grand Juror:

List any areas of expertise you possess that may be helpful to the grand jury service (i.e., accounting, planning, etc.): _____

Pursuant to Penal Code Section 903.2, I understand an investigation that will include a criminal record check will be conducted to help determine my eligibility to serve as a Grand Juror. I further understand that if my name is drawn as a Grand Juror or as an alternate, I may be required to attend grand jury training; if I am seated as a Grand Juror, I will be available to attend grand jury meetings and devote the required time to complete grand jury work for one year, from July through June. I further understand that if my name is drawn as an alternate, I will remain available for one year to serve as a member of the grand jury if called upon.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: _____
(Please insert date signed)

Signature: _____
(Please sign your name here)

For statistical records, please mark appropriate boxes.

Age Range, specifically: 18-25 26-34 35-44 45-54 55-64 65-74 75 and over

Gender: Male Female

Race or Ethnicity: American Indian or Alaskan Native
 Asian Black or African American
 Hispanic/Latino Native Hawaiian or other Pacific Islander
 White (Anglo) Other Race or Ethnicity (Please state _____)
 Decline to Answer

Place of Residence by Supervisorial District:
 District 1 District 2 District 3 District 4 District 5

FOR COURT USE ONLY

Qualified under PC893 and PC896? Yes No

Schedule interview with jury commissioner? Yes No

Dated: _____ Signature: _____
(Jury Commissioner)

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JAIL INSPECTIONS IN ALAMEDA COUNTY

The Grand Jury is required by California Penal Code section 919(b) to inspect jails and holding facilities within Alameda County. To determine which facilities to inspect, the Grand Jury chose jails that had not been inspected within a three-year period, or required re-inspection due to reports of deficiencies. During fiscal year 2011-2012, the Alameda County Grand Jury inspected the Rene C. Davidson Court House holding facility, the Fremont City Jail, and Camp Wilmont Sweeney.

Prior to conducting inspections, the Grand Jury reviewed inspection reports from previous grand juries, the California Board of Corrections (BOC) and the Alameda County Department of Public Health (DPH). The BOC conducts biennial inspections of jails in Alameda County and requires a corrective response to be filed by each agency whenever a deficiency is found. The DPH similarly conducts yearly inspections of all jails and also requires the jails to address any health inspection deficiencies.

Among the issues the Grand Jury looks for when inspecting a facility are cleanliness, record keeping, adherence to department policies and procedures, booking and medical care of prisoners, special accommodations, and meal-serving policies. Additionally, the Grand Jury reviews any corrective responses by BOC and DPH and follows up on corrections that still need to be made. Inspections were conducted by two to four members of the Grand Jury. Twenty-four hour notice was given to ensure staff was available to accompany the inspection team.

In addition to the inspections, the Grand Jury toured the Alameda County Juvenile Justice Center, Camp Wilmont Sweeney, and Santa Rita Jail.

The Rene C. Davidson Courthouse in Oakland is a holding facility used only to accommodate prisoners awaiting court appearances. It is staffed by members of

the Alameda County Sheriff's Office. The Grand Jury inspected this facility on November 1, 2011, and found the staff professional when answering the Grand Jury's questions. The policies and procedures appeared routine and were followed closely. All manuals were stored in a visible place and staff knew where they were located. The Grand Jury found no problems with this facility.

The Grand Jury inspected the Fremont Police Department's jail on October 11, 2011. This facility is staffed by members of the Fremont Police Department. This facility handles bookings and prisoners waiting to be transferred to the custody of the Sheriff. The Grand Jury inspected the jail, reviewed the policies and procedures, and met with jail staff in conducting the inspection. There are no kitchen facilities on site because food is prepared off-site and delivered. The facility is modern and extremely clean. The Grand Jury found no violations or issues with this jail.

The Grand Jury inspected Camp Wilmont Sweeney, located in San Leandro, on October 5, 2011. Camp Sweeney is staffed and operated by the Alameda County Probation Department and is a camp (not a jail) for juvenile offenders. The 2010-2011 Grand Jury noted major deficiencies with Camp Sweeney, mostly based on the age and outdated condition of the Camp. The 2011-2012 Grand Jury noted improvements in the overall cleanliness of the facility, but concludes that Camp Sweeney remains outdated and in need of complete replacement.

During last year's tour of Camp Sweeney, the Grand Jury reported that they were "appalled" at the condition of the camp, noting specifically that "the library appeared more like a ransacked storage room, smelling of mold and mildew; and outside one door was a dead mouse." This year's Grand Jury observed that the library appeared clean and presentable and the administration and staff members were caring and professional. However, the gymnasium remains disturbingly outdated and the entire facility needs to be rebuilt. In light of the current economy, the Grand Jury understands the financial difficulties the county is facing, but encourages the Board of Supervisors and the Alameda County

Probation Department to continue to pursue funding sources and to find solutions for replacement of Camp Sweeney as soon as possible.

RECOMMENDATIONS *None*

RESPONSES REQUIRED *None*

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CRIME LABS IN ALAMEDA COUNTY: FUNDING, FORENSICS AND CONSOLIDATION

Introduction

Recent media coverage of nationwide crime lab testing backlogs prompted the Grand Jury to examine the efficiency of public forensics labs operating within Alameda County. The Grand Jury recognizes that local police agencies are faced with declining budgets. This forces departments to employ innovative strategies to combat violent crime. Without effective innovation, the agencies leave victims and taxpayers poorly served. The 2011-2012 Grand Jury investigated some potential solutions used by other California communities to address crime lab backlog, including the consolidation and regionalization of forensic testing laboratories.

The Grand Jury's investigation concluded that the public should be concerned about the unacceptable backlog of forensics testing requests that currently exist in Alameda County and, more specifically, within the city of Oakland. At the end of 2011, the Oakland Police Department Criminalistics Division reported a backlog of over 3,500 forensic testing requests, many of which involve violent crimes, including murder. Due to a lack of funding by elected officials in Oakland, many requests for forensic testing have simply been cancelled, leaving victims to wonder if their cases will ever be solved. The Grand Jury recommends these backlogs be addressed immediately through regional cooperation and consolidation of forensics testing services in Alameda County.

Background

Eleven years ago, a Grand Jury investigation resulted in the recommendation for the creation of one consolidated countywide regional criminalistics/forensics laboratory. This recommendation was due in part to the need for increased

forensic testing capacity and to eliminate duplicate expenses, to resolve space issues for both the Oakland and Alameda County crime labs, and to obtain a faster turnaround time to reduce backlogs. The 2001 Grand Jury made two recommendations: 1) to form a working group to study the feasibility of constructing a combined law enforcement crime lab in Alameda County; and 2) that the working group study all issues including location and sources of funding. City police chiefs, mayors, the Oakland police chief and the Alameda County sheriff responded with signed letters stating that they agreed with these recommendations. Over a decade later, one consolidated crime lab still does not exist. [See *EXHIBIT A – Crime Labs in Alameda County*]

Clearing the backlog of forensic testing in crime labs is important because forensic evidence can identify suspects, help convict the guilty and exonerate the innocent. The National Commission on the Future of DNA Evidence makes it clear that crime labs throughout the country must dedicate more resources to empower law enforcement to use new DNA technology quickly and effectively. However, changes in the recent economy have led to funding cuts for law enforcement agencies and crime labs across the state; therefore, meeting the training and technological needs of labs has become increasingly more complex and difficult.

Noting that there is a direct link between timely investigations and successful prosecutions, in 2011 the California Department of Justice made DNA testing a priority. Subsequently, in January 2012, the department announced that its DNA backlog had been cleared.

There are two major public crime labs in Alameda County: the Oakland Police Department Criminalistics Division Crime Lab (OPD Crime Lab) and the **Alameda County Sheriff's Office Crime Lab (ACSO Crime Lab)**. Additionally, several other police agencies within the county employ forensic experts who specialize in specific areas of typical lab analysis. For example, the Fremont Police Department has a robust fingerprint analysis unit.

Most police departments within the county use the ACSO Crime Lab to perform their forensic work with fee-for-service agreements. On occasion, some police agencies in Alameda County use federal, state or privately run crime labs to assist in processing of evidence, while the Oakland Police Department performs nearly all its own forensics testing in-house.

Investigation

The 2011-2012 Grand Jury interviewed multiple witnesses from several agencies including crime labs, representatives from the Alameda County Chiefs of Police **and Sheriff's Association; city, county and elected officials; and individuals who advocated for crime lab consolidation in 2001.** We also reviewed reports from San Mateo, Los Angeles, and the Orange County Grand Jury on crime lab consolidation. Additionally, the California Crime Laboratory Review Task Force Report, *An Examination of Forensic Science in California November 2009*, and the National Institute of Justice (NIJ) report *Making Sense of DNA Backlog*, were reviewed. The Grand Jury also studied several thousand pages of documents provided by the OPD Crime Lab and the ACSO Crime Lab as it related to operations, grant requests and statistical analysis.

In November 2009, a statewide California Crime Laboratory Review Task Force studied and made recommendations as how to best configure, fund and improve the delivery of state and local crime lab services in the future. (Full report at http://ag.ca.gov/publications/crime_labs_report.pdf) The task force included stakeholders and lab experts from around the state with local representation **coming from OPD's Crime Lab. The report also acknowledged Oakland's crime lab director for her contributions to the study.**

The task force developed findings and recommendations regarding improved communication with stakeholders, partnerships, and a push towards regional consolidation. Surveys of all public crime laboratories predictably noted a lack of stable funding. This coupled with an ever-increasing workload helped to foster a

backlog of requests for work. The task force made numerous recommendations, three of which stood out:

- Public crime laboratories should organize and participate in continuing education for attorneys and law enforcement in their service area regarding effective use of forensic science and crime laboratory resources.
- Each crime laboratory should implement procedures to achieve better communication between stakeholders and laboratory personnel.
- **Policymakers, laboratories, and laboratories' parent agencies should consider novel approaches to increasing efficiency and mitigating workload demands. Regional consolidation of services, contract services, fee-for-service programs, and evidence item testing limits should be explored and evaluated.**

Alameda County Sheriff's Office Crime Lab

(ACSO Crime Lab)

The Alameda County Sheriff's Office has its own crime lab located in San Leandro. They are awaiting completion of a larger facility in Oakland that will allow for the accommodation of more personnel as well as additional equipment **for forensic testing. ACSO's lab serves nearly every police agency within Alameda County.** The lab is accredited by the American Society of Crime Lab Directors - Laboratory Accreditation Board. The forensic services provided by the lab include DNA testing, drug analysis, firearms and ammunition identification, gunshot residue analysis, latent fingerprint processing and recovery, countywide breath alcohol analysis program, arson case analysis, photographic and digital imaging services, computer forensics, and expert witness testimony.

The Grand Jury learned that the ACSO lab's Major Criminalistics Division, which includes DNA testing, firearms analysis and latent fingerprint examinations, processes and reports on about 900 forensic requests annually. They currently report a backlog of 121 cases. The lab's Drug Unit analyzes approximately 4,000

requests a year. The lab has 30 full-time employees, which includes sixteen trained criminalists, three computer forensic examiners, three administrative support personnel and four managers with an annual operating budget of \$4.5 million. **It currently operates in 10,000 square feet, but ACSO's new lab site will be at least 70% larger.**

The Grand Jury heard testimony from multiple police agencies from around the **county who use the ACSO's lab through a fee-for-service agreement.** While some agencies question the fees charged for testing, others are quite satisfied with the costs and are very happy with the competent and timely service they receive.

For the past two years the ACSO Crime Lab has had a contract with the city and county of San Francisco to perform drug analysis testing due to problems in **San Francisco's Crime Lab. The ACSO Crime Lab is paid for their services, which includes sending ACSO Crime Lab personnel to testify in cases pending in San Francisco Superior Court.**

Oakland Police Department Criminalistics Division Crime Lab

(OPD Crime Lab)

The OPD Crime Lab serves the city of Oakland, with approximately 400,000 residents. Lab staff examine crime scene evidence, report on their findings, and **testify in criminal cases prosecuted by the Alameda County District Attorney's Office.** The lab is accredited by the American Society of Crime Lab Directors – Laboratory Accreditation Board. The OPD Crime Lab is made up of three major units: Latent Prints, Drug Analysis, and Major Criminalistics. The Major Criminalistics Unit includes sub-units that handle forensic biology/DNA, firearms and specialized crime scene response. The OPD Crime Lab does not currently conduct gunshot residue exams or handle any digital or media evidence testing.

According to a 2010 OPD Crime Lab forensic grant application, forensic biology **casework efficiency at OPD's Crime Lab is limited by two major factors: 1) insufficient lab space which limits staff and affects the organization's ability to increase staff; and 2) the lack of access to new technology.** The Grand Jury learned that storage space for evidence is also an issue.

The Grand Jury heard testimony that the OPD Crime Lab is housed in an antiquated and egregiously undersized facility. Originally built over 60 years ago in the 1950s, it is located in the OPD police building in downtown Oakland with only 6,100 square feet -- the same number of square feet as when the lab was originally designed. Advances in technology, increase in staff size, and a great demand for forensic testing during the past six decades lead to the conclusion **that Oakland's crime lab has greatly outgrown its space.**

Due to budget cuts, Oakland continues to use grant funding to meet its growing operational needs and address its significant backlog. Though chronically under funded, the 22 members of the technical staff are held in very high regard for their professional skill and ability to communicate with juries. Yet because of the **OPD Crime Lab's size and inconsistent funding, even a single retirement or position vacancy can have devastating effects on their ability to keep up with an ever growing backlog of cases.** The Grand Jury learned it takes two years to fully train a firearms examiner, and until recently there was only one firearms expert **on staff. OPD's backlog is exacerbated by** the fact that the crime lab does not contract out to other agencies or labs for assistance, relying solely on its own insufficient staffing levels to meet all needs. The lab manager, in addition to ongoing duties, had also been supervising both the Drug and Latent Print Units for two years due to staff retirements. The Grand Jury also learned that the **continued vacancy in key technical positions threatens OPD's ability to transition to new accreditation requirements, meet demands for services, and ensure quality.**

In 2011, the Forensics Firearms Unit received 609 examination requests. While **230 of those requests were reported on (54% increase over 2010)**, the unit's backlog of requests increased to 1,871 (a 15% increase). In response, the OPD Crime Lab reported that it planned to cancel non-homicide requests that are more than three years old, thereby missing opportunities to potentially aid investigations.

Additionally, in a 2011 grant application, OPD reported that the lab had approximately 650 open sexual assault cases and 330 unsolved homicides where biological material present is directly related to the crime (***FY 2011 Solving Cold Cases with DNA***). The lack of investigative resources is certainly a part of the reason why such cases have gone unsolved, **but the lab's responsibility to aid in the criminal investigative process goes well beyond its role of testing DNA.**

The Forensic Biology/DNA Unit was able to increase its productivity by 48% in 2011, due to grant funding which allowed the lab to purchase more sophisticated **technology and restructure criminalists' workload using a team approach.** However, by the end of 2011, the unit still reported a backlog of 515 requests.

Many of the DNA testing requests at OPD's Crime Lab completed in 2011 involved the use of the Combined DNA Indexing System (CODIS). CODIS allows the lab to search local, state and national databases for DNA matches from convicted offenders, arrestees and other crime scene evidence. In 2011, 324 DNA profiles were uploaded and searched in CODIS, providing 198 DNA hits or matches. Before these cases can be presented for prosecution, confirmation samples must be obtained from the potential suspects and further investigation is required by the police agency. Yet since the inception of the use of CODIS in 2000, Oakland reports that of the 538 CODIS cold hits, only about one-third of the confirmation samples have been obtained and tested. This is an example of **Oakland's significant investigative backlog.**

The OPD Crime Lab does not have a comprehensive case-tracking database and instead uses a rudimentary spreadsheet system with limited capability. The lack of a centralized database is problematic because it limits the ability to oversee and keep track of unsolved crimes and to readily determine the status of active cases. As an example, the crime lab was unable to provide the Grand Jury with data related to the number of CODIS confirmation samples obtained from the 2011 hits, or the number of cases from the 2011 hits that have been presented for prosecution.

The Oakland Police Department has drastically decreased the use of latent fingerprint evidence as an aid to solving crime. According to the Criminalistics Division Report, the unit received latent prints recovered in 857 offenses during 2011, which is nearly half the number of prints recovered a decade ago. The lab reported that decreased collection is not directly reflective of the crime rate, which has gone up. The Criminalistic Division Report stated that collection and analysis of latent prints both need to increase.

As a result of the OPD police force not being fully staffed, less evidence is being collected, yet a large forensics-testing backlog remains. Even though OPD has decided to collect fewer latent prints in recent years, staffing losses within the lab have left remaining staff overwhelmed. The latent print staff is left with little choice but to focus primarily on priority homicide cases. Of the 143 computer searchable latent print requests in 2011, the lab completed 34 requests and 31 subjects were identified. Therefore, a highly successful tool to identify suspects is clearly underutilized due to staffing shortages. The lab reported that historically in excess of 10,000 cases with searchable prints have gone unsearched. As of the end of 2011, there was a backlog of 1,118 Latent Print Unit requests. The 2011 Oakland Criminalistics Division Annual Report acknowledged that the lab intended to cancel all non-homicide requests over three years old after review.

Except for seeking short-term grant funding, the city has taken little action to **address the lab's chronic backlogs and staffing needs. Due to lack of funding, the**

OPD Crime Lab has no plans to increase staffing and no viable plans or space to expand. Without the annual infusion of state or federal grants, the OPD Crime Lab has been forced to clear up old backlogs by simply canceling testing requests, leaving crime victims behind. In addition, a lack of funding resulting in possible cutbacks for training **could jeopardize the lab's accreditation. In spite of the crime lab spending \$18M in the past 5 years for its operations, the Grand Jury finds this amount insufficient to provide for adequate staffing and equipment upgrades in order to keep up with increasing demands. The city of Oakland must find a sustainable alternative solution. An example of the disconnect between the city and its crime lab operations was apparent when the Grand Jury heard testimony from an elected official stating that the FBI was helping to clear the backlog of forensics testing at OPD's crime lab. The Grand Jury later learned this was not factually correct.**

California Crime Labs

The Grand Jury heard testimony from several witnesses that the mission of a police department is protecting its citizens and fighting crime, and that managing a crime lab does not have to be the core operational responsibility of a police agency. With current budget issues, police departments have been forced to reprioritize their efforts towards having enough officers patrolling the streets.

Of the fifteen most populated cities in California, only Oakland, San Diego and Long Beach maintain their own crime labs performing nearly all forensic testing for their departments. The remaining twelve largest cities use regional labs or have entered into special relationships with other jurisdictions to perform some or all of their forensic testing. For example, the city of Los Angeles and the **Los Angeles County Sheriff's Department entered into a unique relationship** to house both of their labs within the same new facility at California State University Los Angeles. Several large cities, including San Jose, Bakersfield and Sacramento use labs operated by their respective county district attorneys. Many other cities use regional labs operated by their county sheriffs. The Santa Ana Police Department

uses its county regional lab for all DNA testing yet operates its own firearms examination unit to test the large number of illegal guns recovered by officers. The city of Garden Grove uses the Orange County laboratory and has paid \$400,000 a year for the use of three forensic specialists at the county lab to ensure their cases are handled without delay. The city of Fresno, one of the 15 most populated cities, relies on the state crime lab, which primarily supports the needs of communities that cannot afford to operate their own crime labs.

Over the years, there has been a trend towards the consolidation of smaller labs into regional labs in order to take advantage of economies of scale. This has worked in many jurisdictions because labs perform essentially the same services regardless of location. In most circumstances, the consolidation results in county-wide labs because testing results are used to support criminal cases prosecuted by **each county's district attorney's office. Consolidation forces stakeholders**, including the police agencies and prosecutors, to work together to ensure expensive testing is completed in appropriate cases and precious resources are not wasted on unnecessary testing. Challenges arise when different communities that share one single lab have different priorities. Cities like Oakland spend much of their resources focusing on homicides and other violent felonies. Nearby communities with much less serious crime may be willing to spend resources testing forensic evidence recovered in burglaries and less serious crimes. **Concerns are raised that their cases might always take a back seat to Oakland's** more serious cases. Concerns are exacerbated when backlogs of testing appear insurmountable. In examining regional models as described above, the Grand Jury found that agencies have been able to overcome these concerns through a variety of solutions.

