



BAD ROADS AND NO BUILDING: OAKLAND'S BUDGET PROBLEMS MEAN NO BONDS FOR THE CITY'S NEEDS

OAKLAND'S POTHOLES: A BUMPY ROAD AND INADEQUATE OVERSIGHT

OAKLAND'S POOR STEWARDSHIP OF MEASURE Q FUNDS JEOPARDIZES ITS EFFECTIVENESS

ADDING INSULT TO INJURY: OAKLAND ISSUES PARKING TICKETS TO STOLEN VEHICLES

2024-2025 Alameda County Grand Jury Final Report

OAKLAND'S WILDFIRE PREPAREDNESS: GOOD VEGETATION MANAGEMENT BUT EMERGENCY ACCESS NEEDS IMPROVEMENT

THE REGISTRAR OF VOTERS DOES AN IMPRESSIVE JOB, BUT MORE TRANSPARENCY NEEDED IN ALAMEDA COUNTY ELECTIONS

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2024-2025 ALAMEDA COUNTY GRAND JURY FINAL REPORT



Rene C. Davidson Courthouse on Election Night 2024, Oakland, California

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ALAMEDA COUNTY GRAND JURY

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Grand Jury

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June 20, 2025

Hon. Thomas Nixon, Presiding Judge
Alameda County Superior Court
1225 Fallon Street, Department One
Oakland, CA 94612

Dear Judge Nixon,

The 2024-2025 Alameda County Civil Grand Jury is pleased to forward our completed report to the Superior Court and the citizens of Alameda County.

Each year the Grand Jury takes on citizen complaints regarding our local government, spanning county and municipal departments. Our effort is not to criticize government but to present opportunities for government to function more efficiently in the delivery of its services to its citizens.

A challenge for every Grand Jury is deciding which cases to take on, with the hope that the selected cases that make a meaningful difference. Upon the beginning of our term in July we assessed 16 complaints that had come to us, ultimately culminating in the delivery of six full investigations. In addition, we conducted compulsory inspections of Santa Rita Jail, along with holding facilities in Berkeley, Fremont and Hayward.

This dedicated group of community volunteers interviewed approximately 80 witnesses, reviewed thousands of pages of documents and countless hours of research related to the investigations we conducted. While not all of our investigations resulted in a report, we believe our conversations with county and municipal leaders helped inform them of concerns that are coming from the public.

When local government succeeds, we all benefit. The Grand Jury is an opportunity for normal citizens to do work that impacts the 1.6 million residents of Alameda County. With that in mind, the Grand Jury needs volunteers - citizen participation is what makes the Grand Jury possible, whether in the form of filing a complaint or serving on the panel. I encourage all citizens to read not only this year's report but also prior reports as a way to stay in touch with how our local government functions and to keep our government accountable.

Hon. Thomas Nixon
Page two
June 20, 2025

It has truly been an honor and privilege to return as the 2024-2025 foreperson. A huge thank you goes out to my colleagues who served on this year's panel. These dedicated citizens have spent a full year working on cases and ultimately publishing our findings. This year's panel brought a wealth of experience along with a tremendous work ethic to thoroughly investigate our presented reports.

While the Grand Jury conducts its investigations, it's not without a tremendous amount of professional guidance and support from the Alameda County District Attorney's Office. During our term we also had a new legal advisor assigned to us, ADA Casey Bates, who will continue as the legal advisor for next year's panel.

I'd also like to acknowledge Senior Program Specialist and Grand Jury Administrator Cassie Barner. Cassie completed her 30th Grand Jury this term! She brings a wealth of knowledge and wisdom to the panel, and it's truly been a pleasure to work with her.

The 2024-2025 Grand Jury is proud to present our report, and we hope it will result in positive, meaningful changes for the citizens of Alameda County.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Cohen', with a stylized, flowing script.

Adam Cohen, Foreperson
2024-2025 Alameda County Grand Jury

2024-2025 ALAMEDA COUNTY GRAND JURY MEMBER ROSTER

| Name | City |
|---------------------|---------------|
| Denise A. Bartalini | Alameda |
| Harriet Charney | Berkeley |
| Michelle Cheung | Oakland |
| Adam Cohen | Oakland |
| Donald Dorsey* | Emeryville |
| Gordon Galvan | Castro Valley |
| Michael A. Gardner | Piedmont |
| Diane Heinze | Oakland |
| Susan Herrera | San Leandro |
| Neil Heyden | Alameda |
| Lani Langon* | Pleasanton |
| Jack Lim* | Alameda |
| Paul Lynd | Livermore |
| Carole Ann Motte* | San Leandro |
| Brian O'Malley | Oakland |
| Laurence Padway* | Alameda |
| Rick Smith | Piedmont |
| Kathleen Snider | Alameda |
| Ellen Switkes | Oakland |
| Erika Wodinsky | Berkeley |

**Jurors who resigned during the term*

2024-2025 ALAMEDA COUNTY GRAND JURY OFFICERS AND LEGAL STAFF



GRAND JURY OFFICERS

| | |
|---------------------|---------------------|
| Foreperson: | Adam Cohen |
| Foreperson Pro Tem: | Brian O'Malley |
| Secretary: | Diane Heinze |
| Secretary Pro Tem: | Denise A. Bartalini |
| Sergeant at Arms: | Lani Langon* |

PRESIDING JUDGE OF THE SUPERIOR COURT

Honorable Thomas Nixon
January 1, 2024 - Present

GRAND JURY LEGAL STAFF

Grand Jury Legal Advisor:
Casey Bates, Assistant District Attorney

Grand Jury Paralegal/Administrator:
Cassie Barner, Senior Program Specialist

** Resigned during the term*

2024-2025 ALAMEDA COUNTY GRAND JURY COMMITTEE ASSIGNMENTS

GOVERNMENT

Brian O'Malley – *chair*
Denise A. Bartalini
Gordon Galvan
Susan Herrera – *secretary pro tem*
Neil Heyden
Paul Lynd – *secretary*
Rick Smith
Kathleen Snider – *chair pro tem*

LAW & JUSTICE

Gordon Galvan – *chair*
Harriet Charney – *secretary*
Diane Heinze
Susan Herrera
Neil Heyden
Rick Smith – *chair pro tem*
Kathleen Snider

HEALTH & SOCIAL SERVICES

Diane Heinze – *chair*
Denise A. Bartalini – *chair pro tem*
Harriet Charney
Michelle Cheung
Michael A. Gardner
Ellen Switkes – *secretary*
Erika Wodinsky – *secretary pro tem*

EDUCATION & ADMINISTRATION

Erika Wodinsky – *chair*
Michelle Cheung
Michael A. Gardner
Paul Lynd – *secretary*
Brian O'Malley – *chair pro tem*
Ellen Switkes

EDIT COMMITTEE

Adam Cohen
Susan Herrera
Paul Lynd

2024-2025 ALAMEDA COUNTY GRAND JURY MEMBERS



Denise
Bartalini



Harriet
Charney



Michelle
Cheung



Adam
Cohen



Gordon
Galvan



Michael
Gardner



Diane
Heinze



Susan
Herrera



Neil
Heyden



Paul
Lynd



Brian
O'Malley



Rick
Smith



Kathleen
Snider



Ellen
Switkes



Erika
Wodinsky

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FOREWORD

The 2024-2025 Alameda County Grand Jury received an unusually high number of complaints concerning the City of Oakland. While the Grand Jury normally investigates complaints across Alameda County, this year, because of the significance of the issues, we primarily focused on Oakland. As the county seat and its largest municipality, these investigations serve the citizens of Alameda County.

Oakland is a dynamic and beautiful city, but also complex. Home to over 425,000 residents and a wide range of major employers both in the public and private sector, with a major seaport and an international airport, Oakland is an economic engine that helps to fuel regional growth in Alameda County. Not only should Oaklanders benefit from a better city, but all of Alameda County benefits from a better Oakland.

It is well reported that Oakland has had significant financial issues and problems in providing basic city services to its residents. This report speaks to the responsibility of the city to provide these basic services, finding that in many respects Oakland has failed in its duty to its citizens.

