

***2005-2006  
ALAMEDA COUNTY  
CIVIL GRAND JURY  
FINAL REPORT***

---

**ALAMEDA COUNTY BOARD OF SUPERVISORS**

Keith Carson, President - District Five

Scott Haggerty, Vice President - District One

Gail Steele - District Two

Alice Lai-Bitker – District Three

Nate Miley – District Four

---

**ALAMEDA COUNTY GRAND JURY**

1401 Lakeside Drive, Suite 1104

Oakland, California 94612

Phone: 510/272-6259

Fax: 510/465-9647

E-mail: [grandjury@acgov.org](mailto:grandjury@acgov.org)

Web: [www.acgov.org/grandjury](http://www.acgov.org/grandjury)

## **2005-2006 ALAMEDA COUNTY CIVIL GRAND JURY FINAL REPORT TABLE OF CONTENTS**

---

Alameda County Board of Supervisors.....	1
Foreperson's Letter.....	3
Grand Jury Members.....	5
Officers and Legal Staff.....	6
Grand Jury Photograph.....	7
Presiding Judges of the Superior Court .....	8
Grand Jury Committee Roster .....	9

### **INTRODUCTION**

History of the Grand Jury.....	10
Functions.....	10
Selection Process.....	11
Qualification of Jurors .....	11
Commitment.....	12
Committees.....	12
Remuneration.....	12
Orientation and Training.....	13
How to Submit a Complaint .....	13

### **HEALTH COMMITTEE**

Alameda County Medical Center.....	14
John George Psychiatric Pavilion.....	20

### **EDUCATION COMMITTEE**

Alameda County Office of Education and Alameda County Board of Education .....	25
---	----

### **LAW & JUSTICE COMMITTEE**

Introduction.....	38
Oakland Police Department Overtime .....	39
Jail Inspections .....	46
City of Berkeley Parking Enforcement .....	47

### **GOVERNMENT COMMITTEE**

Introduction.....	52
Emergency Communications.....	53



Alameda County  
**Grand Jury**

1401 Lakeside Drive  
Suite 1104  
Oakland, California 94612

510.272.6259  
fax 510.465.9647  
[www.acgov.org/grandjury](http://www.acgov.org/grandjury)

June 28, 2006

Honorable George C. Hernandez, Jr.  
Presiding Judge  
Alameda County Superior Court  
1225 Fallon Street, Department One  
Oakland, California 94612

Dear Judge Hernandez:

It has been an honor and a pleasure to serve as the Alameda County Grand Jury Foreperson for the 2005-2006 term. There were four standing committees: Health, Education, Law & Justice and Government.

A total of 36 complaints were received from the general population, not all of which were within the jurisdiction of the Grand Jury. A response was sent to each of them. The Grand Jury conducted a full-scale investigation on several of the complaints. Additionally, Alameda County Medical Center's operation and fiscal status were monitored. A compilation of our major findings is contained herein.

The Health Committee did not receive any specific complaint during this term; however, due to the continuing financial and security problems with the Alameda County Medical Center, the Grand Jury undertook the task of monitoring its progress. The Education Committee investigated the county office of education and the county board of education with special emphasis on their fiscal responsibilities. The Law and Justice Committee conducted an in-depth investigation into the Oakland Police Department's overtime practices and the City of Berkeley's Parking Enforcement Division. Finally, the Government Committee investigated Alameda County's emergency communications system and its ability to communicate with other agencies in the event of a major disaster.

Jeff Stark, the Senior Deputy District Attorney assigned to the Grand Jury, was very helpful in providing legal guidance and assistance. For that, we are grateful. Special thanks and recognition must be given to Ms. Cassie Barner, the

Grand Hon. George C. Hernandez, Jr.  
Page two  
June 30, 2006

Jury's Legal Staff Assistant, for her diligence and hard work. Her dedication and commitment to the Grand Jury were invaluable; and without her, the Grand Jury could not function effectively.

Finally, I wish to thank all of the members of the Grand Jury for their tireless effort and many hours of investigative work that made this report possible.

It is with great pride that I present to you the 2005-2006 Alameda County Grand Jury Final Report.

Sincerely,

A handwritten signature in cursive script, appearing to read "Willie M. Love".

Mrs. Willie M. Love, Foreperson  
2005-2006 Alameda County Grand Jury

## 2005-2006 ALAMEDA COUNTY CIVIL GRAND JURY MEMBERS

Name	Supervisory District/City	Nominating Judge
Daniel Apodaca	District 2 – Newark	Judge Frank Roesch
Lawrence S. Burne*	District 4 – Oakland	Judge Barbara Miller
Thomas L. Cameron	District 3 – Oakland	Judge Joan Cartwright
Debra Climer**	District 2 – Union City	Judge Barbara Miller
Robert N. Creveling	District 1 – Fremont	Judge Barbara Miller
Lillian L. Frazier	District 2 – Hayward	Judge Ronald Sabraw
Mary Glenn*	District 2 – Hayward	Judge Barbara Miller
Craig R. Harper	District 5 – Berkeley	Judge Julie Conger
Mark A. Kovarik**	District 3 – San Lorenzo	Judge Barbara Miller
Willie M. Love*	District 5 – Oakland	Judge Gordon Baranco
Lawrence B. Lum*	District 4 – Oakland	Judge Jeffrey Horner
Gordon MacDonald	District 2 – San Leandro	Judge Barbara Miller
Ronald D. Nelson** <sup>o</sup>	District 5 – Berkeley	Judge Julie Conger
Nancy J. Roche	District 5 – Piedmont	Judge Jeffrey Horner
Rosemary Rogers**	District 3 – Oakland	Judge Joan Cartwright
Yvonne Gonzalez Rogers	District 5 – Piedmont	Judge Carlos Ynostroza
Jack Summerfield	District 5 – Piedmont	Judge Henry Needham Jr.
Lisa Y. Trujillo	District 4 – Dublin	Judge Barbara Miller
Landon Vernon**	District 4 – Oakland	Judge Horace Wheatley
Robert Williams**	District 2 – Hayward	Judge Horace Wheatley
Paul P. Wong*	District 4 – Oakland	Judge Vernon Nakahara
Karen Zeldin*	District 5 – Berkeley	Judge Wynne Carvill

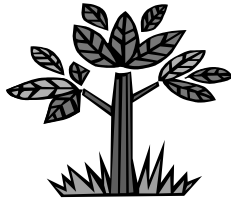
\* Jurors held over for a second term by Presiding Judge Barbara Miller

\*\* Juror Debra Climer resigned on July 7, 2005 (Replacement juror: Ronald D. Nelson)  
 Juror Landon Vernon resigned on July 9, 2005 (Replacement juror: Mark A. Kovarik)  
 Juror Robert Williams resigned on August 15, 2005 (Replacement juror: Rosemary Rogers)

<sup>o</sup> Resigned April 24, 2006

**2005-2006 ALAMEDA COUNTY CIVIL GRAND JURY  
OFFICERS & LEGAL STAFF**

---



FOREPERSON: Willie M. Love

FOREPERSON PRO TEM: Lawrence S. Burne

SECRETARY: Paul P. Wong

SECRETARY PRO TEM: Karen Zeldin

SERGEANT AT ARMS: Jack Summerfield

SERGEANT AT ARMS PRO TEM: Daniel Apodaca

---

LEGAL ADVISOR: Jeffrey P. Stark, Senior Deputy District Attorney

LEGAL STAFF ASSISTANT: Cassie Barner

---



## 2005-2006 ALAMEDA COUNTY CIVIL GRAND JURY

---

*Standing, left to right:*

Mark A. Kovarik, Paul P. Wong (*Secretary*), Nancy J. Roche,  
 Robert N. Creveling, Rosemary Rogers,  
 Lawrence S. Burne (*Foreperson Pro Tem*), Mary Glenn, Ronald D. Nelson,  
 Willie M. Love (*Foreperson*), Lisa Y. Trujillo, Lillian L. Frazier,  
 Thomas L. Cameron, Gordon MacDonald,  
 Daniel Apodaca (*Sergeant at Arms Pro Tem*), Craig R. Harper

