

This document is an extract of a larger publication.

civilgrandjury.org is a project of UnGovr.org, a US-based 501(c)(3) nonprofit dedicated to government transparency and public accountability.



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Alameda County  
**Grand Jury**

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June 24, 2024

Hon. Thomas Nixon, Presiding Judge  
Alameda County Superior Court  
1225 Fallon Street, Dept. One  
Oakland, CA 94612

Dear Judge Nixon,

The 2023-2024 Alameda County Civil Grand Jury is pleased to forward our completed report to the Superior Court and the citizens of Alameda County.

Each year the grand jury takes on citizen complaints regarding our local government, spanning county and municipal departments. Our effort is not to criticize government but to present opportunities for government to function more efficiently in the delivery of its services to its citizens.

A challenge for every grand jury is deciding which cases to take on, with the hope that the selected cases make a meaningful difference. With that in mind, the grand jury selected 10 cases to investigate, ultimately delivering five complete reports during this term, along with a compulsory inspection of select county jails.

This dedicated group of community volunteers interviewed over 100 witnesses, reviewed thousands of pages of documents and countless hours of research related to the investigations we conducted. While not all of our investigations resulted in a report, we believe our conversations with county and municipal leaders help inform them of concerns that are coming from the public. During our term, we identified areas that may be of interest to next year's grand jury and have submitted those complaints for their consideration.

When local government succeeds, we all benefit, and the civil grand jury is an opportunity for normal citizens to do work that impacts the 1.6 million residents of Alameda County. With that in mind, the grand jury needs you - citizen participation is what makes the grand jury possible, whether in the form of filing a complaint or serving on the panel. I encourage all citizens to read not only this year's report but also prior reports as a way to stay in touch with how our local government functions and to keep our government accountable.

It has been an honor to serve as the term's foreperson. A huge thank you goes out to my colleagues who served on this year's panel. These dedicated citizens have spent a full year

Hon. Thomas Nixon  
Page two  
June 24, 2024

working on cases and ultimately publishing our findings. This year's panel brought a wealth of experience along with a tremendous work ethic to thoroughly investigate our presented reports.

While the grand jury conducts its investigations, it's not without a tremendous amount of professional guidance and support from our legal advisor, Assistant District Attorney Kwixuan Maloof, and our Senior Program Specialist Cassie Barner. Their experience, guidance and dedication make this report possible.

The 2023-2024 grand jury is proud to present our report, and we hope it will result in positive, meaningful changes for the citizens of Alameda County.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Cohen', with a stylized flourish extending to the right.

Adam Cohen, Foreperson  
2023-2024 Alameda County Grand Jury

## 2023-2024 ALAMEDA COUNTY GRAND JURY MEMBER ROSTER

Name	City
Robert Anderson*	Berkeley
Daniel A. Ballinger	Alameda
Dale Benveniste*	Oakland
Oscar Brown*	Oakland
Adam Cohen	Oakland
Barbara F. Cohen	Oakland
Jonathan W. Cohen	Berkeley
Basudeb Dey*	Oakland
Tom Farris	Alameda
Susan E. Green	San Leandro
Zeenah Haddad	Berkeley
James P. Houser*	Oakland
Rabia Keeble	Oakland
Jung Lee	Alameda
Joni D. Mahler	Alameda
Randy M. Marmor	Alameda
Michelle Miranda-Albanese	Pleasanton
Frank Neuhauser	Berkeley
Brian S. O'Malley	Oakland
Roger Taranto	Berkeley
Stephen Wagner	Pleasanton
Gerald Weintraub	Berkeley
Hugo Wildmann	Berkeley
Rachelle Wilkins*	Hayward

\*Resigned during the year

**2022-2023 ALAMEDA COUNTY GRAND JURY  
OFFICERS AND LEGAL STAFF**



***GRAND JURY OFFICERS***

Foreperson:	Adam Cohen
Foreperson Pro Tem:	Frank Neuhauser
Secretary:	Michelle Miranda-Albanese
Secretary Pro Tem:	Barbara F. Cohen
Sergeant at Arms:	Tom Farris

***PRESIDING JUDGES OF THE SUPERIOR COURT***

Honorable Charles A. Smiley  
*January 1, 2022 – December 31, 2023*

Honorable Thomas Nixon  
*January 1, 2024 - Present*

***GRAND JURY LEGAL STAFF***

Grand Jury Legal Advisor:  
Kwixuan H. Maloof, Senior Assistant District Attorney

Grand Jury Paralegal/Program Manager:  
Cassie Barner, Senior Program Specialist

## 2023-2024 ALAMEDA COUNTY GRAND JURY COMMITTEE ASSIGNMENTS

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### GOVERNMENT

Jonathan W. Cohen – *Chair*  
Tom Farris – *Chair Pro Tem*  
Zeenah Haddad  
Rabia Keeble  
Jung Lee – *Secretary*  
Brian S. O’Malley  
Roger Taranto – *Secretary Pro Tem*  
Jerry Weintraub

### LAW & JUSTICE

Roger Taranto – *Chair*  
Daniel A. Ballinger  
Tom Farris – *Chair Pro Tem*  
Susan E. Green  
Zeenah Haddad  
Randy M. Marmor  
Michelle Miranda-Albanese – *Secretary*  
Frank Neuhauser – *Secretary Pro Tem*

### HEALTH & SOCIAL SERVICES

Brian S. O’Malley – *Chair*  
Daniel A. Ballinger  
Barbara F. Cohen – *Secretary*  
Rabia Keeble – *Chair Pro Tem*  
Joni D. Mahler  
Frank Neuhauser – *Secretary Pro Tem*  
Steve Wagner  
Jerry Weintraub  
Hugo Wildmann

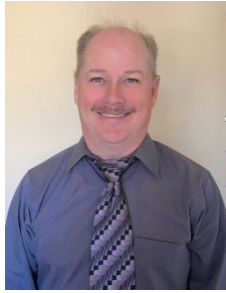
### EDUCATION & ADMINISTRATION

Joni D. Mahler – *Chair*  
Barbara F. Cohen – *Secretary*  
Jonathan W. Cohen  
Susan E. Green  
Jung Lee  
Randy M. Marmor  
Michelle Miranda-Albanese – *Secretary Pro Tem*  
Steve Wagner  
Hugo Wildmann – *Chair Pro Tem*

### EDIT COMMITTEE

Adam Cohen  
Hugo Wildmann

## 2023-2024 ALAMEDA COUNTY GRAND JURY MEMBERS



Daniel  
Ballinger



Adam  
Cohen



Barbara  
Cohen



Jonathan  
Cohen



Tom  
Farris



Susan  
Green



Zeenah  
Haddad



Rabia  
Keeble



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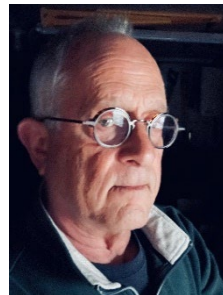
Joni  
Mahler



Randy  
Marmor



Michelle  
Miranda-Albanese



Frank  
Neuhauser



Brian  
O'Malley



Roger  
Taranto



Stephen  
Wagner



Gerald  
Weintraub



Hugo  
Wildmann

## OAKLAND POLICE DEPARTMENT: MISSED OPPORTUNITIES WITH TECHNOLOGY

### EXECUTIVE SUMMARY

The rate of violent crime in Oakland is substantially higher than similar-sized California cities and more than twice as high as San Francisco according to statistics [reported by the FBI](#), the San Francisco Police Department, and the Oakland Police Department (OPD). The grand jury chose to investigate how technology has been used to assist the Oakland Police Department in reducing crime in the city of Oakland.

Using technology to reduce crime requires, at a minimum, a commitment to funding beyond the current budget cycle, including resources for deployment, training of personnel, maintenance, upgrades, and data storage. Accomplishing all of these requires long-term planning and a strategic vision. The grand jury did not identify any long-term plan for technology use by the Oakland Police Department.

The grand jury reviewed the ability of OPD to adopt and maintain technology, and whether or not OPD could answer whether the technology was applied in the most effective manner. Oakland Municipal Code Chapter 9.64 requires OPD to assess whether surveillance technology has been “...used or deployed, intentionally or inadvertently, in a manner that is discriminatory, viewpoint-based, or biased via algorithm.” The grand jury believes OPD has failed to meet the requirements under this ordinance as discussed below.

*OPD senior staff refers to technology as a “force multiplier” allowing them to more effectively fight crime.*

Using surveillance technology to reduce crime poses risks to citizens’ constitutional rights. Oakland has been in the forefront of formally considering the intersection of crime reduction and protecting its citizens from excessive surveillance, preserving privacy rights, and potential biases in the use of surveillance technology against vulnerable groups.

The grand jury also reviewed the OPD Information Technology unit (IT) and found a number of issues, including understaffing, rotating sworn officers through IT positions, and not utilizing existing city IT resources such as help desk and trouble ticketing systems. The grand jury found that the OPD IT Unit is struggling to maintain existing technologies and does not have capacity for long-term planning.

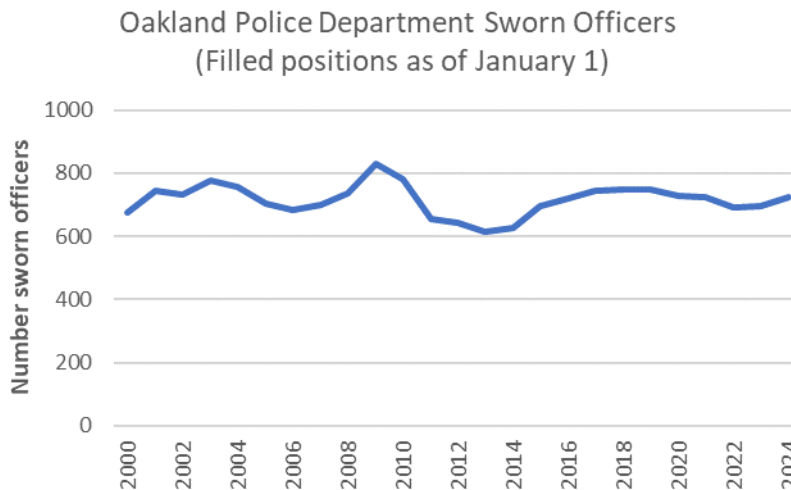
The grand jury found that issues with the use of technology to reduce crime are not entirely the fault of OPD’s senior management. Political choices on budgeting, ownership of technology, and when and how technology is approved limit the ability of OPD to pursue a coherent and well-considered strategy.

## BACKGROUND

The grand jury interviewed 11 witnesses including OPD senior management, OPD’s IT Unit, and key members of the city’s IT department, the city council, the mayor’s office, the city administrator’s office, as well as the Privacy Advisory Commission (PAC). We also reviewed numerous documents covering adoption, funding, and implementation of technology.

### More Officers Needed

The mantra “we need more police officers” is the go-to solution for many politicians, city administrators, the press, and the public at large. However, realistically, staffing levels are unlikely to increase, especially in the short to medium-term. Oakland Police Department staffing levels have not declined substantially over the past couple of decades. The number of sworn officers has declined from a high of 749 (2019) to 724 (2024), which is still up 16.5% from the low of 613 in 2013.



The grand jury believes it is unlikely that OPD will increase their current budgeted staffing levels of officers due to severe budget constraints. The city of Oakland had to close a budget gap of \$360 million for the current 2023-2025 budget. Bay Area police departments are having trouble staffing to approved levels, setting up aggressive competition for the limited number of available officers with competing jurisdictions.

### Technology as “Force Multiplier”

With limited ability to increase officers, OPD has, among other approaches, attempted to use technology to be more effective in reducing crime. OPD senior staff refers to technology as a “force multiplier” allowing them to more effectively fight crime.

## Implementation, Maintenance, Upgrade, and Long-Term Planning Issues

The grand jury studied numerous technologies introduced by OPD over the past decade and found a string of poor choices in choosing technology, poor implementation of promising technologies, poor maintenance and updating, and an overall lack of a strategic vision on how to implement a long-term plan for the use of technology. The reasons for this are numerous and involve not just OPD, but also the city's approach to budgeting and managing OPD technology.

### Approval And Budgeting Complexities



*Oakland Police Department Logo*

By city ordinance, Oakland Municipal Code (O.M.C. 9.64), all new OPD surveillance technology, and significant upgrades to technology have to be approved by the city council. The ordinance also requires review of how OPD plans implementation and deployment of surveillance technology in consultation with the Privacy Advisory Commission (PAC). The PAC was formed in June 2015 and focuses on protecting privacy concerns related to the [Domain Awareness Center](#) and Oakland's [Policy for Privacy and Data Retention](#). The PAC negotiates with OPD on OPD's surveillance impact reports and final use policy for each technology to ensure it meets requirements under O.M.C. 9.64 for use and data retention. This process usually involves several months of negotiation between the PAC and OPD. The PAC then makes an advisory recommendation to the city council on whether to approve the technology. If approved by the city council, OPD must work within the limitations established in the impact report and use policy.

