



**OAKLAND 911
STILL LACKING A TIMELY
RESPONSE**

**THE SANTA RITA JAIL
MENTAL HEALTH BUILDING
WILL IT EVER SEE THE LIGHT
OF DAY?**

**ALAMEDA COUNTY NEEDS A
CODE OF ETHICAL CONDUCT
AND WHISTLEBLOWER
PROGRAM**

**MISUSE OF COUNTY
INFORMATION TECHNOLOGY
SYSTEMS DURING THE 2018
ELECTION CYCLE**

**TIMELINESS OF CHILD
ABUSE AND NEGLECT
INVESTIGATIONS**

**2022–2023
Alameda County Grand Jury
Final Report**

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2022–2023 Alameda County Grand Jury Final Report



Rene C. Davidson Courthouse, Oakland, CA

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Sather Gate, University of California Berkeley Campus

Special Note

In performing its duties, the Grand Jury relies on the advice of the District Attorney, the Presiding Judge of the superior court, and the County Counsel. In Alameda County, the county has assigned district attorney staff to act as the primary legal advisors to the grand jury, including a full-time Assistant District Attorney as legal advisor and a full-time Senior Program Specialist for administrative and procedural support. In the event the District Attorney's (DA) office has a conflict of interest, the jury must confer with the presiding judge and county counsel to arrange alternative legal advice.

On August 10, 2022, at our first committee meeting, we were informed that the DA's office had a conflict of interest with one of the investigations. For that investigation, the DA's office withdrew its assistance and was "walled off" from all information and communication; a legal advisor was appointed from the county counsel's office. The district attorney staff continued to provide support for all other investigations.

Then, in January 2023, seven months into the 12-month term, the DA's office abruptly withdrew all legal, administrative, and procedural support and ceased all communication with the grand jury citing a conflict of interest. Immediately, the jury's investigations came to a near standstill. The Grand Jury had already requested the assistance of staff to contact over a dozen witnesses, and no longer had a clear legal way to request them. Over the following three months, while the presiding judge searched for a new legal advisor, the jury worked to establish ad hoc procedures for arranging and conducting witness interviews and to rekindle stalled investigations. In April 2023, a temporary legal advisor was hired from outside the county. The expertise and support of the Senior Program Specialist was not replaced, leaving the jury on its own to format, design and produce the final report.

It is an understatement to say that this unprecedented months-long disruption challenged our ability to fully conduct and conclude our investigations and produce this report within the limit of our term. We, the grand jurors, with the help of the Presiding Judge, County Counsel and others, have overcome this challenge and fully stand behind the investigations reported here. We would like to extend a special thank you to Presiding Judge Smiley for his commitment and persistence in supporting us in our time of need.



Oakland Airport Runway



Alameda County
Grand Jury

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Hon. Charles A. Smiley, Presiding Judge
Alameda County Superior Court
1225 Fallon Street, Executive Office, 2nd FL
Oakland, California 94512

Dear Judge Smiley,

On behalf of the 2022-2023 Alameda County Civil Grand Jury, I would like to submit our final report to the Superior Court and the people of Alameda County. The Grand Jury initially received 24 complaints. After a review of the complaints, it was decided that 13 would be considered for further examination. This report contains the results of five detailed investigations into activities of City, County governments, and agencies, as well as four jail inspections. Due to the loss of our legal counsel and administrative support we were unable to complete an additional two investigations.

As always, our objectives have been to best inform the public and to improve the operational effectiveness and efficiency of our local government. The information contained within this report came from numerous interviews of dedicated government employees and elected officials. The members of the Grand Jury obtained and reviewed hundreds of documents to corroborate the evidence we received on which our findings were based.

This has been an unusually challenging year for this Grand Jury. First, the Covid restrictions were still in place, which meant most of our business was conducted via Zoom. Next, after the recent District Attorney election (2023), all legal and administrative support was withdrawn from our group. The removal of this support, at such a critical time, (seven months into our one-year process) was very disruptive.

My colleagues and I want to extend a special thanks to you as you stepped in to provide guidance and leadership when our legal and administrative support were abruptly removed.

We are not experts. Rather, as the wisdom of the grand jury system affords, we are ordinary citizen volunteers, who were tasked with asking questions of governmental organizations any citizen would ask if given the opportunity.

I am grateful to have been given the opportunity to serve as Foreperson for the 2022-2023 Civil Grand Jury and to have worked with such a talented group of Alameda County residents. It is our desire that positive change will come about as a result of this report.

Sincerely

A handwritten signature in blue ink, appearing to read "Torin G. Fischer". The signature is stylized with a large, sweeping initial "T" and "G".

Torin G. Fischer, Foreperson
2022-2023 Alameda County Civil Grand Jury

2022–2023 Alameda County Grand Jury Member Roster

Name	City
Toni Alexander **	Oakland
Leonard Ashford	Oakland
Jeffrey V. Baumgartner	Piedmont
Curtis L. Brunn	Fremont
Xiaoyu Duan	Fremont
Torin Fischer	Pleasanton
Richard Howard	Livermore
Katharine M. Jeffery	Piedmont
Christine Johnston	Berkeley
Lee Kaplan	Alameda
John Knowlton ***	Livermore
Laurie Kozisek	Alameda
Faith M. Munn**	Hayward
Meredith D. Orthwein	Alameda
Heather E. Siglin	Oakland
Linda M. Tangren	Castro Valley
Richard Wong	Union City
Randolph L. Wu*	Piedmont
J. Marek Zadrozny****	Fremont

* Resigned December 2022

** Resigned February 2023

*** Resigned March 2023

**** Resigned May 2023

2022–2023 Alameda County Grand Jury Officers and Legal Staff



GRAND JURY OFFICERS

Foreperson:	Torin Fischer
Foreperson Pro Tem:	Richard Wong
Secretary:	Lee Kaplan
Secretary Pro Tem:	Heather E. Siglin
Sergeant at Arms:	Jeffrey V. Baumgartner
Sergeant at Arms Pro Tem:	Vacant

LEGAL ADVISORS

Alameda County District Attorney's Office
&
Alameda County Counsel's Office

PRESIDING JUDGE OF THE SUPERIOR COURT

Honorable Charles A. Smiley
January 1, 2022 – Present

2022–2023 Alameda County Grand Jury Committee Assignments

GOVERNMENT

Richard Wong - Chair
Leonard Ashford
Jeffrey V. Baumgartner
Curtis L. Brunn
Richard Howard
Laurie Kozisek - *Secretary*
Heather E. Siglin
Linda M. Tangren - *Chair Pro Tem*
Randolph L. Wu *

LAW & JUSTICE

Richard Howard - Chair
Xiaoyu Duan
Torin Fischer
Christine Johnston
John Knowlton ***
Laurie Kozisek - *Secretary*
Faith M. Munn **
Heather E. Siglin - *Chair Pro Tem*
Linda M. Tangren

HEALTH & SOCIAL SERVICES

Katharine M. Jeffery - Chair
Jeffrey V. Baumgartner
Christine Johnston
Lee Kaplan - *Secretary Pro Tem*
John Knowlton ***
Faith M. Munn **
Meredith D. Orthwein - *Secretary*
Randolph L. Wu*
J. Marek Zadrozny ****

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Meredith D. Orthwein - Chair
Leonard Ashford
Curtis L. Brunn
Xiaoyu Duan
Torin Fischer
Katharine M. Jeffery - *Chair Pro Tem*
Lee Kaplan
Richard Wong - *Secretary*
J. Marek Zadrozny ****

EDIT COMMITTEE

Jeffrey V. Baumgartner
Christine Johnston
Meredith D. Orthwein
Leonard Ashford
Richard Wong

- * Resigned December 2022
- ** Resigned February 2023
- *** Resigned March 2023
- **** Resigned May 2023



Oakland Estuary (birds)

2022–2023 Alameda County Grand Jury Members



Leonard Ashford, Laurie Kozisek, Heather E. Siglin, Lee Kaplan, Richard Howard,
Linda M. Tangren, Katharine M. Jeffery, Christine Johnston, Jeffrey V. Baumgartner
(Front) Torin Fischer, Judge Charles A. Smiley, Richard Wong

(Not Pictured: Curtis L. Brunn, Xiaoyu Duan, Meredith D. Orthwein)

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**Presiding Judge
of the
Alameda County Superior Court**



**Honorable Charles A. Smiley
January 2022–Present**

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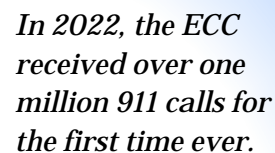
OAKLAND 911 STILL LACKING A TIMELY RESPONSE

EXECUTIVE SUMMARY

“In an emergency, we expect our 911 call to be answered quickly and to speak with a person. Unfortunately, that is often not the case in the City of Oakland.”

These sentences are from the 2019–2020 Grand Jury Report titled “Oakland 9-1-1 Communications Center — A Center in Crisis.” The 2022–2023 Grand Jury received a complaint alleging that calls made to the Oakland Police Department 911 Emergency Communications Center (ECC) are still not answered in a timely manner.

The Grand Jury investigation revealed that call volumes to 911 at the ECC continue to increase. In 2022, the ECC received over one million 911 calls for the first time ever. The California Office of Emergency Services (CalOES) mandates that 90% of calls that come into a Public Safety Answering Point (PSAP), like the ECC in Oakland, shall be answered by a live person within 15 seconds, and that 95% should be answered within 20 seconds. Instead, the response rate at the ECC has gotten worse. In 2022, the ECC failed to answer about half of the calls it received within 15 seconds.



In 2022, the ECC received over one million 911 calls for the first time ever.

The 2019–2020 Grand Jury report identified staffing shortages that affected the ECC’s ability to answer incoming calls promptly. Since then, some of the hiring challenges identified in the 2019–2020 report have been partially addressed. However, staff shortages, hiring difficulties, attrition, and mandated overtime persist. The “Great Resignation” that occurred during the COVID-19 pandemic added to hiring and retention difficulties for the ECC, as well as for other city and county agencies throughout the Bay Area.

Additionally, the ECC has not yet implemented the dispatch and record keeping software that was noted as almost ready in the 2019–2020 report. This software will assist the ECC dispatchers in mapping locations of incidents requiring a response, in real time, so they can direct calls to police officers on duty. The software will also assist police officers in filing mandated reports. Since 2020, the Grand Jury has been told that the roll out date for this critical software and hardware update would be “in another 6 months”. The senior staff interviewed expressed

frustration with the long delays in the software implementation and the need to bring the ECC up to the latest 911 technology. Some of these IT-related staff members have since left the Oakland Police Department, making the personnel shortage much worse.

This Grand Jury concluded that, though some progress has been made to address previously identified hiring issues, the 911 service to residents has fallen further behind. The ECC still needs to be better staffed. The proposed dispatch and record keeping software and hardware still need to be implemented and all associated Oakland Police Department personnel need to be trained. The ECC needs to be upgraded in a way that keeps pace with current technology. It is vital that 911 calls be answered in a timely manner; About 10% of the calls go to the Oakland Fire Department (OFD) for fire and medical emergency dispatching and about 30% lead to a dispatch by the Oakland Police Department (OPD). At current staffing, technology, and funding levels, there is no clear plan to adequately handle the call volume in a timely manner.

BACKGROUND

The Oakland Police Department 911 Emergency Communications Center (ECC) is the Public Safety Answering Point (PSAP) for the City of Oakland, handling most incoming emergency police, fire and medical calls and texts, as well as some non-emergency calls and texts. It is a part of the Oakland Police Department (OPD). The ECC runs 24 hours per day, seven days a week. When someone in Oakland calls 911 with an emergency, the expectation is that their call will be answered by a real person within a few rings and police officers, fire fighters, or emergency medical technicians will arrive on scene within minutes to take care of the issue.

Call Answering and Routing

When a call comes in to 911 via phone or text, the ECC is mandated by the California Office of Emergency Services (CalOES) to answer that call in a timely manner. The CalOES standards state that 90% of incoming calls shall be answered within 15 seconds, and 95% of incoming calls should be answered within 20 seconds. A variety of callers use 911 whether or not appropriate, and the ECC operator will not know if this is a true emergency until answering the call. The operator must first determine how the call should be handled, then either re-direct the caller or talk with the caller and take down the caller's information.

- About 10% of the incoming calls are regarding a fire or medical emergency. These calls are immediately forwarded to the Oakland Fire Department (OFD) for their dispatcher to handle. They are under similar constraints to respond to calls within a certain time frame, so delays in answering the initial ECC call impact both fire and police response times.

- About 30% of the incoming calls are emergencies that warrant police dispatches. For these, the operator takes down all pertinent information from the caller on a computer intake form; the data transfers automatically to a Computer Aided Dispatch (CAD) system that displays the

locations of incidents in real time on a map. Then a dispatcher at the ECC assigns the incidents to appropriate officers. The data also populates the Records Management System (RMS) for later reporting of crime statistics. This CAD system is available to officers in their patrol cars and at their desks.

- The remaining 60% of incoming calls include:

- Crank calls and chronic non-emergency callers.
- Multiple calls for the same incident. Since each caller might have slightly different information about the incident, the dispatcher must get all information available from each witness, to add to the information already gathered in previous calls, though each call may not result in an additional police dispatch.
- Emergency calls asking for assistance from the Public Works Department (PWD), such as flooding or trees down, for which the caller is directed to the PWD emergency number 510-615-5566. When this PWD number is called after hours, the caller has a menu of choices to press, depending on the nature of the emergency, that will direct the call to 911, OPD, OFD, EBMUD, PG&E, or the PWD After Hours Emergency Dispatch Center.
- Non-emergency PWD related calls, such as illegal dumping, potholes, and abandoned vehicles, for which the caller is directed to an appropriate daytime number, website, email, or app in the City of Oakland's 311 system.
- Calls for the Mobile Assistance Community Responders of Oakland (MACRO) for non-violent/non-emergency situations that can be handled by mental health professionals. These come into 911 but are transferred to a MACRO dispatcher. The latest MACRO Impact Report, for the month of February 2023, states that 182 MACRO calls were initiated via 911 dispatch for the month, a 65% increase over the previous month. The number of calls handled through 911 is expected to rise as people become more aware of the service and as MACRO's available service hours are extended. In addition to calls passed through 911, MACRO personnel handle situations observed during their patrols, and receive requests from community referrals. The total number of incidents for February 2023 was 1,354. Several City Council members have prioritized budgeting for a separate telephone number and personnel for MACRO dispatching in the future, which will remove this call burden from the ECC.
- After hours complaints about police officers. Calls to the Internal Affairs Office are routed to the ECC non-emergency line after hours. The operator takes down all pertinent information to forward to Internal Affairs to handle the next business day. Federal oversight of the OPD for the past 20 years mandates that these calls be documented in real time, including after hours.
- Hang ups and accidental calls. Witnesses told the Grand Jury that many callers hang up after waiting for minutes with no answer; they may or may not try again. The witnesses did not know the actual number of calls. Others dial 911 accidentally, then hang up as soon as they realize what they have done. Per ECC policy, every uncompleted call must be researched by the ECC staff and may trigger a call back or in-person visit. There is no way to know if the caller was too incapacitated to complete the call. Thus, every uncompleted

call is taken seriously. Callbacks are difficult if the caller chooses to not pick up a return call from an unknown number or does not have voice mail set up. Tracking down the caller in person is especially difficult if the caller is in a moving vehicle.

- Other calls to the non-emergency OPD number. This includes requests for public records and general information.

Currently, not all calls to 911 made in Oakland go directly to the Oakland ECC. Some cellular providers still route their 911 calls through the California Highway Patrol (CHP) office in Solano County. Those calls that are not coming from someone on a freeway, and appear to be coming from Oakland, are then routed to the Oakland ECC. Texts to 911 are also handled, initially, by the CHP. This transfer of calls and texts can add a delay of up to 3 minutes before it is answered by someone in the ECC. Eventually, all cellular calls and texts will be routed directly to the Oakland ECC, decreasing the delay in connecting with the ECC.

Call Dispatching

In addition to operator stations for answering calls, the ECC has dispatch stations for dispatching police officers, using CAD software. Most personnel in the ECC, including supervisors, are qualified as both operators and dispatchers and rotate their stations throughout the shift from operator, to dispatcher, to quality control, to training, and to other duties. This periodic change of pace makes the work more interesting, and less stressful. Dispatchers review incoming events that have arrived into the CAD system, assign a priority to each event, assign officers to the events, and stay in contact by radio and the patrol car-based CAD system. As an incident rises to the top of the queue, the assigned officers go to the incident. The time it takes for the first officer to arrive at the scene is the secondary response time that the public sees.

Incidents are divided into three priorities and are tracked by OPD and the FBI for timeliness.

- Priority One calls involve imminent injury, prevention of violent crime, and incidents involving weapons. These get top priority for dispatching and may involve multiple police units.
- Priority Two calls involve urgent, but not immediate emergencies, such as in-progress misdemeanors, disputes, and just-occurred felonies. These are worked in as officers become available.
- Priority Three calls are non-emergency calls that are addressed when there is time to do so, which may not be until the next day.
- Priority Four calls are non-emergency cold calls, not tracked by the FBI, for reports of abandoned cars and other low-priority calls.

Sometimes the call is a non-police incident, but requires an OPD dispatch immediately for traffic control, e.g., a downed power line. In these cases, operators and dispatchers need to coordinate efforts among several agencies.

Personnel and Budget

As of 2022, the City of Oakland, the eighth largest city in California, has a population of 433,823 and employs a police department of 697 sworn law enforcement officers. OPD also employs 278 civilian, or non-sworn, staff. The ECC management personnel are mostly sworn officers. The dispatchers and operators are non-sworn. OPD has an Annual Operating Budget of \$353 million dollars, which is used almost entirely for personnel and overhead. Though the OPD represents about 20% of the City of Oakland's workforce, the annual budget for the OPD is about 16% of the city's total operating budget for FY 2022–2023.

In the coming fiscal year, the City of Oakland faces a budget deficit of just over \$100 million. Presumably, OPD will share in extensive budget cuts, including funding for ECC employees and technology. The 2022–2023 midcycle budget authorized 99 dispatchers/operators and eight managers/supervisors for the ECC, though not all these positions were filled. The mayor's 2023–2025 Budget proposes to cut or freeze all unfilled positions in the OPD. That would bring the ECC personnel budgeted down to 76 Police Communication Dispatchers and eight managers/supervisors and would cut 23 full-time equivalent (FTE) positions from the ECC. The proposed budget also calls for a 15% decrease in overtime throughout the OPD.

Previous Investigations

This report is a follow up to the investigation made during the 2019–2020 Civil Grand Jury term. In the previous investigation, the Grand Jury found that:

- Staffing levels could not competently handle the 700,000+ emergency calls the ECC received in 2019.
- The operators were unable to meet the CalOES timeliness criteria for answering incoming calls. There was no call-answering policy or standard to ensure compliance.
- The ECC was understaffed and employees were required to work excessive overtime. Management presumed excessive overtime to be part of the reason for disproportionately high levels of sick leave, disability claims, and attrition.
- Implementation of the software and hardware, purchased in 2018, was delayed for lack of dedicated staff and management.
- Managing public records requests and the OPD complaint line (for Internal Affairs) diverted staff away from answering emergency calls.
- The use of a recorded message to greet 911 callers was ineffectual and increased the number of abandoned calls.
- Oakland's hiring process was too slow and the hiring of ECC operators/dispatchers was not seen as a priority.

In response to the 2019–2020 Grand Jury report, the Interim Chief of Police concurred that the broader finding – that calls are not being answered to State standards – was correct, and asserted that some of the Grand Jury's recommendations were already in progress:

- The "troubled" phone system was recently replaced.
- The Motorola PremierOne CAD system was being configured and, at the time, OPD thought it would be operational by 2021.
- Hiring practices were improved and the City of Oakland had a "very optimistic view" of upcoming recruitments.
- OPD's executive team was exploring alternative resources for ancillary (non-emergency) duties.
- OPD promised to provide centralized training for staff to assist with ECC training needs.

The 2019–2020 Grand Jury report partly relied on the City Auditor's Report in 2017 which found:

- The ECC failed to meet timeliness standards.
- There was a consistently large number of vacant positions.
- Staffing levels within a 24-hour period did not align with peak call volumes.
- High overtime reliance exacerbated high employee turnover.
- The hiring and onboarding process was protracted.
- The ECC should consider using civilian instead of sworn officers for supervisory positions.

The report noted that sworn officers tended to last about 6 months, while civilians lasted an average of 17 years and created a more stable workforce. There are differences in training and compensation between sworn and civilian personnel. The Audit also noted that making the supervisory positions civilian rather than sworn would allow a path for advancement for the civilian dispatchers and operators from working on the ECC floor to working in management positions.

The 2019–2020 Grand Jury report also partly relied on the independent consultant report in February 2019 by Federal Engineering, Inc. which stated:

- The ECC was understaffed and should have at least 90 dispatchers and 15 shift supervisors. The ECC supervisors should do their own assignments and not routinely cover for vacant operator and dispatching stations.
- There should be at least 18 dispatchers and three supervisors working during peak hours.
- Non-emergency work, such as officer complaint calls, Pursuit Logs, and Use of Force logs are time consuming and should be handled elsewhere.
- The ECC should have a full-time Technology Manager to ensure that technology needs are met.
- The ECC should have a dedicated Training Manager.

INVESTIGATION

Basis of this Investigation

In 2022, the Oakland ECC received over one million calls. Almost half of the callers were required to wait 15 seconds or more for a response. Many simply gave up. It is the intent of this Grand Jury investigation to determine the main causes for this inability to meet standards and to suggest ways to improve the system. The Grand Jury concentrated efforts on investigating the timeliness of the initial 911 response (answering the phone), but also considered the timeliness of the arrival of emergency services on scene, since that is part of the public perception of timeliness.

Members of the Grand Jury made a site visit to the ECC facility and interviewed OPD management, to better understand how the system works, and to research personnel and technology issues. Numerous standard-setting documents were reviewed from the National Emergency Number Association (NENA), CalOES, the FBI, and other sources to get a better understanding of how an ECC should operate. Previous investigations and audits by the Alameda County Civil Grand Jury, the City of Oakland, and private contractors, were also reviewed.

Current Emergency Communication Center Staffing Levels

Since the last Grand Jury investigation, the ECC has seen a decrease in staffing. The entire workforce of Alameda County has diminished by 30%, as part of the "Great Resignation". This includes ECC operators and dispatchers, police officers, information technology (IT) support, trainers, and even the human resources personnel necessary to fill vacant positions. Employees that remain at OPD are subject to mandatory overtime and given less time to devote to crime prevention and public outreach. Because Oakland's hiring system is cumbersome, recruiting employees at the ECC is difficult. Potential employees are recruited more quickly by other employers, existing workers move to other agencies, and overworked employees are burnt out and quit.

The 2022–2023 Grand Jury was informed that the existing staff at the ECC work mandatory overtime, and experience increased stress, absenteeism, and separation from service. Based on information received from interviews, ECC staff are expected to work an additional 60 hours in every 6-week block of time, an average of 10 extra hours per week. Some employees work up to 65 hours per week and up to 16 hours per day. Workers have expressed that it is hard to be professional at the end of a stressful 16-hour day. Schedules are so tight that vacation time is often not granted. Shift sign-ups are based on seniority, with the more senior employees allowed to sign up for more favorable shifts, rather than shifts with a high

call demand. This results in some less favorable shifts having insufficient workers to cover the incoming calls, resulting in more delays in answering calls. When dispatchers attend mandatory ongoing training, that is time away from the phone and dispatch stations, for both the trainers and the trainees.

