



2016-2017
Alameda County
Grand Jury
Final Report

Backroom Dealing in
Developing City-Owned
Properties in Oakland

Board of Supervisors
Discretionary Funds

County Bailout of
Youth UpRising

Political Interference
with County
Procurement

Technology Changes
for the Probation
Department

Need for County Email
Retention Policy

County Vendor
Evaluations and
Debarment

County Civil Service
Rules Out-of-Date

Jail Inspections

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2016-2017 ALAMEDA COUNTY GRAND JURY FINAL REPORT

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ALAMEDA COUNTY GRAND JURY
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The Grand Jury serves on a fiscal year basis, from July 1 through June 30. Applications are accepted throughout the year and are reviewed each spring for service beginning July 1st. You must be over 18, have lived in Alameda County for at least one year, and possess sufficient knowledge of the English language. Grand Jurors are paid \$15 per day plus mileage.

TABLE OF CONTENTS

Alameda County Board of Supervisors	2
Grand Jury Foreperson's Letter	6
Grand Jury Members	8
Officers and Legal Staff	9
Grand Jury Committee Assignments	10
Grand Jury Photograph	11
Presiding Judge of the Alameda County Superior Court	12

Backroom Dealing in Developing City-Owned Properties in Oakland	14
Unchecked Spending: Alameda County Board of Supervisors Discretionary Funds	32
County Provides Million Dollar Bailout to Youth UpRising	52
Political Interference with the Probation Department's Procurement of Services	64
Critical Technology Changes for the Alameda County Probation Department	74
Alameda County Needs a Comprehensive Email Retention Policy	84
Alameda County's Lack of Vendor Evaluation and Debarment Policy	90
Alameda County Civil Service Rules Are Out-of-Date	96
Santa Rita Jail Inspection	100
Fremont Hall of Justice Court Holding Facility Inspection	108
San Leandro Temporary Holding Facility Inspection	112

About the Alameda County Grand Jury	116
Citizen Complaint Guidelines	122
Citizen Complaint Form	124
How to Respond to Findings and Recommendations	126



Henry Clay captured the essence of government’s purpose
188 years ago:

***“GOVERNMENT IS A TRUST, AND THE OFFICERS OF
THE GOVERNMENT ARE TRUSTEES. AND BOTH THE
TRUST AND THE TRUSTEES ARE CREATED FOR THE
BENEFIT OF THE PEOPLE.”***

Henry Clay – May 16, 1829



Alameda County
Grand Jury

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June 1, 2017

Hon. Morris D. Jacobson, Presiding Judge
Alameda County Superior Court
1225 Fallon Street, Department One
Oakland, California 94612

Dear Judge Jacobson,

The members of the 2016-2017 Alameda County Civil Grand Jury are pleased to present our final report to the Superior Court and the people of Alameda County.

This year's report, once again, contains instances of elected officials overstepping the bounds of their authority by interfering in the operations and management of various governmental agencies, a lack of transparency in their decision-making processes, and lapses in appropriate oversight of certain community-based organizations. Some examples are:

- The selection of developers taken behind "closed doors" in the City of Oakland
- Interference by a county supervisor in probation department contracting decisions
- Special treatment of community based organizations based on relationships with county supervisors

Last year's report contained an example of interference by a member of the Oakland City Council in the development of a townhouse project for personal benefit. The report also criticized the shortcomings of the bidding and negotiation process in awarding Oakland's recent Zero Waste management contract. In the 2014-2015 report an Alameda County supervisor's chief of staff was criticized for attempting to influence administrative decisions on behalf of a favored constituent. That report also criticized the Newark Unified School District board for ignoring its own stated governance policies. Prior years' reports contain additional examples of a member of the Oakland City Council overstepping her authority, nepotism, and criticism of the purchase of a property by the Alameda County Board of Supervisors without following proper process.

Hon. Morris D. Jacobson
Page Two
June 1, 2017

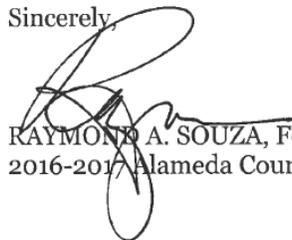
These examples illustrate the potential for abuse that must be corrected in order to maintain the trust and support of the citizens of Alameda County and the residents of the cities therein. Three particular areas deserve to be highlighted:

- It is only as a member of the body that board or city council members have the power to make policy and provide direction to agency employees. In this area, board and city council members have no authority to act individually.
- Elected officials must remember that the good of the public must always be the first priority when advocating for their constituents. This is particularly important in the management of contracts with community-based organizations.
- It is extremely important that the business of government be transparent and open to the public and that the public is part of the decision making process.

As part of my experience as a grand juror, I have learned that Alameda County is one of the best run and best managed counties in the country; and that, by and large, our cities and agencies live up to the principles of good government. This is not an indictment of our processes, but a reminder that the rules apply to everyone.

It has been my honor to serve as foreperson and it was a pleasure working with this diverse group of citizens. This report represents many hours of hard work and research and a collaborative effort to compile a successful result. I want to thank all the members of our panel for their efforts and, especially, to Assistant District Attorney Robert Warren and Legal Assistant Cassie Barner for their invaluable guidance and help in achieving our goal.

Sincerely,



RAYMOND A. SOUZA, Foreman
2016-2017 Alameda County Grand Jury

**2016-2017
ALAMEDA COUNTY CIVIL GRAND JURY
MEMBER ROSTER**

Name	City
Barbara M. Barer**	Piedmont
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John E. “Jack” Dittoe	Piedmont
Dennis Gambs **	Livermore
Gail Greenberg	Newark
Phillip E. Handin	Oakland
Janet K. Kassouf	Hayward
Donald E. Keeley	Piedmont
Linda Kirby	Berkeley
Cary Knoop++	Newark
Janet Kramer***+	Oakland
Scott A. Law**	Oakland
Meredith D. Orthwein	Alameda
Neil Rubenstein	Alameda
Raymond A. Souza**	Oakland
George Strait	San Leandro
Jane Cosgriff Sullwold	Alameda
Anthony Theophilos	Piedmont
Randolph Wu^	Piedmont
Petar Zegura	Fremont

** Jurors held over for a 2nd term by Presiding Judge Morris D. Jacobson

+ Resigned August 2016

++Alternate Juror, August 2016

^Resigned April 2017

**2016-2017 ALAMEDA COUNTY GRAND JURY
OFFICERS and LEGAL STAFF**

OFFICERS

FOREPERSON: Raymond A. Souza
FOREPERSON PRO TEM: Donald E. Keeley
SECRETARY: Barbara M. Barer
SECRETARY PRO TEM: Meredith D. Orthwein
SERGEANT AT ARMS: Janet K. Kassouf
SERGEANT AT ARMS PRO TEM: Anthony Theophilos



LEGAL STAFF

Robert L. Warren, Assistant District Attorney
Cassie Barner, Legal Assistant

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Randolph Wu* – *Chair*
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John E. “Jack” Dittoe
Dennis Gambs – *Chair eff. 4/17*
Phillip E. Handin
Cary Knoop
Neil Rubenstein
Jane Cosgriff Sullwold
Anthony Theophilos

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Petar Zegura

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Donald E. Keeley
Linda Kirby
Cary Knoop
Meredith D. Orthwein
George Strait

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Raymond A. Souza
Scott A. Law
Neil Rubenstein
Anthony Theophilos

EDIT COMMITTEE

Barbara M. Barer
Raymond A. Souza
Jane Cosgriff Sullwold
Petar Zegura

* Resigned April 2017



2016-2017 ALAMEDA COUNTY CIVIL GRAND JURY

Standing, left to right:

Jacqueline Crofton, Barbara M. Barer (*Secretary*), Neil Rubenstein, Linda Kirby, Anthony Theophilos (*Sergeant at Arms Pro Tem*), Gail Greenberg, Jane Cosgriff Sullwold, Raymond A. Souza (*Foreman*), Phillip E. Handin, Meredith D. Orthwein (*Secretary Pro Tem*), Janet K. Kassouf (*Sergeant at Arms*), Petar Zegura, George Strait, John E. “Jack” Dittoe, Dennis Gambs, Scott A. Law

Seated, left to right:

Hon. Morris D. Jacobson (*Presiding Judge*)

Not Pictured:

Donald E. Keeley (*Foreman Pro Tem*), Cary Knoop, Randolph Wu

**PRESIDING JUDGE
OF THE
ALAMEDA COUNTY SUPERIOR COURT**



Honorable Morris D. Jacobson
January 1, 2016 – Present

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BACKROOM DEALING IN DEVELOPING CITY-OWNED PROPERTIES IN OAKLAND

EXECUTIVE SUMMARY

The Grand Jury investigated complaints that the Oakland City Council makes important decisions about the development of city-owned property behind closed doors. We examined three parcels of city-owned property in which the city held more than 45 closed session meetings for projects valued at more than \$500 million. The Grand Jury found that the Oakland City Council discussed key matters such as project vision, feasibility, and proposal requirements in closed session, and ultimately deliberated about and selected the project developers in private meetings not subject to public scrutiny.

Although the state’s Brown Act and city’s Sunshine Ordinance require open discussions for all but a handful of matters, the City Council has seized upon one of them – the real estate exception – to allow important decisions affecting city-owned property to be made without public participation. The plain wording and intent behind the open-meeting statutes allows public boards to discuss in closed session items that would affect an agency’s bargaining position in a real estate transaction, but does not permit a City Council to keep its deliberation about the basic nature of a transaction confidential.

This conduct precluded participation by the public in determining the best use of city-owned property and the selection of developers. Openness in government is a foundation of our democracy. It protects the public from backroom dealing and helps to ensure that government is transparent and accountable. The city must provide a “level playing field” by seeking meaningful community input and deliberating publicly before selecting its developers.

The Grand Jury found that the Oakland City Council discussed key matters ... in closed session, and ultimately deliberated about and selected the project developers in private meetings not subject to public scrutiny.

BACKGROUND

Oakland City Council

The Oakland City Council is made up of eight members elected directly by the citizens of Oakland, and is the governing body of the city. There is one representative from each of seven districts and one representative at-large. The council sets goals and priorities for the city, approves the budget, adopts ordinances, and appoints members to various boards and commissions. It operates through six committees, each with four councilmembers, which review proposed legislative actions before forwarding to the full City Council for final action. Much of the council's work occurs at the committee level during open meetings that invite public participation.

The City Council also serves as the successor to the city's former Redevelopment Agency. In that capacity, council is responsible for making decisions about development of the city properties that are the subject of this report. Development projects formerly owned by the Redevelopment Agency are first considered by the council's Community and Economic Development (CED) Committee, which forwards its recommendations to the full council for approval. The staff supporting the projects for the former Redevelopment Agency property are in the city's Economic Workforce and Development Department.

Brown Act

The open meeting law in California is known as the Brown Act and was adopted by the state legislature "to ensure the public's right to attend the meetings of public agencies," as well as "to facilitate public participation in all phases of local government decision making and to curb misuse of the democratic process by secret legislation by public bodies." (Gov. Code section 54950 et seq.)

To effectuate these purposes, the Brown Act "requires that the legislative bodies of local agencies hold their meetings open to the public except as expressly authorized by the Act." One of these exceptions, the one at issue here, covers certain aspects of real estate negotiations. Specifically, the Brown Act permits a local legislative body to hold a closed session with its negotiator to "**grant authority to its negotiator**" regarding the "**price and terms of payment**" in connection with the purchase, sale, exchange or lease of real property." (Gov. Code section 54956.8, emphasis added)

Oakland Sunshine Ordinance

Oakland adopted a Sunshine Ordinance supplementing the requirements of the Brown Act in order to "assure that the people of the city of Oakland can be fully informed and thereby retain control over the instruments of local government in their city." (Oakland Municipal Code, Chapter 2.20)

The Sunshine Ordinance adopts all provisions of the Brown Act and imposes additional requirements on closed sessions including: making what are guidelines under the Brown Act for describing closed session agenda items mandatory (section 2.20.100), and disclosing any parts of closed sessions that are not confidential (section 2.20.130). The Oakland ordinance, unlike the Brown Act, requires the City Council to hold a public session in which council discusses the advisability of taking an action involving disposition of city-owned property before making a final decision (section 2.20.120(B)).

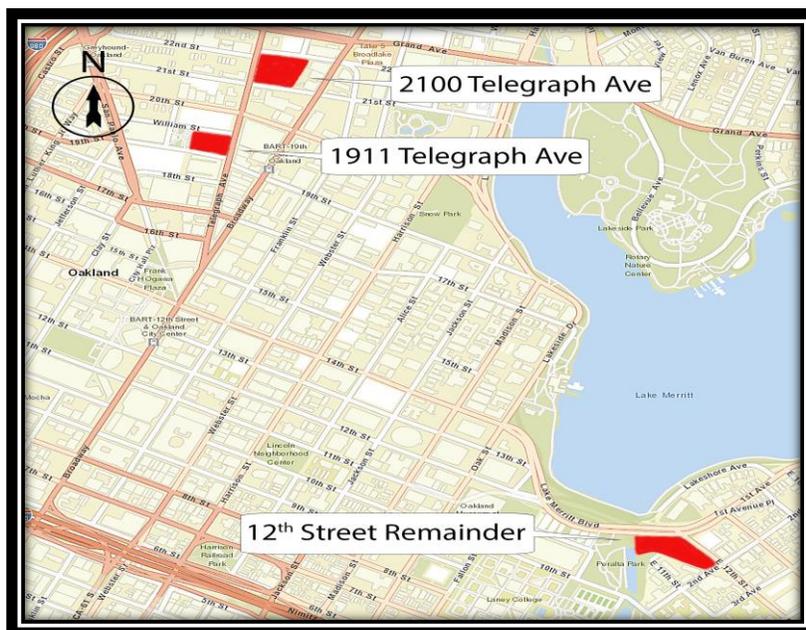
INVESTIGATION

During the investigation, the Grand Jury heard testimony from several witnesses, including city employees and elected officials, and reviewed numerous documents and other materials, including:

- Staff reports, meeting minutes, and video recordings from Oakland City Council meetings concerning development of the three city-owned properties;
- Closed session agendas prepared by the Oakland City Attorney indicating “conference with real property negotiators” concerning the three projects;
- Community and Economic Development Committee staff reports, meeting minutes, and video recordings;
- Requests for proposals and proposals submitted in response thereto;
- The Brown Act, Gov. Code 54950 et seq.;
- The City of Oakland Sunshine Ordinance, Oakland Municipal Code chapter 2.20;
- Office of the Attorney General, State of California, Opinion No. 10-206, dated December 27, 2011;
- League of California Cities response of August 6, 2010, to draft of AG Opinion No. 10-206; and
- Open & Public V: A Guide to The Ralph M. Brown Act, League of California Cities, revised April 2016.

The Grand Jury contacted a representative of the city attorney's office for comments on the legal issues involved in this investigation, but was informed that the attorney-client privilege prevented the city's lawyers from discussing the matter.

Acknowledging the city's broad discretion in selecting developers for city-owned property, the Grand Jury did not review or evaluate the merits of the developers chosen for any of the three projects it investigated, known as 1911 Telegraph, 2100 Telegraph and the 12th Street Remainder Parcel. Instead, the Grand Jury looked at the process for selecting those developers. The investigation considered whether the City Council violated state and local open meeting laws and whether there were other irregularities in the selection processes.



1911 Telegraph

The city owns a 1.06-acre vacant parcel (property) in the Uptown area of the city across the street from the Fox Theater. The property has been described as a dynamic location with the ability to become a transformational development for this neighborhood. The estimated cost of developing the project is between \$150 and \$200 million.

On October 8, 2014, city staff issued a Request for Proposals (RFP) for mixed-use retail and housing on the property, with a hotel option. The parameters and scope of the project were not discussed in public session nor was public input sought. On December 8, 2014, staff received eight submittals in response to the RFP.

According to city documents, staff sought and received City Council's guidance on the preferred project type at the closed session on May 19, 2015. At the private meeting, council added non-negotiable project requirements that were not part of the original RFP. As a result, the responding developers were told to revise their proposals to include a hotel (now mandatory), affordable housing, a neutrality agreement with labor unions, a project labor agreement, and compliance with the city's employment and local business participation requirements. No decisions from this closed session meeting were reported to the public at the open session meeting that followed.

Six developers submitted revised proposals that were reviewed and ranked by a panel. This process is commonly used to ensure each project is evaluated by experts in the development field. One proposal was ranked first by the panel and recommended by staff to the City Council.

On October 29, 2015, the City Council met in closed session to review the panel and staff recommendations. Council rejected the recommendation and decided to have the three highest-ranked developers present their proposals for the property to the Community and Economic Development Committee in open session. This result and council's reasoning was not reported in open session.

On December 1, 2015, the three developers presented their projects to a joint City Council and CED committee meeting. This was the first opportunity for the public to provide comments on the project and developers. While city councilmembers did ask some questions, there were no deliberations among the councilmembers in public. In explaining the developer selection process to council, the city's project coordinator stated, "We will follow this with another visit to closed session of the council to seek further direction on the final recommendation."

One developer – the one ranked third by the panel and staff – made significant last-minute changes to its proposal. The retail component increased from 18,000 square feet in its written proposal to 55,000 square feet. This developer also increased the number of affordable housing units it planned to build.

This same developer had not submitted a financial statement as required in the RFP, explaining that, as a privately held firm, it did not want its financial information to be made public. In its written proposal, and again in its public presentation, the developer offered to share its financial records privately – but only after it was selected for the project.

On January 5, 2016, the City Council met again in closed session. Although the meeting agenda states that council would be discussing price and terms of disposition of the property, council used that closed session to deliberate and select the third-ranked developer for negotiations. This action was confirmed in the staff report for the CED committee meeting on February 23, 2016. Once again, nothing was reported out to the public when the open session commenced.

On February 23, 2016, the CED committee met and affirmed the City Council's closed session decision to direct staff to negotiate an Exclusive Negotiating Agreement (ENA) with the council's preferred developer. While the staff report summarized the council's closed session decision and rationale, there was no public discussion about the merits of the different options, only congratulations to the developer for what it was offering.

On March 1, 2016, as part of its consent calendar, the City Council affirmed its earlier decision to select the developer without comment or public discussion.

The City Council or its CED committee held three public meetings where the agenda included development of 1911 Telegraph. At none of them – on December 1, 2015, February 23, 2016, or March 1, 2016 – was there a public discussion among the elected decision makers about the advisability of policy decisions, changes to the RFP, changes to the selection process, or final selection of a developer. While limited questions were asked of the developers at the December meeting, the chair made a point to state that the council would be deliberating in closed session.

The meaningful discussions by the City Council concerning the project took place behind closed doors. The council expanded the scope of the project, added key requirements to the RFP, decided to require public presentations from the top three proposers, and ultimately chose the developer all behind closed doors. The Grand Jury heard testimony that “price and terms of payment for disposition of property” were not discussed at these three closed session meetings.

While there is ample opportunity for the public to comment at each open meeting, the ability to speak has limited value if the public does not know what substantive discussions took place in closed session. For example, the council added community amenities to the proposal requirements that have financial consequences. The public, however, had no say as to whether the costs of these amenities were worth the benefits associated with them. The only opportunity the public had to participate in the council's decisions concerning this valuable piece of property was to hear and comment upon presentations by three developers concerning a project whose scope had been delineated in private. The public never heard the thoughts and reasoning of its elected councilmembers regarding its

choice of a developer. There was no public deliberation on the advisability of choosing one developer over the other two, a violation of section 2.20.130 of the Oakland Sunshine Ordinance.

The ENA with the council's preferred developer expired. The developer did not proceed with the proposed project. The city has not announced publicly how it intends to proceed.

2100 Telegraph

In May of 2014, the city received an unsolicited proposal to develop 1.76-acres of city-owned property in the Uptown area on 2100 Telegraph Avenue. The city held closed session meetings on July 29th and 30th to discuss this project. No closed session actions were reported to the public in open session. The only open session discussion concerning selection of the developer was held on October 14, 2014. At this meeting the Community and Economic Development Committee recommended that the council negotiate an ENA with the developer that submitted the unsolicited proposal. On October 21, 2014, as part of its consent calendar, the City Council adopted a resolution directing staff to negotiate an ENA with the developer. The staff report for this meeting did not disclose the reason this estimated \$200 million residential and hotel project was sole-sourced.

Between October of 2014 and July of 2016, the city scheduled 24 closed session meetings to discuss the project. At the open session meeting on July 5, 2016, the ENA previously entered into with the initial development team was assigned to a newly formed entity, a joint venture partnership with the initial development team and a new partner. This appeared to be a continuation of the non-competitive city process of developer selection. Since then, 2100 Telegraph has not been discussed at any City Council or CED committee meeting, open or closed.

The only meaningful opportunity for public input on the selection of the developer on this project was at the CED committee meeting in October of 2014. The city selected the developer for exclusive negotiations without soliciting competitive proposals from other developers. For projects of this magnitude, the city typically issues an RFP describing the nature of the project it wants for the property, and solicits proposals from potential developers. With multiple offers, the city can assess proposals and determine, hopefully with public input, which one best meets the city's goals for development.

Operating behind closed doors gives the appearance of favoritism by the city and raises many questions: Is the city getting a competitive price for its property? Why was this developer chosen? Why was there no RFP?

12th Street Remainder

The city owns a parcel of vacant property just under one acre in size that is located between East 12th Street, 2nd Avenue and Lake Merritt Boulevard. The parcel, commonly known as the 12th Street Remainder, was planned by the city to be developed as high density residential. The cost of the project is estimated to be between \$150 and \$200 million.

On July 14, 2015, the city issued a Notice of Offer and Intent to Convey the Property to potential developers. The city received responses to the notice from five entities. Staff assembled a panel to evaluate the proposals to negotiate with the five respondents. After evaluating the proposals, the panel and staff unanimously recommended one of the proposals to the City Council. The council decided instead, in closed session, to have the three top-ranked development teams present their proposals for the parcel to the CED committee and the public before a final selection was made.

The City Council scheduled six closed session meetings concerning the parcel between September 14, 2015, when the city received responses from developers, and February 29, 2016, the open meeting where developers made presentations. The item on the agenda for each of these meetings identified the 12th Street Remainder project under “conference with real property negotiators” to discuss “price and terms for disposition of property.” No decisions or other actions from any of these closed session meetings were reported out in the City Council’s open sessions.

