



2008-2009 ALAMEDA COUNTY CIVIL GRAND JURY FINAL REPORT

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ALAMEDA COUNTY GRAND JURY

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DEDICATION



This Grand Jury report is dedicated to the four Oakland Police Officers who gave their lives in the line of duty in March of 2009. We honor them for their bravery and service to the citizens and to the City of Oakland. May they rest in peace.

Sergeant Mark Dunakin

Sergeant Ervin Romans

Sergeant Daniel Sakai

Officer John Hege

In Memory of Pete W. Taylor, Jr.



June 3, 1928 – April 29, 2009
2008-2009 Grand Juror

TABLE OF CONTENTS

Alameda County Board of Supervisors.....	1
Dedication.....	2
In Memory.....	3
Table of Contents.....	4
Foreman's Letter.....	5
Grand Jury Members.....	7
Officers and Legal Staff.....	8
Grand Jury Committees.....	9
Grand Jury Photograph.....	10
Presiding Judge of the Superior Court.....	11

INTRODUCTION

History of the Grand Jury.....	12
Functions.....	12
Selection Process.....	13
Qualification of Jurors.....	13
Commitment.....	14
Remuneration.....	14
Orientation and Training.....	14
How to Submit a Complaint.....	15

GOVERNMENT COMMITTEE

City of Oakland Excessive Travel Costs.....	16
Appendix.....	26
City of Oakland Pay-Go Accounts.....	29
City of Oakland Landscape and Lighting Assessment District.....	34
Attachment.....	35

EDUCATION COMMITTEE

Teacher Special Assignments & Truancy.....	36
--	----

HEALTH COMMITTEE

Health and Social Inequity in Alameda County.....	40
---	----

LAW & JUSTICE COMMITTEE

Jail Inspections in Alameda County	47
Santa Rita Jail Prisoner Complaint.....	49
Jack London Square Produce Market District.....	50
East Bay Regional Park District Police Department Website.....	52



Alameda County
Grand Jury

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June 15, 2009

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

Dear Judge Northridge,

On behalf of the 2008-2009 Alameda County Grand Jury, I wish to express to you the extreme honor and privilege we feel in having been given the opportunity to serve the citizens of Alameda County in such a meaningful and challenging manner as reflected in the Grand Jury report here attached. The chance to contribute to the health of the government agencies in this fashion is uniquely available to members of the Grand Jury and would not have been possible without the help and cooperation of many. We understood the responsibilities awarded to us and we performed our duties in a responsible and respectful manner.

The Grand Jury had been charged with the responsibility of investigating irregularities in government operations that are brought to its attention in the form of complaints filed by the citizens of Alameda County. The jury also investigated matters that previous panels had suggested be further reviewed, as well as issues that were felt to be of importance by the group. The reports in the following pages are the product of jurors' considerable efforts arising from four standing committees: Government, Education, Health, and Law & Justice. The chairpersons of each of these committees are to be commended for their patience and skill in crafting these reports which reflect the consensus of members' wide range of views and opinions. It is significant to recognize that this formal Grand Jury report contains findings in those areas in which we were able to make comments or recommendations. This Grand Jury report does not, however, give any indication of the many hours or research, clarification, validation, and consensus building necessary for the creation of this document.

Hon. Yolanda N. Northridge
Page two
June 15, 2009

This work would not have been possible without the cooperation of the various public servants who provided insight, information, and testimony to the jury. Many elected officials and government personnel contributed a great deal of time in explaining the complexity of their respective organizations, providing the jury with different perspectives on how government bodies function. We are grateful for their assistance and their dedication to the recipients of their various services.

This report, indeed, the functioning of the Grand Jury itself, would not have been possible without the assistance and guidance of Senior Deputy District Attorney Jeff Stark. His perspective and experience was invaluable to the panel. We are especially grateful for the help of Cassie Barner, the Grand Jury's Legal Assistant. Cassie helped us consolidate what we had learned into these thoughtful reports. Keeping us focused in preparation of this document was a difficult task she performed with skill.

As has been noted by previous grand juries, there needs to be a greater awareness among the public as to the ways in which the Grand Jury can be of service. It seems intuitive that more citizens have suggestions regarding how the government can operate more efficiently and effectively than was reflected by the number of pieces of communication we received.

Finally, your Honor, I wish to express the pride I felt in being selected by you to serve as Foreman of this body of nineteen peers. The experience has been both challenging and gratifying and I very much appreciate the privilege.

Sincerely,



LAWRENCE S. BURNE, Foreman
2008-2009 Alameda County Grand Jury

2008-2009 Alameda County Civil Grand Jury Members

JUROR	SUPERVISORIAL DISTRICT/CITY	NOMINATING JUDGE
Daniel Apodaca	District 2 - Newark	Judge Yolanda N. Northridge
Stanley L. Bricker ³	District 1 - Pleasanton	Judge Wynn Carvill
Donald J. Bruce	District 5 - Oakland	Judge Joan Cartwright
Lawrence S. Burne	District 5 - Oakland	Judge Yolanda N. Northridge
Quincy Campbell	District 4 - Oakland	Judge Yolanda N. Northridge
Joan Dark ²	District 5 - Oakland	Judge Stephen Dombrink
Evan Eustis	District 4 - Oakland	Judge Yolanda N. Northridge
Mary Gibboney ⁴	District 2 - Hayward	Judge Yolanda N. Northridge
Jerry Hadfield	District 3 - Oakland	Judge Yolanda N. Northridge
Susan Kawaichi	District 5 - Piedmont	Judge Julie Conger
Steve G. Koppman	District 5 - Oakland	Judge Yolanda N. Northridge
Joetta E. Macillus ¹	District 1 – Livermore	Judge George C. Hernandez, Jr.
Burnham Matthews	District 3 - Alameda	Judge Yolanda N. Northridge
David M. McDevitt	District 4 - Oakland	Judge Yolanda N. Northridge
JoAnne Rhodes	District 1 – Fremont	Judge Yolanda N. Northridge
Mimi L. Rogers	District 3 - Oakland	Judge Yolanda N. Northridge
James P. Ryan ¹	District 3 – Alameda	Judge Vernon Nakahara
Mary E. Smith	District 5 - Oakland	Judge Yolanda N. Northridge
Pete W. Taylor, Jr. ⁵	District 4 - Oakland	Judge Gordon Baranco
Jessica Theus	District 2 - Hayward	Judge Yolanda N. Northridge
Jana Turns	District 1 - Pleasanton	Judge Harry P. Sheppard
Robert M. Woolley	District 3 - Alameda	Judge Yolanda N. Northridge

- 1 Jurors held over for a second term by Presiding Judge Yolanda N. Northridge.
- 2 Resigned on July 18, 2008. Replaced by juror Joanne Rhodes.
- 3 Resigned on September 3, 2008. Replaced by juror Burnham Matthews.
- 4 Resigned on September 16, 2008. Replaced by juror Mary E. Smith
- 5 Deceased, April 29, 2009