Work Volumes

Meanwhile, the number of calls to 911 is growing and exceeded 1 million calls last year. Crime has fluctuated in the past few years but is now on the rise. Before the COVID-19 pandemic, violence had been slowly dropping and 2018–2019 had some of Oakland’s lowest violence statistics. During the COVID-19 pandemic, violent crime, including domestic violence, spiked while property crime decreased. There was an increase in unsheltered populations, which led to more violence, homicides, and drug trafficking in encampments. The 2023 crime levels are similar to 2019 levels.

In 2021, there were on average 142 calls per hour, and there were usually 10 to 16 employees present at any one time. Some of those present were taking calls, some were working dispatches, some were in training, and some were handling non-emergency issues like complaints. When the Grand Jury visited the ECC during the mid-morning, it appeared that there was a steady queue of incoming calls.

Hiring

Some witnesses complained that the process to add new staff is arduous, lengthy, and many candidates drop out before final hiring decisions are made. The Grand Jury has heard of applicants waiting 6 months for an interview. Hiring for ECC positions is managed by the City of Oakland’s Human Resources Management Department (HR). Human Resources Management is striving to improve the time it takes to hire new employees and improve the level of HR resources that are directed to those hirings, even though HR is understaffed as well. Recruitment efforts for OPD, in general, and the ECC in particular, are increasing, though applications declined during the COVID-19 pandemic. Part of the reason is that during the COVID-19 pandemic, workers in other industries were allowed to work remotely or with flexible hours. Staff in the ECC are required to work on site; remote work is not currently possible. This requirement has proven to be a barrier for some candidates.

New employees require lengthy training before they can start to answer the phones or dispatch officers. Some drop out during the training period once they realize the job is not what they expected. Management has started screening applicants in a way that determines this incompatibility earlier in the recruitment process. This has helped the effort to fill the positions with suitable employees more quickly. Staff has developed a better training protocol leading to a better pass rate for mandatory testing. Overall, the staffing efforts are

improving the number of employees hired, but there are still many vacancies, and still some attrition among the existing employees.

Some witnesses expressed concern that there were not enough managers to handle managerial work such as floor supervision, training, risk management, coordination with city officials, budgeting, billing, hiring, staff assignments, software management, public records requests, and quality assurance. In many cases, the mid-level managers are expected to work at three levels:

1. Completing their own assigned work required by their position
2. Supplementing the work of dispatchers when there are not enough dispatchers on the floor
3. Supplementing the work of upper management, when the upper managers are unavailable

Managers are currently working their own full day shifts, while also on call 24/7 to deal with issues. The ECC has currently authorized 8 managerial positions. A recent study recommended 15 supervisors/managers for Oakland. The Oakland mayor's proposed budget recommends not changing the level, staying at 8 supervisors/managers.

Non-Emergency Work

The employees at the ECC also have non-emergency duties, as described above, including after-hours Internal Affairs calls, inappropriate 311 calls that should have gone to Public Works, calls for public records (which can take many hours of research to respond to), returning calls for those who hung up before connecting, and other calls – a total of 60% of the calls – that do not directly result in OPD or OFD dispatches to emergencies. Moving some of this workload to other departments would free up more time for ECC staff to answer 911 calls in a timely manner.

Training is always an ongoing part of work in the ECC. When the proposed CAD software is finally deployed, it will require additional training time, which is time away from answering the incoming 911 calls.

Police Officer Dispatching and Response Time

The federal Uniform Crime Reporting (UCR) program is handled by the FBI, with input from every U.S. city. The UCR tracks the average response time for Priority One calls in Oakland—imminent injury, prevention of violent crime, and incidents involving weapons. The data has varied over the past 13 years and appears to be unrelated to staffing levels of 600 to 800 sworn officers in the OPD. The average response time for years 2017 through 2020 was 12 minutes. In 2021, the annual average jumped to 19 minutes, and the number of sworn

officers was 690. There is no published data available for 2022. The 2017 Oakland Audit stated that about 12% of police dispatches were Priority One.

Priority Two calls in Oakland—urgent, but not immediate emergencies, such as in-progress misdemeanors, disputes, and just-occurred felonies—had an average response time for 2017 through 2020 of about two and a half hours. In 2021 the average response time was close to four hours. In 2017, Priority Two calls accounted for 37% of the dispatches. Priority Three calls accounted for 32% of dispatches in 2017. The FBI does not track Priority Four calls – for reporting abandoned cars and other low priority issues. Priority 4 calls accounted for 19% of dispatches in 2017. When citizens complain about the long response time, it may be that they are unaware of the different priorities. Just as in an emergency room at a hospital, people are served in the order of seriousness, not in the order of arrival.

Several witnesses asserted that OPD is understaffed relative to the resident population the department serves. However, FBI statistics tell a different story. In 2019, the FBI published information on police staffing relative to population for all cities. The Grand Jury examined 15 cities in California with a population of 250,000 residents or more. Oakland employed 1.7 Law Enforcement Officers (LEO) per 1,000 residents. In contrast, San Francisco employed 2.6 LEOs per 1,000 residents and Fremont employed 0.8 LEOs per 1,000 residents. Clearly, OPD staffing ratios are in the middle of the regional spread for large California cities. Thus, the FBI statistics do not reflect the OPD management's perception of understaffing. There may be other issues that would warrant a higher officer to resident ratio, that might affect response time to 911 calls, but that is outside of the scope of this investigation.

Needed Technology Upgrades

The Grand Jury also learned that OPD's 20-year-old software and hardware are not keeping up with evolving telecommunications technology. Components of the technology include caller identification and routing, call intake, computer aided dispatch (CAD), and records management systems (RMS) required by the FBI.

Phone Answering System and Data Intake

One improvement successfully implemented at the ECC regards the phone system. The old system, as noted in the 2019–2020 Grand Jury report, experienced frequent failures and dropped calls, and had a data entry system tied to an out-of-date records management system. That phone system has recently been replaced with a new system by AT&T. The new phone and data entry system, VESTA, has an expanded computer interface page that is more ergonomic and has decreased the operators' repetitive stress injuries. It will also work with the proposed records management system when it is installed. Now that the operators have

been fully trained on the new VESTA software, there are no apparent decreases in productivity.

The Computer Assisted Dispatch (CAD) System

The existing CAD system in the ECC is provided by Motorola. The CAD system for the mobile data terminals in the patrol cars is not Motorola, resulting in some data loss as data goes from one CAD system to another. The proposed CAD system will be part of the Motorola PremierOne system and will integrate the ECC operator input (VESTA), mobile data terminals in patrol cars, and the records management system. The proposed system will have new software, new servers, new network switches, and be partly cloud-based. The proposed system will require more data entry at the time of the call. Currently, operators can complete an entry in two or three clicks, but the proposed system will require nine or ten clicks. This may decrease call volume handling slightly. On the other hand, the proposed CAD system will do a better job of locating the nearest officer to the incident, for quicker response and management of personnel.

Next Generation 911 Call Identification and Routing

The 911 call identification and routing system is evolving, along with evolving phone technology. When homes and offices had land line phones tied to unique addresses, the reverse phone look up system worked well. If the ECC knew the phone number, the ECC knew precisely where the call was coming from and could easily dispatch police and fire to the scene. Now, at least 80% of emergency calls come in via cell phones, sometimes in moving cars, which are much harder to locate precisely. The technology to locate cell calls via cell-tower triangulation is evolving and improving all the time. There is also an increase in calls that come in from private telephone exchanges in large office complexes and from Voice Over Internet Protocol (VoIP) services like Skype and Google Voice that are not tied to a location. There are newer technologies for locating callers available, called Enhanced 911 (E911) and more recently, Next Generation 911 (NG911) that are slowly rolling out nationwide. NG911, when fully implemented, will be able to handle incident related video and images from 911 callers, texts, traffic webcam integration, reverse 911, and OnStar systems from cars. All emergency communications centers are mandated to eventually upgrade to NG911. Any technology upgrades made now will have to have compatibility with NG911 in mind.

Record Management System

In 2000, the FBI issued a new crime data Record Management System (RMS), the National Incident-Based Reporting System (NIBRS), to replace the 1930s-era Uniform Crime Reporting (UCR) system. The NIBRS system became federally mandated in 2021, thus Oakland must upgrade its technology, train its people, and allocate resources to implement

the NIBRS data collection. OPD’s current CAD and RMS software, both supplied by Motorola, are 20 years old and are based on the old, out-of-date UCR data collection system. Upgrading to current FBI reporting standards will require installing NIBRS-based software and hardware into the ECC, patrol cars, and OPD desk stations, and be integrated with the proposed CAD system. Implementation of NIBRS will also require at least 3 months to train the police force.

The existing Motorola software and hardware at the Emergency Communications Center is so out of date, it is no longer supportable. The Oakland Police Department is forced to buy replacement parts on eBay because Motorola doesn’t supply them anymore. Motorola has only one technician who still knows how to work on the 20-year-old software. Oakland and one other city are the only customers left in the United States using this software.

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Part of the reluctance to change to NIBRS is that it collects far more data. In the old UCR system, a hierarchy was used and only the most serious crime in a multi-crime incident was reported for national statistics. For example, a robbery-homicide would be listed as a homicide, and the robbery would not be added to the statistics, which results in incomplete crime statistics. In NIBRS, both would be reported. Currently, it can take 60–90 days to consolidate records so that they are available for public review. With the proposed system, officers in the field will record the data real-time, for almost instantaneous viewing on an open data platform online, for internal and public viewing, and for response to constituent data requests. Observers will note an apparent increase in crime, but this is a result of more accurate, complete crime records. The NIBRS rollout and expanded availability of data will require effort on the part of the public information officer to explain how to interpret the data.

Delayed Implementation

New technology takes time to implement and OPD has not devoted the resources needed to finish the implementation of the proposed CAD and RMS. OPD has consistently stated from the 2019–2020 Grand Jury investigation to the present day, that the proposed CAD and RMS would be installed, trained for, and implemented “6 months from now”. The proposed technology was purchased in 2018, and in the intervening five years, not enough time, money, and staffing has been devoted to the implementation and training. If installation of

the proposed hardware and software is perpetually delayed to “6 months from now”, the city risks a catastrophic failure of the system. If that happens, they will be back to paper and pencil, as they were during the recent ransomware attack.

Most of the staff and management involved in implementing the proposed system have left the city or are on leave, including key people in IT and OPD. There is no longer an Executive Steering Committee in the City Administrator’s office to give the work priority. The Grand Jury was told that getting the management staffing back up to functional levels to complete this job would be “like trying to turn a supertanker”.

Specialized work is needed to integrate the proposed CAD/RMS system with 20 to 30 other systems, such as the Criminal Information Management System (CRIMS), the Consolidated Arrest Reports (ECAR), Forensic Logic, Alameda County databases, Contra Costa County databases, and other mandated data sharing. There is also reporting required by the OPD Consent Decree, unique to Oakland, including the Use of Force (Vision Technologies software). There is not currently and there has never been a dedicated, full-time team of dispatchers, patrol officers, records managers, and fire personnel assigned to adapt the proposed CAD and RMS systems to Oakland’s specific needs. Oakland Police Department’s IT team requested three to five full time employees (FTEs) from the Police Department and three to five FTEs from the Fire Department to develop the required configurations, but these positions were never supplied. San Francisco, on the other hand, has 20 people working full time on their CAD/RMS upgrade. Oakland has two employees mostly dedicated to this work.

When the NIBRS system is finally ready to implement, efficiency in the short term will drop as it will take 3 months of installation and training for the associated personnel and their 500 plus patrol cars, 150 fire units, and numerous desktops. Several members of OPD/ECC Management said there is reluctance in the rank-and-file officers to change to the proposed system, and reluctance to spend more officer time on training and away from dispatching to the field to do “paperwork”. Upper management in OPD and the City are verbally supportive but have not provided all the needed resources. The OFD, which will share the proposed CAD system with the OPD, is eager to have the proposed system, but is not providing subject experts to implement the proposed system. Operators, dispatchers, and managers at the ECC are generally supportive of the proposed upgrades. So far, over \$8M has been spent by Motorola’s team to install, configure, integrate, migrate, and coordinate with these other systems, but the work is not yet complete and won’t be for “another 6 months”.

Future Work

Motorola recommends making major upgrades to their products every five years. The proposed CAD and RMS systems were purchased in 2018, so the products are already five years old. CAD and RMS systems are usually updated every few years to be properly

maintained and responsive to the latest technologies and legal mandates. At the other end of the spectrum, some witnesses expressed the opinion that OPD may not consider upgrading again until forced to by lack of technical support (just as they are now forced to upgrade their 20-year-old system). Periodic minor upgrades can be made to the updated system, but only if OPD and OFD agree to the upgrades and deem them worthy of shutting down the system for a few hours every so often and training the rank-and-file in the new additions. Procurement takes time—sometimes many months—so OPD needs to put them in their forecast now.

Disaster Preparedness

Most of the witnesses that the Grand Jury questioned were unaware of disaster preparedness plans for the ECC. The Grand Jury was encouraged to learn about the cloud-based functionality portion of the proposed CAD system. Such a system allows for flexible movement of physical ECC operations to the Oakland Emergency Operations Center (EOC), in the event of a natural disaster or social unrest. Since the ECC building is at heightened risk for sea level rise, flooding, tsunamis, and earthquake-generated liquefaction, cloud-based software is good disaster preparedness. But if AT&T, which currently routes 911 calls to the ECC, is not prepared to handle an increase in 911 calls during a major event, then, the Grand Jury was told, “it doesn’t really matter”. In a worst-case scenario, ECC personnel would have to rely on standard police radios for relaying emergency information and dispatching personnel to incidents. There is interoperability between various agencies in Alameda County for radio communications, but not for CAD. Oakland’s ECC has a different existing and proposed CAD system than the Alameda County Sheriff’s Department, as well as neighboring cities and counties.

CONCLUSION

The 2022–2023 Grand Jury has found the same personnel issues first reported by the 2019–2020 Grand Jury. Hiring has been slightly streamlined, but there are still far too many vacancies. Human Resources Management should work with the union representation to assess other means to increase staffing, such as competitive salaries and benefits, or the use of non-sworn instead of sworn officers for the supervisors and managers. The staffing level does not meet the recommendations of the 2017 City of Oakland Audit nor the independent audit in 2019 by Federal Engineering, Inc. The recommendations made by the 2019–2020 Grand Jury in still stand: Hire more managers, operators, and dispatchers; hire them more quickly; distribute the work shifts to match the workload, and minimize the mandatory overtime that is causing stress, absenteeism and attrition. Until this is done, there simply aren't enough bodies employed at the ECC to answer phone calls in a timely manner. The other major concern is the stalled technology upgrade. The situation appears to be getting more dire, as key people leave, the remaining team members are unable to implement the

work, the patrol officers are resisting, and the 20-year-old system is waiting to fail catastrophically.

FINDINGS

Staffing and Workload

Finding #23-1:

The Emergency Communications Center lacks adequate staffing to promptly answer all 911 calls and, working with the City of Oakland Human Resources Management Department, has been unable to fill open positions in a timely manner.

Finding #23-2:

The ECC staff spends part of its time doing work that is not 911 related that could be handled by others.

Finding #23-3:

Emergency Communications Center staffing levels within a 24-hour period do not align with peak call volumes; union and seniority rules take precedent over wise use of resources.

Technology

Finding #23-4:

The ECC is in dire need of technology upgrades and is not preparing for future upgrades.

Finding #23-5:

The team for installing the proposed Computer Aided Dispatch (CAD) and Records Management System (RMS) is severely understaffed and underprioritized.

Finding #23-6:

The "troubled" phone system reported by the 2019–2020 Grand Jury has been replaced and is functioning well, decreasing the number of dropped and abandoned calls.

Finding #23-7:

The ECC is not well prepared for a major disaster and lacks a disaster recovery plan.

RECOMMENDATIONS

Recommendation #23-1:

The Grand Jury recommends that the Oakland City Council, in its Fiscal Year 2023–2025 budget, authorize and budget for additional Emergency Communications Center managerial

positions, up to a total of 15 management positions; avoid cutting the budget for operator/dispatch positions; and avoid capping or reducing overtime.

Recommendation #23-2:

The Grand Jury recommends that the ECC management work with Human Resources (HR) to hire and train managers, dispatchers, operators, and support staff sufficient to fill all the authorized positions, by June 30, 2024. The ECC management and unions may need to consider more competitive salaries and benefits and use of civilian personnel instead of sworn officers for supervisory positions to attract more applicants.

Recommendation #23-3:

The Grand Jury recommends that the ECC management, no later than January 1, 2024, address the widespread effects of mandatory overtime on the staff, using National Emergency Number Association (NENA) recommended tools for stress reduction and employee retention.

Recommendation #23-4:

The Grand Jury recommends that the OPD's Public Information Officer (PIO), no later than January 1, 2024, increase public outreach to explain the use of 911, as well as 211, 311 (Public Works routine maintenance), MACRO, Public Works After Hours Emergencies, EBMUD, PG&E, CHP, Alameda County Sheriff, 988 (crisis hotline), and other resources for non-emergency calls, as a means to decrease the number of non-emergency calls coming into 911.

Recommendation #23-5:

The Grand Jury recommends that the OPD's PIO engage in a public information campaign prior to the NIBRS RMS going live, to explain the new method of data capture and anticipated changes in crime statistics.

Recommendation #23-6:

The Grand Jury recommends that the Oakland Police Department, no later than June 30, 2024, implement alternative methods to collect and process public records requests to free up more time for Emergency Communications Center operators to answer emergency calls.

Recommendation #23-7:

The Grand Jury recommends that the OPD management negotiates with the union(s) to make a better assignment distribution and match personnel loading to call demand for the ECC, at the next upcoming union contract negotiations.

Recommendation #23-8:

The Grand Jury recommends that the OPD management implement alternative ways to address after-hours Internal Affairs calls, no later than June 30, 2024.

Recommendation #23-9:

The Grand Jury recommends making implementation of the proposed CAD and RMS software and hardware one of the top priorities of the OPD, with coordination between the OPD, OFD, IT, HR, and upper city management, so that the CAD and RMS can be fully functional by December 2023. This includes installation in all necessary terminals, and adaptation to all connected databases.

Recommendation #23-10:

The Grand Jury recommends that OPD complete the training of police officers and ECC personnel sufficient to get the proposed CAD and RMS functioning by December 2023.

Recommendation #23-11:

The Grand Jury recommends that the OPD by October 31, 2023, start to hire or assign a dedicated Information Technology Manager for the ECC, to lead a team in the timely roll out of the proposed CAD and RMS, and to stay on with the ECC beyond the implementation, to procure and implement future technology upgrades, including elements of Next Generation 911, under the guidelines of CalOES.

Recommendation #23-12:

The Grand Jury recommends that by the end of December 2024, the OPD work with AT&T and OFD to make a viable emergency operations plan, interoperability plan, and disaster recovery plan, to deal with power outages, phone outages, earthquakes, flooding, cyberattacks, and other disasters.

REQUEST FOR RESPONSES

Pursuant to California Penal Code sections 933 and 933.05, the Grand Jury requests each entity or individual named below to respond to the enumerated Findings and Recommendations within specific statutory guidelines. Governing bodies of public agencies shall respond to the findings and recommendations no later than 90 days from the public release date of this report. Elected county officers or department heads shall comment within 60 days to the Presiding Judge of the Superior Court, with an informational copy to the Board of Supervisors. Elected city officers or department heads are requested to comment within 60 days to the Presiding Judge of the Superior Court, with an informational copy to the City Council.

Responses to Findings shall be either:

- The respondent agrees with the finding.
- The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

Responses to Recommendations shall be one of the following:

- The recommendation has been implemented, with a summary regarding the implemented action.
- The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency where applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
- The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

REQUEST FOR RESPONSES

REQUIRED RESPONSE:

Oakland City Council

Finding: 23-1

Recommendation: 23-1

INVITED RESPONSE:

Acting Chief, Oakland Police Department

Findings: 23-1 thru 23- 7

Recommendations: 23-2 through 23-12

Appendix A: Glossary

CAD – Computer Aided Dispatch – a computer program that maps the location of incidents and patrol officers, to manage the best way to dispatch and track officers and incidents

CalOES – California Office of Emergency Services

CHP – California Highway Patrol

EBMUD – East Bay Municipal Utility District

ECC – Oakland Police Department 911 Emergency Communications Center

E911 – Enhanced 911 – early upgrades to the 911 system to deal with cell phone calls and other phone tracking issues

FBI – Federal Bureau of Investigation

HR – Human Resources

IT – Information Technology

LEO – Law Enforcement Officer, sworn police officer

MACRO – Mobile Assistance Community Responders of Oakland – a response team for non-emergency issues, using mental health professionals.

NENA – National Emergency Number Association – a standard setting and educational group for improving PSAPs

NG911 – Next Generation 911 – the latest technology for locating and tracking 911 calls

NIBRS – National Incident-Based Reporting System – the current standard system for reporting crime data to the FBI

OFD – Oakland Fire Department

OPD – Oakland Police Department

PG&E – Pacific Gas and Electric

PSAP – Public Safety Answering Point (such as the Oakland Emergency Communications Center)

PWD – City of Oakland Public Works Department, which handles maintenance and emergency repairs for streets, buildings, utilities, parks, and other Oakland infrastructure.

RMS – Records Management System, such as UCR or NIBRS

UCR – Uniform Crime Reporting system – the old system for reporting crime data to the FBI



Port of Oakland

THE SANTA RITA JAIL MENTAL HEALTH BUILDING WILL IT EVER SEE THE LIGHT OF DAY?

EXECUTIVE SUMMARY

In November 2015, the Alameda County Sheriff's Office (ACSO) applied for funding from the Board of State and Community Corrections (BSCC) and was awarded financing through a Lease Revenue Bond agreement provided by Senate Bill 863 and administered by BSCC. The allotment is restricted to mental health care programs and treatment in a jail financing and cannot be used to increase the number of beds in the county jail.

The motivation behind the application came about as the ACSO recognized the number of persons in custody suffering from mental health issues, substance abuse and addiction were increasing dramatically. The Sheriff's Department saw an opportunity to both correct the lack of treatment space and improve mental health care currently available to persons in custody.

"The bottom line is the state of mental health care for mentally ill offenders is dismal."
--ACSO presentation to Public Protection Committee, October 8, 2015

Originally, the project included remodeling two housing units for mentally ill incarcerated persons at Santa Rita Jail (SRJ) and constructing a two-story Mental Health Program Service Unit (MHPSU) attached to the housing units thereby providing a "bridge" facility between the units with access from both to the new medical structure. The plan proposed space for administration, medical and mental health treatment, OB/GYN clinic and program space with housing needs accommodated by the existing units. Initial designs were completed in 2016. Funding would initially include the \$54M Lease Revenue Bond Agreement money and County "matching funds" covering the remainder of construction costs which were estimated at \$7.3M (per BoS resolution 2023-211).