City council approval does not necessarily mean OPD can acquire the technology. The council may approve a technology but not allocate funding, resulting in delays in acquisition until a source of funding can be identified.

### OPD IT Unit History and Abilities

The grand jury learned that in the early 2000's, OPD's technology personnel were moved to the city's IT Department in an effort to centralize information technology management. OPD has since staffed its own IT Unit with one civilian IT administrator and two sworn officers. The grand jury believes OPD is understaffed in the IT Unit. OPD is able to maintain existing technologies but unable to complete strategic long-term plans due to lack of personnel and skill sets required. Sworn officers are required to rotate back into patrol positions and a new sworn officer is moved into the IT position and needs to be trained in the technology specific skills required for the IT Unit which are not part of the standard officer training.

*The grand jury believes OPD is understaffed in the IT Unit. OPD is able to maintain existing technologies but unable to complete strategic long-term plans due to lack of personnel and skill sets required.*

## INVESTIGATION

### No Long-Term Technology Plan

The grand jury learned that there was no specific long-term strategic plan for implementing technology. OPD senior staff advised the grand jury that it lacked the resources and time to develop a comprehensive plan. The OPD strategic plan for 2021-2024 only included the following two short references to technology which are taken verbatim from the strategic plan:

- *“Prepare for the Future of Police Service Delivery. Oakland has been at the forefront of many social revolutions, and policing is no different. As we prepare to enter the 2nd quarter of the 21st century, OPD will look to the future of police service delivery. Whether this means improvements in recruiting, reviewing, and updating the department’s patrol plan, taking on the challenge of major infrastructure updates, or increasing our use of technology, we plan on being part of the future in a way that intentionally weaves us further into the Community we Serve.” [emphasis added] [...]*
- *“Action Item: Explore emerging technology which enhances operations, accountability, and safety.” [emphasis added]*

The grand jury believes a long-term technology plan would assist in obtaining the right technology and necessary support to maintain the existing technology systems. A long-term strategic plan would incorporate an overall strategy including regular review of existing technologies and their effectiveness, research of new or alternative technologies and methodologies, protection of citizens’ constitutional rights with regards to surveillance technologies, and planning for budgetary issues such as training, maintenance and upgrades.

*The grand jury learned that decisions for the selection and use of surveillance technology have involved ad hoc solutions and not long-term planning. The grand jury also learned OPD is not consistent in taking into consideration the effectiveness, maintenance, budget, or staffing requirements to ensure long-term usefulness.*

The grand jury learned that decisions for the selection and use of surveillance technology have involved ad hoc solutions and not long-term planning. The grand jury also learned OPD is not consistent in taking into consideration the effectiveness, maintenance, budget, or staffing requirements to ensure long-term usefulness. When a technology was identified it was often with minimal research into the cost-effectiveness of that technology. Getting the new technology through the design, PAC recommendation, budgeting, and procurement process has historically taken as much as five (5) years, during which time technology can become outdated and possibly obsolete.

Central to OPD’s vision for future surveillance technology, the grand jury learned that OPD and city officials have a desire to implement a

Real Time Crime Center (RTCC). A RTCC, among other things, would centralize a broad range of current and evolving technologies to provide a faster view and response to events as they happen. The RTCC would require a number of new technologies, integration with existing technologies, approval from the PAC and city council and memorandum of understanding(s) (MOU) with other city, county and state agencies. The lack of a long-term plan will make the implementation very difficult.

In response to a public protest of OPD's implementation of a real-time crime center (using the same extensive surveillance technology that monitors the Oakland airport and Port of Oakland without review or informing the city council), Oakland passed the first of its kind ordinance covering surveillance and citizen privacy. By Ordinance Chapter 9.64 "Establishing Rules for the City's Acquisition and use of Surveillance Equipment" new surveillance technology for OPD must first go through the Privacy Advisory Commission for review of whether OPD has met the requirements in the ordinance meant to protect citizens' privacy. After review, the PAC makes advisory recommendations to the city council, who approve or disapprove the recommendation.



*Crime in Oakland – April 2024*

### Implementation, Maintenance, Upgrade, and Budgeting Issues

The grand jury found that some technologies have been implemented with limited resources or soon to be obsolete functionality.

License Plate Readers: OPD's history of both vehicle-mounted and fixed automated license plate readers (ALPR) are examples of technological obsolescence, political considerations, and ineffective maintenance by OPD. ALPRs are a technology that allows cameras to read license plates and almost instantly link them to a list of tagged or highlighted license plates and alerts law enforcement agencies when a "hit" or match is made on a stolen car or one that is linked to a serious crime. Listed is a history with OPD and license plate readers:

- 2014 - OPD adopts vehicle-mounted license plate readers.
- 2021 - OPD no longer has a maintenance contract for the plate readers.
- 2022 - Only 69% of the vehicle-mounted units are still operational.
- 2023 - OPD tells the PAC that the city council will not approve \$16,000 for a necessary upgrade to meet PAC audit requirements, requiring OPD to discontinue the use of license plate readers.
- August 2023 - Mayor Thao announces a \$1.2 million loan from Governor Newsom for the city to lease 300 *fixed* location license plate readers.

- October 2023-March 2024 - During the grand jury investigation, despite interviewing numerous city officials, officials could neither locate a contract nor evidence of a city agency (including OPD) that was negotiating a contract for fixed Flock security cameras.
- March 2024 - Governor Newsom announces CHP, not OPD, will operate 290 of the fixed Flock security camera ALPRs on the streets of Oakland and an additional 190 along state highways in the East Bay.

Currently:

- OPD appears to have access for alerts only through CHP.
- OPD has no procedures to determine when to respond to an expected 100+ alerts the ALPRs will generate per day.
  - With no specific procedures for selecting when to respond to alerts, OPD may be in violation of City Ordinance O.M.C. 9.64 requiring it to audit intentional or inadvertent bias in the application of technology.
  - With no specific procedures for selecting when to respond, OPD will not be able to evaluate how to improve its decision-making process on when to respond.
- CHP control of ALPRs may bypass City Ordinance O.M.C. 9.64 and the PAC process meant to protect the public when surveillance technology is used.
- The grand jury has found no provisions for future budgetary resources to support ALPRs.

#### Further Examples of Technologies That Became Obsolete or Ineffective

The following are examples of the use of a technology with implementation issues:

**StarChase**, purchased by OPD, was promoted as allowing “... suspects to be tracked and apprehended without being pursued at dangerous speeds during vehicle pursuits.” OPD is prohibited from pursuing vehicles attempting to evade the police in most circumstances to reduce risks to both officer and the public’s personal and property safety. StarChase was supposed to allow officers to fire magnetic projectiles that would attach to a fleeing vehicle and send a GPS signal identifying the location of the vehicle. StarChase's limited range made it ineffective.

**CelleBrite** is a technology that allows OPD to download data from a cell phone, including data stored in the cloud. However, by the time OPD obtained the CelleBrite tools, most new phone technology rendered the tools ineffective. CelleBrite, among other technologies, presents ongoing compatibility issues with phone software updates to restrict this access.

**Stingray** was a technology used by OPD and other police departments to redirect cell phones into thinking Stingray was the cell tower so all traffic would pass through it, allowing the OPD and other police departments to collect all the cellular data. Stingray was initially allowed to be used without a full search warrant but policy changes by then Governor Brown required a full search warrant which effectively stopped its use by the OPD.

**Mobile ID** units were sought that could be used to finger-print subjects that would not or could not provide identification. The justification was that these individuals were required to be taken into custody, transported to a station and identified. However, OPD had only transported a few such subjects per year, casting doubt on the cost effectiveness of Mobile ID. Mobile ID has never been deployed.

### Increased Number of Alerts from Surveillance Software

The following examples highlight implementations without adequate procedures to handle the incoming alerts or report on their unbiased implementation and effectiveness.

ShotSpotter, a technology that identifies gunshots and pinpoints their location, has been used by OPD for a number of years. OPD has several times expanded the coverage area by leasing additional hardware at an increased annual cost, currently at \$1.8 million. ShotSpotter identifies on average 11 gunshot incidents a day. The grand jury learned that OPD could not respond to all of the notifications, or its officers would be overwhelmed.

The proposed 290 fixed location ALPRs from the CHP could produce possibly 100's of alerts per day. There are no operating procedures as to what criteria will be used to respond to ALPR notifications, even though, based on ShotSpotter response experience, OPD is unlikely to respond to more than a small percentage of ALPR notifications.

*The proposed 290 fixed location ALPRs from the CHP could produce possibly 100's of alerts per day. There are no operating procedures as to what criteria will be used to respond to ALPR notifications.*

### OPD IT Unit Personnel, Capacity and Resources

After a city IT department reorganization, OPD replaced some city IT personnel with sworn officers to coordinate OPD implementation and support of specific technologies. OPD has employed mostly sworn officers, generally without technology training, and has removed them from their patrol duties. OPD policy requires regularly rotating these officers, now trained with specific IT skills, back to patrol duties. The IT Unit loses those officers with technology training, and replaces them with different sworn officers, requiring the replacement officers to acquire the technology skills and training of the previous officers.

### OPD IT Unit Use of City IT Services

The OPD IT Unit does not utilize the tools and resources from the city's IT department to make the OPD IT Unit more efficient. These tools include, but are not limited to, a help desk application, a trouble ticketing system, an uptime or event monitoring system, a change control system and an inventory control system. These tools would provide better auditing and reporting to make workload and staffing requirements more visible to OPD senior staff. These tools are fundamental to any effective IT department.

### OPD IT Unit Use of Voice Forms

The city council, the PAC, and the 2003 Negotiated Settlement Agreement that established Federal monitoring of OPD have increased the amount of information required to be recorded for each report on use of force, vehicle stops, field investigations and detentions. Available technologies, such as voice forms have not been explored or implemented to help reduce officers' time spent completing reports, freeing up more preventative and investigative time in the field.

### OPD Compliance Reporting

As previously mentioned, the grand jury learned that OPD does not follow any formal strategy or specific procedure for responding to alerts from some of its surveillance technologies and as a result it cannot evaluate the effectiveness of how it prioritizes and evaluates which alerts it responds to for those technologies.

*The grand jury learned that there was no specific long-term strategic plan for implementing technology.*

There are no set procedures to determine when to respond to ShotSpotter notifications. One OPD representative commented, "if an officer is nearby and available, they would respond." This non-procedural approach appears to violate City Ordinance O.M.C 9.64 prohibiting "viewpoint-based" processes when employing surveillance technology. The lack of formal procedures also limits OPD's ability to evaluate and analyze its effective prioritization of the incidents to which it does or does not respond. The grand jury believes that it also diminishes the value of ShotSpotter if OPD does not improve its strategies to respond.

The Oakland City Council passed strong privacy protections regarding the use of surveillance technology by all city departments. The grand jury questions whether OPD is in compliance with City Ordinance O.M.C 9.64 "Establishing Rules for the City's acquisition and use of Surveillance Equipment" 9.64.010 (6)(D).

*"Impact: An assessment of the technology's adoption use policy and whether adequate protection of civil rights and liberties and whether the surveillance technology was used or deployed intentionally or inadvertently, in a manner that is discriminatory, viewpoint-based, or biased algorithm..."*

ALPRs will generate a much greater volume of notifications than ShotSpotter, exacerbating the problem of intentional or inadvertent bias. The grand jury also believes OPD may not be in compliance with City Ordinance O.M.C 9.64.010 (6)(D) if it uses ALPRs where the location criteria are determined by the proprietary Flock algorithm. OPD will have no way to guarantee that bias is not part of an unknown location algorithm.

### Additional Complications and Complexities

All technology-related problems cannot be laid at the feet of OPD management. For example, the city council approved the adoption and use of drones by OPD but gave OPD no resources to purchase, operate and maintain drones or to train officers in drone use. OPD obtained drones by asking the business community to supply funding. However, this makes future funding uncertain and planning for drone use and updating drone technology difficult.

In addition, the mayor's office shares some of the responsibility for the poor and erratic use of technology. The mayor made a well-publicized announcement in August 2023 that the city had obtained a loan from the governor to lease and deploy 300 fixed-location automated license plate readers. However, months later, the grand jury was unable to locate any contract for obtaining cameras from Flock (the primary company for this technology) nor any clear indication of what agency would control the contract and operation, except no one that the grand jury interviewed suggested the cameras would be controlled and operated by OPD. In addition, the loan is only for one year, with no current planning for future funding.