*Seated, left to right:*

Lawrence B. Lum, Honorable George C. Hernandez Jr. (*Presiding Judge*),  
 Karen Zeldin (*Secretary Pro Tem*)

*Not Pictured:*

Yvonne Gonzalez Rogers, Jack Summerfield (*Sergeant at Arms*)

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

---



Honorable Barbara J. Miller  
Presiding Judge  
July 1, 2005 – December 31, 2005

---



Honorable George C. Hernandez, Jr.  
Presiding Judge  
January 1, 2006 – Present

---



**2005-2006 ALAMEDA COUNTY CIVIL GRAND JURY  
COMMITTEE ROSTER**

---



**LAW & JUSTICE**

*Lawrence S. Burne, Chair*

Robert N. Creveling  
Lillian L. Frazier  
Craig R. Harper  
Mark A. Kovarik  
Ronald D. Nelson<sup>o</sup>  
Jack Summerfield  
Lisa Y. Trujillo  
Paul P. Wong  
Karen Zeldin

**GOVERNMENT**

*Jack Summerfield, Chair*

Thomas L. Cameron  
Robert N. Creveling  
Mary Glenn  
Gordon MacDonald  
Nancy J. Roche  
Rosemary Rogers  
Yvonne Gonzalez Rogers  
Lisa Y. Trujillo

**EDUCATION**

*Yvonne Gonzalez Rogers, Chair*

Daniel Apodaca  
Thomas L. Cameron  
Lillian L. Frazier  
Mary Glenn  
Gordon MacDonald  
Rosemary Rogers

**HEALTH**

*Ronald D. Nelson, Chair<sup>o</sup>*

Daniel Apodaca  
Lawrence S. Burne  
Craig R. Harper  
Mark A. Kovarik  
Lawrence B. Lum  
Nancy J. Roche  
Paul P. Wong  
Karen Zeldin

**EDIT**

Lawrence S. Burne  
Mary Glenn  
Willie M. Love  
Yvonne Gonzalez Rogers  
Jack Summerfield  
Karen Zeldin

<sup>o</sup> Resigned April 24, 2006

## **INTRODUCTION**

### **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 that 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](http://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 are 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](http://www.alameda.courts.ca.gov) and follow the links 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 natural facilities of 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 had 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 Statements of Economic Interests as defined by the state's Fair Political Practices Commission, as well as a Conflict of Interest form.

## **COMMITTEES**

In order to accomplish the county's watchdog functions, committees are normally established to address the following: Government, Education, Health, Social Services, Environmental, Emergency Services, and Law & Justice (public safety and detention facilities). One or more Ad Hoc committees may be established by each grand jury on special issues.

## **REMUNERATION**

Grand jurors are paid \$15.00 a day for each day served, as well as a county mileage rate, 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. 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 names of the persons or agencies 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](http://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, every complaint may not 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.

## **HEALTH COMMITTEE**

### **ALAMEDA COUNTY MEDICAL CENTER**

#### **INTRODUCTION**

During the 2005-2006 term, the Grand Jury focused on the continuing financial crisis at the Alameda County Medical Center (ACMC), and security concerns at one of its components, the John George Psychiatric Pavilion (JGPP).

The financial problems that have plagued the ACMC through several administrators have not been resolved. Cambio Healthcare Solutions (Cambio), a consulting firm hired in 2004 to identify and correct the causes of continuing deficits, had issued a report suggesting that the ACMC's very survival was in question unless management could implement difficult changes involving reductions in costs and personnel. In conducting its investigation, the Grand Jury interviewed members of Cambio, members of the ACMC board of trustees, senior members of the management team brought in beginning in September 2005 to take over operations, and other managers responsible for specific departments within the ACMC and at JGPP. The Grand Jury also reviewed documents highlighting the ACMC's financial situation. These included a transition plan and the 2005-2006 ACMC budget for 2006 prepared by Cambio, financial audits for recent years, and reports related specifically to various Medical Center programs and JGPP operations. Further, the Grand Jury attended monthly meetings of the ACMC Board of Trustees and periodic meetings of the Alameda County Board of Supervisors, who appoint the trustees.

The Grand Jury looked into the second matter, the John George Psychiatric Pavilion, after a patient committed suicide even though stringent safety guidelines were in place because of an earlier suicide, several suicide attempts and a physician homicide. The Grand Jury visited JGPP three times to

inspect the facility and to determine if previously mandated corrective measures were being followed.

## **INVESTIGATION**

This year, the Grand Jury monitored ACMC's financial performance. While ACMC performed very poorly and the outlook for its continuing survival remains grim, the Grand Jury was unable to reach definite conclusions. As a result the Grand Jury believes next year's Grand Jury should continue to monitor ACMC's progress closely.

In June 2005, ACMC announced that it finished the 2004-2005 fiscal year with a slight surplus and reported that it had reduced the balance of its cash account with the Alameda County treasury to \$155,000,000. In September 2005, ACMC hired a permanent chief executive officer (CEO), replacing the second of two interim management teams that had operated ACMC since its last permanent CEO resigned in 2003. By December 2005, the last member of the Cambio Healthcare Solutions temporary management team had left.

At about that time the Grand Jury learned that ACMC was approximately \$6,000,000 over budget through the first four months of the year. New management reported that the Cambio-prepared budget did not account for substantial costs. Cambio personnel had warned the Grand Jury before leaving their engagement that new management teams frequently loosen spending controls. The Grand Jury did not attempt to resolve the question of whether the budget was inaccurate or new management was overspending. The Grand Jury believes the new executive team should be given an opportunity to manage ACMC before being evaluated. The Grand Jury learned that the new ACMC management team, especially the CEO, chief operating officer and chief financial officer are actively engaged in efforts to eliminate the operating deficits.

To their credit, the new managers began a “bottom-up” evaluation of each APMC department, involving every APMC manager, designed to meet certain budget targets. The process involved a search for additional revenue, greater operating efficiency and an evaluation of each department’s effectiveness. While the Grand Jury cannot comment on the success or failure of this project, it is significant because it involved every manager at APMC. Past decision-making typically involved only the most senior management staff.

The current management team successfully worked with employee bargaining groups to negotiate long-term labor contracts that raised salaries where necessary to compete in the costly Bay Area labor market and, at the same time, made some important changes in benefits and work rules. Past APMC management teams had agreed to one-year contracts – meaning that as soon as a round of negotiations concluded with a contract, the next round of bargaining on the next year’s contract began. A multi-year contract allows managers to manage rather than negotiate constantly, and gives employees certain knowledge of their immediate future, thereby improving morale.

The Grand Jury examined APMC’s worker’s compensation program and was pleased to discover that claims appear to be in line with those at similar facilities. However, the Grand Jury also learned that safety related training programs were not fully supported by some middle managers and staff. This lack of full support increases the risk of work related injuries. The recently approved contracts brought overly generous employee workers’ compensation benefits more in line with other local public hospitals. This reduction in benefits reduced the risk that employees would stay off work for a longer time than necessary, while continuing to provide a generous benefit in excess of state-mandated rules.

While these are extremely encouraging first steps, APMC cannot survive unless immediate action is taken to cut costs and it becomes more adept at operating a health care facility in a universe of shrinking resources. Last year APMC operated with a very slight surplus due in large part to approximately



\$70,000,000 in receipts from Measure A, the 2004 voter-approved sales tax extension. At present, APMC top management believes they will end the 2005-2006 fiscal year with an operating deficit of \$11,500,000.