"The bottom line is the state of mental health care for mentally ill offenders is dismal"

--ACSO presentation to Public Protection Committee, October 8, 2015

Later that same year, it was determined that the building site proposed in the application was not suitable for the project. Under the terms of the Lease Revenue Bond Agreement, the State encumbers the land and facility as collateral and the BSCC will sublease the property back to the County. As a result, the scope of state code compliance would include the

MHPSU, the two housing units, and likely, the entire utility structure. These costs were significant enough that an alternate plan was deemed necessary. There were discussions about trying to bring the whole project “in-house” but that would have meant giving up the \$54M financing from the State. This brought about a project scope change for the MHPSU in order to move it to a separate parcel on the grounds of SRJ. This meant returning to the drawing board to prepare new designs, propose a new location and resubmitting for approvals with the BSCC.

At this point, the project stalled. A 2018 federal lawsuit, *Babu v. Ahern*, was filed and challenged, among other things, the adequacy of mental health care and treatment at the Santa Rita Jail. The lawsuit and the resulting Consent Decree issued by a federal judge in 2022, placed Santa Rita Jail under court supervision to monitor a massive reform program that will begin to remake how mental health care is provided at SRJ.

The Consent Decree reignited the MHPSU project. As of December 2022, new design plans have been completed and are undergoing approvals with various State Agencies. The scope change removed medical treatment facilities and any beds or housing. Only clinical treatment rooms, classrooms for group therapy and education and office space will be provided. There are no facilities in the new design to house or treat severely mentally ill persons or to stabilize patients in crisis.

Now, in 2023, eight years after State funding was awarded, MHPSU, originally slated for completion May 30, 2019, still has not broken ground. Additionally, the County’s funding portion for the construction of the new MHPSU, passed with a resolution by the Board of Supervisors on May 9, 2023, has increased by \$19M.

What is the delay?

In the 2017–2022 Capital Improvement Plan, the General Services Agency listed the completion date as TBD.

The revised 2023–2027 Capital Improvement Plan lists the completion date as 2026.

This remains an urgent need that should be prioritized!

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BACKGROUND

The current Alameda County Santa Rita Jail is located in Dublin, California, and is operated by the Alameda County Sheriff's Office. The design and construction of the current jail began in 1983 and the facility opened in 1989. At that time, mental health care for inmates was not the focus it is today.

In 2011, the U.S. Supreme Court ordered the State of California to transfer long-term prisoners—excluding violent felons and sex offenders—to county facilities to ease overcrowding in state prisons and with the hope that housing inmates closer to home would help in their rehabilitation. This transfer contributed to an increase in incarcerated persons with mental health issues in Santa Rita Jail. To better serve the increasing number of inmates suffering from mental health issues, in 2015, the Alameda County Sheriff's Office applied for funding from the California Board of State and Community Corrections (BSCC) to build a new mental health building—now referred to as the Mental Health Program Service Unit—on the jail grounds.

In 2015, the BSCC deemed the Santa Rita Jail Mental Health Program Service Unit project eligible for financing, up to a maximum of \$54,340,000. This financing would be from the State. The rest of the upfront cost, including any cost overruns, will be paid directly by Alameda County. This award is contingent upon approval of the project scope, schedule, and cost by various State of California departments. Once the State stakeholders approve the final plans, implementation can move forward.

The State will issue Lease Revenue Bonds to cover the proposed debt financing, which investors may purchase. Once the construction is underway, the County will send monthly requests to the State to release portions of the financing to cover allowable charges, up to a maximum amount of \$54,340,000. All other costs exceeding the debt financing amount will be paid directly by the County.

Under the terms of the Lease Revenue Bond Agreement, the State encumbers the land and facility as collateral and the BSCC will sublease the property back to the County during the 30-year life of the bonds. County officials characterized the financing as a grant that would not need to be repaid as long as the monies are used for the intended purposes and the conditions are met. Initially, the county portion was estimated to be \$7,295,000 as specified in the 2017–2022 Capital Improvement Plan (CIP) and the total project cost was estimated to be \$61,635,000.

Initial design was completed in 2016. The project included remodeling two existing housing units to be devoted to the mentally ill incarcerated persons at Santa Rita Jail. A new “bridge” facility would be constructed between the existing buildings to serve as the Mental Health

Program Service Unit (MHPSU). The proposed plan for the MHPSU facility consisted of space for administration, medical and mental health treatment, OB/GYN clinic and program space.

There are several key agencies involved in the construction of a project as large as the MHPSU at SRJ. The most relevant to this investigation include:

Alameda County General Services Agency

In Alameda County, all vertical construction (buildings) is managed by the General Services Agency (GSA). The GSA works with each client department in the County, such as the Alameda County Sheriff's Office (ACSO) for jail facility improvements and construction, and Behavioral Health Care Services (BHCS) for mental health facilities. They also oversee departments such as Design and Construction for Buildings, Building Maintenance, Real Property, Acquisitions, Motor Vehicles, Parking Facilities, and Janitorial Services. For capital projects, the GSA provides technical expertise, scoping, budgeting, scheduling, designing, coordinating with state reviewing agencies, construction, and project management. When there are insufficient in-house resources (i.e., staffing, technical expertise), the GSA contracts with design architects and engineers, construction contractors, project managers, and other technical experts to assist in completing the projects.

California Board of State and Community Corrections

The BSCC, established in 2012, is an independent statutory agency that inspects for compliance of standards, directs funding for construction of detention facilities, and ensures that local jail projects meet recent Legislative mandates to provide program space to rehabilitate offenders. For the Santa Rita Mental Health Program Service Unit (MHPSU), they collaborate with GSA, the ACSO, and others to facilitate approvals from State agencies for construction.

Alameda County Board of Supervisors

The Board of Supervisors (BoS) is responsible for setting policy, authorizing the annual budget and the five-year Capital Improvement Plan (CIP), supervising the operations of departments and exercising oversight, executive and administrative authority throughout County government.

Additionally, there is a previous Grand Jury investigation and recent court judgements that have implications for the MHPSU project.

Previous Grand Jury Investigation

The 2019–2020 Grand Jury report titled “General Services Agency Too Often Fails at Capital Project Management” expressed concerns from sworn law enforcement officers claiming GSA did not prioritize Santa Rita Jail projects. That report recommended changes within

the GSA and its operations with regards to increasing staffing, improving management of capital projects, additional employee training and better inter-departmental communication.

Court Supervision of Santa Rita Jail under *Babu v. Ahern*

The *Babu v. Ahern* case is a federal class action lawsuit, filed in 2018, that challenged:

- the adequacy of mental health care and treatment at the Santa Rita Jail;
- suicide prevention and the use of safety cells;
- the overuse of isolation and inadequacy of out-of-cell time;
- access to programs, services and activities especially for people with mental health issues.

A **Consent Decree** is an agreement or settlement between two parties, without admission of guilt or liability, submitted in writing to a court. Once approved by a judge, it becomes legally binding. The resulting Consent Decree from *Babu v. Ahern* was finalized February 7, 2022. It places Santa Rita Jail under court supervision to monitor a massive reform program that will remake how mental health care is provided at the facility. It mandates, among other things:

- establishing one or more “therapeutic housing units”;
- increasing programming time as a means to prevent self-harm;
- providing adequate mental health staff;
- making mental health screenings routine at intake;
- improving the jail’s discharge system of people with mental health disabilities.

In 2023, the MHPSU, initially slated for completion in 2019, still has not broken ground. The delay in the start of construction of the Santa Rita Jail Mental Health Program Service Unit is the focus of this investigation.

INVESTIGATION

During the course of the investigation the Grand Jury:

- Interviewed current County employees, department heads, individuals from State agencies, and various consultants hired by the County to work on the MHPSU project.
- Examined published County and State agency documents, including budgets and two capital improvement plans: 2017–2022 and 2023–2027.
- Reviewed the 2019–2020 Grand Jury report “Alameda County’s General Services Agency Too Often Fails at Capital Project Management” and the Board of Supervisors response to the Grand Jury findings and recommendations.
- Interviewed former elected officials with first-hand knowledge of the project history.
- Examined GSA documents and Board of Supervisors meeting minutes and agendas.
- Reviewed recorded public meetings that included discussions on the MHPSU.

The Grand Jury’s investigation had three main areas of focus: project costs, project management and oversight, and the design and construction process.

Project Costs

Over the course of eight years, 2015 to 2023, the estimated total project budget increased significantly (Table 1). Because the maximum financing from the BSCC is set, increased upfront costs will result in increased upfront contributions by the County.

TABLE 1: Mental Health Program Service Unit Funding Summary

Funding Source	CIP 2017-2022	CIP 2023-2027	BoS Resolution 05/09/2023
BSCC Loan (SB863)	\$54,340,000	\$54,340,000	\$54,340,000
County Contribution	\$7,295,000*	\$7,707,972	\$26,663,000
Project Total Budget	\$61,635,000	\$62,047,972	\$81,003,000

* Numbers from the Joint Legislative Budget Committee reflect the County contribution as \$7,266,000 for a total project cost of \$61,606,000.

The county matching fund projections increased by approximately \$413,000 from the 2017–2022 CIP to the 2023–2027 CIP, from \$7.295M to almost \$7.708M. More recently, BoS Resolution Number 2023-211, authorized on May 9, 2023, estimates the county contribution as \$26.663M, a jump of nearly \$19M over the 2023–2027 CIP estimate. Given inflation, increased costs for labor, and the fact that building material costs have risen in the intervening years by a minimum of 8% per annum, witnesses expressed concern that project costs may accrue beyond the County’s means. If Alameda County has to relinquish the BSCC financing, the \$2.6M that has already been spent on design and outsourced project management will not be reimbursed by the State.

Put another way, the total cost for the MHPSU was initially estimated to be \$61,606,000 and is currently estimated at \$81,003,000. This is an average of 3.44% increase annually or 86 basis points (.86) per quarter, consistent with CPI inflation numbers. So, for example, a delay of three months will likely cost an additional 86 basis points amounting to \$696,626.

Based on the terms of the Lease Revenue Bond Agreement, there is no set date by which the County must begin requesting the State to release portions of the financing to cover allowable charges. However, once the first payment is requested, all requests for reimbursement must be filed within 36 months. For this reason, the County must use its own funds for early design and construction costs, and not begin requesting reimbursements

until it is clear that they are within three years of completion. To date, those costs are approximately \$2.6M.

Other counties have received similar State funding for construction of mental health facilities and have been forced to return the money, because by the time the project was approved, the estimated construction costs had exceeded the counties' ability to fund the local match.

Project Management and Oversight

The increase in total project costs and the apparent five-year period during which the project was stalled (Box1) highlight the need for competent management and strict oversight.

Many witnesses pointed the finger at GSA for poor project management. Witnesses told the Grand Jury that until recently, the inter-departmental communications regarding the project often lacked clarity and clear direction. Concerns were raised about inadequate management and communication about the technical nature of the MHPSU building plans. Several witnesses stated that the right questions were not being asked of the right people, resulting in time wasted rescheduling meetings and tracking down answers. The Grand Jury also was told that GSA had not acted with the appropriate level of urgency and could be a roadblock.

These complaints were not new or surprising. The GSA staffing and project management challenges related to the capital projects at Santa Rita Jail had been identified previously by the 2019–2020 Grand Jury. In their report titled “Alameda County’s General Services (GSA) Agency Too Often Fails at Capital Project Management,” that grand jury found that many Alameda County capital projects, exemplified by long-delayed Santa Rita Jail projects including the MHPSU, suffered from GSA project management failures which contributed greatly to delays and cost overruns. These project management failures appear to be the main reason that there was little progress on the MHPSU project from 2016 to 2021.

Two recent developments appear to have re-energized the MHPSU project. First, the consent decree under *Babu vs. Ahern* was finalized in February 2022, placing Santa Rita Jail under court supervision to remake how mental health care is provided at the jail. Although the consent decree does not specifically mandate a new mental health building, the MHPSU is expected to play a significant role in better mental health treatment at the jail.

Second, the GSA has been under new leadership since August 2021. In March 2022, GSA contracted Capital Planning Innovations to review the overall functionality of GSA's construction management. For the MHPSU, the consultant worked with all stakeholders—GSA, the Alameda County Sheriff's Office, Alameda County Behavioral Health Care Services, building maintenance staff, and BSCC—to establish a more integrated approach that

included all design elements of the MHPSU as well as other Santa Rita Jail projects authorized in the Consent Decree. At that point, Capital Planning Innovations stepped back from the project. Many witnesses noticed the difference, telling the Grand Jury that regularly scheduled inter-department meetings were now occurring with the participation of dedicated MHPSU project team members from each organization.

The GSA, like most County agencies, is dealing with a staff shortage. Witnesses attested several top-level management personnel have left the agency. Additionally, many lower-level personnel left during the COVID-19 pandemic or retired, leaving remaining staff stretched thin and lacking the institutional knowledge needed to coordinate large projects. The Grand Jury was told that recruiting replacement staff from the private sector is slow. Also, because of Alameda County Charter requirements and Civil Service rules, the hiring process is lengthy and qualified candidates often accept positions elsewhere; a problem echoed by all departmental staff interviewed.

Box 1: MHPSU Project Timeline

There is a shared responsibility to ensure that this project remains on track. For this reason, we added Board of Supervisors and some State agency deadlines that impact the timeline of this project as well as relevant milestones.

PAST MILESTONES:

- Spring 2015: Alameda County Sheriff's Office and GSA drafted a proposed design, budget, and location for a mental health facility and filed a grant application to the BSCC for funding.
- November 2015: Grant awarded to Alameda County by the BSCC for \$54M.
- 2016: Preliminary design developed.
- 2016: Initial design and location found to be unusable necessitating a complete revision.
- 2016-2021: Project stalled
- 2018: *Babu v. Ahern* class action lawsuit filed
- 2020–2021: Grant agreement completed with the BSCC.
- February 2022: *Babu v. Ahern* Consent Decree approval finalized.
- June 2022: New Sheriff Yesenia Sanchez elected.
- December 2022: Bridging Documents (for the new scope and location) were submitted for their first round of reviews by the BSCC.
- January 2023: Expected date GSA was to issue a Request for Proposal (RFP)-- DEADLINE NOT MET
- May 9, 2023: Board of Supervisors authorized Resolution for additional \$19M in County matching funds.
- May 19, 2023: Acceptance of Bridging Documents (scope change for redesigned MHPSU) on agenda for State Public Works Board (SPWB) review (removed from SBWB Agenda at request of State Joint Legislative Budget Committee)

FUTURE MILESTONES

- TBD: County (BoS) to respond to questions posed by the CA Joint Legislative Budget Committee regarding scope change of MHPSU.
- May-June 2023: DELAYED Approval for the scope change and new total budget expected from BoS, BSCC, State Fire Marshall, and the State Public Works Board.
- August 2023: Rescheduled review of scope change and Bridging Documents by State Public Works Board (dependent on County’s response to questions posed by Joint Legislative Budget Committee)
- July 2023/January 2024: Revised estimated date to issue an RFP, (could be delayed depending on which witnesses’ estimate is used). Proposals would be due 90 days later.
- October 2023/April 2024 (depending on date of revised estimate): Contractor bids due.
- April 2024 (earliest): The GSA, their consultants, the BSCC, the State Public Works, and other associated parties review contractor bids.
- Several Months Later: Construction contract awarded.
- One Year+: Contractor produces final construction design.
- Unknown: Approval of final construction design by GSA, BoS, BSCC and other reviewing parties
- TBD: State review of final construction design
- TBD: GSA issues Notice to Proceed (NTP) to commence groundbreaking.
- 2-3 Years: Construction
- 2028 (earliest): MHPSU complete, ready for occupation.

One way the GSA is addressing its staff shortage is to hire consultants to take on some work, as appropriate. In January 2023, the GSA retained Kitchell CEM to provide critical support for the continuation of planning and completion of design, budgeting, real estate due diligence, compliance with required codes and regulations, bid and planning for construction delivery and facilitating the approval process for the MHPSU project.

In addition to project management issues, the Grand Jury noted a gap in the BoS oversight of the MHPSU project. The BoS was aware of the GSA staffing and project management challenges as reported in the 2019–2020 Grand Jury report and, at that time, responded that they would conduct a performance audit of GSA over the course of six months and update its response following the review of the audit findings. The Grand Jury could find no evidence that the BoS conducted an audit of the GSA or ever updated its response to that grand jury.

Of further concern was a lack of regular public updates from GSA to the BoS concerning the ongoing status of the MHPSU project. The Grand Jury requested from GSA the minutes of any update meetings. Witnesses related that such meetings are taking place in closed session, possibly related to litigation or the future threat of litigation, and minutes for closed sessions are not available to the public.

Design and Construction Process

The project design, approval, and construction process is complicated and involves many entities (Box 1). As noted, the GSA has retained Kitchell CEM to provide critical support for the continuation of planning and completion of design, budgeting, real estate due diligence, compliance with required codes and regulations, bid and planning for construction delivery and facilitating the approval process. Once all state approvals have been given, the GSA will release a Request for Proposal (RFP) and various contractors submit their bids. Once a contractor is selected and approved by the BoS, building design, review, and construction can proceed.

At each step along the way, the documents are reviewed by multiple agencies; many with lengthy approval processes. Reviewing entities include the BSCC, the State Public Works Department (for compliance with building codes), the State Fire Marshall (for fire codes), the State Department of Finance, the California Environmental Quality Act (CEQA) process, and the California General Services Administration. The Grand Jury discovered the review meetings for some of these agencies occur only once or twice a month. Approvals can be held in a holding pattern waiting for other agencies to meet, and the whole process backs up. And again, due to staffing challenges and turnover across all agencies, reviews have lagged, communications missed and timelines delayed.

As of March 18, 2023, a scheduled approval meeting with the State Public Works Department to review the scope change was delayed until their next meeting in August 2023.

Design Changes

The initial Mental Health Program Service Unit design, proposed in the application for financing, planned to convert two existing housing unit buildings, designating one for male and one for female populations, and building a mental health facility connecting them. The original scope included funding for remodeling the existing housing units. The original MHPSU building design consisted of space for administration, medical and mental health treatment, OB/GYN clinic and program space. Bridging Documents were started to present to the BSCC for approvals. These documents convey design/construction requirements to the design-build teams bidding on the project. They also include a summary of work, technical requirements, plans, project constraints, reference materials, and contractual requirements.

However, once the GSA’s consultants began work on the initial Bridging Documents in 2016, they realized that the original location proposed was not feasible. Under the terms of the Lease Revenue Bond, the State’s “ownership” of the facility would necessitate bringing the

entire utility structure up to code. It was decided that the MHPSU would have to be built as a separate and distinct facility on an adjacent land parcel with a separate title.

The design had to be completely revised for the new location and the scope/schedule/budget process started again for review by the BSCC. The scope of how the facility would be utilized changed as well, eliminating the housing component altogether.

There are no facilities in the new design to house or treat severely mentally ill persons or to stabilize patients in crisis. The additional medical personnel that were originally envisioned are also eliminated. At the proposed new building site, incarcerated persons will need to be escorted to the MHPSU across the property necessitating further security measures and additional staffing to facilitate the transfers. In light of this, witnesses expressed concern that only the very low-level patients might receive treatment at this facility and those at the higher end of treatment would continue to be treated in their cells.

In the designs of the new scope, the building plan includes only treatment areas and office space. The first floor is planned for clinical treatment rooms and classrooms for group therapy and education. The second floor will be utilized for Behavioral Health Care Services staff with a small section reserved for Community Based Organizational staff. The MHPSU will not be a 24-7 facility, but day and evening programs will be held. Staff will work split shifts or swing shifts to facilitate programming.

Although the revised design does not include medical treatment or a housing component, the required County funding has increased even though construction has yet to begin. County matching funds were revised in a Resolution from the Board of Supervisors on May 9, 2023, to \$26,662,922 bringing the new total cost projection to \$81,002,922.

The current timeline (Box 1) indicates that the scope changes were supposed to go before the State Public Works Board (SWB) on May 19, 2023. However, the Grand Jury learned on May 18, 2023, the California State Joint Legislative Budget Committee (JLBC) requested the State Public Works Board remove the review of the MHPSU from their agenda for the meeting scheduled the next day.

The JLBC has requested the Department of Finance submit questions to the County regarding the scope changes and why the new building is more cost effective given the increase in overall costs. Some of the specific issues the JLBC would like the County to address are as follows:

1. How does the new MHPSU help the County meet the conditions of the Consent Decree?
2. Will the new facility provide space or facilities to stabilize patients in crisis?

3. Will there be long-term living units for people with severe or serious mental illness while they are incarcerated?
4. Will people with serious mental illness be diverted to non-jail mental health facilities?
5. How much of the new building will be dedicated to offices/counseling rooms?
6. What is the intent for the housing units (initially intended for remodeling in the grant application)?
7. How is the new unit more cost effective given the projected increase in projected costs (\$19M) and the apparent elimination of housing units?
8. What is the breakdown for where additional County matching funds (\$19M) come from?
9. What is the annual cost increase associated with the enhanced mental health services and staffing levels? (Staffing plan also requested)
10. Will the new facility be run by the Alameda County Sheriff's Department or Behavioral Health Care Services?
11. How will the MHPSU project impact the operation and management of Santa Rita Jail?
12. Is there anything that prevents the County from changing the use of the new unit in the future (repurposing some of the new building into non-mental health)?
13. Were advisory boards or community interest groups consulted/informed of the (May 9, 2023, BoS Resolution) hearing?
14. Will the Mental Health Advisory Board and Care First Taskforce be informed or involved in the design modification process?

The dire need for more mental health services for incarcerated people has been known for years.

The JLBC proposed the State Public Works Board re-schedule their review of the scope changes until their next scheduled meeting in August 2023 or until such time as the JLBC has to review the responses from the County. As explained above, a delay of three months results in additional costs approaching \$700,000.

Until then, the MHPSU is once again on hold.

CONCLUSION

The dire need for more mental health services for incarcerated people has been known for years. The State system was found to be underserving mentally ill prisoners in 2011. *Babu v. Ahern* brought more focus to the growing mental health issues that persons in custody were experiencing at Santa Rita Jail in 2018. The resulting Consent Decree encompasses many needed changes and, equally importantly, spurred the County into action on the construction of a mental health facility at SRJ. It is to the detriment of incarcerated persons,

and to County itself, that the \$54M funding received in 2015 did not prompt immediate action.

The impacts caused by the delayed construction of the Mental Health Program Service Unit have had serious consequences for inmates struggling with mental health issues in Santa Rita Jail as evidenced in the suit *Babu v Ahern* and the resulting Consent Decree mandating radical changes in mental health care treatment at SRJ. Since January 2023, SRJ reported five suicides. With a best-case scenario targeted completion date of 2028, any further preventable delays would be disastrous.

The questions posed by the Joint Legislative Budget Committee (JLBC) mirror those the Grand Jury has grappled with through this investigation, particularly those about the care, stabilization and housing of persons with severe to serious mental illness who will not be accommodated in the MHPSU. Perhaps the JLBC could be prevailed upon for funds to build the initial structure with two housing units remodeled for severe patients and a medical building constructed attaching the two units; as well as the revised MBH to serve as a treatment center for less severe patients, education and counseling facilities, and office space for clinical staff? Regardless, the JLBC questions need to be addressed as soon as possible to avoid a delay in excess of three months.

