PERALTA COMMUNITY COLLEGE DISTRICT
BROKEN BOARD GOVERNANCE AND BAD BEHAVIOR

EXECUTIVE SUMMARY

The Peralta Community College District, with its four campuses and thousands of deserving students, has suffered from structural financial issues and administrative turmoil for years. The state has engaged the district extensively to help get it back on track. Yet poor governance and misconduct by members of the Peralta governing board continue to threaten the district's stability.

The grand jury received eight formal complaints related to board governance. This report examines how some members of the Peralta Board of Trustees (board) – excluding the two new board members elected in 2020 – contributed to the district's financial problems by fostering a dysfunctional and unhealthy system of governance.

After its investigation, the grand jury found that for years, the Peralta Board of Trustees regularly overstepped their authority, and contrary to governance best practices, openly intervened in traditional responsibilities of chancellors and other administrators. Trustees regularly stood in the way of chancellors' attempts to fill key administrative positions hurting morale, contributing to staff flight, and jeopardizing services to the students and community. Individual trustees too often disrespected staff and other colleagues on the board in public and private settings without rebuke. The regularity of the verbal abuse made Black administrators and some trustees feel as though the attacks were racially motivated. Additionally, some trustees gave staff and other interested parties open access to go around administrators, gutting their authority. Finally, the grand jury found that some trustees took liberty with the state's open and transparent governance laws by meeting or participating in meetings when district business was discussed while shutting out other trustees and the public, in violation of the California Ralph M. Brown Act (Brown Act).

Lack of leadership experience and continuity in critical positions, wasted resources, unfilled key positions, and poor staff morale resulted in an unhealthy atmosphere for a student population that so deserves a first-rate education. This diverse and thriving community is entitled to the benefit of a vibrant, well-functioning community college system. Ultimately, the students these trustees are supposed to serve lose out.

BACKGROUND

The Peralta Community College District (Peralta or district) consists of four colleges (Berkeley City College, College of Alameda, Laney College, and Merritt College) located in northern Alameda County and serves over 20,000 students each semester as of Fall 2020. The district budget for 2020-21 was just over $140 million, which includes funding approximately 866 full-time employees and over 1,041 part-time faculty and staff.

Peralta is governed by an elected seven-member board of trustees, each representing a different geographical area within the district, in addition to two non-voting student trustees. The district is affiliated with the California Community Colleges (CCC) system that is led by a board of governors and the state chancellor who have limited fiscal and governance oversight of 73 districts with 116 colleges statewide.

Peralta Community College District Office

The Peralta Board of Trustees is the public face and policy-making body of Peralta. It is accountable to the students, citizens of the district, and the CCC system. Peralta Board Policy (BP) 2200 best describes the board's role and responsibilities to:

- represent the public interest;
- establish policies that define the institutional mission and set prudent, ethical, and legal standards for college operations;
- assure fiscal health and stability;
- monitor institutional performance and educational quality;
- advocate and protect the district;
- delegate power and authority to the chancellor to effectively lead the district;
- hire the chancellor, and evaluate the chancellor at least annually;
- respect the authority of the chancellor by providing policy, direction, and guidance only to the chancellor who is responsible for the management of the district and its employees; and
- delegate the authority to the chancellor to issue regulations, and directives to the employees of the district.

Trustees do not have individual power or authority. Instead, these powers reside with the full board.

State Intervention in Governance and Fiscal Decline

In January 2019, Peralta trustees along with the CCC State Chancellor's Office contracted with the state's Fiscal Crisis and Management Assistance Team (FCMAT) to provide management assistance to address chronic fiscal problems threatening the district. In its fiscal analysis report, FCMAT concluded that Peralta was at a high risk of insolvency, scoring far worse than any other district had ever scored using the FCMAT risk tool. The tool identifies any district scoring over 40% as high risk and Peralta scored 69%. FCMAT reported that the district had "suffered from years of ineffective and inconsistent guidance, nonadherence to policies and procedures, and difficulties in receiving consistent information and communication." Longstanding poor fiscal governance practices had plagued Peralta and threatened its survival. Among other things, FCMAT provided training, organizational and staff analysis, and corrective action plans to address significant audit findings. FCMAT also noted approximately 75 recommendations for structural improvement. FCMAT's work required immediate and sustained responses from Peralta leadership.

By June 2019, the district hired a consulting firm to perform an institutional assessment with recommendations to address problems identified by FCMAT and to help provide insights for developing a fiscal improvement plan required by the state's Accrediting Commission for Community and Junior Colleges (ACCJC). The consulting firm focused on addressing the district's structural deficit, organizational inefficiencies, enrollment issues and lastly, executive staff turnover.

In January 2020, the ACCJC placed all four colleges at Peralta on probation, reporting that previously identified deficiencies had not been resolved. ACCJC noted that the colleges suffered from continued structural deficits, a lack of adherence to board policies and administrative procedures, and unaddressed audit findings.


College of Alameda

Shortly before the ACCJC action, the board hired an accomplished chancellor with years of community college leadership experience. Within seven months, under the leadership of the then-serving chancellor, committed staff, and an outside consulting firm, the district addressed 72 of FCMAT's 75 recommendations, reducing its fiscal risk analysis score significantly. While the news was very good, structural change requires ongoing efforts to ensure that staff use the best operational practices so that improvements are sustained.

In some respects, the district seemed to be on the right track, but evidence of ongoing Peralta board governance issues began to resurface. The CCC Board of Governors was informed that long-term leadership stability remained a risk for the district. Peralta had made strides towards meeting its corrective action plan developed in response to FCMAT's report, but volatility remained, in part, due to governance challenges related to alleged board hostility towards staff, micromanagement of the chancellor, and conflicting agendas between trustees and administrators. The state was concerned that there was a lack of clarity in management and governance roles between the chancellor and the board of trustees, ultimately limiting the chancellor's ability to perform their duties. It was also unclear if the board was acting collectively in the interest of the district. Finally, FCMAT noted that board policies and administrative regulations were routinely ignored, not adopted, not updated, not implemented or communicated to staff, and that the board was micromanaging the chancellor.

The Peralta Board of Trustees regularly overstepped their authority and contrary to governance best practices, openly intervened in traditional responsibilities of chancellors and other administrators.

The state chancellor's office could have taken more drastic steps by, in effect, taking over the governance and fiscal responsibility of the district, but noted that the Peralta chancellor's leadership continued to demonstrate the ability to address and resolve concerns raised by the oversight agencies.

However, by July 2020, nine months after arriving at the district, the chancellor who led the effort to address so many fiscal challenges identified by FCMAT and ACCJC abruptly resigned, citing individual trustees' constant interference and efforts to undermine the chancellor's authority.

The chancellor's resignation letter cited inappropriate actions and behaviors by individual trustees, including:

- [in]effective board governance;
- hostile conduct toward others and each other;
- violations of confidentiality with respect to closed session;
- violations of the Brown Act relating to closed session topics;
- interference in investigations of complaints against board members;
- collusion with the unions against the interest of the district and undermining the collective bargaining negotiations processes;
- interference with fair and effective hiring practices, putting the district in legal jeopardy for unfair and discriminatory hiring practices;
- fostering a culture of contempt by modeling disrespect and contempt for executive administration and empowering special interests to do the same;

- exhibiting hostility and contempt toward administration, particularly a pattern of practice against African American executive staff;
- undermining the role of the CEO/chancellor and the ability of the CEO to carry out responsibilities; and
- harassment of the CEO to the extent that it created emotional distress beyond that which is bearable or should be tolerated.

Accusations that the board has been undermining the authority of chancellors have been burdening Peralta for years.

FCMAT updated the CCC Board of Governors in August 2020 stressing that there was a clear correlation between poor governance and fiscal insolvency. FCMAT noted that during its 2019 fiscal risk analysis, Peralta received negative responses to seven of eight leadership and stability questions. FCMAT's previous examination of Peralta in 2011 also resulted in findings of various areas of key concern. Years later in 2019, most of those concerns had still not been resolved. FCMAT concluded that board members have the ultimate responsibility for district solvency and that the CCC Board of Governors should consider increasing its oversight role of the district.

INVESTIGATION

The grand jury received eight formal complaints about the Peralta Board of Trustees serving in early 2020, all alleging different manifestations of trustee misconduct or a broken board culture. The allegations claimed that individual trustees consistently micromanaged and interfered in the authority of the chancellor and other administrators, impeding their ability to perform duties prescribed in adopted rules, policies, and contractual agreements. Complaints also outlined claims that individual trustees regularly demeaned staff and other colleagues on the board, often during public meetings. Finally, some trustees were accused of violating board policies and procedures including the state's open meeting laws by holding secret meetings to discuss district business.

Complaints from both inside and outside the district asserted that board actions fostered a culture of contempt by modeling disrespect toward Peralta's executive administration and empowered special interests to do the same. In addition, board misconduct was said to have contributed to Peralta's financial instability and the high administrator turnover as outlined by the CCC Chancellor's Office, FCMAT, and the ACCJC.

During the investigation, the grand jury interviewed 19 witnesses, including current and former trustees, administrators, faculty, and statewide experts in governance best practices. The grand jury reviewed hundreds of documents including emails, staff reports, complaints, letters from the community, correspondence from the CCC, FCMAT and the ACCJC, videos of board meetings, and other information. Supplementing these sources were board policies and procedures and training materials from the Association of Community College Trustees, Community College League of California, and the Advisory Committee on Education Services.

Because some board members issued various denials of these allegations in writing and at public meetings, claiming that they were merely baseless rumors or healthy disagreements over policy, the grand jury decided to focus its investigation of whether allegations in three key complaint areas (interference in the chancellor's hiring authority, lack of civility, and open government Brown Act violations) were accurately supported by evidence.

Roles of the Chancellor and the Board of Trustees

In May 2020, two months before the then-serving Peralta chancellor resigned, the state chancellor emailed the Peralta board leadership stating that, "The Board continues to engage in behaviors that jeopardize and undermine the role of the chief executive of the district. This is a concern because these behaviors will likely impede the district from fully resolving its fiscal and governance challenges."