APMC maintains an account with the Alameda County treasury. All APMC receipts are deposited directly into the treasury account, and all expenses are paid from this account. To cover short-term cash flow needs, APMC is allowed to maintain a negative balance. The state and federal government cause these cash flow problems because of their long delays in reimbursing APMC for services APMC provides for Medicare and Medi-Cal patients.

Deficit spending on the part of APMC caused this negative balance to grow to \$192,000,000 by 2004. In response, and to insist that the APMC board of trustees develop some fiscal discipline, the Board of Supervisors imposed a limit on APMC's ability to continue to "borrow" from their treasury account. In September 2004, the Board of Supervisors placed a "cap" of \$200,000,000 on the negative balance APMC could incur. In addition, the Board of Supervisors required APMC to reduce the negative account balance to \$30,000,000 by June 30, 2015. That amount represents the county's and APMC's 2004 estimate of APMC's annual short-term cash flow needs.

An analysis of this APMC treasury account demonstrates recent lack of fiscal discipline by APMC. On December 31, 2001, the negative balance was \$6,170,267. One year later, the negative balance had ballooned to \$84,675,567. On December 31, 2003 the negative balance reached \$116,264,661. At its height in 2004, it reached \$192,050,695. On June 30, 2005, the negative balance had been reduced to approximately \$155,000,000. As part of the reduction plan imposed by the Board of Supervisors, the "cap" was reduced to \$190,000,000 in March 2006. APMC's current deficit of \$11,500,000 will be eliminated by once again drawing on the treasury account, increasing the negative balance. This is the same flawed practice that allowed APMC to get into such deep trouble in the first place.

It is worth noting that in March 2004 Alameda County voters passed Measure A, a half-cent sales tax extension that brought in \$70,000,000 to ACMC in its first year. In spite of this large new source of funding deficit spending continues.

## **CONCLUSION**

ACMC is clearly at a crossroad. Current management has not had adequate time to demonstrate whether its strategies can fix this massive overspending. The ACMC board of trustees similarly has not yet had adequate time to respond to the current challenges. One thing is certain however. Should either current management or the ACMC board of trustees fail to force fiscal discipline and responsibility into ACMC, it will fail. Voters are unlikely to commit additional tax dollars. Alameda County cannot continue to subsidize these massive annual deficits.

As we write this report, ACMC is preparing its 2006-2007 budget. This budget must eliminate the operating deficit, come up with additional monies to fund some of the recently negotiated employee contracts and it must reduce the negative balance in the treasury account. The Grand Jury believes that responsible management practices dictate the establishment of a reserve account designed to meet ACMC's capital needs for such necessary items as management and patient information systems, imaging and other sophisticated medical equipment. The Grand Jury strongly recommends next year's Grand Jury continue to closely monitor ACMC's spending, budget process, including the array of services offered and immediately alert the public should management and the board of trustees drop the ball.

## **RECOMMENDATIONS**

### *Recommendation 06-1:*

Alameda County Medical Center senior management and the Board of Trustees must develop a long-range strategy for rescuing the Medical Center from financial ruin.

### *Recommendation 06-2:*

Alameda County Medical Center senior management must develop and implement a training program designed to reduce work-related injuries, especially in the highest risk job categories, as a means of minimizing Worker's Compensation claim expenses.

## **RESPONSES REQUIRED**

*Alameda County Medical Center Board of Trustees*  
*Recommendations 06-1 and 06-2*

## **JOHN GEORGE PSYCHIATRIC PAVILION**

### **INTRODUCTION**

John George Psychiatric Pavilion (JGPP) is a medical facility established to provide psychiatric care to indigent adults in Alameda County with serious and disabling mental illness. Most of the patients are treated at the facility under California Welfare and Institutions Code section 5150. This provision deals with the treatment of people with mental illness who may be under the influence of drugs, severely mentally disabled, or dangerous to themselves or others. Patients admitted under section 5150 may be held for up to 72 hours, during which time their condition is assessed and medications and/or follow-up care prescribed. JGPP operates a clinic that provides psychiatric evaluations, medication, and even hospitalization to walk-in patients. The facility also offers support group services for family members and caregivers of the mentally ill. JGPP can house a maximum of 69 patients and operates at or near capacity at all times.

The suicide of a patient in 2005 prompted the Grand Jury to investigate patient/staff safety at JGPP. The suicide followed previous suicide attempts, various patient assaults and even the murder of a physician in the preceding couple of years. The Grand Jury interviewed members of JGPP management and also inspected the JGPP buildings, paying special attention to the areas where the incidents occurred. Additionally, the Grand Jury reviewed JGPP policies, procedures, and training programs dealing with patient/staff safety.

Following the suicide, the Centers for MediCare and Medicaid Services (CMS) investigated the hospital and found deficiencies that JGPP was told to correct. CMS rebuked management for its failure to hire enough nurses to provide up-to-date care. Further, the report noted that the hospital had failed to develop strategies for preventing assaults by patients who have histories of violence or who are deemed likely to attack others. JGPP management was

ordered to develop plans to deal with these shortcomings. In January 2006, ACMC submitted a Plan of Correction and informed CMS that the hospital now is in compliance with the relevant regulations governing state medical facilities.

## **INVESTIGATION**

The Grand Jury began its investigation by reviewing the circumstances that led to the murder of a physician in November 2003. A medical doctor had been killed by a patient during an examination. The doctor had conducted the examination in a room in a remote, low traffic area. Although doctors were required to include a second staff member during patient examinations, in this case the doctor elected to conduct the examination by herself. During the examination, the doctor was overpowered, beaten and strangled by the female patient. No one in the facility heard any noise from the room. It was estimated that the doctor had been dead for at least 30 minutes when her body was discovered by a janitor. The patient was taken into police custody and charged with murder. The case is pending in Superior Court.

In fall of 2005 a patient with a history of depression entered an enclosed toilet area in a women's restroom and hanged herself from the top of the door hinge with a piece of clothing. While this patient was showing signs of improvement and due to be released, there were other signs that may have indicated that the patient's state of mind was contrary. When found, she was unconscious and was transported to an acute care hospital where she subsequently died. The Grand Jury found no violations of the hospitals' policies or procedures in this matter.

The Grand Jury also reviewed staff training related to physical safety. Because JGPP is a psychiatric facility, special training is necessary to ensure that all employees are prepared to respond to emergency situations involving patients and staff. According to management, all employees receive continuous training pertaining to psychiatric patient care, facility rules, medication procedures, and

assault prevention and emergency response. Additionally, each staff member is provided with an individual panic alarm and taught how to respond in combative situations. Employees learn principles of staff/patient conduct that are designed to reduce levels of anxiety and frustration. For example, proper appearance and clothing are stressed in an effort to maintain a safe atmosphere and environment. Staff also studies procedures covering the storage of medications, medication issuance and patient safety, as well as patient placement and patient monitoring within the facility.

Questions still remain regarding how well the training program is implemented and how policies and procedures are enforced. After both the homicide and the suicide, JGPP made immediate procedural changes to prevent recurrences. Physicians no longer examine patients unless another staff member is present. Bathroom doors no longer have uneven edges to which fabric can be attached. Staff members have been re-educated about observing patients and reporting unusual events to medical personnel. The situation has improved, but safety concerns will remain until the facility's staffing needs are met.

Maintaining a full compliment of trained employees, especially nurses, is an ongoing challenge. JGPP is not in full compliance with state laws because it has been unable to meet the mandated 1:5 nurse-patient ratio. This creates an undesirable environment for both patients and staff. Although some corrective action has been taken, nursing staff levels remain a problem because of a nationwide shortage. JGPP maintains an ongoing recruiting effort and has hired a nurse recruiter to improve the process. In the meantime, management supplements full-time nurses with part-time, temporary and registry candidates.