## **CONCLUSION**

After a year-long investigation, the grand jury found that OPD does not have a long-term technology plan. The grand jury believes the long-term technology plan should include:

- An overall existing technology and infrastructure review.
- A list of future goals and plans.
- An analysis and investigation of new technologies.
- A plan for the design and implementation of new technology.
- A process for coordinating with the PAC on privacy concerns and future technology implementation.
- A cost/benefit analysis including purchase/lease, maintenance/updates, administration, overall justification, and audits.
- Implementation of maintenance plan for updates and upgrades.
- Periodic reviews of procedures, reports and auditing requirements.
- Yearly audits and reports (intentional or inadvertent bias, pattern matching for trends, usage cost justifications.)

The grand jury learned that OPD has a desire to build a Real Time Crime Center for Oakland and surrounding cities, but does not have a long-term plan to develop, structure, use, or integrate the existing technologies into it. The grand jury believes that a Real Time Crime Center would benefit the community but be more effective as a regional-based operation.

The grand jury found that the OPD IT Unit is primarily staffed with rotated sworn officers; it is understaffed and has capacity limitations for maintaining existing technologies. During the

grand jury's investigation, we found that the IT Unit does not have resources to develop any long-term plans. Additionally, the OPD IT Unit has access to but does not fully utilize the city of Oakland's IT resources. The grand jury concludes that if the OPD IT Unit did utilize the city's IT resources, it would be more efficient. The grand jury also believes that the OPD IT Unit should use available software to assist patrol officers writing reports by using voice command form technology.

The grand jury found that OPD has, or will have, surveillance technologies where it can only respond to a small percentage of alerts. The grand jury believes that OPD must have written procedures to prioritize how to respond to alerts.

The grand jury believes that if technology is better implemented and utilized in reducing crime in the city of Oakland it becomes a more effective force multiplier.

## **FINDINGS**

### ***Finding 24-1:***

The Oakland Police Department does not have a long-term strategic plan for implementation and use of technology.

### ***Finding 24-2:***

The Oakland Police Department does not respond to all ShotSpotter verified alerts.

### ***Finding 24-3:***

The Oakland Police Department will be unable to respond to an estimated 100+ license plate reader alerts per day.

### ***Finding 24-4:***

The Oakland Police Department does not have written procedures for responding to ShotSpotter and license plate reader alerts.

### ***Finding 24-5:***

Without written procedures, the Oakland Police Department is unable to evaluate how to improve the effectiveness and identify bias in its response to alerts.

### ***Finding 24-6:***

The Oakland Police Department's IT Unit is understaffed, reducing its ability to support existing technologies and implement long-term plans.

### ***Finding 24-7:***

The Oakland Police Department's IT Unit does not fully utilize Oakland's city IT department productivity tools including, but not limited to, trouble ticketing system, monitoring services and inventory systems.

Finding 24-8:

The Oakland Police Department does not utilize voice form technology to assist officers when writing reports.

**RECOMMENDATIONS**

Recommendation 24-1:

The Oakland Police Department must develop a long-term strategic technology plan.

Recommendation 24-2:

The Oakland Police Department must develop a written policy for selecting and responding to ShotSpotter alerts.

Recommendation 24-3:

The Oakland Police Department must develop a written policy for selecting and responding to ALPR alerts.

Recommendation 24-4:

The Oakland Police Department's IT Unit should replace rotating sworn officers with permanent non-sworn technology-trained IT professionals.

Recommendation 24-5:

The Oakland Police Department's IT Unit should utilize the city of Oakland's IT tools including but not limited to help desk and trouble ticketing.

Recommendation 24-6:

The Oakland Police Department should set up a pilot program to implement voice forms for officer-required reports.

**RESPONSES REQUIRED**

Oakland Police Department

Findings 24-1 through 24-8  
Recommendations 24-1 through 24-6

**RESPONSE REQUIREMENTS – CA PENAL CODE SECTION 933.05**

Pursuant to California Penal Code section 933.05, the grand jury requests each entity or individual named to respond to the enumerated Findings and Recommendations within the specific statutory guidelines, no later than 90 days from the public release date of this report.

As to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

As to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

## **HASTY COUNCIL DECISION ON BILLBOARDS COSTS OAKLAND MILLIONS**

### **EXECUTIVE SUMMARY**

On June 6, 2023, in the face of a \$360 million budget shortfall, the Oakland City Council awarded billboard advertising contracts to Becker Boards (Becker) and Outfront Foster Interstate (Outfront). In so doing, the council disregarded senior staff recommendations to consider an offer from Clear Channel Communications that would have brought the city far more revenue. The selected proposal, which was not subject to competitive and public review, will pay the city about \$88 million less over the 41-year life of the agreement than the Clear Channel proposal would have. Moreover, staff found that the Clear Channel proposal was superior to Becker/Outfront's with respect to visual impact, offering more and better takedowns of existing billboards in Oakland neighborhoods. Nevertheless, the city council unanimously voted to pass a resolution to instruct staff to negotiate agreements with Becker/Outfront, which were ultimately signed by the city administrator on January 11, 2024.

A handful of nonprofit organizations, also not subject to competitive selection, will be the main beneficiaries of the agreement in the form of annual payments or free advertising that will stretch out over four decades. Two thirds of the billboard revenue is to be paid directly to these nonprofits while the city of Oakland receives only one third. The grand jury also found that a city councilmember who was a strong backer of the Becker/Outfront proposal had a spouse serving on the board of one of these nonprofits and who has been a paid consultant to another.

### **BACKGROUND**

#### Oakland City Council

The Oakland City Council is the legislative branch of government for the city of 440,000 people. Its eight salaried members are elected to four-year terms from each of seven districts with one at-large representative. In November 2022, voters established a limit of three consecutive terms for councilmembers serving a district. Each year the council elects one member as president of the council and one member to serve as vice mayor.

The council approves the city budget (currently [\\$1.7 billion](#)), adopts ordinances, passes resolutions, and appoints members to boards and commissions. The council does not control executive or administrative functions for which the city administrator, mayor, and other appointed or elected officers are directly responsible.

## Selection of Nonprofits for Support

Oakland has a [Direct Community Grant Program](#) that chooses community-based nonprofits for funding in a competitive, open, request for proposal process. In the past, the city has received applications for funding from over one hundred nonprofits and the city used a scoring system to determine which nonprofits would receive grants. A similar process should have been used to select nonprofits to receive billboard revenue and free advertising.

## Oakland's Budget Problems

In June 2023, the same month the city council approved the Becker/Outfront deal, the Oakland City Auditor reported “The Mayor and City Council had to close a historic \$360 million budget shortfall to pass a balanced 2023-2025 Adopted Biennial Budget. Today, the city continues to feel the lingering effects of the pandemic and must confront a 5-year financial forecast that projects expenditures outpacing revenues.” A [report](#) by the city's Department of Finance in November of 2023 projected a deficit of \$129 million for fiscal year 2023-2024.

## Billboards

Love them or hate them, billboards are part of the urban landscape. The San Francisco-Oakland-San Jose metropolitan area is one of the largest media markets in the USA, but the number of billboards per resident is relatively low, making billboard advertising space a valuable commodity. In many jurisdictions, it is an important revenue source. For example, in Los Angeles, revenue from billboards, to be split between the city and the LA Metro transit system, is predicted to reach \$300-500 million over 20 years. There, the revenue from billboards will be allocated to support local initiatives and public services.

*The Clear Channel proposal would have given the city \$156 million in revenue over a comparable forty-one-year-term, or \$88 million more than the joint Becker-Outfront proposal.*

Billboards are regulated for size, placement, illumination, driver safety, and other factors. There are approximately 145 billboards in Alameda County permitted by the California Department of Transportation (Caltrans). Caltrans has jurisdiction over freeways of the National Highway System to enforce outdoor advertising requirements under the Federal Highway Beautification Act and the state's Outdoor Advertising Act. Billboards on Oakland's city streets are regulated by Oakland's [sign code](#).

When Oakland banned new billboards in 1997, the billboard companies sued but the ban was upheld by the Ninth Circuit Court of Appeals. In 2002, the city council reversed course, allowing new billboards, including the more lucrative digital billboards, to be erected provided existing billboards were removed under “relocation agreements.” The new billboards are located in prime locations

commanding higher rent while the removed billboards are from locations with less traffic. In that way, net revenue for the companies is higher from fewer billboards.

Digital billboards allow for dynamic content changes, enabling advertisers to display multiple advertisements in rotation. Advertisers can choose specific times of the day or days of the week to display their ads, increasing the relevance and impact of the messages. Digital billboards can be updated in real-time, allowing advertisers to respond quickly to changes in promotions, events, or market conditions. This responsiveness can be a significant advantage over traditional billboards with fixed content.

In California, the billboard market is dominated by a handful of companies. In Oakland, Outfront and Clear Channel control the majority of existing billboards.

## INVESTIGATION

The grand jury interviewed nine witnesses, including senior staff of the Oakland Economic and Workforce Development Department, the Planning and Building Department, the city administrator's office, members of the city council, and other elected and appointed officials. The grand jury reviewed hundreds of documents, websites, reports, correspondence, and internal and external emails. Grand jury members viewed recordings of city council, planning commission, and council committee meetings.

### Timeline of Recent City Council Action Regarding Billboards

In December 2020, the city council requested that the planning commission initiate a resolution to amend the [Oakland Advertising Signs Ordinance](#). The intent was to change the process by which the city may approve the installation and operation of new billboards and to recommend amendments to the planning and municipal codes for the city administrator to incorporate into a future ordinance. The resolution's intent was to create a new framework under which the city may consider the approval of new advertising signs on private and city-owned properties in limited geographic areas. Becker Boards, in particular, wanted the existing regulations to be changed such that old billboards did not need to be taken down as a condition to the erection of new ones. As a new market entrant, it didn't have existing billboards to remove. There was a desire on the part of the city council to open the market to a new player because Outfront and Clear Channel dominated the market between them. Becker and Outfront pitched themselves directly to council members via emails, phone calls, and meetings. While Becker lobbied the city to change the billboard ordinance to give them a chance in the lucrative market, Outfront made its own proposal, based on how the city had done replacement agreements in the past, which did not require changes to the ordinance.

Over the next two- and one-half years, staff worked to carry out the intent of this resolution with the following milestones:

- On November 17, 2021, staff presented an [informational report](#) to the planning commission that described a potential permitting and approvals process for new billboards.
- In July 2022, the city received a written proposal from Outfront for development of four double-sided digital signs (eight faces) on city property via a relocation agreement over a forty-year term. Outfront estimated the four new structures would generate up to \$1 million per year in city revenue and would remove 32 existing billboards in Oakland neighborhoods. The use of city property likely would have triggered a requirement for a request for proposal process which Becker Boards adamantly opposed in emails to council members.
- On October 19, 2022, staff proposed to the planning commission [new regulations](#) governing the review and approval of new or relocated advertising signs through a competitive request for proposals process. The planning commission adopted an alternative approach in lieu of the staff recommendation.
- On Feb 15, 2023, staff returned to the planning commission with [revised recommendations](#). They would include recommended location and design standards for new billboards.
- Ultimately, no changes were made to the Oakland Advertising Signs Ordinance.

During this time, Becker assembled a coalition of nonprofit organizations and private property owners who would potentially benefit from its proposal, and who sent letters of support to council members. This coalition included the Native American Health center (NAHC), which previously employed the spouse of a city councilmember as a paid consultant, while the councilmember's adult child was also actively involved with the organization. NAHC was involved from the beginning of the effort to amend the ordinance. The grand jury could find no evidence that these potential conflicts of interest were ever disclosed to the other council members or the public.

Once it became clear the ordinance would not be amended, Becker joined forces with Outfront (which it had previously excoriated as a monopolist) and presented a proposal for new double-sided digital billboards that would generate revenue for and provide free advertising to members of the coalition of nonprofits. The terms of the deal were not submitted in the form of a formal proposal. Instead, a resolution ready for passage by the city council was drafted by the billboard companies in the spring of 2023.

In April 2023 the city received two additional billboard proposals from Clear Channel and Champion Outdoor. At this point the city could choose between three alternatives: Becker/Outfront, Clear Channel, and Champion. Staff negotiated with all three companies, and the negotiated terms are summarized in the table below. Staff presented these alternatives to Oakland’s Community and Economic Development Committee meeting on May 23, 2023.