The Grand Jury was presented with one governance model for lab consolidation that would include a joint powers authority with a governing body. The governing body would include a representative from ACSO, the city of Oakland, the Alameda County District Attorney and two additional city representatives that would alternate. This would ensure ongoing communication with all stakeholders

in managing the priorities of the lab. Funding of the lab would be in proportion to **each agency's needs.**

Regional consolidation and cooperation have seen their successes in this county. Currently Alameda and Contra Costa counties operate a joint automated fingerprint identification system (AFIS) used by every law enforcement agency within the two jurisdictions. The AFIS system has a database containing more than 680,000 fingerprint cards of all individuals who have been arrested in the region. The cities of Fremont, Newark and Union City are currently working to consolidate their emergency dispatch systems. Finally, approximately forty public agencies, including 30 cities within Alameda and Contra Costa Counties, have joined forces to build one interoperable emergency communications system for the region. Portions of that system are set to go online within the year.

Benefits of Consolidation

Consolidating crime labs in Alameda County could be beneficial for the following reasons:

- Reducing/eliminating forensics testing backlog
- Reducing administrative overhead
- Creating a common database for more effective case tracking
- Using staff efficiently to minimize disruptions and impact of staff turnover
- Leveraging grant funding requests
- Combining training budgets, resulting in saved funds
- Centralizing purchases and use of supplies and equipment maximizing efficiency
- Increasing communication between all stakeholders to better establish priorities
- **Utilizing the talents of scientists' expertise for the entire county**

Challenges of Consolidation

The Grand Jury recognizes there are some challenges that will need to be overcome before consolidation:

- Governance – administration of lab
- Testing – prioritizing of cases
- Funding – how the new lab is financed
- Power & Politics – overcoming existing organizational structure and beliefs

While the Grand Jury recognizes these challenges, funding is a major concern. The Grand Jury learned of two possible solutions: fee for service, or proportional **funding by agency to be included in each city's annual budget. Regardless of the model chosen, city, county and police officials will need to make difficult decisions for the benefit of crime victims and taxpayers in Alameda County.**

Conclusion

The collection, processing and analysis of forensic evidence is crucial to solving crimes and ensuring the fair administration of justice. During this investigation the Grand Jury heard testimony that the men and women of the various Alameda County crime labs are very competent, hard working and highly trained in their chosen disciplines. The Grand Jury concludes that the expertise of these individuals could be better utilized, and the outcome of forensics testing in Alameda County could be greatly enhanced with regional consolidation, proper governance, increased funding, and better facilities. As noted, all the various law enforcement leaders agreed to the recommendations of the 2001 Grand Jury that a group be formed to study the consolidation of a countywide crime lab. However, the recommendation subsequently failed due to political disagreement among the parties. Consolidation is even more relevant today. While Alameda County has failed to move forward in the past decade, other large metropolitan areas have found innovative ways to make their operations more efficient.

Facing an extremely high violent crime rate, it is critical that OPD's Crime Lab is staffed properly and its technology kept current. **Among the Grand Jury's** concerns are the inability of the city of Oakland to provide sufficient funding and its continuing use of grants for its crime lab. Without proper funding, staffing will remain low, the lab will be unable to reduce its backlog, and facilities will remain inadequate. As a result of the Oakland police not being fully staffed, less evidence is being collected, yet a large forensics-testing backlog remains. Although grants provide a temporary fix, a long-term viable solution for forensics testing needs to be found immediately. Additionally, lack of a case management system prevents effective communication between the crime lab, OPD investigators, and county prosecutors.

The Grand Jury heard direct testimony from an elected official that the FBI is currently assisting Oakland in the reduction of its forensics testing backlog. Additionally, the Grand Jury learned that same official repeated this information at a public event. The Grand Jury confirmed that this is inaccurate as the FBI is not aiding the OPD Crime Lab in reducing its forensic testing backlog. This is further evidence of the disconnect between the OPD Crime Lab and Oakland elected city officials. The Grand Jury believes the public has the right to timely and factual information regarding safety issues in their city. Oakland must not **have a "go it alone" attitude in solving the problems its crime lab faces and must** cooperatively seek solutions to its ongoing problems.

The Grand Jury learned that financing a new crime lab building to accommodate one regional lab might face challenges; however, we also learned that consolidation would save taxpayer dollars in the long run. We strongly encourage all parties involved to seek a solution to this issue. Space and facility cost issues should not be reasons to disregard the need for consolidation. Oakland and Alameda County must cooperate with each other in order to best serve the citizens and the victims of the county. Long standing proprietary decisions by either **organization to go it alone must not override the public's interest.**

The Alameda County Chiefs of Police and Sheriff's Association is well placed to develop a lab consolidation plan that addresses a governance model representing the needs of all entities. The Grand Jury recognizes the sheriff and Oakland police chief must be catalysts to the process and encourages them to move forward aggressively for the benefit of the citizens of Alameda County.

RECOMMENDATIONS

Recommendation 12-1:

The Alameda County Chiefs of Police and Sheriff's Association must meet, confer and develop a written proposal to establish one consolidated Crime Lab in Alameda County.

Recommendation 12-2:

The Oakland Police Department Criminalistics Division must immediately clear its forensics-testing backlog.

Recommendation 12-3:

The Oakland Police Department must immediately acquire a department-wide case management database that integrates the Oakland Police Department Criminalistics Division and county-wide criminal data bases.

RESPONSES REQUIRED

Mayor, City of Oakland

Recommendations 12-2 and 12-3

Chief, Oakland Police Department

Recommendations 12-2 and 12-3

Alameda County Chiefs of Police and Sheriff's Association

Recommendation 12-1



Alameda County Sheriff's Office

LAKESIDE PLAZA, 1401 LAKESIDE DRIVE, 12th FLOOR, OAKLAND, CA 94612-4305

CHARLES C. PLUMMER, SHERIFF
MARSHAL - CORONER - PUBLIC ADMINISTRATOR
DIRECTOR OF EMERGENCY SERVICES

(510) 272-6866

August 15, 2001

Sherry Smith, Foreperson
Alameda County Grand Jury
1401 Lakeside Drive, Suite 1104
Oakland, CA 94612

SUBJECT: 2000-2001 Alameda County Grand Jury Final Report

Dear Foreperson Smith:

I am in receipt of a copy of the 2000-2001 Alameda County Grand Jury Final Report regarding matters concerning the Criminalistics Laboratory. The two recommendations, 01-8 and 01-9, shall be addressed collectively by the Chief of the Oakland Police Department, the District Attorney of Alameda County and the Sheriff of Alameda County.

Recommendation 01-8:

That the Alameda County Sheriff, the Oakland Police Chief, the District Attorney, the Chiefs of Police of all other cities in Alameda County, and other concerned law enforcement agencies immediately form a working group to study the feasibility of constructing a combined law enforcement crime laboratory in Alameda County. The County Administrator and city managers should participate in this working group as needed.

Response:

Currently there are two public safety full-service crime laboratories in Alameda County. One is operated by the Oakland Police Department and resides in their headquarter's facility at 455 Seventh Street, Oakland. The second crime lab is a function of the Alameda County Sheriff's Office and is located at 15001 Foothill Boulevard, San Leandro, in the Eden Township Substation.

In the years 1996, 1998, and 2000, the Alameda County Chiefs of Police and Sheriff's Association (ACCPSA) conducted studies and analyses of crime lab services being provided in Alameda County. The intent of these studies was to improve, expand, or make more efficient forensic and analytical services available to local agencies. As of this date, there have been no definitive or written recommendations coming from those studies.

EXHIBIT A – *Crime Labs in Alameda County*

Sherry Smith, Foreperson
Alameda County Grand Jury
RE: 2000-2001 Alameda County Grand Jury Final Report
Page 2
August 15, 2001

In March 2001, efforts were coordinated by the Sheriff and the Chief of the Oakland Police Department to combine the DNA case examination function with a goal of using DNA certified criminalists from both law enforcement agencies on DNA case work. This experience will be of great assistance in evaluating the feasibility of a joint or combined laboratory effort. The product would then be delivered to the Alameda County District Attorney's Office as criminal cases demand.

The recommendation calls for the current membership of the Alameda County Chiefs of Police and Sheriff's Association (ACCPSA) to form a working group to pursue this combined endeavor. The working group or advisory committee will be formed consisting of seven members of the ACCPSA to include the Sheriff, the Chief of the Oakland Police Department, the District Attorney, the member Chief who serves as the liaison to the Alameda County City Managers' Association, and three members chosen at large. This is similar in concept to an existing committee that provides advisory services to the Alameda County Sheriff's Office Regional Training Center (RTC) on behalf of the ACCPSA, many of whom are active users of the RTC.

Recommendation 01-9:

That this working group should study all issues relating to a combined laboratory including location, sources of construction funding, sources of funding annual operations, and selection criteria for a laboratory director. This working group should study how the laboratory will be governed, paying particular attention to existing law enforcement shared-funding models.

Response:

The Alameda County Sheriff's Office Crime Laboratory provides laboratory services to all law enforcement agencies within Alameda County, on a fee-for-service basis.

The issue of combined or joint laboratory funding would be considered by the ACCPSA's advisory committee. There are existing models that address the option of shared cost, one of which supports the Remote Access Network (RAN) which is the funding mechanism for the California Identification Program (CAL ID). This system involves all law enforcement agencies in Alameda County and is financially supported by a monetary factor that is population based.

In the event a shared cost system is developed, those participating as advisory group members would be active in those areas that include funding options, space considerations, product delivery feedback, and the issue of governance and staffing levels in the laboratory. Recommendations would be forwarded to the Sheriff and the Chief of the Oakland Police Department for consideration. This procedure is similar in scope to the function of the RAN Board.

EXHIBIT A – *Crime Labs in Alameda County*

Sherry Smith, Foreperson
Alameda County Grand Jury
RE: 2000-2001 Alameda County Grand Jury Final Report
Page 3
August 15, 2001

We are pleased to support the recommendations of the Alameda County Grand Jury and pledge to work toward an equitable solution. As you know, we are acutely aware of the evolving changes in DNA/crime lab services and jointly we will ensure that these services are properly delivered to the justice agencies of Alameda County.

Sincerely,


Charles C. Plummer, Sheriff-Coroner

Aug. 17, 01
Date


Richard Word, Chief of Police,
Oakland Police Department

20 Aug 01
Date


Tom Orloff, District Attorney

Aug 21, 2001
Date

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EXHIBIT A – *Crime Labs in Alameda County*

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COUNTY CONTRACTING POLICIES

Introduction

Alameda County spends over \$700,000 each year contracting with outside security companies to provide guard and patrol services for seven agencies at different county facilities. The Grand Jury received a complaint claiming that the county awarded one of the contracts to ABC Security Services based on political favoritism and that other security companies offered lower pricing and were more qualified to provide the services.

The Grand Jury investigated the allegations contained in the complaint as well as the procurement policies of the county. The investigation led the jury to also examine large-dollar contract management and oversight, a responsibility delegated to individual county departments.

While the Grand Jury uncovered no improprieties relating to the security **contract procurement process, it found systemic weaknesses in the county's** oversight and vendor evaluation policies and practices. The Grand Jury concludes that the county, more specifically, the General Services Agency (GSA), must provide more effective contract management over high-dollar contracts by providing meaningful training, guidance, and evidence-based evaluation for each contract.

Background

The Alameda County Board of Supervisors has designated the General Services **Agency as the county's primary purchasing agent responsible for procurement of** most county large-dollar contracts. The purchasing unit within GSA is staffed with 26 full time employees. Each year, the unit oversees the awarding of over **\$250 million in county contracts for goods and services. GSA's mandate is to**

conserve public funds and ensure that the procurement process is fair, open, competitive and ethical.

Although individual county departments have the responsibility for handling smaller purchases and some more specialized contracts for goods and services, all **county procurement is guided by rules and policies as set forth by the county's** Uniform Procurement Manual (UPM), which has been developed by GSA.

Once contracts are awarded, GSA delegates the authority to administer and oversee all contracts to the individual departments that are using the goods and services. These departments have the sole responsibility to ensure that all vendors meet performance objectives and outcomes. The Grand Jury heard testimony that the GSA Purchasing Unit has specialists in specific commodity and service areas that are available to departments seeking advice about contract administration, but also learned that departments rarely use these services. The **county Auditor/Controller's Office has the responsibility of ensuring contract** payment is made and ensures that payment is not made beyond the scope of the contract. **However, the Auditor/Controller's Office has no role in performance** evaluation of any contract.

At the end of a contract period, individual agencies may seek GSA's assistance to competitively re-bid a contract or seek to renew contracts with existing vendors. In Alameda County, there is currently no requirement that written evidence-based evaluations be completed for vendors. There is no database for departments to share information or to research the satisfaction or dissatisfaction with particular vendors. The UPM sets forth a procedure for suspension or debarment of non-performing vendors. This process is rarely, if ever, used partially because there is no viable system to collect necessary information to build a case for such debarment.

The Board of Supervisors must give final approval for service contracts over \$25,000; for contracts for goods over \$100,000 that have been competitively bid;

and for the renewal of all higher-dollar contracts. The Board of Supervisors is presented with a standard renewal letter that sets out the recommendations of the department head or GSA director but provides no evaluation of past performance and contains little history of the contract relationship.

Investigation

During this investigation the Grand Jury reviewed the ABC Security contract and five other high-dollar county contracts, the Alameda County Uniform Procurement Manual, and the contract awarding process. The Grand Jury heard testimony from senior county managers from GSA and several other county departments; employees responsible for contract administration; as well as a professional contract administrator. The Grand Jury also reviewed samples of contract award supplemental material presented to the Boards of Supervisors for Alameda, Santa Clara and Sacramento Counties. The Grand Jury also reviewed Board of Supervisor minutes and watched proceedings relating to contract awarding in Alameda County.

In 2009, the county awarded security contracts to three different vendors after **completing the county's formal** bidding process. The terms of the contracts were for one year. Upon expiration in 2010, the contracts were extended without formal bidding for an additional year. By 2011, GSA began the process of putting the contracts out to bid rather than extending existing contracts. Because of the complicated nature of contracting for services provided to seven different county departments, the formal bidding process was not completed by the end of the latest contract period in April of 2011. GSA requested and received Board of Supervisor approval to extend existing contracts on two occasions, each for three months.

After completing the formal bidding process, GSA notified bidding vendors of their recommendations. One vendor, who had previously held a substantial

portion of the security contracts in past years, was not selected. They filed a formal protest with the county and their appeal was denied.

On January 12, 2012, the Board of Supervisors approved the recommendations of GSA to award the county-wide security contract to ABC Security Services, Inc. with a smaller contract for more specialized security services to BMT International Security Services. The term of each contract was for three years with options to renew for an additional two years.

The Grand Jury confirmed that the bid process was thorough and complied with standards set forth in the UPM. A Request for Information was issued per county guidelines, followed by a Request for Proposal from interested and qualified vendors. In addition, bidders were afforded the ability to protest the award **recommendations set forth in the county's appeals process.**

The Grand Jury does question the lack of information provided to the Board of Supervisors when making the final decision to award the contracts. The standard award recommendation letter provided to the Board lacked evidence-based data **evaluating the vendor's prior service with the county. The Grand Jury learned** this is consistent with all contract award recommendations that the Board of Supervisors examines and approves. The Grand Jury learned that such formal evaluations are not mandated. Such information should be available to the decision-making body. In addition, such evaluations would be helpful to other departments when looking for vendors to supply similar goods or services. A database should be developed which would include this information.

The Grand Jury was able to follow the Board of Supervisors' discussion during the meeting when they approved the final security contract. The contract was approved on the consent calendar. There was minimal board discussion regarding the subject. One board member did request that GSA monitor one of **the firms due to "clouds" hanging over the way they paid employees. GSA's** director agreed to do so. The board member also questioned whether GSA **examined the company's financial viability. GSA's director confirmed the process**

included a financial review. Another board member abstained from the vote because of a pending ethical investigation. The board agenda packet included a standard contract award recommendation letter with very little information. It **contained nothing relating to either of the supervisors' claims. The Grand Jury** found no additional discussion by the Board of Supervisors regarding the contract during previous meetings. Following that short discussion, the contract was approved.

The Board of Supervisors' final approval raised several questions. The award of the contract was controversial even though ABC Security Services, Inc. had a prior relationship **with the county. Why wasn't a formal written performance** review performed and presented to the board? If concerns regarding vendors are not formally documented, other departments are at a disadvantage and at risk of being uninformed when contracting for similar services. The Grand Jury questions how GSA can monitor the security contract if individual departments are tasked with the responsibility of oversight and contract management. It is unclear how such monitoring is documented and reported to the Board of Supervisors.

Although the award process appeared to be appropriate, the Grand Jury found that a systemic problem exists within the county involving a lack of contract oversight and evaluation. To further investigate the lack of contract oversight, the Grand Jury reviewed a list of the top 25 county contracts by dollar amount. The Jury selected five of those contracts to review in depth, to determine the extent to which they included performance metrics and had contract administrators monitoring vendor performance. The five multi-year contracts reviewed were:

- **Prison Health Services (Sheriff's Office) \$123 million**
- **Aramark Food Services (Sheriff's Office) \$48 million**
- HP Enterprises (Social Services Agency) \$34 million
- Paradigm Solutions (General Services Agency) \$10 million

- UAW Labor Employment and Training (Social Services Agency)
\$10 million

The Grand Jury found that each contract contained specific language for performance and oversight. However, no formal evaluations were found for the contracts we reviewed. Upon receiving additional information and after a lengthy investigation, the Grand Jury determined there appears to be a systemic problem throughout the county with contract oversight and evaluation.

The evaluation and documentation of a **vendor’s performance with the inclusion** of metrics – the specifics of what is required - **is broadly referred to as “evidence-based contracting.”** **The Grand Jury believes that evidence-**based contracting should be the standard when considering new or renewed contracts with vendors. Testimony provided to the Grand Jury by several witnesses indicated that the county could be more effective in measuring and reporting on vendor performance.

The Grand Jury reviewed the Aramark Food Services and Prison Health Services **contracts, both held by the Alameda County Sheriff’s Office, which total** approximately \$170 million dollars. GSA was involved in developing the initial **contracts, but has left the administration and oversight to the Sheriff’s Office.** A review of these contracts and witness testimony revealed that they are being managed by personnel who lacked professional contract management training. Although GSA has produced a procurement training manual and is available for questions, they have not been proactive in supplying training and outreach. Additionally, GSA has no mechanism to conduct periodic audits of the contracts **to provide written feedback to the Board of Supervisors on the vendors’** performance at contract renewal time.

In both these contracts, the contract administrator is the commander of the detentions and corrections divisions of both the Glen Dyer and Santa Rita jails with approximately 3,200 inmates with a \$150 million budget. The compliance

officer for both contracts is a sheriff's lieutenant whose responsibilities include jail grievances, oversight of the video unit, and oversight of prison health services.

GSA has personnel trained in contract procurement but the Grand Jury found that positions do not exist within GSA for contract oversight and administration. **Because many of the county's contracts are large-dollar contracts** that are also very complicated, the Grand Jury is concerned with the lack of oversight and that the county employees managing these contracts may be inadequately trained. For example, the **Grand Jury learned that the Sheriff's Office compliance position is rotated every 2-3 years**, resulting in frequent turnover with employees who lack **formal training in contract compliance**. It should be noted that the sheriff's staff has taken a proactive approach to contract oversight even though they have no formal training. They regularly survey other counties to determine competitive meal pricing, evaluate the cost of services in amending the contract, and use the present contract to assist in a job-training program for inmates. The Grand Jury **also learned that the Sheriff's Office uses outside vendors to identify cost-saving measures**. In one instance the Sheriff's Office saved over \$750,000 by applying the recommendations of an outside vendor/consultant.

The Aramark contract with the Sheriff's Office calls for formal written corrective action when the vendor fails to comply with terms of this long-standing contract, most recently signed in 2003. The Grand Jury heard testimony that there is no written documentation of any corrective actions over the term of the Aramark contract. The Grand Jury further learned that any problems and issues are dealt with informally and that Aramark has been very responsive when any issues or **concerns have been brought up by the sheriff's office**. However, under this form of oversight, if a serious problem occurs, the county would have no documentation of past problems when deciding whether to renew the contract or when evaluating new bids.

Given that several contracts had not been competitively re-bid in many years, the Grand Jury questions whether potentially better contract terms could be secured. There is also no database or clearing house where county agencies can learn about the performance of vendors who currently or previously worked for the county. When another agency decides to enter into a new contract, it would be very helpful if an evaluation would be available for review and consideration.

Conclusion

The Grand Jury concludes that the county's GSA has well-established, comprehensive procurement policies to help ensure that vendors are chosen through a fair, ethical and competitive process. Yet, the Grand Jury is concerned that once vendors are chosen, weak oversight and the lack of formal evaluations of contractors put taxpayer dollars at risk. Evidence-based contracting is a widely used tool that should be adopted by the county. County contract administrators should be professionally trained to ensure that large-dollar contracts are properly overseen. County departments and the Board of Supervisors should have access to formal vendor evaluations to ensure poor performing vendors are held accountable and not rehired. The current policy requiring individual departments to handle all contract oversight impedes communication between departments contracting for similar services. One idea presented to the Grand Jury would entail GSA reassigning two staff positions to a performance audit function that would be responsible for training individual department personnel in contract management and would regularly audit specific large contracts for compliance with performance measures.