The County “matching funds” increase of \$19M for the scope change to the Mental Health Program Service Unit remains a concern. As the construction moves further and further down the road, considerations about inflation, increased costs for labor, building materials as the construction may bring the County’s ability to cover continued increases in costs to halt the project altogether.

The GSA continues to coordinate with the Alameda County Sheriff’s Office, Behavioral Health Care Services and BSCC to ensure the needs of these very different stakeholders are met in the context of how the new MHPSU will serve each agency. The Grand Jury is cautiously optimistic that there has been some improvement in communication and collaboration between all parties involved in the MHPSU project. The GSA and the Alameda County Sheriff’s Office are under new leadership and the focus of both departments point toward an atmosphere of cooperation.

In order to ensure effective oversight, the Board of Supervisors should receive quarterly reports from the GSA on the status of the MHPSU project with evidence of progress made. The benefit of quarterly reports allows the Board of Supervisors to review, prevent delays, avoid problems and potentially reduce lawsuits, like *Babu vs. Ahern*. Adherence to the project schedule and budget mean more time and money to complete and support other County projects.

A constant theme from witnesses speaks to staff shortages in all County departments concerned in the MHPSU project. It is important that the Board of Supervisors give direction to Human Resource Services to develop a new hiring model to correct this problem affecting GSA, the County Administrators' office, Alameda County Sheriff's Office, Behavioral Health Care Services and the County as a whole.

At the very least, conducting the promised audit of GSA could point to areas that need immediate attention, along with a progressive plan to staff the department fully. Without adequate staffing, management will not be able to organize and direct workflow and procedures to assist all employees in meeting their goals with alacrity.

The Mental Health Program Service Unit project is different from other county building projects because it is partially funded through a Lease Revenue Bond Agreement. The review and approval process from multiple State Agencies is onerous and lacks concentrated coordination. This has contributed to the delays in ways that the County, sadly, has no control over. However, strict attention to project coordination and avoiding costly delays is even more critical.

As questions swirl regarding how well the redesigned Mental Health Program Service Unit will serve the mentally ill population at Santa Rita Jail, the focus needs to shift to those individuals in desperate need of care. Ideally, an interim model would be set up to deliver more targeted mental health care to persons in custody now rather than later.

FINDINGS

Finding #23-8:

The substandard level of care for mental health remains unchanged at Santa Rita Jail, and is likely to remain substandard until a new Mental Health Program Service Unit is built.

Finding #23-9:

The redesigned scope of the Mental Health Program Service Unit no longer includes the renovation of housing units or medical facilities included in the budget of the original proposal; nor does it provide beds, facilities to stabilize patients in crisis or accommodate long-term living units for persons with severe mental illness while they are incarcerated, despite an increase of \$19M in County matching funds.

Finding #23-10:

The Board of Supervisors has failed to provide public updates on progress reports from the General Services Agency on the status of the Mental Health Program Service Unit project.

Finding #23-11:

Staffing shortages exacerbated by lengthy County job posting requirements have contributed to delays in the construction of Mental Health Program Service Unit due to unfilled job requisitions.

Finding #23-12:

There is no evidence that the Board of Supervisors conducted an audit of the GSA or updated its response to Grand Jury Recommendation 20-27, as promised in its original response to the 2019–2020 Grand Jury Report, “Alameda County’s General Services Agency Too Often Fails at Capital Project Management.”

Finding #23-13:

County matching funds to complete the Mental Health Program Services Unit project have increased by approximately \$19M to date and will continue to rise with additional delays, inflation, cost of labor and increase in building material costs.

Finding #23-14:

Departments not familiar with construction of Capital projects and the approval processes that entails, need clear updates on the Mental Health Program Service Unit “in laymen’s terms”.

RECOMMENDATIONS

Recommendation#23-13:

The Grand Jury recommends that by October 31, 2023, the Board of Supervisors establish the completion of the Mental Health Program Service Unit as a top priority by all means to avoid further escalation of costs in monies and lives.

Recommendation #23-14:

The Grand Jury recommends that by December 31, 2024, the Alameda County Sheriff’s Office, Behavioral Health Care Services and the Board of Supervisors develop and implement a plan to provide beds, facilities to stabilize patients in crisis and accommodate long-term living units for persons with severe mental illness while they are incarcerated.

Recommendation #23-15:

The Grand Jury recommends that by October 31, 2023 the Board of Supervisors requires the General Services Agency to present updated, quarterly progress reports (workflow plan, budget changes, workload, progress made, schedule changes, and the reason for those schedule changes, etc.) on the Mental Health Program Service Unit and the reports and minutes be made accessible to the public.

Recommendation #23-16:

The Grand Jury recommends that by July 1, 2024, the Board of Supervisors, in coordination with Human Resource Services, accelerate hiring policies, streamline the onboarding process and amend lengthy job posting requirements.

Recommendation #23-17:

The Grand Jury recommends that by October 31, 2023, the Board of Supervisors conduct the audit of the General Services Agency per their response to Finding 20-27 in the 2019-2020 Grand Jury Report “Alameda County General Services Agency Too Often Fails at Capital Projects” and update the response accordingly.

Recommendation #23-18:

The Grand Jury recommends that by October 31, 2023, the General Services Agency develop a workflow and progress status for all departments and be mindful to present in laymen’s terms.

REQUEST FOR RESPONSES

Pursuant to California Penal Code sections 933 and 933.05, the Grand Jury requests each entity or individual named below to respond to the enumerated Findings and Recommendations within specific statutory guidelines. Governing bodies of public agencies shall respond to the findings and recommendations no later than 90 days from the public release date of this report. Elected county officers or department heads shall comment within 60 days to the Presiding Judge of the Superior Court, with an informational copy to the Board of Supervisors.

Responses to Findings shall be either:

- The respondent agrees with the finding.
- The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

Responses to Recommendations shall be one of the following:

- The recommendation has been implemented, with a summary regarding the implemented action.
- The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency where applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
- The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

REQUEST FOR RESPONSES

REQUIRED RESPONSE:

Alameda County Sheriff's Office

Findings: 23-8

Recommendation: 23-14

Alameda County Board of Supervisors

Findings: 23-8 through 23-14

Recommendations: 23-13 through 23-18

INVITED RESPONSE:

General Services Agency

Findings: 23-10, 23-11, 23-12, 23-14

Recommendation: 23-15 through 23-18

Alameda County Human Resources

Finding: 23-11,

Recommendation: 23-16

Alameda County Health Care Services

Finding 23-8

Recommendation: 23-14

Abbreviations:

ACSO – Alameda County Sheriff's Office

BoS – Board of Supervisors

BSCC – Board of State and Community Corrections

CAO – County Administrator's Office

CEQA – California Environmental Quality Act

CIP – Capital Improvement Plan

GSA – General Services Agency

HRS – Human Resource Services

JLBC – Joint Legislative Budget Committee (California Legislature)

MHPSU – Mental Health Program Service Unit

NTP – Notice to Proceed

RFP – Request for Proposal

SRJ – Santa Rita Jail

ALAMEDA COUNTY NEEDS A CODE OF ETHICAL CONDUCT AND WHISTLEBLOWER PROGRAM

EXECUTIVE SUMMARY

An ethics policy and a code of ethical conduct are critical tools for a county government to eliminate ethical confusion and misunderstandings, explicitly express acceptable behavior by county officials and employees, and ultimately build public trust in the government.

The Alameda County Civil Grand Jury, in its 2015 report titled “Alameda County Board of Supervisors Culture of Political Interference,” recommended that the Alameda County Board of Supervisors (BoS) adopt a code of ethics policy covering all county employees and including a confidential reporting mechanism covering observations of unethical conduct. The BoS responded that they would *consider* adopting a countywide ethics policy and noted that adequate safeguards currently are in place because County employees are subject to various conflict of interest laws and policies as well as laws that afford County employees protections as “whistleblowers.” Despite the BoS’s claim that “adequate safeguards are in place,” over the past ten years the Grand Jury has reported on at least five incidents that raised questions of the ethical climate and values within the Alameda County government.

The Grand Jury found that Alameda County still has no ethics policy or code of conduct that applies to all county officials, employees, vendors and volunteers. The County also lacks a whistleblower program for use by employees and the general public.

A complaint filed in 2022 with the Grand Jury claimed that the BoS has taken no action to implement the 2015 Grand Jury recommendation that the County adopt a code of ethics policy and a mechanism for reporting unethical conduct. The complainant also highlighted a public statement made by a county supervisor in 2021 that an ethics policy is not a high priority for the BoS.

This complaint motivated the Grand Jury to investigate for itself what steps, if any, the County has taken to adopt a code of ethics policy covering all county employees, establish a confidential reporting mechanism for whistleblowers, and expand ethics-related training to all county staff.

The Grand Jury found that Alameda County still has no ethics policy or code of conduct that applies to all county officials, employees, vendors and volunteers. The County also lacks a whistleblower program for use by employees and the general public. Despite repeated findings from prior Grand Juries on ethical violations and a specific recommendation to establish an

ethics policy and reporting mechanism in 2015, the BoS has not acted for nearly a decade. Alameda County’s lack of an ethics policy and code of conduct specific to the County indicates that ethical government is not a priority.

The Grand Jury is again recommending that the BoS adopt an ethics policy, including a code of conduct, that applies to all county employees, elected officials, vendors and volunteers. The Grand Jury further recommends that the BoS develop and implement a comprehensive Whistleblower Program encompassing initiating, tracking, investigating, and reporting on complaints, and implement ethics training for all county employees.

BACKGROUND

In today’s atmosphere of mistrust in government institutions, simply adhering to the letter of the law is not enough. Ethics in public service means more than the avoidance of criminal behavior or rule-breaking; it means acting as effective stewards of the public trust. It is a commitment by public employees to take individual responsibility for creating a government that has the trust and respect of the public. Establishment of a positive ethical climate is an essential part of maintaining the public trust. Demonstrating positive ethical leadership strengthens employee trust and helps employees ‘do the right thing’.

City of Berkeley, Ethical Climate Survey and Audit 2017

The legitimacy of a democratic government rests on its ability to gain the trust of its citizens. Corrupt government officials and staff who fail to uphold basic standards of ethics completely undermine the role of public service. At the core of decisions, officials are expected to keep the interest of the public—not themselves—in mind.

Code of Ethics, National Association of Counties, 2009

An ethics policy and a code of ethical conduct are useful tools for a county government to eliminate ethical confusion and misunderstandings, explicitly express acceptable behavior by county officials and employees, and ultimately build public trust in the government.

The 2014–2015 Alameda County Civil Grand Jury, in their report titled “Alameda County Board of Supervisors Culture of Political Interference,” found that interference by county political operatives to influence administrative decisions on behalf of favored constituents was not uncommon and undermined the integrity of the governing and administrative operations of the County. It recommended:

The Alameda County Board of Supervisors must adopt a code of ethics policy covering all county employees...to include a confidential reporting mechanism covering observations of unethical conduct.

The Board of Supervisors responded:

*The Board of Supervisors **will consider** [emphasis added] drafting and adopting a code of ethics policy applicable to County employees that is similar to the General Services Agency’s policy. The Board notes that **adequate safeguards currently are in place** [emphasis added] because County employees are subject to various conflict of interest laws and policies that address this need. These include: County Charter Section 66; County Administrative Code Section 2.02.170; the California Political Reform Act (California Government Code Sections 8100 et seq.); California Government Code Sections 1090 et seq. Regarding conflicts of interest in government contracting; and the extensive conflict of interest regulations promulgated by the California Fair Political Practices Commission (“FPPC”)....County elected officials are required to complete AB 1234 Ethics Training every two years. (County Department Heads have been invited to attend this training as well.)*

Additionally, Labor Code Section 1102.5 protects employees from reprisal in addition to County Administrative Code Chapter 3.52, and Government Code Sections 53296 et seq. These laws afford County employees protections as “whistleblowers”.

The Board of Supervisors is committed to avoiding conflicts of interest and maintaining high ethical standards. The County will provide additional training for Board staff and department heads similar to the ethics training mandated for elected officials by AB 1234.

The 2014–2015 Grand Jury also recommended that the County conduct ethics training, including state whistleblower statutes, for elected officials and all county employees. A code of conduct was not addressed. In their response, the County stated that they would administer training to elected officials and Board staff, as noted above, but made no commitment to provide ethics training to all county employees or to include whistleblower statutes in the training.

The Board of Supervisors is committed to avoiding conflicts of interest and maintaining high ethical standards. The County will provide additional training for Board staff and department heads similar to the ethics training.

Despite the BoS’s claim that “adequate safeguards are in place,” over the past ten years the Grand Jury has reported on at least five incidents that raised questions about the ethical climate and values within the Alameda County government. In addition to the 2015 Grand Jury report cited above,

- A 2013 Grand Jury report titled “Nepotism Policies in Alameda County” expressed concern about the perception that government jobs were handed out as favors to elected officials and noted that other county executives may have eroded public confidence in County government.
- The 2016–2017 Grand Jury, in a report titled “Alameda County Board of Supervisors Discretionary Funds,” found that County Supervisors had broad, discretionary spending powers as it pertains to excess budget funds through the Fiscal Management Reward (FMR) program. The Grand Jury questioned whether the lack of oversight could contribute to irresponsible spending of taxpayer funds. The BoS agreed “that the process for awarding (FMR) can benefit from increased accountability measures...” It is unclear if any measures were, in fact, implemented.
- In 2018, the Grand Jury published a report titled “Coliseum Ticket Bonanza,” which found numerous issues with how Alameda County handled the free luxury-suite tickets they received from the teams occupying the Coliseum Complex, including problematic distribution practices, reporting practices, and uninvestigated potential tax liabilities.
- Finally, the 2022–2023 Grand Jury, in its report titled “Misuse of County Information Technology Systems During the 2018 Election Cycle” in this volume, reports on multiple policy violations by employees and staff within the District Attorney’s Office during the 2018 election cycle.

Despite the BoS’s claim that “adequate safeguards are in place,” over the past ten years the Grand Jury has reported on at least five incidents that raised questions about the ethical climate and values within the Alameda County government.

These reported incidents make clear that the specific state and county conflict-of-interest and whistleblower protection laws cited in the BoS response to the 2015 Grand Jury recommendations, while necessary, are ineffectual as a code of ethical conduct for all county officials and employees.

A complaint filed with the 2022–2023 Grand Jury claimed that the BoS has taken no action to implement the 2015–2016 Grand Jury recommendation that the County adopt a code of ethics policy, including a mechanism for reporting unethical conduct, covering all county employees.

In August 2022, the complainant made a public records request to the County for any record of the consideration or adoption of an ethics policy; the Clerk of the Board responded that there are no such documents. The complainant also highlighted a public statement made by a County Supervisor in 2021, that an ethics policy is not a high priority for the BOS. Specifically, the Supervisor stated:

“So, if we haven’t done something that we pointed out in our response to the Grand Jury, then I will talk with the County Administrator and County Counsel about that so we can fulfill that responsibility.... But I tell you, in terms of priorities, [a County ethics policy] probably doesn’t make the top 10. It might not even make the top 20. It might not even make the top 30 in terms of priorities.”

This complaint motivated the Grand Jury to investigate for itself what steps, if any, the County has taken to develop and adopt a code of ethics policy covering all county employees, establish a confidential reporting mechanism for whistleblowers, and expand ethics-related training to all county staff.

INVESTIGATION

In this investigation, the Grand Jury interviewed elected and appointed County officials responsible for creating and implementing county policies and receiving complaints regarding unethical conduct of county officials and employees, as well as similar officials from a nearby county. Additionally, the Grand Jury reviewed the following documents:

- State and county ordinances and codes cited in the BoS response to the 2014–2015 Grand Jury recommendations.
- Guidelines for ethics policies published by several local government advisory bodies.
- Ethics, code of conduct and whistleblower policies adopted by cities in Alameda County and by other Bay Area and California counties.
- Departmental ethics policies for Alameda County Behavioral Health Care Services (BHCS), General Services Agency (GSA), and Human Resource Services (HRS).
- Codes and policies adopted by the County and employee trainings and past Grand Jury reports on ethics violations within the County and the County responses to these Grand Jury reports.

In terms of priorities, [a County ethics policy] probably doesn’t make the top 10. It might not even make the top 20. It might not even make the top 30 in terms of priorities.

Based on its research and for the purposes of this report, the Grand Jury defines “ethics policy”, “code of conduct”, and “whistleblower program” as follows:

An **Ethics Policy** establishes an overarching philosophy from leadership laying out their expectations and communicating core values or principles that serve as a guide to ethical behavior and decision-making. An ethics policy encapsulates an organization’s essential beliefs and general culture and sets the foundation for codes or rules related to ethical behavior.

A **Code of Conduct** outlines acceptable behaviors and actions that are required or prohibited as a condition of ongoing employment through specific codes or policies and is signed by all employees of the institution.

A **Whistleblower Program** has a prominently-published mechanism for the public and employees to report ethical misconduct and violations of laws and regulations by officials and employees. There is a clear process to receive, accept, screen, document, analyze, investigate and monitor complaints with a published report outlining the complaints and their resolution made available to the public on a regular basis.

Status of Alameda County Ethics Policy and Code of Conduct

To determine the status and availability of an Alameda County ethics policy, code of conduct, and whistleblower program, the Grand Jury searched the Alameda County BoS and agency websites for relevant documents and asked County officials and managers about the status and disposition of such documents. Neither witnesses nor web searches produced any ethics policy, code of conduct or whistleblower program.

None of the elected or appointed county officials that spoke with the Grand Jury could provide or point the Grand Jury to an ethics policy or code of conduct that applied to all county officials and employees. Some witnesses said they were unsure if such a policy existed while others said they were sure it did not exist. A County Supervisor also confirmed that no ethics policy existed and developing such a policy was a low priority.

Web searches conducted by the Grand Jury also were unsuccessful in locating an ethics policy or code of conduct applicable to all county officials and staff. Through this effort, the Grand Jury did learn that some county departments have developed their own ethics-related policies. Behavioral Health Care Services (BHCS), in compliance with federal law, has a policy that is intended to prevent Medicare fraud. BHCS also has an ethical conduct policy outlining best practices that is signed by every BHCS employee and their supervisor. The General Services Agency (GSA) has a Code of Ethics brochure on employee acceptance of gifts from vendors. Human Resource Services (HRS) has each employee in that department sign a Code of Ethics document to ensure confidentiality of personnel records.

Whistleblower Program

Most elected and appointed county officials that spoke with the Grand Jury were not knowledgeable of any specific procedure for making or reporting whistleblower complaints. When asked about a countywide whistleblower process, the Grand Jury was directed more than once to Alameda County Administrative Section Code 3.52. This provision establishes protection for county employees from retaliation for reporting a complaint, but no clear mechanism through which to do so. Claims regarding whistleblower retaliation can be filed with the Clerk of the Board according to the Alameda County Code. Retaliatory provisions are also covered by California Labor Code Section 1102.5.

These same witnesses lacked knowledge on how to initiate a complaint, as well as where it should be directed, indicating a lack of education and outreach at the highest levels. Suggestions for where to direct complaints ranged from the Clerk of the Board, County Counsel, County Auditor, the employee’s supervisor, union representatives, to Alameda County Human Resource Services (HRS).

Additionally, there is no clear whistleblower mechanism for use by employees or for use by the general public who might want to report violations or call attention to the unethical behavior of an Alameda County elected official, employee, vendor or volunteer. The only countywide reporting form found by the Grand Jury was entitled “Alameda County Complaint Form” (Fig 1). It pertains only to county employees with regards to discrimination based on protected categories (i.e., race, gender, age, etc.). Diversity/EEO complaints are filed with the Clerk of the Board, then moved to the Diversity Unit which is under the auspices of the County Counsel. Previously, these had been handled by the County Administrator (CAO). Once processed, complaints are referred to (one of many) outside investigators.

The Grand Jury was told County Counsel usually finds out about complaints through a lawsuit filed against the County or through the District Attorney’s office.

Fraud, waste, abuse, theft, etc. are handled by County Counsel. Typically, employees are prosecuted and/or terminated. The Grand Jury was told County Counsel usually finds out about complaints through a lawsuit filed against the County or through the District Attorney’s office. The Grand Jury learned that Behavioral Health Care Services, to complement its departmental ethics policy, has a whistleblower policy for fraud waste and abuse with links on the BHCS website to the policy, appropriate reporting form, and basic reporting directions in multiple languages. According to one witness, BCHS receives three to four complaints per month which are handled by Risk Management in Public Health.

The Grand Jury was unable to discern any tracking or reporting on either the nature of whistleblower complaints submitted, or the total number of complaints made. The consensus from witnesses interviewed was the total number of whistleblower complaints was under 12 per year. This is more than fifty times lower than the 668 whistleblower complaints received by the City and County of San Francisco during their fiscal year 2020–2021.¹ The population in Alameda County is over 1.6 million, and the county employs almost 10,000 people including county services employees. San Francisco has about half that population.

Other Models

The Grand Jury also researched the structure and function of ethics policies and commissions in other jurisdictions as well as third-party sourced models of ethics violation reporting.

The Grand Jury discovered that most Bay Area counties and cities have an established ethics policy, with several incorporating a Code of Conduct (Table 1). Several cities within Alameda County have also established such policies (Table 2). Alameda County is one of the only Bay Area counties that has not developed a comprehensive countywide ethics policy, code of conduct or whistleblower program.

The Grand Jury discovered that most Bay Area counties and cities have an established ethics policy, with several incorporating a Code of Conduct

Alameda County Complaint Form

DPU Matter # _____

***Complaint is being filed with:**
 Agency/Department: Diversity Programs

CONFIDENTIALITY

Information provided on this form will be kept confidential to the extent possible and in compliance with applicable laws.

If you need more space, attach separate sheet(s).

