



2007-2008 ALAMEDA COUNTY CIVIL GRAND JURY FINAL REPORT

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ALAMEDA COUNTY GRAND JURY

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TABLE OF CONTENTS

Alameda County Board of Supervisors..... 1
Table of Contents..... 2
Foreman’s Letter..... 3
Grand Jury Members..... 6
Officers and Legal Staff..... 7
Grand Jury Photograph..... 8
Presiding Judges of the Superior Court..... 9
Grand Jury Committee Roster..... 10

INTRODUCTION

History of the Grand Jury..... 11
Functions..... 11
Selection Process..... 12
Qualification of Jurors..... 12
Commitment..... 13
Remuneration..... 13
Orientation and Training..... 13
How to Submit a Complaint..... 14

GOVERNMENT COMMITTEE

Introduction..... 15
City of Oakland Use of Credit Cards..... 16
Salary and Benefits of Boards and Commissions in Alameda County..... 33
Dumbarton Rail Corridor Project..... 35
Registrar of Voters..... 41
Dublin to Livermore I-580 Carpool Lanes..... 43
City of Berkeley Drug Houses..... 45

EDUCATION COMMITTEE

Oakland Unified School District..... 49

HEALTH COMMITTEE

Alameda County Medical Center..... 53

LAW & JUSTICE COMMITTEE

Jail Inspections..... 56
Oakland Police Staffing..... 59
Oakland Fire Department Application Acceptance Mismanagement..... 61



Alameda County
Grand Jury

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June 28, 2008

Honorable Yolanda N. Northridge
Presiding Judge
Alameda County Superior Court
1225 Fallon Street, Department One
Oakland, California 94612

Dear Judge Northridge:

It has been an honor and a privilege for the nineteen civil grand jurors to have served the residents of Alameda County during the 2007-2008 term. I wish to acknowledge and thank the many public employees who made time in their busy schedules to provide the grand jury with the information we needed in order to understand, monitor intelligently, and investigate agencies and organizations that are funded by public monies and that serve the residents of Alameda County. From the orientation and training sessions that took place last July and August to more specific areas of enquiry undertaken by the grand jury throughout the year, these individuals made possible the enclosed report, and I wish to thank them sincerely for their efforts.

During the course of our term, the grand jury received approximately thirty complaints from citizens who felt that they had identified areas of interest to the grand jury. Many involved issues that are not within the jurisdiction of the grand jury. The remainder were evaluated and referred to one of the four standing committees: Education, Law and Justice, Government, and Health. In addition to formal complaints, the grand jury chose to investigate areas we believed to be of public concern and worthy of our attention on behalf of the residents of Alameda County. It is important to recognize that the formal grand jury report contains findings in those areas in which we were able to make comments or recommendations. The report does not give any indication of the many hours of research, clarification, validation, discussion, and consensus building that took place both in the jury room and in the field. Following is a brief summary of the major investigations contained in this year's grand jury report:

Hon. Yolanda N. Northridge
Page two
June 28, 2008

- The Education Committee gave its attention to the Oakland Unified School District (OUSD), which has been governed by the California State Department of Education for the past several years. Although the grand jury has no jurisdiction over the State Department of Education, OUSD does have authority in several areas that are within the grand jury's jurisdiction. The grand jury notes with concern that OUSD's failure to operate within a balanced budget precipitated the state's intervention several years ago, and that since the takeover, the state, too, has failed to produce a balanced budget, and the future of the school district remains an area of concern. The return of full authority to the Oakland Board of Education and the OUSD and the development of sound fiscal practices may be of continuing interest to future grand juries.
- The Law and Justice Committee focused upon investigations in two major areas: the adequacy of staffing of the Oakland Police Department and allegations of wrongdoing in the hiring of firefighters to fill vacancies in the Oakland Fire Department. In addition, the committee fulfilled its mandated responsibility of inspecting jail and holding facilities operated by law enforcement agencies within Alameda County.
- The Government Committee conducted several investigations in response to citizen complaints, and additional investigations developed by the grand jury itself. The manner in which the city of Berkeley responds to complaints about "drug houses"—private residences used for illegal drug use or sales—demonstrates some of the complexities inherent in abating nuisance properties, and was the subject of one investigation. Less complicated, but nonetheless important, was our investigation into allegations that the Alameda County Registrar of Voters' office had erroneously mailed letters to registered voters advising them that they had not selected either the Republican or Democratic Party when they registered as "mail-in" voters. There was also a complaint that some polling places ran out of ballots in the primary election. A third investigation focused, in part, upon the allocation of public monies for passenger rail service connecting San Mateo County with Union City via a refurbished rail crossing in the south county. In yet another important area of concern, the grand jury investigated the policies, procedures, and use of city-issued credit cards by Oakland's elected officials and by city employees.

Hon. Yolanda N. Northridge
Page three
June 28, 2008

- Finally, the Health Committee monitored the financial health of the Alameda County Medical Center, which continues to experience considerable difficulty due to increasing numbers of uninsured patients, the inadequacy of Medicare and MediCal repayments, a reduction in the system's ability to borrow from the county treasury to cover shortfalls while waiting for reimbursement from state and federal sources, and problems associated with increasing operating expenses and aging facilities and equipment.

As many previous grand juries have discovered, current issues are often exceedingly complicated and will require the attention of future grand juries. Other issues will arise, and I am confident that future grand juries will learn rapidly, consider carefully, and act in the best interests of the people of Alameda County.

I wish to express my sincere thanks and appreciation to the current members of the grand jury for their efforts and for their commitment. I wish, too, to thank Cassie Barner, Legal Staff Assistant and Senior Deputy District Attorney Jeff Stark, Legal Counsel for the grand jury. These two individuals' sense of history and continuity—as well as their tolerance of those of us who are still learning the process—has facilitated the work of previous grand juries, and we owe both a profound debt of gratitude.

Thank you for allowing me the opportunity to serve.

Sincerely,

PATRICK K. PREMINGER, Foreman
2007-2008 Alameda County Grand Jury

2007-2008 ALAMEDA COUNTY CIVIL GRAND JURY MEMBERS

JUROR	SUPERVISORIAL DISTRICT/CITY	NOMINATING JUDGE
Elise M. Ajawara ³	District 1 – Fremont	Judge George C. Hernandez, Jr.
Ronald Bachman	District 5 – Oakland	Judge George C. Hernandez, Jr.
Corazon Caluag	District 1 – Fremont	Judge George C. Hernandez, Jr.
Curtis A. Castain	District 1 – Fremont	Judge George C. Hernandez, Jr.
Michael J. Cline	District 4 – Dublin	Judge George C. Hernandez, Jr.
John W. Edney	District 1 – Pleasanton	Judge Sandra Bean
Ceda Floyd ^{*2}	District 4 – Oakland	Judge George C. Hernandez, Jr.
Twila L. Foster	District 5 – Oakland	Judge Vernon Nakahara
Robert D. Graham*	District 2 – Oakland	Judge Carl Morris
Karen Hoefs*	District 3 – Piedmont	Judge George C. Hernandez, Jr.
Guy Krahnke	District 3 – Alameda	Judge George C. Hernandez, Jr.
Janet E. Lamarre	District 4 – Dublin	Judge George C. Hernandez, Jr.
Joetta E. Macillus	District 1 – Livermore	Judge George C. Hernandez, Jr.
Melvin A. Medeiros	District 3 – San Lorenzo	Judge George C. Hernandez, Jr.
Shirley Ott	District 4 – Oakland	Judge George C. Hernandez, Jr.
Patrick K. Preminger*	District 3 – Alameda	Judge George C. Hernandez, Jr.
Lloyd L. Rash*	District 4 – Castro Valley	Judge George C. Hernandez, Jr.
James P. Ryan	District 3 – Alameda	Judge Vernon Nakahara
Michael Q. Santos	District 3 – Alameda	Judge George C. Hernandez, Jr.
Charles Schley	District 2 – Hayward	Judge George C. Hernandez, Jr.
Alberta Sitlani	District 5 – Berkeley	Judge George C. Hernandez, Jr.
Charles E. Taylor ¹	District 4 – Oakland	Judge George C. Hernandez, Jr.

* Jurors held over for a 2nd term by Presiding Judge George C. Hernandez, Jr.

- 1 Resigned on 7-10-07. Replaced by juror Curtis A. Castain.
- 2 Resigned on 7-19-07. Replaced by juror James P. Ryan.
- 3 Resigned on 7-24-07. Replaced by juror Corazon Caluag.