With over \$250 million in GSA contracts countywide, proper contract administration becomes extremely important in ensuring efficient use of taxpayer money. In a time of decreasing budgets and limited resources, any advantage the county can leverage from contract oversight is a benefit to the citizens.

RECOMMENDATIONS

Recommendation 12-4:

General Services Agency must require written evidence-based evaluations of vendor performance in large dollar contracts.

Recommendation 12-5:

The Alameda County Board of Supervisors must require evidence-based evaluations to be provided to them when approving the renewal of contracts.

Recommendation 12-6:

General Services Agency must add a vendor evaluation field to the Alameda County contract database so that formal evaluations can be available to other county departments.

Recommendation 12-7:

General Services Agency must conduct annual audits of large-dollar contracts to verify that the vendor is meeting evidence-based measurements.

Recommendation 12-8:

General Services Agency must appoint staff to provide mandatory contract administration training to departments.

Recommendation 12-9:

Alameda County Board of Supervisors must encourage county departments to incentivize outside vendors/consultants to assist General Services Agency in determining methods to further reduce costs of contracts.

RESPONSES REQUIRED

Board of Supervisors, Alameda County

Recommendations 12-4 through 12-9

Director, Alameda County General Services Agency

Recommendations 12-4, and 12-6 through 12-9

BERKELEY RENT STABILIZATION BOARD

Introduction

The 2011-12 Grand Jury investigated the operations of the Berkeley Rent Stabilization Board (BRSB). This was in response to a variety of complaints that BRSB is biased in favor of tenants, charges excessive registration fees to landlords, uses improper hiring procedures, and discourages open expression of concerns.

During this investigation the Grand Jury found that the BRSB is a self-sustaining bureaucracy that operates without effective oversight and accountability. The **BRSB's independence** from the city of Berkeley contributes to excesses in its registration fees, in compensation for the director and members of the board, and to perceptions of impropriety in personnel procedures.

Background

In 1980 after Berkeley voters passed a rent stabilization law to regulate residential rent increases, the city initiated a rent stabilization program. The program was funded by annual registration fees paid by landlords of covered rental property. Non-payment of the registration fee by owners was a problem, so tenant organizations worked to get the voters to pass an ordinance creating an independent rent stabilization agency to provide stricter enforcement of the registration fee.

In 1982 the electorate voted to make the Berkeley Rent Stabilization Board (BRSB) an independent agency not responsible to the city council. The nine member rent stabilization board, elected by Berkeley voters for four year terms, regulates rents for most apartments built before 1980 (covered units) and strives to prevent unlawful evictions. **While Berkeley's mayor, city council and city**

manager have no direct power over the BRSB, the agency uses city departments **for some functions: the city processes BRSB’s employee payroll, the city conducts all hiring through the Human Resources department, and the city’s finance department processes BRSB’s bank deposits and provides purchasing support.**

In 1995, the California legislature passed the Costa-Hawkins Rental Housing Act **that instituted “vacancy decontrol” which allows landlords to set a new rent when a unit becomes vacant.** The landlord has the power to determine the rent with no regulation by BRSB. This means that when a rental vacancy occurs, the landlord can rent the unit at the prevailing market rate. Thereafter the rental increases in covered units must comply with the Annual General Adjustment (AGA) set by the BRSB. This limit is set on future increases to provide rent stability for the new tenant.

After a three-year phase-in period, **“vacancy decontrol” began in 1999.** Approximately 80% of the covered rental units have tenancies that have turned over at least once since 1999. Berkeley has a high rate of turnover due to its large **student population. The rest have “old rent control” tenancies that never have had vacancies so they never received a vacancy increase.**

The rent stabilization provisions apply to approximately 19,000 rentals in multi-family units built before 1980. Owners of rental units covered by the law must register their units and pay an annual registration fee. In 1980-81 it was \$12 a unit; in 2011-2012 it is \$194 per unit with penalties for non-payment.

Every unit subject to rent control has a lawful rent increase ceiling. In recent years, the AGA in the rent ceiling has been set at 65% of the consumer price increase for the year, which means that for 2011- **2012 it is 1.6%. BRSB’s web site has a full guide to rent control, specifying exemptions, appeals procedures for landlord-tenant disputes, and addressing frequently asked questions (www.ci.berkeley.ca.us/rent).**

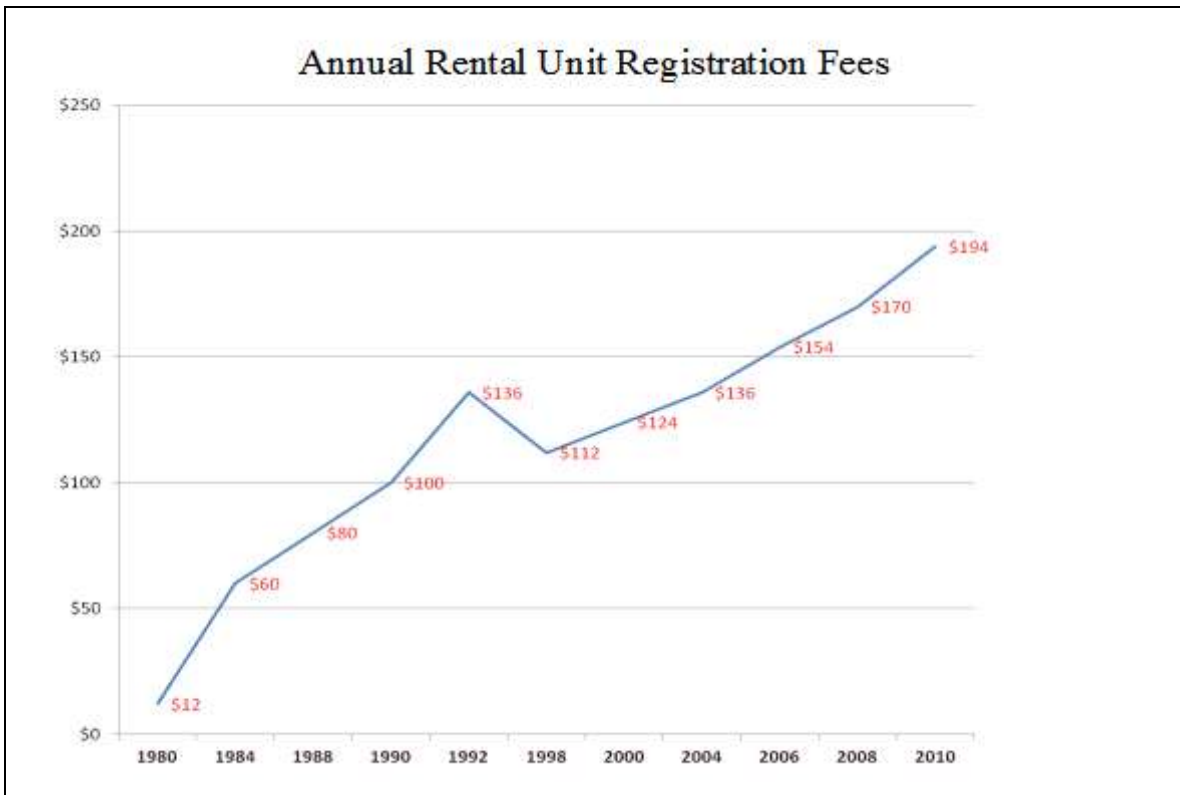
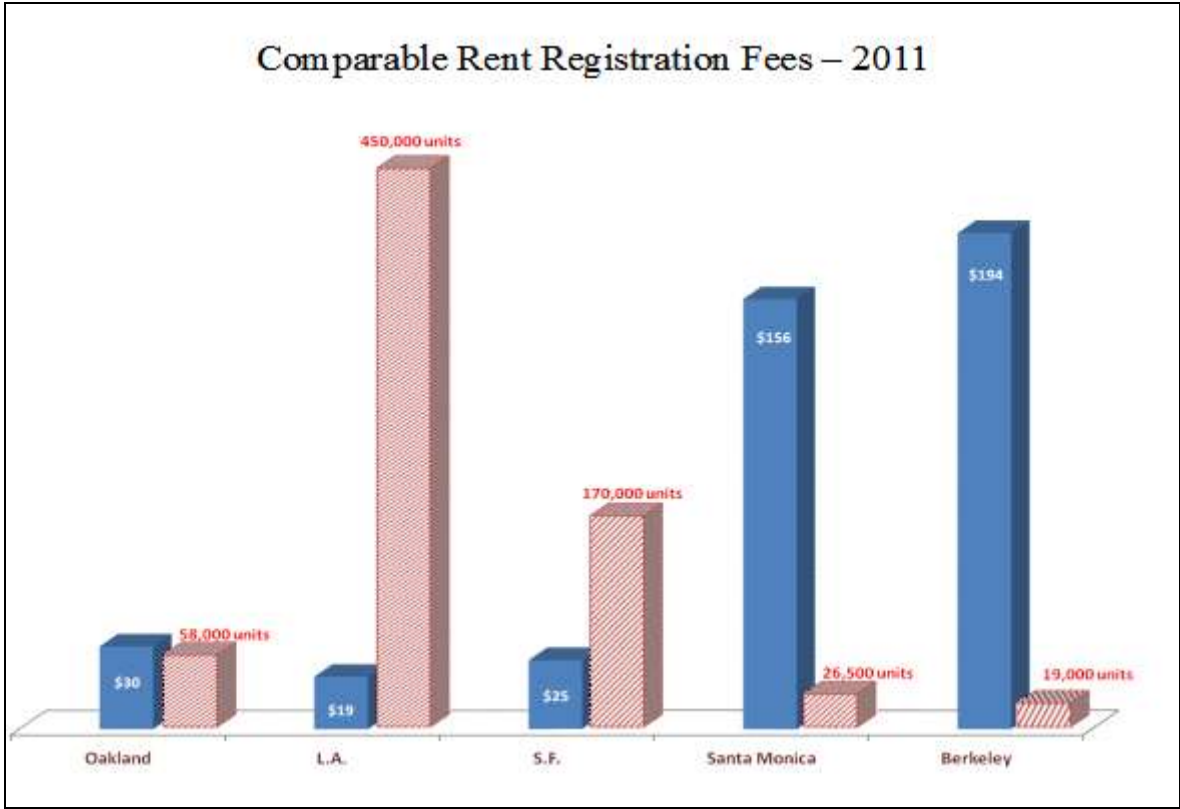
Investigation

During this investigation the Grand Jury interviewed many witnesses including representatives from the board, management, staff, and citizens familiar with BRSB. Grand Jury members attended a board meeting, viewed videos of meetings on the web page, and reviewed materials provided by the city of Berkeley and BRSB. The Grand Jury considered two aspects of BRSB: 1) budget and fees; and 2) personnel procedures.

Budget & Fees

BRSB operates with 20.95 full time employees and an annual budget of nearly \$4 million in 2010-2011. The Grand Jury found that, even after Costa Hawkins reduced the amount of work for rent boards by allowing rents to rise uncontrolled when vacancies occur, the BRSB did not decrease its total activities or budget, but **instead “re-invented itself,” adjusting to the changes to sustain its operations.** It appears to be a self-sustaining bureaucracy that operates without effective oversight and only minimal accountability.

BRSB’s budget and staff are large given the number of rental units in Berkeley when compared with the rent stabilization programs in other cities such as Oakland and San Francisco. *(See Chart, Comparable Rent Registration Fees - 2011)* BRSB explains this difference by stressing its active approach to rent control which provides multiple services to tenants. It uses extensive outreach, including publications and seminars, to inform tenants and owners about their rights and obligations. It maintains full and accurate records through reporting requirements for initial rents and eviction proceedings, and provides mediation and dispute resolution sessions. Not all of these services are provided in other cities that have a more passive approach to enforcing rent control.



This relatively large budget and staff are funded by the extraordinary increase in the annual registration fee from \$12 per unit to \$194 per unit between 1980 and 2012. *(See Chart, Annual Rental Unit Registration Fees)*. The Grand Jury was struck by the lack of controls over the increase in the registration fee. The landlords pay the fee for services primarily benefiting tenants. This allows the BRSB to maintain its operations with minimal external controls.

The Grand Jury recognizes Berkeley voters have supported active rent control along with their commitment to neighborhood preservation and limited growth. The Grand Jury heard conflicting testimony about whether BRSB represents the interest of landlords as well as the tenants. The Grand Jury finds that the current board is primarily composed of representatives from a pro-tenant slate. One manifestation of this is that the board hires a lobbyist who is paid \$50,000 a year to advocate for state legislation that is pro-tenant. In addition, the BRSB contracts with local non-profits to provide legal advice and representation to tenants fighting evictions. Another manifestation is that landlords are only allowed to pass \$4.00 a month of the registration fee to tenants for a total of \$48 a year. In contrast, Santa Monica, like Berkeley, takes an active approach to rent control, yet it lets landlords pass \$13.00 a month to the tenants for a total of \$156 a year thus covering Santa **Monica's entire registration fee. The Grand Jury** concludes that a larger pass-through of the registration fee to tenants in Berkeley would be a fairer way to finance rent control and one which creates a potential check on excessive increases in the registration fee because the tenants would share more of the burden.

The Grand Jury also finds that the penalties for non-payment of registration fees in Berkeley are extremely high and substantial staff and board time is devoted to pursuing payment and handling waiver requests. The penalty is 100% of the registration amount, imposed one day after the fee is delinquent. This is much higher than other city-imposed penalties. For example, the transient occupancy tax (hotel tax) penalty is 10% of the amount due, and the parking space rental tax is also 10%. The BRSB reported that several hundred requests are processed

each year to have the penalty reduced or waived entirely and that some relief is granted in over 90% of the cases. The Grand Jury learned that these waivers are discretionary and most often reviewed by staff, leading the Grand Jury to question the potential for misuse and arbitrary application. In 2010 the BRSB legal unit filed in small claims court against 140 properties and subsequently filed liens on 40 of those properties.

The Grand Jury found that the size of the staff has not decreased commensurate with the decrease in the workload after vacancy decontrol. Furthermore, the number of hearings has gone down from 364 in 1999 to 128 in 2011. The emphasis now is on mediation because it is more cost effective. The number of hearing examiners has also gone down, yet enough remain that they are used for **other jobs and “rented out to the city” which reimburses BRSB.**

Berkeley voters support the mission of the BRSB when they elect members to the board. However, even given that approach there are excesses that make the Grand Jury question whether the BRSB is managing its resources appropriately. Increases in fees without justification raise questions for the Berkeley electorate to consider. Other cities with significantly more units manage rent control with lower fees.

Personnel Procedures

The Grand Jury heard allegations about improper personnel procedures: hiring does not follow standard procedures, no appeals process exists, positions are created and hires made based on friendships rather than qualifications, and commitments are made to new hires before the proper procedures are followed. The Grand Jury also heard contradictory testimony that all hiring and disciplinary procedures follow standard procedures, are approved by the BRSB, and the most qualified person is hired.

We heard that only people "on the list" developed by the city of Berkeley's Human Resources (HR) department's screening panel are hired. However, the Grand Jury heard testimony that being on the list is not a guarantee of quality. Names on the list are not ranked and their presence on the list may just indicate that **they have met the minimum qualifications. Then, according to "the rule of the list," anyone who makes the list can be hired. There are rules limiting hiring** relatives but no rules limiting hiring friends. So it is possible that proper formal procedures can be followed while there are also perceptions of impropriety.

The Grand Jury concludes that perceptions of impropriety must be addressed by the board and the director. We also conclude that the BRSB and director should heed the advice from the city departments handling personnel, payroll, and finances. In addition, Berkeley staff appears to be too deferential to the BRSB when problems are identified.

Another complaint about personnel procedures concerned the inappropriate creation of new positions and hiring of friends. For example, Berkeley HR and the city council **had to review BRSB's plan to create a new position of deputy** director because it involved a change in the charter. HR supported the new position, which had been justified on the grounds that it would provide for an orderly succession. The city council questioned why the position was needed in a relatively small unit. In the end it was approved. The problematic nature of the appointment was underscored when the deputy director, hired ostensibly for succession planning, retired after a year. The deputy director was then rehired as a part time senior planner for the BRSB as an annuitant, a part-time position where a retired employee is paid while receiving retirement benefits. The Grand Jury questions whether there was a need to add a deputy director position in an agency this size. And again we think the board and the city need to be more **diligent in questioning the director's recommendations to increase staff size.**

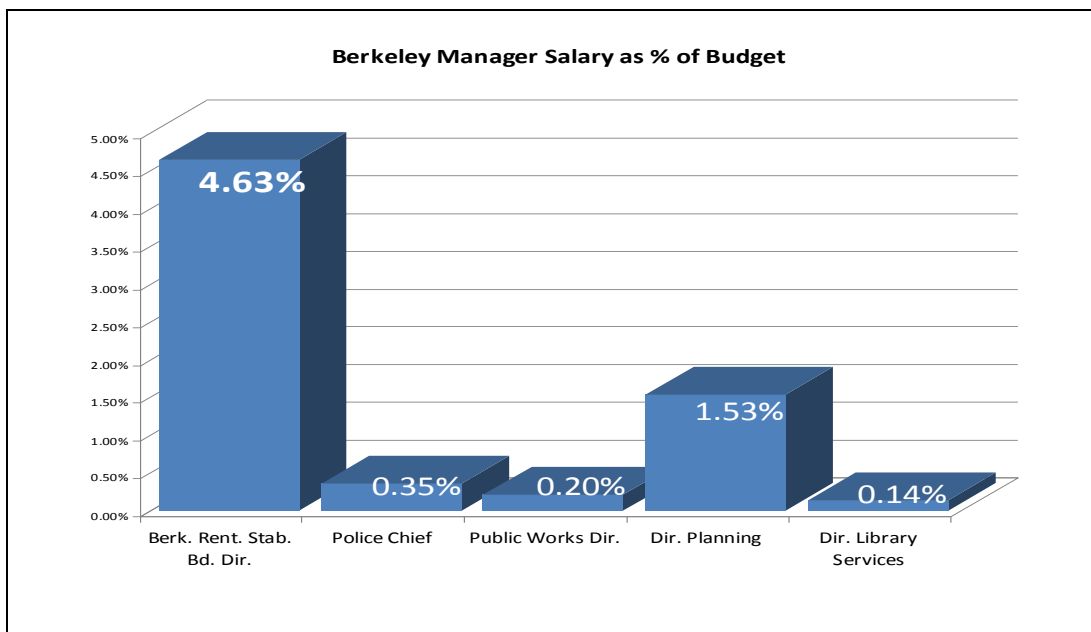
In investigating the salary of the BRSB's executive director, the Grand Jury found that it is well above the salaries of department directors in much larger

departments in Berkeley and other cities. The director is one of the most highly compensated staff members in the city. The director makes a salary of \$183,000 (excluding benefits) in an organization with 20.95 full time equivalents (FTE) and a budget of \$3.95 million. In comparison, Berkeley’s director of Public Works makes \$181,000 (excluding benefits) in an organization with 326 FTEs and a budget of \$90 million.

BERKELEY MANAGERS’ SALARIES

Agency	BRSB Director	Police Chief	Public Works Director	Director of Planning	Director Library Services
Salary	\$183,000	\$203,680	\$181,000	\$183,440	\$175,475
Annual Budget	\$4 million	\$58 million	\$90 million	\$12 million	\$128 million
# of Employees	21	296	326	65	117

As shown in the chart below, the salary of the BRSB director is an inordinately high percent of the agency’s budget.



The Grand Jury heard testimony that the BRSB asked the city HR to conduct a **comparative compensation study for the director's position. Such studies should not simply compare directors' salaries at a handful of other active rent control agencies**, but must also compare the salaries of other Berkeley city directors.

Similarly we question the compensation and benefits for board members. They are paid \$500 a month plus benefits including health benefits, which is excessive compared with other rent boards and local government commissions and committees. We find that the Berkeley HR department does not provide enough oversight of the BRSB personnel procedures.

Another complaint was that the proportion of attorneys on staff was too large in relation to the total staff size thus keeping BRSB expenditures higher than appropriate. While **most city of Berkeley departments utilize the city attorney's office for their legal needs**, the BRSB has several attorneys on staff. Now that the legal workload has decreased as a result of Costa Hawkins, the proportion of attorneys should be reduced. We found that some attorneys were being used to do jobs not requiring legal training. In addition to having a staff supervisor, there is an **"attorney of the day" assigned to the BRSB. The Grand Jury learned the current workload does not justify the number of lawyers, exacerbated by the BRSB's justification that the attorney of the day's job is to advise other staff to not give legal advice.** Additionally, the number of hearings has declined over the years, causing the Grand Jury to question if there is a better use of public funds in this staffing situation. The Grand Jury reviewed documents provided by the BRSB and heard testimony that several of the positions in the BRSB spend time doing work for other city departments rather than doing work for the BRSB.