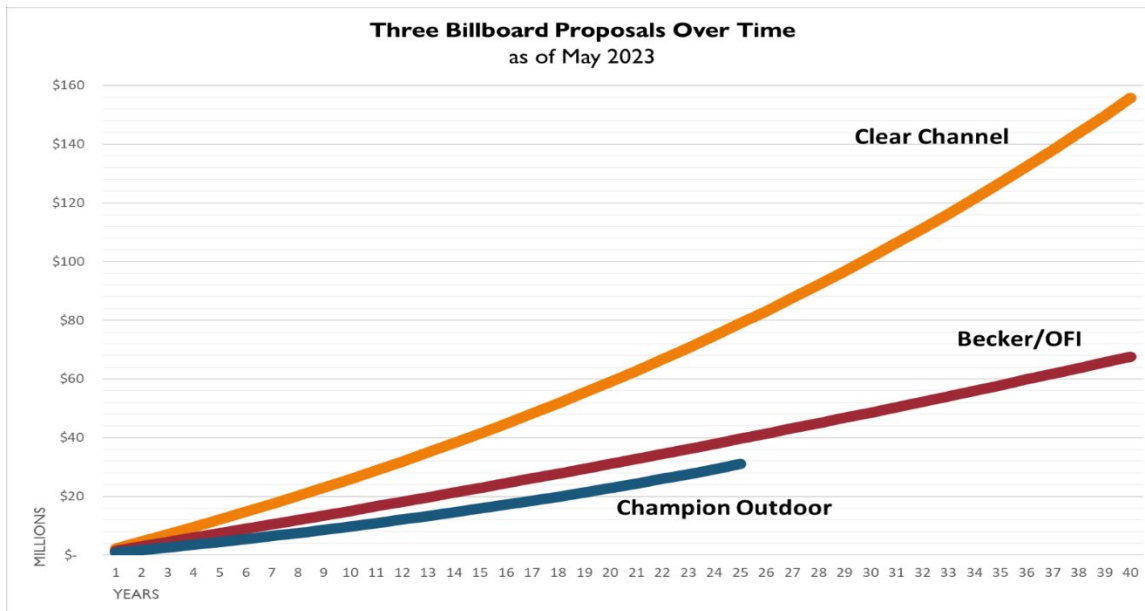
**Comparison of Billboard Proposals as of May 2023**

Company	No. of new billboard faces	Term of agreement	Escalation provision for city revenue	Initial city revenue per face	Initial city revenue per year	Revenue over term
Becker/Outfront	20	31 years + 10-year extension at company option	4.5% every 5 years starting in year 6. Equivalent to 0.6% annually**	\$75,000	\$1.5 million	\$68 million
Clear Channel	18	30 years	2.5% annually	\$128,333	\$2.31 million	\$156 million
Champion Outdoor*	10	25 years	3% annually	\$85,000	\$850,000	\$32 million

Data compiled from Oakland staff reports.

\*The Champion proposal was not considered by city staff to be a viable option.

\*\*Amended by CED committee of the city council to 5% every 5 years starting in year 6 (equivalent to 1% annually).



Graph reflects data compiled from Oakland staff reports.

As the chart indicates, the Clear Channel proposal would have given the city \$156 million in revenue over a comparable forty-one-year-term, or \$88 million more than the joint Becker/Outfront proposal. Additionally, the Clear Channel proposal minimized visual impacts

by focusing on conversion of existing signs, adding only two new advertising structures, and removing more signs from Oakland neighborhoods. The Becker/Outfront agreement will add ten new double-sided structures and remove far less total square footage of signs. The Clear Channel proposal would remove 76 large faces totaling 20,664 square feet of signage, whereas Becker/Outfront would remove 50 small faces, totaling only 2,750 square feet.

*The grand jury discovered possible conflicts of interest and a potential violation of the Oakland Public Ethics Act involving one of the city council members who was a strong advocate of the Becker/Outfront proposal.*

After extensive analysis, city staff concluded that the Clear Channel proposal was the strongest by a large margin in terms of both revenue and visual impact on the city. The recommendations were prepared by Oakland’s Economic and Workforce Development Department and the planning and building department in coordination with the office of the city attorney and published in the form of [Supplemental Information Reports](#) dated May 12, 2023, and May 31, 2023. The first report stated that “The

Clear Channel proposal is the strongest proposal by a significant margin in terms of both revenue and visual impacts on the City” and the second report stated, “The analysis concluded that the Clear Channel proposal would result in \$88 million more revenue for the City and ... nonprofit partners than the Becker-OFI proposal over the full forty-one (41) year term ...while minimizing visual impacts to the City.”

To supplement in-house expertise, the city hired a consulting firm with extensive knowledge of and forty years of experience in the billboard industry. In this way, staff’s recommendations to the city council were informed by expert analysis. The firm had previously advised Oakland on smaller deals. The consulting firm’s president is a recognized expert who advises public entities on the economics of static and digital billboards. The firm concluded that the Becker/Outfront proposal was not up to market standards in terms of compensation to the city. It advised the city to devise a competitive request for proposals (RFP) process to select a billboard provider and conveyed that thinking directly to elected officials. Nevertheless, the city never created a formal process for soliciting proposals. An Oakland elected city official told the grand jury that the city is “lacking a process” for billboard procurement and that there should have been a formal, points-ranked RFP.



*Digital Billboard in Oakland, CA*

The Becker/Outfront proposal offered half as much revenue but with more visual impact on the city because it would create more square footage of billboards. Accepting the Becker/Outfront proposal in lieu of the Clear Channel proposal would leave \$53 million of

guaranteed revenue on the table over 30 years or \$88 million over 41 years, funds which would otherwise be available to the city to spend on other priorities, including, if it wished, distribution to community groups selected on a competitive basis.

At the May 23, 2023, meeting of the city council's Economic and Development Committee, Becker/Outfront was allowed to make a presentation and used part of its time to disparage Clear Channel's proposal. Becker/Outfront maintained that most of Clear Channel's proposed sites were in conflict with the California Department of Transportation (Caltrans) regulations or for some other reason were nonviable. Clear Channel was not allowed to make a presentation or rebut Becker/Outfront's allegations at the hearing. The nonprofit groups demonstrated in favor of Becker/Outfront, calling Clear Channel a "monopoly" even though Outfront is similar in size. Nationally, in fact, Outfront has a bigger market share. If Clear Channel dominates the Oakland market, it's only because the city council passed multiple relocation agreements with it over the years. As noted above, before joining forces with them, Becker called Outfront "monopolistic" in emails to a council member during its lobbying efforts during 2021-2023.

In the two weeks between the committee hearing and the full city council meeting, city staff researched the allegation that certain Clear Channel sites were nonviable due to Caltrans regulations or other constraints. Staff concluded, in consultation with Caltrans, that the Becker/Outfront allegations were overstated and that most of the Clear Channel sites were viable or could be easily substituted with alternatives that were also viable. Additionally, not all the Becker/Outfront sites were viable either. Given time, all three companies, working with staff, could have "cured" their proposals with sites that were viable and comparable.

Council members supporting the Becker/Outfront proposal prepared two "Agenda Reports" in support of the proposal. The first made no mention of the Clear Channel proposal; the second incorporated the criticisms of the Clear Channel proposal made by Becker/Outfront. Email communications between the councilmembers and representatives of Becker/Outfront



Digital Billboard Along Highway 880, Oakland, CA

indicated that much of the information in the reports came from Becker/Outfront. No mention is made in either report of Clear Channel's responses to the criticisms. At the June 6, 2023, full council [meeting](#), members passed the measure unanimously on the consent calendar with no discussion. The consent calendar is that portion of a meeting agenda that typically includes routine and non-controversial items. Items are grouped together, and the council can approve them all at once with a single vote, without individual discussion or debate. Any member of the council could have lifted the item from the consent calendar and the council could have considered its options, debated the relative merits,

asked for more information, or put the matter aside for consideration at a subsequent meeting. No member did this, and subsequently the council approved a measure that would deprive Oakland of millions of dollars of revenue over many years.

In its investigation, the grand jury discovered possible conflicts of interest and a potential violation of the Oakland Public Ethics Act involving one of the city council members who was a strong advocate of the Becker/Outfront proposal. At the time of the council action, this official's spouse was serving on the board of one of the nonprofit recipients, and during 2021, when heavy lobbying was taking place, was a paid consultant to another.

<b>Annual payments under the Becker/Outfront deal</b>	
Native American Health Center*	\$200,000 / year
Movement Strategy Center Career Technical Education Transitional Age Youth Hub	\$200,000 / year
Asian Health Services	\$100,000 / year
The West Oakland Health Council	\$100,000 / year
La Clinica de la Raza	\$100,000 / year
Roots Community Health Center	\$100,000 / year
Oakland LGBTQ Center Glenn Burke Wellness Center	\$100,000 / year
Oakland School for the Arts	\$100,000 / year
The city's general fund will get \$500,000 per year.	

\* Councilmember's spouse was a paid consultant to this organization during deal negotiation, according to IRS filings.

<b>Free Advertising under the Becker/Outfront deal</b>
The Unity Council
Oakland African American Chamber of Commerce
Oakland Chinatown Chamber of Commerce
Oakland Latino Chamber of Commerce **
Oakland Vietnamese Chamber of Commerce
Oakland Metropolitan Chamber of Commerce
Black Cultural Zone Community Development Corporation
Visit Oakland
City of Oakland

\*\* Councilmember's spouse was on the board of this organization during negotiation and voting.

While these are worthy organizations, it should be noted that none of the people interviewed, and none of the numerous documents reviewed gave any reason why the above income streams and free advertising could not have been incorporated into the more lucrative Clear Channel proposal. Also, there is no reason that the same nonprofits could not have been chosen through the Direct Community Grant Program, with all the transparency and safeguards that the program offers.

## CONCLUSION

The Oakland City Council did not act in the best interests of the city in selecting Becker/Outfront over Clear Channel. It was irresponsible of the city council to pass up \$88 million over the extended term that could have been used for any purpose. Evidence reviewed by the grand jury showed that city councilmembers paid more attention to lobbyists for Becker and Outfront than they did to the city's own staff. In fact, the Becker/Outfront deal was never put into the form of a written proposal; instead, the companies wrote their terms into the very resolution passed by the city council.

The city council abdicated responsibility for selecting the nonprofits to receive substantial amounts of public funds. There should have been a points-based, open competition for these funds.

The council should have debated the different proposals, instead of passing one opaquely on the consent calendar. The city did not give Clear Channel an opportunity to make its case or defend its proposal in a public hearing. Additionally, a city councilmember potentially violated the City of Oakland Government Ethics Act section 2.25.040(A) and section 2.25.040(C), by not publicly disclosing that this official's spouse was serving on the board of one of the nonprofits and was a paid consultant to another. Finally, this councilmember delayed providing information to the grand jury for four months, even after the city attorney's office intervened. Section 2.25.040 states as follows:

*2.25.040(A): "Financial Conflicts of Interests. A Public Servant shall not make, participate in making, or seek to influence a decision of the City in which the Public Servant has a financial interest within the meaning of the California Political Reform Act, Government Code Section 87100 et seq. and pursuant to City Charter Section 1200. All provisions of California Government Code Section 87100-87505 and City Charter Section 1200, as they relate to Public Servants, are incorporated by reference into this Act."*

*2.25.040(C): "Conflicts of Interests in Contracting. A Public Servant shall not make or participate in making a contract in which he or she has a financial interest within the meaning of California Government Code Sections 1090-1097. All provisions of California Government Code Section 1090-1097, as the Sections relate to Public Servants, are incorporated by reference into this Act."*

## **FINDINGS**

### *Finding 24-9:*

The Oakland City Council disregarded expert city staff and an impartial consultant's recommendations to select Becker/Outfront over an option that would have paid the city substantially more money with less visual impact.

### *Finding 24-10:*

Out of public view, the Oakland City Council used a non-competitive process to select a revenue producing billboard provider.

### *Finding 24-11:*

Out of public view, the Oakland City Council used a non-competitive process to select nonprofit organizations to receive billboard revenue and free advertising space.

### *Finding 24-12:*

An Oakland City Council member should have recused themselves from consideration of nonprofit recipients because their spouse has been a board member of one of the organizations and has been a paid consultant to another.

### *Finding 25-13:*

The Oakland City Council allowed lobbyists for billboard companies to have undue influence over the process by providing content and language that was inserted verbatim into official council documents.

## **RECOMMENDATIONS**

### *Recommendation 24-7:*

The Oakland City Council must take into consideration the expert advice of staff and consultants before passing legislation and resolutions. When staff recommendations show large differences in potential revenue from competing proposals, such matters should not be put on the consent calendar. There must be council deliberation and debate on such items.

### *Recommendation 24-8:*

When choosing providers of revenue-generating resources such as billboard advertising rights, the Oakland City Council must use a competitive request for proposal with written criteria for selection, submission requirements, deadlines, and head-to-head comparisons of competing proposals as analyzed by expert staff.