Within our report we examine several issues related to revenues that drive the delivery of city services. While each investigation explores the individual issues and provides findings and recommendations, they collectively highlight a broader concern: a breakdown in oversight and accountability.

The Grand Jury found a stunning commonality across the City of Oakland's governance: a failure to provide citizen oversight and internal controls. Oakland has an intricate set of boards and commissions that are designed to oversee policy. Although only four are formally required by the city charter (port, civil service, public ethics, and police), Oakland has over 40 boards and commissions that are intended to provide citizen oversight. These boards and commissions are vital in managing programs and advising elected officials.

The Grand Jury found failures in this process. While certain commissions met as scheduled, other commissions with critical oversight functions failed to meet, some cancelling meetings mere minutes before they were scheduled to begin.

One of the most troubling findings was a fundamental disconnect regarding the city's financial condition. Elected officials testified that Oakland is financially sound, with substantial assets and no threat of insolvency. In contrast, city finance and administrative staff warned that the city faces immediate fiscal risk. Further complicating our investigation was public information that was released and then retracted, in the form of a November 8, 2024, memo expressly warning of insolvency and possible bankruptcy. Elected officials claimed the document's release as a "mistake." Even so, nothing could discount the severity of the situation, with the

replacement memo still warning that “immediate action is necessary to maintain the solvency of the General Purpose fund.”

The Grand Jury also found elected officials had the expectation that bond sales would continue. Conversely, Oakland’s finance officials expressed concerns that the city could not currently satisfy the requirements for disclosures and certifications without significant budget reforms. At the time of this report, there’s no clarity on the city’s ability to sell bonds to fund critical infrastructure in the near term.

Clearly there is a chasm between what disclosures are publicly made and the actual financial conditions facing the city that hamper the ability to provide even the most basic city services.

The Grand Jury acknowledges the dynamic and challenging environment in which Oakland finds itself. Just as an example during our one-year term, the city will have had four mayors and four new members of the city council. That said, the Grand Jury found much of the oversight and reporting to the public was simply not taking place. It found the process of governance, in many cases, to be largely broken and siloed. It is our hope that the city will implement our recommendations and heed this warning as an opportunity to reform its process and rebuild public trust.

While the Grand Jury has serious concerns about the city’s governance, we also wanted to acknowledge the many hard-working individuals that continue to devote their lives to making Oakland a better place to work and live. During extensive testimony, the Grand Jury found many individuals who are working tirelessly, committed to improving Oakland. The city’s problems are significant, but its continued operation is a testament to their efforts. Government has a duty to provide an environment that allows these dedicated public servants to succeed and thrive.

While the Grand Jury is prohibited from advising on policy matters, it is our hope that elected officials will take our report as a helpful tool in reform. The governance of Oakland relies on partnership and cooperation from municipal and county officials and agencies, coupled with robust citizen oversight. Oaklanders are proud of their city, as they should be, and by working together Oakland can deliver on its promise to not only its residents but all of Alameda County.

BAD ROADS AND NO BUILDING: OAKLAND'S BUDGET PROBLEMS MEAN NO BONDS FOR THE CITY'S NEEDS

EXECUTIVE SUMMARY

Oakland has severe financial problems. In late 2024, the city's finance department raised the possibility of looming insolvency if the city council did not take urgent and drastic budget action. However, the exact state of the city's finances is controversial, complicated, and changing by the minute. It is further complicated by changes in elected leadership, including the recent voter recall of the mayor, and a special election to choose a new mayor.

The Grand Jury started investigating these problems after learning that Oakland stopped issuing bonds because of concerns about its ability to do so in its current financial condition. It was discovered that the problems have been several years in the making, stretching back at least to the onset of the COVID-19 pandemic. We found two basic issues surrounding the city's current financial difficulties.

First, there is a structural deficit in the city's General Purpose Fund. That fund is the main part of the budget and covers the city's basic operations. Put simply, a structural deficit occurs when these combined expenses exceed the total revenues from such things as taxes. The city currently projects a deficit of about \$265 million in the General Purpose Fund for fiscal years 2025-2027.

Secondly, and just as disturbingly, there is a disconnect between the city officials responsible for the city's finances and budget, and the elected officials with the control over the expenditures and, to a much lesser degree, the revenues. Over and over again, finance officials have warned of the ongoing structural deficit and the inappropriateness of relying on one-time sources of revenue, such as the sale of the city's interest in the Oakland-Alameda County Coliseum Complex, to cover that deficit. And just as continually, the city council has disregarded these warnings, trumpeting the money from the sale of the Coliseum or other one-time solutions as the cure. With the delay of the Coliseum sale to some unknown point in the future, and with the city now out of any major one-time solutions, Oakland is now faced with painful decisions: layoffs, likely requests for union concessions, the closing of fire stations, and severe service reductions, to name a few.

For this report, the Grand Jury focused on the effect that these problems have had on a fundamental program of city government: the sale of voter-approved infrastructure bonds, the source of funding for capital projects, such as street paving. To put it simply, the structural

deficit and resulting credit downgrades have meant that bond sales are not possible in the short term, and possibly for some time to come. As the Grand Jury learned, Oakland may have difficulty making the disclosures required for bond sales. The Grand Jury further discovered that Oakland's financial situation is so precarious that insolvency may be closer than the city's elected officials have been willing to acknowledge publicly. Unless the city council takes urgent and drastic action to address the structural deficit, Oakland not only will not be able to sell bonds any time soon but could face the much larger problem of insolvency.

Since the Grand Jury is not charged with making recommendations on public policy decisions, there will be no findings or recommendations in this report. Nevertheless, the Grand Jury felt it was important for the public to understand the process and the events that led to this situation.

BACKGROUND

Historically, governmental entities have issued bonds to fund public infrastructure such as roads, schools, and any other projects that require significant capital investment. When a government issues debt through bonds, it receives money for the building project or other purposes, and repays the debt over time, with interest.

The main type of bond issued by the City of Oakland is general obligation bonds, which need to be approved by two-thirds of the electorate. Payments are made from a property tax levy specific to those bonds. Other types that have been issued are lease-revenue bonds, where the payments are made from leased property revenue; and sewer bonds, which use the revenue from sewer service to make the payments.

The issuance of, and payments for, bonds operate largely independently from Oakland's General Purpose Fund, which has different sources of income, and funds such things as city administration, the police department, and the fire department. However, as this report will make clear, the financial status of the General Purpose Fund affects the ability of the city to issue bonds.

Most recently, Oakland voters approved two general obligation bond measures for a variety of infrastructure projects. In 2016, Measure KK, the Infrastructure Bond Ordinance, authorized the city to issue \$600 million in general obligation bonds to fund various infrastructure and affordable housing projects.

Specifically, the bonds were "to improve public safety and invest in neighborhoods throughout Oakland by re-paving streets to remove potholes, rebuilding cracked and deteriorating sidewalks, and funding bicycle and pedestrian safety improvements, such as neighborhood recreation centers, playgrounds and libraries."

In 2022, the voters approved Measure U, the Affordable Housing and Infrastructure Bond Ordinance, authorizing the city to issue \$850 million in general obligation bonds “to improve public safety by creating affordable housing for Oaklanders, increasing housing for homeless Oaklanders, repaving streets to remove potholes, improving traffic/pedestrian safety, and updating fire stations and other public facilities....”

Measures KK and U, when passed by the voters, simply authorized the city to issue the bonds in the amounts stated, for the purposes set out in the measures. The actual issuance of the bonds, as set out below, depends on many things, not least of which is the creditworthiness of the city. Because they are secured by property taxes, general obligation bonds are considered the strongest credit risk among municipal bonds. Nevertheless, a city’s ability to sell bonds at a reasonable rate of interest depends on the city’s credit rating and fiscal health. For Oakland, these requisites have become serious obstacles. In February 2025, S&P Global Ratings placed various negative watch ratings on Oakland’s general obligation bonds, non-ad valorem bonds and lease revenue bonds. It said that, in its view, there was “at least a one-in-two chance of a lower rating, potentially by multiple notches, in the next 90 days, *given the material and rapid deterioration in the city's financial position....*” (Emphasis added.)