Accusations that the board has been undermining the authority of chancellors have been burdening Peralta for years. Peralta policies, state ACCJC best practices, and in one circumstance, the then-chancellor's employment contract (all of which attempt to make clear the governing relationships between the elected board and the chancellor) had failed to reduce tensions between the board and three of the past four chancellors.

Berkeley City College

Most succinctly stated, the chancellor is responsible for running the day-to-day operations of the district. Peralta Board Policy 2430 states that the governing board "delegates to the Chancellor the executive responsibility for administering the policies adopted by the Board and executing all decisions of the Board requiring administrative action." Statewide best practices as stated in ACCJC Accreditation Standards note that the chancellor "plans, oversees, and evaluates an administrative structure, organized and staffed to reflect the institution's purposes, size, and complexity" and "provides effective leadership in planning, organizing, budgeting, selecting and developing personnel, and assessing institutional effectiveness."

In 2015, Peralta trustees approved BP 2715 Code of Ethics and Standards of Practice. The policy gives ethical guidance to trustees in seven key areas and states that the board functions as a whole and district matters are not governed by individual actions of board members. Board members are to focus attention on "policy determination, planning, and the maintenance of the district's fiscal stability. Board members refrain from involving themselves in matters that are delegated to the Chancellor, except as needed to fulfill their proper overall evaluation responsibilities."

The Peralta board even restated the relationship between the board and chancellor in the chancellor's contract signed in 2019:

> *"The Board shall operate at the policy level and shall delegate to the Chancellor the authority of the internal management of the district. The Chancellor will provide the Board with appropriate information, in a timely manner, in order that the Board may promulgate policy. The Chancellor, as Chief Executive Officer, is responsible for executing policies and implementing identified goals through the day-to-day management of the district. The Board and its individual members agree not to interfere with or to usurp the responsibilities of the Chancellor."*

Unfortunately, robust policies are only useful if they are followed.

While the grand jury learned that the most damaging interference by the board involved constant roadblocks put in front of multiple chancellors' recommendations to hire key administrators (discussed later), witnesses recounted that some on the board regularly acted as if they were sitting as chancellor for a variety of other issues.

Often interference came in the form of board leadership taking action that should have been the responsibility of the chancellor. For example, the grand jury heard testimony that in 2019 the board leadership hired a consultant to examine senior management without board discussion and approval. While the contract was under the board approval threshold, the engagement was neither the idea of the interim chancellor nor at the direction of the board. Another example involved the use of project labor agreements related to major construction projects which, in some instances, had been held up by board leadership for years. Staff and consultant-driven plans, often with extensive stakeholder engagement and previous board guidance, had languished, been thrown out, or re-engineered due to board leadership controlling the board agenda or because of repeated board interference or inaction. Examples included a COVID-19 back-to-work plan, a financial office reorganization plan, and even the adoption of the district's mission statement.

Another example of interference involved an allegation that one board member was revealing closed session discussions and inappropriately intervening in labor negotiations. The grand jury uncovered a 2019 email complaint by a senior staff member to the chancellor alleging that a labor representative for a class of employees stated they would not concede to the district's settlement offer because they had already entered into a side deal for a larger amount with one of the trustees. The labor representative allegedly went to the senior staff's office later to apologize but said they would go around the staff again if necessary. The email was sent shortly after the incident and was very detailed. While the labor representative and trustee each admitted that it is common to speak with their counterparts, they both denied the accusations. Yet, after further investigation, the grand jury concluded that the conversation between negotiators occurred as alleged. Based on the grand jury's investigation, we did not find the denials credible. If a side deal was discussed between labor and an individual board member, it violated the sanctity of closed sessions and damaged the district's negotiating capability. Individual board members had no authority to negotiate on behalf of the district.

Peralta has suffered from a revolving door of leadership in key administrative positions for years and its reliance on temporary/interim appointments only helped fuel district-wide instability.

On another occasion, one key staff member penned a multiple page memo complaining to the then-chancellor about the board's repeated inability and unwillingness to adopt a tentative budget, rejecting recommendations by staff to move forward. The grand jury learned that senior administrators were worried that the board's inaction would negatively affect Peralta's standing with FCMAT and the state chancellor, even though the state had allowed later-budget submissions during the COVID-19 crisis.

Some members of the board disputed complaints of interference by defending their actions and asserting that encroachment into day-to-day activities as no more than an exercise of their fiduciary and oversight responsibility as elected officials. Yet the grand jury found that board interference certainly has taken a toll on district stability and executive staff continuity.

Board Interference in Hiring

In the aforementioned May 2020 email from the state chancellor to Peralta trustees, the state chancellor cited individual board members' efforts to control the chancellor's executive hiring decisions as the primary example of inappropriate interference in the Peralta chancellor's authority. Two months later, in July 2020, Peralta's chancellor resigned. In her resignation letter to trustees, she echoed the state chancellor's concerns, claiming that individual trustees interfered "with the fair and effective hiring practices, putting the district in legal jeopardy for unfair and discriminatory hiring practices." In effect, the then-chancellor complained that individual trustees regularly attempted to micromanage the chancellor's efforts to lead operations by both attacking properly vetted administrative candidates and not moving forward on requests to appoint critical administrators.

Experience and continuity in a chancellor's executive team of administrators is key to running a financially sound and high-functioning organization. Effective guidance and adherence to policies and procedures by administrators and staff are indispensable when trying to ensure that any major public educational system like Peralta can function. In fact, FCMAT's own financial risk analysis tool dedicates a whole section to leadership and stability, in part, because public school finance is extremely complicated. Yet Peralta has suffered from high turnover of leadership in key administrative positions for years and its reliance on temporary/interim appointments only helped fuel district-wide instability. At one point, the chancellor, vice chancellor of finance, vice chancellor of human resources, executive director of marketing, and vice chancellor for general services all were staffed by interim personnel.

It is not difficult to conclude that five chancellors in the last 2½ years and six chief financial officers in the past 4½ years resulted in a broken financial system. Within the past two years, eight of 12 senior administrative positions at one of the district's four colleges went unfilled. Even more surprising, the four colleges had at least 18 presidents including interims in the last 12 years.

In 2019, after studying Peralta's organization, FCMAT concluded that a long-term leadership void led to poor fiscal practices contributing to Peralta's excessively high danger of insolvency. Complaints surfaced from the state's fiscal monitor, the state chancellor's office, state educational experts, FCMAT, current and former employees, former chancellors and even some Peralta trustees about some board members overstepping their authority and interfering in the chancellor's responsibilities. By many accounts, key administrators were fleeing Peralta or not drawn to apply to work there, in part, because of governance instability and board misconduct. Multiple witnesses told the grand jury that educational administrators throughout the state knew of Peralta's difficult reputation.

The state chancellor's office and the grand jury were given blanket denials of such board interference by some of the very board members standing in the way of the former chancellor's attempts to hire key staff. This led the grand jury to examine deeper.

Laney College

In many community college districts throughout the state, a chancellor has the authority over hiring of district employees, and more importantly, the core team of administrators. Some other districts require board approval of hires, but the board's role is limited. At Peralta, the roles of the board and chancellor are at times blurred. Many argue that the board policies are contradictory. Board Policy 2200 lays out the board's duties and responsibilities including hiring and evaluating the chancellor while respecting the authority of the chancellor who is responsible for the management of the district and its employees. In effect, the board has the responsibility to hire and manage one employee (the chancellor) and the chancellor holds the human resources responsibilities for the rest of the district's 1,900 full and part-time staff.

Board policy also requires the chancellor to establish procedures for recruitment and selection of employees. These procedures, with some exceptions, require hiring committees made up of multiple stakeholders with defined roles. They also create a uniform examination of candidates consistent with state law that ensures fairness and avoids interference in the process.

After the formal recruitment and vetting process, the chancellor must bring proposed hires for management employees before the board for approval. Board Policy 7110 delegates authority to the chancellor to authorize employment, fix job responsibilities, oversee collective bargaining, and approve personnel actions. However, the policy states the board "will approve" the appointment of management employees.

The interpretation of BP 7110 and its apparent contradiction to the chancellor's stated role led to huge conflict within the district, damaged employee morale and clouded leadership authority.

The interpretation of BP 7110 and its apparent contradiction to the chancellor's stated role led to huge conflicts within the district, damaged employee morale and clouded leadership authority. The chancellor who served most of 2020 believed that an accurate interpretation of BP 7110 (when read in harmony with her responsibility to manage human resources) limited the role of the trustees in the approval process. This view was shared by multiple statewide educational experts who testified before the grand jury. The then-chancellor believed that the board policy wording trustees "will approve" meant that the trustees had the responsibility to fund and ratify the position but not to vet and select the candidate for the position. Board interference in the vetting of candidates violates accepted protocol in interviewing, reference checking, and screening for a fair hiring practice and puts the board at liability for unfair hiring practices. The then-chancellor believed that picking her core team was agreed to by the board when the chancellor was hired and that this was a statewide accepted interpretation and practice.

Some trustees obviously disagreed with the chancellor's interpretation. Responding to the state chancellor's request for a plan to address alleged trustee interference in the chancellor's hiring recommendations, the board president unequivocally stated that "board policy does not delegate final hiring of administrators to the chancellor. The board has nonetheless approved every single management hiring recommendation except two." While signed by the president, the letter was drafted and shared with only two other trustees prior to submittal.

Two of the four trustees who were not invited to contribute to the drafting of the letter strongly disavowed it and the positions taken. They signed onto their own communication to the state chancellor advocating state intervention at Peralta, opining that Peralta Board Policy 7110 "will approve" language is different from other language in board policies that state the board "will consider approval." The two argued that "will appoint" meant that the trustees must examine the appointments from fiscal and governance standpoints by asking whether the hires are appropriately within the organizational structure of the institution and whether they are accounted for in the budget. Beyond that, the board is infringing on the chancellor's authority. In an earlier email to the board president, the third trustee described the board's interference in hiring as "absurd," explaining that the board was unqualified to enter into the management process.

Ultimately, trustee interference in fair hiring contributed to a glut of unfilled administrative positions over the years, jeopardizing services to students and overall operations of the district.

Testifying before the grand jury, one trustee supporting board approval of such hires claimed to only remember one candidate being turned down. Another trustee claimed that issues surrounding board involvement in hiring never existed before they were raised by this chancellor. Yet other witness testimony and district documents paint a very different picture of the board's actual role in stifling three different chancellors' proposed hires.