2008-2009 Alameda County Grand Jury Officers & Legal Staff

OFFICERS:

FOREMAN: Lawrence S. Burne

FOREMAN PRO TEM: Susan Kawaichi

SECRETARY: Jessica Theus

SECRETARY PRO TEM: Donald J. Bruce

SERGEANT AT ARMS: Evan Eustis



LEGAL STAFF:

Jeff Stark, Senior Deputy District Attorney

Cassie Barner, Legal Staff Assistant

2008-2009 Alameda County Grand Jury Committee Roster



GOVERNMENT

Burnham Matthews, Chair

Donald J. Bruce

Quincy Campbell

Evan Eustis

Susan Kawaichi

Joetta E. Macillus, *Pro Tem Chair*

David M. McDevitt

JoAnne Rhodes, *Secretary*

Jana Turns

LAW & JUSTICE

Joetta E. Macillus, Chair

Quincy Campbell

Jerry Hadfield

Burnham Matthews

JoAnne Rhodes

Mimi L. Rogers, *Pro Tem Chair*

Mary E. Smith, *Secretary*

Pete W. Taylor, Jr.

Jessica Theus

HEALTH

Susan Kawaichi, Chair

Daniel Apodaca

Evan Eustis

Jerry Hadfield

Steve G. Koppman

Mimi L. Rogers, *Pro Tem Chair*

James P. Ryan, *Secretary*

Jana Turns

Robert M. Woolley

EDUCATION

Donald J. Bruce, Chair

Daniel Apodaca

Steve G. Koppman, *Secretary*

David M. McDevitt

James P. Ryan

Mary E. Smith

Pete W. Taylor, Jr.

Jessica Theus

Robert M. Woolley,

Pro Tem Chair



2008-2009 ALAMEDA COUNTY CIVIL GRAND JURY

Standing, left to right:

Joetta E. Macillus, Jessica Theus (*Secretary*), Steve G. Koppman, Jerry Hadfield, Daniel Apodaca, Burnham Matthews, Donald J. Bruce (*Secretary Pro Tem*), Lawrence S. Burne (*Foreman*), David M. McDevitt, Robert M. Woolley, Quincy Campbell, JoAnne Rhodes

Seated, left to right:

Susan Kawaichi (*Foreman Pro Tem*),
Honorable Yolanda N. Northridge (*Presiding Judge*), Mary E. Smith, Mimi L. Rogers

Not Pictured:

Evan Eustis (*Sergeant at Arms*), James P. Ryan, Jana Turns, Pete W. Taylor, Jr.

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



Honorable Yolanda N. Northridge
January 1, 2008 – Present

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 55 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.

CITY OF OAKLAND EXCESSIVE TRAVEL COSTS

INTRODUCTION

In fiscal year 2007-2008, the grand jury investigated the City of Oakland's use of credit cards. In examining credit card transactions the grand jury observed unusual travel expenses and asked the 2008-2009 grand jury to look into Oakland's employee travel practices and spending.

The grand jury reviewed the "Annual Informational Report on City-Funded Travel Expenditures Incurred During Fiscal Year 2007-2008" prepared for the city council purporting to document all employee travel for the year ending June 30, 2008. In addition, the grand jury obtained and reviewed the underlying records for all Oakland employee travel during that year and evaluated travel that required overnight stays. Most of that travel was outside the immediate Bay Area. The grand jury also interviewed the mayor, the president of the Oakland city council, and the city administrator.

After extensive review of records and documentation, the grand jury became especially concerned about the following issues: 1) the number of employees who traveled to conferences and training sessions that appeared to have little connection to official city of Oakland business; 2) the number of out of state trips taken by employees; 3) the number of days employees spent away from work traveling; 4) the poor documentation employees provided for their travel expense and the equally poor job their supervisors did in reviewing those expenses; and 5) the absence of any review of travel expenses paid for with city of Oakland credit cards.

The grand jury briefly reviewed, but did not fully examine, travel required by an employee's job involving overnight stays for official business; for example, when

police officers traveled to another state to bring a murder suspect back to Oakland, or when firefighters traveled to southern California to staff fire stations left vacant when local firefighters were fighting wildfires in San Diego county. Instead, the grand jury focused on employee travel requiring overnight stays at conferences, training seminars, or for educational reasons.

BACKGROUND

The report prepared for the city council on employee travel for the year ending June 30, 2008 understated the actual cost of travel by failing to reflect amounts pre-paid by someone other than the traveling employee (e.g., travel paid for in advance by the employee's supervisor). The report also failed to capture some travel charges paid for by the traveling employee with a city-issued credit card. The grand jury determined that department supervisors routinely paid for airline tickets and conference fees using city issued credit cards. Some of these expenses were not included in the report prepared for the city council. Additionally, the report failed to include the amounts reimbursed to the city by various grants, Peace Officers Standards of Training (POST), etc., making it impossible to decipher the actual amount the city paid for travel based on the numbers contained in the annual report.

The grand jury noted non-reported expenditures, such as conference fees paid in advance by a city credit card and airfare costs also paid for by credit cards that were not included in the travel report. For example, five employees attended a conference in Washington, D.C., but airfare, which was paid for in advance on a city credit card, was not included in the report to the city council. Expenses incurred during travel, such as meals charged to credit cards or upgrades to rental cars or hotel rooms, were also not reported in the overall cost to the city. None of these reports indicated any type of reimbursement for travel.

In several cases employee travel expense records included valet parking charges but did not include charges for a car rental. An examination of travel expense

reports filed by all other employees attending the same conference found no car rental expense records. The grand jury then examined statements for the city credit cards issued to the employees attending the conference and found records of car rentals. These car rental expenses were not included on the report to the city council. The grand jury found several similar instances of this failure to account fully for travel expenses and also noted that on several occasions the city employees rented “premium” or “upgraded” cars.

In November 2008 the city adopted a resolution to place a moratorium on travel with restrictions modifying travel, including limiting the number of employees who could travel at one time, using a modified per diem rate. Only after the moratorium was issued did the city modify its approval process for travel; however, the grand jury found the original city policies regarding travel have not been changed. The travel moratorium is only temporary and can be eliminated at any time, as it does not replace actual city policy. The grand jury also learned that use of credit cards has been severely restricted and is now subject to review by the city administrator. The city administrator now monitors all credit card expenses.

The report to the city council failed to account for far greater costs to the city generated by employee travel: the cost to hire a substitute worker; the cost to pay overtime wages to another city employee to carry out the traveling employee’s duties; and the cost in the loss of productivity when work was postponed until the employee returned from traveling. The grand jury learned that in the majority of cases the employee’s position remained vacant while the employee traveled, leaving the potential that poor public service may have ensued due to the lack of employees actually being at work.

