

CITY OF OAKLAND

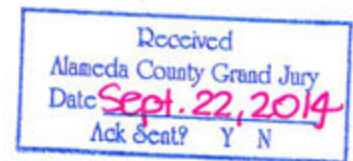


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(510) 238-3301
Fax (510) 238-2223

September 19, 2014

Ms. Kelly A. McFarland
Jury Foreperson
Alameda County Grand Jury
1401 Lakeside Drive, Suite 1104
Oakland, CA 94612



Dear Ms. McFarland,

Please find attached our response to the 2013-2014 Alameda County Grand Jury Final Report, titled "City of Oakland Tow Contract Oversight." Thank you for the opportunity to respond to the Grand Jury Report, we appreciate the time and effort of the members of the Grand Jury in completing their review and report on the City's Tow Contract Oversight. We value and recognize that the input of the Grand Jury and its analysis of the reporting and oversight gaps that exist regarding the Tow Contract will help improve services for Oakland residents and the City.

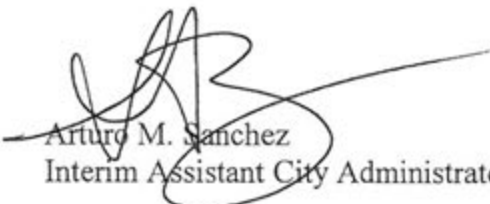
The Grand Jury reports highlights several contracting oversight and reporting concerns that the City agrees we must address and improve. The City is strongly committed to ensuring enhanced oversight of the tow contract. In accordance with the Grand Jury's findings and recommendations, with which we generally agree, we plan to continue our progress toward improved contracting oversight. Attached to this correspondence please find a the "Memorandum Response from the Oakland Police Department to the FY 2013-2014 Alameda County Grand Jury regarding their report titled, "City of Oakland Tow Contract Oversight", which details the City's responses to the Grand Jury's Findings and Recommendations. Please note that while the Administration and the Oakland Police Department have already commenced to take steps to address the Grand Jury's recommendations, some recommendations will require council action via the next two year Fiscal Budget process, Fiscal Year 15-17. In areas where City Council authorization is not needed, the Administration will move diligently to implement the recommendations by July 2015.

Meanwhile, the Administration and Oakland Police Department will continue to move to improve and enhance our oversight of the remaining year of the Tow Contract with B & B towing. Staff is working diligently to close the information and reporting gaps not previously received and to improve the auditing of the remaining year of our contract. We appreciate the efforts of the Grand Jury and its recommendations to further the goals of an open, transparent, and accountable City of Oakland. Should

recommendations to further the goals of an open, transparent, and accountable City of Oakland. Should you need any additional information regarding this response, please feel free to contact Deputy Police Chief Eric Breshears at (510) 238-7048.

Sincerely,


Jean Quan
Mayor, City of Oakland


Arturo M. Sanchez
Interim Assistant City Administrator

Attachments (2)

- Response to Alameda County Grand Jury Report on City of Oakland Tow Contract Oversight
- Letter to Alameda Grand Jury Foreperson Ms. Kelly A. McFarland from Interim City Administrator Henry L. Gardner, dated July 21, 2014



MEMORANDUM

TO: HENRY L. GARDNER
CITY ADMINISTRATOR

FROM: Sean Whent
Chief of Police

SUBJECT: SEE BELOW

DATE: September 19, 2014

City Administrator
Approval

Date

SUBJECT:

Response from the Oakland Police Department to the FY 2013-2014 Alameda County Grand Jury regarding their report titled, "City of Oakland Tow Contract Oversight."

EXECUTIVE SUMMARY:

The purpose of this memorandum is to provide a response to the findings made by the FY 2013-2014 Alameda County Grand Jury (Grand Jury) during their review of the City of Oakland's Tow Contract oversight, as published in Grand Jury's Final Report issued on June 23, 2014. The report concluded that neither the City of Oakland nor the Oakland Police Department (OPD) are following sound business practices to ensure that the City is receiving the revenue from their current tow contract with B&B Vehicle Processing (B&B) to which it is entitled.

The Grand Jury's Final Report included eight (8) findings and eight (8) recommendations to improve the oversight and management of the tow contract. OPD agreed with seven (7) of the eight (8) findings (14-1, 14-2, 14-4, 14-5, 14-6, 14-7 and 14-8) and partially agreed with one (1) finding (14-3). OPD has not yet fully implemented the Grand Jury's seven (7) recommendations (14-1, 14-2, 14-3, 14-4, 14-6, 14-7 and 14-8), but agrees to completion, with a majority of the implementation achieved by January 1, 2015; OPD will not implement one (1) recommendation (14-5).