INVESTIGATION

In performing its investigation, the Grand Jury interviewed numerous Oakland officials, including members of the city administration, members for the finance department, members of various commissions, and several elected officials from Oakland. The Grand Jury attended and viewed city council and committee meetings, reviewed numerous city reports and financial documents, reviewed city council records, and researched the city’s financial history.

The Process for Issuing Bonds

In California, local governments may issue general obligation bonds backed and payable by *ad valorem* property taxes. These property taxes are a percentage of a property’s assessed – not market – value. Except for school construction bonds, Article XVI, Section 18(a) of the California Constitution prohibits local agencies from incurring indebtedness without approval of two-thirds of the voters in the jurisdiction. After voters approve a bond measure, bonds from a measure are not sold immediately, nor all at once. The city may not yet be ready to proceed with all the projects that a large bond measure would fund. Most bonds are sold as tax-exempt bonds. Because federal law requires that municipalities use at least 85% of bond funds within three years of a bond sale to maintain the bond’s tax-exempt status, and the city wants to avoid paying interest on bond funds waiting for a project, the bonds from a particular measure are commonly sold in tranches over several years. Most recently, Oakland’s practice has been to sell some type of bonds every other year.

The process for Oakland to issue any bonds is lengthy. The entire bond sale process typically can last about nine months. Oakland's finance department works with the city department whose project will be funded to determine how much funding will be needed and when it will be used. The city engages bond counsel, a financial advisor, and an underwriter to form a team of as many as 10-15 people, including the city's finance director, treasury administrator, budget director, city attorney, outside counsel, and people from the city department involved. The team meets weekly and drafts the offering and other necessary documents, prepares necessary city council ordinances or resolutions, makes rating agency presentations, and markets and prices the bonds. Regardless of the size of a bond issue, it can involve substantial cost, particularly with the use of outside professionals.

A bond sale requires an ordinance or resolution from the city council authorizing the city to go forward with a particular sale. The city council also may approve a reimbursement resolution, allowing the city to advance money for projects and be reimbursed from the later-received bond money without jeopardizing the bond's tax-exempt status.

After Oakland sells bonds, the proceeds go to a bank trustee, who holds the money separately as a fiduciary. At no time is the money part of the General Purpose Fund. The department with the bond-funded project tracks its spending, collects invoices, and submits a requisition to the Treasury Bureau in Oakland's finance department for payment. If the Treasury Bureau approves, the trustee then disburses the bond money.

Oakland's Current Bond Debt and Unsold Bonds

During the most recent fiscal year 2024-2025, Oakland had nearly \$1.1 billion in outstanding long-term debt. Over 97% of Oakland's debt service costs (principal and interest payments) come from sources other than the city's General Purpose Fund. As discussed, it pays for general obligation bonds through dedicated property tax assessments. The city last sold bonds in October 2023, when it sold \$52.5 million in Measure KK bonds, along with \$68.3 million in taxable and \$32.8 million in tax-exempt bonds under Measure U.

Currently, Oakland has unsold bonds under three different measures. Measure DD, an earlier bond measure which passed in 2002 for a variety of projects, still has \$35.8 million unsold, with the city last issuing Measure DD bonds in 2017. Oakland has \$32.5 million left unsold under Measure KK, and has \$748.9 million remaining from Measure U.

General Purpose Fund

The general operation of the City of Oakland is paid for out of its General Purpose Fund, the fund that provides the money for basic services. The revenues to fund these services come from a variety of sources: Oakland's share of the countywide property tax, business license tax, real

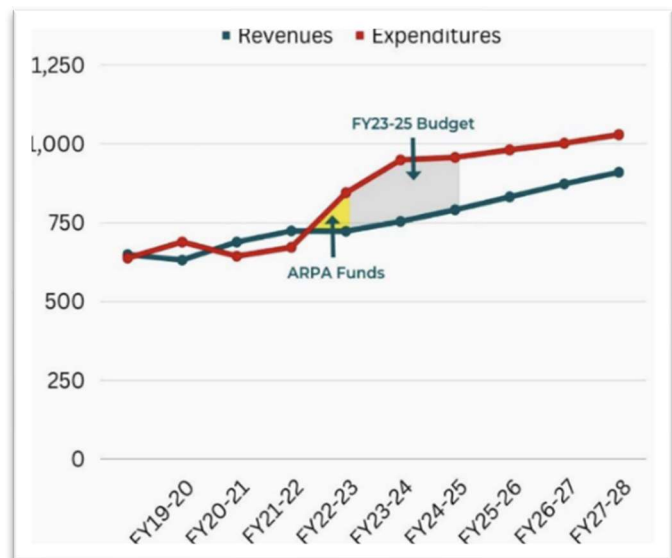
estate transfer tax, utility tax, parking charges and fines, the city's share of sales tax, hotel taxes, and various fees and service charges.

Again, it is important to note that the issuance of general obligation bonds, the deposit and spending of the bond money, and the collection of the specific property tax assessments to pay off the bonds, all take place outside of the General Purpose Fund.

The Ongoing Structural Deficit in the General Purpose Fund

When Oakland faces financial problems and a budget out of balance, it is the General Purpose Fund that is in trouble. And this has been a chronic problem for Oakland, with expenses continually outstripping revenues, leading to what have become known as the “structural deficit.”

The most recent problems started with the COVID-19 pandemic (see chart). Expenses exceeded revenues with the FY 2021-2022 budget, and the structural deficit has only become worse. The federal American Rescue Plan Act (ARPA) provided funds to fill the gap for a short period, but the structural deficit has continued. Oakland's finance department estimates a deficit in the General Purpose Fund of over \$137.9 million for the 2025-2026 fiscal year, and about \$126.5 million for the following fiscal year. The estimated shortfalls will continue in future years, with the most recent budget proposals projecting a \$265 million shortfall over the next two years.



Source: Mayor's Proposed FY 2023-2025 Budget

Over the past several years, there have been repeated warnings about this ongoing structural deficit, and repeated calls to take the necessary actions to deal with it. In June 2023, the Oakland City Auditor reported that “the Mayor and City Council had to close a historic \$360 million budget shortfall to pass a balanced 2023-2025 Adopted Biennial Budget. Today, the City continues to feel the lingering effects of the pandemic and must confront a 5-year financial forecast that projects expenditures outpacing revenues.” A report by the city's finance department in November 2023 projected a deficit of \$129 million for FY 2023-2024.

Oakland's most recent two-year biennial budget was for FYs 2023-2025. In June 2024, faced with an ongoing shortfall, the city council had to make significant reductions in a mid-cycle budget adjustment for the upcoming 2024-2025 fiscal year, starting July 1, 2024. On June 28, 2024, a city council meeting dealt with the mid-cycle budget and the ongoing budget

deficit. The then-mayor and the city council wanted to rely on money from the pending sale of the city's interest in the Coliseum. At the time, it was not known if or when the city would receive the money within the fiscal year. There were presentations by the city administrator, members of the city's finance department, and the Budget Advisory Commission. In these presentations, there was a common theme that the city faced a serious structural budget deficit.

These presentations also said that the city should not rely on uncertain one-time money that would come from the sale of the Coliseum, and proceeds would be better spent on replenishing the reserve funds, retiring debt, and other uses as set out in the city's Consolidated Fiscal Policy. The city council was presented with two options regarding what might happen if the Coliseum money, which at that time was scheduled to be over \$100 million paid out in a series of payments over several months, was not received. Both options would result in significant cuts with police staffing reduced and several fire stations "browned out."

The city council was also warned by the finance department that any degree of uncertainty in the budget would significantly affect the city's credit rating and that this would be important for bonds, because the same capital would cost the city more. Finally, the city council was told that if the Coliseum was not sold, and if the contingency budget took effect, there would be no bond sales.

On July 2, 2024, the city council enacted a mid-cycle budget, assuming receipt of \$63 million in one-time money from the Coliseum sale. This budget provided that if Oakland did not receive the Coliseum money by September 1, 2024, a contingency budget would take effect on October 1, 2024, with over \$63 million in reductions. The contingency budget zeroed out the funding budgeted in the Capital Improvement Budget for projects that depended on bonds. In the end, Oakland did not receive the Coliseum money by the deadline (the sale still has not been completed, with a close now expected in 2026). The contingency budget went into effect in October 2024.