BRSB has not asked the city of Berkeley's HR department to perform an audit to determine appropriate staffing levels. Without a formal position control audit, there is no effective oversight of the relationship between the work required and the raising of fees. It appears to the Grand Jury that the BRSB seeks to reap the

benefits of being in the civil service system while not applying the city's rules when they determine it benefits them.

The Grand Jury also heard that there was not an appeals process for personnel matters. We found that there is an appeals process. The executive director hears **appeals and then if it is denied, the appeal goes the city's grievance board and** then to the city manager who delegates the job to the HR director. **Unionized employees' procedures vary by union and contract.**

Another complaint is that BRSB'S board is not exercising sufficient oversight of the executive director. The Grand Jury did not assess complaints regarding the **executive director's management style** or whether he has created an atmosphere that discourages questioning. The board evaluates the executive director every three years including doing a 360-degree evaluation asking many of the stakeholders to assess his work. The responses showed substantial support for the executive director but also some concerns that he discourages open expression of views. Providing effective oversight of an executive is the responsibility of a board particularly when the agency operates independently from traditional administrative control. The Grand Jury determines that the board is too deferential to the executive director and urges the board to improve its oversight. Evaluations should be done annually and the board should give more feedback to the director, urging him to more appropriately address personnel issues.

Conclusion

BRSB is a governmental entity with its own source of revenue – registration fees. The board is elected by Berkeley residents and is generally pro tenant with little accountability to the landlords who fund the operations of the board. Thus, the board has little to no incentive to control costs. In an era where most governmental entities must control costs, BRSB has been exempt from these pressures because it has a dedicated source of funds and is a self-sustaining

bureaucracy. Berkeley voters are the only ones who can change the direction of the BRSB and so far they have not shown any inclination to do that.

While the BRSB does provide rent control that voters appear to want, the board is not providing strong enough oversight, not holding the agency accountable – not scrutinizing personnel hiring, not questioning compensation, not balancing both landlord and tenant interests, not trying to constrain increases in registration fees. For example, the executive director makes an exorbitant salary that comprises nearly 5% of the entire budget of the agency. The Grand Jury finds this unacceptable and concludes the board needs to reprioritize services and to reduce costs not only in its administration but in services to the citizens of Berkeley.

The Berkeley Rent Stabilization Board's independence from the city of Berkeley contributes to its excesses. Too often, it operates without traditional administrative controls that could be provided by the city of Berkeley.

RECOMMENDATIONS

Recommendation 12-10:

The Berkeley Rent Stabilization Board must reduce the high rental unit registration fees.

Recommendation 12-11:

The Berkeley Rent Stabilization Board must allow landlords to pass through a larger proportion of the registration fee to tenants.

Recommendation 12-12:

The Berkeley Rent Stabilization Board must ask the city of Berkeley Human Resources Department for a thorough position-control audit to evaluate the number of staff, the classifications and workload.

Recommendation 12-13:

The Berkeley Rent Stabilization Board must ask the city Human Resources department to provide more comprehensive salary comparisons regularly and use them in setting salaries and benefits, including those of the executive director and the board members.

Recommendation 12-14:

The Berkeley Rent Stabilization Board must conduct annual performance reviews of the executive director to provide more effective oversight.

RESPONSES REQUIRED

Berkeley Rent Stabilization Board

Recommendations 12-10 through 12-14

COMMUNITY BASED ORGANIZATION OVERSIGHT

The 2011-12 Grand Jury chose to investigate the oversight of community-based **organizations (CBOs) by Alameda County's Social Services Agency (SSA) and Health Care Services Agency (HCSA)**. This was in response to comments from various sources that oversight of CBOs in social services and health care was weak.

Based on the investigation described below, the Grand Jury concludes that Alameda County must improve its oversight of CBOs. It must use evidence-based performance measures (metrics) to evaluate the success of programs both financially and in delivering the desired outcomes in a timely and effective manner. These metrics should include desirable, measurable, sustainable, cost-effective outcomes. These metrics must also be utilized in decision making about **whether a CBO's contract should be renewed. Both SSA and HCSA are improving** their oversight of CBOs, but HCSA has moved toward more sophisticated oversight than SSA.

Background

Alameda County provides services totaling \$484 million through contracts with **CBOs. Alameda County's Social Services and Health Care Services Agencies** provide a large portion of their vital services through these contracts. Most CBOs are independent nonprofit organizations such as La Clinica de la Raza, Asian Community Mental Health Services, and Beyond Emancipation.

The Social Services Agency, the largest agency in the county, has over 2,200 employees and a budget of \$644 million. The 2011-2012 Alameda County Budget lists \$70 million in SSA allocations to over 125 CBOs. There are five departments within SSA. One of those departments, Children and Family Services (CFS), provides services to children and youth. CFS allocates \$21 million to 38 CBOs.



In 2011-2012, the Health Care Services Agency’s budget was \$613 million. Of that, approximately \$114 million went to fund the Alameda County Medical Center. Additionally, \$250 million was spread among approximately 150 CBOs. (See Chart, *Community Based Organization Contracts with Alameda County*, page 89.)

There are many benefits of providing services indirectly through CBOs rather than directly by the county. CBOs are usually smaller in size, and can be more flexible and more responsive to the constituents they serve. Thus they can innovate and try different approaches to see which are most effective. Another benefit is that they are very diverse, relating well to clients from different ethnic, racial, and income groups. Although the professional skills of some CBO staff may need improvement, their community involvement is crucial in reaching those in need of services. In the words of one expert witness, the county **professionals “can teach...skills but not community connection.”** An additional benefit is that CBOs can provide services at a lower cost than the county. The Grand Jury heard testimony that it is approximately 30% more expensive for the county to provide services directly rather than through contractors, because the county provides higher salaries and benefits to its employees. The short-term

nature of the contracts should allow the county to reallocate resources more easily when priorities change.

However, the extensive use of CBOs presents challenges such as:

- Uneven levels of professional expertise
- Lack of financial management and organizational skills
- CBO agendas may only partially match county priorities
- Maintaining fair processes and objectivity in decision-making
- Providing consistent data to allow valid comparisons of performance
- Striking effective balance between autonomy and oversight

Investigation

During this investigation the Grand Jury interviewed numerous witnesses including top administrators from the Social Services Agency, the Health Care Services Agency, **the General Services Agency, the Auditor/Controller's Office,** and a community based organization. The Grand Jury also reviewed many documents and reports including information on contracting procedures, meeting agendas and minutes, correspondence and press reports.

Alameda County Social Services Agency/ Alameda County Children and Family Services Department

Since 2002, the Social Services Agency has centralized tracking of CBO contract finances in its finance office. That office looks at unit costs but does not traditionally look at outcomes. They monitor expenditures as they process invoices and submit claims to the state and federal government for reimbursement. There are nine SSA financial specialists who each monitor from 20 to 30 CBOs. In addition to the finance review, there are programmatic reviews. These reviews are done by social workers who are program specialists.

The Grand Jury focused on one SSA department, the Children and Family Services department (CFS) and its relationship with CBOs. CFS, with over 600 employees, gives priority to the care of the child. Child welfare complaints are followed up immediately. The department has a 24-hour hotline and conducts emergency response investigations. They handle over 8,100 investigations annually.

CFS staff members are expected to visit their assigned CBOs once a month, but the Grand Jury learned that visits are not consistently done as required. These visits need to be frequent enough to effectively oversee programs and should focus on evaluation of performance measures.

One area in which CFS has been learning to evaluate program results is in its five-year demonstration project to improve outcomes for children and families in the child welfare system. CFS has what is called a IV-E waiver which permits more flexibility in the use of federal and state funds traditionally based on the number of children placed in foster care (out of home placements). Under the waiver, CFS can use these funds for early intervention and other services to support family reunifications and prevent foster care placements without having funds reduced as the agency succeeds in reducing the number of placements. The waiver program has been successful to date, reducing foster care case loads from 3,800 to 1,400 over 5 years, and it has been extended for a 6th year.

To evaluate its biggest preventive program under this waiver (Paths to Success), CFS contracted with outside experts to conduct the evaluations. The expert evaluators found that the services did reduce recidivism in the child welfare system, but the sample size was too small to conclusively prove the benefit of the demonstration project. As a result, CFS program staff and contract project evaluators are working together to make evaluations more useful. The Grand Jury hopes that the experience gained in evaluating programs under this waiver demonstration project will carry forward into future CFS programs.

The Grand Jury heard testimony that when program staff members identify operational problems in a CBO, the problems are addressed in a corrective action plan reviewed with the CBO. However, based on the evidence available to us, the use of corrective action plans is rare, and they seemed weak, lacking metrics, standards, timetables and accountability. The plans lacked clear statements of the problem and how the actions discussed might address it.

Most SSA contracts with CBOs are for two years with a possible one-year extension. They then have an option to re-bid. Many witnesses admitted that non-renewal of contracts is rare. A common cause of non-renewals is when federal and state grant funds begin to dry up and decision makers are forced to make cuts. The Grand Jury heard testimony that even though the department knows that some providers are **“just okay,” the department wants to continue to use CBOs** while working with them to improve their financial and programmatic capacity. CFS is working toward fee-for-service contracting with some CBOs which is seen as a precursor to evidence-based contracting.

In October 2011 while the Grand Jury was investigating CFS’s oversight of CBOs, the Bureau of State Audits published a report that noted a different kind of failure in CFS but one that also indicates the need for improved oversight, e.g., better oversight of its own staff and procedures (*California State Auditor Report 2011-101.1, Child Welfare Services: California Can and Must Provide Better Protection and Support for Abused and Neglected Children*). The report recommended that when children with prior child welfare services history die of abuse or neglect, a formal review process must be done. The CFS director has agreed to implement this recommendation.

Alameda County Health Care Services Agency/Measure A

Although there are times when HCSA does not know if programs are underperforming until there is a complaint or the news media exposes a problem, the Grand Jury heard testimony that the agency is working hard to improve its

oversight. HCSA is developing best practices and systems to define the objectives, collect data, evaluate performance, and foster success among its many CBO programs.

The Grand Jury heard testimony that in at least one indigent health care program, data collection and reporting have dramatically improved over the last three years. The program is overseen by three people who now receive monthly reports and are in a much-improved position to provide ongoing oversight.

HCSA is writing performance standards into its contracts. Some contracts now provide that the program must meet 95% of its deliverables before receiving its final payment each year.

The Grand Jury reviewed a small sample of HCSA CBO program descriptions and performance requirements that contained detailed measurements for desired outcomes. A variety of software tools appear to be in use for collecting and evaluating compliance with contracted services. For instance, the Alameda County School Health Services Coalition uses a database called *Effort to Outcomes* to collect and report program services. Evaluations include a combination of data on client services, selected outcomes, and survey results. The Grand Jury hopes that one of the outcomes of these various program evaluations will be the creation of a focused, integrated system for measuring and evaluating success throughout all CBO contracts in the county.

Sometimes Alameda County contracts with outside experts to evaluate program performance. HCSA has contracted with the University of California San Francisco to evaluate programs such as School Health Centers (*Philip R. Lee Institute for Health Policy Studies, Alameda County School Health Centers: Evaluation Key Findings Report, 2009-10: March 2011*). There are times when third-party analysis is appropriate to provide an objective, state-of-the-art assessment.

In other situations the county seeks to develop its own in-house expertise. HCSA is seeking to understand what program data needs to be collected, making it readily available to oversight staff, and teaching program managers how to utilize it effectively, i.e., spotting red flags or trends that need to be addressed. In December, HCSA issued a request for proposals for a web-based **“Dashboard Reporting System”** – an interactive database that would allow HCSA staff to develop customized reports of data that it determined to be good indicators of performance by various programs. This process is complicated by hundreds of required data sets for different funding sources. Nevertheless, the goal of defining what success looks like, building a reporting mechanism, and learning how to use the data in a timely manner is an important step towards better program oversight.

Meanwhile, HCSA is also involved in another program to help staff define what success looks like. The Alameda County Public Health Department (ACPHD) recently adopted Results Based Accountability (RBA) to track and assess its progress on improving health and addressing health inequities. Already implemented in 40 states, RBA involves extensive training in a disciplined way of thinking and acting. The process starts with stakeholders (staff, CBOs, etc.) focusing on desired outcomes, then defining measurements of success, and working backwards to identify specific actions to achieve the goals.

HCSA is also responsible for monitoring and administering Measure A funds from the Essential Health Care Services initiative adopted by Alameda County voters in 2004. Available through the year 2019, proceeds from the .05% sales tax provide approximately \$75 million annually to Alameda County Medical Center and \$25 million to a variety of programs within the HCSA, specifically in the areas of public health, behavioral health, administration/indigent health, and **Board of Supervisors’ discretionary allocations (in excess of \$200,000 per supervisor annually)**. Measure A established a citizen oversight committee to annually review Measure A expenditures and report to the Board of Supervisors (BOS) as to whether such expenditures conform to the purposes of Measure A.

The Grand Jury learned that the citizen oversight committee is constrained by a **lack of quorums, expertise, consistent data collection, and county counsel's** interpretation that its oversight is limited to the conformity of spending categories, not the efficiency or effectiveness of Measure A programs.

Given that HCSA distributes Measure A funds, the Grand Jury finds that the Board of Supervisors should empower HCSA to include Measure A funds in its initiatives to improve oversight and outcomes. The oversight committee has found that some of the Measure A programs do not have measurable objectives and may be too small to warrant the amount of administration needed just to process funds. Improved evaluation of the effectiveness of Measure A funds is particularly important given the number of programs involved and given its expiration in 2019.

Other Oversight Issues

The Grand Jury heard that the review of CBO contracts for renewal is not rigorous. Renewals are often seen as an entitlement. The review process for renewals starts in the departments that assess the proposals. The Grand Jury is concerned that the information provided to the BOS at the time of renewal does not include evidence-based evaluations.

While GSA often handles the bidding process for large county contracts, it is common practice for both SSA and HCSA to handle the bidding process for CBO contracts. Contracts over \$25,000 require Board of Supervisor approval. **Bidders' proposals are ranked by a county evaluation committee using common standards previously established by the client departments. Once contracts are awarded, payment to vendors is overseen by the Auditor/Controller's Office, yet monitoring contract performance is the responsibility of the departments.**

Currently efforts are underway to develop contracting and review procedures appropriate for health and social services contracts. This should include evidence-based measures of outcomes, such as recidivism rates, drug relapse rates, graduation rates from programs, etc. Such measures should be adopted in addition to currently used measures, such as client contacts, number of clients served, etc.

Another major roadblock to effective use of evidence-based measures in evaluating CBOs is the political pressure that is applied when staff recommends de-funding a CBO. The Grand Jury heard repeatedly that when non-funded CBOs appeal funding decisions, political pressures become intense. For example, recently HCSA recommended that three CBO contracts not be renewed. Appeals **were filed and HCSA's recommendations were overturned** due to confusion about a technicality of the selection committee composition, alleging a conflict of interest. The appeal was granted by the county Office of Contract Compliance. Ironically, the Grand Jury heard testimony that the Board of Supervisors had originally suggested the composition of the selection committee in question. Another hurdle is when supervisors want to give special consideration to CBOs simply because of their longstanding relationships with the county.

We commend those staff and agencies that are making an effort to move in the direction of more objective analysis and we implore the Board of Supervisors to endorse this approach.

ACAP: Case Study in Lax Oversight

In 2011, a \$3 million countywide poverty agency, Associated Community Action Program (ACAP) was dissolved as a result of serious financial concerns and significant non-compliance with laws and regulations. Even though ACAP was a joint powers authority (JPA) and not a CBO, we examined it because it provides additional evidence of weak county and SSA oversight of groups providing services on behalf of the county. In February 2011, the director and grant

administrator were fired and were recently charged by the Alameda County District Attorney with misusing more than \$200,000 in taxpayer money.

ACAP was one of over 1,000 community action agencies created across the country by the Economic Opportunity Act of 1964 as an anti-poverty program. ACAP was organized as a JPA to function as the community action agency for the cities of Alameda, Albany, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Piedmont, Pleasanton, San Leandro, and Union City and the unincorporated areas of Alameda County. The ACAP governing board was comprised of 13 members – a county supervisor, and a city council member from each participating city. They only met four times a year and often did not have a quorum.

Initially, ACAP’s financial operations were overseen by SSA. Over time, as ACAP programs expanded between 2008 and 2011, largely due to various federal stimulus programs, functions were transferred from Social Services to ACAP. The county auditor/controller maintained responsibility for contracting with a certified public accountant for ACAP’s annual audit and for processing payments of ACAP’s funds against invoices approved by an authorized person.

The ACAP board minutes of August 2009 reveal several red flags indicating that fiscal processes were not well managed: a) work stipends for clients were not paid on time, and b) financial audits were late. The board decided to hire its own **manager of administration and finance but that position wasn’t filled until March 2010**. In February 2011, the governing board heard employee complaints about **ACAP’s executive director, after which** the director was placed on administrative leave.

Due to a pending criminal complaint, the Grand Jury could not thoroughly **investigate the complex issues surrounding ACAP’s demise**. The public information we reviewed suggested that this was another example of lax oversight by the county, SSA, and the ACAP board. This is made more egregious

because the board was composed of elected officials who should have known **better. Their punishment came when their jurisdictions had to pay ACAP's** unpaid bills. We also **conclude that the Auditor/Controller's Office and SSA** should never have delegated their responsibilities to ACAP. They should not have ignored the repeated red flags. The systems for oversight did note some of the problems and county administrators may have tried to take steps to address the problems but they were not effective.

A formal review of all joint powers agreements is needed to make sure they correct the systemic failures in financial oversight, which occurred in ACAP.

Conclusion

Except in a few areas, the county is not using evidence-based evaluations of health and social service programs operated by CBOs. The Grand Jury concludes that the SSA and HCSA must initiate such evaluations on a larger scale. This means that agencies must develop performance measures that provide evidence that they are making reasonable progress in reducing problems. This information will make it possible to allocate more dollars to the good performers and eliminate weaker programs. Both SSA and HCSA have improved their oversight of CBOs in recent years but there is much more to be done. HCSA has adopted more sophisticated oversight than SSA.

Many CBO staff members need training to improve their financial and programmatic performance. Training could be provided by a consulting group like FCMAT, the Fiscal Crisis and Management Assistance Team. This is a statewide funded financial strike team assigned to rescue troubled school districts. The Grand Jury learned that FCMAT now offers an extensive training program to aid CBOs in financial and operational protocols. CBOs with weak performance should be required to take such training.

The Grand Jury concludes there are many shortcomings in current oversight of CBOs. All staff involved with CBOs must work more closely together throughout the whole process to minimize disconnects. Program managers or finance staff members must go out into the field to interact with CBO staff much more often to review processes and performance. There is no substitute for developing relationships with CBO staff. The Grand Jury understands that policies and procedures are being introduced by SSA and HCSA to improve oversight of CBOs; however, much more needs to be done to improve the services for citizens of the county and to ensure that taxpayer dollars are spent wisely.

RECOMMENDATIONS

Recommendation 12-15:

The Alameda County Board of Supervisors must require evidence-based evaluations of contract performance of community-based organizations funded by the Social Services and Health Care Services Agencies.

Recommendation 12-16:

The Alameda County Board of Supervisors must require evidence-based metrics be provided to them when considering renewal of community-based organization contracts.

Recommendation 12-17:

The Alameda County Social Services Agency and Alameda County Health Care Services Agency must require under-performing community-based organizations receive training to improve financial and programmatic performance.

Recommendation 12-18:

The Alameda County Social Services Agency and Alameda County Health Care Services Agency must structure community-based organization contracts to include financial incentives for meeting performance standards.

Recommendation 12-19:

The Alameda County Social Services Agency and Alameda County Health Care Services Agency must develop reasonable standards to ensure staff members spend more time with community based organizations to improve their evaluations of performance.

Recommendation 12-20:

The Alameda County Board of Supervisors must authorize the Health Care Services Agency to include evaluations of Measure A programs as part of its initiative to improve oversight and outcomes in all its programs.

Recommendation 12-21:

To avoid another situation like ACAP, the Alameda County Board of Supervisors must ensure that joint powers agreements (JPA) specify that the auditor/controller maintains financial oversight of joint powers authorities in which the county participates.

RESPONSES REQUIRED

Board of Supervisors, Alameda County

Recommendations 12-15 through 12-21

Director, Alameda County Health Care Services Agency

Recommendation 12-15, 12-17, 12-18, 12-19 and 12-20.