**2007-2008 ALAMEDA COUNTY CIVIL GRAND JURY
OFFICERS & LEGAL STAFF**

FOREMAN: Patrick K. Preminger

FOREMAN PRO TEM: Melvin A. Medeiros

SECRETARY: Lloyd L. Rash

SECRETARY PRO TEM: Karen Hoefs

SERGEANT AT ARMS: Charles Schley



LEGAL ADVISOR: Jeff Stark, Senior Deputy District Attorney

LEGAL STAFF ASSISTANT: Cassie Barner



2007-2008 ALAMEDA COUNTY CIVIL GRAND JURY

Standing, left to right:

Guy Krahnke, John W. Edney, Janet E. Lamarre, Shirley Ott, Lloyd L. Rash (Secretary),
Michael J. Cline, Alberta Sitlani, Twila L. Foster, Melvin A. Medeiros
(Foreman Pro Tem), Charles Schley (Sergeant at Arms), Corazon Caluag,
Robert D. Graham, James P. Ryan, Curtis A. Castain, Karen Hoefs (Secretary Pro Tem),
Patrick K. Preminger (Foreman), Michael Q. Santos

Seated, left to right:

Ronald Bachman, Honorable Yolanda N. Northridge (Presiding Judge), Joetta E.
Macillus

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



Honorable George C. Hernandez, Jr.
June 1, 2007 – December 31, 2007



Honorable Yolanda N. Northridge
January 1, 2008 – Present

2007-2008 ALAMEDA COUNTY GRAND JURY COMMITTEE ROSTER



GOVERNMENT

Twila L. Foster, Chair
Corazon Caluag
Curtis A. Castain
John W. Edney
Karen Hoefs
Joetta E. Macillus
James P. Ryan
Michael Q. Santos
Alberta Sitlani

EDUCATION

Robert D. Graham, Chair
Ronald Bachman
Curtis A. Castain
Michael J. Cline
John W. Edney
Twila L. Foster
Guy Krahnke
Shirley Ott
Lloyd L. Rash

HEALTH

Ronald Bachman, Chair
Corazon Caluag
Karen Hoefs
Janet E. Lamarre
Joetta E. Macillus
Melvin A. Medeiros
James P. Ryan
Charles Schley
Alberta Sitlani

LAW & JUSTICE

Lloyd L. Rash, Chair
Michael J. Cline
Robert D. Graham
Guy Krahnke
Janet E. Lamarre
Melvin A. Medeiros
Shirley Ott
Michael Q. Santos
Charles Schley

HISTORY OF THE GRAND JURY

The California grand jury dates back to 1849, with Alameda County's first grand jury being empaneled in 1850. The role of the grand jury was unique in that by 1880 its duties included investigation of county government.

FUNCTIONS

The grand jury is an investigative body. Its two predominant functions are:

Watchdog Responsibilities – The grand jury may examine all aspects of county and city government and over 100 special districts to ensure that the best interests of Alameda County citizens are being served. The grand jury reviews and evaluates procedures, methods and systems to determine whether more efficient and economical programs might be employed. The grand jury is authorized to inspect and audit books, records and financial expenditures to ensure public funds are properly accounted for and legally spent; inquire into the condition of jails, detention centers, and hospitals; and inquire into charges of willful misconduct in office by public officials or employees.

Grand jury “watchdog” findings are contained in reports that describe problems and recommend solutions. Interim reports are sometimes released upon completion of investigations. At the end of its term, the grand jury issues a final report on the operations of Alameda County government. The county Board of Supervisors must comment on the jury's recommendations within 90 days. Copies of the most recent final and interim reports can be obtained at the grand jury's web site at: www.acgov.org/grandjury.

Citizen Complaints – As part of its civil function, the grand jury receives letters from citizens alleging mistreatment by officials, suspicion of misconduct, or governmental inefficiencies. Complaints are acknowledged and may be

investigated for their validity. All complaints are confidential. If the situation warrants and corrective action is under the jurisdiction of the grand jury, appropriate solutions are recommended.

SELECTION PROCESS

Superior court judges in Alameda County nominate individuals for grand jury service. It is not necessary, however, to know a judge personally in order to apply. Citizens who are interested, qualified, able to provide one year of service, and who desire to be nominated for grand jury duty may send a letter with their resume and request an application questionnaire from: Office of the Jury Commissioner, Grand Jury Selection, 1225 Fallon Street, Room 100, Oakland, California 94612. On the basis of supervisorial 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 empaneled is drawn by lot. This is done in late June before the new grand jury term begins on July 1. For more information, please visit the Alameda County Superior Court web site 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 who has been a resident of Alameda County for 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; an interest in community affairs; possession of investigative skills and the ability to write reports; and a general knowledge of the functions, authorities 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 this 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 minimum of one year (July 1 through June 30). Grand jurors should be prepared, on average, to devote two full days each week to grand jury business. Grand Jurors will be required to complete and file Statement of Economic Interests as defined by the state's Fair Political Practices Commission, as well as a Conflict of Interest form.

REMUNERATION

Grand jurors are paid \$15.00 per day for each day served, as well as a county mileage rate (currently 50.5 cents per mile), portal to portal, for personal vehicle usage. Reserved parking is provided at a reduced rate.

ORIENTATION AND TRAINING

Persons selected for grand jury duty are provided with an extensive orientation and training program regarding grand jury functions. This program takes place immediately after selection and empanelment and lasts approximately one month. This training includes tours of county facilities and orientation by county department heads and elected officials. Those selected for grand jury service are required to attend.

HOW TO SUBMIT A COMPLAINT

In order to maintain the confidentiality of complaints and investigations, the Alameda County Grand Jury only accepts complaints from citizens in writing. Complaints should include the name of the person 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. It is preferred that the complainant's name and address also be included should the grand jury wish to contact the complaining party for further information. A complaint form is available on the grand jury's web site at:

www.acgov.org/grandjury.

All complaints submitted to the grand jury are required by California law to be treated with the strictest of confidence. The grand jury reviews all complaints received; but due to time, staffing or resources, not every complaint may be investigated. Complaints should be mailed to: Foreman, Alameda County Grand Jury, 1401 Lakeside Drive, Suite 1104, Oakland, California 94612. An acknowledgment letter is routinely sent within two weeks of receipt of the complaint.

INTRODUCTION

The role of the Government Committee is to investigate complaints from citizens regarding city and county governmental agencies. The 2007-2008 Government Committee reports on six investigations: City of Oakland Use of Credit Cards, Salary and Benefits of Boards and Commissions in Alameda County, Dumbarton Rail Corridor Project, Registrar of Voters, Dublin to Livermore I-580 Carpool Lanes, and Berkeley Drug Houses.

CITY OF OAKLAND USE OF CREDIT CARDS

INTRODUCTION

The city of Oakland has a “Purchasing Card Program” and provides city-backed credit cards to authorized employees of the city (including the mayor, members of the city council, and other elected officials) for limited work-related purchases. In 2005 the Oakland city auditor prepared an interim report expressing concern about the use of the credit cards and the potential for abuse and liability for the city, and recommended that the program be suspended for a period of time until certain controls could be implemented. The Finance and Management Agency (FMA) for the city of Oakland prepared a response to the interim report stating that while there had been some missing documentation, overall the program had been successful in facilitating certain city purchases, saving processing costs and improving purchase tracking and analysis. The city manager approved the response and forwarded it to the city council. The program therefore continued.

The grand jury reviewed activity in the credit card program. The city of Oakland provided the grand jury with credit card usage reports for the fiscal year July 1, 2006 to June 30, 2007, for all of the elected officials for the city of Oakland (mayor, city council, city attorney and city auditor) as well as for the top 25 users of the city-issued credit cards. The grand jury obtained back-up documentation for specific charges shown in these reports as well as copies of the city’s policies on usage.

CREDIT CARD PROGRAM POLICY

The credit cards issued under the program are to be used only for authorized city purchases. Each cardholder enters into a contract with the city setting forth the

cardholder's responsibilities and is required to attend training on the use of the credit card. Each supervisor of a cardholder is also required to attend training. Cardholders are required to verify monthly statements for accuracy and submit detailed receipts and all supporting paperwork (invoices, bids, travel authorizations, etc.) to their supervisor. The supervisor is then required to approve these statements for accuracy to ensure that each charge falls within city policy (e.g., required documentation is included, that charges are permissible). These statements are then submitted to the city's reconciliation administrator (an accounting employee of the FMA). The FMA employee is required by city policy to monitor the purchasing card usage, verify that all necessary documentation is attached, confirm the account coding and report any problems or discrepancies to the appropriate department or agency. It must be noted that Oakland's elected officials and the city administrator approve their own monthly statements, submitting their statements directly to FMA.

If the cardholder has either used the card for a personal expenditure or has combined allowable charges and unallowable charges on one credit card charge, the cardholder is required to reimburse the city for the amount of the personal charges when submitting the monthly statement.

The purchasing card policy provides that the following constitutes authorized expenditures:

- Travel on city business consistent with the city's travel policy
- Purchases over the internet or by telephone
- Specialty items or items needed immediately
- Emergency purchases as defined in the city's purchasing ordinance
- Fuel for rental vehicles or for city-owned vehicles when fleet refueling is not available

The travel policy permits reimbursement for the actual and necessary expenses for transportation, parking, tolls, and other reasonable incidental costs, and within maximum rates established by the city council for lodging, meals and private auto use. (“Actual and necessary expense” does not include alcoholic beverages.) Travel must be pre-approved, and an authorization form is needed for all travel of one workday or more. Transportation is to be by the most reasonable means available, and the policy specifies that whenever possible the Oakland International Airport is to be used for air travel. Actual meal expenses, within the maximum current allowable rates, may be reimbursed routinely for out-of-city travel; but for any full day out-of-city travel, the costs of meals may be reimbursed at the current daily rate without regard to how much is spent on the individual meals, and without receipts. The per diem rates are: breakfast, \$11.00; lunch, \$16.00; dinner, \$29.00. Receipts are required in most cases; but if a receipt has been lost, the cardholder must provide a statement “declaring that a good faith effort was made to produce the receipt in accordance with the [city travel policy].”