The grand jury heard testimony from multiple witnesses that it was not uncommon for trustees to discuss allegations gathered from their own incomplete vetting of candidates when considering the chancellor's recommendations. The jury also discovered emails where people not participating in the formal process were feeding trustees negative information about candidates. Because the board chose to discuss these matters in closed session prior to 2020, trustees were more open to discuss unsubstantiated claims and criticize applicants, damaging the fairness of the formal hiring process. For instance, during the tenure of a previous interim chancellor, a trustee complained about the quality of a candidate's website as justification for a no vote while another complained about the candidate's social media account and abstained from voting. The majority of the board let the interim chancellor know the candidate would be turned down for the position, so the interim chancellor settled on hiring the candidate temporarily. Consequently, while trustees did not vote down the candidate on paper, the result was still a rebuke of the chancellor and a not-so-welcome introduction to the district for the temporary employee.

On another occasion, the grand jury was told that board leadership pressured the interim chancellor to withdraw an offer to a candidate for an administrator position. The rumor floating around was that the candidate had offended labor leaders, and the excuse from board leadership for withdrawing the offer was that the position was not open. On another occasion, the grand jury was told that board leadership flatly refused to allow two leadership appointments to be placed on the board agenda.

The chancellor who started at Peralta in October 2019 moved executive appointments to the open session part of board meetings (like in many other districts) so that discussions would be more civil and trustees would be less likely to interfere with the impartiality of the formal hiring process. Unfortunately, the change in format did not stop the trustees from intervening in hiring decisions. Not long after, trustees voted down the chancellor's recommendation for a key vice chancellor position after a full and extensive search process. Prior to the meeting, one trustee even approached the chancellor warning that votes were not there for the hire, even naming the trustees who would vote no, raising concerns that a majority of trustees had privately discussed their positions.

Trustee efforts to control the makeup of the chancellor's core team represented an unhealthy, broken board culture. It made it difficult to retain administrators and even more difficult to recruit new hires because they were at risk of being berated and embarrassed by trustees, and even turned down after being recommended by a hiring committee and/or the chancellor.

One trustee objected to moving administrative hires to open session. The trustee would not accept the change moving forward and went on to vote against nearly every administrative hire until the chancellor's resignation regardless of the effect on students or the financial health of the district. The trustee voted no, abstained, or voted to table at least 15 personnel administrative actions/hires in a seven-month period. The grand jury was directed to view a board meeting in January 2020, two months into the chancellor's tenure. During the open session discussion of the chancellor's recommended hiring of a vetted independent contractor to provide legally mandated services, the same trustee claimed that there was an appearance of a conflict of interest because the chancellor had previously worked with the candidate at another district. When another trustee explained that there was no legal basis for that claim of conflict, the trustee said the position demanded absolute impartiality. The trustee then went on to question the candidate's qualifications claiming to have vetted the candidate by searching the internet. The trustee proposed the board reject the chancellor's recommendation and select another vendor. The whole discussion appeared to be an attack on the chancellor's credibility and judgement. While a majority of the trustees ultimately voted to support the chancellor's selection, filling essential positions to help operate the district was a daunting task and goodwill between the board and chancellor was evaporating.

On another occasion, when the chancellor sought to hire a key administrator, one trustee questioned the qualifications and accuracy of the candidate's resume in closed session. When the matter was later addressed in open session, two trustees voted against the appointment without comment.

The next month, trustees rejected yet another of the chancellor's appointments of a key administrator after a full and extensive search and hiring process. It should be noted that the candidate had gone through the process on two occasions and had been recommended for hire both times.

In July 2020, the chancellor recommended extending the appointments of five key administrators. A majority of the trustees voted to table the appointments claiming either they did not go through the normal agenda review process or candidates' resumes had not been provided to the board. It should be noted that most of the candidates had been working in the same or similar positions within the district, some for years, on an interim basis. The chancellor resigned later that week.

Shortly after an interim chancellor was appointed by the board, the board majority moved the discussion of administrative appointments back into closed session returning trustee control over the chancellor's hires, allowing them to circumvent the formal and independent hiring process.

Trustee efforts to control the makeup of the chancellor's core team represented an unhealthy, broken board culture. It made it difficult to retain administrators and even more difficult to recruit new hires because they were at risk of being berated and embarrassed by trustees, and even turned down after being recommended by a hiring committee and/or the chancellor. Further, the board's reliance on outside interference and cursory internet searches to vet candidates, and the common practice of offering interim positions and temporary contracts, eroded morale and resulted in a poor model of governance. What message is sent to prospective candidates when the chancellor recommends a candidate be hired but trustees downgrade the hire to a temporary or interim contract? One witness commented that it was difficult to ask interviewees if they would be committed to the district when it was clear that the district was not committed to them. Ultimately, trustee interference in fair hiring contributed to a glut of unfilled administrative positions over the years, jeopardizing services to students and overall operations of the district.

Merritt College

Fortunately, in early March 2021, the ACCJC interviewed Peralta representatives and opined that the trustees were, in fact, interfering with the chancellor's authority and should also be discussing administrative appointments in open session. The grand jury heard testimony that at least one board member changed their position and would support amending board policy to comply with ACCJC best practices.

Board Civility

Several complaints to the grand jury alleged a pattern of board incivility toward each other, the chancellor, and administrative staff. This behavior, which was not alleged against the new board members seated in late 2020, was characterized by testimony as disrespectful, hostile, embarrassing, and defamatory. We documented numerous instances of board members publicly bickering, finger-pointing and exhibiting hostile behavior during meetings. One trustee felt that board members did not know how to have a civil discussion, and that raised voices, interruptions, and being cut off resulted in some trustees feeling intimidated. One witness testified that during meetings, board members attacked the people and not the issues, losing focus on education and the students. In a response to a 2020 Peralta survey about the board, one administrator replied, "The board does not trust the administrative team, as evidenced by the type of questions asked under the loose rubric of financial oversight. This board views the executive team with contempt." Administrators lamented that the rude comments made by the board modeled the poorest behavior and made the current negative culture worse. Sadly, when one administrator was asked how they dealt with animosity from board members toward staff, they answered that they "keep their head down" as if trying to stay out of the line of fire.

Instances of uncivil behavior were characterized by testimony as particularly egregious in closed sessions, away from the public eye. Per the Brown Act, the board of trustees is allowed to meet in private with selected staff, but out of public view, in order to discuss sensitive matters often related to litigation, certain personnel matters, and labor negotiations. As these sessions are not recorded, the uncivil behavior of board members could be hidden and allow them to act with impunity. One witness described a closed-door exchange when a board member "screamed and yelled" at an administrator when the administrator, doing their job, cautioned the board member of inappropriate interactions with staff. In another instance, a board member accused an administrator of being untruthful, causing that administrator to leave the meeting in tears. Closed sessions of the board were described as an excruciating experience, where board members could act out without consequences because interactions were not open to the public.

Examples of board incivility were also documented in written form through the tone of messages and repeated "demanding" requests for information within a short timeframe. In one particularly disturbing written exchange, a board member sent an email with a draft letter to two other board members responding to State Chancellor Eloy Oakley's possible appointment of a special trustee at Peralta. The subject line of the email to the colleague board members was "Here it is…. Response to Eloy's BS." In the body of the email the board member states, "I've spent the entire night in a marathon session drafting a comprehensive response to this shit." The email continues with, "Let them dare to try to take us over for this weak shit," and "Let's kill them tomorrow. Let's go after the confidentiality violations." The vitriol used in this email is embarrassing and highly inappropriate. This is certainly not the kind of behavior we expect in a community college board member who is elected to serve the people of the district, especially when trying to respond to claims of board misconduct. The email itself evidenced the very misconduct of which some board members were being accused.

Grand jurors watched the video of the December 15, 2020, Peralta governance retreat where a moderator who was a past community college chancellor led the board members through a discussion of a survey they completed over the summer. Focusing on the leadership section questions, some board members rated themselves an average of "1" or very low (the lowest score they could get on a scale of 1-5) for the statement "Board discussions and relationships reflect a climate of trust and respect." For the statement "Board members exhibit integrity and professionalism in fulfilling their role," the board members rated themselves an average of "2" or low. The average rating for all questions in the leadership section was a "3." At least one trustee minimized their uncivilized conduct. The moderator cautioned the board members that this average is low and should be a "4+" if they are working in the way they should be. During this retreat, the moderator was candid in her assessment of the board members, saying, "Some of the behaviors that you have exhibited in your public meetings are embarrassing for the people watching. They're shameful, not representative of people running an educational institution.... I wonder about individual's ability to see their inappropriate behavior.... It's gone on so long you're not even able to recognize that you are behaving inappropriately." In response, some board members reflected on their past behavior, admitting that "the norm was pretty horrible" and "dysfunction is part of the norm."

It appeared that some board members tolerated and perpetuated the long-standing inappropriate behavior as a way to challenge the authority of and remove power from the chancellor. For example, in July 2019, a board member complained in an email to the board president about the board's desired characteristics for the new chancellor that combined shared governance with collective bargaining. The email implied that this interpretation meant that faculty and other staff did not work for the chancellor and that all decisions in the district would be negotiated on a continuous basis. The board member added that the bottom line was that "... the operation has been divided into enemy camps of a narcissistic nature and The Peralta Colleges have been rendered into a Street Gang style of behavior." Adding, "I consider this style of operating an organization to be a major factor in why Peralta is an obscene structure with an organizational behavior that leads to crisis management on a continuous basis." Further adding, "The gang style operation is focused upon power and authority, while totally devoid of ACCOUNTABILITY."

The desire for power and authority by some on the pre-2021 board is not only demonstrated in this overt attempt to modify the governance structure, but in the day-to-day relationship with the chancellor. Control of setting the board agenda is a prime example of the board exerting inappropriate control over the chancellor. In one instance the chancellor was thwarted by board leadership from placing an item on the agenda because "the board majority wouldn't like it." In other instances, the chancellor was simply prevented from placing contractors, staff, and vendor agreements on the agenda. Witnesses testified that lower-level staff would bypass the chancellor and go directly to board members, and board members would welcome these interactions. Board members would also bypass the chancellor and go directly to staff members to request actions or information. Allowing board members to go around the chancellor directly to Peralta staff reflects a broken governance structure and undermines the chancellor's delegated authority to run the day-to-day operation of the district. One witness said, "There is a continuous lack of trust that is fostered at the board level, which hampers people's trust in the delegated authority of the executive team. Given this, an inordinate amount of time is spent dealing with issues that should not be the central focus of a 'students first' mentality or helping us improve outcomes for students."