With one exception, city departments do not evaluate the effectiveness of the training sessions or conferences their employees attend. The exception is the Oakland Police Department (OPD). OPD required their employees to report to their supervisors what they learned during their training or conference and how

it improved their ability to perform their assignment. Before police employees could travel to a training conference or seminar, they were required to obtain advance authorization from every level of supervisor in their chain of command and were required to justify the reason for that travel. Not only did OPD enforce a thorough advance authorization process, it appeared to be the only city department that insisted on complete and thorough documentation of all costs. On return from a training seminar or conference, police employees completed a "Non-Departmental After Action Report." This report asked specific questions about the training seminar or conference, designed to evaluate its effectiveness.

The police department appeared to be the only city department that was doing a good job at carefully scrutinizing employees' travel expenses. The grand jury observed that the police department's internal auditing staff disallowed claimed expenses and required employees to submit additional documentation before reimbursing an expense. Police employees consistently submitted detailed, complete expense vouchers and receipts. When they failed to submit all required information, reimbursement for travel expenses was denied. Most other city departments paid employee's claims without subjecting them to any apparent scrutiny. Finally, police employees traveled out of the area to attend training or education sessions closely related to the work they do. For example, annual classes required by POST; annual weapons certification; emergency first responder classes, etc.

Most city departments routinely approved employee travel, often out of state for expensive amounts and for questionable purposes. Many employees traveled to attend the same conference. For example, 27 employees from throughout the city traveled to the Black Public Administrator's Conference in Arkansas at a cost of over \$55,500 to taxpayers. The conference agenda listed events such as receptions, shopping tours, after-hours networking, a graduation brunch, open exhibit halls, prize drawings, golf tournaments, and expo banquets. Additionally, 16 employees traveled to the National Conference on Crime Prevention in Atlanta, Georgia, at a cost of over \$22,600 to the taxpayers of Oakland;

11 employees traveled to the National Institute of Crime Prevention Conference in Las Vegas at a cost of over \$15,700; and 10 employees attended the National Crime Prevention Council Conference in Las Vegas which cost over \$12,000 and included a golf tournament. The grand jury learned that the costs for some of these events were reimbursed to the city by various grant programs; however, the city was unable to provide specific dollar amount of the reimbursements.

Even if the expense in sending employees to out of state conferences can be justified, when a grant does not call for a specific number of employees to attend, the expense of sending many employees to the same conference cannot be justified. For example, the grand jury reviewed the agenda for the Black Public Administrator's Conference, which demonstrated that little time was spent on training or education. Instead, most of the organized sessions revolved around networking both during business hours and informal after-hours sessions. The grand jury cannot find a direct or indirect benefit the public receives from sending 27 employees 2,500 miles away for a week of networking.

Many of the training courses city employees attended may have been of questionable value to the city or were not cost effective. For example, employees traveled to Alaska, where one of the courses dealt with teaching "The Art of Eskimo Yo-Yo Making." On another occasion, 10 employees traveled across the country to attend the "McGruff Crime Dog Conference" designed to improve civilian, non-police department employees with crime fighting strategies. A better practice, and a better value to the city, would have been to send one employee, evaluate the benefits of the training on the employee's return, then make a decision whether to present the training session in Oakland at a lower cost and to a wider audience.

Benefit to the city in assessing and reviewing education or training classes cannot be understated. Assessing the class' value immediately after the employee's return to duty provides department supervisors a better basis to evaluate whether to allow other city employees to attend the same class at a later date and whether

to allow employees to attend training sessions sponsored by the same provider. The additional benefit in constantly assessing the value of employee training is a basic, fundamental requirement of managing public funds. Evaluation of travel should not be made by an immediate line supervisor but rather, the city should develop a standard evaluation process for each department to determine if travel has been worthwhile and to evaluate the benefit to the city. OPD's training division uses an evaluation process that could be a model for other city departments.

Some city officials have justified out of state training and conference travel by comparing it to the way private businesses spend funds for their employees' travel. However, the grand jury has been unable to discover such generous travel, education and training practices in a private business anywhere. Other city officials have publicly defended the extensive travel by Oakland employees. They argue that much of the cost of travel for training and conferences is covered by either the sponsoring agency or by grants, foundations or other outside funding sources. This argument ignores the substantial cost in replacing traveling workers or in covering the loss of productivity, as well as using grant or foundation money for a better use.

The volume of travel to out of state conferences and training sessions of questionable value suggests that a culture has developed among some senior Oakland officials that city employees are entitled to this type of travel as a benefit of employment. The grand jury believes that to the extent Oakland officials hold this belief, it should be reexamined and eliminated. Oakland taxpayers deserve value for their tax dollars. Sending city employees across the country for networking conferences does not deliver value.

At one time Oakland was a significant provider of training to other governmental agencies. The goal should be to return Oakland to that level. The city should determine if they want to sponsor classes locally in Oakland. Not only would this

benefit the city by bringing revenue from hotels, fees, and food, but it would cut down on costs to the city budget.

As economic conditions permit, the grand jury recommends that Oakland conduct a more thorough advance assessment of employee travel for education, training and conferences. The grand jury believes that education and training should be provided within the city of Oakland as the preferred alternative to traveling out of state. Providing the training in Oakland eliminates the cost associated with travel and travel time and makes the training available to a greater number of city employees. Training held within the city also eliminates the need to pay for airfare and hotel expenses, as well as some food expenses.

The grand jury believes conferences with the primary purpose of social networking return little, if any, benefit to the city of Oakland. In addition, to the extent travel to conferences are approved, the grand jury recommends that travel be closely monitored to limit the number of employees who travel to the same event at the same time.

CONCLUSION

The grand jury recommends that the city of Oakland adopt more stringent accounting requirements for travel expenses. Our examination revealed that when city employees spend their own money and file a claim for reimbursement, Oakland's financial controls perform well. However, when city issued credit cards are used, controls are essentially non-existent, allowing city employees to upgrade their airline seating; upgrade their rental car; and to pay for meals charged to room service or in a restaurant and also claim the per diem food allowance.

An example of better financial controls includes having a traveling employee's department pay for as much of the cost as possible in advance, including seminar fees, hotel, airfare, and rental car. Costs incurred by the employee during travel

or attending the seminar should be paid for by the employee, and if in compliance with existing city policy, reimbursed by the city on the employee's return.

In addition, existing policies should be strictly followed and require city employees to obtain the discounted government rate/lowest cost for airfare, car rental and hotel. The employee, not the city, should pay for costs in excess of those rates. For example, if the mayor travels out of state to attend the U.S. Conference of Mayors and chooses to stay in a suite at a five star hotel, the mayor should pay for the portion of the room charge in excess of the standard government rate offered by the hotel for a single room, or the group rate for a similar room obtained by the conference at the hotel, whichever is less.

The grand jury was encouraged to learn that in 2008 the city had greatly restricted the number of credit cards issued to employees. However, the grand jury recommends eliminating issuing credit cards to city employees altogether. In the event the city deems it necessary to issue credit cards for certain essential uses, the grand jury recommends those cards be restricted only to the essential use.

The credibility of city government becomes questionable when expenses are not carefully scrutinized. The grand jury recommends the city of Oakland be diligent in formalizing a new travel policy and that all city employees reduce travel costs in today's economy. The grand jury believes the city of Oakland must practice good government at all times, not just during bad economic times.