I. PERSONAL INFORMATION

Applicant: Alameda County Employee Other

*Complainant Name: _____ Race/Ethnicity: _____ Age: _____ Gender, Gender Identity/Expression: _____

Home Mailing Address: _____ Home #: _____ Work #: _____

Job Classification: _____ Job Code: _____ Current Salary: _____ Working Title: _____ Date Appointed To or Applied for Position: _____

Manager: Non-Manager Manager Work Hours/ Schedule: _____ *Preferred Method(s) of Contact & Contact Info:
 E-Mail: _____ Work #: _____ Other: _____

*Agency/Department: _____ *Physical Work Location Address: _____

*Immediate Supervisor: _____ Work #: _____ CIC: _____ Date of Incident: _____

II. RESPONDENT(S) INFORMATION

Person(s)/Organization(s) you are complaining about

Individual(s) Organization(s)

*Respondent(s) Name(s)	Respondent Job Title	Manager	Non-Manager	Department	Phone #

Agency/Department: _____ Agency/Department Name: _____ Phone #: _____

Have you previously filed this complaint with another County Agency/Department? YES NO

If YES, specify which Agency/Department and provide date complaint was filed: _____

III. *PROTECTED CATEGORIES

[Check Appropriate Box(es)]

Age <input type="checkbox"/>	Gender <input type="checkbox"/>	Medical Condition <input type="checkbox"/>	Race <input type="checkbox"/>	Sex and Sex Stereotypes <input type="checkbox"/>
Ancestry <input type="checkbox"/>	Gender Expression <input type="checkbox"/>	Military/Veteran Status <input type="checkbox"/>	Religion <input type="checkbox"/>	Sexual Harassment <input type="checkbox"/>
Color <input type="checkbox"/>	Gender Identity <input type="checkbox"/>	National Origin <input type="checkbox"/>	Religious Need <input type="checkbox"/>	Sexual Orientation <input type="checkbox"/>
Disability <input type="checkbox"/>	Genetic Information <input type="checkbox"/>	Political Affiliation <input type="checkbox"/>	Retaliation <input type="checkbox"/>	Transgender <input type="checkbox"/>
Domestic Partnership <input type="checkbox"/>	Marital Status <input type="checkbox"/>	Pregnancy (Breast feeding, child birth and other medical condition related to pregnancy) <input type="checkbox"/>		

Family Medical Leave Act (FMLA) Tax Collector

IV. *ISSUE(S)

[Check Appropriate Box(es)]

Assignment <input type="checkbox"/>	Discipline <input type="checkbox"/>	Action <input type="checkbox"/>	Loss of Employment Benefits <input type="checkbox"/>	Reasons for Retaliation <input type="checkbox"/>	Accommodations <input type="checkbox"/>	Other <input type="checkbox"/>
Appointment <input type="checkbox"/>	Disparate Impact <input type="checkbox"/>	Merit Increase <input type="checkbox"/>				
Classification <input type="checkbox"/>	Disparate Treatment <input type="checkbox"/>	Promotion <input type="checkbox"/>	Sick Leave <input type="checkbox"/>			
Demotion <input type="checkbox"/>	Failure to Promote <input type="checkbox"/>	Reduction in Force/Layoffs <input type="checkbox"/>	Termination <input type="checkbox"/>			
Denial of Training <input type="checkbox"/>	Harassment <input type="checkbox"/>	Reinstatement <input type="checkbox"/>	Transfer <input type="checkbox"/>			

V. *Briefly describe the circumstances that lead you to believe that you have been discriminated against.

VI. List the corrective measures or actions you are seeking.

By Checking this box, I hereby affix my signature electronically and certify that all information submitted on this County Complaint Form is true and correct.

Complainant's Signature: _____ *Date: _____

Please Submit Form for Diversity Programs to:
 Alameda County Diversity Programs
 1108 Madison Street, Suite 233, Oakland, CA 94607
 Internal County Mail to QIC 20204 or Fax to 510.208.4904

Please Submit Form for Department Complaints to:
 Departmental Diversity Coordinator from following list
<http://www.acgov.org/diversity/documents/coordinators.pdf>

For Questions Contact: Diversity Programs at 510.272.3895 (Tie line 23895) or Departmental Diversity Coordinator

FIG 1: Alameda County Complaint Form

Table 1 - Bay Area Counties with Established Ethics Programs

Bay Area County	Countywide Ethics Policy	Countywide Code of Ethical Conduct	Whistleblower Program	Utilizes Outsource Company/Document Handling Software
Alameda	No	No	No	
Contra Costa	No*	No	Yes (Welfare fraud and Gov Corruption)	
Marin	Yes	Yes	Yes	
Napa	Yes	?	Yes (Health & Human Services Compliance Line)	
San Francisco	Ethics Commission	Yes	Yes with a robust public facing interface and annual report of complaints/disposition	Granicus (online submissions)
San Mateo	Yes	Yes	Yes with an easy to use reporting mechanism	Navex Global/Ethicspoint
Santa Clara	AB1234 training	Yes	Yes with an annual report of complaints/disposition	Lighthouse Services
Santa Cruz	**	Yes***	Yes	
Solano	No****	No	Yes	
Sonoma	AB1234 training	Yes-Probation Dept	Yes	

*Training on Brown Act provided, FPPC ethics training, Mission, Vision, Values statement

**Santa Cruz has a Code of Ethics Policy and Code of Conduct

***Respectful workplace conduct policy in place

****Recently resigned DA states he put ethics policy in place. None found.

Table 2 - Alameda County Cities with Established Ethics Programs

Cities in Alameda County	Ethics Policy or Commission	Whistleblower Program	Utilizes Outsource Company/Document Handling Software
Alameda	Yes (City Council)		
Albany	Yes		
Berkeley	In process	Yes	
Dublin	Yes		
Hayward	Yes		
Oakland	Yes (Commission)	Yes	
Union City	Yes		

The Grand Jury found that San Mateo County (SMC) has one of the most comprehensive web sites for clarity and ease of use. SMC has established a code of ethical conduct tied to their County Mission Statement, outlining the ethical principles SMC upholds, and is signed by all SMC employees. There are links to county policies and a whistleblower program that directs the user

through several options to report violations. While SMC encourages reporting to a direct supervisor, a third-party provider option is available for complaints via email or phone to be conveyed to management or the board while maintaining anonymity and confidentiality.

Based on a review of other counties and cities, the Grand Jury compiled a list of some of the basic elements included in a robust Code of Conduct. Alameda County has some that apply to all employees

in **bold** below, but many are absent, or if present, were not visible on the public-facing county website:



Source: smcgov.org/hr/ethics-policy

- Whistleblower Program
- Protection of Assets from Fraud, Waste & Abuse
- Political Activities: Do’s & Don’ts
- Incompatible Activities: Use of county time, facilities equipment or supplies, or influence or prestige of the employee’s position for personal profit or advantage to outside employment
- Outside Employment: Activity or enterprise requiring such time demands as would result in less proficient performance of county duties.
- Email, Internet, and Information Technology Security: Protection of corporate information resources, privacy of data, password management
- Drug Free Workplace
- Reporting of Convictions
- Privacy Policy/Protected Health Information Sanction Policy (BHCS only)
- **Conflicts of Interest (Interest in Contracts/Receipt of Commissions or Gifts)**
- **Violence in the Workplace (Sexual Harassment & Abusive Conduct--training provided to all Alameda County employees)**
- **Equal Employment Opportunity: Diversity, Discrimination & Harassment**

Best practices for a comprehensive whistleblower program start with a mechanism (e.g., hyperlink) available on all county web sites directing complainants, both employees and the public, to a county whistleblower webpage with information on how and where to submit a complaint. Bay Area counties differ in how the initial complaints are processed--some utilize the Auditor Controller's office, others an external company or document handling software or a combination thereof. Additionally, some counties include a menu for county codes and policies, State and Federal ethical laws, and consequences of unethical behavior.

Essential steps for the intake and assessment of complaints include:

- Receipt: numbered acknowledgement to the complainant followed by determination of eligibility for investigation
- Documentation: Record the type of complaint then direct it to the appropriate department/official
- Investigation
- Resolution and publication

The last step is a published annual report, made available to the public, outlining the number of complaints received, a synopsis of each complaint, investigative findings, and resolutions, unless confidentiality precludes sharing results.

Training

Local officials are required by California Law Government Code 53235 (AB1234) to complete an ethics training course within six months of being hired. California requires at least two hours of training in general ethics principles and ethics laws relevant to the official's public service every two years with a certification.

The Grand Jury learned that ethics training in Alameda County is typically administered by a private firm retained by the County to conduct Fair Political Practice Commission (FPPC) trainings for the Board of Supervisors. A witness stated that department and agency heads are usually invited to the presentation, but the Grand Jury was unable to ascertain how many county employees take or are required to take ethics training. Alameda County employees below the supervisory level are not educated on ethical behavior.

The Ethics Resource Center (ERC) reported in their 2007 National Government Ethics Survey that a strong ethics program effectively communicates ethical standards and procedures through training, discussion, and publications geared to the diverse needs of the workforce.

The Ethics Resource Center (ERC) reported in their 2007 National Government Ethics Survey that a strong ethics program effectively communicates ethical standards and procedures through

training, discussion, and publications geared to the diverse needs of the workforce. The ERC also reported that organizations that implement ethics programs dramatically reduce misconduct and mitigate the risk of losing public trust.

Alameda County has enacted some policies and training for the protection of employees and county assets. Administrative Code Section 2.02.170 applies to Interest in contracts/Receipt of commissions or gifts. All county employees must attend sexual harassment prevention and abusive conduct training every two years. Additionally, the BoS adopted a Discrimination, Harassment & Retaliation Policy on September 20, 2022, which pertains to employee protections against unequal treatment, harassment and retaliation based on that employee's protected categories.

CONCLUSION

Alameda County has no ethics policy or code of conduct that applies to all county officials, employees, vendors and volunteers. The County also lacks a whistleblower program for use by employees and the general public. Despite repeated findings from prior Grand Juries on ethical violations, and a specific recommendation to establish an ethics policy and reporting mechanism in 2015, the Board of Supervisors has not acted for nearly a decade. Alameda County's lack of an Ethics Policy and Code of Conduct specific to the County indicates that ethical government is not a priority.

The BoS claim that "adequate safeguards are in place" to address the ethical needs of the County is a bare minimum effort and proves insufficient to provide ethical guidance and standards for all Alameda County employees. The established laws and codes regarding conflict of interest, public disclosure of personal assets and provisions that exist to protect employees for disclosing information provide important components, but by themselves do not comprise a full ethics policy or code of conduct. As one witness put it, "A better practice would be to sunlight opportunity for grievances before they go too far."

The potential for ethical misconduct in a county as large as Alameda County is great and ethical dilemmas can arise in every department at all levels of employment. Explicit guidance from the BoS in the form of an ethics policy and code of conduct, combined with education for all Alameda County employees, direction from supervisors to report abuses, and the tools to report violations encourage all employees of the County to hold themselves and the County accountable to the highest standards of government. The current policy of limiting ethical training to top officials and supervisors is inadequate.

An ethics policy cannot fully function without the capability of reporting and tracking complaints with a whistleblower program. When reports are handled in consistent and relevant ways, employees perceive their input makes a difference and are more likely to report abuses in the

future. A public report of complaints and their resolutions promotes transparency and accountability and provides important information to the citizens of Alameda County.

The Board of Supervisors has the authority to establish a Countywide Ethics Policy and Code of Conduct; the implementation of which need not be a reinvention of the wheel. Resources abound on the web with direction on determining core values and ethical principles, how to establish both ethical policy and codes of conduct and setting up a recording and tracking process. One need only look to neighboring counties for examples of all.

The development and adoption by the Board of Supervisors of a Countywide ethics policy, including a code of conduct, and a comprehensive whistleblower program will follow the best practices encouraged by national studies and embraced by other Bay Area cities and counties. If the Board of Supervisors is, in fact, “committed to avoiding conflicts of interest and maintaining high ethical standards,” it is long overdue.

FINDINGS

Finding #23-15:

Alameda County needs an Ethics Policy and Code of Conduct that covers all county employees, elected officials, vendors and volunteers.

Finding #23-16:

Alameda County does not provide adequate ethics training for all county employees.

Finding #23-17:

Alameda County needs a comprehensive whistleblower program encompassing initiating, tracking, investigating, and reporting the number and disposition of complaints, and this program should be accessible to county employees and the public.

RECOMMENDATIONS

Recommendation #23-19:

The Grand Jury recommends that by July 1, 2024, the Board of Supervisors develop and adopt an ethics policy, including a code of conduct, that applies to all county employees, elected officials, vendors and volunteers.

Recommendation #23-20:

The Grand Jury recommends that by July 1, 2024, the Board of Supervisors require ethics training for all county employees, elected officials, vendors and volunteers at onboarding and annually thereafter, with specific instruction on how to initiate a complaint, review of ethical codes and policies, encourage reporting of concerns and track the training in the Training and Education Center’s Learning Management System.

Recommendation #23-21:

The Grand Jury recommends that by July 1, 2024, the Board of Supervisors develop and implement a comprehensive whistleblower program encompassing initiating, tracking, investigating, and public reporting of complaints, with a clear mechanism accessible to county employees and the general public.

REQUEST FOR RESPONSES

Pursuant to California Penal Code sections 933 and 933.05, the Grand Jury requests each entity or individual named below to respond to the enumerated Findings and Recommendations within specific statutory guidelines. Governing bodies of public agencies shall respond to the findings and recommendations no later than 90 days from the public release date of this report. Elected county officers or department heads shall comment within 60 days to the Presiding Judge of the Superior Court, with an informational copy to the Board of Supervisors.

Responses to Findings shall be either:

- The respondent agrees with the finding.
- The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

Responses to Recommendations shall be one of the following:

- The recommendation has been implemented, with a summary regarding the implemented action.
- The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency where applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
- The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

REQUIRED RESPONSE

Alameda County Board of Supervisors Findings 23-15 through 23-17
Recommendations 23-19 through 23-21

INVITED RESPONSE

Alameda County Human Resources Finding 23-16
Recommendation 23-20

¹Whistleblower Program Annual Report and Quarter 4 Results, City & County of San Francisco, Office of the Controller, City Services Auditor
August 26, 2021

MISUSE OF COUNTY INFORMATION TECHNOLOGY SYSTEMS DURING THE 2018 ELECTION CYCLE

EXECUTIVE SUMMARY

A complaint about misuse of County resources during the 2018 Primary campaign for Alameda County District Attorney was submitted to the Grand Jury by a citizen of the County in September 2021, investigated initially by the 2021–2022 Grand Jury and referred to the 2022–2023 Grand Jury at the conclusion of the 2021–2022 Grand Jury term. The complaint included the results of the complainant’s analysis of pages of email messages to and from District Attorney’s Office staff obtained through a California Public Records Act request. These emails include requests by Alameda County District Attorney’s Office staff for donations to support the campaign for the then-District Attorney, a candidate for re-election, attendance at events in support of a candidate for the office, distribution of campaign flyers, and participation in photographs that staff believed were taken for use to support the candidacy of the candidate. The use of the County email system for campaign-related activities, the use of staff time on election-related activities during working hours, and the solicitation of funds for a political campaign from County employees directly violate County policies regarding election-related activities of County employees.

The current Grand Jury investigation included more than 30 witness interviews and review of hundreds of pages of documents. Documents provided through a California Public Records Act request by a citizen were supplemented with an expanded document request by the Grand Jury seeking records through the end of 2022. The analysis by the Grand Jury of the email cache of messages to and from staff in the District Attorney’s Office reveals that more than 25 staff members used County owned computers and the County owned and operated email system to solicit funds for a District Attorney candidate, sometimes in coordination with police officer unions in other cities and counties, to request attendance at campaign events, and to discuss campaign strategy during the 2018 campaign for District Attorney.

The Grand Jury reviewed several County policies, including the Appropriate Computer Use Policy, and the Appropriate Use of Telecommunication and Information Technology Systems Policy. From that review, the Grand Jury learned that the use of County computer equipment for campaign purposes, the use of County time to solicit campaign support, and attendance at campaign events all violated County policies regarding use of the County email system and violated policies regarding County employees’ actions related to a political campaign.

Witness testimony revealed that policies regarding election-related behavior were either not well known or ignored by staff in the District Attorney’s Office. When the District Attorney’s Office

management learned that there was improper behavior among District Attorney staff, they took no immediate corrective action and staff faced no consequences related to that behavior. And, while the Grand Jury was told that there were subsequent “all hands” meetings and reminders to staff of election-related policies, those reminders were not documented in the District Attorney’s Office or by Alameda County Human Resource Services. The Grand Jury learned that the County does not routinely provide reminders to all County staff of the policies prohibiting the use of County time and equipment during political campaigns.

The Grand Jury believes that the residents of Alameda County deserve better to assure trust in County elections and impartiality in the workplace among County employees. That trust can be improved by strengthening County election-related policies, implementing rigorous presentation of these policies during new hire orientation and in annual training or continuing education programs, with particular emphasis prior to and during election years, reviewing staff training compliance as a part of annual evaluations, documenting the presentation of these policies, and issuing consequences for failure to respect the policies.

BACKGROUND

The Alameda County District Attorney is an elected official, with independent constitutional authority, who operates under the supervision of the County of Alameda Board of Supervisors and, in some instances, the California Attorney General. The Office was established in 1853 and has evolved in the modern era to represent the citizens of Alameda County in criminal, civil and juvenile matters. It investigates, charges, and prosecutes crimes, brings civil actions involving consumer and environmental matters, and represents the people in the juvenile justice system. The District Attorney’s Office also manages the victim/witness program which provides support and advocacy for victims and witnesses of crime.

As noted in the District Attorney’s Office training video, “Pride and Professionalism,” the Office has a long history of advocating for the people of California. Prosecutors consider themselves “servants of the law.” They are to conduct their work in a competent, ethical and professional manner in order that “justice be done.”

In the 2022–2023 County budget, the District Attorney’s Office was allocated \$92 million, 87% of which is dedicated to salaries and benefits for the 363 full-time employees of the Office. The staff includes approximately 150 attorneys, 68 inspectors, 30 victim-witness advocates and claim specialists, as well as administrative, finance, and communications specialists. The services and work of the District Attorney’s Office are conducted in nine offices throughout the county.

The 2021–2022 Alameda County Civil Grand Jury received a complaint from a citizen regarding alleged violations of County and State rules governing the behavior of County employees in the campaign for District Attorney (DA) in 2018. The complaint alleges that staff in the Alameda County District Attorney’s Office, including some attorneys, violated County and State rules

regarding the use of County equipment and solicitation of funds and candidacy support during the 2018 election for District Attorney. The complaint included email documents obtained by a community member through a California Public Records Act request. The complainant also filed complaints with the California Fair Political Practices Commission (FPPC) and with the California State Attorney General. The Alameda County Grand Jury received the complaint on September 8, 2021. On or near this date, the complainant also filed complaints with the FPPC (Case No 2021-00968,) and the California Attorney General, and alerted the District Attorney's Office to these filings.

At the conclusion of their term, as allowed under California Penal Code section 924.4, the 2021–2022 Grand Jury passed on and provided the 2022–2023 Grand Jury with the original complaint and recorded interviews of testimony received during its session.

INVESTIGATION

The current Grand Jury investigation included more than 30 witness interviews and review of hundreds of pages of documents. Documents provided through a California Public Records Act request by a citizen were supplemented with an expanded document request by the Grand Jury seeking records through the end of 2022.

The analysis by the Grand Jury of the email cache of messages to and from staff in the District Attorney's Office reveals that more than 25 staff members used County owned computers and the County owned and operated email system to solicit funds for a District Attorney candidate, sometimes in coordination with police officer unions in other cities and counties, to request attendance at campaign events, and to discuss campaign strategy during the 2018 campaign for District Attorney.

The Grand Jury reviewed Alameda County ordinances, policies and State laws pertaining to campaign activities, including:

California Government Code §8314:

Forbids use of public resources for unauthorized use, specifically noting that it is unlawful to use public resources for political campaign activities.

California Government Code §3205:

An employee of a government agency shall not solicit political contributions from an employee of the same or another government agency.

California Penal Code §424:

Makes illegal misappropriation of public funds by public officials or any other individual who has been entrusted with public funds.

California Government Code §54964:

Prohibits a local agency officer, employee or consultant from expending, or authorizing the expenditure, of agency funds to “support or oppose the approval or rejection of a ballot measure, or the election or defeat of a candidate”.

Alameda County Administrative Code Chapter 3.40.020:

Specifies that the County communications system shall only be used in the conduct of county business, and that no county officer shall use or permit the use of the system for other than county business. Of note, new employees must sign and date their receipt of this policy during their on-boarding process.

Alameda County Appropriate Computer Use Policy:

Specifies that County owned computer equipment may only be used for County business purposes.

Based on a review of policies that are presented to new employees during the County’s on-boarding process, the Grand Jury learned that the “Appropriate Use of Telecommunications and IT Systems Policy” is explained in the Alameda County New Employee Orientation Handbook. This policy specifies that County Information Technology systems are to be used only for authorized County business. New employees must sign and date to confirm their receipt of this policy at the time of hiring.

In reviewing interviews with current and past staff of the District Attorney’s Office, it became clear that while some staff recognized that these emails violated policies forbidding use of the County email system for political purposes, many engaged with colleagues and others in the campaign for District Attorney in the period leading up to the 2018 Primary Election for District Attorney. No one appears to have spoken up to remind others of policies prohibiting use of County equipment and time on activities related to a political campaign. And, prior to the District Attorney’s Office receiving the letter from the complainant, no one in the Office appears to have expressed concern about misuse of county equipment or changed their behavior. As noted in the Grand Jury’s report titled “Alameda County needs a Code of Ethical Conduct and Whistleblower Program: Alameda County Needs a Code of Ethical Conduct and Whistleblower Program” in this volume, the County does not have a whistleblower program that provides a mechanism for staff or community members to submit concerns about behavior or actions by County employees that appear to be unethical, improper, or illegal.

In assembling and reviewing the information gleaned from the interviews and document review, the Grand Jury identified two factors that seemed to motivate staff behavior:

- The 2018 District Attorney election was the first, in recent memory, in which a sitting District Attorney was challenged. The Grand Jury learned that many staff of the Office of the District Attorney had very strong concerns about the outcome of the election.

- The fear that the election of a new District Attorney, who had hinted at staff layoffs or terminations, was so overwhelming that staff failed to recognize their disregard of policies regarding campaign-related behavior as potentially illegal.

The Grand Jury learned that in response to media reports of the use of the County email system to solicit support for a particular candidate for District Attorney by staff in the District Attorney's Office in 2021, an "all-hands-on-deck" meeting was held in September 2021. The meeting was held to remind staff of the County's policy that forbids the use of the County email, computers, and phone system for campaign purposes. The Grand Jury was unable, however, to find documentation of the attendees of the meeting or details of the content of the meeting. The Grand Jury was told that the District Attorney's Office leadership took the staff use of the County email system and County time for campaign purposes very seriously. Witnesses reported that after the "all-hands-on-deck" meeting, staff changed their behavior and monitored one another carefully and reminded colleagues to not speak of the upcoming election.

Additionally, the Grand Jury learned from witnesses that fear of the election of a new District Attorney motivated attorneys in the District Attorney's Office to begin the formation of the Alameda County Prosecutors Association, a union affiliated with the International Brotherhood of Teamsters, Local 856.

The Grand Jury has been unable to determine that any individual staff were held accountable for their behavior at the time that the original complaints were filed with the Grand Jury, the FPPC (Case No 2021-00968,), and the California Attorney General. Witnesses suggested that disciplinary action would be deferred pending the outcome of these complaints. On May 10, 2023, the FPPC complaint was resolved as "No Violation Found."

The Grand Jury reviewed emails sent and received by staff in the District Attorney's Office preceding the 2022 election for District Attorney using similar, but expanded, search criteria as was used in the Public Records Request that initiated the 2021 complaint, and for an extended time period (September 2022 through January 2023). For that time period, the results indicate that there were only a handful of inappropriate campaign-related emails found.

The Grand Jury learned that in September 2022, the County Human Resources Department management sent an email reminder to County agency and department heads that County resources should not be used for political campaign purposes. It is unclear whether these agency and department leaders forwarded that information to all agency or departmental employees. There was no direction to do so in the email from County Human Resources. The Grand Jury learned, however, that the Alameda County Health Care Services Agency distributed information to agency staff: a primer on the "Do's and Don'ts of Campaign Advocacy" in

September 2022. This practice could serve as a model for the County or other agencies and departments within the County.