Another problem area for JGPP is its security force. Since the homicide in late 2003, JGPP has increased security staffing to five personnel per shift. This includes three uniformed security guards from a private service, trained to work with the mentally ill, and two uniformed county sheriff's deputies. A crew of five well-trained guards is needed not only to handle potentially dangerous situations,

but also to foster a sense of safety and security among patients and staff. The cost of security at JGPP is very high. This is an area that a future Grand Jury should investigate.

## **CONCLUSION**

The Grand Jury investigation of the JGPP covered security staffing, staff supervision, compliance with facility procedures, and nurse/patient ratios. Failures in one or more of these areas contributed to JGPP's recent suicide and homicide. The Grand Jury found that both tragedies might have been prevented if staff members had followed the facility's existing policies and procedures governing patient care. Fortunately, it appears that steps taken recently have improved matters.

The Grand Jury endorses JGPP's augmentation of the security staff after the 2003 homicide, as well as what appears to be a conscientious attempt by management to upgrade staff training. The Grand Jury also commends JGPP for its efforts to meet state rules on nurse/patient ratios in an extremely tight labor market.

Training must be ongoing to ensure that all employees are fully trained in JGPP policies and procedures, as well as government regulations dealing with treatment of the mentally ill. Additionally, management must maintain its focus on providing a secure facility for employees and patients alike.

## **RECOMMENDATIONS**

### *Recommendation 06-3:*

Alameda County Medical Center senior management and the Board of Trustees must monitor the John George Psychiatric Pavilion to ensure continued compliance with state regulations and with the Medical Center's own policies and procedures governing patient care.

### *Recommendation 06-4:*

Alameda County Medical Center senior management and the Board of Trustees must evaluate the quality of staff training and must ensure that every employee at the John George Psychiatric Pavilion receives appropriate, continuous training for his or her position.

### *Recommendation 06-5*

Alameda County Medical Center senior management and the Board of Trustees must investigate ways to lower security personnel costs at the John George Psychiatric Pavilion while maintaining a safe environment for patients and staff.

## **RESPONSES REQUIRED**

*Alameda County Medical Center Board of Trustees  
Recommendation 06-3 through 06-5*



## **EDUCATION COMMITTEE**

### **ALAMEDA COUNTY OFFICE OF EDUCATION and ALAMEDA COUNTY BOARD OF EDUCATION**

#### **INTRODUCTION**

The Education Committee of the Grand Jury focuses on education issues affecting Alameda County. All public school districts in Alameda County, which are not under state control, and all activities of the Alameda County Office of Education (ACOE), including the schools which it controls, fall within the Grand Jury's purview.

This year, the Grand Jury monitored the Board of Education for Alameda County (AC Board). It also analyzed the ACOE's budget for the year 2005-2006, especially in light of its fiscal oversight obligations. To further these inquiries, the Grand Jury interviewed experts, superintendents, and assistant superintendents throughout Alameda County and surrounding counties. The Grand Jury reviewed hundreds of pages of budget summaries, accounting details for numerous ACOE funds, reports documenting the use of training programs, and policies regarding the hiring of consultants. Finally, the Grand Jury monitored public hearings of the Alameda County Board and other boards of education in Alameda County.

#### **FACTUAL BACKGROUND**

##### **Funding of ACOE's Operations**

The ACOE has statutory responsibilities many of which can be placed broadly in the following categories: (i) fiscal oversight, (ii) instructional programs for court and community schools, (iii) oversight of charter schools

which the county board chartered, (iv) administration of credentials, and (v) *Williams* compliance. The Alameda County Superintendent of Schools is charged with implementing these statutory mandates.

The ACOE employs 261 people who staff 248 full-time positions (FTE). Of that staff 88 (82 FTEs) are certificated employees (meaning employees required by the state to hold some type of teaching credential) and 173 (165 FTEs) are classified employees (meaning employees not required to hold teaching credentials). Of the entire staff, classroom teachers account for 43 (41 FTEs) people. For the year 2005-2006, the ACOE estimated that it would spend \$36.7 million dollars. Total expected revenues equaled \$35.6 million. The ACOE intended to fund the gap with a cash balance remaining from the prior year. (This report uses the budget numbers from the county's approved budget. The Grand Jury understands that the figures may have fluctuated during the course of the year.)

The ACOE derives the largest component of its revenue, approximately 33%, from "revenue limit" funds distributed by the state. The amount distributed is computed by multiplying the average daily attendance of **all** students in all eighteen school districts of Alameda County by a rate applied statewide. For 2005-2006, the county estimated that \$9,280,208 million in revenue limit funds would be generated. (See Proposed Final Budget for Alameda County Office of Education, Fiscal Year 2005-06 ("2005-06 Budget"): Budget Assumptions p.2). As stated in the 2005-06 Budget, these funds were to be used "to meet the County's legal requirements." (*Id.*) The ACOE also anticipated using Alameda County's revenue limit dollars to fund "other regionalized services." (*Id.*)

In addition to the revenue limit funds (26.06 percent of the budget), the other main categories of revenues are:

Funding for Juvenile Court and Community Schools based on ADA	\$4,439,072	12.47%
Federal Revenues for Grants which restrict use of the funds to authorized grant programs	\$6,310,496	17.72%
Other State Revenues, such as lottery monies and grants	\$9,009,761	25.30%
Other Local Revenues, such as workshop fees, rents, leases, and other fees	\$6,570,395	18.45%

(See 2005-06 Budget: Budget Assumptions p. 3; Budget Summary p.1)

Of the county office's budget, 63.45% pays for classified salaries (\$9,984,943), certificated salaries (\$8,591,595) and employee benefits (\$4,718,578). The ACOE budgeted (a) 3.48% (\$1,278,064) for books and supplies, (b) 31.08% (\$11,409,284) on "Services & Other Operating Expenses," and (c) 1.99% (\$732,160) on debt service and interfund transfers.

The ACOE refers to its budget as a "maintenance budget," that is, the substance of the budget remains relatively constant from year to year. In about February or March of each year, each member of the "Cabinet" receives a list of current personnel and an estimate of the cost to maintain that personnel during the next budget cycle. The Cabinet is comprised of the superintendent and all of the heads of the major divisions of the office (Educational Services, Human Resources, Business Services, Communications & Publications). The estimates include anticipated adjustments, such as "step and column" increases due to seniority, experience and additional education. The Cabinet regularly meets throughout the year; therefore, ad hoc changes to the programs offered do occur. However, the budgeting process extends beyond the March 15<sup>th</sup> legal deadline for giving notice to certificated employees that the county will no longer require such person's services. Thus, if any cuts were to be made, a division could only cut classified staff or benefit from voluntary retirements of certificated employees unless an ad hoc decision was made before the deadline to relieve extra staff or reallocate the staff to another division.

While input on the budget is accepted from AC Board members, no board member is present during the Cabinet's discussion regarding the development of the budget or decision regarding the final budget itself. According to the county, the only role of the AC Board relative to the budget is to "measure [its] integrity." Given the ACOE's use of a maintenance budget, no comprehensive analysis has been done in recent years regarding the overall allocation of resources and the relative benefits of each division to the county and the 18 school districts in Alameda County.

#### Resources Allocated to Fiscal Oversight Role

Fiscal oversight of school districts is a mandated responsibility of all county offices of education. As prior grand juries have reported, the ACOE continues to believe that its role in fiscal oversight is not directive, but merely reactive and administrative. For this county office, fiscal oversight is not, and has not become, its primary priority despite the financial problems that many school districts in Alameda County face. Nevertheless, the California County Superintendents Educational Services Association believes that "County Superintendents provide the fiscal safety net for all school districts in the state." (Mission and Goals Statement.)