On February 29, 2016, the CED committee met to hear the three proposals. The staff report for this committee meeting was the first public notice that council had decided to hear presentations from the three top-ranked developers instead of selecting the one developer recommended by the selection panel and staff. More importantly, this was the first and only time for the public to provide meaningful input on the project and the proposals of the three developers. Once again, while the committee members asked questions of the three developers during this meeting, they did not engage in substantive discussion regarding the relative merits of the competing proposals. The committee chair closed the meeting by stating – “We’re gonna move this discussion back into closed session, where there’ll be more questions asked of city staff, and asked of you [pointing to the audience], before we make our final decision.”

On March 1, 2016, the City Council held a closed session to discuss development of the parcel. Although no decision was reported out of that meeting, the Grand Jury believes that council deliberated and chose a developer for the parcel because, two days later on

March 3, 2016, the following press release was issued by the city: “The Oakland City Council has directed city staff to prepare for consideration of approval on March 15, 2016, an ENA with the development team of [Name of Development Team] regarding development of the 12th Street Remainder parcel.” The deliberations that led to council’s choice of a single developer from the three that made public presentations were conducted in closed session, with no opportunity for public comment.

On March 15, 2016, the city held another closed session meeting on this project and later that day held a meeting which began in open session. However, during the open forum part of the meeting, members of the public became unruly, requiring the council to reconvene in a room without the public present. After deliberating on the project, the council directed staff to enter into an ENA with the selected developer. The video of the meeting revealed some candid conversation by the council on the project, particularly in discussing the market rate housing element.

Council agendas show at least 16 closed session meetings where this project was discussed. At the only public meeting, none of the councilmembers present engaged in a substantive discussion about the relative merits of the three proposals. At no time did council have a public discussion about the advisability of selecting one of the three developers before making a final decision.

The city recently executed a Disposition and Development Agreement for the 12th Street Remainder parcel.

When deliberations occur in closed sessions, the public and those doing business with the city are given the perception that backroom deals are being made.

Open Meeting Laws

While the Grand Jury recognizes that closed session meetings with real estate negotiators are essential to protect a public agency’s negotiating position – if the opposing party had information about a public body’s bargaining limits prior to negotiations, the public agency would lose any opportunity to bargain – there are important limits concerning how closed sessions involving real estate negotiations must be disclosed both beforehand and afterwards, and limits on what can be discussed.

Before every closed meeting, an agenda must be published that identifies the property address, agency negotiator, and negotiating parties, and states whether price or terms of payment or both will be addressed.

Government Code section 54957.1 requires that the “legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention on that action of every member present. . . .” For real estate negotiations, the Brown Act requires public reporting only when the body has reached a final agreement in closed session. The Oakland Sunshine Ordinance requires public disclosure of the parts of closed session discussions that are not confidential (section 2.20.130) and public discussion about the advisability of taking action regarding development of city property before making a final decision (section 2.20.120(B)).

Regarding the scope of permissible closed session discussions, the California Attorney General provided a legal opinion as to what matters may be discussed in closed session under the real estate negotiation exception of the Brown Act. The opinion (AG Opinion No. 10-206) looked to the legislature’s intent when enacting the statute – that the actions of public bodies be taken openly and that their deliberations be conducted in full view of the public: “The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”

The Attorney General explained that the real estate exception must therefore be construed narrowly, always in favor of the public’s right to access to public information. The real estate negotiations exception does not permit the closed session discussion of “any and all aspects of a proposed transaction that might have some effect on price and payment terms.”

As to what is meant by the phrase “regarding the price and terms of payment,” the Attorney General stated that the terms have their ordinary meaning: “price” is the amount of consideration given or sought in exchange for the real property rights, and “terms of payment” is the form, manner, and timing upon which the agreed upon price is to be paid. The plain language of the exception rules out any possibility that the statute is meant to authorize closed session discussions of any and all terms of the transaction as a whole. Matters such as property easements, credit worthiness of the buyer, and the financial condition of the local agency do not fall under the exception and thus should be discussed in open session. The Attorney General concluded that the real estate exception is intended “to protect the agency’s bargaining position, not to keep confidential its deliberations as to the wisdom of a proposed transaction.”

The League of California Cities (League) is an association of California city officials from 475 member cities. The League was given the opportunity to comment on a draft of AG Opinion 10-206 before it was published. Noting that the intent of the real estate exception was to protect the financial interest of the local agency and to inform or develop a negotiating strategy, the League argued that a legislative body should be able to discuss with its negotiators in closed session any term in the prospective agreement that could affect the economic value of the transaction.

While supporting a broad construction of the real estate exception, the League acknowledged case law holding that the purpose of the real estate exception was “not to shield from the public the legislative body’s discussion of basic policy issues, but to facilitate the body’s negotiation of a specific real estate transaction.” It also conceded that the Brown Act should be viewed as a “floor, not a ceiling” for describing the scope of closed sessions, and that local policies going “beyond the minimum requirements of law may help instill public confidence and avoid problems.”

The League currently acknowledges on its website that, while agency attorneys want to construe the exception broadly, others (presumably including the California Attorney General) “take a narrower, more literal view of the phrase.”

The Grand Jury heard extensive testimony that items other than price and terms of payment were discussed in closed session. These discussions included project feasibility, vision for the properties, and community benefits from the project. Closed session discussions have clearly strayed beyond “price and terms of payment” for disposition of city property.

City’s Closed Session Meetings

The Oakland City Attorney’s Office presided over closed session meetings concerning the three real estate transactions; the staff attorney assigned to the particular project being discussed was also present. The city negotiators were typically employees of the Economic and Workforce Development Department and the City Administrator’s Office. The city attorney prepared and posted agendas for the closed sessions, and staff usually prepared confidential reports for the meetings that were reviewed in advance by the city attorney.

Agenda item descriptions for these closed sessions generally follow the suggested language provided in the Brown Act (Gov. Code section 54954.5), with one notable difference. The Brown Act recommends that an agenda for a closed session involving real estate negotiations “[s]pecify whether instruction to negotiator will concern price, terms of payment, or both.” The city’s closed session agendas for the 1911 Telegraph and 12th

Street Remainder projects omitted the words “of payment.” Left unqualified, the agenda description, “price and terms for disposition of property,” may lead to broad interpretations of what are permissible topics under the Brown Act in meetings not open to the public. The Sunshine Ordinance (section 2.20.100) makes the suggested language of the Brown Act mandatory. Hence, a number of city closed session agenda notices did not comply with the Sunshine Ordinance.

The purpose of these closed sessions is to give direction to the agency’s negotiator regarding price and terms of payment in their negotiations with the other party. However, many of these meetings occurred during the city’s selection process, involving multiple developers, making such negotiations improbable.

Although the state’s Brown Act and city’s Sunshine Ordinance require open discussions for all but a handful of matters, the City Council has seized upon ... the real estate exception to allow important decisions affecting city-owned property to be made without public participation.

Required Financial Statement

The RFP for the 1911 Telegraph property required developers to submit financial statements with their proposals, and stated that submittals that did not include all the specified elements would be deemed nonresponsive and ineligible for consideration. The developer that was ultimately chosen by City Council did not include a financial statement with its submission, and at the public meeting in front of the CED committee, the developer offered to submit its financials confidentially, after it was selected. While the developer eventually produced a financial statement for review in the offices of a local attorney, it benefited from receiving a temporary waiver of this RFP requirement when other developers did not.

The Grand Jury believes that the city must follow its own requirements, and not consider proposals that are incomplete unless compliance with RFP terms is waived in writing by the city and fully disclosed to other respondents. To protect the confidentiality of developers, the RFPs can specify an alternative process when financial statements will be reviewed confidentially and will not be made available for public scrutiny, but the council must have a sound basis for concluding that a developer has the financial ability to build the project it proposes before that developer is chosen.

Changes to Proposal

For the 1911 project, one of the developers – again, the one ultimately chosen by council – presented publicly a proposal that differed from the written submittal that had been ranked by the panel. The new proposal substantially increased the amount of low-income housing and retail space. The other two development team finalists were not made aware by city staff that changes to their proposal would be permitted. Last year, the Grand Jury reported that the City Council allowed last-minute changes to the proposal of one of the bidders on the Zero Waste Franchise contract that negated the rigorous RFP process developed by staff.

Selection of a developer for a project on city-owned property must be on a level playing field. The city should follow its own RFP process for the sake of fairness to all developers and for assuring the integrity of the city's vetting process. All responders to an RFP should be informed whether or not their proposals are final as of the submission date so that they can be compared fairly against one another. Allowing one applicant to make an 11th hour revision that increased the cost of the project made moot the evaluation panel's recommendations about the viability of the respective proposals. If the city wants to allow changes to the proposal, then all the finalists must be given the same opportunity to make changes.

Staff must be allowed to reevaluate the feasibility of a changed project. Without that input, council is making its decisions with incomplete information. The City Council benefits from the input and expertise that staff and panel members provide in their assessment of proposals.

Private Discussions between Councilmembers and Developers

Another issue that concerns the Grand Jury involves ex parte or private communications between councilmembers and the developers when a competitive process is underway. The Grand Jury learned that such communications are common. We also learned that the city has no general rule precluding these communications, nor does it require councilmembers who have such communications to disclose them to other councilmembers or to the public.

The Grand Jury is concerned that private discussions during the pendency of the selection process favor well-connected developers, and make the process vulnerable to undue influence, or at least the perception thereof. We learned that the council as a whole gives deference to the councilmember in whose district a project is located, giving that one

individual greater influence over a decision, with ramifications for the whole city. This practice makes transparency during the selection process even more important.

While the Grand Jury recognizes that councilmembers are important contacts for developers and others wishing to do business with the city, once an RFP is issued, the city must require councilmembers to disclose such communications publicly. A number of cities in California have adopted rules requiring the disclosure of ex parte contacts including Santa Barbara, Berkeley, Palo Alto, Santa Monica, Mountain View and Thousand Oaks. While the city of Oakland has no such rule, it did restrict bidders on its Zero Waste Franchise contracts from contacting city officials for the purpose of influencing the selection process. These restrictions, which applied specifically to the Zero Waste Franchise RFP, indicated the city's commitment to an open procurement process.

Openness in government is a foundation of our democracy. It protects the public from backroom dealing and helps to ensure that government is transparent and accountable.

CONCLUSION

The city's process for selection of developers for city-owned property is not open and transparent. The real estate exception to the Brown Act does not give the council free reign to discuss policy, project vision, and RFP terms, or the authority to deliberate about and select developers, in private meetings. These matters are intended to be discussed openly in public, not behind closed doors. When deliberations occur in closed sessions, the public and those doing business with the city are given the perception that backroom deals are being made. Key questions are left unanswered for the public. Intended to protect the financial interests and negotiating position of a public agency, the Brown Act's real estate negotiation exception limits closed-door discussions to providing direction to its negotiator regarding the price and terms of payment.

While the Grand Jury only investigated three recent city development projects, it is concerned that the city's misuse of closed sessions in discussing development of city property is a systemic problem. Public deliberations are important. The city must provide an environment whereby public participation in developer selection is invited. In addition, developers must believe that they will be treated fairly and equitably, thus promoting a competitive selection process benefiting the city. The city must follow open meeting laws

to prevent further misuse of closed session meetings and eliminate the inequities in the developer selection process.

FINDINGS

Finding 17-1:

The Oakland City Council misapplies the real estate negotiation exception to the open-meeting requirements of the Brown Act and the Oakland Sunshine Ordinance, thereby shielding the deliberative processes – including discussions and debates regarding project vision, project scope, feasibility issues, community benefits, and the ultimate selection of a developer – from public scrutiny.

Finding 17-2:

The city's closed session agendas for discussions of the 1911 Telegraph and 12th Street Remainder projects did not comply with disclosure requirements in the Brown Act and the Oakland Sunshine Ordinance.

Finding 17-3:

The Oakland City Council violates the city's Sunshine Ordinance by failing to discuss publicly the advisability of selecting particular developers for projects on city-owned property before making final decisions (section 2.20.120(B)) and failing to disclose the parts of closed session discussions that were not confidential (section 2.20.130).

Finding 17-4:

Unauthorized closed sessions prevent the public from witnessing council deliberations, preclude public input into planning, and restrict public participation in the selection of appropriate developers for city-owned property.

Finding 17-5:

The city of Oakland unfairly applied the requirements of its RFP for 1911 Telegraph by allowing the successful proposer to wait until after it was chosen to provide required financial information.

Finding 17-6:

A developer was allowed to change the scope of its proposal for 1911 Telegraph at the last minute. This put the other proposers at a disadvantage, and resulted in the city choosing that developer without the benefits of staff analysis of the new proposal.

Finding 17-7:

Oakland City Councilmembers privately discuss projects with developers whose proposals are pending, and the communications are not disclosed publicly before one developer is selected. This compromises public scrutiny of the selection process because citizens have no ability to assess the strength or weakness of private arguments made by developers in support of their proposals.

RECOMMENDATIONS

Recommendation 17-1:

The city of Oakland must comply with the Brown Act and city of Oakland Sunshine Ordinance provisions relating to the real estate exception. The city must limit closed session discussions concerning proposed real estate development projects to price and terms of payment, and ensure that deliberations on matters such as project vision, project scope, feasibility issues, community benefits, and selection of a developer are conducted openly, allowing the public to be informed about and comment intelligently upon proposals for use of city-owned property.

Recommendation 17-2:

The city of Oakland must follow its Sunshine Ordinance by conducting open meetings in which councilmembers discuss publicly the advisability of any proposed disposition of city-owned property before making final decisions.

Recommendation 17-3:

The city of Oakland must update its training for public officials on open meeting laws to prevent the city from misapplying the real estate negotiation exception.

Recommendation 17-4:

The city of Oakland must enforce requirements of its RFPs even-handedly to create a level playing field for all proposers, and to allow city staff a full record with which to vet competing proposals.

Recommendation 17-5:

The city of Oakland must treat developers who respond to an RFP equitably by informing all RFP respondents whether changes to proposals after the submission date are permitted.

Recommendation 17-6:

The city of Oakland must adopt rules to address private communications between councilmembers and proposing developers before a developer is selected.

RESPONSES REQUIRED

Oakland City Council:

Findings 17-1 through 17-7

Recommendations 17-1 through 17-6

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**UNCHECKED SPENDING:
ALAMEDA COUNTY BOARD OF SUPERVISORS
DISCRETIONARY FUNDS**

EXECUTIVE SUMMARY

The Grand Jury received a citizen complaint stating that a member of the Alameda County Board of Supervisors gave a no-bid contract to a county employee on his staff doing business as Oakland & the World Enterprises, Inc. (OAW).

Upon investigation, the Grand Jury learned that the county employee has worked for Alameda County since 2013 as a salaried member of the supervisor's staff. The Grand Jury also learned that the county employee is the co-founder of OAW and has been OAW's unpaid chief executive officer and a member of its board of directors since its incorporation in April 2014.

Total FMRP balances for the five supervisors was \$9,764,421 as of July 1, 2016, which is more than one year's total budget for the Board of Supervisors.

OAW received funding from two sources in Alameda County government. One source of funding, totaling \$102,527.24, was from money made available to nonprofit organizations through a program adopted by the Board of Supervisors in 2014 to meet affordable housing needs, known as the Boomerang program. The second source of funding, totaling \$710,000, was through the Alameda County Fiscal Management Reward Program (FMRP), from the FMRP account of the supervisor.

The Grand Jury concluded that the dual role of the county employee in these transactions constituted both a failure of good governance practices by the county of Alameda and a conflict of interest under the Alameda County Charter and the Alameda County Administrative Code. The county employee was wearing "two hats" in connection with these transactions, in that she was actively involved on both sides of those transactions, as both a county employee and as an advocate for OAW.

The Grand Jury also concluded that the process by which the Board of Supervisors makes donations to nonprofit organizations from county funds allocated to the Board of Supervisors through the FMRP constitutes a failure of good governance practices by the County of Alameda and does not comply with the county's Manual of Accounting Policies

and Procedures, which states that FMRP expenditures have the same requirements as other expenditures of county dollars.

The basis for these conclusions, and the Grand Jury's recommendations, are described more fully below.

BACKGROUND

Alameda County Board of Supervisors

A five-member Board of Supervisors governs Alameda County. Each supervisor is elected from a separate district in which they reside. Within the limits established by applicable law, the board conducts both the legislative and the executive functions of government. Terms of office for the supervisors are four years. Each supervisor is allotted money to run his/her office and to serve the residents of his/her district.

As defined by the Alameda County Charter, the duties of the Board of Supervisors are as follows:

- Appoint most county officers and employees, except elected officials.
- Provide for the compensation of all county officials and employees.
- Create offices, boards, and commissions as needed, appointing the members and fixing the terms of office.
- Award all contracts for public works.
- Adopt an annual budget.
- Provide, publish, and enforce a complete code of rules prescribing the duties and the systems of office and management, accounts, and reports for each county department.
- Have an annual audit made of all county accounts, books, and records.
- Supervise the operations of departments and exercise executive and administrative authority throughout county government.
- Serve as appellate body for employee grievances, planning and zoning.

Boomerang Funding

In 2012, the California redevelopment agencies were dissolved. As a result, millions of dollars of property tax monies were returned to local governments, providing local government crucial resources needed to preserve public services. These funds are referred to as Boomerang funds.

In 2014, the Board of Supervisors approved a proposal to allocate \$9.8 million of Boomerang funds for the Affordable Housing Development Program. This allocation was divided up among the five county districts. The Alameda County Housing and Community Development Department (HCD) announced a request for proposals (RFP) for distribution of the funds. A portion of the Boomerang funds was set aside for the Innovation Funding Program, which was intended to be used by nonprofit organizations that were exploring new forms of affordable housing. HCD established a Housing and Community Development Advisory Committee to review applications submitted pursuant to the RFP and make recommendations. The recommendations were submitted to the Board of Supervisors. HCD administered the grants approved by the board.

Fiscal Management Reward Program

The Board of Supervisors implemented the Alameda County Fiscal Management Reward Program (FMRP) in 1993 as a means to incentivize departmental fiscal restraint and reduce expenses. County departments were operating their budgets on a “use it or lose it” basis, which was leading to large budget deficits and unnecessary spending. Departments and agencies that reduced their spending and realized budget savings were allowed to keep those savings to be carried over to the following year. Departments and agencies could then use those funds at their discretion for budget balancing, one-time expenditures, and/or program enhancements. For example, if a department or agency anticipated a revenue shortfall or unexpected expenditures in the following year, the carryover funds from previous years could be used to close the budget deficit. Each annual carryover would be made available for a one-time-only expense. The carryover would not be considered or included when making calculations for any other appropriations or budget requests and could not be used to hire new employees. However, departments were allowed to “bank” those savings for multiple years. FMRP expenditures are subject to the county’s Manual of Accounting Policies and Procedures (MAPP), section 4.15, which says: “Fiscal Management Reward Program expenditures have the same requirements as other expenditures of county dollars (source: Board of Supervisors Resolution, FY 2003).”

The process by which the Board of Supervisors makes donations to nonprofit organizations ... constitutes a failure of good governance.

Each supervisor is appropriated funds for his/her office during the applicable fiscal year, including compensation for staff, supplies, and rent. Any funds not spent by the supervisor during the applicable fiscal year are carried over to the following year in the individual supervisor’s FMRP account. The information below was provided to the Grand Jury by the county Auditor-Controller’s Office, which shows FMRP balances in the account of each supervisorial district as of the first day of the stated fiscal years:

FMRP BALANCE AS OF START OF FISCAL YEAR (JULY 1 st)			
	FY 2014-2015	FY 2015-2016	FY 2016-2017
District 1	574,556	896,972	796,972
District 2	1,392,496	2,535,723	2,435,723
District 3	1,672,989	3,182,629	2,832,629
District 4	317,649	383,500	283,500
District 5	1,849,323	3,515,597	3,415,597

The chart shows that the total FMRP balances for the five supervisors was \$9,764,421 as of July 1, 2016, which is more than one year’s total budget for the Board of Supervisors. The county’s final budget for FY 2016-2017, posted on the county website, states that the total budget for the Board of Supervisors was \$8,265,982 for the 2015-2016 fiscal year and \$8,631,192 for the 2016-2017 fiscal year.

The Board of Supervisors often donates FMRP funds to nonprofit organizations, with the understanding that the funds are used to provide services or benefits to the residents of Alameda County. (See Appendix– *FMRP Expenditures by District*, pages 46-50)

In order to make a donation of FMRP funds to a nonprofit organization, the applicable supervisor must submit a letter to the full Board of Supervisors, recommending approval of the donation. The letter is to include the name of the nonprofit organization, a brief statement about its mission and purpose, the name of its principal, and the amount of the proposed donation. Initially, this letter is sent to the County Administrator’s Office (CAO) for processing. Once processed by the CAO, the letter is placed on the Board of Supervisors meeting agenda and voted on for approval. Upon approval from the Board of Supervisors, the requesting supervisor’s office sends a direct claim form to the county Auditor-Controller’s office. The county Auditor-Controller then makes payment to the nonprofit organization and funds are removed from the appropriate FMRP account.

INVESTIGATION

During the investigation, the Grand Jury received testimony from multiple witnesses and reviewed numerous documents, including:

- Alameda County Board of Supervisors general meetings: meeting agendas, meeting minutes, and video recordings;
- Application submitted by OAW to HCD in response to a Boomerang fund program RFP;

- Numerous emails and other documents pertaining to the Boomerang fund program, including those pertaining to OAW's application, requests for funds and receipt of funds;
- Agreements between OAW and the county relating to the Boomerang fund program;
- Many emails and other documents pertaining to the request and receipt of FMRP funds;
- Memos pertaining to the implementation and revision of the FMRP;
- Alameda County Manual of Accounting Policies and Procedures;
- Procurement Policy and Procedures Overview – Guidelines for Acquisition of Goods and Services Including Professional Services;
- Alameda County Charter, Section 66 – Conflicts of Interest;
- Alameda County Administrative Code Sections 2.02.170 and 2.02.180 – Interest in Contracts – Receipt of commissions or gifts;
- County of Alameda Final Budget 2016-2017.