RECOMMENDATIONS

Recommendation 09-1:

The city of Oakland must develop a comprehensive travel policy that requires accountability from all department heads as well as individual employees.

Recommendation 09-2:

Prior to approving any travel, a department head must consider the cost of replacing the employee or the loss of productivity if the absent employee is not replaced.

Recommendation 09-3:

In approving travel, each department head must justify in writing the direct benefit to the city of Oakland for the proposed travel.

Recommendation 09-4:

The city of Oakland must require the traveling employee to report at the end of travel, assessing the value of each class or seminar attended.

Recommendation 09-5:

The city of Oakland must require department heads to use employee assessments in determining if employees are allowed to travel to attend similar classes or seminars in the future.

Recommendation 09-6:

Before approving out of area education or training, department heads must first determine if the education or training is available locally. The city must also host more training and education conferences within the city of Oakland.

Recommendation 09-7:

The city of Oakland must not pay for its employees to travel for conferences whose main purpose is not education or training.

Recommendation 09-8:

Until such time that the city of Oakland implements a thorough accounting procedure regarding credit card usage, the city must suspend the use of credit cards for individual employees who are traveling to attend educational classes or seminars.

RESPONSES REQUIRED

Mayor, City of Oakland

Oakland City Council

Recommendations 09-1 through 09-8

Recommendations 09-1 through 09-8

APPENDIX – CITY OF OAKLAND TRAVEL
Examples of Travel Expenses for FY2007-2008

156 Employees Went on 286 Trips in One Year	In the human services department, 80 employees traveled during FY 2007-2008 and went on 140 different out-of-state trips. In the finance and management department, 76 employees went on 146 trips out of state during that same time period.
\$1,700 Trips	7 employees from the city administrator's office attended the National Crime Prevention Conference for an average cost of \$1,700 per employee.
Hotel, Food and Gas Expenses	An executive assistant in the city administrator's office stayed at a Hilton Hotel in Sacramento to attend a Planning Workshop. The hotel cost \$851. The employee used her personal car and charged the city \$59.96 to fill up her gas tank on the way to Sacramento. The same employee took the full daily meal per diem (\$56 per day) and also charged \$43.81 to her hotel for meals. No reimbursements were made to the city for any expenses. This is in direct violation of city policy.
Credit Card Use	An administrator of the city library charged \$7,758 on her city-issued credit card in one year for hotel, car rental, airfare and travel related food expenses.
Expensive Hotel Bills	The city clerk charged \$1,890 for one hotel stay at the Hyatt in Atlanta, Georgia, for one trip. This amount did not cover transportation or conference fees.
Mayor	The Mayor's travel logs showed a total of \$44,025 for eight trips in one year. The city report reflects the following: \$1,740 in conference fees; \$7,495 in transportation; \$25,789 in lodging; and \$9,000 in meals. No hotel bills or receipts for any trips were provided to the grand jury for these expenses. The numbers reported to the city do not match the credit card charges. It is unclear exactly how much the city paid for the Mayor's travel in FY07-08.
Unexplained Charges	The director of the city's information technology department had 12 credit card charges throughout the year for the New York-New York Hotel & Casino in Las Vegas, totaling \$2,057. His travel report showed \$5,664 in total travel charges, but none of the reported charges matched the city issued credit card receipts provided to the grand jury. It is unclear if these hotel charges were included in the report to the city council.
Hooters/Porch Dogs Club in Las Vegas	A deputy director of CEDA spent over \$13,353 on a city issued credit card for travel, including a trip to China. The China trip included charges for telephone calls for \$363. This same employee also charged on a city issued credit card \$40 to the Hooters/Porch Dogs Club in Las Vegas. There were no records of reimbursement to the city for any expenses.

Credit Card Purchases at Pier I and the GAP	A finance and management employee used a city issued credit card to make purchases at Pier I, the GAP, Trader Joe's, Rite Aid and Borders Books.
Staying for Longer Than the Conference Dates	One employee attended a conference that ended on the 18 th of the month, yet the employee did not check out of the hotel until the 20 th . The city paid for the entire trip.
Non-Refundable Conference Fee	One city council member signed up for a \$550 non-refundable conference and did not attend the conference. However, there are hotel bills for the same dates in the same city as the conference for a total of \$413. There are also parking charges for \$28. The \$550 conference fee was not refunded to the city.
Errors in Reporting	<p>The city clerk attended a conference in Reno, Nevada, and reported the conference fee to the city council as \$300. Registration paperwork showed the fee was \$600.</p> <p>The city clerk attended a conference in Atlanta, Georgia, and reported the total cost to be \$2,941. Receipts and credit card charges totaled \$3,591. A difference of \$650. The difference included a receipt for higher airfare; incorrectly reported food/room service bills; omitted tips; and Internet usage fees for the hotel. The city's travel report shows a total lodging bill of \$1,344. The amount charged to the city's credit card was \$1,890, which included room fees (\$1,344); two Internet usage fees (\$59.70); and numerous room service charges (\$486.46, including one dinner order for \$109.68 and breakfast averaging \$40 per meal). The room service charges included gratuities totaling \$73.02 and room service delivery fees of \$35.00.</p>

NUMBER AND FREQUENCY OF TRAVEL, BY DEPARTMENT

These figures are based on the information contained in the City of Oakland's FY2007-2008 Travel Expenditure Report, dated September 23, 2008. These totals reflect reported travel for education, training, and conferences.

City Department	Number of Employees who Traveled	Total individual trips taken	Total days gone (including travel days)
City Attorney	9	17	56
City Administrator	26	35	140
Auditor	3	4	10
City Clerk	3	4	15
City Council	9	11	34
CEDA	62	81	313
Purchasing	1	1	5
Finance & Management	76	146	419
Library	39	66	316
Park & Rec	27	31	164
Human Services	80	140	376
Public Works	53	74	245
IT	20	33	144
TOTALS:	408	643	2237

Police & Fire Departments not included

CITY OF OAKLAND PAY-GO ACCOUNTS

INTRODUCTION

The grand jury received a citizen complaint regarding the city of Oakland's use of unregulated discretionary fund accounts entitled "Pay-Go." The complaint alleged possible abuse by individual city council members who control these accounts. In order to understand and evaluate Pay-Go, the grand jury met with a former Oakland city manager, the current Oakland city administrator, the mayor, and the president of the Oakland city council. The grand jury also reviewed complete records of all Pay-Go expenditures since these accounts were created, including records of current account balances as of October 2008.

INVESTIGATION

Pay-Go was created in fiscal year 1999-2000 as a vehicle by which individual city council members could move ahead particular multi-year capital improvement projects and city acquisitions when confronted by delays. The grand jury learned that Pay-Go represents a kind of reserve or contingency fund in the Oakland capital projects budget. The original amount that was allocated to each city council member's individual account was \$100,000 per year. As part of the capital projects budget, money in these accounts was restricted, in that these funds could only be used to pay for capital projects that were already part of the overall Oakland capital projects budget.