The ACOE requires that all districts comply with the minimum statutorily required reporting requirements. These reporting requirements are well-documented and need not be repeated here. In reviewing these statutory filings, the ACOE will accept, as given, figures received by the districts because the ACOE does not have the staff to audit or independently verify the figures. According to the ACOE, it only tests the numbers for "reasonableness" and uses standard projection models to review each district's filings. Further, it is not clear that the ACOE takes advantage of independent county information to monitor a school district's finances. For example, the County Treasury serves as the bank for many school districts. The county office has access to any district's accounts through the treasurer. Where concerns exist about a district's finances, the county office

could easily access information regarding payroll and other spending to perform checks on a particular district's filings.

The ACOE chooses to staff leanly in this area and instead allocates resources to other divisions. It lacks the staff to assist districts whose financial personnel is in transition or during times when financial problems are found. The county office employs five people and one supervisor to perform fiscal oversight for the county's eighteen school districts and four Regional Occupation Centers/Programs (ROPs). The individual districts and ROPs are divided among the personnel. The supervisor recently retired leaving a vacancy but was hired back as a consultant. For 2005-2006, the ACOE budgeted \$1,039,348 to fund this portion of its operations.

The county office has also experienced high turnover in its fiscal oversight staff. Most of the day-to-day staff working with the school districts have been with the county for less than two years. Turnover negatively impacts the ACOE's ability to be a useful resource. Effective fiscal oversight is not a precise science. It does not just require checking a box that a district's filings appear reasonable. Effective county offices have sufficient in-house staff who have built relationships with their school districts and have established reputations that they are experts who can be trusted to spot a financial concern and then provide leadership and guidance to help resolve an issue before it becomes one. They also have a working knowledge of the individual school districts' issues, finances and personnel. Currently, this kind of reputation does not exist in Alameda County. Most districts do not look to the in-house fiscal oversight staff as a resource for fiscal advice or expertise. Further, because of the high turnover, there is a lack of consistency in the county office's interpretation of gray areas causing some districts to waste time responding to inquiries.

ACOE has been criticized by prior grand juries for failing to intervene at an early stage of a district's financial troubles. Historically ACOE has waited until intervention was mandatory. The county office has responded to these prior

grand juries by saying it lacks authority to intervene at an earlier time. While technically correct – i.e., county superintendents cannot exercise authority over school districts without first finding certain specific criteria – this extremely narrow position ignores the realities of school financial management. Further, it wrongly assumes that the grand jury suggests that the ACOE be a substitute for the school districts. To the contrary, the point is to be an expert resource that assures the public that school districts are fiscally sound.

Delay in acting on any indication that a school district may be facing financial problems can substantially magnify the problem. School districts' budgets operate within significant statutory restrictions and personnel constraints. Most of the budget pays for teachers, staff and benefits. By statute, layoffs of certificated employees cannot occur unless legal notice is given by March 15 in the year prior to the new school year. Further, school districts can only estimate the amount of anticipated state revenues since its budget is not approved until the end of June (and sometimes much later). Thus, a delay in catching and responding to a financial problem may cause it to expand given that a large portion of the budget may be locked into place for another year. As we have learned from the health care industry, *early preventive* actions produce better results than waiting until a situation has developed into a crisis requiring more extreme, costly measures, such as the appointment of an outside fiscal advisor.

The ACOE believes the high turnover occurs because school districts will pay higher wages to attract and recruit this specially-trained personnel. Further, it cannot successfully recruit personnel because of the high cost of living in the Bay Area. The county office has done nothing to address the issue internally. For instance, the county office could commission a classification study to determine whether this personnel should be paid more. It could determine whether existing tenured staff could be reallocated and trained to perform these duties. Notably, the superintendent's lack of personal knowledge regarding the operations, personnel, and challenges in this area showed that fiscal oversight was not a top

priority. Unless the county office focuses on resolving the issue, it will remain one.

#### Benefit of ACOE to Alameda County School Districts

With a \$36.7 million dollar budget, the operations of the ACOE should produce measurable benefits to Alameda County school districts and children in addition to fulfilling statutory duties. The Grand Jury reviewed county documents and interviewed virtually all superintendents in the county to determine what benefits the districts believe the ACOE provides. The investigation revealed that:

- The county office has not, in a systematic and thorough manner, requested input from the school districts regarding the kinds and quality of programs the county provides and how it spends its nearly \$40 million dollar budget. Superintendents would be willing to engage in such a discussion as long as assurances were made that changes would occur.
- The professional programs offered serve principally to benefit a minority of the districts. ACOE reports (Educational Services Division Annual Report 2004-05, Section III, charts 1 and 2) show:
  - With a budget of \$13,966,404, ACOE offered 211 district “programs and services” and 26 regional and state “programs and services” comprised of 98 sessions. Without a comprehensive analysis, simple math suggests that each program, on average, costs approximately \$59,000. Further, in addition to full-time employees in the Professional Services Division, significant funds are still spent to hire outside consultants who are presumably expert in the given areas.
  - With respect to the district programs and services offered, participation was highest among Oakland, Hayward, Fremont and the ACOE schools. They attended 40-46% of the programs. Six

districts participated in 20-30 percent. Six districts participated in 10-20 percent. Two districts participated in 4-5 percent. One district did not participate at all.

- With respect to the regional and state programs and services offered, only Hayward, Newark, San Leandro, and one ACOE employee participated. 15 districts did not participate at all.
- Districts in the tri-valley area and high performing districts perceive the ACOE provides very little benefit to their districts and students.
- Monthly meetings of superintendents are beneficial but only when controlled by the superintendents themselves, not the ACOE. The one ACOE administrator who assists in scheduling is helpful.
- Monthly meetings of chief business officials and other assistant superintendents are beneficial. Input regarding business services was requested this year. Sometimes, input regarding professional programming is requested.
- While some superintendents believe that the superintendent of the ACOE is approachable and welcomes informal input regarding program suggestions, some do not and requests are not acted upon.
- ACOE focuses on providing programming to districts that are physically close to its office.
- ACOE is mainly concerned with providing programming to districts that have diverse student populations and/or lower socio-economic means.
- Emails regarding legislative updates and educational updates are helpful.
- Support with grant writing, technology, labor negotiations, and fiscal matters are helpful when offered.
- Community Day Programs provide a much needed service for expelled students. However, capacity is insufficient to meet the county's needs.
- Most districts look to other county offices of education for templates and research on issues facing school districts.
- ACOE provides a benefit when it fulfills its statutory obligations, such as fiscal oversight.



## CONCLUSION

A budget reflects priorities. The county office receives both restricted and **un**restricted funds. For 2005-06, of the \$35,609,938 in anticipated revenues, \$12,850,872, or 36% was unrestricted. The priorities should benefit all of Alameda County's students, yet no one, other than the ACOE's Cabinet, participates in that discussion in any significant manner. The county office explains the process to the AC Board but the board does not substantively influence the budget; nor do the school districts, even though the county office exists to serve the public and the students of Alameda County.

In any environment where education dollars are scarce and Alameda County schools are lacking books, supplies, libraries, sports and enrichment programs, much less technology resources, education dollars flowing into the county office appear to fund a large bureaucracy that has created only pockets of real value.