The city also utilizes its Petty Cash Reimbursement policy to establish what constitutes permissible work-related expenditures. The petty cash policy sets forth a list of “allowable reimbursements” and a list of “disallowed reimbursements.” The list of allowable reimbursements includes:

- Minor computer software and hardware
- Coffee and other light refreshments for staff and interoffice meetings, with specific authorization by the city administrator or a department/agency head
- Meals as approved by the city administrator or the director of FMA as part of a program for special training sessions, workshops, employee recognition ceremonies, and any other events pertaining to employee appreciation/participation (e.g., Combined Charities)

- Food purchases while conducting official city business (e.g., a working lunch)
- Hospitality or ceremonial gifts (e.g., a souvenir for a visiting mayor)

Disallowed reimbursements include:

- Goods readily available from department or agency or city-wide inventory
- Individual meals (i.e., meal breaks)
- Donations, raffle tickets, entertainment tickets, holiday decorations, employee parties, or other events whether sponsored by employees or not, regardless of the person(s) benefiting

In summary, the grand jury found that the city's permissible expenses are listed in three separate city policies: the purchasing card policy, the travel on city business policy, and the petty cash reimbursement policy.

INVESTIGATION

The grand jury found several problems with the city of Oakland's purchasing card program:

Failure to Comply with City Policies

The grand jury found that there was a failure to comply with city policies on multiple occasions.

- 1) Required receipts were missing. Policy requires that this not occur very often, but if it does, a statement with an explanation from the employee must be submitted. These statements were usually missing, and certain city employees were missing receipts on a regular basis.
- 2) Charges on the credit cards in violation of city policy (such as movie charges in hotel rooms or food costs in excess of per diem limits) were not

identified by either the supervisor or the FMA employee who reviewed the monthly statements.

- 3) Policy provides that most travel must be approved in advance. In most cases, this documentation was not attached to the monthly statements.

Ambiguous City Policies

Many city policies in connection with the program were weak, ineffectual, ambiguous or hard to locate.

- 1) Policies with respect to permissible credit card expenditures are not in one central policy, but in three separate city policies. For example, to determine whether some expenditures are permissible, one needs to review the petty cash reimbursement policy, even though one is not using petty cash.
- 2) Although certain staff meals are reimbursable, there are no guidelines as to when this is permissible nor are there any rules governing the cost of the meals.
- 3) There is no requirement to identify the purpose of any staff meal or who attended.
- 4) Travel guidelines (use cheaper airlines and travel from Oakland International if possible) are the only guidelines. In at least one instance, a round trip flight from the Bay Area to Los Angeles International was flown from San Francisco International on United Airlines, at a cost of over \$700.
- 5) There are no guidelines on business meals – no dollar limits and no requirement that the persons attending the meal with the credit card user be identified.
- 6) There is no clear policy regarding consequences of abuse by credit card holders.

Absence of Policy

The city of Oakland is lacking in policies in many cases.

- 1) There is no policy describing when gifts are permissible expenditures other than the example “a souvenir for a visiting mayor.”
- 2) There is no policy on electronics, such as computers and printers, purchased with the credit cards.
- 3) There is no policy on furniture purchases.
- 4) Recognition meals and gifts are frequently purchased. There is no written policy as to when this is acceptable, dollar limits, or a definition of what a recognition meal is.
- 5) There is no policy on elected officials and the city administrator obtaining approval for their expenses. Elected officials and the city administrator approve their own monthly credit card statements.
- 6) There is no policy on when it is appropriate to send flowers at city expense.
- 7) There is no policy on the purchase of holiday cards. For example, one city department head spent over \$1,900 on a one-time holiday card purchase.
- 8) There is no policy regarding consequences for those approving charges in violation of city policy.

CONCLUSION

The grand jury understands that there are benefits to the city of Oakland in utilizing credit cards to facilitate certain types of purchases. However, this is also an area that can be easily abused and needs to be watched closely. It can be noted that during the fiscal year examined by the grand jury, most members of

the city council, who can approve their own expenses, seldom used their purchase cards.

The grand jury discovered that the city's policies were insufficient and that in some cases there was no effective oversight of credit card charges. In addition, the grand jury determined, based on the shoddy and incomplete documentation submitted and accepted as the sole written support for credit card charges, it would be likely that a supervisor or the FMA employee who reviewed the monthly statements would not be able to determine whether the cardholder was abusing the credit card. Thus, opportunities for abuse abound and may not be easily detected.

The grand jury found that a number of the cardholders used their credit cards for "business lunches," many of those at upscale restaurants including Max's, Verbena, Scott's and Bay Wolf. In most instances the documentation for those lunches failed to identify the purpose of the lunch or the names of those in attendance. One elected official had over 50 business meals at city expense during one fiscal year with total charges of over \$3,000, dining mostly at the restaurants listed above. Most of the receipts lack itemization and purpose of meeting. One charge for \$150 at Max's showed \$26.89 for a tip as the only detail.

There were also numerous charges for staff meals (working meals) by many of the cardholders. Again, many of those meals were at upscale restaurants. Recognition lunches were also charged by many departments, with many of those events being held at or catered by nicer establishments and sometimes for significant amounts of money. The grand jury concluded that many of these expenditures were excessive, particularly given the absence of policies for these types of expenditures. Some cardholders even listed the meals as "holiday" events, in clear violation of city policy.

Many charges seemed inappropriate based on the documentation submitted, particularly given that city tax dollars were being expended (for example, logo

shirts for a cost to the city of \$1,745 being purchased for one department; flower purchases by numerous cardholders for various reasons; gift cards from a variety of stores; and Palm Pilot and cell phone accessories). The grand jury was left with the impression that some of the cardholders were not exercising good judgment in their choice of expenditures.

While it appeared that cardholders frequently attended conferences out of town at city expense, in most cases, the grand jury was not provided with the supporting documentation, including the justification for the travel. As noted above, the travel policies did not seem strict enough to preclude conference attendees from flying on more expensive airlines. The grand jury also was not able to determine whether the hotel charges were excessive based on the documentation provided. Personal charges did not appear to be caught in the review process. Hotel bills for one elected official were, for the most part, also lacking in detail. One trip that was detailed included \$10 for laundry. In total this official's credit card charges for the year showed over \$7,000 in travel expenses. Another cardholder, who is one of the highest paid departmental directors, had even higher travel expenses at over \$7,700. This cardholder had many charges labeled "hospitality" items. Most were for staff meetings and one, while traveling at a conference, totaled \$508.43 with no details given.

The grand jury recommends that future grand juries expand this investigation to include review of the city's travel and conference policies and related expenditures. It is the grand jury's belief that the city of Oakland is particularly generous in allowing employees to attend conferences, based on the number and amount of charges for conferences attended.

A small sampling of credit card expenses by city elected officials and employees for the 2006-2007 fiscal year follows.

FOOD/DINING EXPENSES

\$369.91	B Restaurant. Twice yearly staff luncheon.
\$43.66	Scott's restaurant. Lunch with department head (two city employees).
\$243.51	LJ Quinn's restaurant. Executive staff luncheon.
\$303.06	Max's restaurant. Lunch with city payroll staff. Entrees include steak and salmon.
\$90.52	Scott's restaurant. Lunch for two department heads. Lunch included seafood & shrimp.
\$1,253.08	Various stores. Refreshments for National Public Works week. Purchases include food, BBQ, London broil, BBQ supplies.
\$542.93	Smart & Final store. Food for Oakland's tree service department picnic. Purchases include piña coladas, tiramisu, BBQ supplies, wine coolers, serving utensils, chicken, cherries, other fruit, and beef brisket. The beef brisket cost \$71.70.
\$79.50	One lunch ticket for OAACC luncheon meeting for one employee.
\$124.05	Palomino's restaurant, San Francisco. "Business meeting." No receipt or other details provided.
\$322.00	Kuleto's restaurant, San Francisco. Reason for lunch: "meeting with OPD personnel after appearance in Federal Court to discuss next steps regarding court orders." Items ordered included calamari, salmon steak, tiramisu and crème brule.
\$92.41	Italian Colors restaurant. Reason for lunch: "Business lunch with attorney."
\$135.90	Soluna Café. Reason for lunch: "Business lunch with attorney."
\$45.75	La Farine Bakery. Food for holiday meeting. (cookies and cupcakes).
\$26.02	Saigon Restaurant. Working lunch. No notation of who or reason for lunch.
\$59.81	La Cucina restaurant. Reason listed: "pre lunch."
\$2,296.00	Lake Merritt restaurant. Staff holiday luncheon for city attorney's office.
\$187.59	Pizza for staff meeting.
\$76.47	Trader Joe's grocery store. Food for staff meeting.
\$68.27	Francesco's restaurant. Lunch for two city employees.
\$70.90	Central Park restaurant. Lunch for two city employees.
\$26.00	Marriott Hotel. Breakfast meeting.
\$30.85	Esquire Grill restaurant. Evening meeting.