Because many capital improvement projects have a long-term timeline of completion, the city of Oakland employs a five-year capital budget and building plan. Due to unanticipated delays, construction priorities require flexibility during a five-year budget process.

Pay-Go accounts were originally designed to allow a council member the ability to fund infrastructure improvements within their district that would speed up the completion of capital projects. For example, council members could use Pay-Go funds from their accounts to provide engineering and planning work on a vacant lot where a community center was planned. Having that infrastructure work completed would allow the building of the community center to move up on the list of ready-to-build projects and be constructed ahead of schedule.

In order to obtain council member support for the five-year capital projects budget, individual accounts controlled by individual city council members were created within the capital budget. Seven of the eight city council members represent geographic districts. A frequent area of contention during the capital budgeting process was the perceived inequity in capital projects within particular districts. Council members frequently objected to the order in which projects would be constructed, with some council members refusing to support the capital project budget unless priority was given to projects in that council member's district.

The grand jury believes as a rule of good government, tax dollars should be allocated and spent by the entire city council and not individual members. Allowing individual members to have control of individual accounts creates, at minimum, the weighing of one district against another. All spending decisions should be made on a citywide basis with appropriate evaluation for the city's total needs in all service or geographic areas.

Pay-Go accounts were originally designed to be small and annually funded and monitored by the city manager and the director of the public works department. Over time, the city council allocated funds from the general fund to Pay-Go. The annual amount increased to \$350,000 per year for each city council member including the mayor. Any unexpended funds could be carried over into the following year, and as a result, as of October 2008, some city council members had Pay-Go accounts with over \$1,000,000 balances. Oversight of these accounts has

also weakened over time. While the city manager who originated these accounts monitored their use closely, when the city administrator position was created after his departure, the close oversight of Pay-Go funds did not continue.

The grand jury was only able to locate one other city where individual council members controlled similar accounts. Richmond, Virginia, developed these accounts many years ago. When the former governor of Virginia was elected mayor of Richmond in 2005, he found a Pay-Go account situation similar to that which exists in Oakland today. He responded by completely eliminating all individual accounts. For a number of reasons, the grand jury believes similar action is required in Oakland.

The grand jury believes that decisions to spend tax dollars should be made by the entire city council and not by individual city council members. Allowing individual council members to control accounts designed to spend tax dollars in their own districts creates the appearance of slush funds used by council members to increase their personal power. Spending decisions in each council district should be made by the entire city council, not the council member representing a particular district. It comes as no surprise to learn that Pay-Go accounts are extremely popular with council members.

In 2007, the city council expanded the authorized uses of Pay-Go funds to include the broad category of “city-sponsored events.” While the grand jury’s analysis of Pay-Go spending found no unauthorized spending, the grand jury is troubled by this expansion of permissible uses. For example, Pay-Go funds were used to purchase:

- a) \$12,516 for sound equipment rental for the 2007 and 2008 Summer Concert Series;
- b) \$ 2,156 for tent rental for the 2007 Summer Concert Series;
- c) \$500 for the 33rd Annual Black Cowboy Parade;
- d) \$295 for framing of artwork at Malonga Center;
- e) \$1,500 for first aid kits and t-shirts for the Oakland Police Department;

- f) \$503 for food services at the KaBoom Project Rainbow Recreation Center;
- g) \$5,000 for basketball hoop rental for the 3-on-3 tournament;
- h) \$6,045 paid to Everett & Jones BBQ for food services for KaBoom Project at Tomas Malero Smith Peace & Unity Park and Rainbow Recreation Center Skate Park;
- i) \$2,470 for a portable toilet rental at Sobrante Park; and
- j) \$2,830 for jumper rental at the Arroya Viejo Recreation Center.

CONCLUSION

The grand jury believes individually controlled Pay-Go accounts represent bad public policy. These types of accounts perpetuate parochialism and are subject to abuse. In the face of widespread financial problems and massive budget deficits, the grand jury believes the city council and mayor should eliminate individual Pay-Go accounts. Doing so would be a small step in assuring Oakland residents that the city council is interested in operating a responsible, efficient government that takes extreme care of the tax dollars it is entrusted with spending. The grand jury recognizes the benefits of having an account in the capital projects budget that accomplishes the same purpose as the current system. The grand jury encourages the maintenance of such an account so long as it is not controlled by individual city council members and instead functions as one citywide account.

RECOMMENDATION

Recommendation 09-9:

The city of Oakland eliminate Pay-Go accounts controlled by individual city council members.

RESPONSES REQUIRED

Mayor, City of Oakland

Recommendation 09-9

Oakland City Council

Recommendation 09-9

CITY OF OAKLAND LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT

The grand jury received a citizen complaint questioning the validity of a mail-in ballot measure which, under the authority of Proposition 218, proposed to raise the taxes paid by property owners to the city of Oakland's Landscape and Lighting Assessment District (LLAD). Despite alleged irregularities in the vote process (for example, assigning votes according to the proportional financial obligation of property and assigning extra votes to the Port of Oakland) the Oakland city council passed a resolution on June 17, 2008, declaring a majority of the votes cast were in favor of the LLAD tax increase. Those opposed to the LLAD tax suggested the vote actually failed due to the irregularities in assigning the votes. The city council later agreed to suspend the collection of the tax. The complainant questioned whether the city could at some time in the future reinstate the tax without notice to citizens.

The grand jury asked the Oakland City Attorney whether the city intended to collect taxes under this measure in the future. The City Attorney advised the grand jury that the city of Oakland "may not collect any increase in assessments that had been authorized on June 17, 2008, now or in the future." (See Attachment A, letter from the Oakland City Attorney's Office dated February 13, 2009.)

RESPONSES REQUIRED: None.

CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
John A. Russo
City Attorney
Mark T. Morodomi

February 13, 2009

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Alameda County Grand Jury
Attn: Lawrence S. Burne, Foreman
1401 Lakeside Drive, Suite 1104
Oakland, CA 94612

Subject: Your letter dated February 4, 2009

Dear Mr. Burne:

It is the opinion of the City Attorney's Office that the increases to the Landscape Lighting Assessment District rates, which had been approved by the City Council on June 17, 2008 are not valid in light of the Supreme Court's decision in Silicon Valley Taxpayers Assn. v. Santa Clara Open Space Authority. Please note that, consistent with this opinion, on July 22, 2008, the City Council rescinded its decision of June 17, 2008 to increase the assessment rates and resolved not to collect the increases to the assessments beyond the fiscal year 2007-08 rates (Resolution No. 81499). In addition, it is the opinion of the City Attorney's Office that the City may not collect any increase in assessments that had been authorized on June 17, 2008, now or in the future.