Director, Alameda County Social Services Agency

Recommendations 12-15, 12-17, 12-18 and 12-19

COMMUNITY BASED ORGANIZATION CONTRACTS WITH ALAMEDA COUNTY

Fiscal year 2011-2012

GENERAL GOVERNMENT - Community Development Agency - Housing & Community Development (CDA-HCD)

Contractor Name	Contract Amount	Contractor Name	Contract Amount
6th & Oak Associates, LP	300,000	Abode Services	1,335,888
Affordable Housing Associates	900,000	AIDS Project of the East Bay	459,057
Alameda Point Collaborative	1,613,562	Allied Housing	2,908,419
Anka Behavioral Health, Inc.	139,243	Ark of Refuge	627,195
Bay Area Community Services	428,500	Bonita House	1,758,009
Building Futures with Women & Children	465,700	Building Opportunities for Self-Sufficiency	52,958
Catholic Charities of the East Bay	127,525	Community Childcare Coordinating Council	50,000
EAH, Inc.	400,000	East Bay Community Recovery Project	750,610
East Oakland Community Project	211,556	ECHO Housing	105,000
Eden Housing	1,198,488	Eden Information & Referral Inc.	271,250
Emergency Shelter Program Inc	40,577	Family Emergency Shelter Coalition	189,311
Habitat for Humanity	6,170,548	Hallmark Community Solutions	21,022,152
Hope 4 the Heart	350,000	Resources for Community Development	2,054,576
Second Chance, Inc.	51,615	Seventh Step Foundation	129,424
Safe Alternatives to Violent Environments	40,577	South Hayward Parish	30,000
Spectrum Community Services	364,886	Tides Center	1,300,639
Tri-Valley Health Center	459,057	Tri-Valley Haven for Women Inc.	81,155

GENERAL GOVERNMENT - CDA - Lead Poisoning Prevention

Contractor Name	Contract Amount	Contractor Name	Contract Amount
Asian Health Services	3,000	Community Energy Services Corporation (CESC) Berkeley	30,000
Prescott-Joseph Center for Community Enhancement	10,000		

HEALTH CARE SERVICES - Admin/Indigent Health/Youth Development

Contractor Name	Contract Amount		
Youth UpRising	666,224		

HEALTH CARE SERVICES – Alameda County Medical Center

Contractor Name	Contract Amount	Contractor Name	Contract Amount
ACMC – Alcohol & Drugs	838,870	ACMC – Community Health	79,347
ACMC – Emergency Medical	5,721,383	ACMC – HIV/AIDS Services	617,945
ACMC – HIV/AIDS Testing	216,923	ACMC – Indigent Health	82,331,600
ACMC – Mental Health	24,521,841	ACMC – Public Health Nursing	25,000

HEALTH CARE SERVICES – Alcohol & Drugs

Contractor Name	Contract Amount	Contractor Name	Contract Amount
Addiction Research & Treatment (BAART)	1,253,334	Adolescent Treatment Center – Thunder Road	315,275
Alameda Family Services	177,448	Asian Community Mental Health Services	100,922
Axis Community Health	421,814	BAART Behavioral Health Services	30,855
Bay Area Consortium for Quality Health Care	150,502	Berkeley Addiction Treatment Services (BATS)	730,306
Bi-Bett Corporation	808,989	Building Opportunities for Self-Sufficiency	11,925
CURA Inc.	528,064	CenterForce	202,192
Community Counseling & Education Center	237,379	Community Health for Asian Americans	128,758
Davis Street Community Center	55,593	East Bay Asian Youth Center	19,374
East bay Community Recovery Project	1,215,201	Filipinos for Affirmative Action	14,525
HAART Services	2,485,507	Horizon Services Inc.	2,489,355
Latino Commission on Alcohol & Drug Abuse	1,255,852	Lifeline Treatment Services inc.	945,935
Magnolia Women’s Recovery Programs, Inc.	160,853	Native American Health Center	20,473
New Bridge Foundation	1,014,779	Options Recovery Services	146,358
Second Chance, Inc.	1,798,891	Senior Support Program of the Tri-Valley	50,472
Services as Needed (SAN) – Drug Court Partnership Grant Program	280,200	Solid Foundation	1,054,775
St. Mary’s Center	100,745	Successful Alternatives for Addiction and Counseling Services	581,683
West Oakland Health Council	1,659,768	YMCA of the East Bay	48,681

HEALTH CARE SERVICES – Communicable Disease Control & Prevention

Contractor Name	Contract Amount	Contractor Name	Contract Amount
Children’s Hospital & Research Center Oakland	25,000	East Bay Community Recovery Project	7,000

HEALTH CARE SERVICES – Community Assessment Planning & Education

Contractor Name	Contract Amount	Contractor Name	Contract Amount
City of Fremont	119,250	Community Health Academy	109,221
Community Reform Church	51,000		

HEALTH CARE SERVICES – Community Health Services

Contractor Name	Contract Amount	Contractor Name	Contract Amount
Adolescent Treatment Center – Thunder Road	110,000	Alameda Unified School District	45,000
American Lung Association of Alameda County	257,000	Axis Community Health	18,324
City of Berkeley	83,378	East Oakland Boxing Association	74,000
East Oakland Recovery Center	34,664	Family Services Counseling & Community Resource Center – San Leandro	81,000
Food First	10,000	Health and Human Resources Education Center	85,000
La Clinica de la Raza	121,515	Law Enforcement Agencies	50,000
LifeLong Medical Care	195,801	Lotus Bloom	32,500
Mandela Marketplace	40,000	Native American Health Center	25,755
Niroga Institute	32,500	Oakland Unified School District	375,000
OnSite Dental Care, Inc.	148,500	Second Chance, Inc.	31,671
Senior Support Program of the Tri-Valley	28,000	Tri-City Health Center	77,342
Triumph Ministries	54,000	Unallocated	1,950,000
West Oakland Health Council	9,680		

HEALTH CARE SERVICES – Emergency Medical Services

Contractor Name	Contract Amount	Contractor Name	Contract Amount
Alameda Health Consortium	22,000	Children’s Hospital & Research Center Oakland	2,082,480
Eden Hospital Medical Center	1,982,480	Social Services Agency	75,000
Unallocated	450,000	Youth Alive – Caught in Crossfire	213,835

HEALTH CARE SERVICES – Family Health Services

Contractor Name	Contract Amount	Contractor Name	Contract Amount
Asian Health Services	240,000	Bananas, Inc.	47,000
Children’s Hospital & Research Center Oakland	123,564	Girls Inc. of Alameda County	224,040
Kidango Inc.	43,950	La Clinica de la Raza	40,000
Lucille Packard Children’s Hospital	150,000	Oakland Unified School District	28,132
Through the Looking Glass	15,698		

HEALTH CARE SERVICES – HIV/AIDS Services

Contract Amount	Contract Amount	Contract Amount	Contract Amount
AIDS Health Care Foundation	249,364	AIDS Project of the East Bay	786,949
Alameda Health Consortium	319,650	Allen Temple Baptist Church	271,258
Allen Temple Housing & Economic Development	66,871	Ark of Refuge	70,000
Bay Area Consortium for Quality Health Care	708,083	California Prevention & Education Project (CAL-PEP)	174,040
Catholic Charities of the East Bay	129,000	Children’s Hospital & Research Center Oakland	129,300
City of Berkeley	75,000	East Bay AIDS Center	510,571
East Bay Community Law Center	139,831	East Bay Community Recovery Project	104,915
East Oakland Community Project	87,000	Family Support Services of the Bay Area	37,452
HIV Education & Prevention Program of Alameda County (HEPPAC)	448,726	La Clinica de la Raza	235,320
LifeLong Medical Care	131,685	Pacifica Center for Human Growth	75,000
Project Open Hand	261,851	Providence Housing	52,000
Resources for Community Development	74,208	Tri-City Health Center	833,368
Unallocated	7,000	Volunteers of America Bay Area	37,000

HEALTH CARE SERVICES – HIV/AIDS Testing

East Bay AIDS Center	216,923		
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HEALTH CARE SERVICES – Interagency Children’s Policy Council – Sexually Exploited Minor Program

Alameda County Youth Development Inc/Scotian Center	47,940	Bay Area Women Against Rape	37,000
CALICO Center	20,000	Covenant House California	30,000
Dream Catcher	15,000	Family Violence Law Center	25,000
MISSEY/Be a Mentor	192,000		

HEALTH CARE SERVICES – Juvenile Justice Medical Services

Children’s Hospital & Research Center Oakland	3,125,230		
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HEALTH CARE SERVICES – Mental Health

A Better Way	2,920,169	Adobe (formerly Tri-City Coalition)	1,450,023
Adolescent Treatment Center – Thunder Road	757,068	Afghan Coalition	230,409
Alameda County Network of Mental Health Clients	1,252,834	Alameda Family Services	444,080

Alameda Unified School District	55,049	Alta Bates Summit Medical Center	300,000
Alternative Family Services	2,333,618	Anka Behavioral Health Inc.	47,668
Ann Martin Children's Center	3,339,343	Asian Community Mental Health Services	4,588,767
Asian Health Services	269,056	Bay Area Community Resources	148,643
Bay Area Community Services	5,833,758	Berkeley Place	614,377
Berkeley Youth Alternatives	467,248	Bonita House	4,505,653
Brighter Beginnings	684,792	Building Futures with Women & Children	54,389
Building Opportunities for Self-Sufficiency	1,882,178	Center for Family Counseling	135,279
Center for Independent Living	49,803	Children's Hospital & Research Center Oakland	10,987,890
Children's Learning Center	266,947	City of Berkeley	527,308
City of Fremont	1,326,115	Community Health for Asian Americans	727,582
Crisis Support Services	1,450,315	East Bay Agency for Children	5,380,997
East Bay Community Recovery Project	3,628,221	East Oakland Community Project	251,086
Emery Unified School District	55,000	Family Paths, Inc.	3,971,066
Family Services Counseling & Community Resource Center	248,071	Family Services of San Francisco	561,664
Family Support Services of the Bay Area	189,811	Fred Finch Youth Center	8,660,262
Fremont Unified School District	55,049	Girls Lin., Alameda County	451,169
GOALS for Women	334,147	Health and Human Resource Education Center	134,531
Hiawatha Harris - Pathways to Wellness	3,613,468	Horizon Services Inc.	2,252,384
Jewish Family & Children's Services of the East Bay	1,068,206	Kidango, Inc.	656,253
La Cheim School Inc.	697,454	La Clinica de la Raza	4,688,345
La Familia Counseling Services	1,494,269	LifeLong Medical Care	131,885
Lincoln Child Center	4,768,501	Medical Hill (aka Kindred Healthcare)	239,105
Mental Health Association	2,445,440	Multi-Lingual Services	1,100,000
Native American Health Center	342,919	New Haven Unified School District	55,049
Newark Unified School District	55,049	Oakland Unified School District	710,929
Opportunity Plus	240,671	Options Recovery Services	380,985
PEERS Envisioning & Engaging in Recovery	896,268	Piedmont Unified School District	55,049
Portia Bell Hume Behavioral Health & Training Center	1,663,891	R&R Educational Homes	274,887
R house, Inc.	206,502	Recovery Education Center	1,362,242
San Lorenzo Unified School District	165,147	Seneca Center	17,495,689
Services As needed (SAN) - Seriously Emotionally Disturbed	4,137,741	St. Mary's	180,295
STARS Behavioral Health Group	5,009,802	Sunny Hills Service	1,217,536
Supplemental Rate Program for Board & Care Services	1,121,643	Telecare Corp.	35,388,606
The Refuge	657,150	Through the Looking Glass	888,047
Tiburcio Vasquez Health Center	1,948,780	UC Center on Deafness	310,993

Unallocated – Phase II Contracts	4,442,976		United Advocates for Children	549,180
Victor Community Support Services	301,644		West Coast Children’s Center	8,489,253
West Oakland Health Council	1,960,945		Youth UpRising	295,575

HEALTH CARE SERVICES – Office of the Director of Public Health

City of Berkeley	32,080		Community Health Academy	50,000
Deputy Sheriff’s Activities League	60,000		Mandela MarketPlace	50,000
Tiburico Vasquez Health Center	90,000			

HEALTH CARE SERVICES – Primary Care

Alameda Health Consortium	45,607		Asian Health Services	2,552,405
Axis Community Health	1,626,521		Healthy Communities, Inc.	970,415
La Clinica de la Raza	4,096,112		LifeLong Medical Care	2,367,550
Native American Health Center	1,207,296		Tiburicio Vasquez Health Center	2,215,152
Tri-City Health Center	1,668,365		Unallocated – Day Laborer Health Program	139,742
West Oakland Health Council	2,847,590			

HEALTH CARE SERVICES – Public Health Nursing

Asian Health Services	40,591			
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HEALTH CARE SERVICES – School-Based Health Centers

Alameda Family Services	210,000		Children’s Hospital & Research Center Oakland	194,937
City of Berkeley	105,000		Downtown Complex – provider to be determined	105,000
East Bay Asian Youth Center	105,000		Elmhurst – provider to be determined	105,000
Frick – provider to be determined	105,000		La Clinica de la Raza	855,000
LifeLong Medical Care	240,000		Native American Health Center	295,000
Tiburicio Vasquez Health Center	210,000		Unallocated – school based health	1,255,000

PUBLIC ASSISTANCE – Area Agency on Aging [SSA]

Adult Day Services Network of Alameda County	168,771		Afghan Elderly Association	56,981
Alzheimer’s Association of No. California and No. Nevada	33,806		Alzheimer’s Services of the East Bay	74,269
Bay Area Community Services	1,523,223		City of Alameda	24,603
City of Albany	18,440		City of Berkeley	154,627
City of Emeryville	23,304		City of Fremont	171,435
City of Oakland	42,019		Crisis Support Services	10,330
East Bay Korean American Senior Services Center	54,610		Eden Information & Referral, Inc.	12,362
Ethiopian Community and Cultural Center	50,963		Family Bridges, Inc.	75,459

Family Caregiver Alliance	111,345	Family Support Services of the Bay Area	56,894
Hayward Area Recreation & Park District	23,628	Japanese American Services of the East Bay	23,077
Korean Community Center of the East Bay	17,258	Legal Assistance for Seniors	767,306
Life ElderCare, Inc.	131,451	LifeLong Medical Care	56,903
Open Heart Kitchen	37,234	Project Open Hand	383,753
Rebuilding Oakland Together	10,000	SOS – Meals on Wheels	506,141
Self-Help for the Elderly	60,229	Senior Services Foundation	13,429
Senior Support Program on the Tri-Valley	177,221	Spanish Speaking Unity Council	51,108
Spectrum Community Services	403,725	St. Mary’s Center	41,694
St. Peter’s Community Adult Day Care	39,812	Tides Center	14,463
ValleyCare Health System	303,994	Vietnamese American Community Center of East Bay	56,294

PUBLIC ASSISTANCE – CalWORKs [SSA]

Abode Services	424,874	Alameda County Homeless Action Center (HAC)	55,000
Bay Area Legal Aid	55,000	Brighter Beginnings	319,000
Child Care Links	14,763,272	Community Childcare Coordinating Council	9,397,764
Family Violence Law Center	300,000	International Institute of the Bay Area	40,000
Lao Family Community Development, Inc.	540,661	Oakland Private Industry Council	942,091
Tiburcio Vasquez Health Center	185,000	Unallocated – CalWORKs LEP	450,000
Unallocated – CalWORKs One Stop	622,091		

PUBLIC ASSISTANCE – Children & Family Services [SSA]

24 Hour Oakland Parent Teach Children	14,515	A Better Way	1,486,400
Abode Services	70,000	Alameda County Office of Education	210,000
Axis Community Health	110,000	Bananas, Inc.	823,234
Berkeley-Albany Licensed Day Care	10,143	Beyond Emancipation	1,390,000
Bi-Bett Corporation	40,000	CALICO Center	70,000
Chabot-Las Positas Community College	68,640	Child Care Links	420,039
Children’s Hospital & Research Center Oakland	345,414	City of Berkeley	85,395
Community Childcare Coordinating Council	420,039	Davis Street Community Center	59,808
East Bay Agency for Children	70,000	Eden Information & Referral Inc.	97,242
Emergency Shelter Program Inc.	70,000	Ephesian Children Center	12,977
Family Emergency Shelter Coalition	70,000	Family Paths, Inc.	203,107
Family Support Services of the	2,366,984	First Place for Youth	2,674,000

Bay Area			
Healthy Communities Inc.	275,000	Kidango, Inc.	120,653
La Clinica de la Raza	70,000	La Familia Counseling Services	1,779,622
Legal Assistance for Seniors	30,000	Lincoln Child Center	70,000
Options Recovery Services	56,000	Pivotal Point Youth Services Inc.	70,000
Pleasanton Unified School District	70,000	Prescott-Joseph Center for Community Enhancement	1,031,168
Salvation Army	14,425	St. Vincent's Day Home Inc.	34,220
Supporting Future Growth Child Development	12,802	The Refuge	380,016
Unallocated – ILSP Vocational Training	100,000	Unallocated – Title IVE Training	4,298,075
West Coast Children's Center	1,838,398		

PUBLIC ASSISTANCE – Community Housing & Shelter Services [SSA]

Abode Services	131,455	Alameda County Homeless Action Center (HAC)	610,830
Berkeley Food & Housing Project	87,637	Building Futures with Women & Children	52,827
Building Opportunities for Self-Sufficiency	148,983	East Oakland Community Project	525,819
Eden Information & Referral Inc.	9,685	Family Service Counseling & Community Resource Center – San Leandro	94,760
Preventive Care Pathways	61,020	Unallocated – General Assistance Advocacy	385,815
Unallocated – General Assistance LEP	25,000		

PUBLIC ASSISTANCE – Domestic Violence [SSA]

A Safe Place	27,250	Bay Area Legal Aid	10,000
Building Futures with Women & Children	27,250	Emergency Shelter Program Inc.	21,000
Family Violence Law Center	10,000	Nihonmcahi Legal Outreach dba Asian Pacific Islander Legal Outreach	10,000
Safe Alternatives to Violent Environments	34,750	Tri-Valley Haven for Women Inc.	34,750

PUBLIC ASSISTANCE – Emergency Food & Shelter Services [SSA]

Abode Services	154,783	Alameda County Community Food Bank	931,782
Berkeley Food & Housing Project	308,202	Building Futures with Women & Children	234,267
Building Opportunities for Self-Sufficiency	236,621	City of Oakland	250,000
Covenant House California	66,958	David Street Community Center	94,891
Downs Community Development Corp.	63,579	East Oakland Switchboard	146,174
Emergency Shelter Program Inc.	184,388	Family Emergency Shelter Coalition	53,047

First African Methodist Episcopal Church	47,626		Safe Alternatives to Violent Environments	44,535
Salvation Army	171,847		Tri-City Volunteers	150,370
Tri-Valley Haven for Women Inc.	196,375			

PUBLIC ASSISTANCE – Non-Assistance Food Stamps [SSA]

Alameda County Community Food Bank	500,000			
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PUBLIC ASSISTANCE – Other Public Assistance [SSA]

Alameda Health Consortium	56,000		Eden Information & Referral Inc.	50,000
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PUBLIC ASSISTANCE – Refugee Assistance [SSA]

Bay Area Immigrant & Refugee Services	13,970		Unallocated – Refuge Assistance	475,725
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PUBLIC ASSISTANCE – Workforce Investment Board [SSA]

Chabot-Las Positas Community College	860,000		Oakland Private Industry Council	4,200,000
Ohlone Community College District	975,000		Peralta Community College District	325,000
Unallocated WIB	1,500,000			

PUBLIC PROTECTION – Community Probation Program

Grant Foundation for Motivation dba Kevin Grant	99,540		Project Re-Connect	30,000
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PUBLIC PROTECTION – Dispute Resolution Programs

Catholic Charities of the East Bay	28,000		Center for Community Dispute Settlement	90,000
SEEDS Community Resolution Center	237,000			

PUBLIC PROTECTION – Juvenile Probation and Camps Funding Program

Adolescent Treatment Center – Thunder Road	106,144		Alameda County Youth Development Inc./Scotlan Center	344,825
Alameda Family Services	210,644		Axis Community Health	37,860
Berkeley Youth Alternatives	176,511		Castro Valley Unified School District	10,628
Center for Family Counseling	347,738		City of Fremont	421,661
City of Hayward	380,894		City of Livermore – Horizon Family Counsel	284,150
City of Union City – Police Department	132,300		Donald P. McCullum Youth Court	25,548

East Bay Asian Youth Center	20,881		Eden Counseling Services Inc.	625,161
Family Service Counseling & Community Resource Center - San Leandro	12,679		Girls Inc. of Alameda County	159,768
YMCA of the East Bay	22,360			

PUBLIC PROTECTION - Second Chance Prisoner Reentry

Urban Strategies Council Inc.	20,000		Women on the Way Recovery Center Inc.	138,915
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TOTAL BY PROGRAMS:

General Government	\$46,430,477
Health Care Services	\$364,647,282
Public Assistance [SSA]	\$69,915,201
Public Protection	\$3,963,207

GRAND TOTAL **\$484,956,167**

FAME CHARTER SCHOOL

Introduction

The Grand Jury received numerous complaints about Families of Alameda for Multi-Cultural/Multi Lingual Education (FAME) public charter school. The complaints included allegations of financial irregularities, low academic achievement and governance/management issues. The Grand Jury investigated **FAME's current status, including** issues relating to governance, finance, curriculum, personnel, and oversight of FAME by the Alameda County Office of Education (ACOE).