This year's allocation was as follows:

<b>Divisions</b>	<b>Budget</b>
Superintendent/Board of Education	\$738,034
Student Program & Services	\$10,784,761
Professional & Educational Services	\$13,966,404
Human Resources	\$2,783,957
Business Services	\$7,721,905
Communications & Publications	\$719,563
Total Expenditures	\$36,714,624

Without more public review, more input from school districts, and more real participation from the elected representatives on the Alameda County Board of Education, there is no assurance that those dollars are being well spent. The county office has not evaluated itself nor has it sought outside critical and/or strategic evaluations. The lack of sufficient and/or tenured staffing to deal with fiscal oversight is but one area of public concern. The process of obtaining

additional input does not need to be done annually but periodically so that the “maintenance budget” approach currently used by the ACOE does not obscure the real and changing needs of the county. A strategic planning process has minimal financial costs but does require leadership and cooperation. As a result, a more public process and realignment of resources will insure that education dollars are not being wasted.

## **ALAMEDA COUNTY BOARD OF EDUCATION**

The Grand Jury acknowledges that the Board has made progress in conducting more professional meetings. Board agendas have improved in that they provide a better explanation of the items that the Board will discuss publicly. Nevertheless, the Grand Jury remains concerned about the following four areas:

First, some board members still lack the ability to place issues on the agenda. The recent addition of a log to document agenda requests from board members and the public, *and the responses to those requests*, will assist in addressing this issue. It is critical that a historical version of the log be maintained to allow for public review of the transparency of the Board’s operations.

Second, a formal process should also be implemented to allow for additions to the minutes to occur. Again, a process will allow all members equal influence over the substance of public records and eliminate the appearance of favoritism. Further, the minutes should accurately reflect the amount of time the Board spends in closed session. Currently the minutes are not accurate.

Third, the timing of the public portion of the Board’s meetings should be standardized and/or better publicized to allow the public certainty about when it can attend the meetings. A review of a year-long period showed that the meetings began at various times:

- two at approximately 5:00;
- two at approximately 5:30;
- eleven at approximately 6:30; and
- one at approximately 7:00

These fluctuations violate the Board's own bylaws requiring that regular meetings be held at 7:30 p.m. on the second and fourth Tuesdays of each month (BB 9230(a)2.B). Further, more effort should be made to update and advise the public as to changes in meeting times; for example, through the internet or the creation of a public information line, and therefore comply with the letter and spirit of the Brown Act.

Fourth, the Board sets the salary of the Superintendent and, according to her contract, the Board votes annually on an increase that it has granted every year. Surprisingly, there is no formal evaluation process of the superintendent. In order to ensure the public that performance standards are established and met, the Board should implement a process of annually reviewing the superintendent; and it should involve broad based input including that of the superintendents of all school districts in the county.

## **RECOMMENDATIONS**

### *Recommendation 06-6:*

The Alameda County Office of Education undertake a comprehensive, public, and strategic analysis of all programs provided and realign the budget appropriately to prioritize those programs providing the most effective benefit to Alameda County.

### *Recommendation 06-7:*

The Alameda County Office of Education implement a comprehensive plan to recruit and retain employees with fiscal oversight responsibilities, including conducting a classification study and comparative analysis to determine whether said employees should be compensated in a more competitive manner in the Bay Area.

### *Recommendation 06-8:*

The Alameda County Board of Education implement and maintain a process for agenda requests to be logged and tracked.

### *Recommendation 06-9:*

The Alameda County Board of Education post all current and past agendas (in addition to the minutes) on the website for easy public access.

### *Recommendation 06-10:*

The Alameda County Board of Education implement a process for Board members to add their own comments, in a timely manner, to the minutes relative to a significant debate which occurs during the meetings and ensure that the minutes accurately reflect the amount of time spent in closed session and recess.

### *Recommendation 06-11:*

The Alameda County Board of Education establish and publicize one set of standard public meeting times for Board meetings and better publicize any changes to meeting times.

### *Recommendation 06-12:*

The Alameda County Board of Education implement an annual criteria performance review process of the superintendent as part of the mechanism for approving his or her salary and any optional raises.

**RESPONSES REQUIRED**

*Alameda County Superintendent of Schools  
Recommendations 06-6 and 06-7*

*Alameda County Board of Education  
Recommendations 06-8 through 06-12*

## **LAW & JUSTICE COMMITTEE**

### **INTRODUCTION**

The Law & Justice Committee of the Alameda County Grand Jury investigates matters relating to law enforcement issues including citizen complaints, jail inspections, and review of law enforcement procedures.

Of the complaints received by the 2005-2006 Grand Jury, two were referred to the Law & Justice Committee for investigation. One complained that Oakland Police Department union officials received preferential treatment in the assignment of overtime, and the other alleged inadequacies in the City of Berkeley's Parking Enforcement Bureau. The Grand Jury investigated both of these complaints. Additionally, the Grand Jury inspected the Berkeley City Jail, the Fremont City Jail, and the Glen Dyer Detention Facility located in Oakland.

## **OAKLAND POLICE DEPARTMENT OVERTIME**

### **INTRODUCTION**

The Grand Jury received a complaint from the Oakland city auditor alleging that the Oakland Police Department's (OPD) overtime system was corrupt and that certain officers, principally members of the board of directors of the Oakland Police Officer's Association (OPOA), were improperly benefiting from this corrupt system. In investigating this complaint, the Grand Jury requested and obtained various documents from OPD including voluminous reports documenting overtime paid to the top 100 overtime earners for the last three years. The Grand Jury also obtained and examined documents describing OPD's policies and procedures regarding overtime, the Public Financial Management, Inc. (PFM) 2005 evaluation, and other documents that do not directly pertain to overtime but have an impact on the system, such as the Memorandum of Understanding (MOU) between the OPOA and OPD. The Grand Jury heard testimony from witnesses including the Chief of Police, OPD's senior human resources manager, and various command officers charged with maintaining and administering a number of aspects of OPD's overtime programs, including the president and other board members of the OPOA.

The Grand Jury did not investigate the issue of how OPD deploys its officers, but believes that issue does warrant closer examination by the Grand Jury. With the rapidly increasing rate of violent crime in Oakland, that investigation should examine the need for a review of the current beat system, look into the benefits of accreditation and determine whether additional officers are needed to provide adequate police services.

## **INVESTIGATION**

OPD has historically used large amounts of overtime. Its management practices have periodically become controversial, often due to massive expense overruns beyond the already substantial budgeted overtime. The Grand Jury did not examine questions regarding the amount of overtime used by OPD nor did it examine the effectiveness of using officers working overtime shifts to fill vacant patrol beats. Instead, the Grand Jury restricted its investigation to the corruption allegations put forward by the Oakland city auditor.

The Grand Jury's work in examining corruption in OPD's overtime system was severely restricted by an alarming lack of records documenting how overtime was assigned and used. OPD's antiquated management information systems could not generate overtime records for the period from July 2002 through June 2005. In many instances the Grand Jury learned that original documents used by officers to sign up for voluntary overtime shifts had either been destroyed or never collected. OPD document retention policies only require that the department retain the documents an officer submitted showing the overtime shift worked. Those documents should have been signed by both an immediate supervisor and a command officer and should have indicated the shift, hours and assignment the officer actually worked to earn the overtime. Until last year, many officers were able to submit an incomplete form and still receive credit for the overtime. As a result, the Grand Jury did obtain and analyze some records documenting voluntary overtime assignment, but they were too incomplete to provide much assistance. The Grand Jury understands that recent changes have imposed additional, necessary controls that should ensure these forms are adequately recorded.

OPD officers earn overtime by working beyond a standard 40-hour work week. Some overtime is required, for example, when officers are subpoenaed to testify in court outside of their normal work hours regarding arrests they made or investigations in which they participated. Some follow-up investigators, mostly



those investigating robberies and homicides, are also required to work overtime hours to complete their duties.

Through its investigation, the Grand Jury learned that the lack of communication between overtime coordinators could result in excessive overtime worked beyond policy. Department policies and procedures limit the amount of overtime an officer can work during a specific period of time. There are also policies and procedures that limit the amount of total time officers can work within specific periods. However, no coordination exists to ensure on a timely basis that officers are not working in violation of OPD's own policies. Working in excess of the established policy places the officers and the community at risk.