Very truly yours,

John A. Russo
City Attorney

MTM:ww

ATTACHMENT A

550204

Received
Alameda County Grand Jury
Date <u>2/20/09</u>
Ack Sent? Y N

TEACHER SPECIAL ASSIGNMENTS & TRUANCY

INTRODUCTION

Although we received no complaints during this term regarding education issues, the Education Committee of the 2008-2009 grand jury reviewed teacher special assignments and truancy rates in select school districts within the county. The grand jury believes truancy is an on-going issue that needs to be monitored on a regular basis. During the 2008-2009 session, the grand jury met with the director of business services for the Alameda County Office of Education, the chief services officer of the Oakland Unified School District (OUSD), and a member of the state of California's Fiscal Crisis and Management Team.

TEACHER SPECIAL ASSIGNMENTS

The grand jury surveyed the Oakland, Berkeley, Fremont, Hayward, and Pleasanton unified school districts regarding teacher special assignments. The cost and numbers of teachers on special assignments varied from district to district. The grand jury learned that of the districts surveyed, all teachers placed in special assignments were replaced with fully credentialed teachers in the classroom. The grand jury found no immediate problems but encourages future grand juries to monitor the use of funds in placing teachers on special assignments.

TRUANCY

Truancy is a countywide problem faced by all schools regardless of economic status. Truancy issues emerge as early as the grade school level. Chronic truancy results in increased crime, drug use, teen health issues, social issues, and an

increased burden on government and taxpayers in combating these issues. Truancy also causes increased financial burdens to the probation department, leads to a higher dropout rate, and increases the financial burden to schools in policing truants. During the 2007-2008 fiscal year, truants cost some districts in Alameda County over one million dollars. OUSD reports truancy rates at the high school level as high as 87% as defined by the State of California's definition: Any student who has three or more unexcused and unverified full day absences, or who is tardy without excuse for 30 minutes or more, is considered truant. OUSD counts students as truant in several different categories: truant (3-4 unexcused absences); habitual truant (5-9 unexcused absences); and chronic truant (10+ unexcused absence). Truancy rates rise at the high school level as a result of students missing just one class, as opposed to being assigned to one teacher and being truant for the entire day in elementary school.

The grand jury obtained information regarding current truancy issues from two of the largest districts in Alameda County: OUSD and Hayward Unified School District (HUSD). The grand jury found both OUSD and HUSD have multi-level programs in place to meet the challenges of truancy. These programs utilize the offices of the district attorney, the police department, the judiciary, and health services. OUSD has a truancy task force and multiple community programs; at HUSD, the district has a child welfare and attendance department plus a daytime curfew program. Both districts have personnel assigned specifically to deal with truancy problems, as well as a number of other programs in place for outreach to students and parents.

The Truancy Task Force of OUSD includes city and county leaders, community based organizations, the board of education, and district leaders. The Task Force's monthly meetings have been attended by members of the district attorney's office, the city council, the mayor's office, local police agencies, the Alameda County office of education, the McCullum Youth Court, and other community based organizations.

Despite the efforts of OUSD to address truancy issues within the community, other challenges arise. One problem noted with OUSD's outreach involved communication with parents. The grand jury learned that up to 25% of phone numbers for parents or guardians of truants are at any given time unusable or incorrect. The district has several outreach programs in place, but when the district is not able to reach parents by phone, notification that a student is truant fails. The grand jury suggests adding an e-mail notification to the ways in which the district tries to contact parents of truant students. Although the grand jury recognizes the efforts already made by OUSD (such as an automated calling system), and we understand e-mail communication might also fail, we believe making every possible attempt to reach parents not only benefits the student, but also benefits the community and the school district in helping to cut down the cost of truancy.

CONCLUSION

Truancy is a systemic problem that affects multiple disciplines – health, economic, social services, judicial, as well as educational systems. Each group within a community needs to work cooperatively with one another. The grand jury believes other school districts in the county should be examined by future grand juries to determine the ways in which they deal with truancy issues. Those investigations should examine whether schools that have high academic performance and low truancy and drop out rates have anti-truancy programs in place that could be utilized by school districts throughout the county.

Both OUSD and HUSD have multi-level programs in place that work within their local communities. The grand jury found these programs beneficial and encourages the continued cooperative efforts with all agencies involved. With greater emphasis placed on combating truancy, we will be able to take steps to solve some of the problems of today's youth by simply making certain they attend class and graduate from high school. In 2007, OUSD reported a drop out rate of 36%. The grand jury believes chronic truancy not only contributes to high drop

out rates, but other academic problems as well. We encourage future grand juries to continue in the monitoring of outreach programs within the communities to combat truancy in today's schools.

RESPONSES REQUIRED: *None.*

HEALTH AND SOCIAL INEQUITY IN ALAMEDA COUNTY

INTRODUCTION

The Health Committee of the grand jury is charged with monitoring and investigating public health issues of Alameda County citizens. This year's grand jury received no specific health related complaints. The grand jury monitored the financial situation of the Alameda County Medical Center and reviewed periodic financial updates. Considering the poor financial health of the state, we suggest future grand juries continue monitoring the Medical Center.

This year's Health Committee focused its attention on air quality issues around schools involving bus and truck engine idling. During the course of our investigation, we learned of a report entitled, "The Alameda County Life & Death From Unnatural Causes – Health and Social Inequity in Alameda County." The result of our investigation into these issues follows.

INVESTIGATION

The 2008-2009 grand jury began investigating truck and bus engine idling due to concerns about air quality around schools. California Administrative Code, Title 13, Section 2480 requires, in part, the following: The Airborne Toxic Control Measure (ATCM) requires a driver of a school bus or vehicle, transit bus, or other commercial vehicle to manually turn off the bus or vehicle upon arriving at a school and to restart no more than 30 seconds before departing. A driver of a transit bus or other commercial vehicle is prohibited from idling more than five minutes at each stop within 100 feet of a school. Idling for necessary health, safety, or operational concerns is exempt from these restrictions. The grand jury's investigation also included idling concerns involving the Port of Oakland.

The grand jury requested information from the Alameda-Contra Costa Transit District (AC Transit), the Port of Oakland, and from the Oakland Unified School District (OUSD) regarding enforcement of the existing no-idling laws. Responses were received from all three entities.

Oakland Unified School District

OUSD reported that the school district has no monitoring program in place to ensure compliance with state regulations regarding idling either for its own vehicles or those operated by others. The district noted it has only five diesel trucks that idle and some of those are refrigerated trucks that cannot stop idling or it will cause a loss of the refrigerated products the truck is carrying.

Port of Oakland

The Port of Oakland pointed out there are no schools in the area of the Port and that the idling statute does not apply to the Port. However, the Port of Oakland included in their response additional information regarding their efforts in improving air quality around the Port, including their participation in community air quality programs such as the West Oakland Environmental Indicators Project, the West Oakland Toxics Reduction Program, and Ditching Dirty Diesels. Most recently, in 2008 the Port of Oakland adopted a Maritime Air Quality Policy Statement, “which sets a goal of an 85% reduction from 2005 to 2020 in neighboring community cancer health risks related to exposure to diesel particulate matter emissions from the Port’s maritime operations.” Furthermore, the Port of Oakland plans to implement feasible emissions reduction measures in advance of regulatory deadlines to reduce the duration of people’s exposure to emissions. The Port of Oakland has taken a proactive stand in addressing air quality issues.