FOOD/DINING EXPENSES, continued

\$53.00 \$100.00 \$70.00 \$75.00	Verbena restaurant. Multiple lunches. No indication of number of guests or reasons for lunches.
\$66.00 \$50.04 \$150.00	Max's restaurant. Multiple lunches. No indication of number of guests or reasons for lunches.
\$6.52	Coffee for one, at the airport.
\$75.03	Lunch meeting "to prepare for training." Included \$10.00 tip.
\$37.67 \$13.00	Lunch expenses "to take employee who conducted staff training to lunch."
\$16.40	Starbucks. Receipts lists items purchased as: 1 tall cider, 1 morning bun, and 1 travel mug (costing \$12.00) Reason for purchase: "Meeting."
\$75.61	Marriott restaurant. Lunch. No receipt. Reason listed: "Staff debriefing."
\$28.81	Beach Chalet Restaurant & Brewery, San Francisco. Lunch. "Board meeting."
\$43.33	Verbena restaurant. Lunch with two city employees. Included a 30% tip.
\$338.48	Lake Merritt Pizza. Hospitality for volunteers.
\$65.55	Bay Wolf restaurant. "Lunch with mayor's staff."
\$81.26	Piedmont Grocery. Hospitality. No receipt.
\$228.00	Lucky & Lucky Restaurant. "PR Committee dinner." No receipt.
\$83.11	Verbena restaurant. "Lunch for new budget director."
\$223.75	Nellie's Soul Food restaurant. "Hospitality."
\$2,796.00	Catered Holiday Lunch. Included crab cakes and chicken breasts.
\$31.00	Smart & Final store. Wine purchase.
\$23.54	Trader Joe's grocery store. Reported as "snacks for council hearing." Items purchased were: one chicken enchilada, grapefruit, nuts and cookies.
\$100.00	Max's restaurant. Staff training luncheon.
\$252.38	Jack's Bistro. Lunch meeting.
\$30.72	Max's restaurant. "Managers Lunch Meeting." Receipt showed two people, nachos with chicken, soda and seafood penne.
\$434.00	Thanh Phat restaurant. Food for "Intimate Evening Event." (no details).
\$153.49	Max's restaurant. Reported as "Refreshments for volunteers." Receipt shows: sirloin steak, corn beef Reuben, fettuccini with meatballs.

FOOD/DINING EXPENSES, continued

\$468.00 \$117.03	Genova Deli & Safeway. "All Hands" meeting expenses. (Two receipts).
\$400.00	Chen's restaurant. "Holiday Gala."
\$226.48	Joann's Soul Food Café. Staff Appreciation dinner.
\$620.96	Max's restaurant. Staff appreciation lunch (combined with holiday party).
\$291.93	Jack's Bistro. Holiday staff retreat. Items ordered included prawns, crème brule, salmon.
\$277.58	Max's restaurant. Staff lunch meeting. Items ordered included Caesar salad with shrimp.
\$384.62	Max's restaurant. Recognition meal for parking meter collection staff. Items included salmon, calamari, and sirloin steak, prawns (14 people Avg. \$27.47 per person).
\$2,165.00 \$541.25	Ribs on the Run restaurant. "All staff meeting/employee recognition event." (Two receipts).

EMPLOYEE RECOGNITION/INCENTIVES/HOSPITALITY EXPENSES

\$71.33**	Dollar Tree store. Miscellaneous supplies for holiday party for staff (candy, bonbons, loot bags, candles, photo frames, Christmas mug and paper, shirt boxes).
\$116.23**	Long's Drugs. Decorations for Employee of the year award ceremony (poinsettias and trees).
\$91.69**	Michael's Arts & Crafts store. Decorations for employee of the year ceremony (poinsettias, Christmas wrap, glitter, lights, garland).
	<i>** All three of the above purchases were made by the same employee in the same month.</i>
\$50.00	Trader Joe's grocery store. Employee of the year incentives. (Two gift cards @ \$25 each).
\$75.00	Bay Wolf restaurant. Employee of the year incentive. (One gift certificate @ \$75).
\$50.00	Regal Jack London Cinemas. Combined charities incentives. (Two gift cards @ \$25).
\$382.89	Safeway grocery store. Hospitality gift cards for employees of the year. Items purchased included 4 visa gift cards @ \$50; 3 AMEX gift cards @ \$25; and a purchase for "People's Best and Worst Dressed" magazine.
\$39.60	See's Candy. Candy for employee of the year.
\$54.38	Flowers for Employee of the year.
\$89.50	Starbucks. Reason for expense: "Conference to provide gifts."
\$750.00	Safeway grocery store. No receipt. "Revenue Department gift cards."
\$48.82	Barnes & Noble bookstore. Reported as "Revenue Department gift cards" but receipt shows two books (<i>Social Intelligence</i> @ \$24.95 and <i>Mind Set</i> @ \$19.96).
\$600.00	Lady's Catering. Oakland police staff event, "Executive Breakfast."

RETAIL EXPENSES (including electronics)

\$112.34	PalmOne store. Palm Pilot cradle kit.
\$91.35	Flowers for volunteer.
\$783.99	IKEA. Sofa for office meeting space.
\$1,999.00	365 day subscription to "shutterstock.com" (for royalty-free photographs).
\$99.99 \$82.65 \$100.00 \$154.99	Flowers for a city employee's family member (Four separate purchases for four different employee's family members).
\$98.72	Greeting cards.
\$60.00	Get well flowers.
\$29.50	Harry & Sons store. Reported as "Organic Green Tea and Kitchen Supplies." Receipt showed only 4 packs of organic green tea.
\$800.00	Chris Club, Vallejo. Juneteenth Celebration.
\$70.18	Sprint store. Cell phone charger and pouch.
\$73.58	Cingular store, San Ramon store. Case, headset.
\$89.32	Amazon.com. Bluetooth headset.
\$130.49 \$173.98 \$228.28	Circuit City. Three separate purchases for "digital recorder."
\$76.11	Heater for council office.
\$399.00	Video camera (City Attorney's Office).
\$64.79	Wireless Ground. Reported as "computer supplies." Receipt shows "3 Verizon wireless car chargers."
\$39.95	TechSmith Corp. Headphones.
\$52.85	Flash Memory store. Flash drives for cell phones.
\$68.04	Wireless Ground. Reported as "Wireless Cell Supplies" Receipt says "travel charger, 3 pack stylus pen, Monaco flip leather case @ \$29.95."
\$87.85	Treo Central store. Supplies for an elected official's TREO. (Items purchased were black case @ \$49.95 and screen protector @ \$15.95.)
\$339.00	Holiday Greeting Cards.
\$1,072.20	IKEA. Furniture for recreation centers.
\$103.68	Flowers for consulting firm.
\$1,972.00	Christmas Cards.
\$899.70	Amazon.com. 30 Kingston traveler 1GB flash drives (\$29.99 each).
\$77.94	Pottery Barn store, Walnut Creek. 4 mugs/creamer set for hospitality of the Oakland library.
\$1,457.00	Toshiba laptop. Costs included 2 day air shipping.
\$1,592.00	Toshiba laptop. (Same credit card as above, different day.)
\$1,087.00	Home Theatre projector.
\$1,185.00	USB drives.
\$573.00	26-inch LCD flatscreen TV.

RETAIL EXPENSES (including electronics), continued

\$76.08 \$108.74 \$163.11	Office Depot. Office supplies. Three separate purchases. No receipt for any purchase.
\$220.00 \$80.00	Efax.com. Paid computer fax service. \$80.00 in service fees, \$10 each.
\$1,987.49	Best Buy. Home theatre projector.
\$76.09	IKEA. Office lighting (3 lights).
\$1,592.38	Toshiba. Toshiba Satellite Pro laptop.
\$1,185.27	Best Buy. USB drives for ITD (26 @ \$45 per drive).
\$172.40	The Great Frame Up store. Reported as "supplies." Receipt says, "One picture frame with matting."
\$184.80	Best Buy. Reported as "computer supplies." Receipt says: "Mini travel drives and flash drives."
\$237.29	Fry's Electronics store. Computer supplies. No description.
\$45.98	Palm Store. City cell phone accessory. No receipt.
\$137.10	One leather cell phone case.