The Grand Jury confirmed that the county employee worked for Alameda County as a full-time staff member for the supervisor from 2013 through the present. The Grand Jury heard testimony from multiple sources that the supervisor hired the county employee specifically to get OAW up and running. The Grand Jury also heard testimony that the county employee communicated with the supervisor on at least a weekly basis about OAW and requested the supervisor to provide funds for OAW. The Grand Jury heard testimony that no other staff member of the supervisor was assigned to OAW.

The Grand Jury also reviewed the District 5 Winter Newsletter, released November 20, 2014, issued by the supervisor's office, which states on its front page that OAW was co-founded by the county employee and the supervisor.

Additional documents concerning OAW reviewed by the Grand Jury include the following:

The Grand Jury examined articles of incorporation for OAW that were filed with the California Secretary of State on April 17, 2014. The county employee is named on the articles of incorporation as the incorporator. The county employee signed the articles of incorporation.

OAW submitted to the Internal Revenue Service a streamlined application for recognition of exemption under section 501(c)(3) of the Internal Revenue Code, which was signed on July 3, 2014, by the county employee as CEO. OAW was registered with the IRS as a 501(c)(3) public charity effective July 25, 2014.

In September 2014, OAW registered as a charity with the State of California Office of the Attorney General Registry of Charitable Trusts (Registry). The county employee was named on the initial registration form as CEO/Director, and signed the document in that capacity. As of June 1, 2017, the registry's website reflects no filings by OAW after October 2014, and lists OAW's registration status as "delinquent."

The statements of information filed by OAW with the California Secretary of State on June 20, 2014, and May 10, 2016, each name the county employee as chief executive officer of OAW.

The 2015 Form 990 filed by OAW with the IRS, dated April 9, 2016, was signed by the county employee as CEO, and, in response to a question asking for identification of all of OAW's current directors and officers, identifies the county employee as CEO and sole director.

The IRS stated on October 14, 2016, that a Form 990 for the tax year ending December 31, 2014, for OAW could not be provided either because it was unavailable or was not open to public inspection.

Boomerang Fund Grant

The Grand Jury reviewed documents provided by HCD and heard testimony about OAW's application for Boomerang funds. In its application dated January 5, 2015, OAW requested a total of \$790,000, consisting of \$500,000 from the Affordable Housing Development Program, plus \$290,000 from the Innovation Funding Program. The county employee was identified in the application as "Youth Economic Development Coordinator" in the office of the supervisor. The county employee also signed the application as OAW's chief executive officer. The supervisor and the county employee were both identified in the application as members of the board of directors of OAW.

OAW moved forward in the RFP process. The Housing and Community Development Advisory Committee recommended that OAW be awarded \$290,000 under the Innovation Funding Program, which was then approved by the Board of Supervisors on July 28, 2015. The money was to be used for predevelopment costs associated with the project that OAW intended to develop, which would include affordable housing for formerly incarcerated individuals.

The contract reflecting the funding award was signed by the president of the Alameda County Board of Supervisors and by the county employee in that person's capacity as OAW's chief executive officer. The contract's term was from July 1, 2015, to June 30,

2019, and stated certain requirements that OAW needed to satisfy before disbursement of funds would be made. HCD administered the contract on behalf of the county. The Grand Jury was informed that, both before and after the contract was signed, there were multiple communications between HCD and the county employee about the requirements of the contract that OAW would need to satisfy in order to obtain disbursement of funds.

OAW submitted an invoice to HCD, requesting disbursement of \$151,984.46 of funds under the contract. The invoice is dated October 20, 2015, and was signed by the county employee as CEO of OAW on October 28, 2015. On November 19, 2015, following conversations with OAW, HCD sent OAW a written analysis of the invoice explaining that certain items were not eligible for payment under the contract and other items were insufficiently explained in the invoice to show that they were eligible for payment.

Over the ensuing months, there were multiple communications between HCD (including a contractor retained by HCD) and the county employee about OAW's request for funds under the contract. Ultimately, following the submission of various documents and a new invoice by OAW, \$102,527.24 was disbursed under the contract to OAW on May 2, 2016.

Section 15(a) of the contract requires OAW to make written reports to the county on the first day of each quarter, relating to matters about the scope of work and other items relating to the project. The Grand Jury was informed that no such reports were received by HCD.

The Grand Jury has been informed that no further disbursements under the contract have been made to OAW and that OAW has not currently met requirements to enable it to receive additional funds under the contract.

Fiscal Management Reward Program Disbursements

The supervisor requested and received the Board of Supervisors approval for \$710,000 in FMRP disbursements to OAW, in four separate letter requests, as follows:

- Letter dated October 20, 2014, from the supervisor to the Board of Supervisors, recommending that the board approve the use of \$20,000 of District 5 FMRP funds to support OAW. This recommendation was placed on the Board of Supervisors consent calendar for October 28, 2014, and approved at that meeting without discussion.
- Letter dated November 20, 2014, from the supervisor to the Board of Supervisors, recommending that the board approve the use of \$104,500 of District 5 FMRP funds to support six different community-based organizations, of which \$100,000 was for OAW. This recommendation was placed on the Board of Supervisors

consent calendar for November 25, 2014, and approved at that meeting without discussion.

- Letter dated April 27, 2015, from the supervisor to the Board of Supervisors, recommending that the board approve the use of \$386,000 of District 5 FMRP funds to support seven different community-based organizations, of which \$290,000 was for OAW. This recommendation was placed on the Board of Supervisors consent calendar for May 5, 2015, and approved at that meeting without discussion.
- Letter dated March 17, 2016, from the supervisor to the Board of Supervisors, recommending the use of \$312,000 of District 5 FMRP funds to support five different community-based organizations, of which \$300,000 was for OAW. This recommendation was placed on the Board of Supervisors consent calendar for March 29, 2016, and approved at that meeting without discussion.

Each of the approved FMRP disbursements, totaling \$710,000, was distributed to OAW within a few days after approval.

Documents produced by the county, and testimony heard by the Grand Jury, establish that there were communications between the supervisor and the county employee about these recommendations and disbursements, including requests by the county employee to the supervisor for funds for OAW.

The Grand Jury was informed that there were no contracts with OAW regarding the FMRP awards or disbursements. As far as the Grand Jury can determine, there was no county oversight over the use of the FMRP funds disbursed to OAW other than by the

As far as the Grand Jury can determine, there was no county oversight over the use of the FMRP funds disbursed to Oakland & the World other than by the supervisor and the county employee.

supervisor and the county employee. The Grand Jury was informed that OAW has received no more than \$25,000 in the aggregate from non-county sources, although it did receive a license from the city of Oakland to use certain real property for its project and is negotiating with the city of Oakland for a long-term arrangement for the real property.

The letter requests from the supervisor to the Board of Supervisors seeking approval of the FMRP disbursements did not identify the county employee as the principal of OAW, or otherwise mention the county employee. Instead, in each of the letters, the supervisor named OAW's chief financial officer as OAW's principal.

The Grand Jury determined that those statements are inaccurate, and that the county employee is, and at all times has been, the principal of OAW. It made this determination based on the testimony of other witnesses and the many documents it reviewed in its investigation. Those documents include (a) many in which the county employee is identified as OAW's CEO (including in the statements of information referred to above); (b) the November 20, 2014, newsletter from the supervisor's office identifying the county employee and the supervisor as the co-founders of OAW; (c) the filings with various government agencies in which the county employee signs on behalf of OAW; (d) the vast numbers of documents concerning OAW's relationship with the county and with the city of Oakland, and concerning the OAW project located at 7th and Campbell Streets in Oakland, in which the county employee is acting on behalf of OAW; and (e) the submission by the Alameda County Community Development Agency for the July 28, 2015, Board of Supervisors meeting seeking approval of the Boomerang fund grant to OAW, which stated that the county employee is the principal of OAW.

*The Grand Jury determined ...
that the county employee is, and
at all times has been, the
principal of Oakland & the World.*

Applicable County Rules Relating to Conflicts of Interest

The Alameda County Charter, Section 66, pertaining to conflicts of interest reads:

No officer shall hold any other public office that is incompatible with his/her county office. No officer or employee shall be interested directly or indirectly in any contract or transaction with the County, or become surety upon any bond given to the County. No officer or employee shall receive any commission, money, or thing of value, or derive any profit, benefit or advantage, directly or indirectly, from or by reason of any dealings with, or service for the County, by himself/herself or otherwise, except his/her lawful compensation as such officer or employee. Any violation of the provisions of this section shall render the contract or transaction involved voidable at the option of the Board of Supervisors.

It shall be the duty of every officer and employee who shall have knowledge of any violation of the provisions of this Section immediately to report such violation to the Board of Supervisors, and failing so to do may be removed from his/her office or employment. (Amendment ratified November 4, 1930, effective January 9, 1931.) (Amendment ratified November 8, 1988, effective March 31, 1989.)

All county employees are also subject to the Alameda County Administrative Code, which includes the following:

2.02.170 - Interest in contracts—Receipt of commissions or gifts.

No officer or employee shall be interested directly or indirectly in any contract or transaction with the county, or become surety upon any bond given to the county. No officer or employee shall receive any commission, money, gift, or thing of value, or derive any profit, benefit or advantage, directly or indirectly, from or by reason of any dealings with, or service for the county, by himself or otherwise, except his lawful compensation as such officer or employee. Any violation of the provisions of this section shall render the contract or transaction voidable at the option of the Board of Supervisors, and may be grounds for disciplinary action.

2.02.180 - Violations—Duty of officers and employees. Every officer or employee who has knowledge of the violation of the provisions of Sections 2.02.150 or 2.02.170 of this chapter shall immediately report such violation to the board, and failing to do so may be removed from his officer or employment.

CONCLUSION

The Grand Jury has deliberately not investigated nor addressed the merits of OAW's plans. OAW should have the opportunity to make its case for county funding just as any other community-based organization is entitled to do, especially those not closely associated with a county supervisor.

The foregoing demonstrates a failure of good governance practices by the county and the Board of Supervisors, in at least three respects:

- (1) The supervisor hired the county employee, with at least one objective being that the county employee would form OAW and get it up and running. With the supervisor's knowledge, the county employee has acted to accomplish that and has served as the organization's chief executive officer and a director from its incorporation in 2014. The county employee is wearing "two hats" because she is acting and advocating on behalf of OAW in dealings with other county agencies and with non-county persons and organizations, at the same time as she is informing the supervisor as a member of his staff about OAW's status and activities and advising him about whether he should appropriate substantial amounts of FMRP funds to OAW.

- (2) The Board of Supervisors places no limit on FMRP funds that can be used for donations to nonprofit organizations. It appears the supervisors are free to spend as much of their FMRP money on donations to nonprofit organizations as they wish. Considering the substantial amount of funds in each supervisor's FMRP account (totaling \$9,764,421 as of July 1, 2016, for the five supervisors) and the lack of limitations, the possibility of discretionary spending abuse must be addressed immediately.

- (3) The MAPP states, "Fiscal Management Reward Program expenditures have the same requirements as other expenditures of county dollars." This rule requires that all FMRP disbursements be made according to the "County's Procurement Policy and Procedures Overview – Guidelines for Acquisition of Goods and Services Including Professional Services," which, in turn, sets forth bidding and contracting requirements for disbursement of county funds. Among other things, the procurement policy requires that for contracts and transactions when the amount involved exceeds \$3,000, quotes or bids from multiple sources must be obtained and, for contracts or transactions when the amount involved exceeds \$25,000, written contracts must be obtained.

This policy has not been followed for FMRP disbursements by the Board of Supervisors consisting of donations to nonprofit organizations. For such donations, no competitive bidding or application process is required, no RFP process is required, and no contract is required. There is no independent evaluation of the organization either before a donation is made or after the organization has received and spent the funds.

Although the Board of Supervisors formally approved the FMRP disbursements to OAW, the Grand Jury's investigation revealed no independent evaluation by anyone and the FMRP disbursements were approved on the Board of Supervisors consent calendar without any discussion.

The difference between how the Boomerang funding and the FMRP funding were handled reinforces this point. OAW's application for \$790,000 in Boomerang funding was reviewed by a separate county agency, which conducted a competitive process and made a recommendation to the Board of Supervisors that OAW be awarded \$290,000. That approval was subject to a written contract between the county and OAW that contains various conditions and requirements. The FMRP disbursements for \$710,000 contain none of those requirements or provisions.

The Grand Jury also believes that the conduct described in this report constitutes a violation of the conflict of interest provisions set forth in Section 66 of the Alameda County Charter, and Section 2.02.170 of the Alameda County Administrative Code, each

of which says in pertinent part: “No officer or employee shall be interested directly or indirectly in any contract or transaction with the County” The Grand Jury believes this conflict of interest was created at the hiring of the county employee to work on the staff of the supervisor, and has continued thereafter. The county employee was hired, at least in part, to found and pursue the goals of OAW and has acted accordingly. This use of county staff resources constitutes a conflict of interest because it creates a situation in which, if the interests of the county and the interests of OAW differ, the county employee may be unable to fulfill her duties to the county while at the same time fulfilling her duties to OAW. This employment arrangement is inappropriate and should not be replicated in the future. Moreover, the Grand Jury believes the supervisor was aware of the conflict of interest and named a person other than the county employee as principal of OAW in the FMRP request letters to the Board of Supervisors.

FINDINGS

Finding 17-8:

The dual role played by the county employee in connection with county donations, appropriations, and disbursements to OAW, as both a county employee and as co-founder, chief executive officer and a director of OAW constituted a failure of good governance practices by the County of Alameda.

Finding 17-9:

The dual role played by the county employee in connection with county donations, appropriations, and disbursements to OAW, as both a county employee and as co-founder, chief executive officer and a director of OAW constituted a conflict of interest, in violation of Alameda County Charter Section 66 and Alameda County Administrative Code Section 2.02.170.

Finding 17-10:

The process by which the Board of Supervisors makes donations to nonprofit organizations from county funds allocated to the Board of Supervisors through the FMRP constitutes a failure of good governance practices by the County of Alameda, in that (a) large amounts of county funds can be, and are, donated to nonprofit organizations without a competitive process and without written contracts; and (b) there is little if any independent oversight of the use of such funds received by nonprofit organizations.

Finding 17-11:

The process by which the Board of Supervisors makes donations to nonprofit organizations from county funds allocated to the Board of Supervisors through the FMRP does not comply with the Alameda County Manual of Accounting Policies and Procedures, which states that FMRP expenditures have the same requirements as other expenditures of county dollars. The non-compliance consists of the Board of Supervisors failure to follow the county's procurement policy and procedures for such donations that exceed \$3,000.

RECOMMENDATIONS

Recommendation 17-7:

The Board of Supervisors must establish a policy prohibiting any member of the Board of Supervisors from hiring or directing a staff member to form a nonprofit organization or to take a management position in a nonprofit organization.

Recommendation 17-8:

In the interest of good governance practices and in recognition of limited county resources, the Board of Supervisors must adopt and follow a policy that MAPP rules and the "County's Procurement Policy and Procedures Overview – Guidelines for Acquisition of Goods and Services Including Professional Services" are strictly followed, and that no nonprofit organization may receive more than an aggregate of \$25,000 per fiscal year in donations from the FMRP accounts of members of the Board of Supervisors.

RESPONSES REQUIRED

Alameda County Board of Supervisors:

Findings 17-8 through 17-11

Recommendations 17-7 and 17-8

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APPENDIX A FMRP EXPENDITURES BY DISTRICT

DISTRICT 1

	Invoice Date	Amount	Vendor Name
BOARD	1/28/2014	10,000.00	LOVE NEVER FAILS
BOARD	5/6/2014	20,000.00	DUBLIN GAELS BOOSTER CLUB
BOARD	5/6/2014	3,000.00	LIVERMORE VALLEY JOINT UNIFIED SCH DIST
BOARD	5/6/2014	5,000.00	MONY NOP FOUNDATION
BOARD	5/6/2014	1,000.00	ALAMEDA COUNTY MEALS ON WHEELS INC
BOARD	5/6/2014	250.00	CA ASSN OF LOCAL AGENCY FORMATION COM
BOARD	5/6/2014	5,000.00	RADM PARKS BATTALION NSCC
BOARD	12/2/2014	2,500.00	TICKET TO DREAM FOUNDATION
BOARD	12/2/2014	3,400.00	DUBLIN PARTNERSHIPS IN EDUCATION
BOARD	1/27/2015	5,000.00	INNOVATION TRI VALLEY
BOARD	3/3/2015	5,000.00	DAVIS STREET COMMUNITY CENTER INC
BOARD	3/3/2015	5,000.00	VALLEY CHILDREN'S MUSEUM
BOARD	3/3/2015	20,000.00	LIVERMORE RODEO FOUNDATION
BOARD	3/24/2015	1,000.00	ASIAN HEALTH SERVICES INC
BOARD	3/24/2015	1,000.00	ROWELL RANCH RODEO INC
BOARD	3/24/2015	1,500.00	COUNTY OF ALAMEDA
BOARD	6/2/2015	10,000.00	LIVERMORE VALLEY JOINT UNIFIED SCH DIST
BOARD	6/2/2015	500.00	LIVERMORE-GRANADA BOOSTERS
BOARD	6/2/2015	3,500.00	LIVERMORE VALLEY JOINT UNIFIED SCH DIST
BOARD	6/2/2015	5,000.00	LITTLE LEAGUE BASEBALL INC
BOARD	6/2/2015	5,000.00	ONECHILD
BOARD	9/15/2015	2,250.00	REGENTS OF UNIVERSITY OF CALIFORNIA
BOARD	10/6/2015	7,303.00	LIVERMORE VALLEY JOINT UNIFIED SCH DIST
BOARD	10/6/2015	1,000.00	CHABOT-LAS POSITAS COMMUNITY
BOARD	6/2/2015	2,500.00	INDO-AMERICANS FOR BETTER COMMUNITY
BOARD	9/15/2015	7,000.00	SAFE ALTERNATIVES TO VIOLENT
BOARD	9/15/2015	5,000.00	TRI-VALLEY NONPROFIT ALLIANCE
BOARD	9/15/2015	2,500.00	THE FREMONT RODENT SOCIETY
BOARD	9/15/2015	2,250.00	REGENTS OF THE UNIVERSITY OF CALIFORNIA
BOARD	3/8/2016	10,000.00	LIVERMORE RODEO FOUNDATION
BOARD	3/8/2016	6,000.00	LIVERMORE VALLEY JOINT UNIFIED SCH DIST
BOARD	3/8/2016	1,000.00	ROWELL RANCH RODEO INC
BOARD	4/19/2016	8,000.00	LIVERMORE MANAGEMENT ASSOCIATION
BOARD	3/8/2016	5,000.00	CITY OF FREMONT
BOARD	3/8/2016	2,500.00	CITY OF PLEASANTON
BOARD	3/8/2016	5,000.00	DUBLIN GAELS BOOSTER CLUB
BOARD	3/8/2016	5,000.00	LIVERMORE-GRANADA BOOSTERS
BOARD	3/8/2016	5,000.00	IRVINGTON HIGH BOOSTER CLUB
BOARD	4/19/2016	5,000.00	LIVERMORE VALLEY JOINT UNIFIED SCH DIST
BOARD	4/19/2016	2,500.00	INDO-AMERICANS FOR BETTER COMMUNITY
BOARD	6/14/2016	3,000.00	ONECHILD
BOARD	8/31/2016	2,000.00	TICKET TO DREAM FOUNDATION
BOARD	8/31/2016	5,000.00	INNOVATION TRI VALLEY
BOARD	8/31/2016	5,000.00	SUNFLOWER HILL
BOARD	8/31/2016	50,000.00	LAS POSITAS 4-H CAMP INC
BOARD	8/2/2016	2,500.00	TRI-VALLEY NONPROFIT ALLIANCE
BOARD	8/2/2016	2,000.00	OAKLAND UNIFIED SCHOOL DISTRICT
BOARD	9/27/2016	4,500.00	BLACK TIE TRANSPORATION
BOARD	9/27/2016	25,000.00	THE TAYLOR FAMILY FOUNDATION
BOARD	9/27/2016	5,000.00	LIVERMORE VALLEY PERFORMING ARTS CENTER
BOARD	9/27/2016	10,000.00	FREMONT SYMPHONY ORCHESTRA
		\$ 311,453.00	

DISTRICT 2

	Invoice Date	Amount	Vendor Name
BOARD	12/2/2014	30,000.00	CENTRO DE SERVICIOS OF ALAMEDA COUNTY
BOARD	12/2/2014	20,000.00	MATH/SCIENCE NUCLEUS
BOARD	8/15/2012	30,000.00	MAIN STREET ART INC
BOARD	12/16/2014	1,281.00	HAYWARD EDUCATION FOUNDATION
BOARD	12/16/2014	2,423.00	NEW HAVEN SCHOOLS FOUNDATION
BOARD	12/16/2014	4,500.00	HAYWARD UNIFIED SCHOOL DISTRICT
BOARD	12/16/2014	2,400.00	NEW HAVEN UNIFIED SCHOOL DISTRICT
BOARD	12/16/2014	1,200.00	NEWARK UNIFIED SCHOOL DISTRICT
BOARD	2/10/2015	30,000.00	COMMUNITY INITIATIVES
BOARD	5/5/2015	12,500.00	SAFE ALTERNATIVES TO VIOLENT
BOARD	5/5/2015	25,000.00	CENTRO LEGAL DE LA RAZA INC
BOARD	5/12/2015	2,400.00	NEWARK UNIFIED SCHOOL DISTRICT
BOARD	5/12/2015	1,200.00	NEW HAVEN UNIFIED SCHOOL DISTRICT
BOARD	5/12/2015	20,000.00	CYPRESS MANDELA TRAINING CENTER INC
BOARD	12/16/2014	1,195.00	NEWARK EDUCATIONAL FOUNDATION
BOARD	12/1/2015	30,000.00	CENTRO DE SERVICIOS OF ALAMEDA COUNTY
BOARD	12/1/2015	20,000.00	MATH/SCIENCE NUCLEUS
BOARD	12/1/2015	15,000.00	ALAMEDA COUNTY DEPUTY SHERIFFS'
BOARD	12/8/2015	57,440.50	NEW HAVEN UNIFIED SCHOOL DISTRICT
BOARD	5/11/2016	3,850.00	HAYWARD EDUCATION FOUNDATION
BOARD	5/11/2016	450.00	NEW HAVEN SCHOOLS FOUNDATION
BOARD	5/11/2016	51,625.00	CENTRO LEGAL DE LA RAZA INC
BOARD	5/11/2016	5,000.00	CITY OF NEWARK
BOARD	6/2/2016	300.00	NEWARK EDUCATIONAL FOUNDATION
BOARD	8/30/2016	30,000.00	EAST BAY ALLIANCE FOR SUSTAINABLE ECONOM
BOARD	8/30/2016	30,000.00	CENTRO DE SERVICIOS OF ALAMEDA COUNTY
BOARD	8/30/2016	40,000.00	SPECTRUM COMMUNITY SVCS INC
BOARD	8/30/2016	12,500.00	SAFE ALTERNATIVES TO VIOLENT
BOARD	9/19/2016	3,500.00	CITY OF HAYWARD
BOARD	11/17/2016	1,500.00	HAYWARD EDUCATION FOUNDATION
BOARD	11/17/2016	1,500.00	NEWARK EDUCATIONAL FOUNDATION
BOARD	11/17/2016	3,700.00	NEW HAVEN SCHOOLS FOUNDATION
		\$490,464.50	

