



2006-2007 ALAMEDA COUNTY CIVIL GRAND JURY FINAL REPORT

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ALAMEDA COUNTY GRAND JURY

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Alameda County
Grand Jury

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June 26, 2007

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

Dear Judge Hernandez:

On behalf of the Grand Jury, we are honored to have served the county during the 2006-2007 term. I would like to express, on our collective behalf, that we appreciated the time numerous county employees spent to provide tours of facilities and to provide valuable information regarding numerous areas of interest to the Grand Jury. While we cannot identify these individuals by name, as a county, we should be proud that we employ many competent and committed professionals.

Over the course of our term, the Grand Jury received 41 complaints. Many did not fall within our jurisdiction. The remainder were assigned to one of the four standing committees: Law & Justice, Government, Education and Health. In addition to formal complaints, the Grand Jury investigated issues it believed to be of public concern. A subset of the investigations upon which the Grand Jury reported is outlined below:

- ❖ The Education Committee focused its attention on the transition of youths from Juvenile Hall to their home school districts. Anecdotal evidence suggested that unreasonable delays existed. The Grand Jury's investigation prompted many institutions to analyze current practices. Moving forward, the goal is to improve collaboration and develop a protocol to assist these youths with a seamless transition back into their home school districts. Many related issues exist which may be of continuing interest to future grand juries.
- ❖ Not surprisingly, the fiscal health of the Alameda County Medical Center (ACMC) continues to be of concern. The Health Committee worked diligently to monitor ACMC's actions in managing its finances while not compromising its mission to provide health services for many in our county.

Hon. George C. Hernandez, Jr.

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June 26, 2007

- ❖ The Law & Justice Committee fulfilled its legal mandate to inspect jail facilities and reports that it did not find any inadequacies. Further, due to the rise in crime in Oakland, the Grand Jury interviewed the Chief of Police. Unfortunately, labor negotiations over many aspects of the police officers' contract continue. These negotiations will directly impact law enforcement services to the city. Further monitoring will be necessary.
- ❖ Finally, among the Government Committee's investigations, recent progress has been made on creating a Joint Powers Authority with Contra Costa County to create radio communications interoperability. Simply said, both counties are working to implement the same radio system so that all jurisdictions within these counties can communicate with each other. To create an effective system, numerous jurisdictions will have to work cooperatively together. It will benefit the public for the Grand Jury to continue to track the progress of this effort, especially given the cost of the system.

As described above, the issues on which the 2006-2007 Grand Jury focused are long-term and complicated. Consequently, they will require further work from future grand juries. The Grand Jury also participated in the Logic & Accuracy Board which oversaw the election last November 2006. Sample machines were tested prior to the election and the Board convened the night of the election to monitor the collection and the initial counting of ballots. The Registrar of Voters office worked very hard. The Board did not observe any irregularities.

I'd like to take this opportunity to thank the individual members of the Grand Jury for their hard work, diligence and commitment. Further, a personal and collective word of thanks to Cassie Barner, the Grand Jury's Legal Staff Assistant, and Assistant District Attorney Jeff Stark, the Legal Counsel for the Grand Jury. Without the dedicated, patient, and tireless work of these individuals, the Alameda County Grand Jury would not be an effective body in our county. We are indebted to them.

Thank you again for the opportunity to serve.

Sincerely,


YVONNE GONZALEZ ROGERS, Foreperson
2006-2007 Alameda County Grand Jury

2006-2007 ALAMEDA COUNTY CIVIL GRAND JURY MEMBERS

NAME	SUPERVISORIAL DISTRICT/CITY	NOMINATING JUDGE
Daniel Apodaca*	District 2 – Newark	Judge Frank Roesch
Ronald S. Barkin^	District 5 – Berkeley	Judge Frank Roesch
Audie Bock	District 4 – Fairview	Judge George C. Hernandez, Jr.
Robert N. Creveling*^	District 1 – Fremont	Judge Barbara Miller
Ceda Floyd	District 4 – Oakland	Judge George C. Hernandez, Jr.
Felix Galaviz, Jr.	District 2 – Hayward	Judge Carlos Ynostroza
Robert D. Graham	District 5 – Oakland	Judge Carl Morris
Karen Hoefs	District 3 – Piedmont	Judge George C. Hernandez, Jr.
Mark A. Kovarik*	District 3 – San Lorenzo	Judge Barbara Miller
Minh Le	District 5 – Albany	Judge Barbara Miller
Martha Ramírez Luehrmann	District 5 – Berkeley	Judge Barbara Miller
Richard D. McKay	District 1 – Fremont	Judge Barbara Miller
George D. Oliva^	District 1 – Pleasanton	Judge George C. Hernandez, Jr.
Patrick K. Preminger	District 3 – Alameda	Judge George C. Hernandez, Jr.
Lloyd L. Rash	District 4 – Castro Valley	Judge George C. Hernandez, Jr.
Ron R. Riggs	District 1 – Livermore	Judge George C. Hernandez, Jr.
Rosemary E. Rogers*	District 3 – Oakland	Judge Joan Cartwright
Yvonne Gonzalez Rogers*	District 5 – Piedmont	Judge Carlos Ynostroza
Nacito R. Sanchez, Sr.	District 3 - Alameda	Judge George C. Hernandez, Jr.
Ken Schirado^	District 4 – Oakland	Judge George C. Hernandez, Jr.
Jack Summerfield*	District 5 – Piedmont	Judge Henry E. Needham, Jr.
Barnarese Wheatley	District 5 – Piedmont	Judge Gordon Baranco

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

^ Juror Robert N. Creveling resigned on July 13, 2006, and was replaced by juror Ronald S. Barkin.