Recommendation 24-9:

When selecting nonprofit entities to receive city resources, the Oakland City Council must use an open and transparent process that is accessible to all Oakland nonprofits. Selection criteria, submission requirements, deadlines, and head-to-head comparisons of competing proposals must be made public.

Recommendation 24-10:

Oakland City Council members must disclose conflicts of interest, including close family connections, prior to awarding contracts, exclusive negotiating rights, or relocation agreements.

Recommendation 24-11:

In an effort to maintain transparency, the Oakland City Council must disclose when lobbyists with an interest in pending legislation provide specific content or language for official reports, memos, resolutions, or other documents.

**RESPONSES REQUIRED**

Oakland City Council	Findings 24-9 through 24-13 Recommendations 24-7 through 24-11
Oakland Mayor	Findings 24-9 through 24-13 Recommendations 24-7 through 24-11

**RESPONSE REQUIREMENTS – CA PENAL CODE SECTION 933.05**

Pursuant to California Penal Code section 933.05, the grand jury requests each entity or individual named to respond to the enumerated Findings and Recommendations within the specific statutory guidelines, no later than 90 days from the public release date of this report.

As to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

As to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

## **ALAMEDA COUNTY'S STAFFING VACANCY RATE CAUSES CONCERN**

### **EXECUTIVE SUMMARY**

The grand jury received a complaint requesting an investigation of the Alameda County staffing vacancy rate. After requesting documentation of vacancy rates the grand jury found that in Alameda County, as of March 1, 2024, 2,716 positions of 10,338 total positions were reported as budgeted and vacant for an overall vacancy rate of 26%. However, the grand jury also heard testimony that the reported vacancy rate could be substantially overstated.

A vacancy rate of 26% implies that approximately one position out of every four budgeted positions remains vacant and unfilled. If the budgeted positions are an accurate reflection of staff needed, three staff are therefore doing the work of four. This would mean that county services cannot be properly fulfilled without extreme effort, and that county workers must shoulder an extraordinary burden in their daily jobs. These conditions cannot be maintained over a long period of time without consequence to the county as employee burn-out, turnover, and operating inefficiencies take their toll.

In this report, the goal of the grand jury is to shed light on the county vacancy rate and to offer recommendations to reduce the current vacancy rate.

### **BACKGROUND**

Alameda County, the seventh most populous county in California, is comprised of 14 cities and six unincorporated areas spread over 821 square miles. The county serves over 1.6 million residents by providing programs and services through 21 departments and agencies.

Alameda County administers a \$4 billion budget approved annually by the board of supervisors. The services provided by the county are extensive, including social services, child welfare, public protection, health care, public works, voting services, tax collection, the public defender and many more. Through its 400-page budget, the county also contracts for services and provides funding to over 260 local community-based organizations.

Alameda County, as many other counties in California, operates through a complex system of stakeholders including the electorate, county charter, board of supervisors, labor unions, state and federal mandates, county departments, and a variety of districts and commissions. Its five-person board of supervisors are elected by the voters of Alameda County, with each supervisor representing a specific district. Most departments in the county report to the board of

supervisors via the county administrator. This office coordinates the departments but does not possess hiring or firing authority. Exceptions to this governance structure are the departments which are led by elected officials and other certain departments.

*The grand jury found that in Alameda County, as of March 1, 2024, 2,716 positions of 10,338 total positions were reported as budgeted and vacant for an overall vacancy rate of 26%.*

The grand jury first examined the extent of governmental vacancy rates. The UC Berkeley Labor Center, in its December 2023 [report on civil service vacancies](#), reported that pandemic recovery in the public employment sector has lagged the private sector. The center estimates that among local government agencies in California, a vacancy rate of 6-10% would be considered historically normal. This report also stated that other cities and counties had recent vacancy rates ranging from 7-20%, with a few ranging up to 31%. Over half of California agencies reported having difficulty filling vacant positions, particularly in public works, public safety, nursing, mental health, and human services departments. The

report further indicated that emergency increases in state funding for specific public and mental health programs after the pandemic created many new positions and placed additional burdens on filling open positions.

High vacancy rates are attributed to a variety of factors not always under the control of local government, including the changing expectations of a younger workforce, increased demand for remote work or hybrid positions, the trend of employees dropping out of the workforce during the pandemic, and a sizeable number of employees who have reached retirement age. Other factors that affect recent vacancy rates are a tight labor market, rapid wage growth in other sectors, high cost of living, population declines and separation (retirement and resignation) rates outpacing hiring rates. The UC Labor Center Report also surmised that public service as a job or career, even with its commensurate benefits and retirement plans, may have a lower appeal to younger populations than in previous years.

Not all large counties suffer the high vacancy rate of Alameda County. In 2022, San Diego County's (population 3.3 million) vacancy rate was 12% and Los Angeles County's (population 9.6 million) was 14.8%. San Francisco County's (population 808,000) vacancy rate was 13.7% in 2023. Given that other large counties have much lower vacancy rates than Alameda County, the grand jury examined whether the 26% vacancy rate was accurate and identified what the county could do internally to address its staffing needs.

## INVESTIGATION

During its investigation, the grand jury heard testimony from eleven witnesses including Alameda County employees, department/agency heads, internal department managers, labor representation, Alameda County Human Resource Services Department (HRS), and the board

of supervisors. Additionally, the grand jury reviewed hundreds of pages of reports and data from Alameda County and other sources.

### Vacancy Rate Overview

The Alameda County reported job vacancy rate of 26% is the average rate for the combined departments and agencies covered in this report.

Determining the exact vacancy rate in Alameda County is a difficult process due to how jobs are categorized. All jobs belong to one of four categories:

- Funded and filled
- Funded and unfilled (most vacancies)
- Unfunded and filled
- Unfunded and unfilled

Contributing to the grand jury's difficulty in determining the true vacancy rate is the fact that departments have the option to leave budgeted staff positions vacant and reallocate that funding to other services and programs, meaning some vacancies are intentionally left unfilled. The grand jury was unable to determine how many budgeted and vacant positions are not needed due to the way in which vacancies are calculated. In addition, the grand jury found it is unknown how long those vacancies have remained open.

The grand jury learned that the number of positions that are vacant and likely to be filled may range from 1,000-1,300, which would imply a 10-13% vacancy rate. The remaining 1,400-1,700 positions that management may not be planning to fill require further analysis of the funded and unfilled positions. The grand jury heard testimony that some employees are experiencing highly stressed, over-worked conditions in their jobs. It is not clear how department heads balance both the vacant positions and the overworked conditions that exist in some places.

*Departments have the option to leave budgeted staff positions vacant and reallocate that funding to other services and programs, meaning some vacancies are intentionally left unfilled.*

A chart of Alameda County vacancies, shown by department, follows.

**Alameda County Vacancy Statistics by Department  
(Funded Positions)**

Source: Alameda County Human Resource Services Department

Department/Agency Name	Total Positions as of 3/1/24	Filled Positions as of 3/1/24	Unfilled Positions as of 3/1/24	Percent Unfilled Positions as of 3/1/24
Health Care Services Agency	1,981	1,393	588	30%
Social Services Agency	2,376	1,813	563	24%
Sheriff's Office	1,922	1,433	489	25%
Probation Department	694	472	222	32%
Public Works Agency	362	228	134	37%
County Library	340	249	91	27%
District Attorney's Office	382	299	83	22%
Information Technology Dept.	243	173	70	29%
Child Support Services	196	128	68	35%
General Services Agency	448	389	59	13%
Auditor Controller's Agency	213	155	58	27%
Registrar of Voters	115	60	55	48%
Assessor's Office	199	153	46	23%
Treasurer Tax Collector	83	37	46	55%
Community Development Agency	180	148	32	18%
Zone 7 Water Agency	131	101	30	23%
Public Defenders' Office	214	190	24	11%
County Administrator	57	34	23	40%
County Counsel	74	56	18	24%
Human Resources	84	74	10	12%
Board of Supervisors	25	21	4	16%
ACERA	19	16	3	16%
<b>Total</b>	<b>10,338</b>	<b>7,622</b>	<b>2,716</b>	<b>26%</b>

The grand jury found that HRS has approximately 200 positions currently in the hiring process or on the wait list to have the recruitment process started. Thus, the county has between 800-1,100 or more positions it intends to fill which are not in any stage of the hiring process. The grand jury addresses issues with the hiring and recruiting process below.

## Key Factors in High Vacancy Rate

The grand jury identified five key factors contributing to the county's vacancy rate.

### *Key Factor #1: Lengthy Recruitment and Hiring Process*

A "recruitment" is the term used by HRS to encompass all phases of the hiring of an employee, not just advertising or outreach. The process of recruiting and hiring of county employees is shared by both HRS and the individual departments. Six departments (Social Services, Information Technology, Auditor, Zone 7 Water Agency, Public Works and half of the General Services Agency) have their own internal human resources staff and handle certain portions of the recruiting and hiring process themselves.

When a department decides to fill a position, it contacts HRS to begin the recruitment. While HRS coordinates the recruitment process, the departments must participate by setting a strategy including the timeline, providing subject matter experts (SMEs) for the exam/interview phase, and conducting their own interviews and selection of candidates.

The grand jury found that it usually takes between three and eight months, and even up to a year or more, for Alameda County to hire an employee. This lengthy process may help explain the difficulty in filling vacancies – what candidate can wait three to eight months to find out if they are going to receive a job offer? One assumes the candidates will find employment elsewhere rather than wait.

The grand jury learned that when an existing employee gives notice, it is possible that the position they filled may remain vacant for months before a new person occupies the position due to the lengthy hiring process. Even if the existing employee's departure was somehow coordinated with the new employee's arrival, the county does not allow any position at any time to have more than one person occupy it. For new employees this inability to cross train with exiting employees is problematic.

In early 2023, the HRS department assembled a team to identify key actions that could potentially improve the recruitment and hiring process and reduce the vacancy rate. They implemented the "Recruitment Enhancement Project," a plan that contains twelve initiatives. As of March 2024, the grand jury learned that eight of the initiatives have been completed, with significant progress made on three initiatives, and one pending completion. It is premature to determine if the implementation of the Recruitment Enhancement Initiatives has made or will make an impact on the vacancy rate. The vacancy rate rose another 1/2% between September 2023 and March 2024, so it is likely it will take longer for the initiatives to make their impact.

*The grand jury found that it usually takes between three and eight months, and even up to a year or more, for Alameda County to hire an employee.*

## Pre-Recruitment Phase

HRS classifies recruitment work into phases, as illustrated below. The grand jury added a pre-recruitment phase to the standard ones used by HRS, identifying an early problem: insufficient staff are available to process the needed number of recruitments. To clarify, HRS processes over 12,000 applicants per year. A recruitment, however, encompasses the entire hiring process. At the time of this report, there were 112 potential recruitments waiting in the queue, meaning unable to even start the recruitment process. Because of this, departments are forced to prioritize their recruitments, delaying many so that their most important job openings can be processed.

Every department interviewed, as well as HRS, confirmed that HRS is unable to process the high number of recruitment requests in a timely fashion due to insufficient HR resources. The grand jury learned HRS analysts currently maintain caseloads double previous levels. A delay in starting recruitments can add weeks or months to the total timeline of filling a position, likely bringing the total hiring timeline to much greater than the three to eight months estimated above. The grand jury recommends that staff be added to accommodate the increased workload.

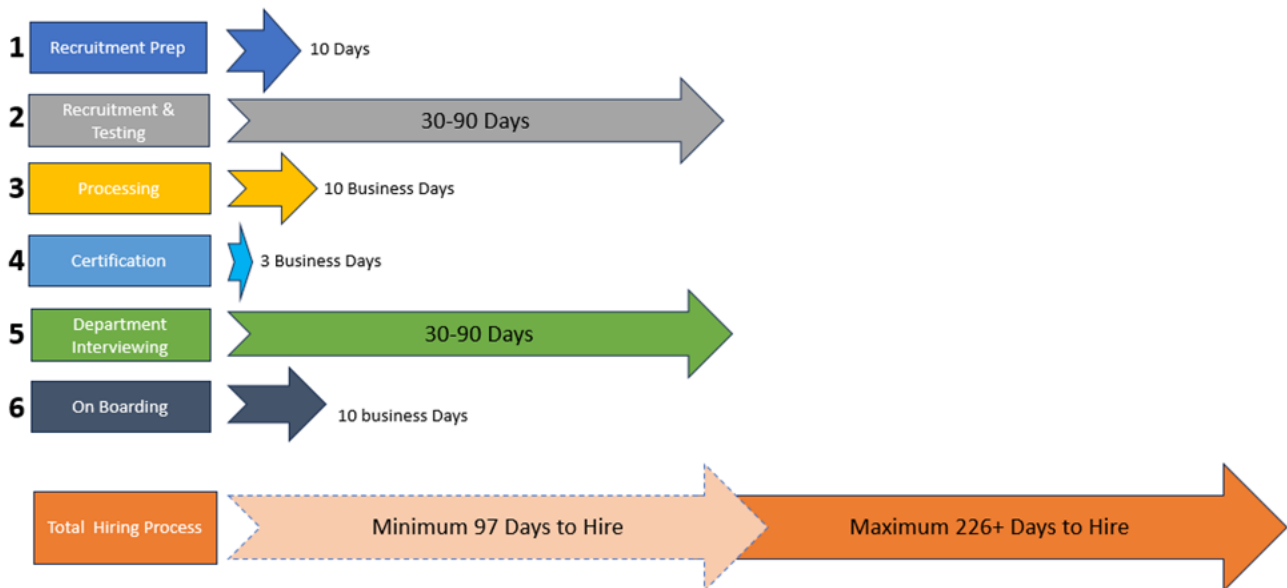
HRS itself, however, is not immune to the overall staffing shortage. The grand jury learned that qualified candidates with needed human resource expertise are difficult to recruit to work for Alameda County and thus are in short supply. HRS has recently been forced to occasionally hire less experienced candidates and train them in-house, reducing the amount of time trained staff have to do their jobs.