DISTRICT 3

	Invoice Date	Amount	Vendor Name
BOARD	9/17/2013	20,000.00	ACTS FULL GOSPEL CHURCH
BOARD	4/8/2014	15,000.00	CITY OF ALAMEDA
BOARD	4/7/2015	15,000.00	CITY OF ALAMEDA
BOARD	12/1/2015	10,140.00	PACIFIC HEALTHY CONSULTING GROUP LLC
BOARD	3/1/2016	25,000.00	PHILANTHROPIC VENTURES FOUNDATION
BOARD	6/28/2016	15,000.00	CITY OF ALAMEDA
BOARD	9/27/2016	17,000.00	ALAMEDA MEALS ON WHEELS INC
		\$117,140.00	

DISTRICT 4

	Invoice Date	Amount	Vendor Name
BOARD	11/7/2013	10,000.00	ALAMEDA COUNTY MEALS ON WHEELS INC
BOARD	11/7/2013	5,000.00	CENTER FOR ELDER INDEPENDENCE
BOARD	11/7/2013	10,000.00	LEND A HAND FOUNDATION INC
BOARD	1/21/2014	5,000.00	UNITED STATES NAVAL SEA CADET CORPS
BOARD	4/21/2014	500.00	CASTRO VALLEY SANITARY DISTRICT
BOARD	4/21/2014	1,000.00	ROWELL RANCH RODEO INC
BOARD	4/21/2014	1,000.00	COUNTY OF ALAMEDA
BOARD	4/21/2014	2,500.00	INTERNET SEXUALITY INFORMATION SERVICES
BOARD	6/18/2014	1,500.00	SINKLER-MILLER MEDICAL ASSN
BOARD	6/18/2014	250.00	CA ASSN OF LOCAL AGENCY FORMATION COM
BOARD	10/6/2014	23,750.00	HILL & COMPANY COMMUNICATIONS INC
BOARD	6/30/2014	38,752.00	URBAN STRATEGIES COUNCIL INC
BOARD	9/4/2014	3,229.33	URBAN STRATEGIES COUNCIL INC
BOARD	9/30/2014	3,229.33	URBAN STRATEGIES COUNCIL INC
BOARD	9/26/2014	22,500.00	PREVENTION INSTITUTE
BOARD	12/1/2014	16,850.00	HILL & COMPANY COMMUNICATIONS INC
BOARD	11/30/2014	3,229.34	URBAN STRATEGIES COUNCIL INC
BOARD	1/1/2015	1,343.96	URBAN STRATEGIES COUNCIL INC
BOARD	1/29/2015	7,880.00	HILL & COMPANY COMMUNICATIONS INC
BOARD	1/5/2015	7,500.00	PREVENTION INSTITUTE
BOARD	8/7/2014	3,229.33	URBAN STRATEGIES COUNCIL INC
BOARD	10/31/2014	3,229.33	URBAN STRATEGIES COUNCIL INC
BOARD	12/26/2014	3,229.34	URBAN STRATEGIES COUNCIL INC
BOARD	3/19/2015	300.00	NATIONAL COALITION OF 100 BLACK WOMEN
BOARD	3/19/2015	500.00	CASTRO VALLEY SANITARY DISTRICT
BOARD	3/19/2015	750.00	DAYBREAK ADULT CARE CENTERS
BOARD	3/19/2015	1,000.00	CENTER FOR ELDER INDEPENDENCE
BOARD	3/19/2015	1,000.00	ROWELL RANCH RODEO INC
BOARD	3/19/2015	500.00	COUNTY OF ALAMEDA
BOARD	3/19/2015	2,500.00	ALAMEDA COUNTY DEPUTY SHERIFFS'
BOARD	3/19/2015	3,000.00	ALAMEDA COUNTY MEALS ON WHEELS INC
BOARD	3/19/2015	5,000.00	LEND A HAND FOUNDATION INC
BOARD	3/19/2015	10,000.00	CALIFORNIA PRODUCT STEWARDSHIP COUNCIL
BOARD	5/19/2015	2,101.34	URBAN STRATEGIES COUNCIL INC
BOARD	4/22/2015	15,819.01	URBAN STRATEGIES COUNCIL INC
BOARD	7/14/2015	250.00	CASTRO VALLEY CHAMBER OF COMMERCE

BOARD	7/14/2015	500.00	ASIAN HEALTH SERVICES INC
BOARD	7/14/2015	1,000.00	CIVIC PRIDE
BOARD	7/14/2015	1,000.00	FRIENDS OF OAKLAND PARKS & RECREATION
BOARD	7/14/2015	2,500.00	CASTRO VALLEY PRIDE
BOARD	5/7/2015	3,825.70	E-3 SYSTEMS
BOARD	5/7/2015	4,919.20	E-3 SYSTEMS
BOARD	4/29/2015	18,016.35	HILL & COMPANY COMMUNICATIONS INC
BOARD	6/26/2015	6,175.00	HILL & COMPANY COMMUNICATIONS INC
BOARD	8/11/2015	7,875.00	PREVENTION INSTITUTE
BOARD	7/13/2015	6,448.80	URBAN STRATEGIES COUNCIL INC
BOARD	11/17/2015	27,000.00	EDEN UNITED CHURCH OF CHRIST
BOARD	8/11/2015	7,875.00	PREVENTION INSTITUTE
BOARD	9/30/2015	7,875.00	PREVENTION INSTITUTE
BOARD	11/30/2015	4,322.17	URBAN STRATEGIES COUNCIL INC
BOARD	12/31/2015	4,322.17	URBAN STRATEGIES COUNCIL INC
BOARD	9/30/2015	12,966.50	URBAN STRATEGIES COUNCIL INC
BOARD	10/31/2015	4,322.17	URBAN STRATEGIES COUNCIL INC
BOARD	12/11/2015	25,808.65	HILL & COMPANY COMMUNICATIONS INC
BOARD	1/15/2016	7,875.00	PREVENTION INSTITUTE
BOARD	5/31/2015	1,563.84	URBAN STRATEGIES COUNCIL INC
BOARD	3/3/2016	8,000.00	ALAMEDA COUNTY DEPUTY SHERIFFS'
BOARD	3/3/2016	20,000.00	YOUTH ALIVE !
BOARD	3/10/2016	5,000.00	ALAMEDA COUNTY DEPUTY SHERIFFS'
BOARD	4/12/2016	1,000.00	ROWELL RANCH RODEO INC
BOARD	4/12/2016	2,500.00	CITY OF PLEASANTON
BOARD	4/12/2016	10,000.00	HEALTH COMMUNITIES INC
BOARD	4/12/2016	12,500.00	GENESIS WORSHIP CENTER
BOARD	4/12/2016	25,000.00	CENTER OF HOPE COMMUNITY CHURCH
		\$457,612.86	

DISTRICT 5

	Invoice Date	Amount	Vendor Name
BOARD	10/20/2014	20,000.00	OAKLAND & THE WORLD ENTERPRISES INC
BOARD	11/25/2014	100,000.00	OAKLAND & THE WORLD ENTERPRISES INC
BOARD	11/25/2014	1,000.00	SOCIETY OF ST VINCENT DE PAUL OF ALAMEDA
BOARD	11/25/2014	1,500.00	100 BLACK MEN OF THE BAY AREA INC
BOARD	11/25/2014	1,000.00	ST MARY'S CENTER
BOARD	11/25/2014	500.00	BERKELEY YOUTH ALTERNATIVES
BOARD	11/26/2014	30,000.00	YOUTH RADIO
BOARD	11/26/2014	10,000.00	BERKELY FILM FOUNDATION
BOARD	11/26/2014	15,000.00	LEND A HAND FOUNDATION INC
BOARD	11/26/2014	10,000.00	COMMUNITY INITIATIVES
BOARD	11/26/2014	1,000.00	COUNTY OF ALAMEDA
BOARD	11/26/2014	10,000.00	UNITED ROOTS OAKLAND
BOARD	11/26/2014	500.00	ONE FAM
BOARD	12/16/2014	500.00	ALAMEDA COUNTY FAMILY JUSTICE CENTER
BOARD	12/16/2014	58,000.00	BUILDING OPPORTUNITIES FOR SELF SUFFICIE
BOARD	12/16/2014	10,000.00	E C REEMS COMMUNITY SERVICES
BOARD	12/16/2014	1,000.00	ALBANY EDUCATION FOUNDATION

2016-2017 Alameda County Grand Jury Final Report

BOARD	4/27/2015	290,000.00	OAKLAND & THE WORLD ENTERPRISES INC
BOARD	5/21/2015	5,000.00	CENTERFORCE
BOARD	4/27/2015	1,000.00	JUST CAUSE OAKLAND
BOARD	4/27/2015	10,000.00	PRISON UNIVERSITY PROJECT INC
BOARD	4/27/2015	25,000.00	BAY AREA COMMUNITY SERVICES INC
BOARD	4/27/2015	50,000.00	EAST BAY COMMUNITY LAW CENTER
BOARD	4/27/2015	5,000.00	COMMUNITY INITIATIVES
BOARD	10/19/2015	25,000.00	CYPRESS MANDELA TRAINING CENTER INC
BOARD	10/19/2015	1,000.00	SOCIETY OF ST VINCENT DE PAUL OF ALAMEDA
BOARD	10/19/2015	10,000.00	HIDDEN GENIUS PROJECT
BOARD	12/11/2015	20,000.00	SOCIETY OF ST VINCENT DE PAUL OF ALAMEDA
BOARD	12/11/2015	15,000.00	CITY SLICKER FARMS
BOARD	12/11/2015	10,000.00	EAST BAY KOREAN-AMERICAN SENIOR
BOARD	12/15/2015	15,000.00	ST MARY'S CENTER
BOARD	2/10/2016	50,000.00	ROOTS COMMUNITY HEALTH CENTER
BOARD	2/10/2016	25,000.00	CENTERFORCE
BOARD	3/29/2016	300,000.00	OAKLAND & THE WORLD ENTERPRISES INC
BOARD	3/29/2016	1,000.00	BAY AREA BLACK UNITED FUND INC
BOARD	3/29/2016	1,000.00	ONE FAM
BOARD	3/29/2016	5,000.00	CHINESE FOR AFFIRMATIVE ACTION
BOARD	3/29/2016	5,000.00	SHINE SOME LIGHT INC
BOARD	9/26/2016	41,233.65	KBM OFFICE EQUIPMENT INC
BOARD	8/22/2016	1,655.06	E-3 SYSTEMS
BOARD	8/22/2016	2,880.00	E-3 SYSTEMS
		\$1,184,768.71	

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COUNTY PROVIDES MILLION DOLLAR BAILOUT TO YOUTH UPRISING



Youth UpRising Center, 8711 MacArthur Blvd., Oakland, CA

EXECUTIVE SUMMARY

Youth UpRising is a nonprofit organization providing services to high-risk youth in Oakland's Castlemont neighborhood. In May 2016, in response to a fiscal crisis at Youth UpRising, the Alameda County Board of Supervisors appropriated \$1 million to rescue this community-based organization (CBO). Because of the size of this bailout, the Grand Jury decided to investigate county oversight of Youth UpRising and (1) determine whether the county should have discovered Youth UpRising's financial problems earlier, and (2) whether there still are structural problems in the county/Youth UpRising relationship that need to be addressed.

During its investigation, the Grand Jury learned that Youth UpRising undertook two new major programs that resulted in changes in the composition and responsibilities of the leadership team, and experienced turnover in the organization's financial staff. The organization also received additional grant funds and incurred additional expenses in connection with new programs, but failed to implement adequate accounting and financial controls to keep money for each program separate. There was disagreement among members of the organization's board of directors about transparency and leadership issues, and members resigned from the board. As a result of these and other

The Grand Jury concluded that the county's close relationship with Youth UpRising resulted in this community-based organization being treated differently than other community-based organizations that receive county dollars.

factors, the financial condition of Youth UpRising deteriorated. Many of the issues facing Youth UpRising went undetected by its largest funder: the County of Alameda.

Following its investigation, the Grand Jury concluded that the county's close relationship with Youth UpRising resulted in this CBO being treated differently than other CBOs that receive county dollars. While a member of the Board of Supervisors has been on the board at Youth UpRising, the Grand Jury learned that his presence provided little to no added protection for the county because the board member did not actively participate in Youth UpRising governance. In addition, the Alameda County Health Care Services Agency (HCSA) did not assign a staff level contract administrator with the time to oversee the core contract. While the Grand Jury heard testimony from multiple sources that the county could not have discovered Youth UpRising's financial problems any earlier, warning signs, such as leadership transition and new organizations incubated at Youth UpRising, should have resulted in more county scrutiny.

BACKGROUND

Since Youth UpRising's founding in May 2005, Alameda County has provided its building (valued at \$258,156 in FY 2015-2016) and paid its core operating expenses (valued at \$713,933 in FY 2015-2016); it also funds Youth UpRising programs through several other department contracts. Altogether, the county provides nearly half of Youth UpRising's revenue. The city of Oakland and private foundations such as the San Francisco Foundation also fund Youth UpRising, but Alameda County is its largest single source of revenue.

Youth UpRising is governed by ten board members including one member from the Alameda County Board of Supervisors (the supervisor), one from the Oakland City Council, and one from the Oakland Unified School District (OUSD) board. A county employee was selected as the president and first chief executive officer (CEO). This employee left county employment to lead Youth UpRising and has been its only CEO. The HCSA acting director administers the Youth UpRising core contract. Program specialists in two agencies, HCSA and the Alameda County Social Services Agency (SSA), administer other county contracts.

Youth UpRising is located next to Castlemont High School in Oakland, California. It is a nonprofit registered with the California attorney general's office. Youth UpRising's IRS Form 990s (financial disclosure forms) show public support for the period July 1, 2011, through June 30, 2015, was approximately \$26.63 million.

Over the years, Youth UpRising has received many accolades for its impact on high-risk youth in Oakland’s Castlemont community. Its stated mission is to “transform East Oakland into a healthy and economically robust community by developing the leadership of youth and young adults and improving the systems that impact them.”

INVESTIGATION

During the investigation, the Grand Jury heard testimony from several witnesses, including county and Youth UpRising employees, and an independent financial auditor. The Grand Jury reviewed records for Board of Supervisors meetings at which Youth UpRising contracts were approved and reviewed, and numerous other documents, including:

The Grand Jury heard conflicting testimony regarding the root cause of the financial dilemma.

- Fact sheet prepared by Youth UpRising;
- Alameda County confidential briefing sheet prepared April 2016 by Youth UpRising’s CEO;
- Audit report of Youth UpRising prepared at request of HCSA, May 6, 2016;
- Recommendation letter to the Alameda County Board of Supervisors, prepared by HCSA acting director, requesting a one-time appropriation of \$1 million to meet short term needs of Youth UpRising;
- Numerous contracts and contract amendments between HCSA, SSA and Youth UpRising;
- Numerous monthly invoices submitted for payment by Youth UpRising to Alameda County;
- Numerous independent audit reports prepared by Youth UpRising’s outside auditor;
- Numerous Internal Revenue Service form 990s filed by Youth UpRising with the state of California Attorney General’s charitable trusts division;
- Youth UpRising board meeting minutes for calendar year 2016; and
- “Independent Accountant’s Report on Applying Agreed Upon Procedures prepared for the San Francisco Foundation,” July 26, 2016

The Fiscal Crisis

The Grand Jury learned that in early 2016, Youth UpRising discovered a shortfall of \$2 million within its budget. In a report prepared by the CEO, these errors were summarized as a “\$1 million+ revenue error” and various “income” mistakes. The Grand

Jury heard conflicting testimony regarding the root causes of the financial dilemma. There was a claim attributing these budget errors to a transitional leadership team. There was also evidence that the CEO had focused efforts on two new organizations that caused her to relinquish some Youth UpRising budgetary oversight. Other evidence showed that the two new organizations (Castlemont Community Transformation Schools and Castlemont Renaissance) became a liability to Youth UpRising's finances.

Youth UpRising and Castlemont Community Transformation Schools

Castlemont Community Transformation Schools (CCTS) is identified by Youth UpRising as a program accomplishment on its IRS 990 financial disclosures for FY 2013-2014. In 2014, Youth UpRising submitted a charter school petition to the Oakland Unified School District for two schools that would complete the "cradle to career continuum of services on campus." Youth UpRising launched CCTS as a separate 501(c)3 corporation to operate an elementary school and junior-high academy on campus.

CCTS obtained two charter school approvals from OUSD in August and November 2014 for its elementary and junior-high schools. The organization opened the two charter schools in August 2015. Three months earlier, the OUSD school board approved a lease allowing CCTS to rent classrooms at the Castlemont High School campus for \$88,407 a year. While the schools were meant to operate as separate nonprofit organizations from Youth UpRising, Youth UpRising's FY 2014-2015 IRS 990 form showed that \$605,702 was allocated for CCTS expenses, including Castlemont Primary, Castlemont Junior Academy, transportation programs, and violence prevention programs.

Within 18 months both schools failed to enroll enough students and ran out of money. Castlemont Junior Academy shut down in June 2016, and Castlemont Primary Academy shut down in February 2017.

Youth UpRising and Castlemont Renaissance

During the development of the charter school project, Youth UpRising began another significant initiative. On July 14, 2015, The San Francisco Foundation announced a \$34 million investment in Oakland of which Youth UpRising received \$2.5 million for Castlemont Renaissance to develop the Castlemont community. The Grand Jury learned that Youth UpRising acted as the fiscal agent for Castlemont Renaissance because Castlemont Renaissance did not have its own bank account. While the San Francisco Foundation grant was on Youth UpRising's balance sheet in FY 2016, Youth UpRising documents show that the CEO ensured "the full transition of school (CCTS) and leader organization (Castlemont Renaissance) out of Youth UpRising."

Youth UpRising's 2016 board minutes show concerns raised by some board members about Castlemont Renaissance's relationship to Youth UpRising, and proposed amendments to Youth UpRising's articles of incorporation and bylaws. During this period, the Grand Jury learned that the Youth UpRising board also suffered significant turnover and struggled through disagreements about transparency and leadership issues that damaged the nonprofit's governance structure. This, coupled with the high turnover and lack of continuity in the financial staff, contributed to the financial crisis.

It was reported to the Grand Jury that Youth UpRising took action to address nearly \$900,000 of the financial shortfall by reducing staff and other expenses by approximately \$500,000, and shifting approximately \$400,000 in salaries from Youth UpRising to Castlemont Renaissance. The Grand Jury has seen no evidence of any reports detailing how the shortfall of funds affected the young people being served by Youth UpRising.

Alameda County Gives \$1 Million to Youth UpRising

In addition to the cuts to Youth UpRising staffing and other expenses, the Grand Jury learned that during the March/April 2016 timeframe, the Youth UpRising CEO informed the HCSA acting director of the fiscal crisis. The CEO requested a one-time appropriation of \$1 million from the county to enable Youth UpRising to continue operations.

The Grand Jury heard testimony that the Alameda County HCSA acting director had no prior knowledge of the fiscal crisis, and was concerned about the size of the requested bailout. As a result, in early 2016, the HCSA acting director engaged the services of an independent financial auditor to conduct an audit of Youth UpRising's financial situation. The scope of this audit was limited to: (1) gaining an understanding of the causes for the 2016 budgetary shortfall; (2) verifying the amount of the shortfall; and (3) determining if the shortfall is contained within the fiscal year.

The auditor's report concluded that:

- Youth UpRising was experiencing financial problems prior to 2016;
- Youth UpRising's estimate of its 2016 budgetary problems was low;
- Youth UpRising's plan to resolve budgetary problems was generally sound, but might not be accomplished by the end of the fiscal year; and
- Youth UpRising needed to make improvement to its governance and financial operations in order to contain the budgetary shortfall of 2016.

On behalf of HCSA and SSA, the acting director of HCSA prepared a letter for the Alameda County Board of Supervisors requesting approval of an amendment to the Youth

UpRising master contract in the amount of \$1 million (\$500,000 from HCSA and \$500,000 from SSA) “to remedy isolated financial shortfalls created by errors in the budgeting process” and “to ensure continuity of operations and services” through June 30, 2016. The \$1 million bailout was approved by all five supervisors, including the supervisor on the Youth UpRising board at the May 24, 2016, meeting of the Board of Supervisors.

The Grand Jury reviewed the documents from the Board of Supervisors that approved the \$1 million appropriation and amended the master contract. The master contract amendment for \$1 million required Youth UpRising to provide a final report outlining the work to be performed with the \$1 million before the money could be dispersed. This final report did not accompany the Youth UpRising invoice for \$1 million, as the invoice was submitted immediately after the board vote approving the \$1 million appropriation. Moreover, the master contract amendment simply restated the contract goals and did not include any of the improvements to Youth UpRising’s governance and financial operations identified by the county’s outside auditor in his report.

Within two months of the bailout, the HCSA renewed its contracts with Youth UpRising and added new reporting requirements and performance measures to the contract consistent with the county’s efforts to expand its performance-based contracting initiative. Yet the Grand Jury has seen no evidence that the county has followed up on its \$1 million bailout to ensure that corrective action has been taken at Youth UpRising. The Grand Jury is concerned that the county still does not seem to understand fully the root causes of the financial crisis and Youth UpRising’s governance issues. The Grand Jury, through its investigation, believes the root causes are based upon Youth UpRising’s personnel changes, co-mingling of resources and inadequate financial controls.