Background

The California legislature amended the Education Code to allow for the creation of publicly funded charter schools in 1992. The rationale for establishing charter schools was to give them more autonomy, thus allowing for new and innovative ideas. They must adhere to some but not all state educational regulations.

The California Education Code allows local school districts, county boards of education, and the State Board of Education to authorize individual charter schools. The authorizing entity is responsible for holding each charter school accountable for meeting all the elements specified in its charter including those related to instruction, finance, and governance. California is known for its strict regulation of school districts but also for having a large number of charter schools and granting charters great autonomy. (*American Institutes for Research, Charter Schools in California: A Review of their Autonomy and Resource Allocation Practices, December 19, 2006, p. vii*)

Regardless of the authorizer, charter schools are all accountable for achieving measurable student instructional outcomes. Each charter petition must contain

certain elements including measurable student outcomes proposed by the school to accomplish its educational program. These outcomes give the chartering entity criteria **against which it can measure the school's performance.**

In Alameda County, the school district that has the largest number of charter schools is Oakland with 34. The Grand Jury learned that approx 15% of Oakland's 48,000 public school students are attending charter schools. In comparison, only approximately 5% of San Francisco's 57,000 public school students attend charter schools. While Oakland had 34 charters, ACOE has authorized only about 10 charter schools since 1992.

FAME

FAME, a not-for-profit charter school, started as the Bay Area School of Independent Study (BASIS). BASIS was founded in 2002 and operated for three years as a non-classroom based independent study charter school. The school founders of BASIS sought authorization from the Oakland Unified School District to open an additional charter school. The application was denied, but subsequently granted by the ACOE under the name of FAME on May 5, 2005. FAME has an independent study program in addition to two site-based programs with a **commitment to serve English learners in Alameda County.** FAME's independent study is a home-based education program with periodic interaction **with teaching staff; however, FAME's educational focus on Arabic immersion is** conducted only in the classroom. FAME was the first county-wide charter school in California. It is the largest charter school in Alameda County with an enrollment of about 1,600 students of which over 700 are enrolled in their **independent study program.** In 2010, ACOE reauthorized FAME's charter for an additional 5 years.

Investigation

The Grand Jury heard testimony from county educators, FAME employees, state financial auditors, and reviewed several hundred pages of documents and reports for this investigation.

Allegations of financial impropriety are not new to FAME. In June 2008 the **ACOE requested an extraordinary audit by California's Fiscal Crisis and Management Assistance Team (FCMAT)**. This was a result of complaints that FAME was paying their CEO/founder a total compensation package close to \$300,000 which included benefits and perks, an annual housing stipend of \$30,000, a vacation payout of over \$97,400 over a 4-year period, and a \$75,000 Mercedes Benz for her personal and professional use. The Grand Jury believes this compensation package is excessive for a public school administrator responsible for only 1,600 students.

The Grand Jury heard complaints alleging inadequate financial management and poor student performance. FCMAT finalized its report in 2009, setting forth a comprehensive set of recommendations to FAME in order to address the financial complaints. The FAME board contracted with FCMAT to return and monitor their progress. The next year, FCMAT submitted a second report to ACOE that FAME had made significant progress in response to the **recommendations. As a result, ACOE's board of education voted to renew FAME's charter for an additional five years, despite concerns expressed by the superintendent of ACOE.**

Governance of FAME

The Grand Jury heard testimony that the relationship between the CEO/founder **and FAME's board became acrimonious. The CEO and the board had no prior** experience running an educational institution other than BASIS, and were **described as being "in over their heads."** These disagreements centered around

accounting issues, alleged violations of the Brown Act and nepotism. This relationship became more contentious after the charter renewal in 2010, leading to the dismissal of the CEO and departure of some board members.

By 2011, FAME had seen six board members come and go, all within an 18 month period, leaving the school with three sitting members on the board in direct violation of their charter which required five to seven members. For much of 2011 and part of 2012, FAME had only four members on its board. The Grand Jury heard testimony that some of these vacancies were due in part to in-fighting **between board members as well as with FAME's administration, and allegations** of conflicts of interest.

FAME's board of directors placed the CEO on paid administrative leave in late 2011, and as of April 2012, she still received a salary of \$240,000 per year plus continued use of the Mercedes Benz and other benefits. The controversy caused by the removal of the CEO as well as two other employees has resulted in litigation that has been very costly to FAME. This dysfunctional governance **model has led to a significant and detrimental effect on the school's fiscal** condition.

FAME's current board president is now acting as the CEO without compensation.

Financial Issues

The Grand Jury heard testimony that multiple factors have led to an unsustainable financial situation at FAME, which jeopardizes their financial viability. The aforementioned payment to the former CEO and subsequent legal costs of staff removals are just two examples of serious financial pressure. Other examples are:

- New operational contracts with higher administrative fees
- Significant increase in legal fees

- Bridge loans with higher interest costs
- Critical accounts payable delinquent for rent and educational vendors, which incurred financial penalties and resulted in a lack of educational resources
- Accounts payable increased from approximately \$40,000 to over \$650,000 in recent years

The Grand Jury concludes that these issues contributed to the financial disarray that occurred so quickly after the second FCMAT report was issued. While the Grand Jury heard testimony in March 2012 that FAME had received bridge-type loans to pay its bills, significant structural deficiencies remain related to loan interest owed.

Independent Study

The Grand Jury heard testimony that the state funds for FAME's Independent Study program are being used to fund operational and administrative costs not related to Independent Study. We find that this is true but surprisingly not a violation of state policy.

The issue of state funding for Independent Study is complex. The State Board of Education requires independent study charter schools, and charter schools like FAME with high proportions of independent study students, to submit requests regularly specifying why they should receive 100% of the Average Daily Attendance (ADA) allocations. Some of the schools have received reduced ADA allocations on the grounds that Independent Study is less expensive than classroom instruction. However, FAME and others have continued to receive 100% ADA allocation. The Grand Jury heard testimony that described the **Independent Study funding mechanism as a statewide “scam.”** It is difficult to determine how these funding decisions are made and there are limited guidelines as to how to spend these revenues.

FAME receives the same funds per student regardless of whether they are in a classroom or in Independent Study. Since Independent Study programs, **constituting almost half of FAME's students, are not as costly as classroom** programs, FAME can divert such funds to cover other expenditures. The Grand Jury heard testimony that one additional Independent Study teacher could supervise 35 additional students. Instructional materials and teacher compensation for these additional 35 students would cost FAME approximately \$115,000, but FAME would receive \$240,000 in state ADA funding.

When FAME's charter was renewed by ACOE in 2010, FAME said they would reduce the number of Independent Study students from 730 to 650 by the end of 2015 as required by ACOE. However, in violation of its charter, FAME increased the number of Independent Study students by 15 in January 2012, and we heard testimony that they are planning to continue to increase the Independent Study enrollment to raise needed revenue. While this is not a violation of state policy it **is a violation of FAME's charter.**

The Grand Jury was distressed by the total lack of transparency regarding the **State Board of Education's decisions regarding ADA allocations for Independent** Study charters. In spite of repeated requests for information and relevant documents, nothing was provided to the Grand Jury by the charter school office or the legal office of the State Department of Education. The Grand Jury can only assume that taxpayers subsequently end up paying more than is needed to educate Independent Study students.

In addition to investigating the Independent Study issues discussed above, the Grand Jury **considered a complaint that Independent Study students'** performance was suffering due to the diversion of funds away from Independent **Study students. In comparing the scores of FAME's classroom-based Fremont** students in 2011-2012, we did not find evidence that FAME Independent Student **scores are worse than FAME's Fremont site students.**

Academic performance scores for both groups were very poor, but unfortunately such poor scores are not unusual in many California public schools, both charter and traditional. It is true that when scores for all FAME students are compared over time on many of the standard measures of academic performance (as they **are on FAME's web site**), **the scores are improving but this is starting from a very low base**. FAME notes that its students include a very high percentage of English language learners and socio-economically disadvantaged students.

ACOE Oversight

As previously stated, a charter's authorizing agency also has responsibility for oversight. In FAME's case, ACOE has the oversight authority. The Grand Jury learned that ACOE's responsibility is to ensure that its charter schools do not do any of the following:

- Commit a material violation of any of the conditions, standards, or procedures set forth in the charter;
- Fail to meet or pursue any of the pupil outcomes identified in the charter;
- Fail to meet generally accepted accounting principles or engage in fiscal mismanagement; or,
- Violate any provisions of the law.

The Grand Jury heard testimony in late 2011 that FAME was moving in the right direction, however, testimony from another source just a few months later indicated their financial condition was very fragile and they were heading in the wrong direction. In early 2012 we heard testimony that FAME was experiencing significant fiscal difficulties. The Grand Jury heard further testimony that there **were alleged material violations of its charter. The Grand Jury questions ACOE's** role in the oversight of FAME and based on testimony, we question how its fiscal situation could have deteriorated so quickly from late 2011 to early 2012. Additionally, we heard testimony that in Spring 2012 ACOE is moving to revoke the charter of FAME. The Grand Jury supports this decision.

The Grand Jury noted with interest that the November 2002 California State Auditor's report found **"oversight at all levels could be stronger to ensure charter schools' accountability" for measurable instructional outcomes and for using taxpayer funds in a fiscally sound manner.** (*California Charter Schools Report 2002-104*) The report made a series of recommendations to address the identified weaknesses and acknowledged state laws that attempt to increase accountability, but added that neither the recommendations nor the laws would be effective without commitment by charter authorizing entities.

Conclusion

Poor management, unsophisticated financial controls, and a broken governance **model are among the major problems that have led to FAME's current crisis.** While the Grand Jury heard testimony that **FAME's acting CEO is working** diligently to fix the mismanagement of the past, it appears that the barriers are far too great for success. After a yearlong investigation, the Grand Jury concludes **that FAME's charter should be revoked.**

The Grand Jury found that ACOE has a passive interpretation of their oversight **responsibilities of public charter schools, taking the position that "[we] are the authorizers...not the people in charge."** (*New York Times, March 11, 2010*) The Grand Jury believes the ACOE focused too narrowly on the second FCMAT report **and ignored the structural problems with the CEO's contract and other governance issues in FCMAT's initial report. The ACOE Board of Education ultimately renewed FAME's charter despite having this information** that should have alerted them to an ill-fated situation.

The Grand Jury noted that because FAME charter school receives the same dollar amount for classroom students as for independent study students, and is not required to segregate those funds, FAME was able to channel money from the Independent Study program elsewhere, enabling them to fund an excessive CEO salary, bonuses and benefits.

The Grand Jury found that FAME has been badly managed for years. The administrator was given overly generous pay and benefits; use of funds was questionable; board positions remained vacant in violation of their charter; there were allegations of nepotism; poor communication between board and fiscal staff; failure to pay vendors which resulted in a lack of educational resources; utilities and facility rent not paid for months; higher costs as a result of bridge loans; and increasing legal fees.

The problems at FAME could have been prevented. The victims of FAME's failure are the students and the taxpayers. The importance of effective oversight cannot be overstated. FAME's board of directors should have made better decisions; ACOE should have taken a more proactive stand in questioning the renewal of FAME's charter; and FAME's former CEO should have been held more accountable. The Grand Jury heard testimony that new leadership at FAME is attempting to address the problems but we believe the situation is beyond repair. **ACOE is starting the process of revoking FAME's charter. The Grand Jury supports that decision and is hopeful that ACOE will in fact follow through.** We trust that ACOE will make the right decision on behalf of the students and taxpayers of Alameda County.

RECOMMENDATIONS

Recommendation 12-22:

Alameda County Office of Education must continue the process of revoking FAME's charter.

Recommendation 12-23:

Alameda County Office of Education must take a more proactive role in its oversight of charter schools.

Recommendation 12-24:

Alameda County Office of Education must mandate that charter school leaders attend FCMAT charter school training when a charter is approved or renewed by the Alameda County Office of Education.

Recommendation 12-25:

Alameda County Office of Education must ensure that each charter school includes a conflict of interest policy in its charter and follows it.

RESPONSES REQUIRED

Alameda County Office of Education *Recommendations 12-22 through 12-25*

RISK MANAGEMENT/WORKERS' COMPENSATION

Introduction

The Grand Jury received anecdotal information from concerned citizens and **employees alleging potential abuses by county and city workers of the workers' compensation benefits program.** This information led to a preliminary inquiry by the Grand Jury. This inquiry was not completed due to time constraints; however, the Grand Jury did interview enough witnesses and reviewed documents to suggest that a future Grand Jury address this topic. **The most glaring issue in the data we reviewed was the apparent lack of workers' compensation cases forwarded by the city of Oakland to the Alameda County District Attorney's Office for prosecution.**

Background

In Alameda County, cities and agencies are responsible for developing and **administering risk management and workers' compensation plans.** These plans are designed to minimize financial risk to the agency and appropriately compensate workers when they are injured on the job. Historically, if the **controls in these programs are not managed effectively, workers' compensation fraud can be the end result.** Over the years, many agencies have turned to third-party administrators to manage their program. They are responsible for representing the city, agency, or county in claims. The administrators employ experts (e.g., claims managers, investigators, etc.) to help reduce the financial burden of the public agencies. When county and city agencies aggressively interact with **third-party administrators, workers' compensation costs are reduced.** When fraud is detected and documented, the case should be referred to **the Alameda County District Attorney's Office for prosecution.**

Investigation

The Grand Jury interviewed witnesses and reviewed documents from a cross-section of county agencies (AC Transit, Alameda County, city of Oakland, city of Hayward, city of Alameda) **relating to workers' compensation claims. The request included statistics for the dollar amounts and number of Government Code section 910 claims, and the dollar amounts and number of workers' compensation claims for FY2006 through FY2011. Government Code section 910 claims are for damages made against a government entity by a citizen.**

The Grand Jury heard testimony that while almost all agencies have some **variation of a risk management/workers' compensation plan, the effectiveness of those programs vary widely based on their third party administrator; how well the agency's program is managed; and their relationship with the District Attorney's Office.**

Conclusion

The Grand Jury found that the implementation of risk management/workers' compensation programs is effective only if there is aggressive training of managers and education of employees, and a solid working relationship with an effective third-party administrator. Finally, the various city and county agencies should maintain a good working relationship with the District Attorney's Office and refer fraud cases for prosecution.

The 2011-2012 Grand Jury encourages a future Grand Jury to further investigate this financially important issue.

RECOMMENDATIONS *None*

RESPONSES REQUIRED *None*

ACCOUNTABILITY OF SPECIAL DISTRICTS & JOINT POWERS AUTHORITIES

Introduction

The Grand Jury began investigating special districts out of concern over duplication of services in local governmental agencies. As a result of its investigation, the Grand Jury found that there are many reasons for the public to be concerned not only about duplication of services but, more importantly, about a general lack of accountability in special districts and joint powers authorities (JPAs) – resulting in missed opportunities for cost savings and, sometimes, in serious mismanagement or blatant empire-building.

Background

Most public services are provided by city, county, state, or federal governments which are overseen by officials elected by the general public. However, many services are provided by other governmental/public agencies such as joint powers authorities (JPAs) and special districts that often operate with minimal visibility and oversight. *(See Chart, Alameda County LAFCO – List of Agencies, page 99)*

What are JPAs and how are they governed? A joint powers authority is created when two or more existing public agencies formally agree to work together for specific purposes, usually over a larger geographic area than is represented by the individual agencies. There are many benefits to JPAs, especially when agencies cooperate in order to effectively provide more specialized or regional services than could be provided by individual agencies. Two well-known examples include the East Bay Regional Communications Systems Authority (EBRCSA) – comprised of the counties of Alameda and Contra Costa and most of the cities in them, to provide a multi-county emergency radio communication system; and the

Oakland-Alameda County Coliseum Authority (OACCA) – a JPA between the city of Oakland and the county of Alameda to own and manage the coliseum complex.

While the concept of agency collaboration is good, there are risks related to the governance structure of JPAs. These entities are governed by a board comprised of appointees of the participating agencies (generally their own board members or employees). As a result, board members (a) may know very little about the specific services provided, (b) may be overextended with many other boards and duties, and (c) are not directly elected by the citizens impacted by the JPA. Because JPAs are governed by representatives chosen by participating agencies, there is no voter control over who oversees the JPA. This lack of accountability can lead to inadequate oversight which can result in ineffectiveness, wastefulness, or, more significantly, failure as in the case of the Associated Community Action Program (ACAP).

What are special districts and how are they governed? A special district is a separate local government that delivers public services to a specific geographic area. Unlike cities and counties which provide multiple services, special districts provide specific services, usually a single service (such as mosquito abatement) or several related services (such as water, sewer and/or waste disposal). Some special districts charge fees to customers for services provided (i.e. water, sewer, waste, etc.). Other districts deliver services that benefit everyone in the area (such as mosquito abatement or fire protection); their revenues usually come from property taxes. Some districts collect revenues through both fees and taxes. An independent special district has its own board of directors elected by voters in the district. A dependent special district is governed by an existing board such as a board of supervisors for the city or county in which the district lies.

There are advantages and disadvantages to special districts. Some advantages include:

- operating a small, specialized entity with less bureaucracy than a city or county

- tailoring services to local citizen demand
- directly linking costs to specific services/benefits
- being responsive to local constituents
- involving local citizens in governance

Some disadvantages of special districts include:

- inefficiencies, such as administrative costs of small districts
- challenges of staying current with technology and regulations
- barriers to regional planning and cooperation
- decreased accountability due to low visibility and lack of citizen awareness
- self-perpetuating nature of independent entities and boards
- inability for the public to reprioritize spending across separate public agencies

What is a LAFCO and what does it do? The state of California created Local Agency Formation Commissions (LAFCOs) to help coordinate the growth of special districts as the population and development expanded within California. LAFCOs are responsible for periodically evaluating special districts, making changes to boundaries, and initiating district consolidations or dissolution as appropriate. Every county has a LAFCO, although there is wide disparity in their financing, empowerment, and effectiveness. LAFCOs have no jurisdiction over JPAs, school districts or general government entities like municipalities or counties.

Investigation

To understand the issues related to oversight and accountability of JPAs and special districts, the Grand Jury heard testimony and reviewed public documents related to several such organizations and to the Alameda County LAFCO.

Joint Powers Authorities

Associated Community Action Program (ACAP)

One JPA which the Grand Jury reviewed is ACAP, whose failure in March 2011 is a tragic but excellent example of what can happen when a board does not adequately oversee the organization for which it is responsible.

As also described in the Health & Social Services section of this report (See *Community Based Organization Oversight*, page 75) **ACAP's Governing Board** was comprised of officials who had been elected to govern Alameda County or one of the 12 member cities of the JPA. They were not directly accountable to the voters in regards to governing ACAP. Like most boards, they were responsible for hiring an executive director and providing oversight and governance for ACAP; however, unlike most such boards, they met only four times a year and often did not have a quorum.

ACAP was funded by numerous private and public grants, each with its own goals and requirements. As of 2008, ACAP was overseeing more than 20 separate programs focusing on jobs, training, housing, economic empowerment, youth development, and reentry services. Between 2008 and 2011, ACAP funding grew from \$1 million to over \$3 million, largely due to various federal stimulus programs. Based on testimony and documents reviewed, it is apparent to the **Grand Jury that ACAP's financial controls failed to keep up with its growth.**

During this period, the governing board missed several red flags regarding **ACAP's inability to manage its operations in a professional manner, although it** seemed to spend a lot of time clarifying the respective roles of the governing board and the Community Action Board (CAB). The CAB, comprised of representatives from various income categories and community constituencies served by ACAP, was required for the purpose of advising the governing board of elected officials on all policy matters and funding decisions. Although it often

had many vacancies, the CAB expressed concern about its lack of input and the lack of transparency at ACAP.

The Grand Jury finds that many of the problems at ACAP stemmed from inadequate governance and lack of accountability. There was confusion from **having two separate “boards,” the governing board was comprised of officials** already busy with their elected positions, there was no direct accountability of board members to any voters, board meetings were not held often enough or well enough attended, and there was considerable fragmentation of the financial oversight of ACAP.