^ Juror Ken Schirado resigned on August 16, 2006, and was replaced by juror Ron R. Riggs.

^ Juror Ronald S. Barkin resigned August 21, 2006, and was replaced by juror Patrick K. Preminger.

^ Juror George D. Oliva resigned on March 9, 2007.

**2006-2007 ALAMEDA COUNTY CIVIL GRAND JURY
OFFICERS & LEGAL STAFF**

FOREPERSON: Yvonne Gonzalez Rogers

FOREPERSON PRO TEM: Daniel Apodaca

SECRETARY: Lloyd L. Rash

SECRETARY PRO TEM: Martha Ramirez Luehrmann

SERGEANT AT ARMS: Jack Summerfield



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

LEGAL STAFF ASSISTANT: Cassie Barner



2006-2007 ALAMEDA COUNTY CIVIL GRAND JURY

Standing, left to right:

Mark A. Kovarik, Felix Galaviz Jr., Ceda Floyd, Karen Hoefs, Patrick K. Preminger, Lloyd L. Rash (*Secretary*), Richard D. McKay, Yvonne Gonzalez Rogers (*Foreperson*), Daniel Apodaca (*Foreperson Pro Tem*), Robert D. Graham, Minh Le, Ron R. Riggs, Martha Ramírez Luehrmann (*Secretary Pro Tem*), Nacito R. Sanchez Sr., Jack Summerfield (*Sergeant at Arms*)

Seated, left to right:

Barnarese Wheatley, Honorable George C. Hernandez, Jr. (*Presiding Judge*), Rosemary E. Rogers

Not Pictured:

Audie Bock, George D. Oliva

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



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



**2006-2007 ALAMEDA COUNTY CIVIL GRAND JURY
COMMITTEE ROSTER**

LAW & JUSTICE

Ceda Floyd, *Chair*
Audie Bock
Robert D. Graham
Mark A. Kovarik
Minh Le
Martha R. Luehrmann
Richard D. McKay
George D. Oliva
Lloyd L. Rash
Rosemary E. Rogers
Nacito R. Sanchez, Sr.

GOVERNMENT

Barnarese Wheatley, *Chair*
Audie Bock
Ceda Floyd
Felix Galaviz, Jr.
Robert D. Graham
Minh Le
Martha R. Luehrmann
Richard D. McKay
George D. Oliva
Lloyd L. Rash
Jack Summerfield

HEALTH

Mark A. Kovarik, *Chair*
Daniel Apodaca
Robert D. Graham
Karen Hoefs
Martha R. Luehrmann
Patrick K. Preminger
Lloyd L. Rash
Ron R. Riggs
Jack Summerfield

EDUCATION

Felix Galaviz, Jr., *Chair*
Daniel Apodaca
Robert D. Graham
Karen Hoefs
Patrick K. Preminger
Lloyd L. Rash
Ron R. Riggs
Rosemary E. Rogers
Nacito R. Sanchez, Sr.
Barnarese Wheatley

HISTORY OF THE GRAND JURY

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

FUNCTIONS

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

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

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

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

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

SELECTION PROCESS

Superior court judges in Alameda County nominate individuals for grand jury service. It is not necessary, however, to know a judge personally in order to apply. Citizens who are interested, qualified, able to provide one year of service, and who desire to be nominated for grand jury duty may send a letter with their resume and request an application questionnaire from: Office of the Jury Commissioner, Grand Jury Selection, 1225 Fallon Street, Room, 100, Oakland, California 94612. On the basis of supervisorial district, six members from each district for a total of 30 nominees are assigned for grand jury selection. After the list of 30 nominees is completed, the selection of 19 jurors who will actually be empaneled 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 and follow the link to “jury” then “grand jury.”

QUALIFICATION OF JURORS

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

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

COMMITMENT

Persons selected for grand jury service must make a commitment to serve a minimum of one year (July 1 through June 30). Grand jurors should be prepared, on average, to devote two full days each week to grand jury business. Grand Jurors will be required to complete and file Statement of Economic Interests as defined by the state's Fair Political Practices Commission, as well as a Conflict of Interest form.

REMUNERATION

Grand Jurors are paid \$15.00 per day for each day served, as well as a county mileage rate (currently 48.5 cents per mile), portal to portal, for personal vehicle usage. Reserved parking is provided at a reduced rate.

ORIENTATION AND TRAINING

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

HOW TO SUBMIT A COMPLAINT

In order to maintain the confidentiality of complaints and investigations, the Alameda County Grand Jury only accepts complaints from citizens in writing. Complaints should include the name of the person or agency in question, listing specific dates, incidents or violations. The names of any persons or agencies contacted should be included along with any documentation or responses received. It is preferred that the complainant's name and address also be included should the grand jury wish to contact the complaining party for further information. A complaint form is available on the grand jury's web site at:

www.acgov.org/grandjury.

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

TRANSITION OF YOUTHS FROM JUVENILE HALL TO HOME SCHOOL DISTRICTS

INTRODUCTION

In the 2006-2007 term, the Grand Jury examined the protocols, practices, and procedures that affect the transition of youth leaving Juvenile Hall for short-term detention (3-15 days) and returning to an educational institution in Alameda County. The Grand Jury explored the effectiveness of communication and collaboration among the Alameda County Office of Education (ACOE), county school districts, and the juvenile probation department. To fully understand the interrelationships and responsibilities of these agencies, the Grand Jury interviewed officials and employees from school districts, from the Alameda County Office of Education, the Probation Department, and the Alameda County Department of Social Services. These interviews were augmented by written responses to Grand Jury requests for information related to the transition of youth from Juvenile Hall to public schools. Members of the Grand Jury attended ACOE board and committee meetings and multi-agency taskforce meetings. Grand Jurors also visited both the old and new Juvenile Hall facilities.