Co-Mingling of Resources

The county/Youth UpRising public-private structure appears to have worked well when Youth UpRising was focused on its core mission of providing services to high-risk youth

The Grand Jury heard testimony that the supervisor and those overseeing the county contracts were unaware of any internal conflicts and co-mingling or sharing of resources.

in the Castlemont area. In FY 2014, the CEO began her launch of new organizations to vastly expand Youth UpRising’s mission to create a “Castlemont Constellation.” Charter schools under Castlemont Community Transformation Schools and proposed affordable housing projects under Castlemont Renaissance were partially managed at Youth UpRising’s offices even

though each organization existed as a separate nonprofit. Youth UpRising’s facilities and other resources were shared with CCTS and also with Castlemont Renaissance.

Significant CCTS expenses were reported by Youth UpRising in FY 2015. Grant revenue for Castlemont Renaissance was held by Youth UpRising in FY 2016. CCTS had a close relationship with Youth UpRising in that board meetings were held at Youth UpRising. The CEO spent a considerable amount of time both preparing the charter school authorization applications, and in participating in the management oversight of the school organizations.

The county’s independent auditor report included the following projection of Youth UpRising’s finances, based on the March 31, 2016, balance sheet (in thousands):

Net assets as of March 31, 2016	\$2,525
Less restricted Castlemont Funds (SF Foundation)	(\$2,500)
Less restricted Castlemont Funds (CA Endowment)	(\$500)
Adjusted net assets (deficit) at March 31, 2016	(\$475)
Expected deficit for April-June 2016	(\$391)
Expected net assets (deficit) at June 30, 2016	(\$866)

The Board of Supervisors approved the \$1 million appropriation for Youth UpRising on May 24, 2016, and a check was issued on that same date. The Grand Jury reviewed documents from the SF Foundation indicating that on May 27, 2016, \$820,614 was transferred from Youth UpRising’s operating account to a separate bank account maintained for Castlemont Constellation. The Grand Jury is very concerned because it understood that this money was intended to bail out Youth UpRising.

The Grand Jury heard testimony that the supervisor and those overseeing the county contracts were unaware of any internal conflicts and co-mingling or sharing of resources. County representatives were also unaware that the CEO had taken on many responsibilities related to the other two nonprofit organizations. The supervisor only participated in one Youth UpRising board meeting in 2016, which was by telephone in December. A member of the supervisor’s staff participated as his proxy for the June 23, 2016, meeting.

In the Youth UpRising board meeting minutes of February 18, 2016, the CEO stated, in response to a question asking why Castlemont Renaissance funds are shown in the FY 2016 development table, that “Youth UpRising is the applicant and was funded to launch Castlemont Renaissance with the funds to be transferred when Castlemont Renaissance exists.”

The Youth UpRising board meeting minutes reflect concerns raised by the co-mingling of Castlemont Renaissance with Youth UpRising. Due to this co-mingling of resources with other nonprofits, Youth UpRising in FY 2015-2016 found itself in financial crises, requiring a bailout by Alameda County.

CEO Salary Irregularities

Although the Grand Jury did not intend to investigate the CEO's compensation, certain irregularities emerged during the course of the investigation:

- The Grand Jury heard testimony that the CEO had stepped away from management of Youth UpRising for significant periods of time in FY 2015-2016, but Youth UpRising continued to invoice the county for its entire share of the CEO's annual salary for that year (\$93,000 plus benefits).
- The Grand Jury also learned that the SF Foundation grant to Youth UpRising was charged approximately \$159,000 for the CEO's salary through May 2016 when it was only supposed to charge \$101,000 annually.
- According to Youth UpRising's IRS form 990s, the CEO's average annual salary for the years 2011 through 2015 was \$216,700. A recent survey of program director salaries in 79 California cities indicated the average salary for a community-based organization director in Oakland to be approximately \$113,000.

Need for Comprehensive County Oversight

Given the county investment in Youth UpRising and the 2016 financial crisis, the Grand Jury recommends that the county conduct a comprehensive audit of Youth UpRising. This review should test financial systems in place and ensure that Youth UpRising's operating expenses are fairly allocated among all authorized programs and that its revenue is used only for authorized purposes. The different county departments and agencies contracting with Youth UpRising must coordinate their efforts to protect the county's investment.

The county should also evaluate and ensure that appropriate recommendations of the county's outside auditor are implemented. Those recommendations were:

- Youth UpRising needs a succession plan that identifies, trains and supports the next CEO and senior staff.
- Youth UpRising needs to rebuild its reserve to at least 90 days of expenses, or \$1,368,000.
- Youth UpRising needs to develop a plan to address its long-term need for financial expertise.

- The accounting records of Youth UpRising need to be maintained separately from Castlemont Renaissance.
- Bank reconciliations and other account reconciliations need to be performed and maintained in a timely manner.
- Youth UpRising should determine the risk of losing each major revenue source and develop a plan for recovering from such loss in sufficient time to keep from adversely affecting its ability to provide services that the county has contracted.

Alternative County Modes

Alameda County currently supports or operates youth centers in the county using different models of operation. The county directly manages the REACH Youth Center in Ashland by staffing the center with county employees. Youth UpRising operates as a separate nonprofit and, while financially supported by the county, it is not operated or managed by county employees. While this allows Youth UpRising to attract funding from other government and non-government sources, the county has less oversight and fewer financial controls to protect against the \$2 million deficit Youth UpRising amassed in a short period of time.

CONCLUSION

Alameda County has funded Youth UpRising's administrative and building expenses since 2005, and over the years has significantly expanded its support with additional contracts from other county departments. Public investments like these deserve robust oversight to ensure that services are being delivered and public funds are spent properly. After completing its investigation, the Grand Jury concludes that the county's oversight of Youth UpRising was inadequate, fragmented, and failed to uncover Youth UpRising's financial and governance problems.

The county is an essential partner with this key community-based organization, and its oversight of the organization should be commensurate with its financial support.

In 2016, Youth UpRising amassed a \$2 million operating shortfall due to leadership issues and poor financial controls. The organization and its CEO had invested significant time and resources on new projects aimed at addressing issues of affordable housing, workforce development and opened two charter schools in the Castlemont neighborhood of east Oakland. Leadership issues, staff turnover and board turmoil plagued the organization, culminating in the financial crisis.

Yet the county – Youth UpRising’s primary funding source – had little to no knowledge of any of these issues. The Alameda County supervisor who served on the Youth UpRising board of directors rarely attended board meetings, thus providing little oversight for the county’s investment. Further, the county agencies that contracted with Youth UpRising did not coordinate their oversight of the organization, and the county Health Care Services Agency, which held the core contract with Youth UpRising, had very little information about Youth UpRising’s new projects, comingling of funds, and leadership challenges. Finally, the county had no indication that it was cross-subsidizing Youth UpRising’s new projects when it provided the \$1 million bailout in the summer of 2016.

While the county did hire an outside auditor to determine whether Youth UpRising’s financial problems were temporary and accurately reported, the county did not make the auditor’s recommendations a condition of the county providing the bailout funds. As the county HCSA embedded new reporting measures into the core contract with Youth UpRising after the bailout, it should have taken further steps to coordinate county oversight with other departments; assigned the contract’s oversight to a contract administrator rather than giving Youth UpRising special treatment; and even reconsidered the county’s limited role in the management of the organization. The county is an essential partner with this key community organization, and its oversight of the organization should be commensurate with its financial support.

FINDINGS

Finding 17-12:

The County of Alameda has not provided sufficient oversight of Youth UpRising to ensure that services are being provided and the public’s funds are being properly used.

Finding 17-13:

The County of Alameda’s standard contract administration process and procedures were not used to manage the relationship between the county and Youth UpRising.

Finding 17-14:

The Board of Supervisors approved the “bailout” of Youth UpRising without adequate review.

Finding 17-15:

Alameda County's REACH program offers similar services to those provided by Youth UpRising at a similar operational cost. The county is able to provide comprehensive oversight and fiscal management to the REACH program, but has been unable to provide the same oversight to Youth UpRising.

Finding 17-16:

Fragmented oversight of Youth UpRising contributed to the county's failure to identify the root causes of Youth UpRising's financial problems.

RECOMMENDATIONS

Recommendation 17-9:

Alameda County must perform a detailed review of the current financial status of Youth UpRising and ensure adequate financial controls and management are put in place.

Recommendation 17-10:

Alameda County Health Care Services Agency must assign a contract administrator to manage Youth UpRising's contract going forward, and the HCSA must coordinate its oversight with other county agencies that contract with Youth UpRising.

Recommendation 17-11:

Alameda County must evaluate the benefits of continuing to support Youth UpRising as an independent community-based organization when a county-run model might provide improved oversight and control.

RESPONSES REQUIRED

Alameda County Board of Supervisors:

Findings 17-12 through 17-16

Recommendations 17-9 through 17-11

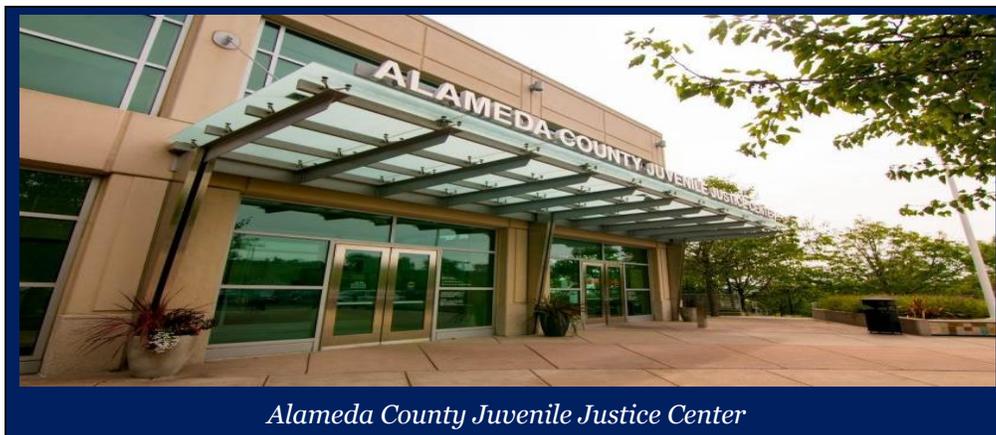
Alameda County Health Care Services Agency:

Finding 17-12 through 17-16

Recommendations 17-9 through 17-11

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POLITICAL INTERFERENCE WITH THE PROBATION DEPARTMENT'S PROCUREMENT OF SERVICES



EXECUTIVE SUMMARY

The Grand Jury received a complaint that a member of the Alameda County Board of Supervisors interfered with the selection of a vendor to provide chaplaincy services for minors in custody at Alameda County Juvenile Hall and Camp Sweeney. The complaint alleged that the supervisor prevented the Probation Department from conducting an open search for services needed by the Probation Department, and, instead, insisted that a particular vendor with strong political influence in the county be chosen, thereby usurping the role of a county department head.

The supervisor exceeded her authority ... which preclude(s) an individual board member from acting without board concurrence.

After a comprehensive investigation, the Grand Jury found that the supervisor exceeded her authority under Government Code section 25005 and the County Charter section 10, both of which preclude an individual board member from acting without board concurrence. The conduct of the supervisor also impeded the Probation Department's ability to fulfill its duties under Title 15 of the California Code of Regulations for the Department of Corrections and Rehabilitation and the county charter, which together give the Probation Department responsibility to select outside vendors, where needed, to provide services for children who are wards of the Juvenile Court. The Grand Jury also learned that there does not appear to be any vehicle to address this type of issue except to file a complaint with the Grand Jury.

This is not the first time the issue of political interference has come to the Grand Jury's attention: in its 2014-2015 report, the Grand Jury described unacceptable pressure applied to county departments by the chief of staff of a supervisor in an effort to influence administrative decisions, calling this a "culture of political interference." [<https://www.acgov.org/grandjury/final2014-2015.pdf> – starting at page 19.]

The Grand Jury's summary conclusions in 2014-2015 are equally applicable to this investigation in 2016-2017: "While the Grand Jury understands that elected officials must represent constituents and, at times, must inquire with administrative staff regarding the status of a project . . . , the degree of interference found within this investigation went well beyond acceptable constituent services." And, "[p]olitical interference by elected officials or their agents applying pressure on administrative staff to give preferential treatment to favored constituents damages the effectiveness of government organizations" That nothing seems to have changed in the two years since the Grand Jury first reported on this issue is disheartening.

BACKGROUND

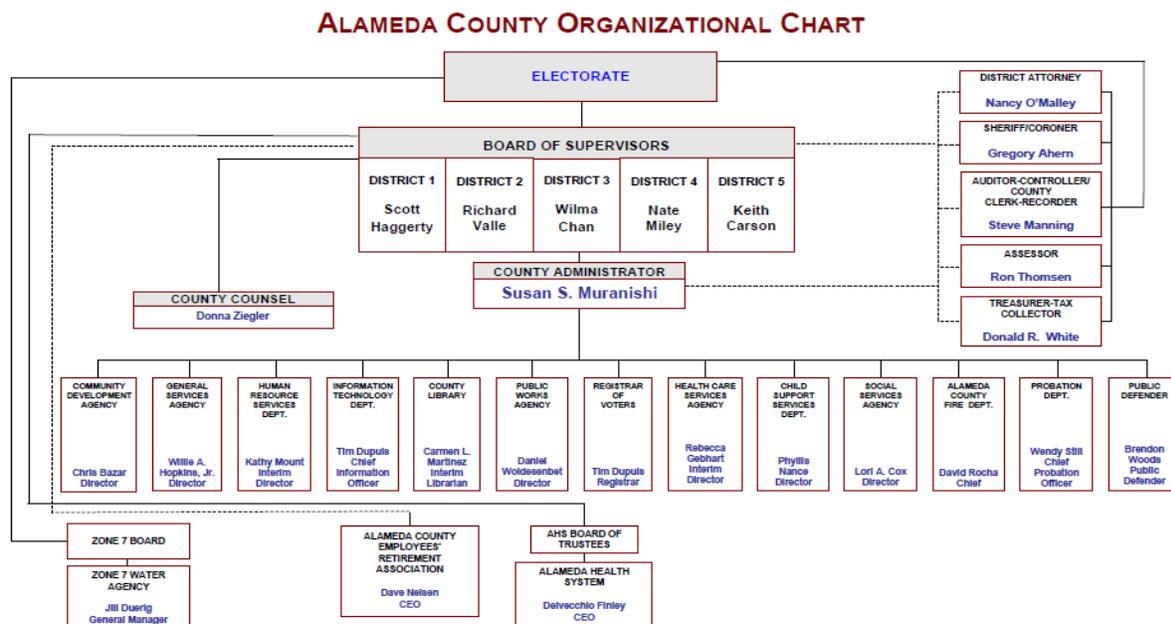
County Board of Supervisors

The government of the County of Alameda is defined and authorized under the California Constitution, California law, and the County Charter. The county provides services through multiple departments, including the District Attorney, Sheriff, Auditor-Controller/County Clerk-Recorder, Treasurer/Tax Collector, General Services Agency, Registrar of Voters, Health Care Services, and Probation.

The county is governed by a five-member Board of Supervisors; members are directly elected by voters in their respective districts. The board is responsible for providing policy direction and approving the county budget and major contracts, and hires a county administrator who advises, assists, and acts as an agent for the board in all matters under its jurisdiction.

A majority of all the members must concur on any act of the Board of Supervisors, and official acts can only be performed in regularly or specially convened board meetings. Individual board members have no power to act on behalf of the county. Indeed, one supervisor who is not the subject of this investigation told the Grand Jury that supervisors have "no individual power to assert authority over department heads or employees."

Below is the county government’s organizational chart:



Probation Department

The Alameda County Probation Department employs more than 650 people and has an annual operating budget of \$124 million. The Chief Probation Officer (CPO) is an at-will employee appointed by the Board of Supervisors; the CPO reports through and receives overall policy guidance from the county administrator. The department is currently structured into Adult Field Services, Juvenile Field Services, Juvenile Facilities and Administration.

The CPO’s duties concerning minors include the following:

- Maintaining Juvenile Hall;
- Investigating complaints regarding the conduct of juveniles and assessing their validity; and
- Assuming responsibility for children adjudged to be county wards, and administering programs for their care, treatment, training, protection, education and supervision.

Religious services must be provided to county wards who request them pursuant to Title 15, section 1372, of the California Code of Regulations for the Department of Corrections and Rehabilitation.

County Contracting Policies

When obtaining services from outside vendors, county departments are required to follow the County of Alameda's competitive bidding process. If multiple possible vendors exist, and the prospective contract is valued at \$100,000 or more, the department must follow a procedure where it publishes specifications of the services it wishes to procure and solicits bids or proposals from interested vendors, known as a request for proposal (RFP). If the department determines that only one organization is qualified to provide the necessary services, the board may waive the competitive bidding process and contract directly with the designated provider. Contracts between \$25,000 and \$100,000 require approval from the Board of Supervisors. For contracts under \$25,000, board approval is not required, but the department must seek bids from at least three potential vendors. Each department is responsible for monitoring compliance with contract terms.

INVESTIGATION

The Grand Jury did not review or evaluate the merits of the vendors providing chaplaincy services. Instead we looked at the process for procuring those services.

During its investigation, the Grand Jury reviewed statutes and ordinances, interviewed county officials and Probation Department employees, considered dozens of emails and other correspondence among the parties to the events, and reviewed numerous other relevant documents.

Before 2012, volunteers provided all religious programming for juveniles in custody. Volunteers were scheduled by a Probation Department administrative employee, but there was no oversight, management or monitoring of the program. In an effort to address these deficiencies and others, the CPO in 2012¹ entered into a \$30,000 contract with a local church (local church) to obtain chaplaincy services for Juvenile Hall and Camp Sweeney.

The contract with the local church was renewed at higher rates in each of the next two years. By 2014, the contract amount had increased to \$90,000, and the local church was seeking \$128,000 for the following year. The Probation Department, however, determined that the local church was not providing all of the services that the department

¹ The CPO during the time period of this investigation was the immediate predecessor to the CPO named in the organizational chart above.

needed, especially the supervision and management of volunteers. The CPO advised the local church's program administrator that the department would be preparing an RFP for juvenile religious services, seeking bids from providers willing to:

- Organize, train and manage the religious services volunteers;
- Ensure a diversity of services and programming, including other faith traditions;
- Connect detained youth with churches in their home communities;
- Partner with the Probation Department in pursuing grant funding for the program; and
- Provide comprehensive data on the services provided and outcomes obtained, including reports on the number of youth connected to or reunited with churches near their homes.

The supervisor has never been a member of the Public Safety Committee of the Board of Supervisors, which has responsibility for all matters concerning inmates in county custody. Nevertheless, on June 17, 2014, the supervisor emailed the CPO, "requesting" that the Probation Department renew its contract with the local church for FY 2014-2015 in the amount of \$100,000, with the understanding that the contract would be put out to bid for FY 2015-2016. In a series of telephone calls and emails, the CPO explained to the supervisor that the local church was not providing all of the services the department needed, and that the county procurement policies would need to be followed because the amount of the proposed contract exceeded \$99,999.99. The supervisor apparently understood these concerns, but insisted that the contract be extended, and allegedly stated that the head of the local church "has a lot of political clout."

Acknowledging that the Probation Department was not yet ready to proceed with an RFP for the fiscal year that was about to start, the CPO agreed to write a letter to the Board of Supervisors, requesting a contract renewal with the local church for FY 2014-2015 in the amount of \$90,000; the extension was approved by the board on July 29, 2014.

By this time, the CPO had already shared her concerns with one of her senior staff members and asked the staff member to investigate the religious services provided to minors in other jurisdictions and to

Ignoring the recommendation of the Chief Probation Officer ... the supervisor urged a one-year renewal of the contract with the local church for FY 2016-2017, for \$90,000.

compare those with the services provided by the local church to Alameda County juveniles. The staff member learned that other juvenile chaplaincy programs were much more comprehensive than what was offered by the local church for the same or similar fee. The staff member began work on an RFP for juvenile chaplaincy services in late 2014, but, as a result of pressure from the supervisor on probation leadership to extend the contract

with the local church, did not complete the RFP until the end of 2015. Accordingly, the CPO again requested a contract extension with the local church for FY 2015-2016, and the extension was approved on June 30, 2015.

In January 2016, the Probation Department began to look for a vendor to provide additional spirituality-based activities for youth because the local church remained focused on one-on-one counseling. Another church (second church) submitted a proposal to the CPO to provide events and presentations that were not being offered by the local church, for a price of \$24,999. Because the cost was under \$25,000, the department did not need to follow the RFP process, but was required to seek two additional quotes from other potential vendors. The department did not seek a bid from the local church for these services because the additional payment would raise its contract price above \$100,000, triggering the need for an RFP.

On January 21, 2016, the supervisor left a phone message for the CPO, inquiring about the proposed contract with the second church, and requesting that the \$25,000 intended to be spent on that contract instead be given to the local church. The CPO left a message explaining why that was not possible under county procurement regulations. The Grand Jury heard allegations that the supervisor's aide demanded that the local church contract be enhanced, asserting that, "We do it all the time." The CPO told the aide that the Probation Department was bound by GSA rules. Ultimately, the department entered into a contract with the second church.

In early 2016, as part of the preparation of the county budget for FY 2016-2017, the Probation Department was ready to proceed with the RFP for juvenile chaplaincy services that had been completed by the CPO's staff member several months earlier. The RFP specified all of the services that the department felt were necessary, especially supervision of the 123 volunteer providers that the department was still using. The CPO gave three presentations about the chaplaincy needs of the department. At one of them, given to pastors of Oakland churches, many present welcomed the chance to bid for the contract. The Grand Jury also heard testimony that the local church was still not interested in managing the department's volunteers.

Ignoring the recommendation of the CPO to start the RFP process, in an undated letter to members of the Board of Supervisors, the supervisor urged a one-year renewal of the contract with the local church for FY 2016-2017, for \$90,000. The letter stated that the local church would "continue to supervise and maintain relationships with the volunteers. . . ." It was signed by the supervisor as well as a second member of the board. In an attached memorandum dated April 18, 2016, the second supervisor urged that the existing contract be extended for an additional year to provide stability while the county

is “in a period of transition,” and to allow more staff time for preparation of an RFP for chaplaincy services. The contract extension was approved by the board on June 14, 2016.