CONCLUSION

Residents of Alameda County expect that elected and appointed employees of the County will do their work with integrity. To most, this means that employees respect and follow the laws, policies and guidelines of the State of California, County of Alameda, and the offices and agencies in which they serve. If the behavior of County employees does not meet this standard, then the confidence of residents in the integrity of County employees and the work they do, and the operations of local government may be compromised.

Based on the evidence, the Grand Jury found that many staff in the District Attorney's Office failed to follow County policies regarding employee behavior during the 2018 political campaigns for Alameda County District Attorney. Despite knowing that District Attorney's Office employees acted in violation of County policies, there were no immediate consequences for their behavior. This unfortunate situation was driven by staff fears of change in the Office in a rigorously fought election.

The Grand Jury reviewed an additional cache of emails for the campaign period leading up to the 2022 General Election for District Attorney. The Grand Jury found that for that time period, District Attorney's Office employees sent only a handful of campaign-related emails using the Alameda County email system.

The Grand Jury recommends that changes are needed to help assure the community that District Attorney's Office staff are working on behalf of Alameda County residents ethically and honestly. All County employees need rigorous education, annually and during election seasons, about policies related to State and County rules regarding their behavior during political campaigns. Residents of the County, as well as County employees, also need a clear mechanism to report incidents of violations of these policies. And they need to know that complaints will be investigated, that consequences of policy infringement will be administered promptly and fairly, and that a complainant will know that their complaint has been addressed.

FINDINGS

Finding #23-18:

District Attorney's Office staff violated county policies regarding the use of county computers and the use of county time to participate in political campaign activities during the 2018 Primary Election for District Attorney.

Finding #23-19:

The District Attorney's Office failed to provide adequate ongoing training on county policies and State law related to acceptable behavior during political campaigns.

Finding #23-20:

The Alameda County Human Resource Services does not adequately document countywide staff education on acceptable and prohibited activities during political campaigns.

Finding #23-21:

The Grand Jury was unable to determine whether there were any consequences for staff who violated these policies.

RECOMMENDATIONS

Recommendation #23-22:

The Grand Jury recommends that the District Attorney's Office immediately add training on County policies regarding acceptable activities during political campaigns to the District Attorney's Office on-boarding process, annually and during election years.

Recommendation #23-23:

The Grand Jury recommends that by July 1, 2024, the Alameda County Human Resource Services should develop consistent training for all County employees, including employees in the District Attorney's Office, regarding acceptable behavior during political campaigns and provide the training to new employees when hired and to all employees on an annual basis.

Recommendation #23-24:

The Grand Jury recommends that by July 1, 2024, Human Resources Services should document the provided training in the Learning Management System or another appropriate repository.

REQUEST FOR RESPONSES

Pursuant to California Penal Code sections 933 and 933.05, the Grand Jury requests each entity or individual named below to respond to the enumerated Findings and Recommendations within specific statutory guidelines. Governing bodies of public agencies shall respond to the findings and recommendations no later than 90 days from the public release date of this report. Elected county officers or department heads shall comment within 60 days to the Presiding Judge of the Superior Court, with an informational copy to the Board of Supervisors.

Responses to Findings shall be either:

- The respondent agrees with the finding.
- The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

Responses to Recommendations shall be one of the following:

- The recommendation has been implemented, with a summary regarding the implemented action.
- The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency where applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
- The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

REQUIRED RESPONSES

Alameda County District Attorney’s Office

Recommendation 23-22

INVITED RESPONSES

Alameda County Human Resources Department

Finding: 23-20

Recommendations: 23-23 through 24

SPECIAL NOTE ON THE GRAND JURY’S LEGAL ADVISOR

The Alameda County District Attorney’s Office (DA) historically provided legal advice to Alameda County Civil Grand Juries. In that role, the DA collected formal complaints submitted to the Civil Grand Jury and provided legal advice regarding the proper scope and function of the Grand Jury’s investigations and the reports created at the end of the Grand Jury’s term. The 2021-2022 Civil Grand Jury received a complaint on September 7, 2021 that prompted an investigation. That complaint was reviewed and referred to the 2022-2023 Civil Grand Jury for investigation, resulting in this report. Because the matter created an obvious conflict of interest with the DA, the DA recused itself and referred the matter to the County of Alameda Office of the County Counsel. County Counsel provided legal advice to the 2021-2022 and the 2022-2023 Civil Grand Juries in this matter. The DA took no part in the investigation leading to this report and, in the interest of preserving the confidentiality of the Grand Jury’s inquiry, the DA had no role in supporting this investigation and was restricted from accessing any information on Grand Jury activities that contributed to this report.



Sather Tower, Berkeley, CA

TIMELINESS OF CHILD ABUSE AND NEGLECT INVESTIGATIONS

EXECUTIVE SUMMARY

An important function of the Emergency Response unit in the Alameda County Children and Family Services Department (CFS) is to investigate reports of alleged child abuse and neglect. The California Department of Social Services prescribes that an investigation be initiated within 24 hours for a child reported to be in imminent danger or when there is an immediate risk to the safety or to the physical or emotional health of a child, and within 10 days for less serious cases. In 2022, CFS received 11,200 calls or emails alleging abuse or neglect of a child. Allegations of child endangerment received by the County are first assessed by Emergency Response (ER) intake screeners to determine if there is sufficient evidence to warrant an in-person investigation and, if so, whether the investigation needs to be initiated within the prescribed 24 hours or 10 days. These are called immediate 24-hour investigations and non-immediate 10-day investigations, respectively, in this report. Allegations requiring further action are referred to an ER child welfare worker to conduct the investigation.

The Grand Jury received a complaint that CFS was not initiating in-person investigations into alleged incidents of child abuse and neglect within the 24-hour and 10-day time periods prescribed by the State. Prompted by this complaint, the Grand Jury investigated whether the complaint had merit, and if so, what factors were leading to investigations being initiated outside of the prescribed timeframe.

The Grand Jury confirmed that, over the past three years, the timeliness of 10-day investigations dropped significantly below the 90% benchmark; in 2022, fewer than half of the 10-day investigations were initiated within the prescribed 10 days. The jury found that over the same period the timeliness of 24-hour investigations did not show a similar decline, remaining above or near the 90% benchmark. Based on available evidence, the jury concluded that this recent decrease in timely 10-day investigations primarily resulted from a COVID-19 pandemic-driven 36% shortage of child welfare workers in the Emergency Response (ER) unit. The high vacancy rate of ER Child Welfare Worker (CWW) positions has led to additional stress and higher caseloads on the remaining CWWs, which in turn has resulted in more CWWs leaving, leading to higher caseloads for those remaining, and so on. This negative feedback spiral, exacerbated by a substantial increase in total number of investigations in 2022, is the primary reason that not all investigations have been initiated within State-prescribed time limits. Because priority is given to initiating 24-hour investigations for children reported to be in imminent danger or at immediate risk, the

increasing number of investigations that are not being initiated within the prescribed time are the lowest priority 10-day investigations for children at lower risk.

While CFS management has made and continues to make efforts to address the critical staff shortage in the ER unit, none have yet provided significant relief. The Grand Jury recommends that the County continue current efforts and consider additional extraordinary efforts to recruit and retain child welfare workers and reduce caseloads of child welfare workers in the ER unit from the current 30 or more cases per worker to a level at or below 15 cases per worker.

BACKGROUND

California Department of Social Services

The California Department of Social Services (CDSS) is the state agency whose mission is “to serve, aid, and protect needy and vulnerable children and adults in ways that strengthen and preserve families, encourage personal responsibility, and foster independence.” Its functions include providing standards, guidance and tools to the county agencies that provide services to children. County services include investigating allegations of child abuse and neglect within a prescribed time set by the CDSS. The CDSS prescribes that an investigation be initiated within 24 hours for a child reported to be in imminent danger or when there is an immediate risk to the safety or to the physical or emotional health of a child (referred to herein as “immediate” or “24-hour” investigations), and within 10 days for less serious cases (referred to herein as “non-immediate” or “10-day” investigations). The CDSS has set a benchmark that 90% of investigations be initiated within the prescribed 24-hour or 10-day period.

The CDSS provides extensive guidance to county agencies on the processes of screening, prioritizing, and investigating allegations, which is outlined in detail in the “Manual of Policies and Procedures: Child Welfare Services.” Child welfare workers in all California counties use an evidence-based Structured Decision-Making (SDM) tool developed by the CDSS to guide them in determining the urgency and level of response required for each of the thousands of reported incidents of child endangerment they receive each year. The tool is comprised of a comprehensive set of detailed questions about a child’s situation and history that helps county intake screeners determine whether an in-person investigation is warranted and, if so, whether it is considered an emergency (24-hour) or non-emergency (10-day) investigation. The subsequent in-person investigation by a county child welfare worker determines how safe it is for a child to remain in a home and what assistance a family may need to allow a child to remain in a home. This assessment is critical in assuring that both child safety and family integrity are respected.

California Child Welfare Indicators Project

The CDSS, in collaboration with the University of California, Berkeley supports the California Child Welfare Indicators Project (CCWIP.) The CCWIP compiles quarterly submissions of child welfare data from all 58 California counties. These data measure more than 30 child welfare indicators including process indicators (e.g., time to in-person follow up on reported child endangerment) and federal outcome indicators (e.g., the recurrence of maltreatment of a child with a previous report of maltreatment). The CCWIP database is publicly available and the primary tool for reporting the performance of each county against state and federal benchmarks. It is intended for use by child welfare professionals and the public in evaluating and improving child welfare processes and outcomes.

Alameda County Department of Children and Family Services

In Alameda County, Children and Family Services (CFS) is responsible for a wide range of child welfare services including screening and investigating reported child abuse and neglect, drafting and filing petitions in the Juvenile Court, drafting reports to the Court, foster care placement, and supervising the drafting and implementing reunification plans, adoptions, legal guardianship, kinship support services and other services supporting the maintenance of children with their families. It is one of seven departments within the County's Social Services Agency (SSA). The SSA has a budget of \$906 million in fiscal year 2022–2023, and 60% of their funding comes from the state and federal governments. The CFS annual budget is \$219 million, not including salaries and benefits, and a large percentage of CFS salaries is funded by State and Federal money, not the County general fund.

Two important functions of CFS are screening and investigating reports of alleged child abuse and neglect. These functions are the responsibility of the Emergency Response (ER) unit. Reports of child abuse or neglect can be made by family members, community members, and mandated reporters including law enforcement, school employees, clergy, childcare providers, and health care workers. In 2022, CFS received 11,200 calls or emails alleging abuse or neglect of a child. As described on the CFS website, reports of child abuse or neglect are first assessed by ER intake screeners to determine if there is sufficient evidence to warrant an in-person investigation and, if so, whether the investigation should be considered an immediate 24-hour or non-immediate 10-day investigation. To make these determinations, the ER screening staff use the SDM tool tempered by their own experience-based judgement and, in some cases, guidance or approval from an ER supervisor.

Allegations requiring further action are referred to an ER child welfare worker (CWW) on a rotating, “next up” basis and added to that workers’ case load. Immediate 24-hour investigations are given priority over 10-day investigations, and 10-day investigations are

further prioritized based on assessed risk of recurrence of maltreatment during the investigation period. An investigation typically involves initial review of the ER intake referral and the child's history within the child welfare system, followed by in-person interviews with the child, the child's family members, and sometimes other relevant members of the child's community (e.g., school staff). Based on the investigation and in consultation with their supervisor, the CWW may determine that no further intervention is warranted because either the reported abuse or neglect is unfounded or because the evidence is inconclusive. In either case, the investigation is terminated. A random sample of such cases is audited by the State as well as CFS managers to determine whether the outcome of the referral was correct.

If abuse or neglect is substantiated, the CWW attempts to create a safety plan with the family that allows the child to remain in the household with additional support. If it is not possible to create a safety plan, or if the parents fail to follow the plan, then a petition is filed in the Juvenile Court Division of the Superior Court to have the Court determine if the child should be declared a dependent of the court and the appropriate disposition. In most cases, a protective custody warrant is obtained from a Juvenile Court Judge before a child is removed from the home; the exception is if the child is in immediate risk of physical harm and immediate removal is required to prevent the harm. The goal is to ensure the safety of the child and provide services to keep the family together and intact, if possible.

The Grand Jury received a complaint that CFS was not initiating in-person investigations into alleged incidents of child abuse and neglect within the 24-hour and 10-day time periods prescribed by the State. Specifically, the complaint claimed that over the first four months of 2022, CFS initiated non-immediate investigations within the prescribed 10 days for fewer than half (298 of 614, 48.5%) of the lower-risk referrals, far below the 90% State benchmark for timeliness. Conversely, slightly more than half of the non-immediate investigations (316 of 614, 51.5%) were not timely; this is nearly four times the State average of 13.9% for untimely 10-day investigations and ranked Alameda County next to last among all California counties. The complaint also noted that, in the same four-month period, CFS failed to initiate immediate 24-hour investigations within the prescribed 24 hours, twice as often as the statewide average.

Prompted by this complaint, the Grand Jury initiated an investigation to verify the timeliness statistics cited in the complaint and understand their context.

INVESTIGATION

In this investigation, the Grand Jury interviewed Alameda County CFS management, several CFS child welfare workers and supervisors, Alameda County Human Resource Services management, and subject matter experts on child welfare data reporting and interpretation. The Grand Jury reviewed CDSS and County guidance documents and the

SDM tool that ER intake screeners and child welfare workers use to assess allegations of child endangerment, as well as monthly performance reports of the Alameda County Department of Social Services. The Grand Jury also reviewed and queried the CCWIP database for status and trends of relevant child welfare indicators.

Over the course of this investigation, the Grand Jury sought to:

- Determine the validity of the complaint that CFS was not conducting its investigations of alleged child abuse and neglect in a timely manner.
- Understand the implications, if any, of slow response times on case outcomes—do slow response times result in greater recurrence of maltreatment?
- Understand why too many CFS investigations of child endangerment may not be initiated within the prescribed 24-hour and 10-day periods.
- Ultimately, determine whether it is possible for CFS to regularly meet the State benchmark of 90% for timely investigations of alleged child abuse and neglect and, if not, what needs to change to assure the public that children’s welfare is guarded appropriately.

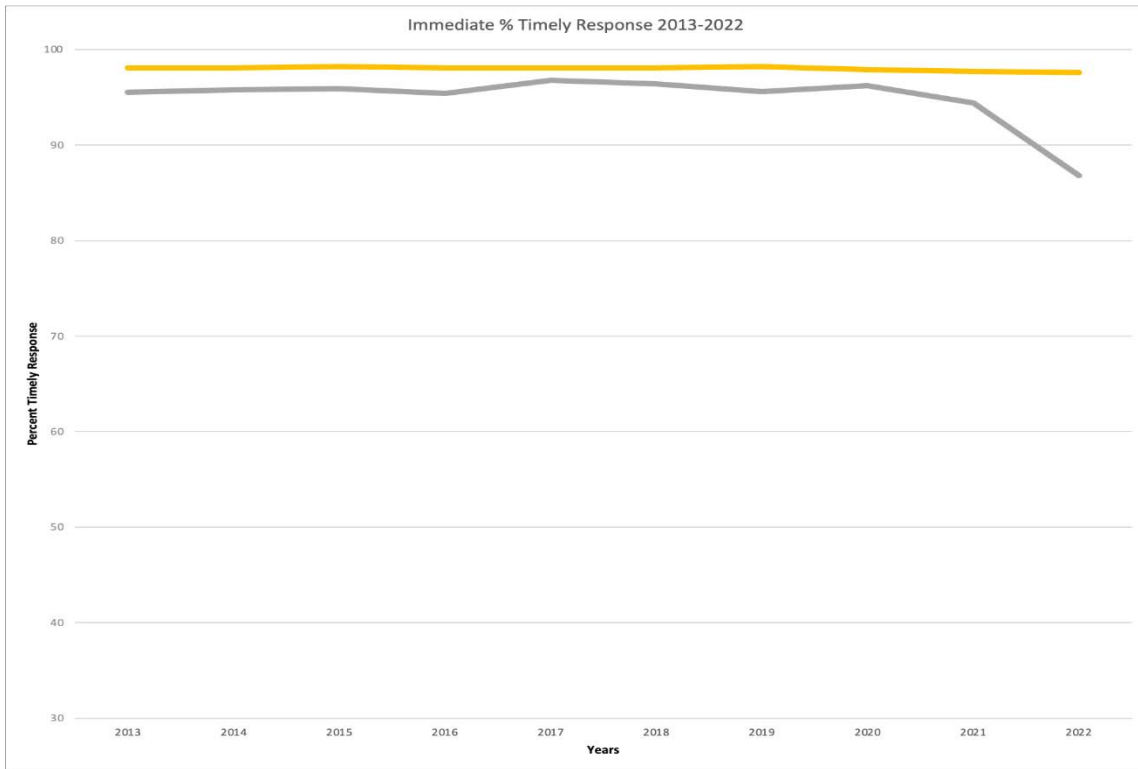
Timeliness of In-Person Investigations

The CCWIP database includes reports from each California county on the timeliness of in-person investigations for both the 24-hour response and 10-day response types. Alameda County timeliness data for the past 10 years (2013–2022) are summarized in Figures 1 and 2, and for the past four years (2019–2022) in Tables 1 and 2.¹ The CDSS benchmark is 90% of investigations be initiated within the prescribed 24-hour or 10-day period.

For Alameda County, the timeliness of 24-hour investigations has been relatively even for the past 10 years, with the annual percentage of timely investigations hovering around 95%, tracking a few percentage points lower than the average of all California counties (Figure 1). In 2022, the percentage of timely 24-hour investigations dipped to 86.8%, 10 points lower than the California average (Table 1). Despite the drop to slightly below 90% timely in 2022, these data indicate that the vast majority of CFS investigations into reports of children in imminent danger or at immediate risk of abuse or neglect have been and continue to be initiated within 24 hours.

¹ Source of data for Figures 1-2 and Tables 1-2 is CCWIP Measure 2B. California Child Welfare Indicators Project website URL : <https://ccwip.berkeley.edu>

Figure 1 – Percent timely response for Immediate 24-Hour Investigations, 2013–2022.



Yellow = California Grey=Alameda County

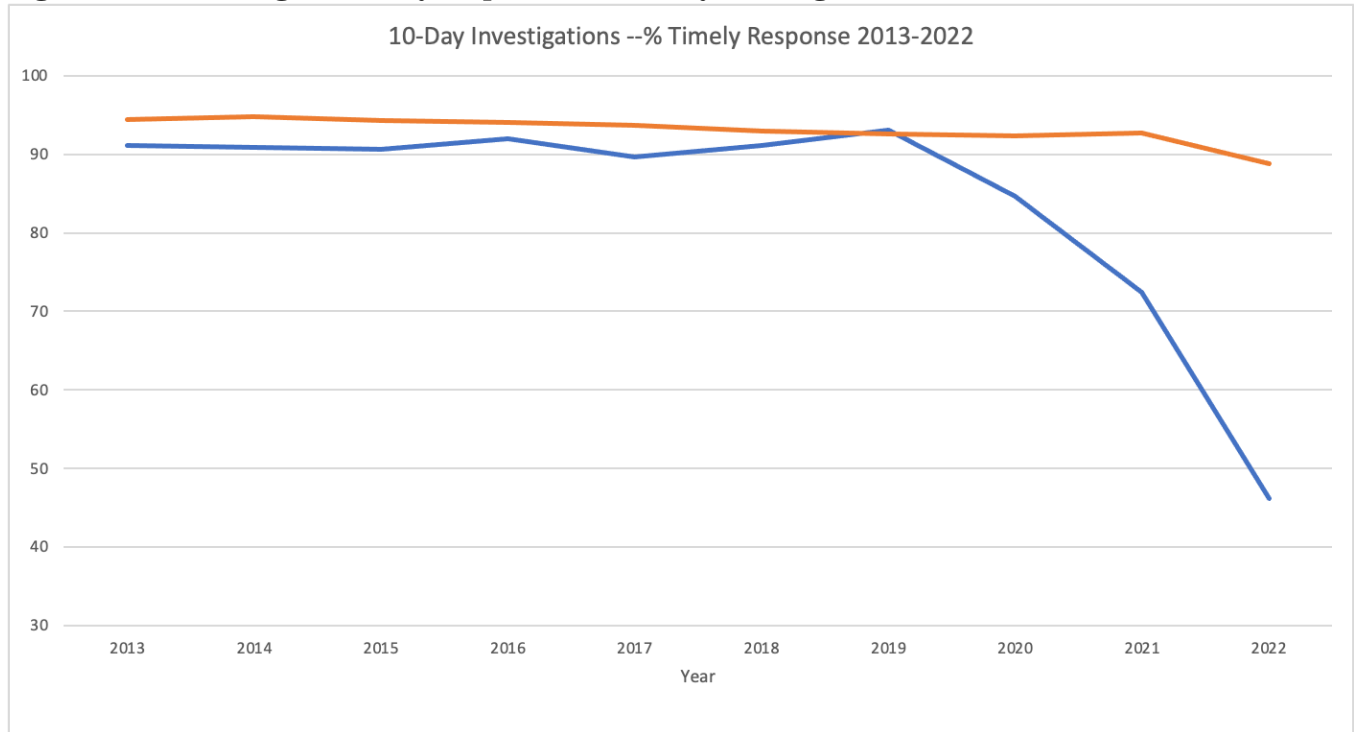
Table 1 – Percentage of Timely 24-Hour Investigations

	2019	2020	2021	2022
CA Average	98.2%	97.9%	97.7%	96.6%
Alameda County	95.6%	96.2%	94.4%	86.8%
Total Investigations	1,370	824*	1,599	1,664

*2020 Quarter 1 and 3 data only; quarter 2 and 4 data unavailable.

The annual percentage of timely 10-day investigations for Alameda County also hovered around the 90% benchmark from 2013 through 2019 but began a steady decline in 2020 (Figure 2). By 2022, fewer than half (46.2%) of the 10-day investigations were initiated within the prescribed time (Table 2). For the last quarter of 2022 (the most recent data available), Alameda County conducted 636 10-day investigations of which only 243 (38%) were initiated within 10 days. The County decline was not reflected in the State, which remained steady around 92% through 2021 and showed a slight decline to 89% in 2022.

Figure 2 – Percentage of timely response for 10-Day investigations, 2013–2022



Orange = California Blue=Alameda County

Table 2 – %Timely 10-Day Investigations

	2019	2020	2021	2022
CA Average	92.6%	92.3%	92.7%	88.8%
Alameda County	93.1%	84.7%	72.4%	46.2%
Total Investigations	2,131	1,944	1,913	2,444

The recent and significant decline in the timeliness of 10-day investigations is noteworthy and became the focus of further investigation.

Implications of Untimely Investigations

The Grand Jury, with available evidence, was unable to determine whether the increased number of untimely 10-day investigations was having an adverse impact on case outcomes. It’s worth noting that the usual prioritization of 24-hour investigations over 10-day investigations and further prioritization of 10-day investigations by risk of recurrence of maltreatment are designed to minimize undesirable outcomes based on investigation response time.