BACKGROUND

School-age youth who are detained in Juvenile Hall for two or three days are typically released to their parents with the expectation that they will return to their home school. Juveniles who are sent to Camp Wilmont Sweeney for a prolonged stay benefit from coordinated services during their detention so that they can be placed in an appropriate educational setting upon their release. It is the short-term detainee (3-15 days) who is most likely to experience school enrollment delays and obstacles, and it is this subset of youngsters that is the focus of this investigation.

At the time of the juvenile's intake, Probation Department staff determines the youngster's previous school so that school records can be requested. ACOE does an educational assessment so that teachers can meet the educational needs while the youth attends classes in Juvenile Hall. The acquisition of school records (transcripts, Individualized Education Plans, etc.) is often hampered by incomplete or incorrect information provided by the minors. Because many of the youth detained in Juvenile Hall have histories of poor school attendance, it is often the case that schools have dropped the child from the attendance rolls and current educational information is not available from the previous school. It is also the case that school districts frequently do not act upon the requests in time for the Probation Department to receive the information before the student is released to his parent.

Once a student has been released from Juvenile Hall to attend his/her district school, the Probation Department notifies ACOE, which sends a form letter to the parent at the address of record and a copy to the home school district. The letter states the statutory requirement that the parent enroll the child in a school, and that the child must attend school. An e-mail address and a telephone number are provided in the letter so parents may request assistance from ACOE. The letter is sent within seven days after the youth's release. According to one ACOE official, approximately 40 percent of the letters are returned by the Postal Service as undeliverable. There is no intervention or facilitation provided by ACOE, who claims that its mandate does not include facilitating school enrollment except into school programs operated by ACOE itself. Notably, even when a student is transferred from an ACOE classroom in Juvenile Hall to another ACOE program in the community, he may experience a delay of a week or more before he is in attendance in a school. In the interim, the children may be in violation of the provisions of probation because they are not in school through no fault of their own.

The fundamental issue is that no county agency has the legal responsibility to transition juvenile releases. Parents have the legal responsibility to ensure school

enrollment and attendance. School districts have the legal responsibility to provide a free and appropriate public education to school age youth who reside within the district. The ACOE has the legal responsibility to provide educational services for children in detention at Juvenile Hall. The Probation Department has the legal responsibility to monitor compliance with court-ordered probation, including school attendance and performance.

In fiscal year 2005-2006, 2,237 juveniles were released from Juvenile Hall. Some of the juveniles were released multiple times, as the total number of releases was 3,382. Over 50 percent of these juveniles were listed as either Oakland or Hayward residents. Probation does not currently keep easily accessible statistics on the number of days between release and re-enrollment.

School district officials, probation officers, and ACOE staff all acknowledge the absence of a unified, coordinated information exchange process. This absence may inhibit a timely transition from Juvenile Hall to a home district. Some school districts have been reluctant to share information with the probation department, citing concerns about privacy and confidentiality. Too, those young people in the juvenile justice system may have histories of sporadic school enrollment or school attendance in many schools during the course of a year. Many have no fixed address, and are difficult to contact simply because of their mobility. School records are often lacking in meaningful assessments because of absences, and students who have been dropped from the rolls have records that are incomplete or that are difficult to locate. All of these factors combine to make providing services difficult in the best of circumstances. In short, there are no countywide guidelines to assist a parent and no unified procedure to facilitate re-enrollment in school once a youngster is released from custody.

Although school enrollment is the legal responsibility of the parents, probation officers who supervise juveniles during the transition from detention to public school enrollment report that parents need assistance. The parents are frequently unfamiliar with the workings of the school enrollment process, are not

fully aware of their rights and responsibilities, and are unskilled in negotiating school district bureaucracies. Clearly, a need exists for these families to have access to an effective and accessible facilitator who can expedite enrollment for at-risk children who are released from juvenile detention. It is insufficient simply to send a letter citing the legal mandates of parents.

The process of ensuring the transition for pupils entering and leaving the public school system should include consistent policies and protocols among the school districts in Alameda County, including ACOE. Both the Welfare and Institutions Code (§827) that governs the operations of the Probation Department and the California Education Code (§§49073-49079) which governs school operations permit information exchange between the Juvenile Probation Department and the school districts within Alameda County.

Given that the new Juvenile Justice Center will house not only Juvenile Hall and its in-house school, but also all juvenile courts and offices for probation, Alameda County has an opportunity to implement a process which will facilitate better communication, and therefore, better transitions for students. It may require additional or shared personnel among Probation, ACOE and the school districts. As the umbrella educational institution in Alameda County, ACOE may be best positioned to lead this effort as it has ongoing relationships with all school districts in Alameda County, contact with each juvenile's home school district and receives state funds designed to benefit students in Alameda County.

The Grand Jury has learned that this issue has existed for many years and involves many different agencies. It involves the justice system (courts, probation and law enforcement), education (ACOE, multiple school districts), social services, and the greater community. Thus far, no one has had the ability or taken the opportunity to champion the cause and bring all of these parties to the table with a comprehensive plan to solve the issue. Some initial discussions have occurred. A subcommittee of the board of ACOE convened in February of 2007 to discuss student achievement, including this as a priority issue. Probation,

ACOE, the Presiding Judge for Juvenile Courts, and some school districts also met to discuss the issue. Notably, neither the Oakland Unified School District (OUSD) nor the Hayward Unified School District (HUSD) attended. Thus far, only the issue has been identified. No protocols have been developed.