TRAVEL/CONFERENCES EXPENSES

\$1,034.00	Seattle hotel. Included \$101 room service charges. No notation as to how many days.
\$940.00	Conference registration, Las Vegas, one employee.
\$1,427.12	Four nights at a Las Vegas hotel, one room, two people (room charges: \$1169.96; Room service: \$337.15).
\$995.00 \$995.00 \$895.00	Conference registration, Las Vegas, three employees, same city department.
\$1,333.76	Mirage Hotel, Las Vegas. Three nights, two guests, one room. (\$1054.03 room charges; \$38.00 mini bar charges; \$210.10 room service food; \$26.00 tips). No receipts or reimbursements provided to the city.
\$1,012.48	Shingle Creek Resort & Golf Club, Orlando, Florida. One guest, four nights.
\$855.41	Fountainbleu Resort, Miami, conference.
\$29.97	Gas for Miami rental car.
\$802.92	W Hotel, New York City, conference.
\$2,387.88	Las Vegas, hotel and airfare, conference (total includes \$109.08 in hotel telephone charges and \$51.98 in other charges, unlisted).
\$541.40	Rental car at a training seminar in Alabama.
\$807.69	Rental van at a conference in Boston.
\$242.26	Dinner while at the Boston conference (no details).
\$156.90	Dinner while at Boston conference (no details).
\$562.89	Rental car while at a Seattle conference.

TRAVEL/CONFERENCES EXPENSES, continued

\$1,118.26	Conference, Seattle.
\$926.00	Hotel bill included \$150.00 in room service charges.
\$1,393.83	Hotel bill included \$113 parking for a rental car.
\$508.43	Hospitality meal at a conference. No explanation or receipts.

MISCELLANEOUS EXPENSES

\$45.49	De Young Museum, San Francisco. Three calendars.
\$344.50	Park rental fee, East Bay Regional Park for summer community picnic.
\$65.20	Condolence flowers "for a constituent."
\$64.49	Walgreen's. Cleaning supplies for office (no detailed receipt).
\$45.58	Barnes & Noble bookstore. Books for staff (no details or receipt).
\$8,303.95	Randolph Rose Collection. Sculptures/artwork for various recreation centers. Receipt shows a balance due of \$5,803.95, paid \$2,500.00 for four sculptures from a New York artist.
\$195.64	Track Meet Expenses. Sports Authority, supplies.
\$218.37	Round Table Pizza, food for track meet.
\$428.61	Albertsons grocery store, lunch for staff volunteers at track meet.
\$48.94	JMiller, flowers for track meet commissioner.
\$45.00	Parking at Oakland airport while city employees attend
\$95.00	conferences.
\$30.41	Home Depot, holiday decorations.
\$46.76	Flowers for new city department director.
\$392.00	Janitorial supplies. No receipt.
\$157.70	Ten copies of the book "Freakonomics," a book about the hidden cost of things.
\$1,189.33	Home Depot, Joann Fabrics, and Markus Hardware: "Exhibit Supplies" for library. No details or receipts of items purchased.
\$220.00	Piedmont Party Rentals, rental of two canopy tents.
\$320.00	Facilities rental, off site meeting.
\$2,652.32	Office furniture for reception area.
\$338.90	Holiday cards (150 cards).
\$200.00	Waterfront Plaza Hotel, conference room rentals (two rooms on
\$242.35	separate days).
\$71.33	Flowers for newly hired city department director, from another city director, with a card that read: "You Go Girl!"
\$376.29	World Market store. "Fake trees for cultural arts event."
\$268.61	
\$268.61	
\$573.24	Costco, TV for main office, Park & Recreation. (26 inch LCD HDTV).
\$1,745.05	Promotion shirts with city logo for Department of Information Technology staff. No details of how many or cost. Partial order shows 4 shirts @ \$12.50 each.

The grand jury was appalled by the city of Oakland's use of taxpayer funds for the questionable expenditures uncovered during this investigation. The current credit card program invites abuse due to its weak construction, bad policies and poor supervision. The grand jury strongly encourages further scrutiny of the city of Oakland's credit card usage and policies.

RECOMMENDATIONS

Recommendation 08-01:

The city of Oakland prohibit the use of city funds (by credit card charges or reimbursement) for working lunches, holiday parties and decorations, and for the purchase of holiday greeting cards.

Recommendation 08-02:

The city of Oakland restrict the use of credit cards for the purchase of electronics or furniture to situations where inventory control measures are in place, ensuring that items purchased are identified and tracked.

Recommendation 08-03:

The city of Oakland create a single document stating all policies on credit card usage.

Recommendation 08-04:

The city of Oakland revise its description of permissible work-related expenditures and authorized expenditures for credit cards, providing specific guidance to credit card users as to the categories of permissible usage; required approvals; and the dollar limits applicable to any such category, including the categories of hospitality for ceremonial gifts, employee recognition ceremonies, events pertaining to employee appreciation, and the purchase of flowers.

Recommendation 08-05:

The city of Oakland require that credit card users provide on their monthly statements specific, complete descriptions of the business purpose of the charge and detailed documentation to support credit card charges setting forth each item purchased, including detailed food and restaurant receipts listing items ordered.

Recommendation 08-06:

The city of Oakland require that the documentation for any business meal charged on a city credit card provide information as to who attended the meal and the specific business reason for the meal.

Recommendation 08-07:

The city of Oakland require a detailed statement of charges from cardholders who lose their receipts, listing each individual item purchased, including written validation of the cardholders “good faith” attempt to produce the receipt.

Recommendation 08-08:

The city of Oakland create a policy that provides that any cardholder who repeatedly violates the credit card policy forfeit the credit card.

Recommendation 08-09:

The city of Oakland impose sanctions on employees who review and approve credit card charges in violation of policy.

Recommendation 08-10:

The city of Oakland provide annual training for all credit card holders on all existing and new policies.

Recommendation 08-11:

The city of Oakland provide annual training for all employees who review or approve credit card expenses on all existing and new policies.

Recommendation 08-12:

The city of Oakland require that the city auditor review and approve the monthly credit card usage statements (with supporting documentation) of elected officials and the city administrator.

Recommendation 08-13:

The city of Oakland require the city auditor or an outside auditor annually audit the city's credit card usage.

RESPONSES REQUIRED

Oakland City Administrator

Recommendations 08-01 through 08-13

Mayor, City of Oakland

Recommendations 08-01 through 08-13

Oakland City Council

Recommendations 08-01 through 08-13

SALARY AND BENEFITS OF BOARDS AND COMMISSIONS **IN ALAMEDA COUNTY**

The grand jury examined remuneration paid to members of boards and commissions in Alameda County. The grand jury found a wide range of compensation policies. Some boards and commissions do not pay any stipends or offer any benefits, some offer modest stipends, and a few offer lifetime benefits and somewhat higher remuneration.

There are five boards that offer lifetime benefits: Bay Area Rapid Transit (BART), Hayward Park & Recreation, Dublin San Ramon Services District, Union City Sanitary District, and Ohlone College. Not all members of these boards are eligible for these benefits. Length of service was a determining factor. Generally, the benefits included group health, dental, vision and life insurance policies at employee cost.

School boards generally offer health, vision and dental benefits as well as a stipend for meetings. These stipends range from a low of \$240 per month to a high of \$1,500 per month, depending on district size. Some districts pay their board members no stipend at all.

Other boards also provide health, vision and dental benefits. The Berkeley Rent Board also provides a partially subsidized monthly membership to the YMCA (75% of the monthly fee).

Although the grand jury has no formal recommendation, it is hoped this inquiry will encourage a review of these boards and commissions to determine if the level of remuneration provided to its members is in the best interest of the taxpayers and commensurate with the services provided.

RESPONSES REQUIRED: *None*

DUMBARTON RAIL CORRIDOR PROJECT

INTRODUCTION

The grand jury received a complaint regarding the Dumbarton Rail Corridor Project (DRC) which questions the spending of \$18.5 million in Alameda County taxpayer funding as a partner in the project.

The DRC, a joint project of Alameda County, Santa Clara County, San Mateo County, and the Metropolitan Transportation Commission (MTC), involves rebuilding the old Union Pacific Railroad (UPRR) swing rail bridge just south of the Dumbarton Bridge and constructing tracks to connect the CalTrain station in San Mateo and the city of Newark's proposed Willow Street station. Additional tracks would be realigned or constructed between the Newark station and the Union City Intermodal station to permit passenger rail traffic to connect from Union City through Newark and on to the CalTrain station in San Mateo.

The issues raised in the complaint are:

- 1) Is Alameda County Transportation Improvement Authority's (ACTIA) contribution of \$18.5 million to the DRC justified when Union Pacific Rail Road (UPRR) is not selling the key rail right of way that would allow the DRC access to the Union City Intermodal station?
- 2) Is an integrated proposal to construct a freight bridge across Alameda Creek and Mission Boulevard in the Niles area of Fremont an unauthorized or illegal gift to UPRR by the DRC?
- 3) Is ACTIA's contribution of \$18.5 million justified given low to moderate projected ridership on the DRC?

- 4) How does ACTIA justify spending \$18.5 million given only minor traffic backups on the Dumbarton Bridge?

BACKGROUND

The DRC proposes a commuter rail service between the East and West Bay via a reconstructed rail line between Newark in the East Bay, and San Mateo in the West Bay. The commuter rail service would start at the Union City Intermodal rail station and connect to the CalTrain station in San Mateo. A new bridge crossing the Bay would replace the existing swing bridge, inoperable since the mid-1980's. The DRC includes a proposed freight bridge (the Niles Freight bridge) over Alameda Creek in the Niles area of Fremont and an associated rail bridge over Mission Boulevard near the Niles Canyon entrance.