Anecdotally, numerous witnesses told the Grand Jury that all investigations, whether initiated within the prescribed time or not, were being completed as required—which should minimize undesirable outcomes—but in some cases more time to investigate would have allowed a more comprehensive investigation.

Factors Contributing to Untimely Non-Immediate Investigations

The Grand Jury endeavored to determine why so many non-immediate 10-day investigations were not being initiated within the prescribed 10 days over the past few years. The jury looked at several factors that may have contributed to the response time decline.

Trends in number of allegations and investigations

Based on CCWIP data,² the number of allegations received by Alameda County held steady between 2013 and 2019, averaging 11,358 allegations per year with a low of 10,975 in 2015 and a high of 11,770 in 2019. In 2020, coincident with the onset of the COVID-19 pandemic, the number of allegations declined by 15% (1,779 fewer allegations received) but then rebounded in 2021 and by 2022 was back to a pre-pandemic level (Table 3). In short, over the past three years, the number of allegations received has not exceeded the 2013–2019 baseline and therefore cannot account for the decline in investigation timeliness over this period.

Table 3 – Total number (% of change year-to-year) allegations and investigations.

Alameda County	2019	2020		2021		2022	
Total Allegations	11,770	9,991	(-15%)	10,835	(8%)	11,211	(3%)
Total Investigations	3,501	2,768*	--	3,512	--	4,108	(17%)
24-Hour Investigations	1,370	824*	--	1,599	--	1,664	(4%)
10-Day Investigations	2,131	1,944	(-9%)	1,913	(-2%)	2,444	(28%)

*2020 Quarter 1 and 3 data only for 24-hour investigations.

²Source of data for Table 3 is CCWIP Child Maltreatment Allegations/Child Count report. California Child Welfare Indicators Project website URL : <https://ccwip.berkeley.edu>

The number of investigations tells a different story, especially for 2022 (Table 3). Although the data for number of 24-hour investigations in 2020 are incomplete, both the number of allegations and the number of 10-day investigations were significantly lower (-15% and -9%, respectively) in 2020 than in 2019; it seems reasonable to conclude that the total number of investigations was probably lower, also. The total number of investigations rebounded in 2021 to the pre-pandemic 2019 level, largely due to a substantial increase in the number of 24-hour investigations. In 2022, the total number of investigations made a large 17% jump (596 additional investigations). While the number of 24-hour investigations increased a modest 4% (65 additional investigations) in 2022, the number of 10-day investigations substantially increased by 28% (531 additional investigations) to a total of 2,444 10-day investigations. It is noteworthy that compared to 2019 pre-pandemic levels, the number of 24-hour investigations in 2022 was 21% higher and the number of 10-day investigations was 15% higher. This notable increase in the number of both 24-hour and 10-day investigations by 2022, together with the higher priority given to 24-hour investigations, appears to be a major contributing factor to the decline in timeliness of 10-day investigations.

Staff Shortage of Child Welfare Workers

The Grand Jury learned that the COVID-19 pandemic has had a large negative impact on the number of CWWs working for CFS, as well as on the pool of available graduate program social workers to recruit for empty positions. Thus, CFS has been experiencing a staffing shortage of child welfare workers for several years and currently has a 36% vacancy rate for child welfare workers, with 95 vacancies. Although most CFS units have a shortage, it is most severe in the ER unit which is responsible for the initial screening and investigation of reported child endangerment. Almost all witnesses identified the staffing shortage of CWWs in the ER unit as the primary reason that many 10-day investigations were not timely and emphasized that the timeliness issue would fully resolve if the ER unit were fully staffed.

CFS has been experiencing a staffing shortage of child welfare workers for several years and currently has a 36% vacancy rate for child welfare workers, with 95 vacancies.

The Grand Jury identified several interacting factors that have contributed to the high vacancy rate of CWWs in the ER unit, including:

- High level of work-related stress. The stress level for CWWs conducting in-person investigations is often very high. The work itself is extremely fast-paced and difficult, requiring workers to go into homes, interview family members who are not expecting and may be resistant to a CWW visit, and make decisions that affect the well-being of children and the intactness of families within prescribed time periods. Unlike other

CFS units, in which cases may last up to a year or longer and workers are able to establish longer-term relationships with children and families, workers in the ER unit have fast turnover of cases and are constantly establishing new, short-term relationships with children and families. Workers often suffer vicarious trauma— hearing horrific stories and witnessing fear, pain and terror that others have experienced. Typically, within three to five years on the job, many CWWs seek less-stressful positions in other CSF units or leave CFS altogether.

The level of work-related stress has been exacerbated by safety concerns. During the COVID-19 pandemic, child welfare workers were considered essential workers, requiring them to work outside their homes conducting in-person investigations, putting themselves at risk of disease exposure. The Grand Jury has learned that negative, sometimes hateful, attacks and threats on their person have increased significantly for CWWs, further contributing to their mental stress and difficult working conditions. These safety concerns have contributed to a higher-than-normal number of workers quitting or taking extended (3-months) leave; the Grand Jury learned that in June 2022, 20 Emergency Response staff were on extended leave.

The Grand Jury also learned that CWWs often felt pressure to manage excessive caseloads, as described below, and often worked overtime and weekends attempting to keep up. For some, that pressure was self-imposed; others felt it from supervisors. Either way, CWWs often have been unable to “not take the work home” and to maintain a healthy work-life balance.

- *Lack of Supervisor support and mentoring.* Witnesses told the Grand Jury that a lack of supervisor support and mentoring was contributing to work-related stress, low morale, and workers leaving the job. Newly hired CWWs receive 12 weeks of mandated State and County training during which they are not assigned any cases. After completing training, they have a 6-month probationary period. During probation, new CWWs carry a lower caseload than other workers and have other assignments to complete. Some new staff do not complete their assigned tasks during probation; this results in being released from the department. Among the challenges that face new child welfare workers, the Grand Jury has been told that some supervisors do not devote enough time and energy to support and mentor new staff in learning to manage caseloads and perform investigations. For example, rather than discussing and clarifying an issue for a CWW, a CWW may be told to “just look it up in the policy manual.”
- *Diminished CWW applicant pool.* CFS normally recruits CWWs from a pool of child welfare worker applicants who are finishing their Master of Social Work (MSW) degree and looking for work. Some have been part of the Title IV-E Federal grant program that provides students who needed child welfare work experience through

paid internships with child welfare departments during their last year of school. During the pandemic, most graduate programs in social work did not allow their students to come into the office or do field work. Thus, any new graduates that were hired had little to no field experience and often found the work of abuse and neglect investigations too challenging. The Grand Jury learned there were only 37 applicants for a February 2022 recruitment of CWWs, of which 19 met minimum qualifications and 18 were hired; all 18 had left their jobs within the year.

- *Uncompetitive Salaries.* The Grand Jury learned that Alameda County is not unique in having a shortage of CWWs. Indeed, there is a regional, even national, shortage. The Grand Jury was told that competition among San Francisco Bay Area counties for CWWs is strong and higher salaries may make one county more attractive than another. In Alameda County, CWWs are members of the Service Employees International Union (SEIU) Local 1021 and salary levels are set through collective bargaining negotiations between Alameda County Human Resources Services and the union. Negotiations on a new contract were recently completed and County members of SEIU Local 1021 ratified the new contract on April 26, 2023. Based on the Alameda County Charter and acceptable practice, Alameda County generally negotiates salary levels that represent the median across the five Bay Area counties for each job category. For job categories in specialized classes, as specified in a Memorandum of Understanding (MOU) between the County and a union, slightly higher-than-median salaries may be negotiated; CWWs are not a specialized class. The Grand Jury was told that CFS does not participate in or provide input to the collective bargaining negotiations.

Witnesses indicated that higher salaries and premium payments always would be appreciated, but that financial compensation was not the most important factor in deciding whether to remain in or quit a CWW position. By a large margin, the most significant factor contributing to CWWs quitting is untenable working conditions, especially excessive caseloads.

Excessive Caseloads

Witnesses told the Grand Jury that with fewer CWWs available to conduct investigations, the remaining CWWs are necessarily being assigned an increasing number of cases, resulting in unmanageable caseloads. A Sideletter of Agreement attached to the MOU between SEIU Local 1021 and Alameda County specifies the effective size for CWW caseload as 15 cases per worker and stipulates conditions for CWWs to receive premium payments of at least \$100 per pay period for carrying excessive caseloads. In 2020 and 2021, Alameda County caseloads were reported as 30 or more cases per worker, at least twice the specified caseload.

There are several important implications of excessive caseloads. First, excessive caseloads increase the level of job stress as CWWs attempt to initiate an increasing number of investigations within the prescribed time. The Grand Jury was told that, even under the best of circumstances, new CWWs assigned to the ER unit often are overwhelmed by the pace and difficulty of the work and it takes time for them to learn how to effectively manage all their cases; those who can't handle the pressure quit or ask to be reassigned. The lack of supervisor support for some workers, as reported above, exacerbates the pressure. Increased caseloads during the pandemic also magnified the problem, leading to more CWWs quitting and remaining CWWs overworked and demoralized.

Second, excessive caseloads increase the likelihood that not all investigations will be initiated within prescribed 24-hour and 10-day time-periods. Because priority is given to 24-hour investigations, the increasing number of investigations that cannot be initiated within the prescribed time are the lowest priority 10-day investigations.

Through this investigation the Grand Jury has come to understand that the CWW staffing shortage in the ER unit is the most significant issue facing CFS, confounded by excessive caseloads—staffing shortage leads to higher caseloads, leads to more staff leaving, leads to higher caseloads etc. The effect of this negative-feedback relationship is that fewer and fewer investigations can be initiated within the prescribed time period. With higher priority given to 24-hour investigations, more and more 10-day investigations are not being initiated within the prescribed 10 days. Almost all witnesses that the Grand Jury spoke with believed that if the ER unit was fully staffed, caseloads would become manageable and investigation timeliness would return to pre-pandemic performance at or above the 90% benchmark.

Almost all witnesses that the Grand Jury spoke with believed that if the ER unit was fully staffed, caseloads would become manageable and investigation timeliness would return to pre-pandemic performance at or above the 90% benchmark.

CFS Actions to Address the Staff Shortage

The Grand Jury learned that CFS management has made and continues to make efforts to address the critical staff shortage in the ER unit, although none have yet provided significant relief. In one effort, CWWs from other units were transferred to fill vacancies in the ER unit, but such assignments were not popular and many of the transferred staff opted to quit rather than accept the transfers, leading to further loss of staff. CFS also offered part-time work to former employees or retirees, however this did not result in any additional help. CFS used its allotment from a pandemic-related Emergency Response enhancement fund established by the State to

offer retention bonuses to staff after one year of service. Management has indicated they might shorten the service requirement to six months for bonuses from the remaining available funds.

In another effort, CFS is expanding its recruitment beyond the usual Child Welfare Worker II positions, which require an MSW, to include Child Welfare Worker I positions, which require only a bachelor's degree. Once hired, the new CWW-I staff will receive the same orientation training as the CWW-II staff but be assigned a lower caseload and have additional ongoing training to help make up for a lack of field experience.

CFS is making special efforts to reduce the backlog of 10-day investigations that has built up. Child welfare workers now are periodically provided a day off from being assigned any new 24-hour investigation so that they can concentrate on completing their 10-day investigations. More significantly, the Grand Jury learned that CFS intends to launch a three-day blitz to clear out the backlog during which everyone across the Department—all child welfare workers, all supervisors, and all management staff—would work on 10-day investigations.

In recognition of the high level of stress among its workers, CFS management has initiated a “resilience group” for staff. Other interventions include the introduction of daily meditation reminders and the inclusion of wellness moments at staff meetings to emphasize self-care. All staff have access to the Employee Assistance Program as a part of County benefits, including counseling during work hours. However, several witnesses suggested that such efforts, while important, are not enough to overcome the greater impact of high caseloads on the retention of staff.

Another effort focuses on reducing CWW exposure to negative, sometimes hateful, attacks and threats on their person. SSA has recently contracted with a firm to provide online privacy for CWWs by removing any personal information from the internet that could compromise their safety.

CONCLUSION

Investigating allegations of child abuse and neglect is difficult, fast-paced, and stressful work that often requires a response within hours of receiving a referral. The Grand Jury commends the child welfare staff who are committed to protecting children and working to create safe family situations for children.

The consequences of the COVID-19 pandemic are prominent in the Children and Family Services Department and especially manifest in the significant shortage of child welfare workers in the Emergency Response unit. This staffing shortage continues to have a profound impact on the Department's ability to fulfil its mission to promote the well-being of families. The high vacancy rate of CWW positions leads to additional stress and higher caseloads on the remaining CWWs, which in turn results in more CWWs leaving the job, resulting in higher caseloads, and so on.

This negative feedback spiral, exacerbated by a substantial increase in total number of investigations in 2022, is the primary reason that not all investigations have been initiated within State-prescribed time limits. Because priority is given to initiating 24-hour investigations for children reported to be in imminent danger or at immediate risk, the increasing number of investigations that are not being initiated within the prescribed time are the lowest priority 10-day investigations for children at lower risk. But delaying investigations into children at the lowest risk is still not acceptable. Something must be done to break this downward spiral of staff shortages and untimely investigations.

The Department is keenly aware that solving the staffing shortage is key to “righting the ship,” and has taken steps to address it; but the problem persists. While some contributing factors, like total number of reports referred for investigation and the decreasing applicant pool of MSW graduates, are beyond the control of CFS, the Department needs to think outside the box for solutions to issues it can control. Most importantly would be improving working conditions for CWWs in the ER unit: lower caseloads; better supervisor support and mentoring; a longer probation period for new CWWs to learn the job. Increasing financial compensation, while not the most important factor, might also make a difference.

FINDINGS

Finding #23-22:

The percentage of immediate investigations initiated with the prescribed 24-hours has been above the 90% benchmark over the past 10 years, and despite a slight drop in 2022, most investigations into reports of children in imminent danger or at immediate risk of abuse or neglect have been and continue to be initiated within 24 hours.

Finding #23-23:

Over the past three years, the percentage of non-immediate investigations initiated within the prescribed 10-day time-period has dropped steadily and significantly from above the 90% benchmark to only 38% in the last quarter of 2022.

Finding #23-24:

Through the pandemic, the Children and Family Services Department has experienced a severe shortage of child welfare workers, especially in the Emergency Response unit, and despite continuing efforts has not been able to recruit and retain child welfare workers to fill the vacant positions.

Finding #23-25:

Caseloads for child welfare workers in the Emergency Response unit are unacceptably high, at least twice the specified effective size of 15 cases per worker.

Finding #23-26:

Insufficient supervisory support and mentoring of new child welfare workers in the Emergency Response unit contributed to work-related stress, low morale, and workers leaving the job.

RECOMENDATIONS

Recommendation #23-25:

The Grand Jury recommends that the Alameda County Social Services Agency, by October 31, 2023, reduce the caseloads of child welfare workers in the Emergency Response unit to a level at or below the specified effective size of 15 cases per worker.

Recommendation #23-26:

The Grand Jury recommends that the Alameda County Social Services Agency, by October 31, 2023, take steps to increase work-related support for child welfare workers in the Emergency Response unit by requiring supervisors to schedule regular check-ins, provide timely guidance and mentoring for caseload management, and respond adequately to requests for assistance.

Recommendation #23-27:

The Grand Jury recommends that Alameda County take steps to increase financial compensation for Child Welfare Workers (CWW) in the Emergency Response Unit, including: at the first opportunity, define Emergency Response child welfare workers as a specialized class for higher salary and increase the premium payments for child welfare workers with excessive caseloads in the Memorandum of Understanding (MOU) between the County and SEIU Local 1021; and, starting with the next County budget cycle, establish special compensation above and beyond salary (e.g., stipend or bonus) for child welfare workers in the Emergency Response unit.

REQUEST FOR RESPONSES

Pursuant to California Penal Code sections 933 and 933.05, the Grand Jury requests each entity or individual named below to respond to the enumerated Findings and Recommendations within specific statutory guidelines. Governing bodies of public agencies shall respond to the findings and recommendations no later than 90 days from the public release date of this report. Elected county officers or department heads shall comment within 60 days to the Presiding Judge of the Superior Court, with an informational copy to the Board of Supervisors.

Responses to Findings shall be either:

- The respondent agrees with the finding.
- The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

Responses to Recommendations shall be one of the following:

- The recommendation has been implemented, with a summary regarding the implemented action.
- The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency where applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
- The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

REQUIRED RESPONSES

Alameda County Board of Supervisors

Findings: 23-23 through 23-26

Recommendations: 23-25 through 23-27

INVITED RESPONSES

Alameda County Social Services Agency

Findings: 23-23 through 23-25

Recommendations: 23-25 through 23-27

JAIL INSPECTIONS

INTRODUCTION

Each year under its civil oversight authority within the California Penal Code, the Grand Jury inspects jails and holding facilities of local law enforcement agencies in Alameda County.

To determine which facilities to visit, the 2022–2023 Alameda County Grand Jury chose jails that had not been recently inspected.

This year, the Grand Jury inspected the Albany Police Department, Hayward Police Department, Juvenile Justice Center (JJC) and East County Hall of Justice (ECHO-J).



ALAMEDA COUNTY JUVENILE JUSTICE CENTER (JJC)

INTRODUCTION

On October 12, 2022, the Grand Jury inspected the Alameda County Juvenile Justice Center (JJC), which is located in San Leandro at 2500 Fairmont Drive and operated by the Alameda County Probation Department. The Alameda County Juvenile Justice Center contains a 24-hour secure detention facility capable of housing 358 minors who are wards of the court or are awaiting adjudication of their pending wardship matters. The facility is staffed by juvenile institutional officers who supervise the minors and are responsible for their care, custody and control.

INSPECTION

The facility's superintendent and assistant superintendent accompanied the Grand Jury on its inspection. The Grand Jury also heard testimony from a number of staff members of the Alameda County Probation Department and Behavioral Health. Jurors toured the intake and booking area, housing units, the medical facility, gym, outdoor areas and classrooms.

PHYSICAL PLANT

The Grand Jury found no problems or issues with the facility during the inspection. Opened in 2007, the Leadership in Energy and Environment Design (LEED) certified buildings and grounds are well maintained. Detainee rooms, common areas, showers and restrooms, kitchens, classrooms, library and public spaces were spotless.

INTAKE

The booking process takes up to two and a half hours maximum. Officers lock up their guns before coming in to the facility; none of the staff are armed. Phones are available at intake for calling out and were in working order at the time of the inspection. All calls are recorded except to social workers. Phone calls to a parent/guardian can be made immediately upon arrival and visiting hours and rules are posted. If brought in late at night, youth get a bag lunch from the fridge. Youth are provided with a clean set of clothes, bedding, towels, a toothbrush, toothpaste, soap, and shampoo.

Youth are prescreened first for COVID with a full medical screening within two days of arrival. In addition to health issues, the medical screening determines food allergies, or

special medical needs of the youth. They are also screened for sexual vulnerability and gender identification. If under the influence of a substance they may be refused entry and sent to a hospital instead. Commercially exploited youth (sex traffic) are sent to UCSF Benioff Children’s Hospital in Oakland.

HOUSING

After booking, youth are housed according to age, gender, mental and/or health issues, and other considerations for the safety and wellbeing of the detainees.

There are 8 housing units, including two for girls with a total capacity of 358. The daily population is approximately 60–75. All rooms are private, none shared. There are separate units for 9 serious offenders from the State Division of Juvenile Justice. A slow increase in this long-term population is expected, with four more serious offenders anticipated next year. With stays of serious offenders extending until age 25, staff are concerned the environment will transform Juvenile Hall into a more prison-like environment.

Trans youth, if they self-disclose, are housed with their gender of preference and receive gender-affirming care. Sixty percent of youth self-identify with a gang, though they are not segregated by gang affiliation. Staff maintain they are able to mediate and to program with each other.

Youth are offered daily laundry service for clothing and bedding and rooms are cleaned daily by staff. Sanitary supplies were seen in all inspected units and were readily available.

Visiting was suspended at the time of this inspection due to COVID-19 restrictions. Youth were given tablets to remain in communication with family members.

MEDICAL CARE AND MENTAL HEALTH

Youth detainees often arrive at the facility needing one or more medical interventions. Basic health care is provided at the facility by UCSF Benioff Children’s Hospital of Oakland (Children’s Hospital) and staff strive to address the medical, dental, hearing and vision needs of the incarcerated youth. Registered Nurses (RNs) are on site on a 24-hour basis to provide around-the-clock medical assessments, support and care for the youth.

The medical module includes Children's Hospital staff and a dentist who hold clinics three times per week. All youth are assessed by a Behavioral Health clinician within two days of their arrival. Two psychiatrists are on site 50 hours per week (one almost every day) plus seven full time Behavioral Health clinicians. Negative air isolation rooms are also available for youth suspected of infectious diseases, e.g., TB, the flu, hepatitis. All youth are screened

for STDs and lice. Detainees with more serious medical issues are taken directly to Children’s Hospital.

Medicine is secured in carts, located in each housing unit, and are administered by RNs. All standard medicines are stocked on site. Most medicine is dispensed in liquid form for ease of distribution. Crash bags are available in each unit as well as emergency medicines such as Narcan, Benadryl, Epi pens, and Albuterol. Medications, medical files, and supplies are securely stored in the clinic.

Mental health treatment is a priority with Dialectic Behavioral Therapy (DBT), group and individual therapy available to youth. Additionally, some Community Based Organizations (CBOs) provide Cognitive Behavioral Therapy (CBT), culturally appropriate services, and restorative justice practices. One such CBO, Family Spring, provides trauma focused therapy, and for living with a family member who has substance abuse issues. As of the date of inspection there were no suicides this year, but lots of destructive behavior (cutting, head banging).

Suicidal youth are put on a mental health observation plan, interviewed, observed on camera, and involuntary committed if needed. Staff check on them when they come back from adjudication (which is the highest suicide risk window), and the judge may refer to behavioral health staff.



FOOD SERVICE

Food is provided by Oakland-based Revolution Foods, which supplies both cold and hot meals to the youth. Breakfast, lunch and dinner are delivered daily. Hot meals are heated on-site in a specialized kitchen which is only used for reheating packaged foods from the vendor. Special diet meals (i.e., lactose intolerant, religious restrictions, diabetic kosher or vegetarian needs) are accommodated.

There is a “Point System” incentivizing positive behavior with rewards including more snacks, pizza night, etc. Obesity was not noted as a problem and there are no vending machines as they were removed during COVID. Youth have their own store with snacks they can purchase with points (no money). The only complaint the youth interviewed had was about the food. Staff acknowledged this and said they are looking at other vendors.

EDUCATION & RECREATION

Youth complete academic testing in the first two days of arrival. The Alameda Office of Education operates a fully accredited high school program, The Butler Academy, within Juvenile Hall. Upon completion of their high school diploma, or GED, youth have the opportunity to earn transferable college credits via online courses through a partnership with Merritt College.

Classes are scheduled in three one-and-a-half hour blocks with two before lunch and one after. A literacy specialist is available for reading skills. They have a library set up to look like a school library rich in color and art, with a high diversity of representation including a bilingual section. Books are also available in common areas and they can check out 6 books to their room. Other programs are a Calculus Roundtable, a group giving them exposure to engineering and science, and a “book to movie” group.