The Grand Jury anticipates that any solution will require the active participation of Probation, ACOE, and the school districts, especially OUSD and HUSD whose districts account for over half of the juvenile releases. This will allow coordination and allocation of resources and take advantage of the fact that juveniles are released to guardians at Juvenile Hall. At the time of release, communication can and should occur to address the educational transition of the student. This group should investigate whether there is a culture of rejection at school sites that is hampering the re-enrollment of students. Finally, the solution must recognize that while it is the legal responsibility of the parent to re-enroll a juvenile, it is precisely this set of parents who need assistance. We cannot, and should not, ignore this reality. Although OUSD is under state administration, it is in the best interest of the citizens of Alameda County that OUSD fully participate in the solution.

RECOMMENDATIONS

RECOMMENDATION 07-01:

Create, implement and allocate resources for a county-wide protocol which will ensure the smooth and immediate transition of juvenile releases from Juvenile Hall to their home school districts.

RECOMMENDATION 07-02:

The Hayward Unified School District participate in the development of a county-wide protocol which will ensure the smooth and immediate transition of juvenile releases from Juvenile Hall to their home school districts.

RECOMMENDATION 07-03:

The Probation Department collect and maintain data tracking the dates of release and reenrollment of juveniles from Juvenile Hall to home school districts.

RESPONSES REQUIRED

Alameda County Office of Education

Recommendation 07-01

Hayward Unified School District

Recommendation 07-02

Alameda County Chief Probation Officer

Recommendation 07-01 & 07-03

ALAMEDA COUNTY MEDICAL CENTER

During the 2006-2007 term, the Grand Jury monitored the current status of the Alameda County Medical Center (ACMC/Medical Center) for fiscal performance and improvement.

BACKGROUND

The Medical Center has served the healthcare needs of Alameda County since 1864. In the 1920's, the Alameda County Board of Supervisors recognized the need for an acute care hospital for the growing number of indigent patients in the Oakland vicinity; and the Highland Hospital campus opened its doors in 1927.

ACMC is comprised of six campuses located throughout the county: a trauma center (Highland), a rehabilitation center (Fairmont), a psychiatric hospital (John George) and three community clinics (Eastmont, Winton and Newark).

Under California law (Welfare and Institutions Code section 17000) counties are the "providers of last resort" for health services to low-income uninsured people with no other sources of care. ACMC provides medical services for residents of the county who meet these criteria. While some may qualify for coverage under Federal (Medicare) or State (Medi-Cal) programs, others fall into this County Medical Services Program (CMSP) for the uninsured (indigent).

The Medical Center has been operated by an independent authority since 1998. Until that time, the county operated ACMC as a unit of its Health Care Services Agency. Control was transferred to an independent authority because the Medical Center had been in financial difficulty for years. In 1995, the Grand Jury recommended that an independent authority replace the Board of Supervisors as the governing body.

Beginning in 2001, however, the Medical Center began to accumulate large annual deficits. APMC addressed the deficit by borrowing money from the county treasury. The Medical Center is authorized to borrow from the county treasury to cover cash flow fluctuations because its major payers, Medicare and Medi-Cal, do not pay on a regularly scheduled basis. By 2004, the balance of this account had grown to \$192 million. In August 2004, the Board of Supervisors capped the Medical Center's ability to borrow at \$200 million and insisted that it adopt a repayment plan. To enforce the repayment schedule, the Board of Supervisors periodically lowers the cap on the Medical Center's account with the county treasury. This plan requires the Medical Center to pay the balance down to \$30 million by the year 2015. To provide some financial relief, in 2004, the voters of Alameda County passed Measure A. Measure A (*Essential Health Care Services Tax Initiative*) increases the sales tax ½ percent in Alameda County, earmarking 75 percent of the funds raised for APMC. Measure A expires in 2019.

In late 2003, the Board of Trustees, responding to APMC's financial crisis, hired Cambio Health Care Solutions to develop a plan to achieve fiscal stability. In early 2004, the Board of Trustees discharged the existing management team. For the remainder of 2004 and most of 2005, the Cambio consulting firm operated the Medical Center. The consultants recommended that the Medical Center adopt a number of changes designed to bring the Medical Center into compliance with industry standards. After a national search, the Board of Trustees hired the new chief executive officer and a new senior management team was fully in place by early 2006. The new management team inherited a balanced budget, the County's plan for repayment of the loan, and tense labor relations. The Medical Center ended the 2005-2006 fiscal year with a deficit of \$7.8 million.

Given the history of short term, interim, and new management, deficit spending, over reliance on the county's operating account, and the necessity to renegotiate short term labor contract issues, the current Grand Jury continued to monitor the fiscal performance of APMC.

MONITORING

In order to monitor the financial performance of APMC, members of the Grand Jury regularly attended APMC Board of Trustee meetings, meetings of the board's finance committee, toured several of APMC's campuses including Fairmont and Highland Hospitals, heard presentations from the director of the Alameda County Health Services Agency, the Alameda County auditor-controller, and the Alameda County chief administrative officer. The Grand Jury also met several times with the APMC chief executive officer, chief financial officer and chief medical officer and reviewed with them APMC's fiscal progress and the process by which APMC receives payment from its three largest payers – Medi-Cal, Medicare and Alameda County's CMSP program. The Grand Jury also examined APMC's accounting systems, billing practices and clinic operations.

As APMC began planning its 2006-2007 budget, APMC needed to close a \$21 million budget gap. To do this, APMC management, in early 2006, began a bottom-up review process of APMC. This effort, called the "margin audit process," involved all APMC managers and reviewed every APMC department with the goal of increasing revenues and decreasing costs. Ultimately this process developed first-round savings and revenue increases of \$23 million. It involved developing some new programs, for example opening an infusion center that provided badly needed services for APMC's patient population and generated additional revenue of over \$1 million. The process also resulted in the reduction of more than 100 APMC full-time positions.