Alameda County Waste Management Authority & Alameda County Source Reduction and Recycling Board (StopWaste.Org)

StopWaste.Org is an example of a self-perpetuating JPA whose board is not holding it accountable to its voter-approved mandate. After reviewing the investigation by the 2010-2011 Grand Jury, StopWaste.Org’s response, and information posted on the StopWaste.org website, the current Grand Jury is concerned that this JPA seems to keep redefining its purpose and expanding its scope as its original purpose is fulfilled.

This JPA was created for the management of the Alameda County Solid Waste Management Plan and, subsequently, to engage in hazardous waste planning and **ensure compliance with AB939’s waste diversion mandates. However, as** StopWaste.Org comes closer and closer to meeting its intended waste management goals, instead of paring back and reducing fees, it has created new programs to promote green buildings and energy efficiency. Citing information that debris from construction and demolition projects comprises over 20% of materials disposed in Alameda County landfills, StopWaste.Org has started programs to provide training, resources, model green building ordinances, design assistance, and related topics in conjunction with many other organizations already designing and promoting green buildings. **According to StopWaste.Org’s** website, it launched the Energy Efficiency and Green Retrofit Program in 2010 to

encourage energy efficiency and green improvements for existing buildings. The **program's goals are listed as follows:**

- Make it easier for property owners to do energy efficiency and green retrofits of their buildings and to obtain financing for these improvements
- Stimulate demand for retrofit services, create green jobs and strengthen the local retrofit construction industry; and,
- Result in immediate and long-term reductions in energy use and greenhouse gas emissions of existing buildings in Alameda County.

Furthermore, StopWaste.Org's 2011-2012 budget includes \$1.8 million for "Energy Upgrade CA," a program for home energy upgrades such as new attic insulation, solar panels, etc. The Grand Jury wonders how the board members responsible for ensuring that StopWaste.Org fulfills its intended purpose can justify continuing to spend public dollars (collected through waste disposal surcharges) for such diverse activities, which have so little direct relationship to solid waste management.

East Bay Dischargers Authority (EBDA)

The Grand Jury heard testimony that not all JPAs are poorly governed. For instance, the East Bay Dischargers Authority (EBDA) is a small (\$3.2 million) special-purpose JPA formed by three wastewater special districts and two cities, which seems to successfully and efficiently manage wastewater dechlorination and disposal for its member agencies.

Special Districts

LAFCO's Role in Special Districts

The Alameda County LAFCO resides **in the County Administrator's office and is** funded at about \$850,000 in the current budget. It is governed by a seven-member commission (comprised of two representatives from the county, two

from cities, two from special districts, and one from the general public), which meets every other month. LAFCO has a staff of only two (an executive director and a clerk) who rely heavily on outside consultants to prepare the required evaluations and reports.

LAFCO produces a major report every five years in which it evaluates special districts in a number of categories and makes recommendations regarding them. The next review is scheduled for January 2013. Its most recent report, published in January 2008, provides detailed information on growth projections, services, facilities, operations, district boundaries, accountability and governance, management efficiencies, and financing constraints and opportunities. Although the report does an excellent job of presenting comparable data on various agencies, it does not address budgets or cost efficiencies. When it recommends consolidations, it cites shared facilities but does no economic analysis of potential savings.

The Grand Jury notes that the Alameda County LAFCO appears to exhibit many of the areas of concern identified in the May 2000 Little Hoover Commission report. The Little Hoover Commission is an independent state oversight agency composed of eight citizens and four legislators who study and report in depth on a variety of issues, including recommendations for effective government reform. Their report concluded that:

“Unlike the special districts they are supposed to scrutinize, many of the Local Agency Formation Commissions (LAFCOs) do not have the resources to be the catalysts for improvement that state policy-makers envisioned. LAFCOs are often unwilling or unable to challenge the status quo, even when it is clear that with a little pushing special districts could be reorganized in ways that lower costs or improve the quality of service.

In some cases, consolidating small districts that offer the same service or large districts offering similar services could be expected to yield efficiencies and other improvements. . . . In all other cases, local officials need technical assistance, proven methodologies and **the facilitation skills to overcome the barriers to change.**”

(May 3, 2000 cover letter to Little Hoover Commission report)

Like many other LAFCOs, Alameda County’s LAFCO has not been successful in getting special districts to pursue its recommendations to consolidate. The Grand Jury investigated two such districts in detail and made inquiries into the potential creation of a new district.

Special Districts – Potential Consolidation of Sanitary Districts

In 1966, 1979, and 2008, the Alameda County LAFCO recommended that two small, similar, contiguous water districts (Oro Loma Sanitary District and Castro Valley Sanitary District) investigate consolidation, noting that:

“Potential advantages include improved planning efforts, service level and the professionalism that could be afforded by a larger entity. A consolidated operation would offer efficiencies in administration and planning, and could help these relatively small service providers meet new regulatory requirements and **standards.”** *(p. 163 of Alameda LAFCO Utility MSR, January 2008)*

The Oro Loma Sanitary District (OLSD) and Castro Valley Sanitary District (CVSD) both provide wastewater collection, treatment and disposal. They have **their own sewer lines, share CVSD’s wastewater treatment plant, and participate** in EBDA for wastewater disposal. Both OLSD and CVSD contract with Waste Management of Alameda County for solid waste removal in their respective areas (13 and 10 square miles, respectively). Both districts appear to be small, well-run agencies, and their fees are among the lowest in the area. The Grand Jury

commends the districts, especially OLSD, for their refreshing frugality. Nevertheless, the Grand Jury notes that there appear to be significant **opportunities for consolidation**. For instance, OLSD's general manager earned approximately \$187,000 in 2010 (\$269,000 including benefits) to serve 46,000 customers and oversee fewer than 50 employees. The general manager of CVSD earned about \$163,000 (\$239,000 with benefits) to serve 20,000 customers and oversee fewer than 30 employees. By comparison, the Union Sanitary District (USD) compensated its general manager at about \$216,000 (\$285,000 with benefits) to oversee about 130 employees and provide wastewater services to nearly 111,000 customers over a 60 square mile area.

In addition, OLSD and CVSD each have a five-member elected board of directors who were collectively compensated \$132,000 at OLSD and \$63,000 at CVSD. OLSD shows fiscal year 2010-11 general and administrative expenses of \$1.3 million, compared to total expenses of \$18.5 million. For fiscal year 2010-11, CVSD shows \$1.6 million for general and administrative expenses compared to total expenses of \$6.7 million. A theoretical savings of \$1 million could represent \$15 per customer, or a reduction of 7% in the average annual sewer fee.

Neither board of directors has pursued consolidation. The Grand Jury heard testimony that each district would lose its ability to customize its services for the preferences of its constituents if they were to combine, but the Grand Jury believes that such differences are not significant and may actually be driven more by staff than by the public. While interesting and perhaps worthy of pride, the minute details shared through their respective public relations efforts would simply be handled by a department manager without public fanfare in a more typically sized organization. The Grand Jury finds it inconceivable that a combined district could not operate effectively and efficiently with considerable savings.

Would the public prefer to use their money saved through this (or similar consolidations) for other priorities such as public safety provided by other

agencies? Unless LAFCO exercises its authority or the public pushes aggressively for consolidation, it is unlikely to happen.

Examples of Shared Services

The Grand Jury learned of some Bay Area public agencies that have either consolidated or contracted for shared services in pursuit of cost savings and expanded expertise. Some examples include:

- In 1980, the Danville and San Ramon Fire Districts consolidated services and created the San Ramon Valley Fire Protection District.
- The city of San Leandro contracts with the Alameda County Fire Department for fire suppression and related services.
- The city of Dublin continues with a long-standing, successful contract with the **Alameda County Sheriff's Office for police services.**
- In 2011, the city of San Carlos reorganized **its fire services into a "hybrid"** department which contracts with the Redwood City Fire Department command staff to provide expert management, share resources, and reduce costs.

The Grand Jury encourages the pursuit of creative, logical collaborations and/or consolidations for the purpose of improving services and reducing costs for the public.

Potential New Special District – Zone 7 Water Agency

The Grand Jury also reviewed Zone 7, a unique semi-autonomous unit within the Alameda County Flood Control and Water Conservation District. Zone 7 provides flood control services like the other 9 zones in the county. However, the bulk of its operations (74% of its \$100 million budget) relate to its Water Enterprise unit which purchases water from the State Water Project. It operates three water treatment plants and provides treated water wholesale to the cities of Livermore

and Pleasanton, Dublin San Ramon Services District (DSRSD) and other water retailers. Zone 7 does not provide treated water directly to the public, although it does sell untreated water to vineyards, other agricultural customers, and the Livermore Area Recreation and Park District.

Zone 7 has a unique status as a special district. It was created under special legislation and originally was governed by both the Alameda County Board of Supervisors and its own elected board. Over the years, Zone 7 gained more autonomy and, in 1994, the Zone 7 board was authorized to set salaries **independently from Alameda County's salaries.** In 2003, the California State Assembly (AB1125) gave the Zone 7 board authority over all matters relating only to residents of Zone 7. In 2009, Zone 7 commissioned a consulting report to analyze the costs and benefits of becoming an independent special district and to recommend steps to develop its own support services, which are currently provided by Alameda County, such as payroll, budget, accounting, purchasing, human resources, and risk management.

Zone 7's annual revenue of about \$100 million comes from existing fund balances, property taxes, and fees. It contracts with Alameda County Public Works for much of its flood control maintenance, but cites the following areas in which it already operates independently: control of its operations, a separate employment contract with its general manager, job classifications specific to Zone 7, direct union negotiations, as well as capital and operating budgets and related software. It already receives an external financial audit. Zone 7 uses a **"pay-as-you-go" approach** to funding capital projects, relying on current revenues and reserves; hence, it has never issued bonds and has virtually no financing experience. Zone 7 wants to become an independent special district by January 1, 2013.

Is Zone 7's pending separation from Alameda County self-serving or for public benefit? The Grand Jury learned that Zone 7's goals are:

- **getting out from under the county's cumbersome civil service system**

- conducting its own procurement process
- improving its employee recruiting and retention by setting its own salaries
- achieving more flexibility in offering better retirement benefits than those offered by Alameda County.

However, the Grand Jury notes that few of these reasons represent opportunities for cost savings. In addition, there is considerable risk in creating a new and independent financial structure where there is currently minimal expertise, especially given that the potential savings are identified at only \$350,000 per year.

Furthermore, is it appropriate to create a special water district for an entity that does not provide water directly to the public? How will the public be able to evaluate the district when its services are primarily delivered through other agencies? Although perhaps not the most efficient relationship, currently the county provides at least some financial and administrative oversight.

If county separation is important, would it not be more appropriate to consolidate with the various cities and water districts to which Zone 7 sells water? Or, should Zone 7 consolidate with Alameda County Water District with which it shares some facilities, even though a range of hills separates their respective areas?

If Zone 7 continues with its planned separation from the county, the Grand Jury is concerned about the lack of public awareness and input. Based on its origin through special state legislation, Zone 7 expects its independence to be granted by Sacramento, not by local voters. Even LAFCO is playing a minor role in this action. The Grand Jury is **skeptical that Zone 7's current path toward independence will benefit the public**, due to the potential for increased costs and fees and the risk of abandoning its well-established source of financial and administrative oversight.

According to a public official of one of the involved cities, the six Tri-Valley agencies (cities of San Ramon, Dublin, Pleasanton, and Livermore, along with Dublin San Ramon Services District and Zone 7) have launched an independent study of integration possibilities for water, wastewater, flood control, and recycled water services in the Tri-Valley area. The Grand Jury is encouraged by this approach.

Conclusion

Every LAFCO has the authority to effect consolidations of special districts, subject to reasonable conditions. The recommendation to consolidate must be consistent with the conclusions of the studies required to be done periodically by **the LAFCO and must ensure “that services currently provided will not be hampered, that public services costs of the proposal are likely to be less than or substantially similar to the costs of alternate means of providing the service, and that the consolidation promotes public access and accountability for community service needs and financial resources.”** (source: *California Association of Local Agency Formation Commissions (CALAFCO) White Paper: The Metamorphosis of Special Districts: Current Methods for Consolidation, Dissolution, Subsidiary District Formation and Merger, August 2008, available on www.calafco.org*) However, the Alameda County LAFCO has not pursued opportunities for consolidation between special districts (or between special districts and cities) in Alameda County, even when recommended by its own studies. To push for consolidations without strong support from the agencies involved (and their boards) or a large group of active citizens would be very difficult politically. The Grand Jury **questions whether this commission’s concern for saving taxpayers’ dollars is strong enough to pursue any consolidation not readily embraced by the boards who want to maintain their control and independence.**

Concerning special districts, the Little Hoover Commission concluded the following:

“Ironically, these governments that are physically closest to their communities are oftentimes unknown to the people they serve. And in the absence of community involvement, the mechanisms for public accountability are dulled and the value of public scrutiny is **lost.”** *(cover letter to 2000 report)*

Even if a special district (or JPA) does good work, will its leaders listen when the public wants to reprioritize its resources as circumstances change? What incentives do these agencies have to consolidate or curtail themselves?

Do citizens know how to impact the agencies which were created to serve them? How can the public cause a special district to respond if the public prefers to spend less, possibly even reducing non-essential services, in order to have more money available for higher priorities?

- Individuals can attend district board meetings and challenge directors to investigate and pursue cost-savings and efficiencies within their operations and, potentially, from consolidations with similar districts.
- Citizens can hold boards accountable at election time if they perpetuate their positions at the expense of the public.
- The public can petition to consolidate districts.

The legislation empowering LAFCOs to initiate district reorganizations also provides that registered voters may initiate special district consolidations by notifying the applicable LAFCO and circulating a petition. Upon complying with specified procedures, members of the public can apply for consolidation, and the LAFCO must hold a public hearing prior to making a decision. So, if neither LAFCO nor the districts are willing to initiate consolidation, the public can do so.

In the case of JPAs, where LAFCO has no authority, the public will have to exert its influence directly through attending JPA board meetings. Since JPA boards generally are selected by participating organizations instead of being elected by

the public, citizens may have to direct their concerns to the boards of the participating agencies that they do elect.

When a JPA collects fees from the public, there must be a mechanism for the public to influence policy and governance.

When a JPA receives no direct public fees, but is formed to facilitate cooperation and efficiencies between agencies, the participating agencies must provide for periodic and objective evaluation of the costs and benefits of continuing the JPA.

RECOMMENDATIONS

Recommendation 12-26:

Whenever there is a reasonable expectation of benefit to the public from a consolidation of districts (or merger with a city), the Alameda County LAFCO must perform sufficient, objective financial analysis (or require it to be provided by the entities) to quantify potential savings and risks of the proposed consolidation. Such results must be made readily available to the public potentially affected by a consolidation, with or without support by the respective boards of directors.

Recommendation 12-27:

Alameda County LAFCO must require all districts and entities within its authority to identify opportunities for savings from sharing services with other such entities and that LAFCO monitor their progress in objectively evaluating and pursuing such opportunities.

Recommendation 12-28:

Alameda County LAFCO must require that all districts and entities within its authority include in their constituent communications information about how the public can influence the entity's governance, including petitioning LAFCO.

Recommendation 12-29:

The Alameda County LAFCO must establish, by January 2013, an unpaid standing or *ad hoc* citizen's advisory committee of 7 to 11 public members to work with the LAFCO and staff to improve LAFCO's identification and enforcement of recommendations which reflect citizens' priorities of achieving cost efficiencies and reductions in fees and taxes collected for special districts.

RESPONSES REQUIRED

Alameda County LAFCO Board

Recommendations 12-26 through 12-29

ALAMEDA COUNTY LAFCO – LIST OF AGENCIES

Special Districts

Alameda County Fire Department	Alameda County Flood Control & Water Conservation District
Alameda County Flood Control & Water Conservation District – Zone 7	Alameda County Library District
Alameda County Mosquito Abatement District	Alameda County Resource Conservation District
Alameda County Water District	Castle Homes CSA (R-1982-1)
Castlewood CSA	Castro Valley Library CSA (CSA L-1)
Castro Valley Sanitary District	City of Alameda Health Care District
Curbside Recycling CSA	Dublin Library CSA (L-1973-1)
Dublin San Ramon Services District	East Bay Municipal Utility District
East Bay Regional Park District	Eden Township Health Care District
Emergency Medical Services CSA	Estuary Bridges CSA (B-1988-1)
Fairview Fire Protection District	Five Canyons CSA (PW-1994-1)
Hayward Area Recreation & Park District	Lead Abatement CSA (LA-1991-1)
Livermore-Amador Valley Sewer Study CSA (S-1984-1)	Livermore Area Recreation and Park District
Morva CSA (R-1982-2)	Oro Loma Sanitary District
Public Protection County Service Area	Public Works Extended Services CSA (PW-2006-1)
San Lorenzo Library CSA (L-2)	Street Lighting CSA (SL-1970-1)
Union Sanitary District	Vector Control Services District CSA (VC-1984-1)
Washington Township Health Care District	

Cities

City of Alameda	City of Albany
City of Berkeley	City of Dublin
City of Emeryville	City of Fremont
City of Hayward	City of Livermore
City of Newark	City of Oakland
City of Piedmont	City of Pleasanton
City of San Leandro	City of Union City

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OAKLAND COMMUNITY HOUSING, INC.

When Oakland Community Housing, Inc. (OCHI) closed its doors and abandoned 638 units of low income housing in 2008, the city of Oakland lost the **\$24 million it had invested in OCHI's 25 housing projects**. Nearly four years later, Oakland is still working its way out from under these abandoned projects. Now with tighter budgets and the recent dissolution of the redevelopment agency, what is Oakland doing to protect its investments and maintain or grow its current pool of over 9,000 units of subsidized rental housing?

Introduction

The Grand Jury received a complaint about the manner in which low-income housing properties in Oakland were sold or otherwise dealt with after they were abandoned in 2008 by a failed government-funded non-profit organization, Oakland Community Housing, Inc. (OCHI).

The Grand Jury investigated the handling of a sample of former OCHI low-income housing properties because of the following concerns:

1. Was the city of Oakland appropriately represented in the disposition of **low-income housing properties abandoned by OCHI**? Were Oakland's investments protected in the best manner possible?
2. Did the disposition of the properties ensure their continued use as low-income housing?
3. What has Oakland done to prevent future losses from failed management of subsidized low-income housing properties?

Background

The Grand Jury reviewed documents and interviewed parties involved in specific OCHI properties, including the California Housing Finance Agency (CalHFA), Oakland Community Economic Development Agency (CEDA), Alameda County **Tax Assessor's Office, and private developers interested in such properties.**

The Grand Jury also reviewed the current process of funding low-income housing to address the following questions:

1. Does the current system of government funding, regulatory agreements, and tax exemptions represent a good method of providing housing for low-income residents?
2. What lessons can be learned and implemented to enhance/maximize **Oakland's ability to provide a sustainable**-housing program for low-income residents, especially in light of the recent loss of redevelopment funds?

To learn more about how the subsidized housing system works, the Grand Jury reviewed documents and interviewed representatives from CEDA, Alameda County Tax **Assessor's Office, a successful non-profit** low-income housing developer and manager, and private developer/managers of affordable housing.

General Process for Funding Low-Income Housing

There are many programs for public funding of low-income housing. Various types of federal, state, redevelopment, and local grants and loans are used. Sometimes private loans also are arranged from banks. In most cases, the funding sources favor development of new projects over the rehabilitation of existing properties. Some organizations specialize in attracting and using development fees to build housing projects and to provide working capital for

their operations as they expand from project to project. Although properties may be owned by either a non-profit organization or an eligible limited partnership, they must be managed by a non-profit organization in order to qualify for various tax benefits, including a welfare exemption from property taxes.

In Oakland, general fund dollars are not used for low-income housing. Funding primarily has come from federal grants or redevelopment agency loans. **Although classified as loans, Oakland's redevelopment funds are more like grants, or "soft loans," which are not really expected to be repaid. In order to make low-income housing affordable, the loans generally are fully deferred for decades and are repaid only out of residual receipts after the housing project has covered its expenses. Although the property deed of trust may be designated as security, these soft loans usually are subordinate to other lenders' loans.** Therefore, senior debt holders, and not the city, would be the ones to foreclose on a non-performing property. Meanwhile, the borrower can treat these soft loans as debt expense for tax purposes and the lender (the city) can treat these soft loans as assets instead of writing them off as uncollectible.

Oakland currently has millions in such soft loans on its books, and is expected to assume \$278 million more in receivables for low-income and moderate-income **housing obligations from Oakland's redevelopment agency. The city lists 9,926** subsidized rental units funded by various federal, state, and local programs, including HUD Section 8 voucher units.

Welfare Exemption

Most non-profit housing providers are exempt from paying property taxes through a welfare exemption. The purpose of a welfare exemption from local property tax is to encourage organizations to offer services that are considered beneficial to the public, such as providing housing at below market rates to low-income residents.