An Incentive Unit has been incorporated with a multi-purpose room including a kitchen area for preparing snacks, comfortable chairs and a big screen for movies. Furniture is new, with fresh paint, better food, games and art supplies.

There is a large gym and outdoor areas for basketball, football, soccer, gardening and cross-fit. Youth can go to the gym two or three times a week. They hold some special events like graduations and basketball tournaments between housing units. Big murals and shade canopies were observed in outdoor spaces. Recreation time is a minimum three hours on school day, five hours on non-school days and eight hours on weekends. There are plans to improve the outside area with pergolas, benches and a vegetable garden.

A typical day begins at 7:30 AM. Classes begin at 8:30 AM and finish by 2:30 PM with a lunch break. Youth have an hour of “large muscle activity” as well as an hour of therapy/rehabilitation daily. Days finish at 9:30 PM.

SECURITY

Physical altercations do not occur daily, and are not necessarily gang related. There were none in the two weeks prior to the jury’s inspection. Staff report violence usually comes in

waves, and there are repercussions in Juvenile Hall as a consequence of incidents youth hear about (i.e., a shooting) in the community.

If violent, youth are taken to their own room and restrained. They are checked every 15 minutes, with restraints taken off as soon as possible. There are no longer padded rooms; these were sealed.

Youth detainees are monitored, 24 hours a day, via high-definition cameras. Youth detainees are not monitored in their rooms and bathrooms.

In case of emergency, there are emergency generators and a week's worth of diesel fuel. Disaster plans are in place in case of fire, active shooter, earthquake and gas leak. Seven vans can evacuate the facility and Contra Costa and Santa Rita are contingency sites.

CONCLUSION

The Grand Jury noted no security issues during the inspection. Staff came across as engaged and promoted a positive atmosphere. It appears that disciplinary procedures are maintained at all times.

There seemed to be to be a conscious effort to “de-institutionalize” the JJC environment while maintaining strict order. The staff does not carry weapons or wear police uniforms. The atmosphere felt relaxed and staff morale appeared to be high. It was apparent that the staff is sensitive to the fact that they are dealing with youth in crisis and their emphasis is on treatment and rehabilitation rather than a punitive environment.

The Grand Jury’s only concerns were linked to the increase in population of long term, more serious offenders transferred under SB823. That Senate Bill, signed by Governor Gavin Newsom on September 30, 2020, began the closure of the state’s Division of Juvenile Justice (DJJ), realigning those state functions to county governments. It requires any person whose case originated in juvenile court to remain, if detained, in a county juvenile facility until they turn 25 years of age, except as specified.

This population has more prison-like behaviors—more contraband—and can be more antisocial and violent. Staff questioned how the transfer of this population would affect the climate of the JJC and the behaviors of youth already in their care. They also brought up the programs for DJJ arrivals (e.g., arson prevention, Cognitive Behavioral Therapy, anger control, Dialectical Behavior Therapy, sex offender therapy, family therapy), currently available in the State facilities, are not currently available in JJC. Staff informed the Grand Jury that they are advertising for Community Based Organization’s (CBOs) to address this need, but no CBOs are bidding on the work yet.

Staff shortages are also a concern due to retirement and injury. We were informed it is a constant struggle to fill positions. Full staffing is set at 180 and the current total is 110.

The jury also noticed that parking nearest the facility was metered. We were told that the General Services Agency charges parking fees, which seemed an undue burden to place on visiting family members.

In conclusion, the Grand Jury found the Alameda County Juvenile Justice Center to be efficient and well maintained. There appears to be strong and positive leadership at the JJC, exemplified by the superintendent and staff who were engaged, knowledgeable and responsive during our inspection.

ALBANY POLICE DEPARTMENT

On October 28, 2022, members of the Civil Grand Jury inspected the Albany Police Department Jail, located at 1000 San Pablo Avenue in Albany, California. This facility is used to temporarily hold both juvenile and adult detainees, separately, before release or transfer to County facilities. An Albany police lieutenant responsible for managing the jail escorted and answered questions for the Grand Jury during the inspection.

The facility is located adjacent to the Albany Fire Department on a crowded lot on a busy Albany Street. There were no detainees at the facility at the time of the inspection. The Grand Jury learned that there are no more than five detainees brought into the holding area in a month.

Inside the facility, weapons storage lockboxes are located outside the secure holding area. Inside the secured area is a main holding room where detainees are processed. Two cells are located adjacent to the main holding room. One is used for storage, and one is outfitted with a bench. This cell has no toilet or sink. Two additional cells are located around the corner from the main holding area. The cells, while old, were clean and free of debris. Each cell has a functioning toilet and a sink with a water fountain. Each cell is equipped with two metal framed cots, each with a plastic mattress.

When occupied, there is a physical check on the detainee every 30 minutes. Intoxicated detainees are checked every 15 minutes. Checks on detainees are recorded on a paper form. There was no public phone available for detainees; if a phone call is required prior to the booking of a detainee, the department cell phone can be used by a detainee. Adult detainees are typically transferred to a booking facility or to John George Hospital within 30 minutes of arrival, though their stay may last longer than that. Juveniles are typically released into the custody of their parent or guardian as soon as the parent or guardian is available. While waiting, juveniles are housed separately from adult detainees. The Grand Jury was told that the cells are never shared by two detainees.

Bottled water is available on site. If food is needed for a detainee, it is purchased at a nearby restaurant or grocery store as there is no kitchen on site. There are no educational or recreational programs available at this location. If there is a medical emergency, staff at the Albany jail rely on medics at the Albany Fire Department, located adjacent to the jail, for assistance. A First Aid Kit and an external defibrillator device are available inside the secured main holding area.

The Grand Jury was told that a grievance may be filed with the on-duty shift supervisor. There were no grievance forms available, and there was no signage, in any language, to alert detainees of that option. The Grand Jury did not see any log of previous grievances.

The Grand Jury was told that there are several staff members who speak a language in addition to English and their language ability is used as needed. There is no information posted to inform detainees of their right to communicate in a language that they understand. The Grand Jury suggests that it would be prudent to provide signage that indicates interpreters are available free of charge to detainees whose language is not English. This is a component of the Albany Police Department Limited English Proficiency Services Policy (APD Policy 332.) In all, the Grand Jury found the Albany Jail facility to be clean and well run.

LanguageLine Solutions Interpretation Services Available

English Translation: Point to your language. An interpreter will be called. The interpreter is provided at no cost to you.

Arabic عربي أشر إلى لغتك. وسنم الاتصال بمترجم فوري. كما سنم إحضار المترجم الفوري مجاناً.	Korean 한국어 귀하께서 사용하는 언어를 지정하시면 해당 언어 통역 서비스를 무료로 제공해 드립니다.
Burmese သင်၏အသံထုတ်ဖော်ချက်ကို ဝက်ခွက်ပေါ်တွင် ဖော်ပြပါ အညွှန်းများကို နှိပ်နှိပ်ပါ။	Mandarin 國語 請指認您的語言，以便為您提供免費的口譯服務。
Cantonese 廣東話 請指認您的語言，以便為您提供免費的口譯服務。	Polish Polski Proszę wskazać swój język i wezwiniemy tłumacza. Usługa ta zapewniana jest bezpłatnie.
Farsi فارسی زبان مورد نظر خود را مشخص کنید. یک مترجم برای شما درخواست خواهد شد. مترجم بصورت رایگان در اختیار شما قرار می گیرد.	Portuguese Português Indique o seu idioma. Um intérprete será chamado. A interpretação é fornecida sem qualquer custo para você.
French Français Indiquez votre langue et nous appellerons un interprète. Le service est gratuit.	Punjabi ਪੰਜਾਬੀ ਅਸਲੀ ਭਾਸ਼ਾ ਦੱਸੋ ਅਤੇ ਅਸੀਂ ਤੁਹਾਨੂੰ ਇੱਕ ਪੰਜਾਬੀ ਟਰਾਂਸਲੇਟਰ ਬੁਲਾਵਾਂਗੇ। ਅਨੁਵਾਦ ਸੇਵਾ ਸੁਭੇਬੀ ਤੌਰ 'ਤੇ ਮੁਫਤ ਦਿੱਤੀ ਜਾਵੇਗੀ।
Haitian Creole Kreyòl Lonje dwèt ou sou lang ou pale a epi n ap rele yon entèprèt pou ou. Nou ba ou sèvis entèprèt la gratis.	Russian Русский Укажите язык, на котором вы говорите. Вам вызовет переводчика. Услуги переводчика предоставляются бесплатно.
Hindi हिंदी अपनी भाषा को इंगित की। विश्व के अनुवाद सेवाएं नि:शुल्क प्रदान की जाएंगी।	Somali Af-Soomaali Farta ku fiqluqadaada... Waxa laguugu yeeri doonaa turjubaan. Turjubaanka wax lacagi kaaga bixi mayso.
Hmong Hmoob Taw rau koj hom lus. Yuav hu rau ib tug neeg txhais lus. Yuav muaj neeg txhais lus yam uas koj tsis tau them dab tsi.	Spanish Español Señale su idioma y llamaremos a un intérprete. El servicio es gratuito.
Italian Italiano Indicare la propria lingua. Un interprete sarà chiamato. Il servizio è gratuito.	Tagalog Tagalog Ituro po ang inyong wika. Isang tagasalin ang ipagkakaloob nang libre sa inyo.
Japanese 日本語 あなたの話す言語を指してください。無料で通訳サービスを提供します。	Vietnamese Tiếng Việt Hãy chỉ vào ngôn ngữ của quý vị. Một thông dịch viên sẽ được gọi đến, quý vị sẽ không phải trả tiền cho thông dịch viên.

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EAST COUNTY HALL OF JUSTICE

The Grand Jury inspected the Alameda County Superior Court East County Hall of Justice (ECHO-J) holding facility on October 17, 2022, with a short reinspection on April 11, 2023. This facility is located in Dublin, part of the newly constructed East County Superior Court building that first opened in June of 2017, and is run by the Alameda County Sheriff's Office.

The court and holding facilities are located across the street from Alameda County's Santa Rita Jail. The jail facility contains 23 holding cells. No juveniles are brought to this facility. The large number of cells allows protective custody detainees to be held separately if needed.

Holding cells have working sinks and toilets. The cells do not have beds or blankets but offer raised concrete slab benches for sitting. All cells are ADA-compliant. The holding cells and aisles the Grand Jury observed were very clean; a janitorial service operated by the county does nightly maintenance at the facility.

The average detainee is held in these cells for fewer than four hours. Due to the short amount of time most detainees spend at the holding facility, meals are eaten before arrival or after return. As a result, no food preparation facilities exist at the holding facility. Some detainees bring over snacks, and bagged lunches made at Santa Rita Jail may be available based on scheduling. The holding facility does not provide health care beyond basic first aid. First aid and AED equipment are located throughout the facility, clearly marked and readily accessible.



Overall, the Grand Jury found the Alameda County East County Hall of Justice Holding Facility to be very clean, well-organized, well-maintained, and in good order for fulfilling the requirements of the county.

HAYWARD POLICE DEPARTMENT DETENTION FACILITY

On October 18, 2022 the Grand Jury inspected the Hayward Police Department Detention Facility (HPD), located at 300 West Winton Avenue in Hayward, California. A short re-inspection was made on April 11, 2023 as several jurors on the original inspection had resigned prior to report writing.

The Hayward Police Department building, originally built in 1975, is a Board of Corrections certified Type I jail. This facility originally served as a jail, but now serves to hold arrestees for less than 24 hours. HPD processes all arrests for the city of Hayward and other agencies by contract. It operates 24 hours per day, housing up to 30 detainees. Every night, the HPD drives their transport van to Santa Rita Jail with any arrestees that arrived that day. This



van was purchased within the last five years and can accommodate a wheelchair.

The jail has separate cells to accommodate female detainees, individuals with special needs, violent arrestees, and individuals needing to “sober up”. The holding cells are for single or multiple occupants. There are toilets in the cells, and there is a single shower room down the hall from the booking area. All cells are equipped with emergency buttons for detainees to call for staff. The cells and surrounding areas are cleaned by a custodian daily.

Upon entry, all detainees are asked about their medical condition, including whether they have TB or other communicable diseases. Food is pre-packaged and provided as needed and is available on request. There are no common areas for the detainees.

The posted rules are in English and Spanish. Telephone interpretation services are available when there are no officers to interpret for non-English speaking detainees. Visitation of those in custody is conducted via a video link system and is available to adults over the age of 18 and minor children of inmates when accompanied by a parent or qualified adult guardian. Visitation hours are 1:00 pm to 5:00 pm and limited to 20 minutes (subject to availability according to inmate processing). Telephones are located in most cells and in adjoining hallways.

CONCLUSION

The Grand Jury found the Hayward Police Department Jail to be efficiently run. The facility appears to be clean and well taken care of considering it is almost 50 years old, though there were numerous instances of flaking paint and rust.



We would suggest a language poster be displayed and available at intake in multiple languages to accommodate any non-English or non-Spanish speakers to facilitate interpretation services and reflect the wide array of languages spoken in Alameda County.

ABOUT THE ALAMEDA COUNTY GRAND JURY

The Alameda County Grand Jury is mandated by Article 1, Section 23 of the California Constitution. It operates under Title 4 of the California Penal Code, Sections 3060–3074 of the California Government Code, and Section 17006 of the California Welfare and Institutions Code. All 58 counties in California are required to have grand juries.

In California, grand juries have several functions:

1. to act as the public watchdog by investigating and reporting on the affairs of local government;
2. to make an annual examination of the operations, accounts and records of officers, departments or functions of the county, including any special districts;
3. to inquire into the condition and management of jails and prisons within the county;
4. to weigh allegations of misconduct against public officials and determine whether to present formal accusations requesting their removal from office; and
5. to weigh criminal charges and determine if indictments should be returned.

Additionally, the Grand Jury has the authority to investigate the following:

1. all public records within the county;
2. books and records of any incorporated city or joint powers authority located in the county;
3. certain housing authorities;
4. special purpose assessing or taxing agencies wholly or partly within the county;
5. nonprofit corporations established by or operated on behalf of a public entity;
6. all aspects of county and city government, including over 100 special districts; and
7. the books, records and financial expenditures of any government agency including cities, schools, boards, and commissions.

Many people have trouble distinguishing between the Grand Jury and a trial jury. Trial juries are impaneled for the length of a single case. In California, most *civil* grand juries consist of 19 citizen volunteers who serve for one year and consider a number of issues. Most people are familiar with *criminal* grand juries, which only hear individual cases and whose mandate is to determine whether there is enough evidence to proceed with a trial.

This report was prepared by a *civil* Grand Jury whose role is to investigate all aspects of local government and municipalities to ensure government is being run efficiently, and that government monies are being handled appropriately. While these jurors are nominated by a Superior Court judge based on a review of applications, it is not necessary to know a judge in order to apply. From a pool of 25–30 accepted applications, 19 members are randomly selected to serve.

History of Grand Juries

One of the earliest concepts of a Grand Jury dates back to ancient Greece where the Athenians used an accusatory body. Others claim the Saxons initiated the Grand Jury system. By the year 1290, the accusing jury was given authority to inquire into the maintenance of bridges and highways, the defects of jails, and whether the sheriff had kept in jail anyone who should have been brought before the justices.

The Massachusetts Bay Colony impaneled the first American Grand Jury in 1635 to consider cases of murder, robbery, and wife beating. Colonial grand juries expressed their independence from the crown by refusing in 1765 to indict leaders of the Stamp Act or bring libel charges against the editors of the *Boston Gazette*. The union with other colonies to oppose British taxes was supported by a Philadelphia Grand Jury in 1770. By the end of the colonial period, the Grand Jury had become an indispensable adjunct of government.

Grand Jury Duties

The Alameda County Grand Jury is a constituent part of the Superior Court, created for the protection of society and the enforcement of law. It is not a separate political body or an individual entity of government, but is a part of the judicial system and, as such, each grand juror is an officer of the court. Much of the Grand Jury's effectiveness is derived from the fact that the viewpoint of its members is fresh and unencumbered by prior conceptions about government. With respect to the subjects it is authorized to investigate, the Grand Jury is free to follow its own inclinations in investigating local government affairs.

The Grand Jury may act only as a whole body. An individual grand juror has no more authority than any private citizen. Duties of the Grand Jury can generally be set forth, in part, as follows:

1. To inquire into all public offenses committed or triable within the county (Penal Code §917);
2. To inquire into the case of any person imprisoned and not indicted (Penal Code §919(a));
3. To inquire into the willful or corrupt misconduct in office of public officers of every description within the county (Penal Code §919(c));
4. To inquire into sales, transfers, and ownership of lands which might or should revert to the state by operation of law (Penal Code §920);
5. To examine, if it chooses, the books and records of a special purpose, assessing or taxing district located wholly or partly in the county and the methods or systems of performing the duties of such district or commission. (Penal Code §933.5);
6. To submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to the county government (Penal Code §933), with

a copy transmitted to each member of the board of supervisors of the county (Penal Code §928); and,

7. To submit its findings on the operation of any public agency subject to its reviewing authority. The governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body and every elective county officer or agency head for which the Grand Jury has responsibility (Penal Code §914.1) and shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. (Penal Code §933(c)).

Secrecy/Confidentiality

Members of the Grand Jury are sworn to secrecy and all Grand Jury proceedings are secret. This secrecy guards the public interest and protects the confidentiality of sources. The minutes and records of Grand Jury meetings cannot be subpoenaed or inspected by anyone.

Each grand juror must keep secret all evidence presented before the Grand Jury, anything said within the Grand Jury, or the manner in which any grand juror may have voted on a matter (Penal Code §924.1). *The grand juror's promise or oath of secrecy is binding for life.* It is a misdemeanor to violate the secrecy of the Grand Jury room. Successful performance of Grand Jury duties depends upon the secrecy of all proceedings. A grand juror must not divulge any information concerning the testimony of witnesses or comments made by other grand jurors. The confidentiality of interviewees and complainants is critical.

Legal Advisors

In the performance of its duties, the Grand Jury may ask the advice (including legal opinions) of the district attorney, the presiding judge of the superior court, or the county counsel. This can be done by telephone, in writing, or the person may be asked to attend a Grand Jury session.

Under Penal Code section 936, the California Attorney General may also be consulted when the Grand Jury's usual advisor is disqualified. The Grand Jury has no inherent investigatory powers beyond those granted by the legislature.

Annual Final Report

At the end of its year of service, a Grand Jury is required to submit a final report to the superior court. This report contains an account of its activities, together with findings and recommendations. The final report represents the investigations of the entire Grand Jury.

Citizen Complaints

As part of its civil function, the Grand Jury receives complaints from citizens alleging government inefficiencies, suspicion of misconduct or mistreatment by officials, or misuse of taxpayer money. Complaints are acknowledged and may be investigated for their validity. All complaints are confidential. If the situation warrants and corrective action falls within the jurisdiction of the Grand Jury, appropriate solutions are recommended.

The Grand Jury receives dozens of complaints each year. With many investigations and the time constraint of only one year, it is necessary for each Grand Jury to make difficult decisions as to what it wishes to investigate during its term. When the Grand Jury receives a complaint, it must first decide whether or not an investigation is warranted. The Grand Jury is not required by law to accept or act on every complaint or request.

In order to maintain the confidentiality of complaints and investigations, the Alameda County Grand Jury only accepts complaints in writing. Complaints should include the name of the persons 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. Complainants should include their names and addresses in the event the Grand Jury wishes to contact them for further information. A complaint form can be obtained from the Grand Jury's website. Complaints are accepted electronically via the website, by email (accivilgrandjury@alameda.courts.ca.gov), or by US Mail.

Mail complaints to:
Alameda County Superior Court
c/o Alameda County Civil Grand Jury and Presiding Judge
1225 Fallon Street, Executive Office, 2nd Floor
Oakland, CA 94612

An acknowledgment letter is routinely sent within one week of receipt of a complaint.

How to Become a Grand Juror

Citizens who are qualified and able to provide one year of service, and who desire to be nominated for Grand Jury duty, may complete a Grand Jury application found on the Grand Jury website. Based on supervisorial districts, approximately 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 be impaneled to serve for the year are selected by a random drawing. This is done in late June before the jury begins its yearly term on July 1. To complete an online application, please visit: [Join us!](#)

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; a resident of Alameda County for at least one year immediately before being selected; possess ordinary intelligence, sound judgement 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 in a group; an interest in community affairs; possession of investigative skills and the ability to write reports; and a general knowledge of the functions 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 the 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 one-year term (July 1 through June 30). Grand jurors should be prepared, on average, to devote approximately 20–30 hours each week to Grand Jury work. Grand jurors are required to complete and file a Statement of Economic Interest as defined by the state's Fair Political Practices Commission, as well as a Conflict of Interest form. Grand jurors are paid \$15.00 per day for each day served, as well as a county mileage rate (currently 58 cents per mile) portal to portal, for personal vehicle usage.

Persons selected for Grand Jury duty are provided with an extensive, month-long orientation and training program in July. This training includes tours of county facilities and orientation by elected officials, county and department heads, and others. The orientation and training, as well as the weekly Grand Jury meetings, take place in Oakland. Selection for Grand Jury service is a great honor and one that offers an opportunity to be of value to the community.

HOW TO RESPOND TO FINDINGS & RECOMMENDATIONS IN THIS REPORT

Pursuant to the California Penal Code sections 933 and 933.05, the person or entity responding to each Grand Jury finding shall indicate one of the following:

- The respondent agrees with the finding.
- The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

The person or entity responding to each Grand Jury recommendation shall report one of the following actions:

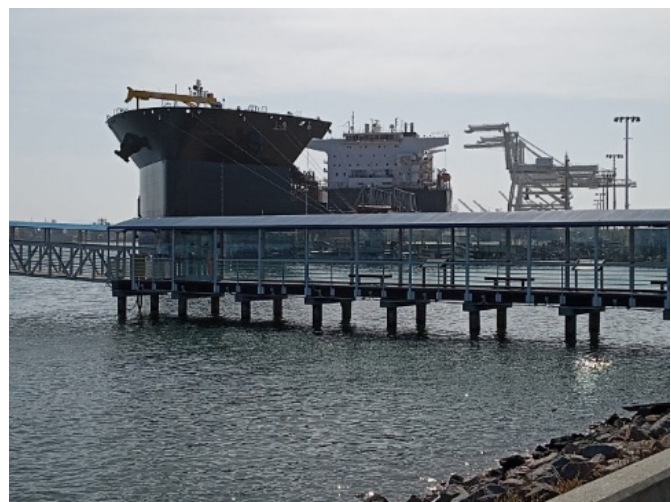
- The recommendation has been implemented, with a summary regarding the implemented action.
- The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency where applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
- The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

SEND ALL RESPONSES TO:

Presiding Judge Charles A. Smiley
Alameda County Superior Court
1225 Fallon Street, Executive Office, 2nd FL
Oakland, California 94612

A COPY MUST ALSO BE SENT TO:

Alameda County Grand Jury
1225 Fallon Street, Executive Office, 2nd FL
Oakland, California 94612
accivilgrandjury@alameda.courts.ca.gov
510-924-3800



Port of Oakland

California Penal Code Section 933(c)

No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.



The Embrace Peace Mural



San Francisco - Oakland Bay Bridge