During its investigation, the Grand Jury heard claims that the CPO had mishandled some Probation Department duties, and this justified the supervisor’s involvement in selection of a religious vendor for Juvenile Hall. The Grand Jury, however, found this explanation for the supervisor’s interference unpersuasive. By taking over the process and recommending another contract extension for the local church, the supervisor impeded the ability of the CPO to make her case to the full board about the chaplaincy needs of the department, to show the board that the current vendor was not providing those necessary services, and to urge the county to open bidding from potential providers of chaplaincy services through an RFP.

The Grand Jury found no effective procedure for a county department head to protest interference from a supervisor with the department’s procurement of services short of filing a Grand Jury complaint. In many local government agencies, the chief administrators hire department heads and staff. While the Alameda County organizational chart suggests this is also the case in this county – lines of authority run from the board to the county administrator and then to the department heads – the chart is misleading. In fact, pursuant to the Alameda County Charter, the board hires the department heads, and the department heads are directly responsible to the board. The Grand Jury heard from many different county employees that it is very difficult working for five separate bosses, and that this arrangement differs from other counties in California and from the norm for county government in other parts of the country.

The Grand Jury confirmed that other government agencies, including the city and county of San Francisco, San Diego County, and the city of Oakland, specifically preclude their elected officials from interfering with the administrative functions of agency staff. The California State Association of Counties, to which Alameda County belongs, states on its website: “The Board may not direct or control the day-to-day operations of a county department, or otherwise limit the exercise of discretion vested by law in a particular officer.” In its FY 2015-2016 report, the Los Angeles County Grand Jury recommended that the county create a new elected position – a county chief executive responsible for all administrative department functions – that would, among other things, reduce the level of board interference with administrative decision making.

Under the existing system in Alameda County, while a department head can complain to the county administrator about interference by individual members of the Board of Supervisors with departmental functions, the administrator has no authority to take corrective action. Only a full board hearing and vote to uphold a department head’s

interference complaint against a fellow supervisor would produce corrective action, an extremely difficult and unrealistic remedy.

CONCLUSION

A county supervisor does not have the authority to dictate orders to department heads. The Grand Jury believes that all county department heads should be free to manage the day-to-day operations of their departments and make choices about delivery of services without political interference from elected officials. While individual supervisors have the right to seek clarification and to obtain information from department heads, they should not be permitted to interfere with department operations. When county department heads are at-will employees appointed by the Board of Supervisors, they are subject to pressure from individual board members to make politically expedient choices rather than to use their own good judgments about what is best for the interest of the citizens of Alameda County.

Many public agencies have rules in place that prohibit political interference. Unfortunately, despite an unambiguous Grand Jury recommendation two years ago, Alameda County does not. The Grand Jury again urges the Board of Supervisors to follow the lead of other government entities by adopting a robust anti-interference policy, and by relinquishing the responsibility for hiring department heads to the county administrator, in order to serve Alameda County more effectively.

FINDINGS

Finding 17-17:

The supervisor exceeded the authority described in Government Code section 25005 and County Charter section 10. Both sections preclude individual board members from acting without concurrence from a majority of board members.

Finding 17-18:

The supervisor's actions usurped the role of the chief probation officer by impeding procurement of community-based organization services through the competitive RFP process specified by the County of Alameda Uniform Procurement Manual, Chapter 6 - Department Procurement Policies and Procedures.

Finding 17-19:

By insisting on retention of a vendor that was unwilling to provide all the services the Alameda County Probation Department deemed essential, the supervisor impeded the level of religious services provided to juveniles in county custody.

Finding 17-20:

The County Charter requirement that the Alameda County Board of Supervisors hire all department heads creates ambiguity in how department heads are supervised and managed, in that they are responsible both to the county administrator and the members of the Board of Supervisors.

Finding 17-21:

No administrative appeal process exists for department heads to address political interference in the procurement process.

RECOMMENDATIONS

Recommendation 17-12:

The Alameda County Board of Supervisors must adopt an anti-interference policy to ensure elected officials and their staffs do not interfere with county staff in fulfilling administrative responsibilities.

Recommendation 17-13:

The Alameda County Board of Supervisors must take steps to have the county charter amended to make clear that, while the Board of Supervisors creates county policy, the County Administrator has sole responsibility for hiring and supervising non-elected department heads.

RESPONSES REQUIRED

Alameda County Board of Supervisors:

Findings 17-17 through 17-21

Recommendations 17-12 and 17-13

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CRITICAL TECHNOLOGY CHANGES FOR THE ALAMEDA COUNTY PROBATION DEPARTMENT



Probation Center, 400 Broadway, Oakland, CA

EXECUTIVE SUMMARY

Alameda County's Probation Department, along with law enforcement and the court system, plays a key role in maintaining public safety. The Probation Department's mandate is to keep track of criminal offenders and to provide them with support services to reduce their chances of being arrested again. After a comprehensive review of the operations of the Probation Department, including interviews with leadership and staff, the Grand Jury found several serious deficiencies that raise questions about the department's ability to protect the public as effectively as possible.

The Grand Jury's investigation focused on the work of the Adult Services Division. The jury discovered that the department has been using 20th Century tools to address 21st Century problems by relying on paper-based systems, outdated technology, memory and instinct to do its work to protect the public. While probation departments throughout the nation have long ago adopted technological solutions to help them make evidence-based decisions about case management, risk assessments, treatment planning, and resource management, previous attempts by Alameda County's Probation Department to modernize these systems have failed.

Recently, new leadership within the Probation Department has taken steps to focus on these issues again. The department has acquired a proven case management system to

replace paper files, and has invested in a validated risk-assessment tool to measure the needs and dangers posed by the supervised offenders. The department is also planning to implement an electronic referral system to manage offender treatment plans more effectively. Each of these tools, when implemented, will provide necessary information for the optimal utilization and assignment of Probation Department staff and resources.

Although the department has made significant investments in these data-management technologies, successful implementation will require comprehensive department-wide training and staff buy-in. Without changes in both organizational structure and in departmental culture, the new systems will meet the same fate as the department's past efforts at modernizing the agency. This report underscores what is at stake and outlines best practices used by other agencies.

Composite Case Study

To protect individual privacy and the investigative process, this case study combines related facts taken from three different instances.

Fred S. is a potential threat to the community. Fred has been arrested for domestic violence and beating his two children several times. Each time, he has struck a plea deal to a lesser offense.

Fred has just been released from jail after serving his time for an attack on his wife that put her in the hospital for a week. His case was assigned to a newly hired probation officer who already had 60 clients (almost twice the recommended case load) to oversee. Three days after he was released, and one day late, Fred reported to the probation officer. Because there was no electronic database, the officer could not review Fred's probation file, which contained past efforts to address his problems along with his amenability to supervision. It would take another two days to get Fred's hard copy paper file because it had to be messengered from another town and it was the weekend. Meanwhile, the probation officer deemed Fred to be low risk – no need for extra supervision – because the risk assessment tool did not take into account that Fred had prior domestic violence or child abuse arrests. Three days later, Fred was stopped for speeding on I-580. The officer noted the woman in the car appeared battered and bruised and the child she was holding was crying. Fred was detained and arrested on suspicion of domestic violence.

BACKGROUND

The Alameda County Probation Department is responsible for providing supervision, services, support and opportunities to people recently convicted of crimes in Alameda

County. These services are provided to more than 1,450 juveniles and 8,900 adults by a department of 655 employees, over 490 of them sworn peace officers. The annual budget is just under \$130 million.

The Adult Services Division is responsible for all adults on probation in the county: individuals who have been convicted of crimes, both felonies and misdemeanors, but who were not sent to state prison. Probationers are assessed to determine their level of supervision based on the risks they pose to the community. High-risk offenders and those committing special categories of crimes

(domestic violence and sex offenses) are assigned to individual probation officers with smaller caseloads and can be provided specialized services to meet their needs. Probationers that pose a lesser risk are subject to general supervision and given a plan meant to

For years, Alameda County has not been able to report accurate recidivism data because it did not have the technological infrastructure or staff to collect and analyze the most basic data.

reintroduce them successfully back into the community. The majority of probationers present a much smaller risk and require no active supervision. Approximately 700 recently convicted individuals are subject to county supervision as a result of Assembly Bill 109 (AB 109). Those individuals would have been sent to state prison but, as a result of the governor's plan to reduce the state prison population, are now being managed locally.

Much of the work of a probation officer involves matching a client's needs (e.g., drug treatment, housing, education, employment, anger management, etc.) with appropriate service providers, and assuring that the clients avail themselves of these services.

INVESTIGATION

The ultimate goal of the Probation Department is to help reduce recidivism. The department supervises offenders and provides services designed to rehabilitate probationers so they are less likely to be sent back to jail. According to the California Department of Corrections and Rehabilitation, for the past ten years the state recidivism rate has hovered between 61% and 65%. For years, however, Alameda County has not been able to report accurate recidivism data because it did not have the technological infrastructure or staff to collect and analyze the most basic data.

The Grand Jury heard testimony that there are significant structural issues with the methods used to evaluate risk, manage caseloads effectively, and connect people on probation with the services they require.

These problems are not new. During interactions with managers within the Probation Department, last year's Grand Jury expressed concern that the department had been unable to answer the most basic questions regarding recidivism rates for criminal offenders within the county. Digging deeper into this issue, the current Grand Jury has learned that the Probation Department has been trying unsuccessfully for almost a decade to use technology to store and manage key data about the background and needs of clients so that educated decisions can be made about the risks clients pose, the level of oversight necessary, and client rehabilitation needs. Witnesses' testimony broke the problems down into four basic areas, some of which overlap:

Insufficient Information Technology Infrastructure

The department's current IT infrastructure is defective in several important respects, resulting in ad hoc decision making. Offender data cannot be readily accessed because it is spread through a dozen different systems. Using many different databases for case management and relying upon paper files spread throughout the county is incredibly inefficient and makes it impossible to calculate even very basic recidivism rates. Paper records are also vulnerable to loss or mishandling, thereby potentially putting the public at risk. There is no way to track the successes and failures of treatment programs, causing officers to rely upon anecdotal rather than evidence-based evaluations of service providers when making recommendations to clients. Without comprehensive and readily accessible data, department leadership cannot manage resources efficiently.

Inadequate Risk-Assessment Tool

The risk-assessment tool currently used by the department for determining what levels of supervision clients require has not been appropriately validated, using scientific methodology. As a result, it is not certain that the criteria used in the tool are accurately weighted to achieve correct results. Moreover, the tool does not include components that are key to making accurate assessments. In particular, the tool does not contain information about some prior serious arrests or the current conviction, leaving probation officers to rely on their own assessments of the clients' records in making recommendations about appropriate levels of supervision. This in turn leads to less effective distribution of caseloads.

Ineffective Data Analysis and Staff Training

The Probation Department does not presently have staff focused on the management of its current data stream, much less the more comprehensive data that will result from new technology that is in the pipeline. Currently, no one within the department has the

responsibility for ensuring data integrity and designing data-mining systems to provide information necessary for policy planning. In addition, no one within the department is tasked with the responsibility of researching, evaluating and measuring outcomes or evaluating the impact of new programming on desired outcomes.

New software that is meant to address systemic data-management problems is currently being installed, but it will be useless if staff members are not trained to use it correctly. It is essential that the department devote sufficient resources and time to ensure that department personnel are trained in uniform, consistent data input, in understanding the purpose and value of the data being collected, and in following department-wide strategies for use of the data. The overall goals are to train staff to use the new tools to track the offender population and to develop plans to meet their needs by linking them with appropriate social services prior to release from custody.

Imperfect Policy and Program Development

The department does not have staff dedicated to using the data it collects (or should be collecting) to develop new policies and programs. Without evidence-based analysis, the department cannot determine which support programs work or which are most cost-effective. The department, therefore, is unable to allocate scarce resources efficiently to achieve the best possible outcomes.

Best Practices in Other Jurisdictions

The Grand Jury researched other jurisdictions and departments in an effort to identify best practices. In 2005, Travis County (Texas) instituted an evidence-based case management system for people placed on probation. Its paper-based system was changed to an electronically-based management and service model that used scientific tools to create more effective risk assessments of clients, developed supervision strategies that fit the needs and risks of that population, and produced measurable results. In two years the recidivism rate dropped from 29% to 24% and that trend has continued.

The challenge for the department now is creating an organizational structure that will implement and integrate the new software, provide staff training, and develop evidence-based policies and procedures.

A 2012 review of federal case management programs by the Department of Justice concluded, “Case management’s greatest contribution to date has been to reduce recidivism and supervision costs for mentally disordered or developmentally disabled offenders. The system reduces the enormous social, economic and bureaucratic barriers

that contribute to recidivism or substance abuse relapse among inmates returning to the community and offenders sentenced to probation.”

In New York City, after instituting an evidence-based case management system, the probation department reported that it actually promoted public safety. “An evidence-based approach is not ‘soft’ on crime – in fact, it’s exactly the opposite. Often, requiring a client to confront and change his or her mindset and behaviors is more intimidating than letting him or her ‘do time’ or coast through traditional community supervision.”

Jurisdictions throughout the country began transitioning to electronic case management in the 1990s. In 2011, the juvenile division of Alameda County’s Probation Department successfully rolled out a best practice model case management system along with a scientifically validated risk-assessment tool.

Using many different databases for case management and relying upon paper files spread throughout the county is incredibly inefficient and makes it impossible to calculate even very basic recidivism rates.

Alameda County began collecting data electronically to meet state requirements for the small adult realignment population brought on by AB 109, but, during the last ten years, multiple efforts to implement client-management systems for the rest of the adult probation population have failed.

In the spring of 2017, the Probation Department began implementing a new electronic client-referral portal designed to improve program oversight and to ensure that those referred to the programs do not slip through the cracks. This portal can be the first step in producing a Probation Department data-based system architecture combining the portal, case management, risk assessment, client referral system, and information sharing.

The Probation Department also recently acquired a case management software system. While it will take time to adapt the system to meet Alameda County’s needs, it has worked well in other counties and is expected to be compatible with Alameda County’s new validated risk-assessment tool.

The challenge for the department now is creating an organizational structure that will implement and integrate the new software, provide staff training, and develop evidence-based policies and procedures. Witnesses emphasized that without staff buy-in, new software would be useless. The Grand Jury believes, however, that if management creates an integrated system that works, acceptance by and training of staff should follow easily. The department must also reorganize to provide resources to analyze the data the new system will collect so it can be used properly to make meaningful evidence-based

decisions. Once the system is up and running, staff can focus on actual client supervision rather than spending countless hours on time-consuming paperwork.

The Grand Jury learned that implementation of the evidence-based risk evaluation tool is a key step. If the tool can produce the data required to identify which clients need supervision and which do not, the department can distribute cases among the probation officers more efficiently, thus allowing management to direct enough current resources to develop, to manage, and to integrate the rest of the new technology.

Proper implementation of the new technologies will enable policy makers to develop meaningful, evidence-based strategies to address offender needs. It will also allow probation officers to use sanctions and rewards to encourage participation in useful programming and treatment, which should ultimately reduce recidivism and unnecessary incarceration.

CONCLUSION

As part of creating this new management structure, great care must be taken to identify the proper stakeholders who have the knowledge and experience to create the specifications of the new system. Without the involvement and ownership of the people who know how the Probation Department should operate, no new system will be successful.

While the Alameda County Probation Department has suffered for years from a lack of focus and misplaced priorities regarding modernization, the Grand Jury is encouraged that new leadership at the department is taking positive action to address these deficiencies. The old policies have caused probation staff frustration and burnout, ill-served clients, and a public at risk because of inadequate supervision of dangerous offenders. This underscores why it is so important that the new case management and evidence-based risk-assessment systems be successfully implemented.

FINDINGS

Finding 17-22:

By making decisions without ready access to necessary information, the Probation Department has been putting the public at risk. The lack of a comprehensive case management system prevents probation officers from effectively managing and tracking their workloads, properly evaluating their clients' needs, and accurately identifying potential issues.

Finding 17-23:

The Probation Department has been unable to report accurate recidivism rates due to inadequate collection, storage and analysis of data.

Finding 17-24:

Probation decisions about which service and/or service provider is best for an individual client have not been sufficiently data driven. Service providers have been chosen based on anecdotal evidence of reputation and previous experience.

Finding 17-25:

Current Probation Department management structure doesn't allow for focused attention on data collection and evidence-based analysis.

Finding 17-26:

In the past, staff has been reluctant to embrace/accept new technology and processes. Staff buy-in is critical to the success of any proposed changes.

Finding 17-27:

Recognizing that the department needs an integrated information system that includes case management, risk assessment, reporting, and an access portal for staff, management has begun addressing these issues, beginning with the purchase and installation of new software systems.

RECOMMENDATIONS

Recommendation 17-14:

To ensure public safety, the Alameda County Probation Department must quickly implement and evaluate the new evidence-based integrated case management and risk-assessment systems.

Recommendation 17-15:

The Alameda County Probation Department must staff appropriately for successful implementation and support of the new case management and risk-assessment systems.

Recommendation 17-16:

Once the new integrated technology is in place, the Alameda County Probation Department must publicly report recidivism data in a timely manner.

Recommendation 17-17:

The Alameda County Probation Department must develop an evidence-based vendor evaluation system to ensure that service decisions impacting clients are based on data, not anecdotes.

RESPONSES REQUIRED

Alameda County Board of Supervisors:

Findings 17-22 through 17-27

Recommendations 17-14 through 17-17

Alameda County Probation Department:

Findings 17-22 through 17-27

Recommendations 17-14 through 17-17

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ALAMEDA COUNTY NEEDS A COMPREHENSIVE EMAIL RETENTION POLICY

EXECUTIVE SUMMARY

The public has a right to know how government business is conducted. To that end, the California Public Records Act requires that government agencies promptly provide open access to unprivileged government records. These requirements help to ensure our confidence in a transparent government process.

The Grand Jury examined the county government's electronic data-retention policies, how the county characterizes electronic communications, and how those decisions can affect the county's response to public records requests. The Grand Jury found that there is a lack of consistent policy within Alameda County regarding public access to email correspondence. Although departments have independently implemented various policies governing the use of email, there is no evidence that adequate retention policies are in place. Further, decisions as to which email records to retain, or not, are left to the determination of individual staff in each department.

A consistent policy needs to be implemented throughout the county defining which emails are subject to public records requests, and how long those emails must be retained.

BACKGROUND

The 2015-2016 Grand Jury conducted a survey of each of the 14 cities in Alameda County to ascertain what policies are in place that govern public access to and retention of email correspondence.

As a result of the varied responses, the Grand Jury concluded that the four following best practices be implemented county-wide:

- Conduct business only on authorized email accounts issued by the governing entity
- Eliminate the use of email relays to private email accounts
- Preserve all emails for a minimum of two years
- Make public records easily accessible

This year, the Grand Jury addressed the same survey to the County of Alameda. The county has over 9,600 employees who provide services and support to the citizens of Alameda County. Much of the county's important business is now transacted using email.

The California Public Records Act is a cornerstone of the state's efforts to safeguard open government by giving citizens access to information, thereby providing opportunities for public oversight of governmental operations. The law provides the public with the authority to request documents and records from government agencies, including emails that help to explain how and why such agencies have made important decisions. This was underscored by a recent California Supreme Court decision holding that even electronic records kept in a public employee's personal email account are subject to the Public Records Act if any content pertains to public business.

While the Public Records Act requires the disclosure of public records, it does not contain any provisions regarding how long a public record must be retained by governmental agencies. California Government Code section 34090, however, addresses this issue and is referred to as the state's records retention statute. The statute requires that nearly all public records be retained for at least two years.

INVESTIGATION

In response to the current Grand Jury's email retention survey of Alameda County, the county counsel provided copies of policies for 15 of the 18 county departments. No

The Grand Jury did not discover any county-wide policy that addressed preserving email or other electronic communications.

policies were submitted for the Board of Supervisors, the County Counsel's Office, or the County Administrator's Office. In addition, the County Counsel's Office responded to specific survey questions on behalf of all county departments. The Grand Jury reviewed the responses from each of those departments and

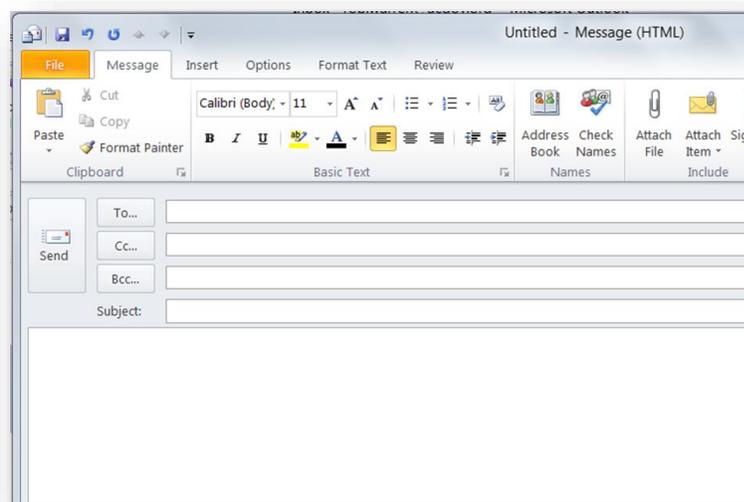
found that, in many cases, differing standards and practices were in place. Many of the differences were related to specific legal or policy requirements of particular agencies; however, the various policies indicated differing levels of understanding and accuracy of the state's retention rules and the Public Records Act. The policies provided were mainly in the form of computer use policies, not comprehensive document retention rules or policies related to implementation of the California Public Records Act.

While some county departments have policies requiring that key documents, specific to the focus of their department responsibilities, be retained, the Grand Jury did not discover any county-wide policy that addressed preserving email or other electronic

communications. For example, the Human Resources Department provides guidelines on how long personnel files and examination documents must be kept. The county manual of accounting policies explains how long paid vouchers, ledger reports and payroll documents must be kept. Yet, none of the individual departments document retention policies address electronic communications where county business is transacted.

Further, the Grand Jury received no information that county employees were being trained regarding the preservation of electronic communications. Without policies and training, key communications regarding the transaction of county business cannot be accessed by the public as required by the Public Records Act.