The project would involve the movement of passenger trains currently traveling through Newark (the Capitol Corridor and Altamont Commuter Express [ACE]) onto tracks that flow into the Union City Intermodal station. It is planned that Bay Area Rapid Transit (BART), Capitol Corridor, ACE, and bus services provided by AC Transit and Union City Transit would all converge at the Union City Intermodal station.

INVESTIGATION

In addition to reviewing extensive documentation, the grand jury interviewed representatives of the CalTrain Joint Powers Board (also participants with the San Mateo County Transit District and the DRC); the Director of ACTIA (created by Measure B which passed in 1986); and a past consultant to CalTrain, the Union City Intermodal station and the DRC.

Costs and Funding

DRC Project costs have risen from \$307 million in 2004 to the current projected cost estimated at \$595 million. Only \$300 million of the cost of the funding of this project has been identified. Additionally, the \$5.5 million annual operating projection in 2004 is now estimated at \$8 million. Some of the funding comes from the Regional Measure 2, Regional Traffic Relief Plan and by Alameda County's Measure B, ½ cent transportation sales tax, passed by voters.

Other Issues

The initial projected cost of the DRC was considerably underestimated, and projected costs continue to escalate.

The grand jury understands that it has been reported that the West Bay and city of Newark wish to prioritize construction of the segments between the CalTrain Station in San Mateo and the Newark Station. The city of Newark is the lead agency on the project in the East Bay. The grand jury understands that other East Bay cities would like to build out the connecting segments between the Newark station and the Union City Intermodal station. The Union City Intermodal station is currently undergoing renovation to upgrade its facility so that trains, BART and buses can readily access the station in anticipation of DRC's plans to connect Capital Corridor and ACE trains.

The DRC project includes the proposal to build the Niles freight bridge in Fremont with the expectation that, with the freight bridge, UPRR would then move its freight trains to another rail line (the Niles-Hayward rail line) thereby allowing the passenger rail service to have better control of their schedules. By law, however, the DRC is prohibited from entering into formal negotiations with UPRR until the environmental impact reports for the project have been approved. The DRC project is still in the process of completing its environmental

impact reports (but the renovation project for the Union City Intermodal station has completed its environmental reports).

Low Ridership/Minimal Traffic Backups

At the time the complaint was filed, available statistics showed declining traffic delays on the Dumbarton Bridge. Projections for the DRC project show a relatively low ridership on the DRC through the year 2030. However, the grand jury is aware that the DRC project is a long-term regional rail project whose full impact may not be fully felt for many years. Also, it was approved by regional voters who gave ultimate authority to the DRC partners.

Rights of Way

The DRC is preparing to begin a \$600 million passenger rail project in phases without owning complete track rights of way on several segments of the project. UPRR owns most of the track between the proposed Newark station and the Union City Intermodal station, and it retains certain track rights on the SamTrans right of way across the bay.

The grand jury understands that the proposed Niles freight bridge is not necessary to complete the DRC project but is included in the project as a means for rerouting most freight off the Centerville rail line and onto the Niles-Hayward rail line. It appears that DRC is proposing the construction of the Niles freight bridge as an incentive to UPRR to transfer or sell back track rights of way in future negotiations.

CONCLUSION

The DRC project was submitted to the voters for approval, and its implementation resides with ad hoc committees governed by elected officials

from all of the concerned jurisdictions. A number of issues deserve public attention and monitoring as the project advances. Specifically:

- 1) That the DRC partners are advancing the project before securing total right of way control over all track from the Union City Intermodal station to the CalTrain station in San Mateo. Unless the rights of way are owned by the DRC project, there is a danger that UPRR, which presently has priority scheduling rights over much of the track, will continue to give freight traffic priority over passenger traffic.
- 2) Within the DRC project's scope is the possibility of building the Niles freight bridge crossing Alameda Creek and Mission Boulevard, which proposal the grand jury understands is not a requirement of the DRC passenger train process. Since the Niles freight bridge still remains a proposal, it cannot at this time be deemed a public gift to the UPRR, but the grand jury hopes that the taxpayers receive quid pro quo if the project includes the bridge (e.g., transfer of ownership or significant usage of the track).
- 3) Connectivity to the Union City Intermodal station should be a priority to Alameda County as a whole as the purported purpose of DRC is to get commuter cars off of the surface streets and highways. Simply connecting the Newark Station to San Mateo would fall far short of achieving the goal of DRC, BART, Capital Corridor, ACE and connecting buses.
- 4) The grand jury believes that the funding projections for this project were significantly understated in the voter guide. The grand jury finds this highly worrisome.

- 5) In the course of its investigation, the grand jury learned that there is no single agency authorized to control or direct rail projects in the Bay Area, which currently has 27 agencies with varying levels of authority for this project.

We recommend that subsequent grand juries monitor the progress of the DRC project at all stages of its development and build-out. Particular attention should be paid to the Union City Intermodal connectivity, resolution of right of way control, and, if applicable, the inclusion and cost to taxpayers of the Niles freight bridge.

RESPONSES REQUIRED: *None*

REGISTRAR OF VOTERS

The grand jury investigated a mailing error by the Alameda County Registrar of Voters and a reported shortage of ballots at polling places for the 2008 Presidential Primary. During the course of our investigation, we met with the registrar of voters.

MAILING ERROR

For the February 2008 primary election, the registrar of voters intended to send a mailing to all permanent absentee non-partisan voters explaining that if they wanted to vote in the 2008 Presidential Primary Election, they would be permitted to vote in either the American Independent or Democratic parties but only if they requested a ballot in advance for one of these parties. Approximately 60,000 voters in Alameda County fit into this category.

The letter was prepared and mailed to all of the approximately 234,000 voters in Alameda County who are permanent absentee voters, not just the non-partisan voters. Many of these voters had registered with a party and were confused as to why the letter was sent to them. The registrar of voters sent out second corrective letters shortly thereafter acknowledging the mailing error.

The grand jury learned the first mailing was sent to the wrong group of voters as a result of an employee error. The postage cost alone of each mailing was approximately \$20,000. As a result of the error, the registrar implemented a new policy that requires that before any mailing is sent to a printer, it must be approved by at least two employees.

BALLOT SHORTAGE

During the 2008 Presidential Primary it was reported there were ballot shortages in Alameda County. The grand jury learned there were eight polling places that were affected with a shortage totaling 15 ballots. No voters were turned away due to the shortage of ballots. Instead, sample and provisional ballots were used. Contrary to news reports, no court order was issued.

RESPONSES REQUIRED: *None*

DUBLIN TO LIVERMORE I-580 CARPOOL LANES

INTRODUCTION

A complaint was received concerning a proposed HOV (High Occupancy Vehicle) lane on highway I-580 East from I-680 to Vasco Road in the Pleasanton/Livermore area. The complaint asserts that a temporary short-term solution of traffic congestion on the I-580 corridor is a wasteful use of Alameda County transportation funds and precludes Bay Area Rapid Transit (BART) extension to Vasco Road in Livermore.

INVESTIGATION

The grand jury met with the executive director of the Alameda County Congestion Management Agency (ACCMA) who explained what is involved in planning, constructing and paying for regional transportation. ACCMA is the transportation policy and planning agency for Alameda County and oversees federal, state and regional transportation funding and sponsors key transportation improvements.

ACCMA's transportation policy establishes a long-range 25 year county-wide transportation program, updated every four years, of projects funded with discretionary state and federal funds; develops a short-range congestion management program which includes a five year capital improvement program, updated every two years, funded by state funds; and oversees special planning studies and projects such as the I-580 HOV lanes.

The general approach to relief in the I-580 corridor in the short term includes the addition of east and west HOV lanes and the acquisition of right of way. ACCMA

has announced the intention of incorporating tolls for single-occupancy vehicles in the HOV lanes. The long-term plans include the construction of BART extensions to Livermore, subject to the availability of funding. Additionally, the route into Livermore has yet to be determined.

The I-580 Corridor is the second most congested corridor in the Bay Area. Federal and state funding for HOV lanes is mandated to reduce air pollution and has the stipulation that construction start by December 2012.

CONCLUSION

The ACCMA has developed a short-term strategy for delivering some congestion relief in this corridor, and the grand jury finds this strategy reasonable. This is a viable option due to current funding availability. At this time, the BART route to Livermore has not been determined. BART expansion to Livermore and beyond is entirely subject to the availability of funding, and sufficient funding at this time has not been identified.

RESPONSES REQUIRED: *None*

CITY OF BERKELEY DRUG HOUSES

INTRODUCTION

The grand jury investigated a complaint regarding drug houses in the city of Berkeley. A drug house is a private residence where illegal drug activity takes place. The complaint alleged that the city has been derelict in its duty to safeguard public safety and has shown willful intent to not enforce local and state laws pertaining to abating public nuisance drug houses. The grand jury requested information from the city with regard to what action had been taken with respect to drug houses in Berkeley.