APMC did not meet its budget goals in the first several months of the 2006-2007 year as layoffs took longer than expected and new revenue streams lagged. However since October 2006, APMC has met its budget targets and appears poised to meet its budget this year. Through the third quarter, ending March 31, 2007, APMC posted a loss of approximately \$1.9 million, \$500,000 ahead of their budgeted third quarter target of a loss of \$2.4 million. If this positive trend

continues, APMC expects to finish the year with a small surplus, an improvement over last year's deficit of \$7.8 million.

Internally, current management has improved working relations throughout the Medical Center. A culture that emphasizes working together to meet group challenges has replaced a "me-first" culture referenced by prior grand juries. Relations between the Board of Trustees and the top managers, a problem area in the past, have greatly improved. The committee also observed that relations between top management and the APMC employee unions have improved significantly. Externally, relations between APMC and Alameda County have also improved.

Credit for many of these accomplishments should be given to the APMC chief executive officer who appears to have assembled a competent team of top managers and has provided desperately needed leadership.

While this past year's monitoring contains many positives, APMC faces many challenges moving forward. California earthquake safety standards require APMC to replace the acute care tower at its Highland Hospital by a projected date of 2013. The current cost is estimated at almost \$550 million. APMC continues to face increasing costs and decreasing reimbursements from its major payers. In addition, it has agreed to repay the county treasury \$15 million for each of the next two years and thereafter \$20 million per year until the year 2015. Having made the first-round cuts and found quick revenue enhancements in last year's margin-audit process, difficult challenges in maintaining services and balancing its budget lie ahead. Therefore, this Grand Jury recommends that future Grand Juries continue to monitor the fiscal performance of the Alameda County Medical Center.

RESPONSES REQUIRED: *None*

INTRODUCTION

The Law & Justice Committee of the Grand Jury is primarily responsible for investigating matters pertaining to law enforcement including police, juvenile justice, public protection, and probation issues. The committee is also responsible for inspecting jails and court holding facilities within Alameda County as required by California Penal Code section 919(b).

This year, the Grand Jury inspected ten jail and court holding facilities throughout Alameda County. Members toured the Alameda County Coroner's Bureau. A report of that tour follows. The Grand Jury also toured the Oakland Police Department's dispatch center. The tour of the dispatch center provided valuable insight into the many challenges of policing within the City of Oakland. During this term, the Grand Jury investigated the ease and accessibility for citizens to file complaints on-line with local police departments.

The Grand Jury inquired into the current state of the Oakland Police Department in light of the rising crime rate and in order to determine the status of the recent labor negotiations. The Grand Jury met with the Chief of Police and the President of the Oakland Police Officer's Association, which is the bargaining agent for sworn personnel. Due to on-going contract negotiations, the current Grand Jury will not report on this topic, but encourages future grand juries to remain vigilant in further monitoring the Oakland Police Department's response to crime.

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 2006-2007 Grand Jury inspected ten jail facilities.

In determining which jails to inspect, the Grand Jury reviewed jail inspection reports for Alameda County for the past ten years. The Grand Jury chose facilities that had not been recently inspected or ones that had previous reports of deficiencies. The Grand Jury inspected jails of the following police departments: Alameda, Albany, Hayward, Livermore, Pleasanton, and the Alameda County Sheriff’s Office (Eden Township) patrol substation. The Grand Jury also inspected the Alameda, Fremont, Hayward and Pleasanton court holding facilities.

The Grand Jury reviewed staffing levels, cleanliness of each facility, adherence to department policy, medical treatment of prisoners, and booking procedures. The Grand Jury also reviewed reports from the California Board of Corrections (BOC) and the Alameda County Department of Public Health (DPH). The BOC conducts biennial inspections of all jails in Alameda County and requires a corrective response to be filed by each agency whenever a deficiency is found. The Grand Jury reviewed all BOC reports and agency responses and was satisfied that any noted deficiencies were corrected. The DPH similarly conducts yearly inspections of all jails and also requires the jails to address any county health inspection deficiencies. The Grand Jury identified no major problems in this area.

The Grand Jury found no reportable deficiencies in any of the facilities inspected. The Grand Jury thanks the staff at the various facilities for their assistance and cooperation during the inspections.

ALAMEDA COUNTY CORONER'S BUREAU

Previous grand juries have recorded in detail the inadequate conditions of the Alameda County Coroner's Bureau. These prior findings can be found in the Grand Jury Final Reports for the years 2001, 2003, and 2004. The current Grand Jury toured the facility to see what, if any, changes had been made. The Grand Jury found improvements, although the facility (which is 84 years old) remains outdated and is in need of replacement and relocation.

The Grand Jury found that the Alameda County Sheriff, who is in charge of managing the facility, implemented cosmetic improvements to better the working conditions at the Coroner's Bureau and to make the facility more tolerable for its employees. Some of the improvements include new paint, new desks and conference room chairs, new locker room with heat, and a new break/lunch room. However, the facility still has structural deficiencies including its size, poor ventilation, very limited work-space for employees, no air conditioning, poor heating system, and a lack of adequate body storage space. Given the age of the building and the desire to create a state-of-the-art facility, the goal is to replace, rather than improve, the building.

The Sheriff has a long-term plan to replace the facility with a new complex to be located at 150th Avenue in San Leandro which will include the county's crime lab, coroner's office, and the sheriff's patrol and dispatch centers. The challenge in building this new facility is funding. The Sheriff has met with the County Board of Supervisors to promote the building of a new facility and has suggested multiple funding options. However, competing priorities still exist within Alameda County for limited funding.