As the city administration and finance department had cautioned, no infrastructure bond sales proceeded in 2024. In fact, the Grand Jury learned that Oakland also halted a previously planned bond issue for a community facilities district that was in the early stages, because required disclosures about the city's financial situation made going to the bond market inadvisable.

On November 8, 2024, the finance department presented to the city council an agenda report on the FY 2024-2025 first quarter results and year-end projections for the General Purpose Fund. The report stated that **"immediate action is necessary to maintain the solvency of the General Purpose fund."** (Emphasis in the original.) The city had to reduce expenditures by \$120 million or declare a fiscal emergency. The report went on to state that **"given the severity of the City's financial situation, it would be fiscally**

irresponsible to rely on any funds [from] any property sale (including the Coliseum) until after the sale is completed, cash is received by the City and title is transferred.” (Emphasis in the original.)

What Effects Oakland’s Budget Crisis and Credit Ratings Have Had on the Sale of Bonds

The Grand Jury spoke with a number of city finance officials who were explicit and direct about the difficulties of issuing bonds while the city is having ongoing financial problems. As predicted, the city's financial condition lowered its credit rating. All three major rating agencies recently downgraded their ratings one or two notches, and all labeled the future rating outlook as negative.

| | MOODY’S (12/05/24) | S&P GLOBAL RATINGS (02/01/25) | FITCH RATINGS (11/27/24) |
|-------------------------------------|---|---|--|
| Rating Action | Downgraded from Aa1 to Aa2 (1 notch) | Downgraded from AA+ to AA- (2 notches) | Downgraded from AA- to A (2 notches) |
| Future Rating Outlook | Negative | Negative | Negative |
| Key Drivers of Rating Action | <ul style="list-style-type: none">• Has not made sufficient and timely budget adjustments to fully absorb the one-time pandemic relief monies (used to fund operations) and declining revenue.• Despite plans to reduce operating expenditures, still projecting deficits. | <ul style="list-style-type: none">• Significant structural budgetary imbalance for fiscal 2025, the city’s recent deficit in fiscal 2024, and forecast structural imbalance through fiscal 2028.• While actions taken were taken to bridge the fiscal 2025 budgetary gap, uncertain as to the extent savings will be realized. | <ul style="list-style-type: none">• Reflects notable projected general fund budget gap for fiscal 2025 and future years.• Significant expenditure reductions will be difficult to implement in the near term. |

Recent Credit Rating Actions
(Source: City Administrator Agenda Report, April 9, 2025)

City finance officials with whom the Grand Jury spoke, were adamant that the budget problems and the resultant credit rating downgrades made it difficult, if not impossible, to go forward with bond sales, and that if Oakland tries to go into the bond market, a new offering may result in another rating review.

In order to sell bonds, the city must make certain financial disclosures and certifications and be truthful and transparent about the city's financial condition. Municipal bond issuers are subject to the anti-fraud provisions of the Securities Exchange Act of 1934 and to various Securities and Exchange Commission rules, and violation of the rules could expose the city, its employees, and elected officials to civil and criminal penalties. The Grand Jury learned that city officials have serious concerns that Oakland cannot satisfy these requirements presently..

According to city finance officials, and, as they presented to the city council in early 2025, Oakland must demonstrate stable government and management which means having experienced and stable staff and the demonstrated dedication of elected officials to swiftly address budget problems. There must be clear public examples of recent actions, a concrete plan to achieve fiscal stability, evidence of implementation of meaningful, near-term solutions, and a plan for sustained improvement in finances and reserves.

The City Council's Approach to Bond Sales

The city council, on the other hand, seemed unaware that infrastructure bond sales would stop as a result of the contingency budget. After city departments and others learned that Oakland would not be selling bonds, several members of the city council claimed they had no idea that bond sales would stop. However, they were clearly informed that bond sales would stop if the city did not receive the Coliseum money, and the contingency budget had to take effect. In particular, through the contingency budget, the city council zeroed out capital projects funded by bonds. Also, a finance department slide presentation expressly informed the city council that a contingency budget would result in "cancellation or multi-year delay of -- \$200,000,000 bond funded projects with the cancellation of the 2024-25 bond issuance due to inability to access the bond market."

In December 2024, the city council passed a resolution stressing the need for bond money and asked the city administrator for a 2025 bond issuance schedule. This resolution made no mention of the city's financial problems, the need to balance the budget, or the credit rating downgrades. In fact, at one city council committee meeting in March 2025, one councilmember went so far as to say that the budget was not a reason to not issue bonds, that "the budget is balanced," and that "bond sales help the budget. The budget is not a reason not to issue bonds."

Pursuant to the city council's request, the city administrator prepared a schedule, envisioning a bond sale in October or November of 2025. However, the report states that "timing a sale for January of 2026 would seem optimal," but that "the City's capital funding needs may necessitate an earlier sale...."

At an April 2025 city council meeting when asked what would be necessary to sell bonds, city financial officials stressed the need for a balanced budget, and the outcome of the city's later

audited financial statement, not likely to be completed until December 2025. This information on the status of the budget, the reserves, and the deficit could have a significant impact on bond ratings and the possibility of going into the bond market.

This same meeting had presentations by representatives from Oakland's Department of Transportation (OakDOT) and Housing and Community Development, that showed exactly how the failure to sell bonds would halt critical capital projects. OakDOT has not received any funding from Measure U because of the delay of the 2024 bond sale. As a consequence, no new contract paving or sidewalk projects had been initiated. Rather than the goal of over 55 miles of paving, OakDOT would be able to pave only about 10 miles a year. The city also had a number of pending affordable housing projects relying on Measure U bonds. The failure to receive that funding puts the developers at risk of losing affordable housing tax credits and incurring penalties.

For their part, the city council members failed to acknowledge the difficulties in initiating bond sales, and the part that the city's financial problems have had in the delay of those sales. They simply stressed the need to get the bonds to market.

CONCLUSION

Bond sales are essential for the City of Oakland. They are needed not only for major capital improvements, but also for repaving the city's streets. While the process for their issuance operates largely outside the city's General Purpose Fund, the ongoing problems of that fund have brought an end to bond sales and put into question exactly when such sales can resume.

All of this points to the need for officials to take meaningful action to deal with the city's financial problems. Discussion of the problems and the possible solutions tend to focus on the need for more police officers and the closing and re-opening of fire stations, along with favorite programs that may or may not be funded. Lost in all of this is the need for a comprehensive examination of the city's financial situation: the structural deficit, the depletion of reserves, and the repeated resorting to one-time sources of income to fund ongoing expenses. These are the financial facts. They are part of the disclosures for the issuing of bonds, and on which city officials will be questioned if sales are to go forward.

At the time of this report, Oakland will be swearing in a new mayor and council member and proposing a new biennial budget. Presumably, this budget will contain capital projects, including repaving and affordable housing, that will hinge on the sale of bonds sometime during 2025. Whether that sale will happen, of course, will depend largely on Oakland's financial status, and what potential bond buyers read in the city's annual financial report and other disclosure documents. At this point, what those documents might say and what bond purchasers might think, is anyone's guess.

The people of Oakland need the infrastructure necessary for civic life. Street repaving, improved facilities, and affordable housing are essential services that every Oaklander should expect. To deliver this infrastructure, city officials must work together and address the difficult financial challenges that face the city. In the face of inaction, Oakland’s infrastructure will continue to deteriorate.

| | |
|----------------------------|------|
| FINDINGS: | None |
| RECOMMENDATIONS: | None |
| RESPONSES REQUIRED: | None |

OAKLAND'S POTHOLES: A BUMPY ROAD AND INADEQUATE OVERSIGHT

EXECUTIVE SUMMARY

The City of Oakland has a reputation for having some of the worst roads in the Bay Area. While potholes are the most visible problem, Oakland's streets have other major problems including cracking, broken pavement, missing chunks of asphalt, and even whole sections of streets failing. It is not just drivers' experience, but data confirms the terrible condition of Oakland's roads.