While the uncivil behavior by board members was described as long-standing and had become the norm, leadership failed to manage the situation.

The board is not without guidance in how to appropriately conduct themselves. BP 7380, Ethics, Civility and Mutual Respect, states that "We (members) are expected to treat each other with civility and respect, recognizing that disagreement and informed debate are valued in an academic community." Further, "Behaviors that unduly interfere with the ability to learn or work in the college environment depart from the standard for ethics, civility and respect and are unacceptable." Additionally, BP 2715, Code of Ethics and Standards of Practice, include statements requiring board members to avoid conduct that is disruptive and treat everyone who interacts with the board with respect. Some board members failed to adhere to these existing board policies. From the 2020 administrative survey about the board, respondents echoed the retreat moderator, saying, "This board does not understand normal board behavior" and "board behavior has damaged both the integrity and reputation at Peralta."

The enforcement of board policies is the responsibility of the board leadership. Surprisingly, not one witness the grand jury interviewed testified that the board president or vice president had stepped up and stopped the hostile and uncivil exchanges. The task of stepping up was left to other board members and administrators. While the uncivil behavior by board members was described as long-standing and had become the norm, leadership failed to manage the situation. For example, one board member was so frustrated and tired of being attacked that they emailed a complaint to the board president threatening legal action. In this complaint, the board member described persistent "grievous and egregious conduct" during closed sessions. This behavior was witnessed by the board president, who according to the complainant, "allowed the behavior to continue without checking it." The board member was so uncomfortable with the situation that they threatened to hire outside counsel at district expense to remedy the problem. This lack of leadership contributed to a demoralized environment, where morale was described by one witness as "terrible." There was a lack of trust among board members and staff, with another surveyed staff member writing, “Board behavior directly contributes to low morale among long term employees and frequent turnover of senior executives….”

Civility is a core ethical value that underpins the ability of someone to honestly share their own ideas, while treating others who disagree with respect. At the December 2020 board retreat, the board agreed and later adopted a “Statement of Cooperation” which is read at the beginning of each board meeting in an attempt to define board behavior to help re-establish best practices and civility. Regrettably, district policies (AP7380/BP2715) surrounding the very same issues related to civility have already been in place for years, yet some board members routinely ignored them.

Racial Insensitivity

The chancellor’s resignation letter of July 2020 included an accusation that some trustees openly acted with hostility and contempt for administration, particularly African American staff. Just after that, a more specific complaint was raised by two then-serving trustees to the state chancellor about a climate and pattern of racial hostility predominantly aimed at Black executive leaders. The claim alleged that the administrators were frequently addressed in public board meetings in a hostile, dismissive, and condescending manner.

These statements followed a formal employee complaint which included claims of racially motivated mistreatment of staff by trustees. The complaint led to an independent investigation which validated that some inappropriate statements were made but concluded that the statements were not racially motivated. Ultimately, legal action was filed by the complainant on multiple grounds and the district agreed to pay an unspecified amount to settle the case.

In response to these accusations, the grand jury included this topic when questioning witnesses. The grand jury heard testimony that both administrative staff and individual trustees felt intimidated and threatened by other board members. Several witnesses testified that some on the board were disrespectful to people of color. One witness testified that some board members fostered or tolerated a hostile climate for Black administrators and others. The grand jury received testimony that this behavior was demonstrated by the board in their frequent and persistent complaints about the competency of the largely Black leadership team. At the same time, there was a complaint that some members of the board were unwelcoming to white candidates. One administrator, a person of color, stated that they dreaded bringing forth qualified white candidates before trustees because of the invariable pushback they would receive. Some non-administration witnesses flatly denied allegations of racial insensitivity, noting that the board had hired four straight (now five) Black chancellors in a row and all but one then-serving trustees who were accused were people of color themselves.

It appeared that many inappropriately aggressive comments were directed towards Black administrators. During one board meeting, a member of the public recounted an incident when a board member reached out to a student trustee to discourage the student from supporting the most recent Peralta bond measure and during the conversation stated the chancellor was a poor manager of funds and had hired too many Black women. Through additional investigation, the grand jury received additional information that the board member allegedly stated that internal problems at the district were based on the chancellor hiring too many African Americans. When confronted with these allegations, the trustee denied using those words which were inconsistent with their values but claimed they may have said that Latinx and Asian/Pacific Islanders were significantly underrepresented at Peralta. On another occasion during a March 2020 board meeting, the same trustee, when speaking about the chancellor's emergency authority at the start of the pandemic, stated that they wanted a "shorter leash" on the duration of the chancellor's power. When called out by the chancellor and another trustee about using the term "shorter leash," the trustee made no attempt to apologize. When asked by the grand jury about the statements, the trustee absolutely denied any and all racially hostile behavior or intent towards Black administrators.

> *Ultimately, the evidence suggests that some trustees fail to recognize the negative impact of their words and tone, whether spoken or within emails, when communicating with Black administrators and staff. Peralta, a district that prides itself in diversity, is often divided into camps based on race.*

One administrator told the grand jury, "I did not know whether the trustees treated me so badly because I was Black or because they thought I was stupid." The statement powerfully exhibited how such disrespectful treatment of staff has irreparably damaged morale at the administrative level and repeatedly discouraged a team approach to governance.

Board action or inaction also contributed to racial tensions. It was not uncommon for members of the public and some staff while discussing labor issues to berate administrators who were often African Americans during public meetings. While the board cannot be responsible for public comment, board leadership has an obligation to address inappropriately aggressive behavior directed at administrators. In many of these instances, board leadership did little to stop the inappropriate attacks.

Ultimately, the evidence suggests that some trustees fail to recognize the negative impact of their words and tone, whether spoken or within emails, when communicating with Black administrators and staff. Scientific American published an article in PsySociety written by Melanie Tannenbaum on October 14, 2013, which states the case for considering impact vs. intent. She wrote:

> *"The overall message in all of these conversations is that when someone does something hurtful or offensive to another person, the perpetrator's intent is not what's most important when gauging the appropriateness of an action -- in fact, many would say that it is inherently privileged to redirect the focus of a conversation to the perpetrator's (presumably harmless) intentions, rather than focusing on the feelings and experiences of the person who has been harmed. So, the point is that we really need to focus on impact, not intent. Was someone hurt by something? Was there a negative outcome? Did someone suffer? If so, that is what's important. Whether or not the perpetrator meant to cause harm is not."*

Peralta, a district that prides itself in diversity, is often divided into camps based on race. Board communications to staff greatly contribute to this and stand in the way of any hope for trustees and administrators being part of the same team. As stated by multiple witnesses, these hostile interactions contributed to many staff members leaving the district.

Brown Act Violations

The grand jury received multiple complaints that very late in the evening of July 18, 2020, just after the chancellor announced her resignation, four members of the Peralta board met secretly with academic and labor leaders in order to discuss strategies to fight the threatened state takeover of the troubled district. The grand jury heard testimony that three other trustees were intentionally excluded from this meeting. Private meetings to discuss district business between a majority of an elected board is a direct violation of the Brown Act, the state's open meeting laws which help protect the sanctity of participatory governance in California. The grand jury learned that after the late night meeting, one trustee participated in another meeting the next morning with a majority of the Peralta Academic Senate and other academic and labor leaders, again in violation of the Brown Act.

The Brown Act is one of the cornerstones of open and transparent government in California. Enacted in 1953, the act ensures that the public has both notice and access to meetings of local government agencies so that key discussions and deliberations between elected leaders do not take place behind closed doors without public input or scrutiny. The Brown Act specifically requires that agencies provide the public with formal notice of meetings and agendas containing the subjects to be discussed. Ultimately the meetings must be publicly accessible and provide the public with the opportunity to participate. Any gathering or communication through which a majority of the legislative body discusses, deliberates or takes action on an item of agency business outside of a noticed meeting violates the Brown Act.

The meeting among four Peralta trustees was said to have occurred two days after the district's chancellor had abruptly delivered her resignation to be effective approximately one month later. The resignation letter made a number of accusations of board misconduct and interference in the chancellor's responsibilities echoing many of the governance problems raised earlier by the CCC State Chancellor. Earlier in the day on Saturday, July 18, the board held a publicly noticed special meeting when, in closed session, they formally placed the chancellor on paid administrative leave and voted to immediately terminate the district's general counsel who also served as the chancellor's chief of staff.

The grand jury heard that the late-night meeting was a strategy session to organize opposition to the threat by the CCC Board of Governors to appoint someone to take over the district abrogating the Peralta board's authority. The CCC Board of Governors had previously been warned by a state appointed fiscal monitor, FCMAT, and other sources that the Peralta board continued to engage in behaviors that undermined the Peralta chancellor. The CCC Board of Governors was worried that such conduct would impede efforts to correct Peralta's well-known fiscal challenges. The resignation of the chancellor was further evidence supporting this view and could only exacerbate the threat of a state takeover.

A healthy culture of governance certainly did not exist at Peralta in 2020 and the years preceding.

The grand jury heard testimony from multiple participants of the Saturday night Zoom meeting that it started at about 10:30 p.m., lasted until about midnight, and heard credible testimony that four then-serving trustees (which constitutes a majority of the board) were present for parts of the meeting. The jury also confirmed that the discussion focused on how the chancellor's resignation letter would affect the upcoming CCC Board of Governors decision where Peralta's governance fate would be discussed. The grand jury also confirmed that trustees supporting state intervention were not welcome to the Saturday night meeting. One trustee acknowledged that they were invited and knew what was discussed but could not remember whether they were on the Zoom meeting but added they "might have been there." However, other testimony confirmed the trustee's presence. As a result, the grand jury did not find the trustee's confusion credible. Another trustee stated they were on the Zoom meeting for only a few seconds because it was poorly organized and chaotic, and they did not know who participated or what was discussed. A third trustee also acknowledged being on the Zoom call but only for a few minutes. They thought they had been invited by another board member to discuss Peralta's path forward but left the meeting because of its inefficiency. Finally, the only trustee who participated Saturday night and, as a result, later met with Peralta students, labor representatives and a majority of the District Academic Senate the next morning, could not recall the timeline regarding any of the meetings or who participated but denied a majority of the board was present at any meeting, acknowledging it would violate the Brown Act. The grand jury was extremely troubled by the testimony of some of the trustees about this matter, concluding that some trustees were evasive and not forthright with the grand jury. While the four trustees may not have been on the Saturday night Zoom meeting at the same time, if four participated at some point, it would still amount to a violation of open meeting laws.