While three county departments have attempted to have staff preserve some email, such policies are rare. The Social Services Agency has a policy requiring staff to treat incoming electronic communications with clients in the same fashion as written correspondence. Staff must print the data, scan it, and then upload it to an activity log. The Public Works



Alameda County Email Form

Agency has a computer use policy that states that the email system is not a file cabinet. The user is to delete unnecessary messages as soon as possible to save email file capacity. Important emails and attachments are to be saved to a local disk drive or network drive for future reference. The policy does not explain which emails are “important.” The County Library’s policy deals with

public requests for library records. The policy includes language notifying employees that email communications concerning library policies and procedures become a part of the permanent public record of the library.

The Grand Jury found that most of the department level policies made no reference to the Public Records Act or acknowledged any responsibility for compliance. Where retention guidelines were indicated, no reference was made to email communications.

The Grand Jury contacted the county’s IT management, asking whether “the county has an email retention policy for both incoming and outgoing email. Are emails retained for a specific period of time? Do these policies apply to both elected and county employees?”

The Grand Jury learned that the county is in the midst of converting from an exchange email system to Office 365. The Office 365 retention policy states, “Employees manage their individual email boxes, the county does not systematically delete, archive or retain email in an end-users mailbox.” An employee can recover any deleted email from a deleted folder. If an employee deletes email from the deleted folder, it is moved to an administrative folder called the Dumpster. Once in there, emails are only available for a period of four weeks after which they are permanently deleted. There are no storage limits on Office 365 nor additional backups beyond the four weeks prior to permanent email deletion. The policy governing the current exchange system is identical; however, there are storage limits in place and ITD only retains backups for three weeks.

The county departments that responded to the survey have, in general, implemented policies governing the conduct of business on county-issued email accounts. The use of private email for county business, although not expressly prohibited, is defined as outside accepted guidelines. The county appears to have processes in place to respond properly to requests for public information. However, none of the reviewed policy documents contained any specific email retention guidelines beyond the IT department’s data management policy noted above.

Finally, nearly all of the cities surveyed last year provided the Grand Jury with comprehensive policies related to both retention of electronic data and the administration of the California Public Records Act. The county’s lack of a similar comprehensive policy could potentially lead to inaccurate responses to Public Records Act requests and improper destruction of important public documents and communications.

CONCLUSION

As electronic communications become more commonplace and as more public business is transacted by email, adequate and consistent policies must be in place to ensure transparency, retention and public access.

Having each staff member or elected official responsible for determining what may or may not require retention as a public record would appear to create an undue burden. Without proper training and support (not to mention job turnover), errors and omissions are bound to occur. The real possibility of deliberate destruction of public records also exists. Additionally, the burden of transferring the communication from the email system to another media for storage is extremely time consuming.

The county position is that email is treated like any other document. Individual employees have the responsibility to save or print electronic documents or communications if they

are deemed public records. Some documents, like those considered drafts, do not need to be retained. Unlike nearly every city within the county, the county government's position is not stated in any formal policy distributed to departments and employees. Without a policy, the individual departments have no guidance to give to their employees.

As a result, the practical application of the county's informal stance is that its 9,600 employees are responsible for managing their own email. They can delete any email that they send or receive at any time.

It should also be noted that, with the conversion to Office 365 and cloud storage, the financial impact of increasing retention should be minimal.

Although the county's direct response answered many of the Grand Jury's questions, the absence of a clear and consistent policy governing public records management is of special concern because the county's elected officials and, specifically, the Board of Supervisors, should be held to a higher standard of transparency while fulfilling the obligations of their office.

FINDINGS

Finding 17-28:

Alameda County's lack of a consistent policy for retention of electronic communications leaves employees with no guidance as to which email correspondence to keep, to delete, or how long to retain.

Finding 17-29:

There is no evidence of adequate training or support to assist Alameda County staff and elected officials in maintaining electronic communications consistent with state law.

Finding 17-30:

Individual staff members currently have control over which electronic communications are saved and which are deleted. This creates the potential for accidental, negligent, or even intentional destruction of public documents which should be available for public review.

RECOMMENDATIONS

Recommendation 17-18:

The Grand Jury recommends that a uniform county-wide email retention policy must be implemented for all departments, agencies and elected officials.

Recommendation 17-19:

The Grand Jury recommends that all email correspondence must be retained and available for retrieval for at least a two-year period, consistent with state law. This directive must be included in the county-wide policy.

Recommendation 17-20:

The Grand Jury recommends that each county department must develop individual training for staff and elected officials regarding email retention and the Public Records Act.

RESPONSES REQUIRED

Alameda County Board of Supervisors:

Findings 17-28 through 17-30

Recommendations 17-18 through 17-20

ALAMEDA COUNTY'S LACK OF VENDOR EVALUATION AND DEBARMENT POLICY

EXECUTIVE SUMMARY

Alameda County relies on hundreds of vendors to supply it with goods and services to ensure it can effectively serve county residents. While the General Services Agency (GSA) develops the county government's overall procurement policy, most purchasing and contracting decisions are made individually by each of the county's 21 agencies and departments. Currently, if a vendor defrauds the county or does not competently provide services, there is no policy barring it from obtaining future contracts, no centralized reporting mechanism to share evaluations of vendors, and no requirement that vendors be evaluated at all. This is uncommon in government and ignores best practices. Since written evaluations are not required to monitor a vendor's performance, nor is there a way to share vendor evaluations, the county is at risk of contracting with underperforming vendors/contractors.

In 2012 the Grand Jury recommended establishing vendor evaluations. Five years later GSA has finally begun a pilot evaluation program and discussed establishing a debarment policy. The solution is simple, if elusive: GSA should establish a vendor evaluation program where the data are connected to a contract database, and establish a debarment policy.

BACKGROUND

The Alameda County General Services Agency acts as a support structure for county government. It provides an array of operational support services that include building maintenance, property acquisition, construction, contracting and procurement, as well as transportation and sustainable program management. GSA is also responsible for developing uniform policies and procedures for how it and other county departments make their own contracting and procurement decisions.

The county's 21 departments contract with private industry and community-based organizations to provide both goods and services. GSA's FY 2016-2017 budget estimates that the county as a whole will purchase in excess of \$160 million in goods and services. The county will spend another \$500 million hiring community-based organizations and other government agencies to provide additional services to support the community.

INVESTIGATION

In conducting its investigation, the Grand Jury reviewed previous Grand Jury reports; reviewed county procurement and debarment policies from other public agencies; and examined GSA's vendor evaluation pilot program. The Grand Jury examined investigative reports and heard testimony from department administrators.

This Grand Jury heard testimony that supported the previous Grand Jury's recommendations. Two egregious incidents underscored the need for such policies:

- GSA discovered that a large retailer was double billing the county for goods, yet there was no mechanism to share the information with other departments, and no policy to prohibit other departments from contracting with the vendor; and
- Investigators discovered that a private security company that had contracted to provide guard services at several county properties presented false bidding documents, fraudulent proof of insurance, false references and forged licensing documents. While the company executives were ultimately prosecuted and convicted of fraud, they are not prevented from bidding on another county contract and, because there is no centralized data base, county departments would not be warned about this vendor's past.

Vendor Evaluations

In its 2010-2011 Annual Report, the Grand Jury examined the procurement process as related to the county's Small, Local and Emerging Business Program (SLEB). The Grand

In 2012 the Grand Jury recommended establishing vendor evaluations. Five years later, the General Services Agency has finally begun a pilot evaluation program and discussed establishing a debarment policy.

Jury identified problems with the county's decentralized procurement process. When individual departments made procurement decisions, they had little to no information about how the vendors had previously performed even though the same vendor may have

worked with other county departments for years. This lack of information led the Grand Jury to recommend that the county develop a system to track and evaluate county vendors.

2010-2011 Grand Jury Final Report:

Recommendation 11-26: The Alameda County General Services Agency must evaluate every contractor's job performance in the Small, Local and Emerging Business Program at the conclusion of the contract. This evaluation must be maintained on file and considered in the award process for new or renewed contracts.

In its 2011-2012 Annual Report, the Grand Jury examined the procurement process as it related to most county large-dollar contracts (\$10 million to \$123 million). The Grand Jury found there was no requirement for written evidence-based evaluations of the vendors; there was no central database for sharing information; and that a systemic problem exists within the county involving a lack of contract oversight and evaluation. To date, the county has still not implemented a county-wide vendor evaluation system.

2011-2012 Grand Jury Final Report:

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

GSA, under new leadership, has taken steps to establish a best practices model for vendor evaluation. In 2016, it chose the county's Building Maintenance Department (BMD) to participate in a pilot vendor-evaluation program because this department deals with a large number of outside providers. Two providers are being used as examples, one large and one small. Under this new vendor evaluation and debarment program, contract managers are required to evaluate contractors on a quarterly basis using specific performance criteria that include quality, timeliness, price, business relations, customer service and deliverables. Upon completion, contractors will be provided with a copy for their review.

Staff is being trained to ensure that agreed upon standards are being applied. It is imperative that this information be available to all county departments so that when the same vendor bids for future contracts with multiple agencies, its past performance record is available to all. Departments should ensure that contractors are aware of the evaluation process and the categories used to evaluate performance.

The Grand Jury recognizes that there are many contracts within the county that involve direct services to individuals that make evaluation more complicated. The pilot project needs to validate the applicability of these evaluation criteria as they apply to all goods and services, including those provided to individuals. For example, service delivery for mental health counseling is not the same as the delivery of office supplies. Any contract would need to be evaluated to ensure services were effective, timely and delivered by appropriate licensed staff.

Debarment and Litigation Policy

These evaluations have limited value unless under-performing and fraudulent vendors can be held accountable. A debarment policy identifies vendors that have defrauded or mismanaged their contract(s). A litigation policy bars vendors that are suing a public agency from bidding and/or doing business with that agency.

Debarment is the state of being excluded from enjoying certain possessions, rights, privileges, or practices and the act of prevention by legal means. For example, companies can be debarred from contracts due to allegations of fraud, mismanagement, and similar improprieties. – Wikipedia

The Grand Jury believes that GSA’s pilot evaluation program should be expanded to all county departments, but without a debarment policy, the data collected on performance will not protect the county against fraud. Businesses have a constitutional right to be

considered for government contracts. Before this “liberty interest” can be suspended or a fraudulent vendor can be prohibited from doing business with a public agency, the business must be given notice of the allegations and be provided a fair hearing to rebut the charges. These allegations/charges must be described in a debarment policy adopted by the county. These policies are best practices in federal and state contracts and nearly universal at the local level. The County of Alameda has no debarment policy.

The Grand Jury heard testimony that to prevent another fraudulent double billing incident from happening, GSA changed its bidding requirements. Because there is no debarment policy to flag problematic businesses automatically, GSA banned large retailers from some RFPs. This action had the potential of stifling competition, causing the county possibly to overpay for some goods.

The Grand Jury has learned that GSA will soon be presenting findings about its pilot evaluation program to the Board of Supervisors to seek the board’s guidance about

whether to implement the program county-wide. The Grand Jury also learned that GSA has explored asking the Board of Supervisors to adopt a county-wide debarment policy using a model similar to that used by the county of Los Angeles. The Grand Jury believes that such action is essential.

CONCLUSION

Adopting a county-wide vendor evaluation and debarment policy is consistent with the county's effort to establish a system of results-based accountability for contractors providing goods and services on behalf of Alameda County. Ensuring that vendors are held accountable for their performance and having policies in place to bar them if they are defrauding the county will be cost effective and will aid in efforts to serve those most in need.

FINDINGS

Finding 17-31:

In spite of two previous Grand Jury recommendations to establish vendor-evaluation policies and the county's acknowledgment of those issues, no formal policies have been implemented.

Finding 17-32:

Without a comprehensive vendor-evaluation program, county departments are not sufficiently warned when existing vendors perform poorly or even defraud the county.

Finding 17-33:

The county's failure to adopt a debarment policy has exposed county departments to organizations and businesses that have defrauded the county in the past.

RECOMMENDATIONS

Recommendation 17-21:

Alameda County must adopt a uniform vendor-evaluation program across all county departments.

Recommendation 17-22:

Alameda County must ensure that the vendor-evaluation program is also applicable to the community-based organization contracts providing health and human services.

Recommendation 17-23:

Alameda County must adopt a county-wide debarment policy.

RESPONSES REQUIRED

Alameda County Board of Supervisors:

Findings 17-31 through 17-33

Recommendations 17-21 through 17-23

ALAMEDA COUNTY CIVIL SERVICE COMMISSION RULES ARE OUT OF DATE

EXECUTIVE SUMMARY

The rules governing the County of Alameda's Civil Service Commission were adopted many years ago and are outdated in numerous respects. Among other problems, the current rules and procedures are hindering the county's recruitment and hiring processes. This presents a critical obstacle in obtaining the best qualified candidates for available positions. The rules are also outdated in that they fail to take into account advances in technology that have occurred and the evolving relationship between the Civil Service Commission and the Human Resource Services department.

In 1956, the commission adopted the current Civil Service Commission Rules under the authority of section 43 of the Charter. The Civil Service Rules were last updated in 2009.

A prior attempt to update and streamline the civil service rules was proposed in 2008 but not adopted. It is now time for another review and effort by county management, labor, Human Resource Services, and the Civil Service Commission to work together to modernize this process.

BACKGROUND

The first civil service examination system was originally established in an effort to award government positions based on merit rather than patronage. The federal civil service was established in the United States in 1871. Until that time government jobs were held at the pleasure of the president.

The Alameda County Charter was approved in 1927 and the sections dealing with the Civil Service Commission were last updated in 2001. In 1956, the commission adopted the current Civil Service Commission Rules (rules) under the authority of section 43 of the Charter. These rules were last updated in 2009.

Alameda County's Civil Service Commission is composed of five commissioners, each appointed by the Board of Supervisors for a five year term. The commission is authorized by the County Charter (sections 33 to 45), to:

- Provide for the classification of all positions in the classified civil service;
- Provide for competitive examinations to test the relative fitness of all applicants for appointment or promotion in the civil service;
- Provide a probation period for each class;
- Examine the payrolls of all employees in the classified civil service; and
- Recommend to the Board of Supervisors the rate of pay for each class.

As part of these duties, the commission is also charged with reviewing appeals of classified officers or employees who have been removed, suspended or reduced in rank or compensation by the appointing authority.

The County Charter provisions relating to civil service provide a combination of general delegations of authority to the commission (with a grant of power to the commission to adopt rules as may be necessary and proper to enforce the charter provisions), and detailed rules that the commission must follow. For example, section 36(b) of the Charter requires that at least 25 days' notice must be given of each competitive examination for a civil service position.

INVESTIGATION

In following up on a complaint about hiring and promotional practices in the county, the Grand Jury reviewed applicable provisions of the Charter and the county's rules. The county's needs and operations have changed significantly over the past 15 years. One major source of change has been the advances in technology that have occurred. Another change has been in the nature of the hiring environment in which the county operates. A third change has been the effort by the commission to professionalize the county's human resource function by giving the county's Human Resource Services the authority to handle its operational functions, rather than being directly handled by the commission. The Charter provisions covering the commission, and the rules, however, have not been updated to take into account these changes and other changes in the needs of the county.

The Grand Jury heard testimony that a comprehensive revision of the rules was proposed in 2008 to address these issues. The Grand Jury reviewed the proposal. Among other things, the proposal attempted to reposition the commission's focus from detailed involvement in the management process to an oversight function as has been done in other counties.

Included in the proposal were recommendations reducing the amount of time to conduct recruitments. Currently, the Charter requires “adequate notice but not less than twenty-five days’ notice . . . of each competitive examination.” This amendment was ratified on June 7, 1966, and has been in effect since February 27, 1967.

The Grand Jury heard testimony from county managers and staff all stating that the length of time it takes to complete this process currently puts them at a great disadvantage in the competitive job market. One manager stated it was the most frustratingly difficult process ever encountered. One county agency tried multiple times to fill one position and failed each time due to this process. The Grand Jury learned that it can easily take two months to complete a hiring action.

The Grand Jury heard additional testimony explaining the many issues created by the excessive notice period. Qualified candidates may be discouraged from applying because of the extensive waiting period. Candidates who do apply may have found other employment before a final hiring decision has been reached. Completing a full job search can take months. Even an internal posting can take a minimum of six weeks to complete. Each of these obstacles contributes to diminishing the pool of available qualified candidates. Because notices are now available electronically, the lengthy time periods that may previously have been appropriate are no longer necessary.

The 2008 proposal also included revisions to improve the use of commissioner time and reduction of agenda preparation and staff reporting. One example is the current requirement that the commission must approve all job reclassifications. After a new or revised job classification has been reviewed and approved by Human Resource Services, it must be listed on the commission’s agenda and presented at its bi-monthly meeting. The Grand Jury heard from a witness who could only recall two instances in the last decade when the commission did not approve the list of changes, which are always listed on the consent calendar. To the extent that the commission has determined that certain operational matters should be handled by Human Resource Services, the rules should be amended accordingly.

The 2008 proposal was prepared for presentation to the Alameda County Board of Supervisors and reviewed by the commission at that time. It was also reviewed by the labor organizations involved. The Grand Jury heard testimony that the commission had no objection to the proposed changes, but negotiations broke down during the review by labor and were never presented to the Board of Supervisors.

CONCLUSION

Some of the provisions in the Civil Service Rules and the County Charter affecting the Civil Service Commission are out-of-date and needlessly and adversely affect the ability of the county to operate effectively. Although an effort in 2008 to revise the rules did not succeed, the Grand Jury believes that it is time for the appropriate stakeholders to review this subject again and make appropriate revisions. The appropriate stakeholders would include (but not necessarily be limited to) representatives of management and labor, Human Resource Services, the Civil Service Commission, and the Alameda County Board of Supervisors (to the extent board approval is required or desirable). The Grand Jury believes that updating the Civil Service Rules can only strengthen the county's workforce.

FINDINGS

Finding 17-34:

The outdated rules under which the county is currently working are hindering the recruitment and hiring process as well as other human resources operations.

RECOMMENDATIONS

Recommendation 17-24:

The County of Alameda must amend its Civil Service Rules, to update them to be more consistent with the current needs of the county, the skills of its workforce and the increased use of technology. In addition, the county must amend Sections 33-45 of the County's Charter (entitled "Civil Service") to the extent necessary to further that objective.

RESPONSES REQUIRED

Alameda County Board of Supervisors:

Finding 17-34

Recommendations 17-24

SANTA RITA JAIL INSPECTION



Santa Rita Jail, 5325 Broder Blvd., Dublin, CA

INTRODUCTION

On November 15, 2016, and again on February 6, 2017, the Grand Jury inspected the Santa Rita Jail, located at 5325 Broder Boulevard in Dublin. The Alameda County Sheriff's Office operates Santa Rita Jail as a 24-hour secure detention facility capable of housing 3,812 detainees who are either awaiting adjudication of their pending criminal matters or serving a sentence determined by the courts.

Sworn officers of the sheriff's office are responsible for the care, custody and control of detainees in the facility. On the day of the Grand Jury's inspection, 1,886 males and 211 females were in custody.

INSPECTION

The facility's commanding officer and members of the command staff met with the Grand Jury before the inspection to answer general questions. A deputy sheriff and several other senior officers led the inspection. The Grand Jury also heard a presentation from staff members of Five Keys Schools and Programs, a community-based organization (CBO) recently contracted to provide educational and training opportunities for those in custody.

The Grand Jury inspected the booking area, one housing unit, the Sandy Turner Education Center, and the Santa Rita Transition Center. The Grand Jury toured the

medical facilities and the food service areas earlier this year. Since no issues were noted, those areas were not further inspected.

Physical Plant

The Grand Jury found no problems or issues with the facility during the inspection, as it was in overall good condition. Opened in 1989, the buildings and grounds are well maintained. Detainee rooms, common areas, showers and restrooms, classrooms, and public spaces were spotless.

The average length of stay for county prisoners is 90 days while the average length of stay for state realignment prisoners² is 16 months. Daily population averages 2,000 including 200-250 females. The jail has the capacity to hold approximately 3,800 prisoners, with many two-bed cells allocated for single person use.

Prisoners who need detoxification are held in special cells or sent to a hospital if necessary. Prisoners with mental health issues are housed in separate units, as are violent prisoners. The Grand Jury was told that prisoners are housed based on their self-identified genders. Detainees who may pose a danger to themselves or to others are kept in padded cells and observed at least every 15 minutes.

The Grand Jury tested sinks and toilets in individual cells, and one shower in a common area. All were in good working order. Fire extinguishers are inspected monthly. All visited areas appeared well lit, clean, and comfortable in terms of temperature.

Visitation is permitted on a rotating basis among the units. Landline phones are not available in cells, but are found in the common areas of the units. Santa Rita has recently embarked on a program of issuing phone-enabled tablets to prisoners during daytime hours. Prisoners can use the tablets to make collect or toll calls at their own expense, as well as play games, listen to music, and watch entertainment. This pilot program is due to expand shortly. Deputies noted that the tablet program has produced a positive effect on prisoner behavior. Further infrastructure work is needed to expand this program. Staff advised that the tablets are not used as a reward for good behavior and would only be taken away if the tablet unit is damaged. Inmates may not call each other on these devices. All prisoner phone calls are recorded and prisoners are advised of the recording

² Assembly Bill 109, the Public Safety Realignment Act, mandates that, as of October 1, 2011, individuals sentenced for non-serious, non-violent and non-sexual felonies will serve their time in county jail instead of state prison.

at the beginning of each call. Calls may be reviewed if related to a pending investigation. Calls with attorneys are privileged and not reviewable.

A member of the command staff informed the Grand Jury that jail staffing was adequate, although there is staff working overtime daily. The amount of overtime is about the same as last year, although reduced from two years ago.

The jail has a written plan for evacuation into the main yards in the event of a major disaster.

Intake Area

As part of the Grand Jury's inspection, staff processed one of our jurors as if she were being booked. We noted the following:

The length of time for booking can vary considerably depending on how many are going through the process at the same time. Staff receives an alert if a booking has not been completed within eight hours. In the pre-booking area, prisoners' property is logged and secured. Language interpreters are on call. Prisoners are asked about health problems and gang affiliations. If medical issues are identified, jail medical personnel ask follow up questions. If a prisoner is on medication, staff verifies prescriptions to ensure the correct medications are available in the facility. Following questioning, prisoners are patted down, sent through a security x-ray, and wanded. Only then are they sent through a security door to the non-public area, where they immediately go through another physical search. Contraband may be missed on the initial screenings and picked up on the subsequent one. Prisoners are then fingerprinted. Those without the need for special services like detoxification are provided with jail uniforms identifying the classification of the prisoner according to prior risk analysis. Before prisoners are taken to assigned units, they meet once more with jail personnel who conduct detailed interviews about issues such as gang affiliations. Every effort is made to avoid housing rival gang members together; prisoners tend to cooperate in this. Detainees are then provided a 29-page inmate rules and information brochure.