Traditionally, many overtime assignments have been assigned to volunteers on a first-come, first-served basis. Three categories of volunteer overtime assignments make up the vast majority of voluntary overtime worked: special events, patrol, and sideshows - the often violent street drag-race and speed exhibition displays. While the auditor's complaint was directed at the special events overtime system, the Grand Jury also examined the patrol and sideshow overtime. Each category is discussed in turn.

#### Special Events Overtime

OPD uses officers working overtime to provide police services at special events such as parades, marches and demonstrations; professional football, baseball and basketball games; and concerts, festivals and celebrations that draw large crowds. Under most circumstances, the event organizer reimburses Oakland for the cost of these overtime officers.

Insufficient administrative controls exist to prevent special events overtime from being manipulated to benefit certain officers over others. Until very recently, an OPD sergeant, also a member of the OPOA board of directors, managed special events with little administrative oversight. Anyone holding a

special event in Oakland is required to obtain a permit from OPD. This process mandated that the event organizer meet with the special events sergeant to discuss the logistics of the planned event. From this meeting the sergeant was responsible for designing a plan to provide police services for the event. This could be as simple as assigning a few motorcycle officers and patrol cars to provide traffic control along the route of a small protest march, or as complex as designing a more comprehensive staffing plan for a large outdoor festival at Lake Merritt where thousands of participants are expected. To meet the staffing needs for these events, the same sergeant was responsible for recruiting and assigning the officers to work the various events.

Documents and interviews revealed that the same group of officers often worked particular events. The Grand Jury heard testimony that event organizers frequently requested that the same officers be assigned to their events or that they were recruited because they had demonstrated a commitment and proficiency in working those events. Special events are often not fully staffed. Even what might be considered popular special event assignments like Raiders, A's and Warriors games frequently were not fully staffed due to a shortage of officers who volunteered for overtime.

While the Grand Jury did not uncover evidence of corruption, malfeasance or favoritism in special events overtime, a more comprehensive and objective assignment process would better prevent any manipulation by certain individual officers. OPD has instituted some changes. For example, in addition to posting a sign-up sheet on an office door in the police department, special events overtime availability is now posted in the department's daily bulletin that all officers receive. Officers can apply for special events overtime via e-mail, telephone or in person. These changes will allow a wider range of officers to volunteer for an overtime assignment because of greater accessibility; nevertheless, the lack of adequate controls in voluntary overtime could allow for manipulation.

### Patrol Overtime

While OPD has approximately 200 officers assigned to the patrol division, every day some beats are vacant. As many as 20% of the officers assigned to work patrol on a given day are absent due to attendance at a school, injury, illness, vacation or other reason. As a result, OPD traditionally has staffed the vacant beats by using officers who voluntarily work an overtime shift.

In April 2005, OPD began filling open patrol beats with officers working assigned mandatory overtime shifts. This system requires every officer in the department to work an overtime shift approximately once every three weeks. It applies to all officers, whatever their normal assignment. This change essentially eliminated the possibility that patrol overtime could be manipulated to the advantage of individual officers.

### Sideshow Overtime

OPD uses overtime to staff a special squad of officers who work usually Friday and Saturday nights to prevent and disperse the sideshows. In examining sideshow overtime, the Grand Jury found no evidence that individual officers had profited, or that any specially trained officers were systematically excluded from working these sideshow overtime shifts.

### Other Overtime

In addition to the three categories of overtime investigated, the Grand Jury also analyzed the overtime worked by members of the OPOA board of directors. Two members of the board, including the long-time president, worked an exceedingly high number of overtime hours giving the appearance of favoritism. However, the Grand Jury found no evidence of any misconduct or corruption in either the assignment or working of overtime shifts either by members of the OPOA board of directors or other OPD officers.

## **CONCLUSION**

While the Grand Jury found no evidence of misconduct, the lack of records retained by OPD to document how overtime shifts are assigned is alarming. OPD's management information systems need immediate upgrading. OPD's overtime policies and procedures need additional controls to prevent the appearance of favoritism in assigning overtime shifts. In particular, these controls must include retaining documents demonstrating how overtime is assigned to assure the system is not being manipulated.

- OPD has made improvements in the special events overtime assignment process. The Grand Jury believes that with proper adherence to these new policies, the appearance of favoritism will be reduced.
- With respect to patrol overtime assignments and the mandatory overtime system that OPD implemented, the Grand Jury found no evidence of corruption or favoritism.
- The Grand Jury's analysis of overtime records, departmental policies and witness testimony demonstrated no evidence of corruption or favoritism in sideshow overtime.

The Grand Jury urges future grand juries to continue monitoring these changes and improvements.

## **RECOMMENDATIONS**

### *Recommendation 06-13:*

The Oakland Police Department must upgrade its management information systems.

### *Recommendation 06-14:*

The Oakland Police Department must retain records documenting how voluntary overtime is assigned.

### *Recommendation 06-15:*

The Oakland Police Department must continue to oversee the newly implemented controls on assigning special events overtime.

### *Recommendation 06-16:*

The Oakland Police Department must assure compliance with existing policies and procedures regarding the management of overtime.

## **RESPONSES REQUIRED**

*Oakland City Administrator*  
*Recommendations 06-13 through 06-16*

*Mayor, City of Oakland*  
*Recommendations 06-13 through 06-16*

*Oakland City Council*  
*Recommendations 06-13 through 06-16*

*Chief of Police, Oakland Police Department*  
*Recommendations 06-13 through 06-16*

## **JAIL INSPECTIONS**

Penal Code section 919(b) states: “The grand jury shall inquire into the condition and management of the public prisons within the county.” The 2005-2006 Grand Jury inspected the Berkeley City Jail, the Fremont City Jail, and the Glen Dyer Detention Facility located in Oakland.

The Grand Jury’s primary focus in conducting scheduled jail inspections was to investigate the booking process of inmates. During its inspections, the Grand Jury reviewed policies and procedures on booking, medical screening, inmate visitation, the handling of juveniles, and reviewed local and state jail health inspection reports. The Grand Jury also investigated the overall treatment of inmates, including the food served, the condition of the jail cells, cleanliness of the facilities, and how jails book adult and juvenile arrestees. Each of the jails inspected were found to be in compliance with local and state laws. The Grand Jury found all three of these facilities to be in excellent condition and noted no violations.

Notably, both Berkeley and Fremont jails showed particular compassion with regard to the comfort of their inmates; for example, Berkeley City Jail washes inmate clothing upon admittance and has a practice of collecting used clothing to provide a change if necessary.

**RESPONSES REQUIRED:** None

## **CITY OF BERKELEY PARKING ENFORCEMENT**

### **INTRODUCTION**

The Grand Jury received a complaint regarding inadequacies in the City of Berkeley's Parking Enforcement Bureau, the procedures used to repair broken parking meters, the issuance of tickets, payment of fines, quotas, bureau record keeping, and citizen complaint resolution. The Grand Jury reviewed the California Vehicle Code, the Berkeley Municipal Code, and interviewed several city officials including the city manager, a captain and lieutenant in charge of the Berkeley Police Department traffic division, and representatives from the finance department and the office of transportation/public works. Additionally, the Grand Jury reviewed numerous documents including the procedures used in issuing citations, parking meter maintenance guides, meter maintenance reports, parking enforcement officer daily logs, and rules on how to contest a citation when a meter malfunctions.

### **INVESTIGATION**

The City of Berkeley implemented metered parking primarily for the purpose of regulating parking and allowing reasonable turnover of parking spaces, thus making parking available for its residents and visitors. Businesses also benefit as this provides a means to regulate space turnover for customers.