In the near future, increasing workload and continuing facility deterioration will reach a crisis threshold. Replacement of the facility will become unavoidable.

POLICE DEPARTMENT INTERNET ACCESSIBILITY FOR CITIZEN COMPLAINTS

In 2006 the Grand Jury reviewed and surveyed all 14 municipal law enforcement agencies in Alameda County to determine if they had easily accessible citizen complaint procedures and complaint forms available on the Internet. The results of that investigation revealed that the majority of police departments did have some information regarding the citizen complaint process readily available. Although only three agencies had actual complaint forms available online, some of the police departments moved quickly to improve their web sites once this issue was brought to their attention. Further, the Grand Jury determined that most web sites were not user friendly. The better sites lead citizens directly to the information they seek.

The Grand Jury encourages all police departments in Alameda County to make on line and easily accessible its complaint procedures and forms for citizens. The Grand Jury commends the Oakland Police Department for its easily accessible Web site that can serve as a model for other police agencies in Alameda County.

The results of the Grand Jury's investigation follow this report.

Police Department Web Site Links:

Alameda PD: www.ci.alameda.ca.us/police/
Albany PD: www.albanyca.org/dept/police.html
Berkeley PD: www.ci.berkeley.ca.us/police/
Emeryville PD: www.ci.emeryville.ca.us/police/index.html
Fremont PD: www.fremontpolice.org/
Hayward PD: www.ci.hayward.ca.us/departments/police/dpolice.shtm
Livermore PD: www.livermorepolice.org/
Newark PD: www.newark.org/departments/police.html
Oakland PD: www.oaklandpolice.com/
Piedmont PD: www.ci.piedmont.ca.us/html/police/police.htm
Pleasanton PD: www.ci.pleasanton.ca.us/services/police/
San Leandro PD: www.ci.san-leandro.ca.us/pdhome.html
Union City PD: www.ci.union-city.ca.us/police/ucpd.htm
Sheriff's Office: www.alamedacountysheriff.org/ (includes Dublin Police Department)

GRAND JURY INVESTIGATION RESULTS

Police Department	Is the complaint procedure explained online?	Is there printed information available for citizens who do not have Internet access?	Is a citizen complaint form available online?	Comments
ALAMEDA	Yes	Yes	No	Surveys are mailed to citizens who have police contact, but there is no direct link on the Web site.
ALBANY	No	Yes	No	Site will be updated soon.
BERKELEY	Yes	Yes	No – but email links are available.	Not user friendly.
DUBLIN	Yes	Yes	No	Police services are contracted through the Alameda County Sheriff's Office
EMERYVILLE	No	Yes	No	No link available on Web site.
FREMONT	Yes	Yes	No – but email links are available.	Not user friendly. Must navigate through internal affairs link.
HAYWARD	No	Yes	No – but email links are available.	Not user friendly.
LIVERMORE	Yes	Yes	Yes	Updated with an easy link to the citizen complaint form.
NEWARK	No	Yes	No	No obvious link located on Web site.
OAKLAND	Yes	Yes	Yes	Complaint form available in multiple languages. Easy link available.
PIEDMONT	Yes	Yes	No	Not user friendly. Must navigate to the FAQ section.
PLEASANTON	Yes	Yes	Yes	Complaint form available in English & Spanish. Easy online links.
SAN LEANDRO	No	Yes	No	Not user friendly. No obvious link located on Web site.
UNION CITY	Yes	Yes	No – but email links are available.	Not user friendly.
ALAMEDA COUNTY SHERIFF'S OFFICE	Yes	Yes	No	Detailed instructions are online.

RESPONSES REQUIRED: *None*

INTRODUCTION

The role of the Government Committee is to investigate complaints from citizens regarding city and county governmental agencies. The 2006-2007 Grand Jury reports on two investigations: Alameda County Radio Communications Interoperability and the Berkeley Public Library's lack of policies and procedures for procurement.

The Grand Jury sought information about the potential move of the Athletics baseball team from the City of Oakland to the City of Fremont and the potential tax implications on the citizens of Alameda County. The Grand Jury interviewed leadership of the Oakland Coliseum Joint Powers Authority (city and county) and a top elected official from Fremont to learn what plans are in place to protect the citizens from unexpected costs associated with a move of the A's to that city. With respect to the current tax payer indebtedness of approximately \$20 million per year, the Grand Jury was assured that if the A's moved to Fremont the fiscal impact on the citizens of Alameda County would be revenue neutral due to the fact that the A's do not contribute to the repayment of this debt.

The Grand Jury learned that the City of Fremont had approved the hiring of a consultant who has assisted other cities with the development of sports stadiums. Because the A's have not submitted a plan to the City of Fremont, it is unknown what the future tax implications will be for the citizens. This Grand Jury suggests that future grand juries monitor this situation.

RADIO COMMUNICATIONS INTEROPERABILITY

Communication problems exposed during the 9/11 and Katrina disasters have made radio communications interoperability among public safety first-responders a high priority issue at all levels of government. The Federal government has adopted a suite of standards including procedures and specifications targeted at mission critical requirements of public safety known as Project 25 (P25). The Department of Homeland Security requires that states must have a statewide communications interoperability plan developed by the end of 2007 as a condition of the Homeland Security Grant Program. Further, the State of California has produced a twenty-year plan designed to achieve public safety communications throughout the state. Unfortunately, neither the Federal nor the State government is prepared to fund the infrastructure necessary to reach desired levels of interoperability; and significant costs are being imposed on local communities.