The Brown Act not only applies to elected local boards but to any subcommittee or task force created by the elected body which has a definite, ongoing charge (either decision-making or advisory) (CA Government Code 54952). This includes the academic senate of a local community college district. At Peralta, the District Academic Senate represents the faculty senates at each college and faculty members. It makes recommendations to the college administration and governing board regarding academic and professional matters. It is made up of three members from each of the district's four colleges along with an elected president (13 in total). The job description of the District Academic Senate president specifically requires that the president observe the letter and spirit of all applicable laws, especially the open meeting laws.

These examples of meetings in violation of the Brown Act appear to establish a deceptive pattern and practice at Peralta. Secret meetings violate public trust. Shutting out the public and board members who do not agree with edicts can create a poisonous atmosphere where students' needs give way to the need to win political battles.

The grand jury heard testimony and received screenshots of a Zoom meeting on Sunday, July 19, 2020 where a majority of the then serving District Academic Senate and one trustee discussed organizing efforts to prevent the State Chancellor's Office from intervening at Peralta. The testimony and transcripts of the Zoom chat window, consistent with the time/date and topics discussed, confirmed that the group was talking about district business in violation of the Brown Act. During the meeting, the attending trustee posted in the Zoom chat window a very comprehensive list of organizations who should be enlisted to stave off a state takeover. Ironically, one faculty participant (not on the district academic senate) asked in the Zoom chat, "Where are the other trustees?" While this meeting's violation of the Brown Act falls on the District Academic Senate and its president who participated, the Peralta trustee's participation was also inexcusable, especially since the trustee was a self-described Brown Act expert.

The trustee was asked by the grand jury about this meeting and could not confirm any of the specific details but acknowledged that many meetings on similar subjects occurred. The trustee also denied knowing the structure of the District Academic Senate and who the 13 members were. The grand jury did not find this credible. First, the trustee has years of training and experience in applying and interpreting the Brown Act. In addition, months earlier, the trustee hosted a meeting at their home with District Academic Senators from the previous Academic Senate term to discuss strengthening the role of the Peralta Academic Senate (constituting district business). Eight people were invited, including seven then-sitting District Academic Senators including the president and a former president. In the email invitation, the trustee noted that the invitees were chosen because of the trustee's previous relationship with them. Whether a majority of the Academic Senate attended or not, the trustee should certainly have known that these actions were inviting academic senators to violate the Brown Act.

Many violations of the Brown Act amount to hasty decisions or errors in judgment while others represent a deeper culture where policies, procedures, and best practices give way to unchecked political might. These examples of meetings in violation of the Brown Act appear to establish a deceptive pattern and practice at Peralta. Secret meetings violate public trust. Shutting out the public and board members who do not agree with edicts can create a poisonous atmosphere where students' needs give way to the need to win political battles. Excluded board members have no incentive to build collaborative relationships with those in power. Such collaboration is essential in most well-functioning governance relationships. Executive staff excluded from such meetings have testified that their authority had been undermined. The Saturday night meeting with a majority of the elected board in attendance is strong evidence of a broken board governance culture at Peralta. One trustee's participation and organization of the Sunday morning meeting was further disregard of good governance and the rule of law. A healthy culture of governance certainly did not exist at Peralta in 2020 nor in the preceding years.

CONCLUSION

Effective educational institutions that foster learning and achievement most often excel by delivering programs and services laser-focused on students. Per the ACCJC, ethical and effective leadership throughout an organization is an essential component that helps lead to such success. Over the better part of the last decade, Peralta's Board of Trustees have lost sight of this with board members' infighting and some treating executive leadership as the enemy while battling for control amongst themselves. While state educational authorities warned the institution was in threat of financial insolvency and its colleges were dangerously close to losing accreditation, the Peralta Board of Trustees failed to use a team approach to solve the problems it faced.

In 2019, the board brought in a new chancellor who began to address many of the state's financial concerns, yet individual trustees' insistence on controlling the traditional roles delegated to the chancellor contributed to her resignation in less than nine months. The chancellor's letter of resignation highlighted unhealthy board governance that had lasted for years. Controlling administrative hires, encouraging a culture of infighting, and disrespectful exchanges at meetings were common occurrences and confirmed by the grand jury. Black administrators felt as though the attacks were racially motivated. Claims of backroom dealing and secret meetings displayed abandonment of good governance and sound ethical standards. Renewed calls by state educational authorities to address governance required action. The grand jury acknowledges and commends the Peralta Board of Trustees for adopting a board Statement of Cooperation that was the culmination of a longer process of self-evaluation in 2020. It is also commendable that the board brought in FCMAT and consultants to develop plans to address many of FCMAT's recommendations for change. The board also moved quickly to fill the chancellor's position after a series of resignations, yet there is significant concern by many that some key reforms may be abandoned. Problems related to long-term declining enrollment and fiscal instability demand leadership, vision, and collaboration between trustees and administrators. As one statewide educational expert warned, the Peralta board will continue to get in trouble, make small efforts to improve, then go back to their old ways. Within months of the adoption of the statement of cooperation, another chancellor, who was serving in an interim capacity, resigned and the grand jury found that some of the key ongoing board governance concerns have not been resolved.

Cohesion, civility, trust, and mutual respect are critical elements of an effective governing board. Tension, poor communication, lack of unified goals, and divisive individual behavior at Peralta have resulted in the board's inability to fulfill its mandate effectively. Interference in the traditional roles of the chancellor, secret meetings, and backroom dealing destroy staff morale and the board's relationship with the administrative team. Without reform or change in board behavior, Peralta's students, so in need of this essential institution, will continue to suffer.

FINDINGS

Hiring Interference

Finding 21-1:
Interference in the chancellors' recommended appointments of management employees by Peralta trustees between 2018 and 2020 irreparably damaged the chancellor/board governance relationship.

Finding 21-2:
Individual board member interference in the formal hiring process of management employees between 2018 and 2020 by performing informal vetting and challenging the formal recruitment/vetting process and chancellor recommendations, irreparably harmed the chancellor/board governance relationship.

Finding 21-3:
Holding closed session discussions to reevaluate the formal recruitment/vetting process and chancellor recommendations of management employees between 2018 and 2020 compromised the fair and independent hiring process.

Finding 21-4:
Peralta Board Policy 7110 which gives the Peralta Board of Trustees the power to approve the appointment of management employees was interpreted by the board between 2018 and 2020 in a manner that conflicts with Board Policy 2430 Delegation of Authority to the Chancellor and the portion of Board Policy 7110 that delegates the authority for human resources to the chancellor.

Incivility

Finding 21-5:
Individual board members' incivility and harsh treatment of other trustees and administrators between 2018 and 2020 damaged staff morale and compromised the authority of the chancellor and other administrators.

Finding 21-6:
The 2018-2020 Peralta Board of Trustees failed to recognize that disrespectful and demeaning comments directed at staff were interpreted as racially insensitive which consequently damaged district morale and board/administrator relationships.

Finding 21-7:
Board leadership between 2018-2020 consistently failed to intervene consistent with board policies in situations where board members and staff were treated in an uncivil and harsh manner by other board members and the public.

Brown Act

Finding 21-8:
During the late-night hours of July 18, 2020, a majority of the Peralta Board of Trustees secretly met with academic leaders to discuss district business, excluding the public and three trustees who would have disagreed with the purpose of the meeting. The gathering violated the sanctity of participatory governance in California as described in the Brown Act.

Finding 21-9:
On the morning of July 19, 2020, a majority of the Peralta Academic Senate met secretly to discuss district business with other academic leaders and one Peralta trustee without proper notice and public access. The gathering violated the sanctity of participatory governance in California as described in the Brown Act.

RECOMMENDATIONS

Recommendation 21-1:
The Peralta Board of Trustees must participate in an annual training that examines the relationship between the board and chancellor and governance best practices.

Recommendation 21-2:
The Peralta Board of Trustees must amend the portion of Board Policy 7110, which gives the board of trustees the power to approve appointment of management employees to ensure it does not conflict with Board Policy 2430, Delegation of Authority of Chancellor, and the portion of Board Policy 7110 that delegates the authority for human resources to the chancellor.

Recommendation 21-3:
The Peralta Board of Trustees must adopt a staff and executive staff hiring policy consistent with ACCJC best practices and recommendations.

Recommendation 21-4:
Peralta board leadership must commit to intervene, consistent with board policy, in situations where trustees or public speakers are verbally attacking staff or other trustees.

Recommendation 21-5:
The Peralta Board of Trustees must participate in training combatting racial insensitivity and implicit bias (Diversity, Equity, Inclusion and Belonging/DEIB).

Recommendation 21-6:
The Peralta Board of Trustees and Peralta Academic Senate must participate in additional training regarding the Brown Act, illegal meetings, and closed session ethics.

Recommendation 21-7:
The Peralta Board of Trustees must post proof or acknowledgement of all completed board training on the board web page.

Recommendation 21-8:
Individual members of the Peralta Board of Trustees must participate in an annual 360 evaluation, including a behavioral component. This evaluation must include staff input and the results must be discussed during a public meeting.

Recommendation 21-9:
The Peralta Board of Trustees must discuss the findings and recommendations of this report during a public meeting.

REQUEST FOR RESPONSES

Pursuant to California Penal Code sections 933 and 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.