HISTORY

Since 1990, neighbors in Berkeley have participated in ongoing meetings with city staff and police regarding one particular neighborhood drug house. Between 1992 and 2006, these neighbors won two judgments in small claims court against the specific property owner who was alleged to have a drug house. In the lawsuit, the neighbors testified how their quality of life was negatively affected. For example, bullet casings, drug paraphernalia and used condoms were frequently found in the neighbors' yards and on the street. In a court proceeding in April 2006, the owner of the drug house stipulated that the house was a legal nuisance.

INVESTIGATION

The grand jury learned that the city of Berkeley has a multi-faceted approach to addressing the problem of illegal drug use:

Drug House Ordinance

Berkeley Municipal Code (BMC) chapter 13.56 allows the city manager to order a property owner to take corrective actions whenever it has been determined that “the unlawful sale, storage, manufacturing or selling or giving away of a controlled substance, precursor or analog has occurred in or about the premises of any privately owned property.” (BMC section 13.56.020)

Such corrective action “may include, but is not limited to, the hiring of a resident manager or security guard; the installing of secure doors at the front and rear of the buildings; the posting of ‘no trespassing’ signs in and on the property; the development of property rules which regulates [*sic*] the entrance to and egress from the property of nonresidents; and the institution of actions to remove any resident or others engaging in such illegal conduct on or about the premises.” (BMC section 13.56.020.A) If an owner fails to comply with the city manager’s directive, the owner may be fined \$100 per day. (BMC section 13.56.030.B)

Nuisance Abatement Law

In 1999 the city revised its zoning ordinance, adopting chapter 23B.64, which permits the abatement of nuisances and expedites the processing of these cases.

The city of Berkeley has the authority to use progressively stronger measures to abate illegal activities in drug houses. The city has been reluctant to apply the most severe measures to owner-occupied properties. In application of these measures the city does take into consideration the possibility of retaliation against neighbors.

The city has been monitoring this problem property for many years. The grand jury learned that the city of Berkeley believes that under the law it must have a high benchmark for seizure of private property, particularly a home.

CONCLUSION

In 2006, the city of Berkeley failed to take action on the owner occupied drug house when the court concluded and the property owner stipulated that the property was indeed a nuisance. The court noted that the owner “need[ed] to either actively manage the property so as to eliminate the nuisance or sell it.” The court further noted that there has been a 30-year history of drug problems with this property. The city failed to follow through with all possible measures to eliminate this drug house problem. The property remains a chronic nuisance to the neighborhood.

RECOMMENDATIONS

Recommendation 08-14:

That the city of Berkeley apply the same standards regarding abatement of owner-occupied drug houses as it does for tenant-occupied and commercial properties.

Recommendation 08-15:

The city of Berkeley review its municipal codes and state legislation to ensure appropriate tools are in place to abate owner-occupied drug houses. If current laws are insufficient, adopt or modify city ordinances to abate drug house problems.

RESPONSES REQUIRED

Berkeley City Manager

Recommendations 08-14 and 08-15

Mayor, City of Berkeley

Recommendations 08-14 and 08-15

Berkeley City Council

Recommendations 08-14 and 08-15

OAKLAND UNIFIED SCHOOL DISTRICT

The Oakland Unified School District (OUSD) has been under state control since June 2003. In order to avoid bankruptcy, it sought \$65 million in emergency funding from the State of California to meet its June 2003 payroll. It borrowed an additional \$35 million from the State of California in June 2006, which it continues to hold in reserve. While OUSD remains under state control, the grand jury's investigation focused on the question of why, after over four years of state control, a succession of state administrators has not balanced the school district's budget.

In its 2002-2003 Final Report, the grand jury concluded that "the system for financing public school districts requires overhaul . . . however, inadequate funding is not an excuse for failure to operate within those constraints." That statement is as valid today as when it was written at the end of the 2003 grand jury term. Since the school district has been under state control, the district's expenditures exceeded its revenues in each of the past four fiscal years.

By November 2007 the Fiscal Crisis and Management Assistance Team (FCMAT) had raised OUSD's average FCMAT score for financial management. FCMAT recommends that the state return control of both financial management and pupil achievement to the school district once certain goals are met.

In April 2008, the authority to hire a superintendent was returned to OUSD's school board by the state. An interim superintendent has been hired.

INVESTIGATION

The grand jury interviewed FCMAT's chief executive officer regarding the OUSD's current financial situation, as well as the district's immediate past and

current financial officers, the district's first state administrator, and the current president of the Board of the OUSD.

The grand jury's investigation revealed that information was not shared within the various departments due to the district's computer systems not being compatible; however, the district is establishing the tools necessary to communicate and generate accurate financial reports, daily attendance, and accounting reports.

In October 2007, the grand jury discovered that restricted and unrestricted funds were commingled and not always used for their intended purposes. Key revenue indicators were not being tracked, including discovery that the district was continuing to lose revenue due to a major decline in enrollment and the subsequent loss in average daily attendance (ADA) funding.

The grand jury also discovered that the State of California had recently completed auditing OUSD's 2005-2006 financials and as of February 2008 were just beginning to audit the 2006-2007 financials. Thus, reliable verified financial data continues to lag by a full school year. OUSD has to rely on the State of California, its largest creditor, to perform this necessary auditing service.

The continued loss of students means a steady loss of state funding which, in turn, generates cuts in programs and continued crises in teacher retention. Reduced funding from the state in recent years exacerbates this problem. In the current school year, the state administrator decided not to send out pink slips to teachers (notifications in writing that they may not be rehired) for the next school year, thereby precluding the OUSD from reducing its teaching staff if it should determine it has fewer students in the coming school year or reduced state funding. These pink slips must be sent out by March 15.

The grand jury found that the school district's current financial staff has taken steps to implement a more realistic budgeting process. In fact, for the current school year, it appears that there will be a small deficit. However, the district's financial situation remains burdened by its obligation to repay the state loan.

The grand jury found the district was hampered by continuous staff turnover, particularly in the area of finance, numerous reorganizations and a succession of state administrators. After four years of state control, the district's budget remains unbalanced. When financial control is returned to the board, the state-appointed financial trustee will have veto authority over all financial decisions that OUSD may make until the \$100 million loan is repaid.

CONCLUSION

After nearly five years of state management, OUSD's budget remains unbalanced and the district's future is unclear. The budgeting process must be based upon accurate projections of student enrollment. The grand jury learned that previous accounting methods overstated enrollment significantly. Overstating ADA causes monies to be distributed by the state to the district, which in turn must eventually be repaid to the state. It also results in retention of excess teaching staff, which the district must retain unless pink slips are sent out by the legally mandated deadlines.

Considering the financial situation of the district, all precautions should have been taken in the event of another year of an unbalanced budget. Once the school board gains full control from the state, it will be handicapped because of the actions of the current state administrator. Because the state administrator did not issue pink slips to teachers, the board will have little or no flexibility to reduce the number of teachers in the upcoming school year. With continued declining enrollment and likely cutbacks in state funding, the district's financial situation will worsen.

Future grand juries should closely monitor OUSD in its financial reporting and the management of budget elements across the board. Particular attention needs to be paid with regard to aligning the number of salaried employees with projected funding.

RESPONSES REQUIRED: *None*

ALAMEDA COUNTY MEDICAL CENTER

INTRODUCTION

In California, responsibility for providing medical care to the indigent rests with the county. To meet these needs in Alameda County, in 1927 Highland Hospital opened its doors. Currently the Alameda County Medical Center (ACMC) operates a hospital and trauma center (Highland), a long term care and rehabilitation center (Fairmont), a psychiatric hospital (John George), and three community clinics in Oakland, Hayward, and Newark. In 2007, Highland Hospital's 236 bed facility served approximately 11,800 inpatient admissions, 73,000 emergency room visits, 2,400 trauma activations and had over 125,000 ambulatory care clinic visits.

The Medical Center not only serves the indigent residents covered by Alameda County under its County Medical Services Program (CMSP) but also serves patients on Medicare, Medi-Cal and those with private insurance. Current sources of revenue of the ACMC are as follows:

- 19% County Medical Services Program (CMSP)
- 52% Medi-Cal
- 14% Medicare
- 5% Private Insurance
- 10% from other sources

BACKGROUND

In 1998 the Board of Trustees found the Medical Center could not deliver quality medical care and was in jeopardy of losing state and federal certifications that allow it to receive payment for delivering medical services to Medi-Cal and Medicare patients. The Board of Trustees corrected this difficulty but at the same

time neglected its responsibility to shore up management of the Medical Center which continued to have huge deficits. To address these deficits, and to cover cash flow fluctuations from its major payers, Medicare and Medi-Cal, ACMC was authorized to borrow from the Alameda County treasury. By 2004, their debt to the county treasury had grown to \$192 million. The same year, voters approved Measure A (medical sales tax). This tax has helped reduce the deficits of ACMC. Also in 2004 the Board of Supervisors imposed a \$200 million cap on the Medical Center's account with the county treasury and required ACMC to develop a repayment schedule designed to reduce the total balance to \$30 million over ten years. The cap limits at the end of each fiscal year agreed to by ACMC and the county are as follows:

6/30/05	\$200 million
6/30/06	\$190 million
6/30/07	\$180 million
6/30/08	\$165 million
6/30/09	\$150 million
6/30/10	\$130 million
6/30/11	\$110 million
6/30/12	\$90 million
6/30/13	\$70 million
6/30/14	\$50 million
6/30/15	\$30 million

In the fiscal year ending June 2006, ACMC reported an operating income of approximately \$5.5 million and a treasury account balance of \$166.8 million, well below the cap limit of \$190 million. In the fiscal year ending June 2007, ACMC reported an operating income of approximately \$3 million and a treasury account balance of \$173.9 million, well below the cap limit of \$180 million. This fiscal year ending June 30, 2008, ACMC expects to report up to a \$4 million to \$5 million loss and a treasury account balance at or below the cap limit. Because the

cap is being lowered annually, there will be continued financial challenges at ACMC.