AC Transit

The grand jury learned that AC Transit has written policies in place regarding bus idling, and enforces those policies with “Transportation Supervisors.” These supervisors are responsible for updating policies and for ensuring compliance with the no-idling laws. The grand jury reviewed AC Transit’s no-idling policy, based on the Airborne Toxic Control Measure (ATCM), which requires a bus engine to be turned off upon arrival at a school and to restart the bus no more than 30 seconds before departure.

Policy prohibits transit bus drivers from idling bus engines more than five minutes at any time. However, the grand jury learned that AC Transit enforces a stricter regulation prohibiting the idling of any engine at any location for more than three minutes. For the first violation, according to ATCM regulations, drivers are subject to a minimum civil penalty of \$100 and criminal penalties to the maximum extent provided by law. For subsequent violations the fines increase. The grand jury learned that since 2006, AC Transit has disciplined approximately thirty (30) operators for violations of the district’s policy against idling at schools. Reprimands varied from verbal and written counseling to suspension letters. The grand jury was pleased to find AC Transit taking enforcement action and complying with the no-idling laws.

HEALTH INEQUITY REPORT

During the course of this investigation, the grand jury learned of the “Alameda County Life & Death From Unnatural Causes – Health and Social Inequity in Alameda County” report¹ (Inequity Report). This federally funded report was written by the Alameda County Public Health Department and was a collaborative effort with other local agencies, including the East Bay Housing

¹ This report is available on-line at:
www.acphd.org/AXBYCZ/Admin/DataReports/00_2008_full_report.pdf

Organization, Oakland Unified School District, Just Cause Oakland, Transportation and Land Use Coalition, Alameda Health Consortium, Urban Strategies Council and the Public Health Law and Policy, to name a few. The grand jury found this report highly informative in addressing concerns about health and air quality for the citizens of Alameda County. The grand jury looked into how the information contained in the report was being used by local officials within Alameda County.

The grand jury met with the director of the Alameda County Health Care Services Agency and the director and staff members of Alameda County's Public Health Department. Detailed background information and documentation was also provided to the grand jury.

Among the topics outlined, the inequity report identified certain high-risk areas of Oakland that contained significant disparities in longevity. (These statistics did not include death from AIDS or violent crime). The report also contained information on health disparities found in Alameda County by neighborhood, income level and race/ethnicity; illustrated the links between these disparities and existing economic and social inequities; and suggested goals and cross-sectoral policies that can lessen the inequities in Alameda County. The report specifically addressed such issues as housing, transportation, food access and liquor stores, neighborhood conditions, criminal justice, access to health care, air quality, and social relationships and community capacity.

The grand jury specifically assessed how this report is being used by Alameda County and the city of Oakland. We found that the county was engaged in multiple efforts involving different county departments as well as community-based organizations and non-profits to address the disparities highlighted in the report. For example, we learned of efforts to create a health initiative, entitled "Health is Not Just Health Care." With participation of the mayors, city councils, community leaders and the board of education and superintendents, the county is examining opportunities to implement "upstream" strategies in health equality.

Communities within the county will formulate specific strategies for reducing health disparities.

Another effort found that depression was 40% higher in one part of the county. In partnership with schools, Measure A funding was used to start a comprehensive planning process called the Tri-Valley Adolescent Health Initiative. Another county program, “Place Matters,” is a national initiative of the Joint Center for Political and Economic Studies, Health Policy Institute, designed to improve the health of participating communities by addressing social conditions that lead to poor health. The mission and goals of the Alameda County Place Matters team are to promote a more equitable distribution of social goods by influencing policies in affordable housing, economic development, education, land use and transportation.

Health officials emphasized that healthcare does not include just medical treatment, but creating healthy environments and being proactive rather than reactive in dealing with healthcare issues. All communities have the responsibility to do more to create healthy environments for residents. This includes providing a better quality of life, safer communities, cleaner streets and air, better education and better access to health care for all, regardless of socioeconomic levels. Many times agencies from different jurisdictions and occasionally even agencies from the same jurisdiction compartmentalize how they respond to these issues. The Inequity Report documents a number of areas in which departments of the county or in cities not traditionally involved in public health could team up with health officials to help eliminate some of the inequities exposed in the report.

According to the report, Oakland is the city with the two largest identified areas of inequities within Alameda County. The grand jury learned that the report had been formally delivered to the Oakland City Council’s Joint Education Partnership Committee on March 10, 2009. Individual responses from elected Oakland city officials were mixed. Some elected officials pointed out that

Alameda County had jurisdiction over public health while others felt the report provided data to make informed decisions. The grand jury also takes issue with the views expressed by the Oakland elected official whose only response to the report was in essence that health care is not a city responsibility. To the contrary, the grand jury believes that public health responsibilities should be shared with cities particularly when cities can take action to create healthy environments for residents, such as limiting the number of liquor stores or enforcing neighborhood blight ordinances.

While this grand jury cannot determine how the city of Oakland ultimately will react to the Inequity Report, we expect that as Oakland conducts a full review of the report, every city department will review it closely to determine in what fashion it can take a positive, proactive approach to helping eliminate the identified inequities.

CONCLUSION

The grand jury learned about the efforts in Alameda County to deal with community health issues such as air quality, truck and bus idling, and health and social inequities. A number of factors contribute to health and social inequities that result in shorter life expectancy and diminished quality of life for residents in particularly impacted areas of the county. There are no easy solutions for these complex issues. However, the grand jury was encouraged by the efforts of the Alameda County Department of Health Care Services and its Public Health Agency to draw greater attention to the health and social inequities by reporting its research in the Inequity Report. This report is a valuable tool in making informed decisions regarding health and social issues and should be considered by all of the agencies and governmental entities concerned. The grand jury learned that action has been taken in several communities by a coalition of neighborhoods, community based organizations, and city and county agencies. The director of the Alameda County Health Care Services Agency has provided leadership to encourage a cooperative approach to address these complex issues.

The county Public Health Agency has partnered with the Oakland Unified School District and local neighborhoods to bring health care into two impacted neighborhoods. Elimination of health disparities is not solely within the jurisdiction of the county. Cities also have a responsibility to address life issues that have a direct impact on the health of their communities; for example, zoning, housing, police services, transportation, and access to services. The grand jury believes the inequity report brings to lights these issues and other important issues. Working together, every city and county agency has the ability to contribute to solving the issues outlined in the Inequity Report.

RESPONSES REQUIRED: None.

JAIL INSPECTIONS IN ALAMEDA COUNTY

According to California Penal Code section 919(b), a grand jury is charged with conducting inspections of jail holding facilities and considering the complaints, if any, of inmates held therein. During the 2008-2009 term, members of the grand jury inspected certain jails and holding facilities in Alameda County. In connection with these inspections, the grand jury reviewed previous inspection reports from the Alameda County Public Health Department and the California Board of Corrections. The facilities inspected this year were: the Fremont city jail, the San Leandro city jail, the Newark police department's holding facility, Alameda County Juvenile Hall in San Leandro, the Glen E. Dyer detention facility in Oakland, and Santa Rita jail in Dublin.