Twice, Oakland voters took extraordinary steps to try and fix the city's streets. They passed enormous infrastructure bonds measures, Measure KK in 2016 and Measure U in 2022. Together, these measures authorized \$1.45 billion in bonds, with \$640 million devoted to transportation projects, including extensive street repaving. Yet, potholes and other bad pavement conditions persist in Oakland. In one year, the Oakland Department of Transportation (OakDOT) reported fixing 53,000 potholes or similar conditions – the equivalent of one repair for every eight of Oakland's over 425,000 residents.

The Grand Jury received multiple complaints about potholes and the deterioration of roads in the City of Oakland. Our investigation also revealed other issues, including potential liability for the city, and problems with the way road repairs are completed and how these repairs are funded.

The Grand Jury's investigation revealed two paramount issues. First, somewhat surprisingly, Oakland does not fund street paving, repair, or maintenance out of its General Purpose Fund, or main city budget. Instead, it relies primarily on bond measures to pay for repaving. For street repair and maintenance, as well as for some paving, Oakland has relied on transportation sales tax, gas tax, and vehicle registration fee revenue. Second, potholes are merely a symptom of the larger problem of the pavement in Oakland's streets failing because of a lack of repaving over decades. The needed solution is large repaving projects, which Oakland sought to undertake through the approval of Measures KK and U bonds.

Although Oakland made some progress in repaving streets with Measure KK and other funds, it has not met its goals for several reasons. To date, OakDOT has not received any money from Measure U. This gap is due in large part because Oakland did not sell any bonds in 2024 due to the city's precarious fiscal situation. There is no clear date when the city may be able to sell bonds. As a result, despite Oakland's significant steps with Measures KK and U, its paving may largely stop – a victim of the city's fiscal issues.

Additionally, the Grand Jury found other problems that delayed OakDOT's paving and street repair work. These issues include delays in OakDOT obtaining approval to hire workers and not having adequate control over construction change orders on its projects.

Finally, the Grand Jury discovered that the City of Oakland has not provided effective oversight regarding expenditures of bond funds under Measures KK and U. The city has not conducted any audits, despite both measures requiring them. The Affordable Housing and Infrastructure Public Oversight Committee (I-Bond Oversight Committee), created to provide independent citizen oversight, has also failed to perform its role: it has failed to meet regularly in recent years, failed to produce any reports since 2022, and has not been providing independent oversight.

BACKGROUND

Oakland's Streets

Oakland has a total of 806 miles of paved streets. Looking at lane miles, which count the total length and the number of lanes, Oakland has 2,052 lane miles. Of the 806 miles, 299 miles are major streets, also called collectors and arterials. The other 507 miles are local, or residential, streets. OakDOT maintains and repairs the city's streets.

Streets Consistently Rated Badly

The Grand Jury located average Pavement Condition Index (PCI) information for Oakland from the Metropolitan Transportation Commission and the Alameda County Transportation Commission for 2005 through 2023. During that time, Oakland's average PCI rating consistently fell within the "At Risk" range, a point where rapid deterioration occurs. Using Street Saver software, the PCI rates the condition of roads on a scale of zero to 100, with 100 indicating a freshly paved road. For 2023, Oakland had an overall PCI score of 57 – within the "At Risk" range for ratings between 50 and 59. At times, Oakland was barely above the overall "Poor" PCI range. Thanks to recent repaving, the 2023 rating improved on Oakland's previous scores of 52 and 54 for 2021 and 2022, respectively.

By comparison, in 2023, a majority of cities in Alameda County and the roads in Alameda County's unincorporated areas scored in the "Good" range with scores between 70 and 79. Alameda County jurisdictions as a whole had an average PCI rating of 67 (or "Fair").

INVESTIGATION

During our investigation, the Grand Jury reviewed a myriad of documents and interviewed numerous witnesses, including several members of the Oakland City Council, employees of OakDOT, members of the City of Oakland's Finance Department, and a member of the I-Bond

Oversight Committee. We reviewed Measures KK and U ballot materials, reports on those measures, reports and information from OakDOT, annual reports and additional information from the Oakland City Attorney, and various records from the Oakland City Council, the I-Bond Oversight Committee, the Metropolitan Transportation Commission, and the Alameda County Transportation Commission. In addition, the Grand Jury attended numerous meetings of the Oakland City Council, its committees, and the I-Bond Oversight Committee.

Potholes Galore: One Repair for Every Eight Residents

Oakland officials generally acknowledge that the overall condition of Oakland's streets has not been good, with Oakland having not invested sufficiently for decades to repave and maintain its streets. One councilmember described earlier conditions as "horrible," but improving more recently. Another councilmember admitted that potholes continue to be "a great challenge."

Most recently, OakDOT has been actively fixing potholes and pavement failures. In FY 2023-2024, the city reported repairing 53,000 potholes. For the current fiscal year, OakDOT calculated fixing 32,276 potholes in the six months between July 2024 and January 2025. By comparison, OakDOT reported that Oakland repaired over 80,000 potholes in the ten-year period between 2008 and 2018.

Potholes Are Only a Symptom of a Much Larger Problem

Asphalt pavement typically lasts 25 to 30 years. For many years, Oakland paved so few miles that it would have repaved a street about every 80 years. For example, between 2009 and 2016, Oakland paved an average of nine miles a year. As a result, one city official deemed Oakland's streets "obliterated," with the pavement having "failed through years of neglect."

Although a visible and irritating problem, potholes are merely a symptom of the much larger problem of failing streets. Patching potholes offers only a temporary fix. Streets need to be repaved – not just patched – to prevent potholes from occurring. Repaving involves the complete replacement of the asphalt, as well as milling, which consists of removing layers of street down to the dirt. While longevity depends on factors such as use, maintenance, and weight of traffic, a reconstructed roadway will typically last up to 25 years. Patching, on the other hand, lasts two to three years at most. Until Oakland can repave on a wide scale, it will not be able to escape from a cycle of pothole and pavement repairs. Therefore, where Oakland has repaved, its street conditions are good. But, where streets await repaving, one city official described them as still "in pretty desperate need of repair."

A Liability Issue

Potholes are not mere nuisances but also can be a liability issue. Drivers can file a claim for damages through the city attorney's office and have filed lawsuits for damage to their vehicles

or personal injury. Since 2018, the city has self-insured for up to \$5 million per “incident.” In some cases, with catastrophic injuries, the city has made large financial payouts – especially involving bicycle injuries from potholes.

According to the Oakland City Attorney’s Office, the city receives hundreds of claims annually for pothole damage to vehicles. The city has paid approximately \$250,000 in settlements on claims in recent years.

CLAIMS AGAINST OAKLAND AND SETTLEMENTS FOR VEHICLE DAMAGE

| Fiscal Year | Number of Claims | Settlements Paid |
|-------------|------------------|------------------|
| 2021-2022 | 351 | \$36,113 |
| 2022-2023 | 577 | \$49,028 |
| 2023-2024 | 544 | \$163,499 |

Source: Oakland City Attorney

While the above claims have involved smaller property damage matters, lawsuits are a different matter and can involve substantial personal injury claims, especially for bicyclists. Between July 2021 and June 2024, Oakland had 29 lawsuits alleging damage or injury from potholes or other pavement conditions. During that time, the city paid \$15,411,037 for lawsuits, including \$13,735,500 in FY 2023-2024 alone.

These payouts involved huge amounts in a handful cases. In FY 2023-2024, Oakland paid settlements of \$6.5 million in each of two catastrophic bike accident cases. The previous year, the city paid \$745,000 to settle another bicycle pothole case. In FY 2020-2021, Oakland paid \$1.9 million to settle two pothole cases involving a bicyclist and a motor scooter, and between 2011 and 2016, Oakland paid \$6.1 million for 28 incidents involving potholes, two of which were for \$5 million each for bicycle accidents.

How OakDOT Performs Street Maintenance and Paving

Oakland’s Department of Transportation takes a complaint-based approach to pothole and street repairs. Citizens can report problems through the city’s OAK311 system. OakDOT prioritizes pothole complaints based on severity and in situations that may pose a higher risk of injury.

For pothole or street repairs, OakDOT aims to have four or five crews handling repairs at any given time, with two or three workers on each crew. The amount of work completed, however, depends on staffing, the volume, and whether OakDOT’s repair vehicles are all operational. OakDOT seeks to inspect all complaints of reported potholes or street damage within three to five business days of a report.