The City is strongly committed to ensuring enhanced oversight of the tow contract. A summary of the Grand Jury's findings and recommendations and the City's response are in the tables below, with more complete responses in the section titled "*Grand Jury Recommendations/Findings and the City's Response.*"

Number	Grand Jury's Findings	City of Oakland's Response
14-1	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
14-2	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
14-3	The fragmented division of responsibility among at least three separate city departments makes monitoring the tow contract difficult.	Partially Agree
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.	Agree
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
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
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
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

Number	Grand Jury's Recommendations	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.	Not yet implemented – A dedicated Compliance Director using the contract revenue will be recommended to be added to OPD's budget during the City's FY 2015-17 Biannual Budget Process. In the interim, OPD will be using existing staff and has assigned a Deputy Chief to coordinate oversight of the contract.
14-2	The City of Oakland must adequately oversee its tow	Not yet implemented –

	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.	OPD has commenced having meetings with the City's Revenue and Finance Bureaus to assess payments made pursuant to the contract and total revenue received for the current contracting period. Discussions will include method and manner by which customer service may be audited. For future contracts, OPD will require that an independent audit or a dedicated contract compliance director will monitor and track in coordination with Revenue and Finance bureaus. Expected to be implemented by June 2015.
14-3	The City of Oakland must conduct a compliance review of the current tow contract before further contracts or extensions are granted.	Not yet implemented – Compliance review has commenced and is in progress. Will be implemented by January 1, 2015.
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.	Not yet implemented – Administration and OPD are conducting review of staffing capacity and needs to adequately oversee. Will be implemented by January 1, 2015
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.	This recommendation will not be implemented (see explanation below).
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.	Not yet implemented – Discussions have commenced among the relevant City bureaus and offices to determine how best to proceed with ordinance modifications. Will be implemented by January 1, 2015.
14-7	The City of Oakland should consider 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	Not yet implemented – Staff has commenced work on the pamphlet. Will be implemented by January 1, 2015.

	pamphlet should also be available on the City's website.	
14-8	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>Not yet implemented –</p> <p>A working group led by a Deputy Police Chief has commenced the process of collecting the data and organizing meetings to discuss how to track tow complaints and the appropriate forms and structure for a new complaint process.</p> <p>Will be implemented by January 1, 2015.</p>

BACKGROUND:

The Department (OPD) is required by California Penal Code section 933 to respond to the Presiding Judge of the Alameda County Superior Court within 90 days of the issuance of the Report on the findings and recommendations pertaining to matters under the control of the governing body. California Penal Code, Section 933.05, contains guidelines for responses requiring the Department to state one of the following in responses to the Grand Jury's findings:

- It agrees with the finding.
- It agrees partially with the finding and provides explanation.
- It disagrees wholly with the finding and provides explanation.

In addition, for each Grand Jury recommendation, the Department is required to report one of the following actions:

- The recommendation has been implemented, with a summary regarding the implemented action.
- The recommendation has not yet been implemented, but will be implemented in the future with an implementation timeframe.
- The recommendation requires further analysis, with an explanation and the scope of the parameters of analysis or study, and a timeframe for the matter to be prepared for discussion, which shall not exceed six months from the date publication of the Grand Jury Report.
- The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation.

The below section represents OPD's analysis of the Grand Jury's findings and response to the recommendations.

GRAND JURY FINDINGS/RECOMMENDATIONS AND THE CITY'S FINAL RESPONSE:

This section of the report provides the City's response to the findings and recommendations in the Grand Jury's Final Report regarding the oversight of the tow contract:

Recommendation 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.

RESPONSE: The City agrees with this finding.

This recommendation has not yet been implemented. The City acknowledges the need for staff resources dedicated to fiscal oversight and vehicle appraisals on towed vehicles. At this time, the City does not have an employee on staff who possesses the requisite skill-sets required to serve as a full-time compliance director position, nor does the City have the current capacity to assign a current staff member to be solely dedicated to these tasks. The employee would require high-level fiscal/accounting expertise as well as have the appropriate training and competence to perform vehicle appraisals. In the interim, the Administration and Oakland Police Department (OPD) are in the process of analyzing and determining how best to proceed with and execute its auditing rights. The Chief of Police has assigned a high-level commander, Deputy Chief Breshears, to lead the internal working group which is comprised of OPD, Finance, Revenue, and City Administration staff to review audit rights and how to best proceed with conducting an audit of this year's and past years' tows. This work commenced on August 20, 2014 and continues to date.