As part of the Grand Jury's inspection, staff processed one of our jurors as if she were being booked.

Sandy Turner Education and Training Center

Santa Rita Jail offers training and education classes in the Sandy Turner Education and Training Center. The program was started in 1999 at the urging of Sandy Turner, a

volunteer and committed citizen. The center was recently expanded with a second building. Additional staffing is needed before classes can be offered in that building. In September of 2016, Five Keys took over educational and training responsibilities after a competitive bidding process. Those services had been provided for the past 26 years by the Pleasanton Unified School District. The San Francisco Sheriff's Department established Five Keys in 2003. Five Keys now provides education and training to a number of underserved communities in California and to other county jails, including those in San Francisco, San Mateo and Los Angeles.

During the inspection of November 15, 2016, the Grand Jury toured the educational center and met with representatives from Five Keys and Santa Rita's Inmate Services Department, which has responsibility over the Sandy Turner center and its programs.

Inmate Services describes its mission as follows:

To reduce the impact of crime on the community by helping inmates acquire the skills, attitudes and values needed to find and hold jobs; become socially responsible and make positive contributions to their families and the community. Through quality education, these skills become attainable.

Five Keys is fully accredited by the Western Association of Schools and Colleges and offers approximately 50 classes between Santa Rita Jail and Glen Dyer Jail. Prisoners can receive high school or college credits either through an independent study program or by attending formal classes. Classes generally last six to eight weeks, with the Sandy Turner Education Center attempting to accommodate the inmate's need to schedule classes within the timeframe of their jail sentence.

Classes address technical and life skills, including:

- English as a second language
- Literacy
- Substance abuse
- Anger management
- Parenting

Vocational training is also offered with classes such as basic computer skills, computer coding, barbering, cosmetology, food services (including baking), hospitality, and job readiness (including preparation for job interviews). The goal is to provide education for as many inmates as possible, recognizing the potential for reduced recidivism associated with inmate participation. The Sandy Turner Education Center notifies inmates of programs and classes through individual meetings as well as flyers that are distributed in every housing unit. The sheriff's office determines which classes and programs are

offered with recommendations from Five Keys and input from the inmates. In the short time since Five Keys assumed operation of the education and training program, more classes have been added and enrollment has increased.

The Grand Jury was told that prisoners participating in the educational program exhibit few, if any, behavioral problems because the inmates in attendance want to be there. Completion of courses may result in a sentence reduction for many participants. During an observation of a computer coding class, the inmates appeared focused and motivated.

Five Keys offers classes outside of Santa Rita Jail, thus allowing probationers to continue their education after discharge. Five Keys spoke about how a prisoner who completes some course work inside the jail can move almost seamlessly to finish the course of study on the outside.

Five Keys is supported by the Inmate Welfare Fund, authorized through passage of Assembly Bill 920. The fund receives a percentage of profits from jail commissary sales and telephone commissions; it also obtains grants from the California Department of Education, various nonprofit community-based organizations and other sources.

The Alameda County Sheriff's Office's onsite transition center provides detainees access to a comprehensive society re-entry program.

Santa Rita Transition Center

The Alameda County Sheriff's Office's onsite transition center provides detainees access to a comprehensive society re-entry program. The transition center offers workshops and/or referrals to CBOs and provides support in the following areas of need:

- Behavioral and mental health
- Benefit enrollment services (social services, health care)
- Education (GED and college level courses)
- Employment
- Housing (emergency, transitional and permanent)
- Legal assistance
- Substance abuse

Programs offered at the transition center are open to all detainees. Staff makes an effort to inform each new detainee about the center and the services provided. Each prisoner completes a needs assessment questionnaire and is assigned a caseworker to identify the

detainee's needs and develop a re-entry plan. This caseworker will be assigned to that individual for up to one year after they leave Santa Rita Jail.

The transition center is located in the jail's gymnasium, which as been modified to include several private spaces for staff members and for meetings with prisoners. Tables and chairs are located around the periphery of the gym for meetings between prisoners and representatives from CBOs. A center area is set up for larger group meetings and classes. The gym is also used for graduation ceremonies. The gym is well lit and appears to offer a comfortable and safe environment for detainees, staff and CBO representatives. The transition center is also funded through the Inmate Welfare Fund.

Policies and Procedures

An updated policies and procedures manual is maintained in the administration office and is available online to all jail employees. Santa Rita has a formal prisoner complaint policy that is contained in the inmate rules and information brochure that is given to all prisoners during booking. Detainees are shown a video that describes the complaint policy. Written materials are available in individual housing units.

Security

The Grand Jury observed peace officers securing their firearms in gun lockers prior to entering the non-public areas of the jail, in accordance with jail policy. Deputies in secured areas carry pepper spray and Tasers; batons are kept in locked rooms.

Fixed cameras in the common area of each pod are monitored from central control rooms at all times. Since July 2016, all security officers have worn body cameras. The cameras are in operation at all times, but must be activated by pressing a button to begin recording. When the button is pressed the previous 30 seconds are also recorded.

CONCLUSION

The Grand Jury noted no security issues during the inspection and the facility appeared to be in good operating condition. The knowledgeable staff was courteous, professional and responsive to questions, following up immediately to provide requested information.

The Grand Jury is concerned about an apparent duplication of services and a lack of coordination between the new Five Keys operation in the Sandy Turner Education and Training Center and the ongoing services provided by the transition center. This may be

due to an initial adjustment period because Five Keys had only been running the Sandy Turner Education Center for about six months at the time of the Grand Jury's second

inspection. Nevertheless, a need exists to assess any overlaps and decide how to coordinate services going forward. Fine-tuning this relationship will ultimately improve program results and provide a greater benefit to participants.

FINDINGS	<i>None</i>
RECOMMENDATIONS	<i>None</i>
RESPONSES REQUIRED	<i>None</i>

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FREMONT HALL OF JUSTICE COURT HOLDING FACILITY INSPECTION

INTRODUCTION

On October 25, 2016, the Grand Jury inspected the Fremont Hall of Justice Court Holding Facility, located at 39439 Paseo Padre in Fremont. The facility, built in 1979, is designated by California Code of Regulations title 15, section 1006, as a court holding facility for detainees awaiting court appearances. Normal hours of operation are from 8:00 a.m. until 4:00 p.m.; four hours is the average length of stay. The facility is staffed by the Alameda County Sheriff's Office with both deputy sheriffs and non-sworn personnel. The Sheriff's Office is charged with the custody, control, and welfare of the detainees while at the jail and in the courtroom. The Grand Jury focused on inspecting the physical structure and individual cells; determining whether policies and procedures were in place and being followed; and confirming that security is adequate.

The facility primarily serves the Fremont, Newark, and Union City areas.

INSPECTION

The Grand Jury met with the jail's command staff for a briefing regarding the daily operations of the facility, then inspected four cells, the access ports, and the movement corridors. The facility primarily serves the Fremont, Newark, and Union City areas. The majority of detainees are transported from Santa Rita Jail, but some are also transported from Hayward and Fremont jails. The detainees have been booked prior to being transported to the facility. Most detainees are facing misdemeanor charges, although some are facing felony charges.

The facility contains 11 cells, one exclusively for female detainees and 10 available for either male or female detainees. Some smaller cells attach directly to courtrooms for extra security in transferring the detainees. The holding cells typically contain a toilet and a wash basin; those tested during the inspection were found to be in working order. The maximum number of detainees is 171, but the average daily population is 20. (The facility held 30 on the day of the inspection.)

Cell placements are determined by detainee classification using criteria such as gang affiliation or behavioral issues. Use of restraints is also dependent upon classification. The

facility has and follows a formal policy on use of restraints. Transgender detainees self-identify for placement and are typically placed in separate cells. The facility does not have a safety cell. Welfare and Institutions Code section 5150 (involuntary psychiatric hold) detainees are transferred to Santa Rita when it is safe to do so. Each cell is equipped with video surveillance system, and all occupied cells are monitored from a central video control room. Routine visual inspections are conducted every 30 minutes in addition to the video monitoring. Cells do not contain call buttons. No firearms are allowed in the holding cell area (they are stowed in lockers in the sally port), but deputies carry stun guns.

Detainees transferred for court appearances bring bag lunches prepared by staff at their originating jail, as the facility has no kitchen for on-site food preparation. Since this facility does not house inmates overnight, there are no showers, recreational facilities, or library. Detainees do not have access to phones or visitors other than their attorneys. Personal items are not allowed except for the bagged lunch, minor medications, and a bible if desired. Supplies for an extended emergency are kept back at the originating jails and not at this facility. Water is available. There is no medical care facility on site. A detainee experiencing a serious health issue will be transported to a nearby hospital for treatment. If the problem is less severe, the detainee will be sent to Santa Rita for evaluation.

Attorney-client communications occur through dedicated phones located in a holding cell separated by a wall with a viewing window. Detainees may also speak with their attorneys in the courtrooms with the permission of the judge.

The facility was generally clean and sanitary. Some cells had visible, but minor, graffiti on the walls. The Grand Jury was told that maintaining a graffiti-free environment is a constant battle. The graffiti was from small pencils that, along with writing paper, are provided to the detainees. The Grand Jury observed wadded paper stuck to walls and ceilings near and occasionally on the surveillance cameras during the inspection. Staff advised that detainees often throw damp toilet paper wads at the ceilings or the cameras. The facility is maintained by an outside janitorial service. Each holding cell contained a television, but all were inoperable because the older equipment is not digital-compatible. The deputies said the incidence of graffiti and paper throwing increased when the televisions stopped working. According to staff, the cost of replacing them is unknown and the deputies believe that, within the constraints of limited funding, more important spending priorities exist.

Twelve sworn officers, including deputy sheriffs assigned to each courtroom as bailiffs, staff the holding facility. Staff indicated that 15 sworn officers would better serve the facility, but funding issues currently preclude additional hiring (the funding allowance is

approximately \$100,000 per deputy sheriff per year, but actual cost is closer to \$200,000 in salary and benefits). The Grand Jury was told that the lower staffing levels do not pose a safety risk to staff, court personnel, or detainees, but do cause minimal delays in the judicial process. In order to maintain safety, detainee transfers might take ten minutes instead of the usual two. Detainees may file a grievance by filling out a form that is available at the originating jail. They may appeal their grievance to the Alameda County Sheriff's Office Internal Affairs Unit.

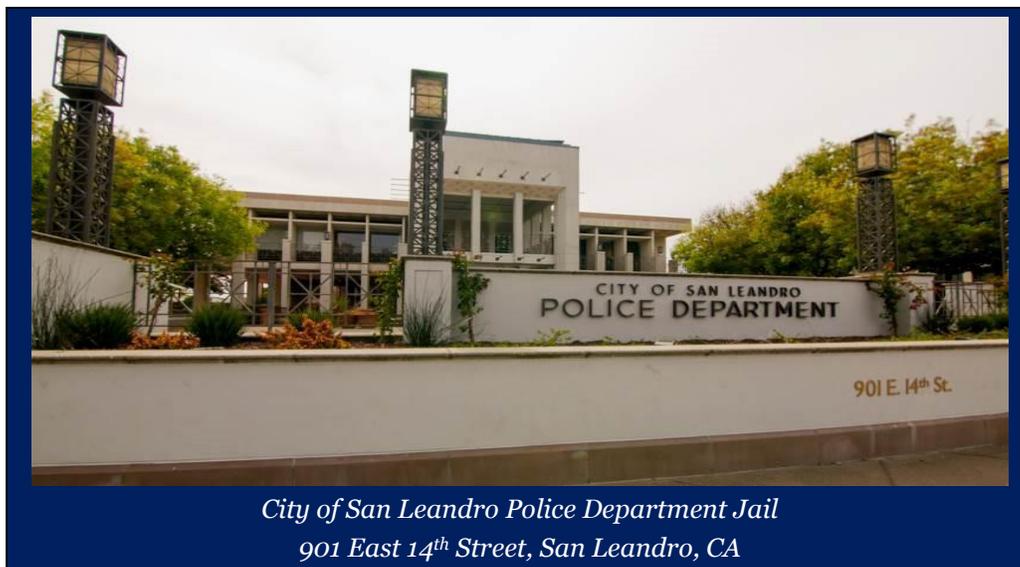
CONCLUSION

The Grand Jury found that the Fremont Hall of Justice holding facility is generally clean, in good working order, and operated efficiently by the Alameda County Sheriff's Office.

FINDINGS	<i>None</i>
RECOMMENDATIONS	<i>None</i>
RESPONSES REQUIRED	<i>None</i>

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SAN LEANDRO TEMPORARY HOLDING FACILITY INSPECTION



*City of San Leandro Police Department Jail
901 East 14th Street, San Leandro, CA*

INTRODUCTION

On October 18, 2016, the Grand Jury inspected the San Leandro temporary holding facility, formerly known as the San Leandro Police Department jail. The Grand Jury focused on inspecting the physical structure and individual cells; determining whether policies and procedures were in place and being followed; and confirming that security is adequate.

The facility, built in 1968, is located in the basement of the San Leandro Police Headquarters at 901 East 14th Street in San Leandro, California. The San Leandro Police administration re-classified the facility from a jail to a temporary holding facility as defined by the California Code of Regulations (15 CCR section 1006). Consequently, inmates are held a maximum of 24 hours and an average of four to five hours while awaiting transfer to other long term facilities such as Santa Rita Jail or being released on bail.

The facility is located in an older building that shows some signs of wear, but otherwise the Grand Jury found it to be in good condition and well-maintained.

INSPECTION

The temporary holding facility designation allows for some non-security staffing by police service technicians rather than sworn officers. The technicians also have other duties outside the facility such as code enforcement. However, administration of the facility, inmate intake, and inmate supervision are always priorities.

The facility is located in an older building that shows some signs of wear, but otherwise the Grand Jury found it to be in good condition and well-maintained. No firearms are allowed in the jail. They are secured in gun lockers prior to entering the facility.

The facility can hold a maximum of 32 prisoners. It contains 12 cells, with males and females detained separately, including two detox cells. Fire extinguishers were readily available.

No detainees were present when the Grand Jury inspected. The cells were clean and well-lit with no visible graffiti or debris, as were the hallways and common areas, and each cell had a functioning toilet, working sink, and beds.

Arrestees are booked in a central space where valuables are logged and stored. Detainees are fingerprinted and questioned about medical issues and gang affiliations. They are allowed to make three phone calls and can post bail from this facility. Detainees may speak with visitors in a specified area, separated by glass. Juveniles are sometimes booked at this facility but, if being further detained, they are sent to the Alameda County Juvenile Justice Center (Juvenile Hall) as soon as possible after processing. At least two employees escort detainees during transport.

Arrestees who demonstrate or report medical or mental health issues, particularly communicable diseases such as tuberculosis, are transferred to an appropriate medical facility. Fire department EMTs are dispatched to the facility immediately if there are serious emergency conditions.

Arrestees are given a toothbrush, soap and shampoo upon request. Linens are also provided, and the Grand Jury noted that mattresses appear to be in good condition. Many detainees have spent long periods on the street with no hygiene, so they are offered showers upon arrival. Shower supplies were ample.

Each cell contains a telephone. Arrestees are also allowed telephone access in the holding area. Although cells do not contain emergency call buttons, all cells are monitored 24/7 (from multiple camera angles) from a central dispatch room in the building. Snacks and sandwiches are provided to arrestees upon request. The Grand Jury observed well stocked food supplies.

Arrestees can submit written complaints that are examined by the San Leandro Police Department Internal Affairs Division. As a temporary holding facility, no extra disciplinary measures are taken against arrestees.

The California Board of State and Community Corrections (BSCC) last conducted an inspection in December 2015. Three compliance issues were noted relating to documentation of new policies and procedures for the change in status from a short term jail to a temporary holding facility:

- Training records for all who supervise prisoners: the facility did not have training records to give BSCC in December 2015, but now have records showing that personnel receive substantially more training than is required. The Grand Jury obtained a sample of the training for an employee as evidence.
- Staffing plan: at the time of our visit they had nearly completed a plan in a form required by BSCC.
- Updated Policy and Procedures Manual: staff showed the Grand Jury the existing manual, but said that updating the manual had been put on hold until the installation and testing of new software in December of 2016. In mid-March 2017, the Grand Jury learned that the software had been installed successfully, updating of the manual was well underway, and the manual would be complete and available online to all staff by the end of April 2017. Most procedures and policies for operating a 72-hour facility will be left in place in case the facility changes back to that status.

BSCC will re-inspect the facility once notified that the issues are remedied.

CONCLUSION

The Grand Jury finds the San Leandro Temporary Holding Facility to be in good condition and operated efficiently. Staff appear to be capable and well-managed, with evidence of extensive, effective training.

FINDINGS	<i>None</i>
RECOMMENDATIONS	<i>None</i>
RESPONSES REQUIRED	<i>None</i>

ABOUT THE ALAMEDA COUNTY GRAND JURY

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

In California, grand juries have several functions:

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

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

- 1) all public records within the county;
- 2) books and records of any incorporated city or joint powers authority located in the county;
- 3) certain redevelopment agencies and housing authorities;
- 4) special purpose assessing or taxing agencies wholly or partly within the county;
- 5) nonprofit corporations established by or operated on behalf of a public entity;
- 6) all aspects of county and city government, including over 100 special districts; and
- 7) the books, records and financial expenditures of any government agency including cities, schools, boards, and commissions.

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

This report was prepared by a *civil* grand jury whose role is to investigate all aspects of local government and municipalities to ensure government is being run efficiently, and that government monies are being handled appropriately. While these jurors are nominated by a Superior Court judge based on a review of applications, it is not necessary to know a judge in order to apply. From a pool of 25-30 accepted applications (an even number from each supervisorial district), 19 members are randomly selected to serve.

History of Grand Juries

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

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

Grand Jury Duties

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

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

1. To inquire into all public offenses committed or triable within the county (Penal Code §917);
2. To inquire into the case of any person imprisoned and not indicted (Penal Code §919(a));
3. To inquire into the willful or corrupt misconduct in office of public officers of every description within the county (Penal Code §919(c));
4. To inquire into sales, transfers, and ownership of lands which might or should revert to the state by operation of law (Penal Code §920);
5. To examine, if it chooses, the books and records of a special purpose, assessing or taxing district located wholly or partly in the county and the methods or systems of performing the duties of such district or commission. (Penal Code §933.5);
6. To submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to the county government (Penal Code §933), with a copy transmitted to each member of the Board of Supervisors of the county (Penal Code §928); and,
7. To submit its findings on the operation of any public agency subject to its reviewing authority. The governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body and every elective county officer or agency head for which the grand jury has responsibility (Penal Code §914.1) and shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the Board of Supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. (Penal Code §933(c)).

Secrecy/Confidentiality

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

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

Legal Advisors

In the performance of its duties, the grand jury may ask the advice (including legal opinions) of the district attorney, the presiding judge of the superior court, or the county counsel. This can be done by telephone, in writing, or the person may be asked to attend a grand jury session. The district attorney may appear before the grand jury at all times for the purpose of giving information or advice.

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

Annual Final Report

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

Citizen Complaints

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

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

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

Mail complaints to:

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

An acknowledgment letter is routinely sent within one week of receipt of a complaint.

How to Become a Grand Juror

Citizens who are qualified and able to provide one year of service, and who desire to be nominated for grand jury duty, may send a letter with their resume or complete a Grand Jury Questionnaire (contained at the end of this report) and mail it to: *Office of the Jury Commissioner - Alameda County Superior Court, Grand Jury Selection, 1225 Fallon Street, Room 100, Oakland, CA 94612; or by calling (510) 818-7575.* On the basis of supervisory district, six members from each district for a total of 30 nominees are assigned for grand jury selection. After the list of 30 nominees is completed, the selection of 19 jurors who will actually be impaneled to serve for the year are selected by a random drawing. This is done in late June before the jury begins its yearly term on July 1. To obtain an application: www.acgov.org/grandjury. For more information, please visit the Alameda County Superior Court website at www.alameda.courts.ca.gov and follow the link to “jury” then “grand jury.”

Qualification of Jurors

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

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

Commitment

Persons selected for grand jury service must make a commitment to serve a one-year term (July 1 through June 30). Grand jurors should be prepared, on average, to devote two days each week to grand jury meetings. Currently, the grand jury meets every Wednesday and Thursday from 9:00 a.m. to 1:00 p.m., with additional days if needed. Grand jurors

are required to complete and file a Statement of Economic Interest as defined by the state's Fair Political Practices Commission, as well as a Conflict of Interest form. Grand jurors are paid \$15.00 per day for each day served, as well as a county mileage rate (currently 54 cents per mile) portal to portal, for personal vehicle usage.

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

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

CITIZEN COMPLAINT GUIDELINES

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

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

The jurisdiction of the Alameda County Grand Jury includes the following:

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

Annual reports and additional information about the Grand Jury can be found at:
<http://acgov.org/grandjury>

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

Date _____

Your Name _____

Phone _____

Address

Email address

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

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

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

Official or Employee Name

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

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

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

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

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

Signature _____

Please mail your complaint to:

Alameda County Grand Jury
Attention: Foreman
1401 Lakeside Drive, Suite 1104

HOW TO RESPOND TO FINDINGS & RECOMMENDATIONS IN THIS REPORT

Pursuant to the California Penal Code section 933.05, the person or entity responding to each grand jury finding shall indicate one of the following:

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

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

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

SEND ALL RESPONSES TO:

Presiding Judge Morris D. Jacobson
Alameda County Superior Court
1225 Fallon Street, Department One
Oakland, California 94612

A COPY MUST ALSO BE SENT TO:

Cassie Barner c/o
Alameda County Grand Jury
1401 Lakeside Drive, Suite 1104
Oakland, California 94612

All responses for the 2016-2017 Grand Jury Final Report must be submitted no later than 90 days after the public release of the report.



Sunrise over Lake Merritt, Oakland, California (Spring 2017)