Three different city departments handle management of parking meters in Berkeley: the police department, responsible for enforcement; the finance department, responsible for tracking fines, citations, handling complaints and payments; and the department of public works, responsible for maintenance and repair.

The Berkeley Police Department has authorized 26 Parking Enforcement Officer (PEO) positions and 3 PEO supervisor positions. These are not sworn police officer positions. PEOs are responsible for enforcement of local ordinances and state laws governing parking of vehicles in the City of Berkeley. Although their primary function is parking enforcement, PEOs also arrange for towing of abandoned vehicles, issue citations for expired registration, report faded curb painting and vandalized traffic signs, and assist with traffic control in emergencies. The PEOs receive over one month of supervised training and are provided with additional training every 24 months. Although the Grand Jury found there are no quotas for ticket writing in the City of Berkeley, PEOs work activity is monitored by evaluating the number of citations written in comparison to norms for the same area.

The Berkeley Finance Department receives fines from the parking enforcement citations. Parking meter revenue, although a small portion of revenue for the city, is used to support city services. Most parking meter revenue is currently used to directly fund the parking enforcement operations of the Berkeley Police Department.

The Berkeley Department of Public Works is responsible for the repair and diagnostic testing of parking meters. PEOs are not responsible for the diagnostic testing or maintenance of meters and are not required to report malfunctions if an out of order sign is displayed on the meter; however, if a PEO finds an obviously damaged meter, or meters with graffiti, a repair request is submitted to the Department of Public Works. Meter testing is performed weekly when monies are collected from the meters. The testing is conducted by a hand-held computerized device. The repair information is summarized on a field activity report that provides the type of meter, identification, location, serial number, outage code, repair code, and amount of cash collected. From this field activity report, a list of chronological meter “outages” (malfunctioning meters) by maintenance route is generated and the meters are then repaired by meter mechanics.



If a meter is damaged or out of order, the metered space reverts to a time zone and a citation can be issued after the allotted time passes. The customer using a broken meter does not have unlimited parking. If a citizen places a bag over a broken meter, a PEO will remove the bag and the metered space is still timed and citations continue to be issued, regardless of the condition of the meter. All metered parking is enforced Monday through Saturday from 9:00 a.m. to 6:00 p.m. unless otherwise posted.

Not all meter failures cause an “out of order” flag to be displayed. Meters do not have a time or date recorder to provide exact information of when a malfunction occurs. The length of time a meter is inoperable can only be determined by the last scan that showed when the meter was functioning. Therefore, it is possible for a meter to be malfunctioning without a PEO knowing it. The PEO is not required to check each meter prior to issuing a citation. In such cases, the PEO might issue a citation at a faulty meter.

When a PEO or maintenance worker does find a malfunctioning meter, the failure is recorded and a repair is scheduled. The current repair rate is too long. It is possible for a meter to be out of service for up to two weeks before it is repaired or replaced. During this period of time, the public or the PEO has no sure way of knowing if the meter is faulty. Although the city does record the time and date that the meter was first discovered to be inoperable, this information is accessed only if the cited parker challenges the citation. It seems because there are three different departments involved in parking enforcement for the City of Berkeley, a better system of data transfer involving citations between departments should be created.

The process for citizen complaints is cumbersome. These complaints are handled by the Department of Finance. Complaints can be filed in person, by phone or by mail. Once a complaint is received, the Finance Department researches the complaint by submitting a request for information from the Department of Public Works, asking for verification if the meter in question was

inoperable on the date of the most recent testing. The validity of the complaint is determined by the date the meter was last functioning to the date of the most recent testing when the meter failed.

The City of Berkeley has approximately 2900 single space meters and 63 pay stations consisting of either multi-space meters or the new pay-and-display stations (ParkeEZ Stations). The City of Berkeley is in the process of replacing old single meters with multi-space meters in the Shattuck downtown area.

## **CONCLUSION**

The City of Berkeley takes too long to repair its broken parking meters; therefore, a) people may be cited improperly when they park at inoperable meters, and b) the city loses money by not collecting the maximum amount of fees from the parking meters. Additionally, these problems are magnified by the lack of ability to share information readily among the three city departments involved.

## **RECOMMENDATIONS**

### *Recommendation 06-17:*

The City of Berkeley must repair its parking meters in a more timely fashion.

### *Recommendation 06-18:*

The City of Berkeley must improve automatic sharing of data among all departments involved in the parking enforcement process.

## **RESPONSES REQUIRED**

*Berkeley City Manager*

*Recommendations 06-17 and 06-18*

*Mayor, City of Berkeley*

*Recommendations 06-17 and 06-18*

*Berkeley City Council*

*Recommendations 06-17 and 06-18*

## **GOVERNMENT COMMITTEE**

### **INTRODUCTION**

The Government Committee investigates complaints pertaining to city, county or local agencies and boards. During the 2005-2006 term, the Government Committee received 15 complaints. Eleven of the complaints did not fall within the Grand Jury's jurisdiction. The four remaining complaints dealt with the levels of service provided by cities or local agencies. These complaints included: 1) An allegation of inadequacies in the City of Oakland's contracting policies. The Grand Jury examined the city's policies and found them to be appropriate; 2) A complaint alleging AC Transit was running empty TransBay buses from Castro Valley to San Mateo at taxpayer expense. The Grand Jury investigated this complaint and found it to be unsubstantiated; and 3) An allegation that City of Oakland employees were abusing credit card privileges. After investigation, the Grand Jury found sufficient controls were in place to prevent credit card abuse. We report on the fourth complaint, emergency communications in Alameda County, in greater detail.

## **EMERGENCY COMMUNICATIONS**

Recent public reports regarding communication problems experienced by emergency responders in the wake of Hurricane Katrina have reminded us of problems experienced in Alameda County by local police, fire and paramedics while responding to the 1989 Loma Prieta Earthquake and the 1991 Oakland Hills Fire. At present, emergency responders from various Alameda County cities, the county Sheriff, and firefighters use radio systems that do not allow responders from different jurisdictions to communicate with each other. This communication gap was recently highlighted by the 9-11 Commission's report on our national lack of preparedness.

The Grand Jury heard from the Alameda County Sheriff's Office, the Alameda County Fire Department, the Oakland Fire Department, and various other county officials concerning a proposal for a multi-county radio communication system that will allow all jurisdictions in Alameda and Contra Costa Counties to communicate with each other when responding to major disasters or terrorists attacks. This proposal is being put forward by the Alameda County Sheriff, acting in his role as the lead law enforcement mutual aid coordinator for Region II in California. The proposal calls for the formation of a joint powers authority made up of representatives from Alameda and Contra Costa Counties and all cities within those two counties. Other emergency responders who would also participate include university police and fire departments, as well as park and transit district emergency responders.

As suggested by the Sheriff, this proposal contemplated the purchase of foundational radio equipment by the Alameda County Sheriff's Office. Each jurisdiction would contribute funds based on their size. The joint powers authority would be governed by a board of directors made up of representatives from both counties and a rotating number of other jurisdictions. Each jurisdiction would be required to purchase radio equipment compatible with the

Sheriff's foundational equipment and with each other. For some jurisdictions, this means the purchase of an entirely new communications system. For others, current radio systems could be upgraded. In order to succeed, this plan requires the political and financial commitment of each jurisdiction involved.

Currently, this promising proposal has been sidetracked. While acknowledging the need for such a communication system, some jurisdictions' budget woes and other jurisdictions' lack of interest have conspired to leave this project on the drawing board.

The Grand Jury recommends that next year's Grand Jury closely examine this issue and investigate all Alameda County jurisdictions' political and financial commitment to this desperately needed system.

**RESPONSES REQUIRED:** None