The grand jury found no issues with the Fremont or Newark jails or with Alameda County's Juvenile Hall. The grand jury found Santa Rita jail to be clean and well maintained and noted that even though the State Bureau of Corrections reported an issue with peeling paint in the kitchen area, the grand jury found this problem no longer existed.

This grand jury makes special mention of the Glenn E. Dyer detention facility in Oakland, operated by the Alameda County Sheriff's Office. The Glenn E. Dyer jail is one of the two largest jail facilities operated by the Sheriff in Alameda County, the other being Santa Rita Jail - the 5th largest jail in the nation. The statistics for the Glenn E. Dyer jail are as follows:

- ❑ In 2008 there were 23,387 inmates booked at the facility.
- ❑ There are 60-100 bookings per day.
- ❑ The jail is authorized to house as many as 904 inmates.
- ❑ The average daily inmate population is 775.
- ❑ The jail currently houses county and federal prisoners, as well as Department of Corrections parole violators.

This facility was not only very well maintained, but for a jail of this size and booking volume, we found the Glenn E. Dyer facility to be one of the cleanest jails of all the jails and holding facilities we inspected in Alameda County.

The grand jury found the San Leandro city jail in good working order; however, we noted one area of concern. On inspection, the grand jury was informed that only one member of the police department staffed this jail during the night shift. The jail houses inmates overnight and accepts prisoners for booking throughout the night. When a suspect is booked into the jail, the arresting officer stands by until the prisoner is placed in a cell. But once the prisoner is in the cell, the arresting officer leaves, leaving only the one jail staff member in place. The grand jury learned that command staff members, working on a separate floor of the police building, are available to assist in an emergency, and the jail employee does have access to a radio to call for help. However, the grand jury believes having only one staff member on duty is a cause for concern. We believe this may present a safety and liability issue in the event of a sudden emergency, such as a medical issue or a suicide attempt by a prisoner. The response time of the back-up personnel could be delayed due to having to access the jail from other parts of the police building. For the safety of the jail personnel as well as the prisoners, the grand jury believes it would be in the best interest of the police department to have two staff members working in the jail. At no time should a staff member be assigned to work the jail alone when prisoners are present.

RESPONSES REQUIRED:

None.

SANTA RITA JAIL PRISONER COMPLAINT

The grand jury reviewed a complaint against the Alameda County Sheriff's Office submitted by a Santa Rita jail inmate. The inmate outlined several grievances, alleging his right to refuse non-emergency medical treatment was denied and alleging he was "manhandled" by Sheriff's personnel. The grand jury reviewed all supporting documentation, including medical records of the inmate, the outcome and supporting documentation of the grievances, and Santa Rita jail grievance policies and procedures.

It was reported that this inmate had filed 359 grievances with the Sheriff as of January 30, 2009. Of those 359 grievances, the Sheriff's investigation affirmed 26. When reviewing the Sheriff's handling of the complaints, the grand jury learned that the Sheriff thoroughly investigated each complaint, and correctly followed internal policies in handling inmate grievances.

The grand jury found no substantial violations or proof to substantiate the complaints filed. The grand jury found that the Sheriff's Office not only handled the complaints appropriately, but also provided exemplary service to the inmate in investigating the complaints that were filed.

The grand jury concludes the Alameda County Sheriff's Office was diligent in investigating this inmate's complaints and finds no wrong doing in their policies or handling of grievances.

RESPONSES REQUIRED: None.

JACK LONDON SQUARE PRODUCE MARKET DISTRICT

The grand jury received a complaint from residents of a commercial building converted to residential usage located in the area of the Jack London Square Produce Market. This area is designated as a mixed-use zoning area. Mixed-use development means some combination of residential, commercial, industrial, office, institutional, or other land uses located within the same neighborhood.

The complaint alleged the city of Oakland failed to enforce violations of various health codes, parking and traffic ordinances committed by the produce market vendors. The residents also complained about an inability to access their parking garage due to traffic, traffic safety issues, unsightly trash left in the area, trucks parked overnight with diesel motors running, trucks double parked unloading when curbside space was available, and pallets left piled in the street and on the sidewalks. They also pointed out not only the inconvenience caused by these practices, but also the health hazards of diesel fumes and the potential danger of emergency vehicles being denied accesses should the situation arise.

The grand jury met with one of the residents and reviewed materials relating to city ordinances and laws. Members of the grand jury conducted numerous site visits to the area in question at various times of the day and night. The grand jury could find no ordinances prohibiting overnight parking of trucks in the Jack London Produce Market area nor did we observe violations of local ordinances. At no time during any site visit was the grand jury able to substantiate any of the allegations brought forth by the complainants.

After investigating, the grand jury was not able to verify any of the violations. The Jack London Square District is an area undergoing transformation that includes an influx of more residential living units into a commercial mixed-use area. There are bound to be issues when more residents move into the area. Items

such as noise and traffic must be considered prior to moving to a mixed-use neighborhood. The grand jury believes it is the resident's responsibility to fully understand that a mixed-use area is vastly different than a residential area, and noise and traffic issues will exist. Although the grand jury was unable to substantiate the complaints received, we believe it would be beneficial for the produce market vendors to work cooperatively with their residential neighbors in order to better co-exist in this changing environment. Hopefully, this will promote communication between both entities and lead to better problem-solving in the future.

RESPONSES REQUIRED: *None.*

EAST BAY REGIONAL PARK DISTRICT POLICE DEPARTMENT WEBSITE

The grand jury investigated the citizen complaint procedure for the East Bay Regional Park District (EBRPD) Police Department. Every law enforcement agency in the state of California is required to have a procedure to investigate complaints made by members of the public against the personnel of the agency (Penal Code section 832.5). A citizen had submitted to the grand jury a complaint against the EBRPD police indicating difficulty in the process of filing a complaint with the department.

The grand jury reviewed the EBRPD's website, www.ebparks.org. None of the website's links described the procedure for citizens to file complaints against EBRPD Police personnel. There were links to "Contact the Police Department," "Report an Emergency," and "Report an Incident." However, none of these links discussed citizen complaints. Finally, there were no questions pertaining to citizen complaint procedures in the "Frequently Asked Questions" link.

The grand jury requested the EBRP Chief of Police provide an explanation of the citizen complaint procedure of how a citizen should file a complaint against police personnel. The chief responded to the request and provided pertinent documents relating to citizen complaint procedures. He confirmed that complaint forms are not available online. He noted the EBRP website invites the public to contact him directly with any concerns.

The EBRP Police Department does not have a citizen complaint procedure available on line. The grand jury believes that a citizen with a complaint about police personnel would appreciate being able to make a complaint on line.

Complaint information on the web site should be easy to locate. The grand jury recommends the EBRP Police Department update their website to include the citizen complaint procedure.

RESPONSES REQUIRED: *None.*