MONITORING

As part of its monitoring activities, members of the grand jury attended ACMC Board of Trustee meetings and finance committee meetings, and reviewed financial documents and reports. The grand jury also made site visits of various departments throughout the Medical Center at its various campuses.

CONCLUSION

The grand jury is encouraged by the current administration of the Alameda County Medical Center and the strides made so far. Although ACMC continues to endure financial challenges, this administration appears to be capable of handling future adversities.

The grand jury must continue to monitor the budgeting process of ACMC.

In order to facilitate a better understanding of ACMC's financial status, the grand jury recommends that ACMC provide complete financial statements on a monthly basis to the grand jury.

RESPONSES REQUIRED: *None*

JAIL INSPECTIONS

California Penal Code section 919(b) requires the grand jury to “inquire into the condition and management of the public prisons within the county.” This year, the grand jury inspected jails and holding facilities that had not been inspected within the past three years. The grand jury inspected the Berkeley city jail, San Leandro city jail, Union City jail, the Glen E. Dyer Detention Facility, Camp Wilmont Sweeney, and the Wiley Manual Superior Court jail holding facility. It must be noted that all prisons, jails, holding facilities and juvenile detention facilities are inspected regularly by the Alameda County Department of Public Health and the California Board of Corrections. The grand jury’s inspections are in addition to the inspections conducted by those agencies.

With one exception, the grand jury found the facilities to be adequately maintained, and compliant with the many regulations that affect such facilities. The grand jury identified deficiencies in the cleanliness at the Glen E. Dyer jail which it inspected in the fall of 2007, and re-inspected it in the spring of 2008.

**GLEN E. DYER DETENTION FACILITY,
Alameda County Sheriff's Office**

The Glen E. Dyer Detention Facility, in Oakland, was opened in 1984, and was the second high-rise jail built in the United States, housing up to 904 inmates. This facility is managed by the Alameda County Sheriff's Office and houses federal, state and county prisoners. The services provided for the inmates are numerous, including recreational, educational, and medical.

In November 2007, the grand jury inspected the housing floors, holding cells for both men and women, food storage facilities, outdoor inmate recreational areas, receiving and transportation locations, and public visitation booths. We also reviewed the safety and medical screening process for inmates. The grand jury reviewed the Sheriff's Office inmate grievance procedures and the ease of making complaints by inmates. In the spring of 2008, the grand jury re-inspected the facility to ascertain if corrections had been made to problems discovered during the grand jury's first inspection.

INVESTIGATION

During our initial inspection, the grand jury found the holding cell area to be cluttered with debris from lunch items, graffiti throughout the holding area, and the vents clogged or splattered with wetted toilet paper and other materials. There were feces in one of the sinks in a holding cell and what appeared to be blood splattered in another holding cell.

Upon the re-inspection six months later, the grand jury found continuing unsanitary conditions, specifically: what the grand jurors who inspected the facility suspected to be blood around toilets and on the floors of several holding cells, vents clogged with toilet paper and debris, feces contamination, and general overall un-cleanliness of the facility.

CONCLUSION

Two separate inspections of empty cells at the Glen Dyer facility showed filthy conditions. The grand jury is concerned about the possible biohazard that unclean cells present. Although the Sheriff's Office has a policy that unclean cells are not used for inmates and are cleaned before reuse, the potential biohazard remains a concern that needs to be more rapidly addressed by the Sheriff's Office.

RESPONSES REQUIRED: *None*

OAKLAND POLICE STAFFING

The grand jury investigated the issue of Oakland police officer staffing and whether there are sufficient numbers of police to protect and serve the citizens of Oakland. The grand jury interviewed the chief of the Oakland Police Department (OPD), the president of the Oakland Police Officers Association (OPOA), the city administrator, and the mayor of Oakland.

INVESTIGATION

The current debate focuses on whether or not the Oakland Police Department will reach its authorized staffing level of 803 officers by the end of the year as mandated by Measure Y. The grand jury believes that 803 officers are inadequate to address the high crime rate in Oakland. According to FBI statistics for 2005, Oakland has the second highest crime rate in the State of California; Morgan Quitno 2006 crime ranking statistics show Oakland as the eighth most dangerous city in the nation. Given the crime rate in Oakland, the grand jury believes the city needs more than 803 officers, and most of those officers must patrol the streets.

Staffing for the police department is challenging, and recruiting officers admittedly is a difficult problem. With the rising crime rate, officers are unable to meet all of their challenges.

Arbitrator Charles A. Askin stated his opinion in "In the Matter of a Controversy Between the City of Oakland and the Oakland Police Officers Association" that the city of Oakland has a serious crime problem. Two other experts cited in the opinion also found the OPD grossly understaffed. One Oakland neighborhood organization calls for 1,100 officers. This number may not be adequate but one

thing is clear: increasing the number of sworn officers that patrol the streets can only help reduce Oakland's serious crime problem.

CONCLUSION

Although the grand jury realizes that having more uniformed officers on the street reduces crime, it is not the sole solution. Many socioeconomic issues also need to be addressed. The city of Oakland must immediately find the money to increase uniformed police patrols. Adequate policing of city streets is an absolute necessity for the safety of Oakland's residents.

RECOMMENDATION

Recommendation 08-16:

The city of Oakland increase its number of sworn officers with the Oakland Police Department to a minimum of 1,200.

RESPONSES REQUIRED

Oakland City Administrator	Recommendation 08-16
Mayor, City of Oakland	Recommendation 08-16
Oakland City Council	Recommendation 08-16

OAKLAND FIRE DEPARTMENT
APPLICATION ACCEPTANCE MISMANAGEMENT

The grand jury investigated complaints concerning the selection process for candidates for 24 firefighter positions in the Oakland Fire Department that took place in December 2007. In the course of the investigation, the grand jury interviewed the Oakland fire chief, the Oakland mayor, and the Oakland city administrator. The grand jury learned that the city was to accept a total of 1,000 applications for the 24 vacant firefighter positions. Since the early 1990's there has been a requirement that applicants already possess Emergency Medical Technician (EMT) certification. For the November 2007 hiring cycle, that requirement was eliminated as a way to attract Oakland residents who may not have the EMT certification or who cannot easily afford the time and cost of the training. The fire department planned to provide the new fire academy class with EMT training and certification during the academy at an additional cost of \$25,000 per trainee.

Required to submit applications only in person, thousands of applicants assembled at City Hall, some as early as two days before applications were to be accepted. The fire department did not have a procedure in place to handle the large number of applicants. The original plan was to accept applications at a single door at City Hall Plaza. The large number of applicants and the misbehavior of a significant number of 'line crashers' led the fire chief and other senior fire department officials to accept applications at several additional doors. Those who had been first in line lost their 'priority of place' in the process, and in the ensuing scramble the orderly collection of applications dissolved, resulting in many applicants being turned away. In the confusion that followed, one of the fire chief's two sons was selected as were two relatives of the city administrator. Whether this selection was intentional or not, it gives the appearance of favoritism. The grand jury also learned that some applicants were provided with

confidential information in advance as to where to line up, enabling them to pre-stage themselves.

At the mayor's request, in an attempt to rectify this problem, there was a second round of applications accepted at a later date, and the applicant pool ultimately totaled over 2,600 for 24 firefighter positions.

CONCLUSION

It is clear that the application process was seriously flawed. The fire department mismanaged the process for receiving applications. The city of Oakland had no contingency plan to avoid the firefighter application chaos.

RECOMMENDATIONS

Recommendation 08-17:

In future Oakland Fire Department hiring, the process for issuing and receiving the applications be managed by the Human Resources Department.

Recommendation 08-18:

The city of Oakland ensure that the fire department not participate in the distribution or acceptance of applications.

Recommendation 08-19:

The city of Oakland develop a plan that ensures an orderly process for accepting applications that includes security and the ability to accommodate large numbers of applicants.

RESPONSES REQUIRED

Oakland City Administrator

Recommendation 08-17 through 08-19

Mayor, City of Oakland

Recommendation 08-17 through 08-19

Oakland City Council

Recommendation 08-17 through 08-19