HRS divides the recruitment and hiring processes into six phases. These include recruitment preparation, active recruitment/testing, processing, certification, department interviewing and onboarding. The chart below illustrates the timeline for the process, but the chart does not include the time that recruitments spend in the queue, waiting to begin.



*New Alameda County HRS Logo*

## Current Process: Alameda County Hiring Timeline



Phase One: Recruitment prep is allocated two weeks, during which time the department submits its request to HRS for a recruitment; HRS reviews the job specifications and classification, coordinates an exam, requests the subject matter expert (SME), usually provided by the department, and a recruitment plan timeline is set with the department. If reclassification or the minimum qualifications need to be changed, HRS is required to submit an agenda item request to the Alameda County Civil Service Commission for their approval.

Phase Two: Active recruitment and testing can take four to thirteen weeks to complete. During this time HRS posts the job online and waits a mandatory 14 days (formerly 25 days) before the job posting can be closed and examinations administered. This mandatory 14 day waiting period was recently reduced from a 25-day waiting period through the passage of Alameda County Measure A, approved by voters in March 2024. HRS and the SMEs then screen all candidates to see if they meet the minimum qualifications and then must wait a mandated ten days to allow for appeals by candidates. Exams are then administered and scored.

The grand jury found delays in this phase: one has been alleviated by the passing of Measure A. The mandatory ten-day appeals process causes further delays that could be reduced. The next delay is the difficulty in scheduling the SMEs from the departments. Civil service commission rules allow for each department to designate subject matter experts to assist with examinations where specialized knowledge, such as science or technology, is required. HRS reported continuing difficulty in departments scheduling their SMEs to participate in candidate interviews and exams in a timely manner. Very recently, the SMEs have been allowed to view the interviews virtually via recorded sessions, rather than spending an entire day out of the office doing in-person meetings. With in-person screening meetings,

HRS reports incidents of an SME not showing up, canceling at the last minute, or not being able to get the SME scheduled in the first place have been lowered considerably. A recent change allowing interviews to be conducted virtually or even reviewed later by video seems to be having a positive effect on alleviating the scheduling issue with SMEs. Additionally, the grand jury found departments need to plan and prioritize SME availability as part of their regular workload.

To provide temporary relief to the staffing crisis, the Recruitment Enhancement Project targeted two areas: increased use of the temporary assignment pool ([TAP](#)) program and provisional appointments. TAP allows departments to hire personnel quickly for special projects, to cover long-term leaves and assist the department during pending recruitment processes. These TAP positions can be filled by the employee for up to 18 months at a lower cost than budgeted for as the county does not provide employee benefits to these employees. Additionally, the Recruitment Enhancement Initiatives (REI) encourage the use of provisional employment, where an employee can fill a position by appointment without the use of the formal process. These employees receive no benefits and no promise of permanent employment. TAP employees cannot apply for a permanent position with full benefits until the position has been vacant for at least two months.

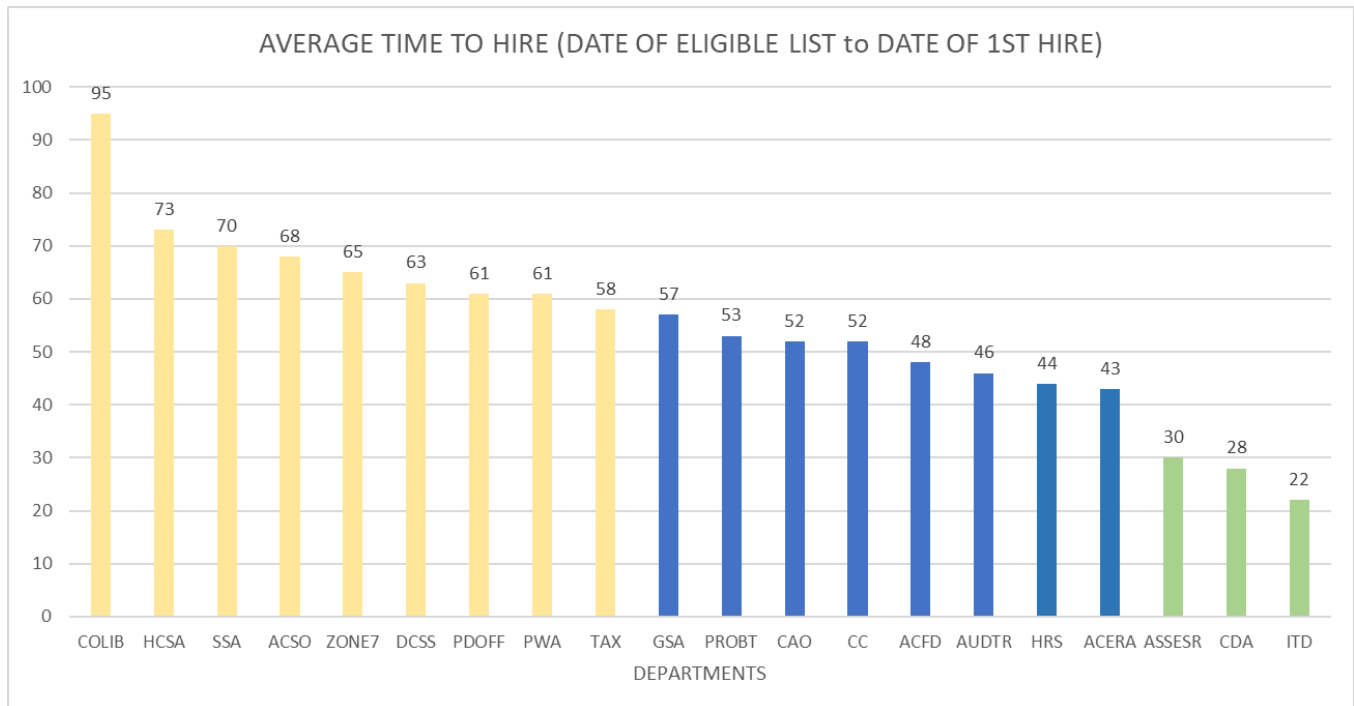
Phase Three: Processing takes approximately two weeks. HRS analysts score the exams and complete rating sheets. Scores are verified; candidates with scores above a 70 are placed on an eligible list, and the list is submitted to the civil service commission for verification.

Phase Four: Departments request that HRS certify the eligible list and can interview candidates after the third business day. Certification takes less than a week. The “Rule of 5” (list of candidates possessing the top 5 scores) is issued to the department for interviewing. The department can only interview and hire a candidate whose score is ranked in the top five regardless of perceived fit or other factors. Eligible candidates are notified and have three days to respond. It has been recommended by prior grand juries, and is recommended by this one, that the “Rule of 5” be expanded to the “Rule of 8”. The grand jury learned that during 2023 most key stakeholders agreed to make this change, but opposition from labor prevented the change from taking place and Alameda County administration declined to implement the highly recommended change over labor’s objections.

*The grand jury believes that improving the delays in departmental interviewing is the most important factor in shortening the hiring process.*

Phase Five: This is the phase where departments interview and select the candidate they wish to hire, taking up to thirteen weeks or longer. Departments are not accountable to HRS with regard to their interviewing timeline, and HRS has no authority in this regard. This is the phase with the longest delays. Below is a “Time to Hire” chart which displays the amount of time each department takes to interview candidates once it receives the eligible list. The chart

shows that departments take an average of 60 days to interview and hire candidates that have already been vetted and tested by HRS and are certified as eligible and qualified. Although this data was collected in 2021, the grand jury learned that the delay in hiring times since then has not improved. The grand jury believes that improving the delays in departmental interviewing is the most important factor in shortening the hiring process.



Source: Alameda County Human Resource Services Department.

**Phase Six: Onboarding.** The onboarding process for a new candidate takes approximately three weeks. This process includes obtaining permissions and approvals from HRS, setting the employee up in the database, reviewing and launching emails to the candidate, verifying the candidate data, and determining the effective date of hire.

*Key Factor #2: Out-Of-Date Website and Ineffective Outreach*

Lack of Advertising and Outreach

The grand jury searched employment websites including those listing current jobs vacant in the county and those specific to government jobs. In addition, the [Alameda County employment website](#) and those operated by individual county departments as well as independent job sites were reviewed. At the time of this report, the Alameda County website listed 13 jobs open to the public, six jobs open to employees only for promotional opportunities, and 24 jobs open only for reinstatement/transfers/voluntary demotion, for a total of 43 positions out of potentially many hundreds of more vacancies.

A specific example is the Alameda County Social Service Agency, which has 563 openings. The Alameda County HR website had zero job postings for positions open to the public, and one job posting for a promotional opportunity. On the [Social Services Agency jobs website](#), the grand jury found only one job opening for the public, one promotional opportunity and seven reinstatement/transfer/voluntary demotion job opportunities.

The grand jury learned that at present, HRS’s budget is insufficient to purchase booths at job fairs, place advertising, or even to subscribe to websites that post jobs.

### Out-of-Date Website

The grand jury believes the [Alameda County HRS website](#) must be re-designed with easy-to-use, attractive functions that provide for more transparency in the hiring process. The website needs to allow applicants to monitor their status and serve as a communication platform for recruiting. Insufficient data is being collected by the current website and associated apps which would be the primary means of communication with candidates and tracking of employment. The county does not collect data on who visits the site, why they leave the site, why they leave the application process, why applicants do not apply, why they turn down job offers, and much other data that could prove very useful.

One of the goals of the REI project was to retain a marketing/social media expert to “prepare attractive and dynamic recruitment materials, including a new employment opportunities website, logo and tagline.” After a lengthy search, a marketing/social media expert was not selected, instead HRS awarded the project internally to the Information Technology (IT) department, citing cost savings. The IT department is now responsible for the marketing of human resources, conducting focus groups, administering surveys, developing recruitment materials and improving the look and feel of the employment website. Some of the website work has been completed and it has a fresher, cleaner appearance than before.

*The county lacks sufficient data to make effective staffing and human resource policy decisions.*

### Community Outreach and Training Pipelines Need to be Developed on a Large Scale

It is critical that Alameda County create strong, effective partnerships supporting pipelines extending from schools, colleges, community organizations and other county departments providing job training, leading directly to county job opportunities. In particular, there is a critical need for mental health providers, social workers and health care workers. This outreach could potentially include internship programs, assigning staff to help prepare curriculum material or representing the county at employment fairs and school programs. These internships would encourage opportunities to ‘shadow’ staff, possibly leading to future permanent employment with the county.

### Lack of Selling Alameda County as an Employer

The grand jury believes that younger generations do not seem to be gravitating toward government service employment. The grand jury suggests that a public relations/education campaign be created to educate the public about the advantages of public service. In addition, the value and services that government provides should be made part of the campaign. The value of benefits that Alameda County offers need to be clearly presented with more emphasis, ensuring potential applicants understand the positive impact those benefits could have on their lives. Social media outreach can be greatly enhanced to tell a new story of government, and careers in government geared toward creating a new and exciting public awareness.

#### *Key Factor #3: Candidates Not Wanting to Work for Alameda County*

The grand jury learned that many candidates who navigate the website to apply for a position drop out along the way. No data is collected by the county, but one presumes the length of the hiring process is a key reason. Candidates who go through the process and are offered positions but do not accept the job have cited as their primary reasons: inadequate salary, a lack of opportunity for remote work, and crime near county workplaces. Many candidates end up as no-shows at the scheduled interviews and cite crime and safety reasons. HRS recently implemented the option of conducting virtual interviews, and the no-show rate of applicants dropped dramatically.