For street paving, Oakland employs one in-house paving crew. At most, a crew paves approximately ten miles a year. The in-house crew paves only residential streets. For paving on major streets, OakDOT utilizes outside contractors. In addition, OakDOT repaves some streets while working with utility companies, such as the East Bay Municipal Utilities District. When utility companies need to dig streets for utility work, OakDOT works with the companies for curb-to-curb repaving. The utilities bear most of that cost.

Oakland Funds Paving and Street Repairs Without General Purpose Fund Money

Paving is not cheap: complete street paving costs approximately \$1 million per mile. The Grand Jury confirmed that paving and street repairs receive no money from Oakland's General Purpose Fund, which is the city's main budget and funded by general tax revenue.

The City of Oakland funds street paving mainly through bond money. For street repair and maintenance work, as well as some paving, Oakland relies on a combination of revenue from Alameda County's Measure BB sales tax, state gas tax, and the county's Measure F vehicle registration fee. These restricted funds must be used for certain transportation purposes. In addition, OakDOT receives state, federal, and county grant funding, usually for special projects, and which often requires the city to match a portion of the funding with local funds. The local funds can be bond money or from other non-General Purpose Fund sources.

In fiscal year 2023-2024, Oakland received nearly \$33.5 million in Measure BB funds, with \$27.7 million for local street and roads, \$2.8 million for bicycle and pedestrian projects, and the rest for paratransit. In the previous year, Oakland received \$34.74 million, with nearly \$28.7 million for local streets and roads. From Measure F's vehicle registration funds, Oakland received approximately \$1.706 million in fiscal year 2023-2024 for local road improvement and repairs.



Potholes and Broken Asphalt on an Oakland Street

The City of Oakland has also relied significantly on state gas tax revenue for road repairs. California's enactment of Senate Bill 1 (SB1), the Road Repair and Accountability Act of 2017, created a Local Streets and Roads Program that shares a portion of the state's increased gas taxes with cities and counties based on population. Cities may use those funds for road maintenance and rehabilitation, which includes activities such as repaving streets and sealing

cracks in pavement. In addition, Oakland still receives a share of the previously existing state gas tax. For example, for FY 2022-2023, Oakland received nearly \$9.67 million in SB1 funds. Each year, the city council has designated these funds for “Maintenance of city streets including potholing, patching, concrete repair, etc.” It also has used some SB1 money for paving.

Oakland’s Primary Reliance on Bonds for Paving

Because paving has a long-expected lifecycle, the city considers it a capital asset and thus qualifies for bond financing. Bond money cannot be used for certain other expenses, such as pothole or other street repairs (which are temporary) or equipment purchases for projects.

As mentioned, Oakland voters approved two large bond measures intended to fix the city’s streets. In November 2016, voters approved Measure KK, which authorized \$600 million in general obligation bonds for affordable housing and infrastructure. Like other bond issues, Measure KK’s bonds were payable through a property tax assessment imposed for that specific purpose. It reserved \$350 million for streets and road projects, including “street paving and reconstruction.” In the ballot argument, Measure KK’s proponents stated that “average Oaklanders are spending hundreds of dollars every year on flat tires and car repairs as a result of potholes and bad roads.” Oakland voters gave Measure KK 82.11% approval. Oakland sold over \$566 million in Measure KK bonds in multiple tranches between 2017 and 2023. As of 2025, OakDOT reported having spent or encumbered all, or nearly all, of the \$350 million that Measure KK allocated to it.

Passed by the voters in November of 2022, Measure U authorized another \$850 million in bonds for similar purposes, with \$290 million for transportation projects, again including “street paving and reconstruction.” In part, the ballot question asked voters to approve bonds for “repaving streets to remove potholes.” Oaklanders voted 75.33% for Measure U. However, since 2022, Measure U has not yielded any money for paving. In 2023, Oakland sold one tranche of over \$101 million in Measure U bonds, all allocated to affordable housing projects.

With Bonds and Outside Money, Oakland Sees Some Paving Progress

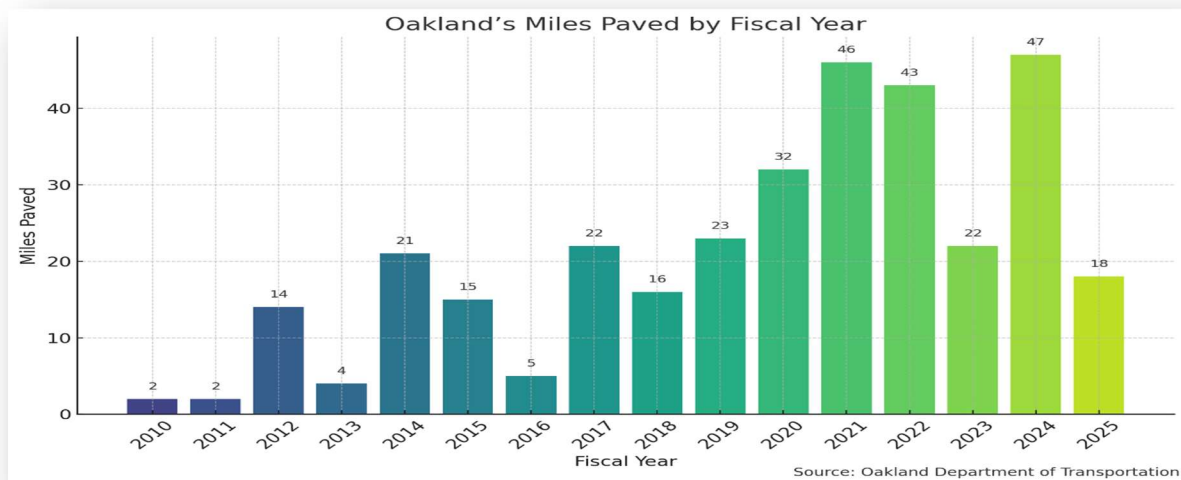
Measure KK and SB1 gas tax funding opened the way for Oakland to begin paving on a large scale. First, in May 2019, the Oakland City Council adopted a three-year paving plan for July 2019 to June 2022. This plan allocated \$102 million for paving 125 miles over three years, with 40 miles to be paved by OakDOT’s in-house paving crew. In the end, OakDOT reported 121 miles total paved. However, the in-house crew paved only 22 miles, with OakDOT noting problems with “significant staffing vacancies.”

In December 2021, the Oakland City Council approved a new five-year paving plan, which envisioned \$300 million for street paving and construction. At that time, OakDOT estimated that Oakland had a paving maintenance backlog of \$432 million. While this plan relied on

Measure KK funds and gas tax revenues, it also depended heavily on voter approval of the upcoming Measure U. The five-year plan anticipated approximately 350 miles of paving between July 2022 and June 2027 being accomplished, which included carryover work from the previous three-year plan and utility coordination work. Oakland planned to pave 55 miles in each of the first two years, and 80 miles in each of the last three years. OakDOT hoped its in-house paving crew would pave 64 miles over the five years.

Oakland never met these goals. In the first year, through June 2023, the city paved only 22 miles – against a goal of 55 miles. Most of the paving was through utility coordination work, with five miles by contractors and only three miles by the in-house crew.

In the second year, through June 2024, paving increased to 47 miles. Most of the paving was in the second half of that year. Contractors accounted for 29 miles, with utility coordination paving 12 miles. OakDOT's in-house paving crew, which had its only milling machine broken for a considerable period of time, paved over six miles. However, while under the 55-mile goal, the 47 miles paved was a record for the city.



Source: Oakland Department of Transportation

Bond Money Stops, Along with Most Paving

To continue paving on a significant scale, Oakland requires bond money. Under its adopted Capital Improvement Program (CIP) for FYs 2023-2025, Oakland planned a total of \$73.95 million in street resurfacing with bond funds from Measures KK and U. The CIP anticipated that Oakland would sell a second tranche of Measure U bonds in FY 2024-2025.

Oakland's larger fiscal problems then entered the picture. Its original biennial budget for FYs 2023-2025 funded OakDOT's paving program at \$51.75 million for FY 2024-2025,

depending on Measure U bonds. Faced with a large structural deficit, the Oakland City Council made mid-cycle budget adjustments in July 2024. The mid-cycle adjustment reduced OakDOT's paving budget from \$51.75 million to \$6.75 million for FY 2024-2025. That amount was less than Oakland's average spending on paving before Measure KK.

