

CITY OF OAKLAND



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September 23, 2014

Honorable Winifred Y. Smith  
Presiding Judge, Alameda County Superior Court  
1225 Fallon Street, Dept One  
Oakland, CA 94612

Re: Response to 2013-2014 Alameda County Grand Jury Reports

Dear Presiding Judge Smith:

As City Council President of the Oakland City Council, I am herewith submitting my official responses to the two Grand Jury reports pertaining to the City of Oakland for 2013-2014. One is to the report entitled "City of Oakland Tow Contract Oversight." The other is to the report entitled "Oakland Fire Department Commercial and Vegetation Inspections."

I very much appreciate the Alameda County Grand Jury's efforts in investigating and improving public services and oversight of public dollars in Oakland. I am confident that the City's delivery of services will be improved as a result of these Grand Jury reports.

Respectfully submitted,

A handwritten signature in cursive script that reads "Patricia Kernighan".

Patricia Kernighan  
Oakland City Council President

CC: Alameda County Grand Jury  
Oakland City Administrator

Received
Alameda County Grand Jury
Date <u>Sept. 23, 2014</u>
Ack Sent? Y N

September 22, 2014

**Response from Oakland City Council President Pat Kernighan to the FY 2013-2014 Alameda County Grand Jury regarding their report titled, "City of Oakland Tow Contract Oversight."**

Introduction:

I have read the 2013-2014 Alameda County Grand Jury report pertaining to the City of Oakland Towing Contract and have read the City Administration's Responses to the Grand Jury's Findings and Recommendations. I appreciate that the Grand Jury has investigated the administration of the towing contract and made public its findings, as the issue of towed cars is one of great public interest and importance. Members of the public should be treated fairly when their car is towed, and the City has an obligation to properly administer the program to prevent waste of public funds.

I take at face value the findings of the Grand Jury and the responses from the City Administration. I do not have personal knowledge of how the tow contract is being administered within City departments, as the administration of city affairs is the exclusive purview of the City Administrator under the City Charter.

As to the Recommendations generally, the City Council is not the primary implementer of recommended actions, as the Council is prohibited under the City Charter from interfering with administrative affairs. To the extent that implementation of the Recommendations requires policy direction, legislative action, or budgetary action, the City Council will act on those matters. I responded to the individual Findings and Recommendations more specifically below.

<b>Number</b>	<b>Grand Jury's Findings</b>	<b>City Council President's Response</b>
<b>14-1</b>	The City of Oakland has not exercised its audit right under the tow contract, preventing it from determining whether it is being appropriately paid.	Agree, per City Administration's response
<b>14-2</b>	There are no clear or complete monthly reports that allow the City to track and follow up on each vehicle towed, the reasons for each tow and the disposition of each tow, preventing the City of Oakland from determining if it has been appropriately reimbursed.	Agree, per City Administration's response
<b>14-3</b>	The fragmented division of responsibility among at least three separate city departments makes monitoring the tow contract difficult.	Partially Agree. Since there are a variety of skills necessary to adequately manage the town contract, some inter-departmental participation may be

		necessary.
14-4	The City of Oakland is not taking full advantage of B&B's online database of towed cars, preventing OPD from obtaining timely information for themselves and for the public. implementing and overseeing the tow contract, and provide written training materials for officers and technicians.	Agree, per City Administration's response
14-5	Inconsistent and contradictory language in Municipal Codes and published tow policies, and actual OPD practices invites differing interpretations, potentially causing the public to be treated differently under similar situations.	Agree, per City Administration's response
14-6	Tows are not made in accordance with the 10-day notice policy, but rather are generally made closer to 21 days after notice, which can lead to public confusion and inconsistent application of tow procedures.	Agree, per City Administration's response
14-7	Tow complaints and hearings are not tracked in a manner that can be easily reviewed and monitored, preventing proper oversight by the Oakland Police Department.	Agree, per City Administration's response
14-8	The lack of adequate training and an updated procedure manual creates a danger of inconsistency on the part of police officers and technicians as to how tows are identified and handled.	Agree, per City Administration's response

Number	Grand Jury's Recommendation	City of Oakland's Response
14-1	The City of Oakland must assign a full-time compliance director, who will also serve as the tow coordinator, with responsibilities that include fiscal oversight and vehicle appraisal.	Agree that the tow contract needs a fulltime compliance director. Not yet Implemented. The City Council's role in this matter is to authorize a new position, if a new position is necessary, and source of funding. I will schedule a public discussion of this Grand Jury report at the City Council's Public Safety Committee, to be heard in February 2015. Action on authorizing the position and funding of the Compliance Director will take place