Going forward, the City will immediately begin implementation of this recommendation by proposing to add a temporary employee (Exempt Limited Duration Employee) to serve in this role until a position for a permanent tow compliance director can be added through the appropriate process. DC Breshears will be working closely with Finance and Revenue staff to achieve the addition of the dedicated staff.

In order to add a permanent position, the City will propose adding a position for the FY 2015-2017 Proposed Biannual Policy Budget, subject to the City Council's consideration and approval in June 2015. The City classification and job duties for the position will require further analysis and discussion with OPD, the Human Resources Department, Revenue Bureau, and other relevant City departments. In addition, it will also need to be analyzed whether the OPD or another City department is the most appropriate department to house the tow compliance director position. If this position is approved through the biannual budget process, then the City would proceed in conducting a full recruitment to implement this recommendation. The full-time compliance director would serve as the tow coordinator and be responsible for tow contract management, including fiscal oversight and vehicle appraisals.

It should be noted that the City plans to evaluate the best oversight staffing practices used in other jurisdictions, as well as explore alternate structures to oversight and compliance.

Recommendation 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.

RESPONSE: The City agrees with this finding.

This recommendation has not yet been implemented. As indicated in recommendation 14-1, OPD has already taken steps to address this recommendation. The same working groups led by DC Breshears are currently in the planning stages of establishing an internal Oversight Committee that would coordinate the reconciliation of tow contract revenue and income. This Oversight Committee would include representatives from: the City's Revenue Bureau, which is responsible for collecting revenue related to the B&B contract; the OPD Records Unit, which will provide monthly information on the number of vehicles towed to assist in responding to this recommendation; and other appropriate City department representatives, including the City Administrator's Office. The proposed compliance director position would be responsible for leading the committee and for overall oversight. OPD has created a quarterly inspection checklist that includes requirements in the tow contract scope of work (SOW). In addition, OPD has conducted the initial facility inspection and has scheduled an inspection follow-up meeting to inform B & B Towing of any discrepancies and discuss a schedule for compliance. The Oversight Committee will hold quarterly meetings with B & B Towing to ensure the contract is adhered to and the citizens of Oakland are receiving quality tow services. Audits of the revenue would occur 90 days after the start of the fiscal year.

Recommendation 14-3: The City of Oakland must conduct a compliance review of the current tow contract before further contracts or extensions are granted.

RESPONSE: The City agrees with this finding.

This recommendation has not yet been implemented. OPD is working with the City's Controller and Revenue Bureau, as well as the City's Contract Compliance Division staff to undergo a comprehensive compliance review of the current contract with B & B Towing. Staff in these City departments held an initial meeting to coordinate the review and plan to complete this compliance review before the Request for Proposals (RFP) is released in January 2015. Note that a one (1) -year contract extension was executed on June 30, 2014, given that the seven (7) day time span between the release date of the Grand Jury report and the expiration date of the then-current contract did not allow sufficient time to conduct the recommended compliance review. Please refer to the attached letter sent to Grand Jury Foreperson Ms. Kelly A. McFarland from Interim City Administrator Henry L. Gardner, dated July 21, 2014. However staff is quickly

moving to implement oversight and receive required reporting documents from B & B towing to determine compliance of current reporting requirements.

Recommendation 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.

RESPONSE: The City agrees with this finding.

This recommendation has not yet been implemented. While OPD Traffic Section staff is assessing the current workflow to determine if some responsibilities should/could be shifted, internally to streamline the process and enhance oversight, OPD strongly believes that the addition of staff is needed in order to adequately implement and oversee the contract.

The OPD Traffic Section will develop a lesson plan (line-up training for Patrol) and/or continuing professional training based on the policies, protocols and procedures enacted as a result of OPD's review of tow practices. OPD anticipates a 60-90 day window in terms of the assessment and education after enactment of revisions to the tow policy, with implementation by January 1, 2015.

Recommendation 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.

RESPONSE: The City does not agree with this finding.