During 2023, as part of an REI effort, the county authorized a monetary incentive program for existing employees to refer candidates to the county for pre-determined hard-to-fill jobs. The county employee would receive \$500 upon hiring and another \$500 upon the new employee's one-year anniversary of work. The grand jury learned that HRS received 567 referrals from employees. Of those 567 referrals, the grand jury further learned that only one person was hired.

*Candidates who go through the process and are offered positions but do not accept the job have cited as their primary reasons: inadequate salary, a lack of opportunity for remote work, and crime near county workplaces.*

The grand jury is concerned that this incentive program did not provide the outcome expected; without further data collection, it is difficult to know exactly why it failed.

### Salary Below Other Counties and Insufficient for Local Cost of Living

The grand jury heard from several witnesses that the county's salary goal is to be at the median of the five surrounding Bay Area counties (San Francisco, San Mateo, Santa Clara, Contra Costa and Marin). Testimony from witnesses regarding salaries has varied with some maintaining that Alameda County is 'mostly' competitive and others stating that it has slipped below the median or even to the bottom for similar work in nearby counties.

Other witnesses felt that the county’s pay scale must be at or more likely above the median. The grand jury learned that there is no regular survey of county salary scales. When a job is reclassified, or HRS wants to confirm the salary scale, a phone call or email communication takes place to the corresponding department in another county, or equivalent research is conducted on other counties’ websites. Assuming the jobs are roughly equivalent, HRS then determines the recommended pay scale. Additionally, the county relies on its partnerships with labor unions to provide much of the salary information. The grand jury learned one difficulty in comparing salaries from other counties is that the job classifications and descriptions often do not correspond. Every county defines their job titles and responsibilities differently. Hence, HRS must use its own judgement to determine the correct salary.

The grand jury received testimony that due to salary levels, a number of current or former employees have either moved out of the area and now have long commutes; have transferred to a neighboring county whose pay scale is higher; or have left county employment altogether. Section 36(e) of the Alameda County Charter addresses this by requiring the Civil Service Commission to conduct an annual comparison of salaries of comparable public and private employment. The grand jury is not aware of such a survey having been recently conducted.

Opportunities for Remote, Hybrid or Flexible Schedules  
May be Limited or Inconsistent

*A complex system of stakeholders, responsibility, accountability, and authority makes change cumbersome, difficult, and lengthy. Key stakeholders must find ways to work together and make progress in a timely manner.*

The absence or limited availability of remote work was mentioned as a major roadblock to successful recruitments by most witnesses. The grand jury learned that some potential employees refused positions when told remote work would not be possible. Remote work is not feasible with many jobs, such as health care services, some social service jobs, janitorial, public works field

positions, etc. But in many cases department heads were simply reluctant to revise work requirements to include remote work and have not been required to do so. As an example of how one large department handled this issue, the Alameda County General Services Agency has created a successful program offering flexible work schedules as well as remote work opportunities.

The grand jury learned that in 2023 an attempt was made by HRS to gather all department heads together at a retreat to set parameters for remote work, but a date could not be agreed upon. Consequently, a consultant was hired to interview each manager separately. As of now, the possibility and extent of remote work and its management is left in the hands of each department, creating inconsistencies among departments. While HRS has prepared some training for supervisors in handling remote work, the grand jury believes that a major effort should be undertaken to define, structure, and embrace remote, hybrid and flexible work schedules for jobs that qualify.

## Crime Compromises Safety and Threatens Morale

Many office buildings in Alameda County are located in neighborhoods that have seen a dramatic increase in robberies, carjackings, auto break-ins, etc. Several of our witnesses had personally experienced crime near their workplace. For jobs requiring the presence of workers in the office, this poses a problem in recruitments and can be a factor in eventual resignations. Safety has been mentioned by most of the department heads who appeared as witnesses, making this issue an important one for addressing the vacancy rate in the county. Several witnesses have reported that they or clients or passers-by have been victims of crime on the way in and out of county office buildings or the parking areas. Alameda County should make it a priority to work with local law enforcement to address security for employees and employee candidates.

### *Key Factor #4: Lack of Data, Outdated Technology, and Outside Human Resource Expertise*

Throughout the process of its investigation, the grand jury was surprised to discover a lack of data with regard to human resource management. The staff of HRS work valiantly to assemble data, often by hand. The county lacks sufficient data to make effective staffing and human resource policy decisions. The grand jury found minimal data was available to determine the following:

- Why do applicants leave the application process?
- Why do applicants not show up for interviews?
- Why do applicants turn down jobs?
- Why do employees quit and leave their jobs?
- Are employee exit interviews being conducted, and is the information gathered from them being communicated to management?

*Key Factor #5: A complex system of stakeholders, responsibility, accountability, and authority makes change cumbersome, difficult, and lengthy. Key stakeholders must find ways to work together and make progress in a timely manner.*

Department heads and the county administrator work together to implement board of supervisor directives. Many human resource policy changes need to be implemented through the Civil Service Commission, created in 1956 and its rules last amended in 2009. It is vital that the [Civil Service Commission rules](#) be brought into alignment with current human resource management practices. Other changes may need to be made to the Alameda County charter, requiring a vote of the electorate, but those changes can only be accomplished if the efforts of all stakeholders are unified.

As many as 18 labor unions negotiate salary, benefits, working conditions and other matters on behalf of Alameda County employees. The county regularly holds meet and confer sessions with union representatives on a wide array of topics in addition to matters covered in their contracts.

It is vital that the labor unions, board of supervisors, and county administration be united in their efforts to streamline and improve the hiring and recruitment process of county employees.

## CONCLUSION

Given the interwoven structure of governance, effecting change, particularly with the hiring and recruitment process, is typically slow, complex and challenging. Meanwhile, testimony revealed that department heads cast blame on the Alameda County Human Resource Services Department for its inability to handle the recruitment workload, which in turn casts blame on the individual departments for their lack of timeliness in providing SMEs, interviewing and selecting candidates.

The grand jury believes that a thorough analysis must be conducted to determine the true vacancy rate. The board of supervisors needs to define how long budgeted positions are allowed to remain vacant and under what circumstances. There must be transparency between departments, HRS, the board of supervisors and labor unions regarding salaries that have been budgeted for one position but were moved to fulfill another use.

The grand jury recommends that the county allocate funding to hire an external human resource and organizational expert to analyze the total recruiting and hiring process from beginning to end, as well as data collection and analysis and additional issues in human resource management.

The grand jury believes that all stakeholders must work together to shorten the recruitment and hiring process, increase salaries to competitive levels, allow flexible scheduling and hybrid work (including more remote work opportunities), and work with local law enforcement to address crime concerns in order to make Alameda County an appealing place to work.

## FINDINGS

### Finding 24-14:

The grand jury found that as of March 1, 2024, it was reported that 26% of Alameda County jobs are funded and unfilled. County Human Resource Services department has not been able to determine the accurate vacancy rate for the county due to departments intentionally leaving positions unfilled and reallocating the funds to other purposes.

### Finding 24-15:

The Alameda County Board of Supervisors has no policy regarding how long a budgeted employee position can remain vacant.

Finding 24-16:

It usually takes between three to eight months for agencies in Alameda County to fill an open position, and sometimes even a year or more.

Finding 24-17:

Alameda County Human Resource Services department does not have sufficient staff to meet current recruitment processing needs in a timely manner.

Finding 24-18:

There is a 10-day notification requirement prior to interviewing applicants.

Finding 24-19:

The Alameda County Human Resource Services department is only allowed to provide departments with the names of the candidates with the top 5 scores for a position. Departments are only allowed to interview from this top 5 list.

Finding 24-20:

Some individual departments' long interview time frames are one of the biggest delays in the hiring process.

Finding 24-21:

The Alameda County Human Resource Services department has taken the first steps to modernize the employment website to maximize recruitment efforts and collect useful data, but much more needs to be done.

Finding 24-22:

Applicants' most common reasons for turning down job offers are insufficient salary, lack of remote work opportunities, and crime near county offices.

Finding 22-23:

Overall county salaries have not kept pace with Alameda County's goal of remaining at least in the median salary range of surrounding counties.

Finding 24-24:

The Alameda County Board of Supervisors has not conducted an annual salary survey per the requirements of the county charter.

Finding 24-25:

The Alameda County Human Resource Services department fails to collect sufficient data on many aspects of human resource management.

## **RECOMMENDATIONS**

### Recommendation 24-12:

The Alameda County Human Resources Services department should conduct an analysis to determine a more accurate vacancy rate for the county.

### Recommendation 24-13:

The Alameda County Board of Supervisors should establish a policy to review the amount of time a position can remain vacant in individual departments.

### Recommendation 24-14:

The Alameda County Board of Supervisors should increase staffing in the Alameda County Human Resource Services department to enable recruitments to be processed more quickly and eliminate the backlog of recruitments.

### Recommendation 24-15:

The Alameda County Human Resource Services department should require departments/agencies to schedule their subject matter experts when the recruitment timeline is scheduled.

### Recommendation 24-16:

The Alameda County Board of Supervisors should conduct a comprehensive analysis of the hiring and recruitment process from beginning to end, both in the Alameda County Human Resource Services department and the individual departments, to identify ways to improve and streamline the hiring process.

### Recommendation 24-17:

The Alameda County Human Resource Services department should reduce the ten-day notification requirement prior to interviewing applicants.

### Recommendation 24-18:

The Alameda County Board of Supervisors should expand the hiring list “Rule of 5” to the “Rule of 8.”

### Recommendation 24-19:

The Alameda County Human Resource Services department should perform a comprehensive analysis of all data needed for recruitment, hiring and retention purposes, and ensure its implementation.

### Recommendation 24-20:

The Alameda County Board of Supervisors needs to conduct a comprehensive salary survey per the requirements of the county charter.

## RESPONSES REQUIRED

### Alameda County Human Resource Services

Findings 24-14, 24-16 through 24-23, and 24-25  
Recommendations 24-12, 24-15, 24-17 and 24-19

### Alameda County Board of Supervisors

Findings 24-15, 24-23 and 24-24  
Recommendations 24-13, 24-14, 24-16, 24-18 and 24-20

#### **RESPONSE REQUIREMENTS – CA PENAL CODE SECTION 933.05**

Pursuant to California Penal Code section 933.05, the grand jury requests each entity or individual named below to respond to the enumerated Findings and Recommendations within specific statutory guidelines, no later than 90 days from the public release date of this report.

As to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

As to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

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# **GREAT EXPECTATIONS FOR THE ALAMEDA COUNTY PROBATION DEPARTMENT**

## **EXECUTIVE SUMMARY**

The Alameda County Grand Jury investigated the Alameda County Probation Department to understand how the department communicates with probationers. The grand jury found that the probation department is staffed with many long-term employees committed to making a difference in the lives of the probationers they supervise. With better training, tools, and standardization of best practices across the organization, the grand jury believes that the department could better serve their clients and the county.

The grand jury looked into the overall operation of the probation department and focused on several areas that the jury believes needs improvement. These areas include access to reliable vehicles for probation officers' use, improving the training program for probation supervisors, and the use of technology to improve administrative functions within the department.

## **BACKGROUND**

Probation is different from parole: probation is a form of supervision granted in lieu of incarceration as part of the initial sentencing process, whereas parole is granted after an individual has been sentenced to prison as a mechanism to transition them back into the community.

The Alameda County Probation Department is responsible for managing offenders sentenced to probation within Alameda County. There are currently five probation office locations in Alameda County: two offices in Oakland, one in Hayward, one at the East County courthouse in Dublin, and one at the Juvenile Justice Center in San Leandro. The department is separated into an adult field services division and a juvenile services division. For the purposes of this investigation, the grand jury focused solely on the adult field services division. Each division consists of a division director, multiple unit supervisors, and a number of deputy probation officers (hereafter referred to as probation officers).

The average number of cases assigned to probation officers in the Adult Field Services Division ranges from 30 to 55, depending upon the types of cases and probationer risk levels. There are dynamic factors which can cause this ratio to fluctuate per probation officer, including higher total numbers of offenders on probation and disproportionate numbers of probationers in one region of the county. Management can alleviate some of the imbalance by assigning new probationers to a different office with a lower caseload.

The probation department has a Caseload Management Standard policy (CMS 400), effective July 16<sup>th</sup>, 2021, that establishes department minimums for probationer contact, services offerings, and supervisory reviews. As described in the policy, “By incorporating the elements of this policy with the appropriate support and services, the department will effectively promote the successful and long-term integration of clients into the community.”