The budget relied on funds from the expected sale of the city's interest in the Oakland-Alameda County Coliseum Complex by September 1, 2024. If the city did not receive the funds by then, a contingency budget would be triggered on October 1, 2024. Under that contingency budget, the FY 2024-2025 bond issuance would be cancelled and its projects delayed. Oakland did not receive the Coliseum sale money by the deadline, triggering the contingency budget. Therefore, the city did not sell more Measure U bonds in 2024. At this point, there is no clear date for doing so in the future. (*See Bonds report, page 14.*)

Without bond money, Oakland can pave only what its in-house paving crew can manage, or what it can accomplish through utility coordination work using Measure BB, gas tax, and vehicle registration fee funds. OakDOT reports that it stopped issuing new contracts for paving. For the fiscal year starting in July 2024, Oakland paved only 18 miles of roadways. OakDOT informed the city council that it might be able to complete 25 miles through June 2025, but even if it gets bond money from a sale in 2025, paving with the use of outside contractors would not likely resume until spring 2026 at the earliest.

Other Problems and Inefficiencies That Have Delayed Paving

During our investigation, we learned of several other problems that delayed Oakland's paving program. Delays can be a critical problem, as federal law requires spending at least 85% of municipal bond money for its designated purposes within three years after the bond sale, in order to maintain the bond's tax-exempt status.

Staff Vacancies

The vacancy rate in paving and street repair jobs in Oakland typically averages over 20%. Part of the hiring delays are caused because the city has a long hiring process, making it difficult to recruit employees. Also, in many instances, private contractors and utilities hire away OakDOT's employees. However, the Grand Jury learned that there is also an internal reason for hiring delays. Despite there being no impact on Oakland's budget shortfall, the city's finance department has delayed giving final approval to hire for budgeted OakDOT positions. These jobs would not be funded from the General Purpose Fund, but rather through other sources, such as Measure BB. Because of budget constraints, Oakland has a hiring freeze, although the finance department allows hiring on a case-by-case basis. The Grand Jury learned that in many instances, the city council authorized OakDOT to fill positions involving streets repair and related projects, and OakDOT forwarded hiring requisitions to the city's finance department

for final approval. However, we learned that the finance department would often take no action, with requests delayed indefinitely.

OakDOT reported that these delays in hiring have interfered with repair work and even prevented some street projects from moving forward. Interestingly, after the Grand Jury focused on this issue, we learned the finance department recently approved hiring for several positions.

Broken Equipment and Vehicles

The in-house paving crew had its only milling machine out of service for several months, and OakDOT has also been unable to use some service vehicles which remain inoperative. OakDOT encountered further delays waiting for service from the city's Department of Public Works which is responsible for vehicle repair.

Contracting Delays

The Grand Jury learned of inordinate and inexplicable delays lasting as long as 10 months in getting contracts completed and executed through the city's internal processes. These delays have contributed to hampering pothole and road repairs.

Oakland's Local Business Enterprise and Small Local Business Enterprise Program

The Oakland City Council created the Local Business Enterprise (LBE) and Small Local Business Enterprise (SLBE) program in 2001 to give local and small businesses greater opportunity in city contracting. As a result of this program, OakDOT has had difficulty locating qualified contractors who are able to comply with local requirements and ordinances. Subsequently, OakDOT has had to ask the city council for waivers, which the city council has not always approved. For example, in 2021, OakDOT had to reject all 10 bids on three paving projects as non-compliant with LBE/SLBE requirements, with the process ultimately taking two years to get those contracts completed. More recently, the strict LBE/SLBE rules resulted in only one contractor being qualified for some projects. A large agency with projects the size of OakDOT's should receive multiple bids for work. A lack of competition results in Oakland not receiving the best prices. One city official estimated that Oakland could save 10-15% on projects if reforms were implemented, which would result in expanding competition.

The Grand Jury notes that in December 2024, the city council amended the LBE/SLBE program, removing the requirement of local contractors having Oakland headquarters, and modifying the definition of "substantial presence" by removing the requirement that either 20% of the company's workforce or a minimum of 50 employees work in Oakland.

Inadequate Control Over Construction Change Orders

Change orders are common on construction projects, including OakDOT's projects. In short, they involve agreed upon changes to the contractor's scope of work in a construction contract, usually resulting in a price increase. It is reasonable to expect controls over this process, especially given the large amounts of money spent on street paving and other OakDOT projects. Yet, OakDOT lacks adequate control over change orders and the resulting costs.

The Grand Jury's investigation discovered that OakDOT has not had any construction change order controls for at least several years. The Grand Jury learned that change orders on OakDOT projects have been approved without first identifying whether funding was available. In some cases, the finance department was left trying to identify funding to pay contractors after services were delivered on change orders. The Grand Jury learned that OakDOT recently implemented some controls over change orders based on a 2019 process manual that had not previously been applied.

Lack of Audits and the I-Bond Oversight Committee

The Grand Jury found a startling failure to complete required audits and provide independent oversight over the hundreds of millions of dollars in bond funds under Measures KK and U. The Oakland City Council created the I-Bond Oversight Committee to provide independent oversight over these bond expenditures. To date, Oakland has sold over \$667.3 million in bonds under the two measures. Yet, not only has Oakland failed to conduct any required audits, the I-Bond Committee also has failed to deliver effective oversight.

Measure KK requires an annual audit, and Measure U mandates an "annual independent audit . . . by an external entity." The ballot materials for the measures promised voters independent citizen oversight and regular audits, annual audits, and an annual independent audit. To date, however, Oakland has not performed any formal audit of Measure KK or Measure U expenditures. No witness could identify such an audit. One city councilmember reported asking about an audit but received no response from city officials. Regardless of whether the finance department may have made internal reviews of particular expenditures in the ordinary course of duties (as would be expected), those reviews would not qualify as an audit under Measure KK requirements. It also would not constitute an independent audit by an external entity as mandated by Measure U.

The Grand Jury found the I-Bond Oversight Committee has not delivered effective oversight regarding expenditures. By ordinance, its duties include reviewing "relevant financial and operational reports related to the expenditure" of bonds proceeds, improving "transparency and accountability in City fiscal information and decision-making" and reporting to the city council on "its oversight responsibilities related to the expenditure" of bond funds. The

committee has nine members, appointed by the mayor and confirmed by the city council. The I-Bond Committee appointees serve three-year terms.

The I-Bond Oversight Committee's reporting has been weak, with few reports and barely any meetings in recent years. Since forming in late 2017 with its first nine appointments, the I-Bond Oversight Committee issued only four reports on Measure KK, and none since 2022. The first three reports, in February 2019, March 2020, and July 2021, covered expenditures, but only summarized the status of bond sales, the allocation of bond funds, and the status of projects. The reports included written questions the committee submitted to the departments with projects and their responses. The September 2022 report dealt with social equity and anti-displacement impacts of bond projects – also part of its duties. The committee has not produced a report on Measure U.

These general reports do not reflect effective independent financial oversight. The committee has received and reported only what the three departments with projects (OakDOT, Public Works, and Housing and Community Development) provided. That information did not include specifics on projects and expenditures. The Grand Jury learned that the committee needs more in-depth financial information to perform its oversight function. By not issuing any reports, the committee is failing to perform its required oversight duties.

The Grand Jury could not get a clear answer as to why the I-Bond committee stopped issuing annual reports. We heard the notion that the reports were duplicative of similar reports by the finance department. Separately from the audits required by the language of the measures, the city council requires semi-annual reports “on expenditures and programs related to” Measure KK's bonds, which the finance department issues. (OMC 4.54.040(F)). However, in reviewing the few reports the Grand Jury could locate, the reports provide general overviews of the amount of bonds sold, amounts spent by project type, and project status. They are not oversight or audit reports, nor a substitute for the I-Bond Oversight Committee's required independent oversight on expenditures.