This recommendation will not be implemented. The vehicle owners' responsibility to respond to the City's Notice of Intent to abate and remove a properly tagged vehicle within the 10-day period should not be tied to the City's ability to take action on the notice, which is predicated on staff levels and the number of vehicles being processed at a given time. The City's current Notice of Intention to Abate and Remove form (OMC §10.64.090) meets State of California requirements for notification of vehicle owners. In addition, the requirements for receipt of a request by the vehicle owner for a public hearing (OMC §10.64.100) on the vehicle's removal also meets the State of California requirements. If a hearing is requested/conducted, City regulations (OMC §10.64.130 – Time Limit for Removal) afford an additional 5 days from the date of mailing of the decision before "the vehicle(s) or parts thereof may be disposed . . ." and provides that only "after a vehicle has been removed it shall not thereafter be reconstructed or made operable." Such a time-discretion would allow additional opportunities for the vehicle owner to work with OPD to remedy the situation and make removal and permanent disposal moot.

Recommendation 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.

RESPONSE: The City agrees with this finding.

This recommendation has not yet been implemented. Once staff reviews training materials and any policy or procedural revisions are implemented, the website will be revised/updated accordingly by January 1, 2015.

Recommendation 14-7: The City of Oakland should consider 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.

RESPONSE: The City agrees with this finding.

This recommendation has not yet been implemented. The OPD Traffic Section will develop a pamphlet that will be available online to better educate the public in terms of the programs (Abandoned & Abatement). Prior to publication of the pamphlet, the Department will seek input and feedback from the community as part of the development process. OPD anticipates the production will take approximately until January 1, 2015.

Recommendation 14-8: 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.

RESPONSE: The City agrees with this finding.

This recommendation has not yet been implemented. The City has plans to create a complaint form and system to track the complaints that are received and the outcomes by January 1, 2015. The tow compliance director will be charged with responding to hearings for abated vehicles and tracking the outcome of complaints, hearings, and appeals.

CONCLUSION:

The City agrees with a majority of the Grand Jury's findings and partially agrees with one (1) finding to improve the oversight of the City's Tow Contract. OPD has placed the Deputy Chief of the Bureau of Services as responsible in the interim for coordinating the initial response to the

Grand Jury findings and recommendations until such time that a permanent tow compliance director position or a temporary director is hired to assume those duties and responsibilities.

As of this date, OPD has conducted an inspection of the towing facilities, office postings, complaint forms, and other areas of contract relating to B & B Towing's management of the OPD-requested tows. OPD has additionally requested documents that will assist in the oversight of the contract as the City seeks to develop a RFP for a new tow contract in July 2015.

The City of Oakland remains committed, through coordinated and well-managed towing policies, to providing public safety and improvements in the quality of life for residents of the City, and those that conduct business or visit here.

For questions regarding the contents of this report, please contact Deputy Chief Eric Breshears at 510-238-7048.

Respectfully submitted,



SEAN WHENT
Chief of Police
Oakland Police Department

CITY OF OAKLAND



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Office of the City Administrator

(510) 238-3301
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July 21, 2014

Ms. Kelly A. McFarland
Jury Foreperson
Alameda County Grand Jury
1401 Lakeside Drive, Suite 1104
Oakland, CA 94612

Dear Ms. McFarland,

Thank you for the opportunity to respond to the 2013-2014 Alameda County Grand Jury Final Report which included an investigation into Oakland's towing practices, policies and oversight of the tow contract. The City is in the process of reviewing the recommendations and preparing a response.

One recommendation contained within the report was that the City of Oakland "must conduct a compliance review of the current tow contract before further contracts or extensions are granted." It should be noted that the current contract extension was expiring on June 30, 2014 and consequently, the City signed an additional one year tow contract extension that expires June 30, 2015. *This contract extension was executed given that the seven day time span between the release date of the Grand Jury's report and the expiration date of the current contract did not allow enough time to conduct the recommended compliance review without negatively impacting the availability of tow services to the Department and City.*

The City is in the process of reviewing the request for proposal process (RFP) and development of the RFP for the new tow contract that will follow the City's current contract in June 2015. Several tow contracting options are being considered by the City. The Grand Jury recommendations, as well as an internal review of towing procedures and contract compliance will be considered as the new RFP is developed.

Should you have any questions, please feel free to contact Assistant Chief Figueroa at 510-238-8561.

Sincerely,

A handwritten signature in cursive script, appearing to read "Henry L. Gardner".

Henry L. Gardner
Interim City Administrator