Responses to Findings shall be either:

- Agree
- Disagree Wholly, with an explanation
- Disagree Partially, with an explanation

Responses to Recommendations shall be one the following:

- Has been implemented, with a brief summary of the implementation actions
- Will be implemented, with an implementation schedule
- Requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a completion date that is not more than 6 months after the issuance of this report
- Will not be implemented because it is not warranted or is not reasonable, with an explanation

RESPONSES REQUIRED

Peralta Community College District Board of Trustees	Findings 21-1 through 21-9 Recommendations 21-1 through 21-9

RACIAL INEQUITIES IN POLICE RESPONSES TO VICTIMS' NEEDS

EXECUTIVE SUMMARY

Over the past 30 to 40 years, assessments of the criminal justice system have increasingly considered the victims of crime. Although the focus understandably remains on crimes committed, apprehending suspected perpetrators, and bringing criminal charges through the courts, public policy has emphasized the status of victims – understood not only as the persons injured by crime, but as vital participants in establishing justice following in the wake of their trauma.

In California, victims' rights are enshrined in the state constitution as Marsy's Law, approved by voters in 2008. Decades earlier, California created the nation's first victims compensation program, now administered by the California Victim Compensation Board (CalVCB). The board today is responsible for implementing a program designed not only to provide compensation to victims, but also for administering state law requiring liaisons with the police, outreach efforts to victims, and other related programs.

The grand jury examined several programs and policies dedicated to recognizing the role of victims in the administration of justice. Our specific focus, based on a complaint received from a concerned citizen, was on racial disparities in the ways support and assistance are provided to crime victims in Alameda County, and specifically in the City of Oakland. We investigated compliance with a state law requiring the police to designate a victim liaison officer, the racial dimensions of victim compensation award decisions, and the unsolved homicide rate in Oakland.

The grand jury found that the Oakland Police Department (OPD) has not generally provided the level of attention and support for victims contemplated by current law and policy. For example, OPD had failed to appoint a victim liaison officer, even though the role has been mandated by state law since 2019[1]. Our investigation also found concerning racial inequities in the granting of awards of compensation to victims of crime, specifically involving the denials of awards based on a victim's "cooperativeness" with the police. When considered in the context of the extreme racial disparities in crime and crime victimization in Oakland, the general inattention to victims evidenced by our findings raises important questions of racial inequality in another aspect of the criminal justice system.

[1] The position was filled in April 2021.

BACKGROUND

The grand jury sought to understand levels of racial disparity in serving the needs of crime victims and their families, particularly in the context of evident disparities in rates of crime and victimization in the City of Oakland.

The national focus on racial justice and policing that followed the murder of George Floyd in May 2020 struck a familiar chord with many residents of Alameda County. For years, the City of Oakland and its police department have been the subjects of a series of controversies involving accusations of police misconduct, including officer-involved shootings, racial profiling, and civil rights violations. Since 2003, the Oakland Police Department has operated under an independent monitor appointed by a federal judge, part of a negotiated settlement agreement mandating reforms that OPD has yet to fully implement. Efforts to rebuild community trust have continued in the face of these challenges as city and police leaders cope with repeated confrontations and incidents, staff turnover, limited budgets, and political pressures. Notably, these controversies have been set against a backdrop of significant racial disparity in rates of crime and victimization evident across the city's neighborhoods. For example, of the 948 victims of Oakland homicides between 2008 and 2017, 38 were Asian, 53 were white, 147 were Latinx, and 691 were Black[2].

Emergency Responders at an Oakland Crime Scene

Over this period, several studies and initiatives have examined and sought to improve OPD's practices and community relationships. Studies generated for OPD have aimed to improve how OPD provides information and services to victims of violent crimes and their families. In 2017, a partnership between the Urban Institute and the Urban Peace Institute was formed to review and assess OPD's response to shootings and homicides. Participants included family members of homicide victims, shooting survivors, officers and investigators who respond to shootings and homicide scenes. In part, the study found survivors and family members did not always perceive that they were treated fairly, or that OPD was transparent and impartial in its actions and decisions.

[2] Based on the most recent available data provided to the grand jury by OPD.

In January 2020, the University of California-Berkeley, School of Law published *Living with Impunity: Unsolved Murders in Oakland and the Human Rights Impact on Victims' Family Members* *(UCB Report)*. The report chronicles how the families of 16 Oakland murder victims experienced police interactions as their unthinkable tragedies unfolded, and afterward. The UCB Report found OPD severely lacking in practices and policies critically needed to address crime victims and family members, and that these gaps create an additional level of racial injustice on communities of color already burdened by the highest rates of violence and victimization in the city. The report's authors recommend that OPD, together with city officials and victims' services providers, implement a series of collaborative actions centered on victims and their family members, and identify ways that police policies and methods can be changed to reduce, rather than exacerbate, challenges faced by crime victims, particularly in the areas of the city hardest hit by violent crime.

INVESTIGATION

The grand jury sought to understand levels of racial disparity in serving the needs of crime victims and their families, particularly in the context of evident disparities in rates of crime and victimization in the City of Oakland. In our investigation, we focused on the victim compensation component of the victim service programs in Oakland and Alameda County and the personnel responsible for delivering them. We wanted to learn how, when and from whom victims and their families receive information about services and benefits. In California, victim compensation and support programs are regulated by state law and implemented at the county level.

In Alameda County, victim services programs are administered by the District Attorney's Office Victim-Witness Assistance Program. This program includes a victim advocacy group which focuses on victims' needs and follow-up services, and a victim compensation claims group that focuses on processing claims for compensation to victims of violent crime based on state mandated guidelines. In this report, we refer to the victim compensation claims group as the "claims group." We focused our investigation on the racial disparities in compensation awards. We sought to understand the interdependency among agencies, the ways they share information, and how their practices impact crime victims. For example, we examined the interactions among crime victims, the claims group, and police departments when processing applications for compensation.

Lake Merritt, Oakland, CA

During our investigation we interviewed nine witnesses, including current and former officials of OPD, the City of Oakland, the Oakland Police Commission, the Alameda County Sheriff's Office and Coroner's Bureau, the District Attorney's Office Victim-Witness Assistance Program, and leading community organizations focused on victim services. We also examined relevant policies, records and public access websites of those and other county and municipal agencies, including several police departments, as well as statistical data obtained from the claims group on victim compensation awards relating to crimes in Alameda County since 2015. We reviewed the requirements and processes crime victims and family members must follow to request compensation, and the most common reasons for denying these requests. We consulted relevant provisions of the California Government Code and related regulations governing requirements for victim-police liaisons as well as victims' compensation. Finally, we reviewed research that may point the way to change, offering strategies to improve policing in ways specifically addressing victims' experiences, including the report of the Urban Institute/Urban Peace Institute and the UCB Report.

Issues Involving the Requirement for a Victim Liaison Officer

Oakland Street Sign

Recognizing the benefits that flow from an enhanced focus on victim support, California law requires every law enforcement agency in the state to help publicize and support victim compensation programs and services. State law also requires law enforcement agencies to designate a victims of crime liaison officer. This is a designated member of the police department, as distinct from staff of the District Attorney's Office who may be known as "victim liaisons." The liaison officer is required to implement various procedures designed to assist victims in applying for compensation and to obtain other support services. Regulations require police to notify all victims of crimes (or their dependents) about victim assistance programs at the time of the crime or as soon as possible afterwards. The notice must be given in person or by email, or in conjunction with local victim-witness assistance centers. Regulations also require that new police officers must be informed by their superiors about victim services programs upon entering service, and that the program must be part of new officer training.

In addition to these state law requirements, OPD policies (General Orders O-07, effective November 10, 2000) include a directive defining the duties of a victims of violent crime liaison officer. These include a number of responsibilities consistent with the role required by state law. Much of the OPD directive mirrors that of the state-mandated position and appears intended to have a connection.

Although the designation of a victims of crime liaison officer has been mandatory under state law since January 1, 2019, OPD had not complied either with the state mandate or its own policy requirements until after the issue was raised by the grand jury in early 2021. At the time of their interviews, witnesses stated that OPD intended to fill the position and had received grant funding for it but were unsure when the role would be filled. Another witness said OPD previously maintained a liaison officer position that liaised with the District Attorney's Office, but that this position has not existed for the past ten years. Members of the District Attorney's Office who liaise with OPD in connection with the compensation applications they process from victims were not aware of a designated liaison officer at OPD prior to the recent hiring. In many cases, they primarily relied on non-sworn personnel to gather information from detectives in connection with victim requests for compensation. Witnesses who were candid about organizational strengths and weaknesses were often surprised to learn about legal requirements for the victim liaison officer.

Although the designation of a victims of crime liaison officer has been mandatory under state law since January 1, 2019, OPD had not complied either with the state mandate or its own policy requirements until after the issue was raised by the grand jury in early 2021.

Oakland Police Department

In a racially diverse city where the majority of victims of violent crime are Black, the failure to address all victims' rights and needs becomes a matter of racial justice. OPD has shown the organizational capacity to provide these kinds of resources in response to felt policing needs. For example, in early 2021, following several crimes in Oakland's Chinatown district, OPD Chief LeRonne Armstrong and Mayor Libby Schaaf announced the assignment of a liaison officer to the Chinatown neighborhood. At the same time, Chief Armstrong announced a liaison officer for the Fruitvale district in response to an increase in robberies and homicides in that area. These recent events illustrate OPD's ability to assess a problem, allocate designated resources, and quickly execute a program to address community issues. Given this ability, it is unclear why a state-mandated position devoted to the same purposes went unfilled for over two years.

OPD must move quickly to embrace the victims of crime liaison officer position. In addition to complying with a state law and its own policy requirement, a liaison officer enables OPD to take advantage of training and materials that the California Victim Compensation Board provides to every law enforcement agency annually.

Racial Disparities in Victim Compensation Denials

The claims group reimburses eligible victims of violent crimes for specified crime-related expenses. Reimbursable expenses include income loss, funeral and burial expenses, mental health counseling services, and relocation, among others. The program is funded by restitution payments and fines paid by criminal offenders, which are continually appropriated to the program, as well as federal funds. In 2019, the claims group granted approximately $3.1 million in victim compensation to Alameda County residents (and non-county residents in connection with crimes that occurred in the county). Compensation awards average around $1,000, and roughly $2,000 on average for homicide-related claims. The maximum award payable for any claim is $70,000.