Locally, police, fire and government representatives from Alameda County and Contra Costa County are developing an East Bay Regional Communications System (EBRCS) designed to ensure adequate communications for joint operations in both counties. As part of this system, they have developed a joint powers agreement (JPA) establishing a governing authority with responsibility to implement, maintain and secure funding for the system. On May 1, 2007, both Alameda County and Contra Costa County adopted the JPA; and cities within both counties began the process of deciding whether to join the JPA.

Alameda County contracted with Motorola in October 2005 to “develop a conceptual design for a two-county P25 trunked radio system.” The design was delivered on May 12, 2006, and the Grand Jury received PowerPoint findings on the EBRCS together with copies of presentation slides. The plan itself was not presented or reviewed.

As of the writing of this report, the status of the EBRCS is as follows:

- Alameda and Contra Costa counties have adopted the JPA.
- Digital microwave network linking both counties and a master site controller has been approved using approximately \$12.5 million in grant funds.
- The National Public Safety Planning Advisory Committee has approved allocation of sufficient numbers of frequencies for EBRCS to operate.
- Preliminary design estimates total \$60 million, not including radios and/or dispatch consoles, of which \$47 million remains unfunded.
- Interoperability repeaters “Tac & Stack” have been purchased (nine sites in both counties, which augment Alameda County’s ten existing repeaters on 800MHz).
- Approximately \$8.8 million from additional grants has been received to support the EBRCS, including approximately \$3.0 million in 2006 Super Urban Area Security Initiative grant funds (SUASI), \$2.8 million from State Homeland Security Grant Program, and \$3.0 million from 2005 Urban Area Security Initiative (UASI) funds.

Current radio communications systems in Alameda County are:

VHF/UHF	800 MHz Trunked System – Motorola Based	800 MHz Trunked System – M/A-Com Based
Albany Hayward Berkeley Coast Guard Federal Bureau of Investigation California Highway Patrol California Department of Forestry Emeryville Police	Alameda County Fremont Alameda Union City Newark San Leandro Dublin Livermore/Pleasanton Univ. California Berkeley East Bay Municipal Utility District CalTrans Lawrence Livermore Lab	BART Oakland including: Piedmont Emeryville Fire Port of Oakland

As part of its investigation into Alameda County's participation in the proposed EBRCs, the Grand Jury reviewed written reports by the following:

- (1) The National Task Force on Interoperability: "Why Can't We talk?" (2003);
- (2) Motorola Corporation: "Communications Planning and Coordination for Emergencies" (2004);
- (3) Public Safety Radio Strategic Planning Committee Statewide Integrated Public Safety Communications Strategic Plan, Version 6 (January 1, 2007 draft);
- (4) Draft Joint Exercise of Powers Agreement for the East Bay Regional Communications System Authority (March 21, 2007);
- (5) CTA Communications: "East Bay Regional Communications Systems Final Draft Design Evaluation Report" (March 20, 2007);
and
- (6) A large collection of newspaper and other media reports.

In addition, the Grand Jury heard from and questioned technical experts and knowledgeable representatives from the JPA, UASI, SUASI, and the Alameda County Sheriff's Office, as well as one police chief, the Sheriff, and Fire Chief of Alameda County.

Contra Costa County hired an independent consultant, CTA Communications (CTA), to look for fatal flaws and to evaluate projected costs of the Motorola system from Contra Costa's point of view, but not to make comparisons with possible alternatives. The review was completed on March 20, 2007. No fatal flaws were found; however, CTA expressed some disagreement over costs. Perhaps, most significantly for Alameda County, CTA suggested as a cost saving measure for Contra Costa County, that perhaps the City of Richmond's radio system users could save money by purchasing M/A-Com subscriber equipment that is P25 compliant and therefore compatible with the EBRCs's proposed system. Further, Richmond might even upgrade its system in accordance with the InterSubSystem Interface (ISSI) recently introduced by the P25 standards

committee, and become the West County simulcast cell. This would “preserve the infrastructure that those cities have built and paid for.”

CTA also recommended that P25 equipment be purchased which covers both the 700 and 800 MHz bands so that 700 MHz frequencies will be accessible when that spectrum becomes available in 2009. Finally, CTA recommended, in purchasing equipment, that Contra Costa anticipate Phase-2 of P25, due in 2009 or 2010, which will double the capacity of the present P25 Phase-1 system. The report showed that the two counties have different requirements for compatibility. Contra Costa uses simulcast cells, and Alameda County requires compatibility with existing equipment in its SmartNet system.

While the Grand Jury received no presentation on the applicability of CTA cost savings and upgrade recommendations to the systems in Alameda County, a comparable analysis of those systems might be useful, especially in light of the potential for backward compatibility presented by the new P25 ISSI standards. In late April 2007, Alameda County officials requested assistance from the Department of Homeland Security to provide design review of the EBRCs. It is suggested that future Grand Juries monitor the results of that review.

Both national and state reports were in general agreement that governmental organizations created to improve interoperability should develop a vision with specific supporting goals and objectives. The decision-making process should include as many affected jurisdictions as possible, rely on their assessment of local needs and vulnerabilities, enhance communication, coordination, and cooperation among them, provide for dispute resolution, and prevent turf wars. Both of these reports also agreed that moving directly to an optimum system at their respective level is not financially feasible, and that solutions must be found which allow affected jurisdictions to “leverage existing systems while migrating gracefully but expediently to the ideal.” The California Statewide Integrated Public Safety Communications Strategic Plan emphasized that training and exercises that practice communications interoperability are essential to ensuring

that the technology works and that responders use it effectively during emergency operations.

The goal of promoting wide membership in order to facilitate public funding would seem to argue for inclusion, or at least provision for collaboration and coordination with as many potential members and subscribers as possible. There is conflicting information on the extent of inclusion and coordination prior to adopting the JPA. Whatever the case, from here forward, every attempt should be made to be as inclusive as possible.