The county tax assessor's office determines whether the organization's specific property qualifies for the welfare exemption based on the property's actual use.

As part of its tax assessment process, Alameda County reviews the rent lists and makes site visits annually to see what percent of units are rented to low-income tenants. The county does not audit the tenant lists, assuming government agencies enforce their own regulatory agreements.

Regulatory Agreements

In order to receive government funding and/or a property tax exemption for providing low-income housing, an organization has to sign a regulatory agreement with a governmental agency (usually a city) which specifies the percent of the property that must be rented to low-income tenants, defines the level of low income, and establishes rent levels.

According to a prominent low-income housing management organization, every agency which funds a low-income housing project has a regulatory agreement on each such property and is responsible for monitoring compliance, usually through an annual inspection. The agency can seek redress from the property manager for non-compliance. Oakland city staff annually reviews submitted property schedules and does an on-site audit of **25% of the property's files**. Alameda County reviews the rent lists but does not audit them, assuming government agencies enforce their own regulatory agreements. The State Board of Equalization also reportedly audits organizations every 3 years to ensure compliance with their respective regulatory agreements.

Regulatory agreements allow governments to keep properties in low-income markets. Cities have strong incentives to prevent totally private purchases without regulatory agreements because such properties could be sold and removed from the low-income pool, which the city must maintain in order to qualify for a variety of state and federal funds.

Income and Rental Limits

Regulatory agreements specify “low income” or “very low income” limits for tenants to qualify for subsidized housing and for properties to qualify for tax exemptions. Income limits are established as a percent of Area Median Income (AMI), developed by the California Department of Housing and Community Development and based on data compiled by the U.S. Department of Housing and Urban Development (HUD). As of July 2011, income limits for Oakland are as shown below.

Number of Persons in Household	Area Median Income (AMI)	Maximum Income for Low Income Units	Maximum Income for Very Low Income Units
1	\$64,600	\$45,500	\$32,350
2	\$73,850	\$52,000	\$36,950
3	\$83,050	\$58,500	\$41,550
4	\$92,300	\$64,950	\$46,150
5	\$99,700	\$70,150	\$49,850
6	\$107,050	\$75,350	\$53,550
7	\$114,450	\$80,550	\$57,250
8	\$121,850	\$85,750	\$60,950

A review of Income Restriction/Welfare Exemption affidavits for a sample of Oakland properties revealed that the actual income of project residents was far below the maximum income limits. Although this indicates low-income tenant compliance, it suggests that the limitations which allow tax-exempt status may be artificially high and perhaps counter productive to serving the truly needy citizens. In one example, the vast majority of tenants had income of only 20-50% of the income limit. Many of these low-income properties are located in neighborhoods that do not attract residents of income levels anywhere near the allowed levels.

Regulatory agreements also specify rental fee limits as a percent of the income limit. For instance, the Grand Jury reviewed one rental agreement that specifies that a family of three with income of up to \$41,550 (50% of AMI) could pay rent for a subsidized two-bedroom apartment of up to \$1,040 per month.

Investigation

OCHI Properties

OCHI was formed as a community-based non-profit housing organization in the **1960's as a way to obtain cooperation from housing activists who were opposed to** the reduction of housing to make way for the City Center Redevelopment Project undertaken by the city of Oakland. OCHI was created to replace 300 housing units; it received city funding and development fees. Its board of directors, comprised of community activists, has been described as a **self-perpetuating board that failed to respond adequately to OCHI's financial and operating** problems. Many of its properties were in terrible condition, crime-ridden, and not fully occupied.

In 2008, while Oakland and its redevelopment agency were trying to find ways to transfer OCHI properties to other non-profits, OCHI closed its doors, claiming to have no assets. OCHI did not file for bankruptcy, but defaulted on all loans and abandoned 25 low-income housing projects in Oakland. By this time, Oakland **had invested \$24 million in OCHI's 638 low income housing units, about \$38,000 per rental unit, excluding millions of additional dollars from state and federal sources.**

Foothill Plaza was one of OCHI's abandoned projects. In 1985, Oakland authorized a \$1.4 million affordable housing development loan to Foothill Plaza Partnership for construction of a 54-unit apartment complex with a percent of low-income units. In March 2006, the property was purchased by an OCHI affiliate, FHP Housing Assoc., with \$4.2 million in debt from CalHFA and a \$1.3

million residual receipt loan (subordinated) from the city of Oakland. In September 2006, when OCHI proposed to rehabilitate the property, the Oakland city council agreed to extend its loan amortization (from 35 to 50 years), allow OCHI to seek federal grants to fund rehab and require 53 units to be affordable to households at or below 60% of Area Median Income (AMI). A few months later, in 2007, OCHI stopped making monthly loan payments to CalHFA, which then **issued a “notice of default.”** On Foothill Plaza, unpaid principal balances, accrued interest and late fees owed CalHFA totaled \$5.1 million. The total unpaid balance owed Oakland was just over \$1 million. Although it was the primary lender for Foothill Plaza, CalHFA was unwilling to foreclose on Foothill Plaza because they did not want the liabilities that went with receivership, i.e. violence (shootings, killings), lack of security, lack of maintenance, responsibility for relocating renters during rehab, etc. Furthermore, various assessments suggested it needed over \$3 million in rehab money to be habitable. Therefore, CalHFA decided to sell the notes and let the purchaser be responsible for foreclosing. Such a sale would have to be completed in time for the buyer to foreclose by March 2010.

Similarly, CalHFA held notes of in excess of approximately \$1 million on OCHI’s 23-unit San Antonio Terrace project. Based on a physical needs assessment (a **consultant’s estimate for correcting the property’s physical problems**), CalHFA and the city believed it would require at least \$4 million to rehabilitate this property and that it might not be salvageable at all.

Two private developers expressed interest in purchasing these two properties. After reviewing a complaint about the handling of this sale, the Grand Jury believes that CalHFA could have sold these properties for more than it did. **Nevertheless, the Grand Jury found that, given CalHFA’s intense desire to get out** from under any property management responsibility quickly (especially for Foothill Plaza), the transaction was handled legitimately. The city of Oakland, by having subordinated its loan to CalHFA, had no recourse with respect to its **“loans.”**

The Grand Jury learned that one of the private developers purchased the Foothill Plaza and San Antonio Terrace loans from CalHFA for \$50,000. (After the fact, Oakland offered \$10,000 for the two properties.) The new owner then foreclosed on the loans, took ownership of the properties, and began rehabilitating them with privately arranged funds. Foothill Plaza was successfully rehabilitated for \$1.5 million, half the amount which a physical needs assessment estimated would have been spent for rehab by a public entity. Furthermore, Foothill Plaza (now Granite Point) is fully rented to tenants under a new regulatory agreement (with income levels below 60% of AMI and rental rates below 20% of AMI), but without any government funds or tax exemptions that a non-profit owner/manager would have used.

The San Antonio Terrace project (now called Hillside Terrace) also is being rehabilitated without government funding or tax exemptions. To date, the owner has spent \$300,000 renovating 14 of 23 units as they became vacant (including new kitchens), compared to the \$4 million physical needs assessment and the \$2.8 million offered by Oakland to rehab the project. Units are rented at restricted fees to tenants meeting regulatory agreement criteria – half to persons with income below 50% of AMI and half to persons with income below 80% of AMI. Rents range from \$1,000-\$1,600 per unit.

Following is a summary of the status of four other former OCHI projects:

Nueva Vista – Originally funded by Oakland at \$1.8 million, this 30-unit property was purchased from CitiBank (primary lender) by a private investor for \$150,000. The new owner invested \$1.4 million to rehab the units, pay back taxes from previous owners, and rent to low-to-moderate-income tenants without any Oakland or other government funds. There is no regulatory agreement and no tax exemption.

Marin Way – After originally funding for \$1.6 million, the city of Oakland tried to place this property with a nonprofit, but was unsuccessful due to its inability to **“get squatters out” of the units. A private entity purchased the property,**

including Oakland’s “soft loan” of \$1.8 million, for \$5,000. The owner then invested \$1.4 million to rehab and rent the 20-unit project, compared to the **\$2.4 million Oakland offered as a “soft loan” for rehab. Rentals are in compliance with** a regulatory agreement in spite of using no government funds or tax exemption.

Drasnin Manor – Originally **funded at \$1 million, Oakland recently ”loaned” \$1.6** million to a nonprofit to rehabilitate this 26-unit project. Its regulatory agreement requires 25 units to be rented to very low-income tenants (up to 50% of AMI) at rents of less than 15% of AMI.

California Hotel – Oakland originally funded this project at \$5.1 million. Since **2009, Oakland’s redevelopment agency has “loaned” \$5.3 million to a nonprofit** to develop this 150-unit single room occupancy (SRO) property. Rehabilitation has been delayed, partly because participants underestimated the challenge of this building and location. It will be necessary to reconfigure it from single rooms to rentable apartments, and plans are being developed to also include extensive social and/or health services on site.

It is worth noting that Oakland previously had turned down the private investor who ultimately purchased and rehabilitated four of these properties because the city was determined to transfer all the OCHI projects to non-profits within its own pool of community organizations. The city had determined that it did not want to own and operate the OCHI properties itself; however, the Grand Jury has learned that Oakland was unable to find non-profits with the ability and willingness to assume responsibility for all the OCHI sites.

The city of Oakland Redevelopment Agency, in the transmittal letter for its FY2011-13 Budget, summarized the OCHI property workouts as follows:

“As of early 2011, over 1,700 units of agency-financed affordable housing were either in predevelopment or under construction. Progress continues on the preservation of the portfolio owned by

the failed nonprofit, Oakland Community Housing, Inc. (OCHI). Several of their most recent projects were transferred seamlessly to new nonprofit owners. Four properties were acquired by private owners who foreclosed and eliminated city/agency investments, but they have agreed to modest rent/income restrictions and appear to be successful in the rehabilitation and management. The remaining properties will be acquired and rehabilitated by other nonprofits with extended affordability terms and deeper targeting to very low **income families.**”

Steps Taken to Prevent Future Failures Such as OCHI

The Grand Jury reviewed documents and heard testimony that Oakland has improved its ability to evaluate organizations with which it partners for low-income housing. They have adopted formal standards to assess financial and operational capabilities of non-profit and for-profit organizations seeking government funds. In 2011, Oakland updated its application for loans to develop or substantially rehabilitate low-income properties. Its Notice of Funding Availability (NOFA) now requires a financial plan and an established track record of project development by the organization and individuals assigned to the specific project (contractor, financial advisor, property manager, etc.). The city **still provides “soft loans” or residual receipts loans that are deferred for years and** paid out of excess cash flow. According to the 2011 NOFA, the subordination standards are:

“The city will no longer subordinate its affordability covenants to the deeds of trust securing other lenders’ financing, with the exception of State and Federal funding sources (subject to staff approval and to the ratio of loan to total development costs). The affordability covenants control, among other things, the maximum income of tenants of project units, and the maximum rents allowed

for project units. The city and agency deeds of trust may be subordinated to private financing on a case-by-**case basis.**”

Given all the exceptions still included in such agreements, the Grand Jury questions whether these standards significantly improve the likelihood that Oakland will ever recoup these funds.

In addition, the Community Economic Development Agency took other measures to help prevent another failure such as OCHI, including:

- New initiatives with others, such as East Bay Home Collaborative (Oakland, Richmond, Berkeley, Alameda County and Contra Costa County), obtaining a HUD grant to improve monitoring protocols for assessing financial health of organizations that develop and manage low-income housing. This is a six-month project starting 2012.
- Hiring expertise in Community Development Housing Finance
- Improving and standardizing forms, evaluations, etc.
- Watching for early signs of problems, i.e., vacancy statistics, physical problems at properties, police reports, violence
- Developing a monitoring manual based on HUD expertise in compliance (rents, incomes), physical inspections, and financials

Although impressed with the resourcefulness and collaboration represented in these measures, the Grand Jury questions whether Oakland can develop and retain sufficient expertise to oversee low-income housing investments, especially given the economic outlook and the loss of redevelopment agency funds.

Conclusion

Oakland has a long history of using public resources to fund low-income housing and local non-profit organizations that develop and manage them. In the case of OCHI, the city failed to protect its \$24 million investment by not adequately monitoring the various properties or the non-profit organization responsible for

them. The Grand Jury acknowledges the steps taken in 2011 to train staff and improve the process of qualifying and monitoring low-income housing providers. However, the Grand Jury is gravely concerned that Oakland cannot maintain an adequate level of expertise to protect its investments in low-income housing. The city used \$10.8 million in redevelopment agency funds to supplement staff costs to administer low-income housing programs. These funds are no longer available, so how will improvements be funded?

In many cases, non-profit organizations are the appropriate providers of low-income housing. However, there is considerable risk in utilizing inexperienced, under-resourced community groups for the sake of partnering with political constituents. The Grand Jury heard testimony that non-profits can be successful in this field, but it requires high quality people, discipline and training, inspections and auditing process, economy of scale, and use of good, accountable property managers. The funding systems for subsidized housing are very complex. To succeed, an organization needs a high level of financial expertise usually found in private industry. Furthermore, it is tempting, but dangerous, to use development fees and similar financial benefits to fund the growth and operation of community housing organizations. The Grand Jury heard testimony from a successful non-profit and from a private developer that the self-perpetuating nature of development fees and government grants to fund affordable housing is a recipe for failure, not totally unlike a pyramid scheme.

The Grand Jury wonders whether Oakland understands the benefits of using private funding to finance and manage affordable housing, such as:

- Private investors have a strong incentive not to abandon their properties since they have a vested interest, i.e. their own funds
- Because of their vested interest, private investors may manage properties more closely
- Private investors may make more cost-effective decisions, rehabilitating units at a level that is appropriate for its neighborhood

- Private investors can do quality work with less bureaucracy and fewer political/social burdens, i.e., living wage, etc.
- Private investors can move more quickly

The Grand Jury is concerned that the current system of funding low-income housing is so complex and fragmented that it is virtually impossible to administer. Some concerns are:

- Unnecessary complication of regulatory agreements that set income limits too high
- Loss of tax revenue from welfare exemptions for projects with overly liberal income restrictions (i.e., would rental units be equally affordable without subsidies, given market rates in their neighborhood?)
- Unnecessary cost of government bureaucracy to oversee complex system of subsidies
- Weakness in oversight such as lack of audits of tenant income, regulatory agreement compliance, property tax exemptions, approved use of rental units, **collectability of “soft loans”, etc.**
- Difficulty of keeping records current on property tax assessments, welfare exemptions, property ownership, regulatory agreements, low income units available, outstanding loans, etc.

The Grand Jury hopes Oakland will objectively evaluate the benefits of using a simple voucher system or other ways to assist very low-income tenants without such large investments or cumbersome programs. The system needs to make it easier to monitor whether a tenant qualifies, allow more market-driven pricing, simplify the subsidies for property owners, and encourage rehabilitation instead of new construction. Perhaps the city should focus on inspecting subsidized units and let their financing be more market driven.

RECOMMENDATIONS

Recommendation 12-30:

The city of Oakland must adopt a policy of stringent economic evaluation of affordable housing investments, including rehabilitation of existing units, that ensures each project is sustainable **without “soft loans” or continued infusion of public money.**

Recommendation 12-31:

The city of Oakland must accurately and publicly document all costs which must include direct, indirect, and ongoing monitoring, before voting to invest public dollars in affordable housing projects so that decision-makers and the public **understand the cost of the city’s social policy.**

RESPONSES REQUIRED

Mayor, City of Oakland

Recommendations 12-30 and 12-31

REVIEW OF THE 2010-2011 FINAL REPORT RESPONSES

Introduction

The 2010-2011 Civil Grand Jury Final Report included numerous recommendations for many local government agencies. These recommendations **and the agencies' responses are posted along with the full report at www.acgov.org/grandjury**. The 2011-2012 Civil Grand Jury formed a response **committee to review the agencies' responses and decide what follow-up is needed**. We summarize here the updated information we received. We recommend that future grand juries conduct a comprehensive review to see how well the recommendations from the 2010-2011 Grand Jury have been implemented.

Regional Emergency Communications

Recommendation 11-3: The City of Oakland and the East Bay Regional Communications Systems Authority (EBRCSA) must “... ensure interoperability of radio communications... in order to achieve seamless automatic roaming,” and “have regularly scheduled meetings to end the impasse” and “negotiate with both Motorola and Harris vendors to achieve **interoperability.**”

The City of Oakland hired RCC Consultants to assess Oakland's police radio system and interoperability with EBRCSA. The report from RCC Consultants is scheduled to be completed in Spring 2012. This report should be monitored closely by the Grand Jury because interoperability is crucial.

Recommendation 11-4: The City of Oakland's information technology department in conjunction with the mayor's office must report quarterly to the Oakland City Council on radio communication failures, the status of the new

system, and its upgrades. The city concurred with this recommendation and said it would start making regular reports to the council in fall 2011.

In response to our January 2012 query, the Grand Jury learned that three memoranda have been provided to the council and have also been posted on the city website for public viewing: PS25 Radio System Update--

(<http://www2.oaklandnet.com/oakca/groups/cityadministrator/documents/memorandum/oako33098.pdf>, January 30, 2012; December 12, 2011, oako32605.pdf; August 26, 2011, oako33112.pdf.)

The latest report contains important data and a roadmap for improvement. It concludes that in spite of some improvements the number of reported radio **problems is still unacceptable. It reaffirms the city's commitment to improving** the performance of its system. The Grand Jury commends the city for openly and aggressively attacking this most serious problem; however, the Grand Jury continues to receive reports that the system failures still put first responders at risk.

Alameda County Probation Department

Recommendation 11-11: The Alameda County Probation Department must complete and implement a new juvenile probation department policy and procedure manual. The response concurred with this recommendation and said it **would be completed in the “next couple of months.”**

In response to our January 2012 query, the Grand Jury was informed that the new probation manual was expected to be completed by early March 2012. The Probation Department also concurred with six other recommendations, which future grand juries should review for implementation.

The Grand Jury is extremely disappointed by the disruption of leadership at the Alameda County Probation Department. We encourage the Board of Supervisors to resolve the long-term leadership issue as quickly as possible.

Oakland Parking Bureau

Recommendation 11-14: The City of Oakland must issue an annual report on parking citations that includes the following: number of tickets issued, number and outcome of appeals, length of time to resolve the appeals, length of phone waiting time, and fine recovery and collection rates. This report should be made **available to the public and posted on the city's web site. The Parking Bureau** concurred with this recommendation.

In response to our January 2012 query, the Grand Jury learned the report is available on line at <http://www.oaklandnet.com> in the Finance and Management **section of Parking under Frequently Asked Questions, specifically “What are the Parking Divisions annual operational statistics?” Comparing the annual reports** will make it possible to assess the impact of the new automated parking citation system.

County Small, Local and Emerging Business Program (SLEB)

Recommendation 11-25: General Services Agency must report annually on the true cost of the Small, Local and Emerging Business Program compared to the open bidding process. The response concurred with this recommendation.

In response to our January 2012 query, the Alameda County General Services Agency advised that a staff team is reviewing recent records and their report is expected to be available by June 2012.

Other Recommendations

We strongly recommend future grand juries follow up on all the other recommendations in the 2010-2011 Grand Jury report to see whether they have been implemented and what improvements have been made. For example:

Oakland Building Services Division: The city of Oakland agreed with some of the 10 recommendations but not with all. The city has undertaken a major reorganization of this division and will need some time to improve its operation. A future grand jury should assess the degree to which these changes succeed.

Alameda County In-Home Support Services Program: The Social Services Agency had numerous areas of serious disagreement with the Grand Jury's recommendations. Central to the disagreement was their reluctance to agree with the Grand Jury on issues involving fraud within their program and to work with the District Attorney to address such problems. The 2011-2012 Grand Jury recommends a future investigation into the area of In-Home Support Services fraud.

StopWaste.org: Having streamlined its committee structure to reduce the number and expense of board meetings, StopWaste anticipates completing its strategic work plan governance review in June 2012. StopWaste disagreed with many of the Grand Jury's findings and recommendations regarding continued growth of a program which is nearing completion of the goals for which it was created. Instead, StopWaste appears to be further expanding the scope of its operations, as noted in this year's report on Special Districts and JPAs. A future grand jury should consider further investigation.

Conclusion

In conclusion, we recommend that future grand juries continue to have a Response Committee. We found that following through on investigations increases effectiveness and this impact should increase over time as agencies come to expect follow up. Improvements in government need constant vigilance from public watchdogs, like the Alameda County Civil Grand Jury, that provide non-partisan continuity.

RECOMMENDATIONS *None*

RESPONSES REQUIRED *None*



*Rene C. Davidson Courthouse, 1225 Fallon Street, Oakland, California
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