To apply for financial assistance, claimants must file an application for victims of crime compensation. To qualify, requirements include:

- the crime must result in physical injury or a threat of injury to the victim;
- the crime must be reported to law enforcement;
- the victim/family must cooperate with law enforcement;
- the victim must not have contributed to the events which lead up to the crime; and
- the filing deadline is generally seven years from the date of the crime/incident.

The claims group evaluates the applicant's information (application, police report, and other pertinent documents) and will often assist the crime victim or family in getting their bills paid by their insurance company, worker's compensation or Medi-Cal. The average processing time based on data reviewed by the grand jury is approximately 72 days; state law requires a processing time of no more than 90 days on average and no more than 180 days for any individual application. After reviewing the applicant's information, a decision is made by the claims group to deny or pay the claim. Applications can be denied for one or more reasons, including if the review determines that the victim failed to reasonably cooperate with law enforcement or the claims group, or that the victim was involved in events leading to the crime.

Why are Compensation Requests Denied?

The grand jury reviewed statistical breakdowns of Alameda County applications for victim compensation received for the five-year period from 2015 through 2019, including applications in connection with homicides (*See Appendix A for detailed data breakdown*). Over the five-year period, Black applicants (based on voluntary self-identification on the application form) filed a total of 5,241 applications (34.6% of all such applications), compared to 1,677 applications filed by white claimants (11.1% of the total). The data reveal several concerning disparities in the denial rates between Black and white applicants:

- Overall, Black applicants received 42.2% of all denials, whereas white applicants received 10.3%. Considered as a percentage of applications submitted by each racial group, 26.8% of Black applicants were denied compared to 20.3% of white applicants. Over the five-year period, the overall denial rates for Black applicants were consistently higher than for white applicants.

- Focusing on specific reasons for denials, Black crime victims and family members applying for compensation were more than twice as likely as white applicants to have their applications denied for "lack of cooperation with law enforcement" (9.8% of Black applicants denied for this reason compared to 4.7% of white applicants). Black applicants made up approximately 51.8% of all those denied funding for this reason, compared to 7.9% for white applicants.

- Similar disparities were observed in applications that were denied for "lack of cooperation" with the claims group. Black applicants were again more than twice as likely as white applicants to be denied for this reason (4.1% of Black applicants compared to 1.9% of white applicants). Black applicants made up approximately 51.4% of those denied for this reason, compared to about 7.6% for whites.

"Lack of cooperation with law enforcement" and "involvement" denials are based to a greater extent on subjective judgments of law enforcement compared to other reasons for denial. As a result, there is a greater risk that overt and implicit bias will affect these determinations to the applicant's detriment.

- Disparities were also observed in denials based on "involvement in events leading to the crime." Black applicants were almost twice as likely as white applicants to be denied for this reason (7.1% of Black applicants compared to 3.9% of white applicants). Black applicants constituted approximately 49.7% of all applicants who were denied for this reason, compared to about 8.9% for white applicants.

Factors Involved in "Cooperation" and "Involvement" Determinations

"Cooperation" and "involvement" denials stood out to the grand jury compared to other decisions and actions that do not reflect similar levels of disparity among racial groups. For example, Black applicants received 34.6% of all victim compensation awarded over the five-year period, commensurate with the percentage of all applications submitted by Black applicants (white applicants received 13.5% of funds awarded during the five-year period). Similarly, application processing times were on average roughly the same for Black and white applicants, and application denials for "lack of preponderance of evidence" or for "not covered crime" were likewise roughly similar for Black and white applicants.

The more significant disparities in compensation denials based on "lack of cooperation" and "involvement" indicate these specific reasons are the primary causes of the overall racially disparate outcomes in victim compensation award decisions. Hence, the grand jury sought to understand the basis for these determinations and concluded that several factors may play a role.

- First, the claims group relies on information provided by law enforcement to determine whether an applicant "reasonably cooperated" with law enforcement or was involved in events leading to the crime. In the application process there is generally little or no opportunity for the applicant or victim to provide information relevant to these determinations.

- Second, as a matter of practice, the claims group does not take responsibility to resolve (nor does the claims group appear responsible for resolving) disagreements or misunderstandings between applicants and law enforcement on questions of "cooperativeness." This is even though, under state law, the claims group is responsible for objectively establishing the reason for denying an application. An applicant may not be aware of an "uncooperativeness" determination until a denial decision has been made. At that point, the victim's only recourse is to appeal within 45 days of the denial. However, the appeal process will generally not revisit the basis for the original denial unless the victim can successfully introduce new evidence in support of his or her original "cooperativeness." If applicants disagree with information provided by police that led to an uncooperativeness denial, the claims group personnel generally do not weigh in on the question. To the extent there is already a lack of trust between communities of color and the police, this approach is unlikely to resolve errors, misunderstandings or misplaced assumptions underlying police conclusions about cooperativeness or involvement.

Greater emphasis by OPD and city officials on the programs mentioned in this report may lead not only to improved compliance with state mandates and progressive policing practices, but may also improve traditional measures of law enforcement performance.

- Third, "lack of cooperation with law enforcement" and "involvement" denials are based to a greater extent on subjective judgments of law enforcement compared to other reasons for denial. As a result, there is a greater risk that overt and implicit bias will affect these determinations to the applicant's detriment. The grand jury consulted with a local expert knowledgeable about OPD's practices as well as victims' experiences. This witness stated that a police officer's conclusion that a victim or family member is uncooperative necessarily attributes a state of mind to the person, which is more likely to reflect overt or implicit biases on the part of the person drawing the conclusion. Individual racial bias (including overt prejudice as well as implicit bias) and systemic racial bias are more likely to be reflected in such subjective determinations, as compared to more objective reasons for denying victim compensation claims, such as filing an untimely application or claiming compensation for a crime that is not covered by the program. Further analysis is needed on the specific methods and language used by police to understand the effects of overt, implicit, and systemic bias on law enforcement determinations of cooperativeness and involvement.

- Finally, state law requires that several mitigating factors must be considered when reaching conclusions about the reasonableness of a victim or family member's cooperation. These factors include the victim or family member's age, physical condition, psychological state, cultural or linguistic barriers and any compelling safety concerns, such as the victim's fear of retaliation. Under the state statute, due consideration must be given to the degree of cooperation that the victim is capable of, in light of the presence of any of these factors. It is unlikely that information provided by law enforcement, which strongly influences cooperation determinations, adequately reflect these required considerations. To the contrary, one witness reported the experience of an OPD officer questioning a shooting victim soon after the crime. The victim was on a hospital gurney in the hospital emergency room. In physical distress from the shooting as well as intoxicated, the victim was unwilling to speak to the officer. The witness reported that such events can often lead to determinations of uncooperativeness, pointing to the need for more awareness training for law enforcement.

<u>Victims Compensation Group Awareness of Disparity Issues</u>

The grand jury learned that the claims group has been aware of the disparities discussed above for some time but has not yet determined the specific reasons for the disparities or any actions in response. The grand jury is not aware of any actions that have been taken or that are planned to address the concerns evident from the data.

Resource Notification Issues

Under a state law known as Marsy's Law, police are required to notify victims or their families of the existence of victim-witness assistance centers. In addition, according to OPD's Departmental General Order O-07, a resource card must be issued to all victims of violent crime. Based on the description in General Order O-07, we believe the resource card contains the information required by Marsy's Law. Based on witness testimony, the grand jury was not able to confirm that OPD documents comply with the requirement to provide the Marsy's Law/resource card.

According to the CalVCB website, "many law enforcement officers are not aware of the Victim Compensation Program or their duty to inform victims of the compensation assistance available to them." The grand jury reviewed claims group application data that tend to support this belief. For example, only 16.9% of referrals come from sources associated with law enforcement, whereas 38.4% are from other or unspecified sources. The low percentage of referrals from law enforcement suggests police could play a more effective role in enhancing awareness of resources. As an example, CalVCB developed a three-minute video providing an overview of the program to enhance police understanding and awareness.

Unsolved Homicide Closure Rates

Based on witness testimony, there are between 2,000 and 2,500 unsolved homicide cases in OPD's files. The grand jury reviewed homicide data provided by OPD for the ten-year period from 2008 through 2017, the last year for which comparative data were available. During that period, there were a total of 948 homicides in Oakland, 441 (47%) which were solved (documented as closed) and 507 (53%) of which remained open at the end of the period. The grand jury sought to understand possible racial disparities in the closure rates of these cases. The table below shows the results of our review:

Race/ Ethnicity of Victim	**Number of Homicides (2008-2017)**		**Cases Closed by End of 2017**		**Cases Open at End of 2017**		**Case Closure Rate**
	N	% of Total	N	% of Total	N	% of Total	%
Asian	38	4.0%	28	6.3%	10	2.0%	73.7%
Black	691	72.9%	286	64.9%	**405**	**79.9%**	**41.4%**
Latinx	147	15.5%	72	16.3%	75	14.8%	49.0%
Native American	1	0.1%	1	0.2%	0	0.0%	100.0%
Pacific Islander	4	0.4%	3	0.7%	1	0.2%	75.0%
Other	14	1.5%	8	1.8%	6	1.2%	57.1%
White	53	5.6%	43	9.8%	10	2.0%	81.1%
Total	**948**		**441**		**507**		**46.5%**

Most apparent from the data we reviewed are the extreme racial disparities in crime victimization in Oakland already discussed in previous parts of this report. Almost 90% of homicide victims over the period were Black or Latinx (annual figures are consistent with this figure, ranging from 79% to 93% with a median of 90%). Moreover, while the data show obvious racial disparities in case closure rates, focusing solely on case closures misses other important aspects evident in the data. For example, although the case closure rates for Black homicide victims is the lowest among the groups tracked by the data, because there are so many Black homicides, OPD solves many more Black than white homicides every year—almost seven times as many over the 10-year period. At the same time, when looking through each figure in the open case column, and thinking of the families behind each homicide statistic, the extreme racial disparity among families left without answers is clear.

Seen from the victim and victim-family perspective, the low closure rate for Black homicides—in the context of extreme disparity in victimization to begin with—reveals a dire need for additional victim support and services from OPD, and a greater focus on racial equity in the delivery of those services. It seems clear that virtually any effort to improve the level of support for victims in the Oakland communities hardest hit by violent crime will result in improved community relationships and the prospect of higher closure rates.