The Grand Jury believes that the ultimate goal of radio communications interoperability is worthy, particularly in view of the Bay Area's susceptibility to flood, fire, major earthquake, and possible terrorist attack. Once individual cities have the opportunity to decide whether to join the JPA, future Grand Juries should closely monitor the cost of the EBRCS and its implementation. While there is a general, although not unanimous, feeling that high levels of interoperability are desirable for disasters such as 9/11 and Katrina, a lesser degree of capability may be sufficient for day-to-day police and fire operations. Federal grants should be aggressively pursued. Independent cost analysis should be obtained to determine if there are costs savings. Competitive bidding should be utilized. Comprehensive operating procedures including training and regularly scheduled exercises should be developed.

Ultimately, the public will benefit from a truly inclusive JPA that will provide the capability to deal at an acceptable level with major disasters anywhere in the Bay Area, as well as ongoing daily interactions in local jurisdictions. This system will hopefully include the potential for long range integration into a statewide system, backward compatibility allowing cities to enter the system using present equipment effectively, and a capability to upgrade to the ideal level, as local conditions and financial circumstances permit.

BERKELEY PUBLIC LIBRARY

The Grand Jury received a complaint related to an outside vendor contract with the Berkeley Public Library. The vendor, Checkpoint Systems, Inc. (Checkpoint) was to provide products and services including software, hardware and training in the use of an automated checkout system. While the library is generally satisfied with the installation of the new Checkpoint system, its procurement and management of the Checkpoint contract raises concerns about the library's lack of policies and procedures. For this reason, the Grand Jury reports on the library's experience with the Checkpoint contract.

The Grand Jury reviewed volumes of documents, and interviewed the Chairperson of the Board of Library Trustees (BOLT) and key library and City of Berkeley personnel. A five-member volunteer board governs the Berkeley Public Library. Pursuant to the Berkeley City Charter, the library is fully independent from the City of Berkeley in its decision-making powers. Section 30 of the City Charter reads:

Five Library Trustees shall be appointed and may be removed by a vote of five members [of the City Council]. The Board of Library Trustees shall have power to manage the library and to appoint, discipline and dismiss all officers and employees of the library.

The Berkeley Municipal Code provides that BOLT has the power to purchase necessary books, journals, publications and other supplies and personal property. The City Manager, who oversees all other boards and commissions, has no oversight authority over the operations of the library. Further, the library is not subject to the policies and procedures promulgated by the City of Berkeley, including controls on the manner in which expenditures over \$25,000 can be made.

Library operations are funded primarily by a voter-approved parcel tax. Each year, the City Council determines the rate of the parcel tax and the library receives additional funds from various grants, the Library Foundation, and private donors.

CONTRACT HISTORY

In January 2004, the library issued a Request for Proposal (RFP) for an automated checkout system using radio frequency identification devices (RFID). It received five responses. On April 14, 2004, BOLT voted to authorize the Berkeley Public Library to enter into a contract with Checkpoint in the amount of \$643,000. The library chose Checkpoint in part because it had installed more library automated systems than any other company. Of the \$643,000, \$500,000 was financed through a bond, and \$143,000 came from existing fiscal year 2004 library budget monies. BOLT approved the vendor and financing terms unanimously. The library then entered into a contract with Checkpoint on June 24, 2004, which required payment of the entire \$643,000 within 30 days. This was the largest vendor contract in the library's history.

The contract provided that "Checkpoint Systems, Inc. [would] deliver, install and make operational the intelligent library system (RFID technology) at the Berkeley Public Library." The term of the contract was to begin on July 1, 2004 and end on December 31, 2005. The contract also provided that it could be extended by written notice and that it had a one-year warranty on all parts and labor. According to the terms of the contract, Checkpoint was to have delivered, installed, and made operational this system and to have completed training by December 31, 2005.

During the term of the contract, the library did not hire or assign a person to oversee and manage the implementation of this contract nor did it request assistance from the City of Berkeley that has resources to manage and oversee a contract of this size and nature. Additionally, the library's financial manager was

assigned to work at the City of Berkeley's housing authority and therefore was unavailable to manage the contract. As a consequence, documentation and management of the project was woefully inadequate.

As of the writing of this report, the library was using the automated checkout system which was generally working. The new executive director is working with members of her staff and with Checkpoint to improve the system.

The Grand Jury restates that it is concerned about the library's lack of policies and procedures for procurement and management of large contracts. It bears repeating that the City of Berkeley has sufficient resources, policies, procedures and expertise in place to manage a contract of this magnitude. The library is not obligated nor has it historically asked for assistance from the City of Berkeley because it seems to value the independence granted to it by the Berkeley City Charter.

In this case, the library may have been lucky that significant contract disputes with Checkpoint did not develop. Use of proven policies and procedures exist to prevent contract compliance issues. Had the library managed this contract properly, it would have obtained assistance on (i) negotiating the terms of the contract, including the timing of payments, (ii) day-to-day management (particularly in a technology context), (iii) scheduling of delivery of services, equipment and training, (iv) contract compliance, and (v) adequate documentation, to name a few.

The Board of Library Trustees must realize that adopting proven procedures available through the City of Berkeley in the use of public funds gives the public the assurance that those funds are being managed properly. Its current laissez-faire approach to managing such large contracts is not in the public's best interest.

RECOMMENDATIONS

RECOMMENDATION 07-04:

The Board of Library Trustees (BOLT) adopt the City of Berkeley's current policies and procedures for entering into and managing procurement contracts.

RESPONSES REQUIRED

BOLT (Board of Library Trustees)

Recommendation 07-04