During their initial meeting, a probation officer creates a case plan in collaboration with the probationer to identify their needs, goals, and activities for a successful outcome. Additionally, the probation officer completes an assessment of the individual and assigns them a supervisory risk level of high, medium, or alternative reporting. Alternative reporting probationers are categorized as the lowest risk level and do not have a case plan created. This assessment can change during the course of their probation depending upon various circumstances and probationer behavior. As documented in the CMS 400 policy, this risk level determines the type and frequency of contact between the probationer and their assigned probation officer. Generally, the higher the risk level, the more frequently a probationer needs to have contact with their probation officer.



CMS 400 also describes minimum supervisory reviews of each probationer’s case. This case review allows the probation officer to present the probationer’s status to their unit supervisor, including a discussion of the progress a probationer has made and whether the probationer's risk level or case plan should be changed. For high and medium risk probationers, the initial case review is supposed to happen within the first 90 days, and every 180 days thereafter. For alternative reporting probationers, the case reviews are supposed to happen within 12 months of sentencing and yearly thereafter. There is a seven-day window when this case review is supposed to occur, so for the initial case review, it is supposed to occur at some point between the 84<sup>th</sup> and 90<sup>th</sup> day.

The best practice of probation supervision is a home visit by a probation officer, with a field visit coming in second. A home visit is exactly that: visiting a probationer at their home. A field visit, however, consists of meeting with a probationer in a public place. The grand jury has learned that home visits are the preferred option of the probation department. They allow the probation officer to observe whether a probationer lives where they say they do, the people they live with, and identify other issues that could cause a probationer to fail to comply with their probation. Home visits can be especially important with sex offender probationers because the probation officer can notice evidence of vulnerable community members, such as children being present in the home, children’s toys, proximity to a school, etc. On the other hand, probation officers would prefer not to visit probationers at work if their presence would be

disruptive to the probationer or detrimental to their work environment. Additionally, having probationers come into a probation department office for their required contact visits is disruptive because it can require probationers to take time off of work.

There are trade-offs to performing home/field visits versus office visits. A home/field visit is time and labor intensive because it usually requires at least two and sometimes three probation officers to perform the visit. This is because it is much safer to perform home and field visits with at least one other probation officer. Additionally, while one probation officer is talking to the probationer, the other probation officer can survey the scene to identify potential dangers and concerns within the environment that could impact the probationer and also to look for dangers to the visiting probation officer's safety. However, probation officers would be able to meet with many more probationers in a given timeframe in the office than at their home or in the field. With high caseloads, probation officers need to be as efficient and effective as possible. Multiple probation department employees with decades of experience agreed that field and home visits were invaluable in truly understanding the probationers' needs and helping the probationer complete probation successfully.

The alternative reporting probationers are considered at low risk of recidivism and therefore need less supervision. After an initial office visit with a probation officer, alternative reporting probationers are required to call an automated phone system and attest that they are following the requirements of their probation and, if necessary, leave a message.

## INVESTIGATION

The grand jury received a complaint that beneficial services such as housing, job training and assistance, mental health counseling, drug abuse services, etc., were not being offered to all probationers. The grand jury inquired into what services were available and how these services were offered to probationers.

Several supervisors within the probation department were interviewed by the grand jury. All of them had been working within the department in various capacities for well over 10 years. They appeared committed to their jobs and to making a difference in the lives of the probationers. In addition to the initial complaint, the grand jury learned of other issues preventing supervisors and the probation officers who report to them from being more productive and efficient.

*The grand jury found that probation officers do not have access to reliable vehicles on a consistent basis.*

Lack of Operable Vehicles for Probation Officer Visits

While office visits are more efficient, there are still important reasons for probation officers to perform home and field visits. Unfortunately, the grand jury found that probation officers do not have access to reliable vehicles on a consistent basis. The probation department suffers from inoperable vehicles at an unusually high rate. The following chart from a single-day survey done on January 25th, 2024, is representative of information the grand jury received from multiple witnesses:

<b>Probation Office Location</b>	<b>Operable Vehicles</b>	<b>Inoperable Vehicles</b>	<b>Probation Officers Assigned to Field Supervision</b>
Probation Center (Oakland)	10	5	46
Amador (Hayward)	7	1	25
Courthouse (Dublin)	4	1	2
<b>Total</b>	<b>21</b>	<b>7</b>	<b>73</b>

The probation department currently has three office locations where department vehicles are kept: Oakland, Hayward, and Dublin. The grand jury heard testimony from a number of witnesses confirming that dead batteries in cars are an on-going problem, but no one was able to explain this phenomenon, and the grand jury was unable to learn through witness testimony the causes of the battery issues. The high number of dead batteries across all offices points to a systemic issue with the vehicles or their usage. The number of inoperable vehicles at the Oakland office is especially concerning. The probation department has requested that the Alameda County General Services Agency (GSA) replace the current vehicles with more reliable vehicles, but GSA is reluctant to replace vehicles with low mileage. However, it’s hard to put miles on vehicles that don’t work, leaving the probation department in a Catch-22 situation.

*The Alameda County Probation Department has requested that the Alameda County General Services Agency replace the current vehicles with more reliable vehicles.*

The grand jury also learned that there are security issues with the probation department parking lots where vehicles have been broken into or stolen, or catalytic converters, batteries, radios, and wheels, have been stolen, rendering vehicles unusable. While the probation office at 400 Broadway in Oakland has the most problems, the grand jury learned that the probation department is scheduled to move out of the 400 Broadway office, with vehicles and personnel dispersed to other offices.

### Supervisor Training

The grand jury learned that manager training for new unit supervisors (probation officers' direct managers) has been eliminated in recent years. While there are many elective classes on various management topics available to supervisory personnel, there is no mandatory probation department training offered to new managers. Prior to 2020, new supervisors attended a required probation department class called "New Supervisors Training Academy." The grand jury heard testimony from long-term supervisors who had taken the courses that not only was the training class itself useful, but the materials distributed during the class were also useful as an ongoing reference for day-to-day activities.

The grand jury heard testimony that there is a lack of clarity regarding how to handle underperforming probation officers. On one hand, some probation officers are sensitive to any possible suggested correction being referred to internal affairs for discipline. On the other hand, supervisors can be wary of going through the disciplinary process due to confusion on how to correctly navigate the process. However, not only is this policy clearly described in the New Supervisors Training Academy materials that the grand jury reviewed, but the training materials also do a good job of explaining both the informal coaching process and the more formal disciplinary actions.

*...after almost three years of union negotiations, the probation department still does not have a specific policy that addresses additional contact management for sex offenders. The grand jury learned that this lack of the additional policy is being held up by ongoing union negotiations.*

### Problems with the Case Management System

As described above, every high and medium risk probation case must be reviewed at the initial 90-day mark, and every 180 days thereafter. This is a mandatory review between the probation officer and their unit supervisor that is laid out in the caseload management standards policy. Unfortunately, the current case management software does not notify unit supervisors when cases are nearing their mandatory review, so it becomes a manual process to track review requirements. There are a large number of cases for each unit supervisor to track, and the grand jury heard from multiple witnesses that notifications from the case management software about cases nearing their required review would significantly ease this burden.

### Policy Negotiations

The grand jury learned that the caseload management standards policy (CMS 400) took almost five years to be approved through many meet-and-confer meetings between the probation department and its unions. Unfortunately, when CMS 400 was implemented in July 2021, it lacked specific provisions regarding domestic violence and sex offender probationers, because the document states that the additional requirements for these specialized cases will be

outlined in separate policies. These two specific types of probationers are being supervised under the CMS 400 contact policies related to their level of risk. The grand jury learned there also needs to be specialized, additional contact requirements for domestic violence and sex offender probationers. While a new, additional caseload management policy for domestic violence probationers was made effective as of October 11<sup>th</sup>, 2023, after almost three years of union negotiations, the probation department still does not have a specific policy that addresses additional contact management for sex offenders. The grand jury learned that this lack of the additional policy is being held up by ongoing union negotiations. As explained above, home and field visits can be especially important for sex offenders because probation officers can make note of evidence of vulnerable community members, such as children being present in the home, children’s toys, proximity to a school, etc.

*The grand jury believes a modification in the probation department phone system, adding a phone tree that allows probationers to obtain information on available services, would allow for better access to services for lower risk probationers.*

### Services Available to Probationers

There are many services available to probationers via third-party vendors. The grand jury learned that these services are offered to probationers by their probation officers during their regular contact visits, and there is a simple process within the automated case management software for the probation officer to notify vendors to initiate services. Additionally, these services are also listed on the probation department website. Written materials describing many of the services are available in probation department offices. The probation department also includes some information about available services when they send out mass text messages to large numbers of probationers.

Unfortunately for alternative reporting clients, the only time they meet with a probation officer in person is at the beginning of their probation, and this is the only time a probation officer could proactively offer services that might be helpful for the probationer. The alternative reporting phone system lacks a mechanism to direct clients towards specific services or providers. These lower risk probationers do not regularly meet in person with a probation officer, so they won’t see the written materials. They might use the probation department’s website if they know the department offers a specific service, but otherwise these probationers have to be very self-motivated in finding probation-provided services that could be helpful. The grand jury believes a modification in the probation department phone system, adding a phone tree that allows probationers to obtain information on available services, would allow for better access to services for lower risk probationers.

## **CONCLUSION**

While office visits are more efficient, and home and field visits are important and at times required. The grand jury expects to see changes that will eliminate roadblocks to probation

officers conducting home visits. Additionally, the probation department needs to work with the General Services Agency to determine the cause of inoperable vehicles and resolve this issue. Security at probation department parking lots also needs to be improved, including 24/7 surveillance and better fencing. Closing the Oakland probation department lot resolves the security issues in Oakland, but the vehicles at that location will be moved to the Hayward and Dublin locations, and the security at those locations will need to be enhanced to prevent thefts and vandalism to prevent putting vehicles out of commission. The grand jury learned that a vehicle was stolen from the Hayward Probation Department parking lot just prior to the printing of this report.

Training for new supervisory personnel should be reinstated and made mandatory. The probation department is still using materials from the New Supervisors Training Academy, which is a good start. This training will encourage consistent best practices across the department in many areas, including enforcing the disciplinary process and ensuring cases are reviewed within policy requirements.

With respect to case management review timelines, the case management system used by the probation department should be enhanced to provide notifications when cases are approaching their mandatory review deadlines. The case management software used by the probation department already provides notifications (called "ticklers") for other tasks, so an additional tickler is certainly possible. These additional ticklers would help to ensure that case reviews happen within the required timeframe.

While alternative reporting probationers are much lower risk, they still could be helped by the additional services offered by the probation department. Probation officers need to be encouraged to offer these services to alternative reporting probationers in their initial meeting. Additionally, if possible, the phone system should be enhanced with specific prompts, such as "press 2 for housing assistance, press 3 for job placement programs," etc.

Finally, the probation department needs a better process to develop and approve policies. Both probation department management and the labor unions who represent department employees have valid concerns that should be considered. It is the opinion of the grand jury that it would be beneficial to probationers and the community for policy changes to be approved much faster, including a policy containing specific, additional contact requirements for sex offenders.

The Alameda County Probation Department is staffed with long-term employees who are committed to guiding probationers to live better lives. With improvements to vehicle availability, better supervisor training, adoption of best practices across the department, and an improved policy approval process, the Alameda County Probation Department will be better positioned to serve probationers and the community.

## **FINDINGS**

### Finding 24-26:

The Alameda County Probation Department has a high incidence of inoperable vehicles.

### Finding 24-27:

There is an ongoing problem with vehicles being broken into and parts being stolen at probation parking lots.

### Finding 24-28:

There is no current Alameda County Probation Department mandatory management-specific training offered to new supervisors.

### Finding 24-29:

The Alameda County Probation Department case management software does not provide any notifications regarding cases approaching their required review deadlines.

## **RECOMMENDATIONS**

### Recommendation 24-21:

The Alameda County Probation Department must meet with the Alameda County General Services Agency to determine a root cause for the large number of inoperable vehicles.

### Recommendation 24-22:

The Alameda County Probation Department should evaluate the security of their vehicle storage lots to avoid theft and vandalism.

### Recommendation 24-23:

The Alameda County Probation Department should reinstate the “New Supervisor Training Academy” and it should be mandatory for new supervisors.

### Recommendation 24-24:

A tickler should be added to the Alameda County Probation Department case management system notifying supervisors when a case is approaching a required review deadline.

## **RESPONSES REQUIRED**

Alameda County Probation Department

Findings 24-26 through 24-29  
Recommendations 24-21 through 24-24

**RESPONSE REQUIREMENTS – CA PENAL CODE SECTION 933.05**

Pursuant to California Penal Code section 933.05, the grand jury requests each entity or individual named to respond to the enumerated Findings and Recommendations within the specific statutory guidelines, no later than 90 days from the public release date of this report.

As to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

As to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

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