OPD's User-Unfriendly Public Access Website

During our investigation, while researching information online at OPD's website, the grand jury consulted websites of police departments throughout Alameda County to research their policies and procedures. Like most police departments, OPD posts its policies and procedures online. However, the website's organization and search tools make it difficult to locate policies, practices, and procedures. Since 2000, state law (Penal Code § 13650) has required that police departments "conspicuously post on their internet web sites all current standards, policies, practices, operating procedures, and education and training materials." Moreover, according to state law, making police policies and regulations easily accessible to the public "helps educate the public about law enforcement policies, practices, and procedures, increases communication and community trust, and enhances transparency, while saving costs and labor associated with responding to individual requests for this information."

One witness explained that the posting of OPD policies and procedures is under the control of the City of Oakland as part of its overall city website, and that OPD itself has no capability of modifying or restructuring that website. The grand jury found this explanation unsatisfactory given that, internally, OPD has access to IT systems that enable staff to easily search department policy and procedures and related documents.

CONCLUSION

The legitimacy of any system of justice relies on broad public support. The "quality" or "effectiveness" of the justice system is traditionally understood in terms of crimes and punishments. The focus is on apprehending perpetrators and holding them accountable for the consequences of their wrongful acts. These are legitimate concerns of course, but the traditional perspective tends to overlook the victims of crimes—understood not only as persons injured or damaged by criminal conduct, but also as key participants in the establishment and maintenance of justice in our communities.

As with the justice system generally, assessments of police policy and conduct—including assessments of overt or systemic racial bias and inequity in law enforcement—must remember the victims. Further research is needed into the reasons for the disparate rates of cooperativeness and involvement denials for victim compensation. Greater emphasis by OPD and city officials on the programs mentioned in this report may lead not only to improved compliance with state mandates and progressive policing practices, but may also improve traditional measures of law enforcement performance, such as arrest and closure rates. Attention to these issues as part of a broader effort to address racial equity in law enforcement would likely improve community support for the police and would be an important step in improving fairness and equality in the criminal justice system.

FINDINGS

Finding 21-10:
The Oakland Police Department failed to fill the victims of crime liaison officer in accordance with Cal. Gov. Code § 13962(c) and 2 CCR § 649.36 and by OPD's own general orders, in a timely fashion, causing lost opportunity for the victims of violent crime to obtain needed support. The Oakland Police Department was aware of the directive and in April 2021 complied with the requirement.

Finding 21-11:
Failing to have a victims of crime liaison officer for years, the Oakland Police Department missed out on relevant and available training mandated by Cal. Gov. Code sec. [13962(d).]

Finding 21-12:
Racial disparities exist in the number of applications for crime victim compensation that are denied for lack of cooperation with law enforcement, lack of cooperation with the claims group, and involvement in events leading to crimes. Black applicants receive a disproportionate number of denials for these reasons compared to applicants in other racial/ethnic categories.

Finding 21-13:
The claims group relies on information from law enforcement as the basis of their determinations that an applicant or victim has failed to cooperate or was involved in events leading to crimes.

Finding 21-14:
Determinations about cooperativeness and involvement include subjective judgments on the part of police and other law enforcement personnel that could lead to a denial of victim compensation funds, and consequently are relatively more likely to be influenced by overt or implicit bias, among other factors.

Finding 21-15:
The Oakland Police Department's website is maintained in an opaque fashion with no provision for globally searching for any particular policy or procedure.

RECOMMENDATIONS

Recommendation 21-10:
The Oakland Police Department must fulfill the expectations of the victims of crime liaison officer role immediately, while providing the contact information to the Victim-Witness Assistance Division and related public sector partner organizations who focus on victim advocacy and victim compensation programs.

Recommendation 21-11:
The Oakland Police Department must enhance awareness and training of officers and other personnel in victim support, particularly in areas of the city with the highest rates of violent crime.

Recommendation 21-12:
The Oakland Police Department must work with the Victim-Witness Assistance Division to investigate the causes of racially disparate outcomes in compensation award decisions, specifically the policies, procedures, methods and language used by law enforcement to communicate with the claims group and victim compensation decisions.

Recommendation 21-13:
The Oakland Police Department must require all personnel involved in sharing information with the Victim-Witness Assistance Division to undergo periodic training, with the goal of increasing awareness of the California Victim Compensation Board programs, increasing awareness of the duty of law enforcement to inform victims of the compensation assistance available to them, and minimizing the incidence of racially disparate outcomes in victim compensation award decisions.

Recommendation 21-14:
The Oakland Police Department must ensure that the victim of crime liaison officer receives and disseminates available training materials provided in accordance with Cal. Gov. Code sec. 13962(d).

Recommendation 21-15:
The Oakland Police Department must review and ensure compliance with legal requirements, policies and methodologies used to document the issuance of the Marsy's Law/resource card.

Recommendation 21-16:
The Oakland Police Department and the City of Oakland, to the extent applicable, must post its policies and procedures on the City of Oakland's website in such a manner that it is globally searchable and user friendly.

REQUEST FOR RESPONSES

Pursuant to California Penal Code sections 933 and 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.

Responses to Findings shall be either:
- •Agree
- •Disagree Wholly, with an explanation
- •Disagree Partially, with an explanation

Responses to Recommendations shall be one the following:
- •Has been implemented, with a brief summary of the implementation actions
- •Will be implemented, with an implementation schedule
- •Requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a completion date that is not more than 6 months after the issuance of this report
- •Will not be implemented because it is not warranted or is not reasonable, with an explanation

RESPONSES REQUIRED

Oakland Police Department	Findings 21-10 through 21-15 Recommendations 21-10 through 21-16

APPENDIX A
Applications Received for Victim Compensation and Reasons for Denying Applications

Claims Received by Race/Ethnicity	All applications received (All Alameda Co., 2015-2019) N	All applications received % of total N	Denied, any reason N	Denied, any reason % of total N	Denied, any reason % of subgroup's applications
American Indian/Alaska Native	100	0.7%	22	0.7%	22.0%
Asian	799	5.3%	136	4.1%	17.0%
Black/African American	5,241	34.6%	1,405	42.2%	26.8%
Hispanic or Latino	5,242	34.6%	994	29.9%	19.0%
Multiple Races	175	1.2%	39	1.2%	22.3%
Native Hawaiian and Other PI	29	0.2%	5	0.2%	17.2%
Not Reported	1,654	10.9%	328	9.9%	19.8%
Some Other Race	223	1.5%	56	1.7%	25.1%
White Non-Latino/Caucasian	1,677	11.1%	341	10.3%	20.3%
TOTAL	15,140	100.0%	3,326	100.0%	22.0%

Claims Received by Race/Ethnicity	Denied, lack of cooperation with Claims Group N	% of total N	% of subgroup's applications	Denied, lack of cooperation with law enforcement N	% of total N	% of subgroup's applications
American Indian/Alaska Native	6	1.4%	6.0%	8	0.8%	8.0%
Asian	19	4.5%	2.4%	44	4.4%	5.5%
Black/African American	217	51.4%	4.1%	516	51.8%	9.8%
Hispanic or Latino	112	26.5%	2.1%	269	27.0%	5.1%
Multiple Races	6	1.4%	3.4%	12	1.2%	6.9%
Native Hawaiian and Other PI		0.0%	0.0%	1	0.1%	3.4%
Not Reported	23	5.5%	1.4%	54	5.4%	3.3%
Some Other Race	7	1.7%	3.1%	13	1.3%	5.8%
White Non-Latino/Caucasian	32	7.6%	1.9%	79	7.9%	4.7%
TOTAL	422	100.0%	2.8%	996	100.0%	6.6%

Claims Received by Race/Ethnicity	Denied, involvement in crime N	% of total N	% of subgroup's applications
American Indian/Alaska Native	5	0.7%	5.0%
Asian	32	4.3%	4.0%
Black/African American	370	49.7%	7.1%
Hispanic or Latino	190	25.5%	3.6%
Multiple Races	8	1.1%	4.6%
Native Hawaiian and Other PI	1	0.1%	3.4%
Not Reported	61	8.2%	3.7%
Some Other Race	12	1.6%	5.4%
White Non-Latino/Caucasian	66	8.9%	3.9%
TOTAL	745	100.0%	4.9%

Claims Received by Race/Ethnicity	Denied, not covered crime			Denied, late		
	N	% of total N	% of subgroup's applications	N	% of total N	% of subgroup's applications
American Indian/Alaska Native	6	0.5%	6.0%	1	1.2%	1.0%
Asian	55	4.6%	6.9%	5	5.9%	0.6%
Black/African American	445	37.4%	8.5%	28	32.9%	0.5%
Hispanic or Latino	377	31.7%	7.2%	35	41.2%	0.7%
Multiple Races	12	1.0%	6.9%	8	9.4%	4.6%
Native Hawaiian and Other PI	1	0.1%	3.4%	1	1.2%	3.4%
Not Reported	144	12.1%	8.7%	7	8.2%	0.4%
Some Other Race	21	1.8%	9.4%		0.0%	0.0%
White Non-Latino/Caucasian	129	10.8%	7.7%		0.0%	0.0%
TOTAL	1,190	100.0%	7.9%	85	100.0%	0.6%

Claims Received by Race/Ethnicity	Denied, lack of preponderance of evidence			Denied, Residency		
	N	% of total N	% of subgroup's applications	N	% of total N	% of subgroup's applications
American Indian/Alaska Native	14	0.8%	14.0%	14	66.7%	14.0%
Asian	75	4.1%	9.4%			0.0%
Black/African American	711	38.9%	13.6%			0.0%
Hispanic or Latino	582	31.8%	11.1%	5	23.8%	0.1%
Multiple Races	26	1.4%	14.9%	1	4.8%	0.6%
Native Hawaiian and Other PI	3	0.2%	10.3%			0.0%
Not Reported	181	9.9%	10.9%	1	4.8%	0.1%
Some Other Race	33	1.8%	14.8%			0.0%
White Non-Latino/Caucasian	203	11.1%	12.1%			0.0%
TOTAL	1,828	100.0%	12.1%	21	100.0%	0.1%