		during the main Budget process which will occur in Spring 2015. In the Interim it is reasonable that a Deputy Chief of Police will oversee the contract..
14-2	The City of Oakland must adequately oversee its tow contract, including auditing revenue collected by the City and DMV, and reconciling those numbers with the number of vehicles towed, including final disposition of said vehicles. The City must also audit the customer service requirements of the contract.	Agreed and not yet implemented. Implementation of administrative matters is the responsibility of the City Administrator per the City Charter. I will ask for a public report to the City Council's Public Safety Committee on the Administration's progress toward implementation, to be heard in February 2015 and followed by hearing at the full City Council.
14-3	The City of Oakland must conduct a compliance review of the current tow contract before further contracts or extensions are granted.	Agreed and not yet implemented. The compliance review is the responsibility of the City Administration. I will recommend to the full City Council during the February 2015 public meeting that we not grant an extension of the contract until the compliance review has taken place and been reported on to the City Council.
14-4	The City of Oakland must review staffing needs for OPD's traffic division to ensure that it is capable of adequately implementing and overseeing the tow contract, and provide written training materials for officers and technicians.	Agreed and not yet implemented. I will schedule a report to the Public Safety Committee in February 2015 on the Administration's review of staffing needs and training for the tow contract and progress toward those goals.
14-5	The City of Oakland must amend its 10 day notice policy to allow a minimum of 21 days from notice to tow, which is consistent with current practice.	The recommendation will not be implemented, per the Administration's Response regarding the legal issues. My additional comment is that it is unreasonable to leave an illegally parked car on the street for 21 days.
14-6	The City of Oakland must review the Municipal Code sections dealing with towed vehicles and the City's website to determine if inaccuracies exist, and make them compatible.	Agreed that a review is necessary. Not yet implemented. This action must be undertaken by the Administration and City Attorney. A report on their progress will be heard at the Public Safety Committee in February 2015 and if legislative action is recommended, the Council can take action at that time.
14-7	The City of Oakland should consider	Agreed and not yet implemented.

	<p>creating a pamphlet for the public that explains all information pertaining to a towed vehicle, including how to locate, retrieve, and request a hearing on a towed car. This pamphlet should also be available on the City's website.</p>	<p>Accessible and accurate public information on towed vehicles is of paramount importance. A report on the Administration's progress will be heard at the Public Safety Committee in February 2015, followed by the full City Council.</p>
<p><b>14-8</b></p>	<p>The Oakland Police Department must track the results of tow complaints, hearings and appeals in a manner allowing for effective review and oversight in order to improve service to the public. This might be accomplished by the City developing a standard form for complaints, as well as for hearings and appeals, indicating how and why decisions were made.</p>	<p>Agreed and not yet implemented. A report on the Administration's progress toward this Recommendation will be heard at the Public Safety Committee in February 2015, followed by hearing before the full City Council.</p>

September 22, 2014

**Response from Oakland City Council President Pat Kernighan to the FY 2013-2014 Alameda County Grand Jury regarding their report entitled, "Oakland Fire Department Commercial and Vegetation Inspections."**

Introduction:

I have read the 2013-2014 Alameda County Grand Jury report pertaining to the City of Oakland Fire Department commercial and Vegetation Inspections and have read the City Administration's Responses to the Grand Jury's Findings and Recommendations. I appreciate that the Grand Jury has investigated the administration of the vegetation management and inspections billings and made public its findings, as these issues are of great public interest and importance. It is vitally important to public safety in fire-prone hills areas that property owners be held responsible to maintain their property to reduce fire hazards from vegetation, and the City has an obligation to properly administer the program to prevent waste of public funds.

I take at face value the findings of the Grand Jury and the responses from the City Administration. I do not have personal knowledge of how the vegetation management program or inspections billing are being administered by the Fire Department, as the administration of city affairs is the exclusive purview of the City Administrator under the City Charter.

As to the Recommendations generally, the City Council is not the primary implementer of recommended actions, as the Council is prohibited under the City Charter from interfering with administrative affairs. To the extent that implementation of the Recommendations requires policy direction, legislative action, or budgetary action, the City Council will act on those matters. I respond to the individual Findings and Recommendations more specifically below.

<b>Number</b>	<b>Grand Jury's Findings</b>	<b>City Council President's Response</b>
14-22	A poor billing and collections practice by the City of Oakland's commercial inspection program and vegetation management program has resulted in reducing the overall effectiveness of the City's fire prevention programs and services.	Agree, particularly as to the vegetation management program.

14-23	The City of Oakland has not made public their decision outlining the use of remaining WPAD funds, leaving WPAD residents questioning the allocation of the remaining funds.	Disagree. The report on WPAD funds has now been made public.
14-24	The City of Oakland's website states the commercial inspection program mandates annual inspections of all commercial facilities. This provides the public with the false impression that all commercial businesses are inspected annually. The Grand Jury learned that approximately 4,000 (out of approximately 11,000) go un-inspected each year.	Agree that many commercial facilities go uninspected each year. However, there is no requirement or demonstrated safety need to inspect each business every year. I have opined in the past that a better program would be inspections every other year, especially in light of the very high fee for the inspection. The website should state accurate information in any case.

Number	Grand Jury's Recommendation	City of Oakland's Response
14-21	The City of Oakland must staff and equip a city department to pursue the collection of fire inspection fees	Implemented, per the Fire Chief. I will schedule a public report from the Fire Department on the commercial fire inspection and billing issues and the vegetation management issues by December 2014 at the Public Safety Committee. I will request a progress report on implementation of the Grand Jury's Recommendations, as well as discuss policy issues with regard to the inspections and billing.
14-22	The City of Oakland must record liens against properties that fail to pay the fire inspection fees	I agree with the Grand Jury that liens should be recorded, especially as to fines for non-compliance with vegetation management. According to the Fire Chief, it has not been implemented. I disagree with the Administration that this issue requires months of further analysis. This is an administrative matter that can and should be implemented within a month.
14-23	The City of Oakland must consider declining the renewal of annual business licenses unless all city fees and fines have been paid, including fire inspection and	Will not be implemented due to conflict with the City Municipal Code. The Business license tax is just a tax, not a permit to operate a business.

	abatement costs	
<b>14-24</b>	The City of Oakland must issue a final report outlining how the unspent WPAD funds will be used	Implemented
<b>14-25</b>	The City of Oakland must provide accurate information to the public (on its website and in documents) about the frequency of inspections and number of commercial fire inspections completed	Agreed. Not yet implemented, but will be implemented within 12 months