The Grand Jury found other deficiencies with the I-Bond Oversight Committee:

- *Lack of Regular Meetings:* By ordinance, the committee “shall meet regularly on an established day of the week.” The I-Bond committee website states that it “shall meet at least 4 times per fiscal year,” with a “regular scheduled meeting” on the second Monday of each quarter. For some time now, the committee has failed to meet regularly, with repeated cancellations starting in December 2022. The committee met only twice in 2023, and only once in 2024. The committee cancelled meetings set for December 2024, as well as February 2025, and March 2025. On February 3, 2025, members of the public, the Grand Jury, and city staff arrived (both in-person and remotely) and waited, only to be told the meeting would not proceed. On March 3, 2025, without posting an agenda, the I-Bond committee

posted a cancellation notice on its website near the time of the meeting without explanation. Finally, a special meeting was held on April 28, 2025; however, the committee failed to provide audio for members of the public who attended remotely.

- *Vacancies and Repeated Lack of Quorum:* At various times, the I-Bond Oversight Committee lacked a full nine members because the mayor did not make appointments. Currently, the committee has four vacancies. Furthermore, by ordinance, the committee must have a five-member quorum to meet. But even when the committee had a sufficient number of members, the committee had difficulty attaining a quorum.
- *Information and Reports Not Available on Website:* The committee's website is not user-friendly, with key information missing, further undercutting transparency and oversight of Measures KK and U. The website's layout should be improved so that all information could be easily located. Agendas, minutes, and recordings for all meetings are either not posted or not listed in order. A link to only one of the committee's reports – the 2020 report – is available. The city should update the site and include links to all the committee's 2019-2022 reports. Moreover, only three of the finance department's semi-annual Measure KK expenditure reports have links on the website. For transparency, all finance reports relating to the measures should also appear on the website.
- *No Self-Evaluation:* The I-Bond Oversight Committee's bylaws require that within three years after its first meeting, it "shall develop and complete a process of self-evaluation." Afterward, "self-evaluation shall occur every three years." The Grand Jury found no self-evaluations have taken place.

CONCLUSION

The Grand Jury learned that Oakland does not fund paving or street maintenance and repair from its General Purpose Fund. Rather, the city relies on its share of Measure BB sales tax, gas tax, and vehicle license fee money. It also has funded repaving through bond funding, which requires special property taxes and long-term financing.

The Grand Jury acknowledges that Oakland voters took significant steps to improve the condition of the city's streets through their approval of Measures KK and U. The city also made some good repaving progress while it had Measure KK bond funding available. Nonetheless, potholes and other pavement failures remain prevalent. Two and a half years after Measure U, OakDOT has still not received any money from the measure for paving. Because of how Oakland pays for street repairs, it cannot accomplish significant repaving without being able to sell Measure U bonds. However, the city's precarious financial condition may preclude the

city from selling bonds any time soon. To do so, Oakland must pass a two-year budget for the upcoming FYs 2025-2027 and deal with the city's structural deficit in a realistic and meaningful manner.

The Grand Jury's investigation uncovered other issues that are hindering Oakland's repaving and street repair efforts, including staff vacancies, equipment and vehicle failures, contracting problems, and restrictions preventing competition and keeping Oakland from getting the lowest bids on street projects. OakDOT also lacks control over change orders. Aside from the lack of bond funding, these issues delayed work and prevented Oakland from meeting its paving goals.

Finally, the Grand Jury discovered a stunning lack of oversight of bond expenditures under Measures KK and U. Despite selling hundreds of millions of dollars in bonds under these measures, the I-Bond Oversight Committee has not provided effective oversight. The city has not conducted the required audits, as promised to Oakland voters in the measures' language. Without the promised oversight and audits, Oakland voters and taxpayers do not know exactly how bond expenditures are being spent, nor whether they are proper. This lack of oversight affects all projects (streets, affordable housing, and facilities) that Measure KK and U cover. If Oakland sells bonds, it still must deliver appropriate and effective oversight afterward – not just make promises to get bond measures passed.

Because the City of Oakland failed to repave its roads for decades, its streets have been in poor condition for a long time. Not only are potholes and other pavement failures a nuisance to drivers, but they result in vehicle damage and pose a hazard. Poorly maintained streets present serious liability issues for the city. In many cases, potholes and poor pavement conditions caused accidents that resulted in catastrophic injury, particularly to bicyclists. Even just a few of those cases resulted in substantial payouts by the city.

The current overall conditions of Oakland's streets are untenable. Without widespread repaving, Oakland's streets will continue to deteriorate. The problems greatly affect quality of life for everyone in Oakland. Including potential liability, they will only get worse without repaving.

FINDINGS

Finding 25-1:

Potholes and other street pavement failures have been a prevalent problem in the City of Oakland for many years.

Finding 25-2:

The City of Oakland needed to repair over 53,000 potholes or similar pavement failures in the most recent 2023-2024 Fiscal Year.

Finding 25-3:

Historically, liability claims and lawsuits from potholes and pavement failure have cost the City of Oakland millions of dollars.

Finding 25-4:

Complete repaving of streets costs the City of Oakland approximately \$1 million per mile.

Finding 25-5:

The City of Oakland has not met its goals for significant repaving under its 2022 Five-Year Paving Plan, with no foreseeable date for completion.

Finding 25-6:

Without money from the sale of authorized Measure U bonds, the City of Oakland will not be able to undertake significant additional street repaving.

Finding 25-7:

High employee vacancy rates and the delays in approval of hiring slowed the City of Oakland's in-house street repaving and repairs.

Finding 25-8:

The City of Oakland's Local Business Enterprise and Small Local Business Enterprise programs limit the competition for Oakland's Department of Transportation contracts for paving and street work, causing Oakland to not receive multiple bids, which could result in lower costs.

Finding 25-9:

The City of Oakland's Department of Transportation lacks adequate control over change orders on paving and street projects, including failure to first identify approved funding.

Finding 25-10:

The City of Oakland has not conducted any audits under Measure KK or Measure U, as required by the measures.

Finding 25-11:

The City of Oakland's I-Bond Oversight Committee has not met regularly since at least December 2022, as required.

Finding 25-12:

The City of Oakland (Mayor) has failed to fill the current vacancies on the I-Bond Oversight Committee.

Finding 25-13:

The I-Bond Oversight Committee has not provided regular or annual reports on Measure KK to the Oakland City Council since September 2022, nor on Measure U since its approval in November 2022.

Finding 25-14:

The website for the City of Oakland's I-Bond Oversight Committee lacks complete information including most committee reports, and not all agendas, minutes, or recordings.

Finding 25-15:

The City of Oakland's I-Bond Oversight Committee failed to conduct a self-evaluation, as required by its bylaws.

Finding 25-16:

The City of Oakland has failed to ensure that the I-Bond Oversight Committee has been fulfilling its duties, including meeting regularly, reporting as needed, and conducting self-evaluations as required.

RECOMMENDATIONS

Recommendation 25-1:

The City of Oakland must make hiring of Department of Transportation positions a priority to ensure paving and pothole/street repairs continue, making certain that any departmental approval delays be addressed.

Recommendation 25-2:

The City of Oakland/Oakland Department of Transportation must complete implementation of the new change order control process from its change order manual.

Recommendation 25-3:

The City of Oakland/Oakland Department of Transportation must ensure that all change orders identify funding prior to approval for any street paving or other road repair project.

Recommendation 25-4:

The City of Oakland (Mayor) must promptly fill all vacancies on the I-Bond Oversight Committee.

Recommendation 25-5:

The Oakland City of Oakland must ensure that an audit of Measure KK’s expenditures is immediately conducted and reported to the city council.

Recommendation 25-6:

The City of Oakland must ensure that an external independent audit of Measure U’s expenditures is immediately conducted.

Recommendation 25-7:

The City of Oakland must take a more proactive role in the status of the I-Bond Oversight Committee, ensuring they meet regularly and perform their oversight duties.

Recommendation 25-8:

The City of Oakland must ensure that the I-Bond Oversight Committee website is complete and transparent, and includes all committee reports, agendas, minutes, and recordings, as well as all Measure KK reports from Oakland’s Finance Department.

RESPONSES REQUIRED

| | |
|---|--|
| Oakland City Council | Findings 25-1 through 25-16 Recommendation 25-1 through 25-8 |
| Mayor, City of Oakland | Findings 25-1 through 25-16 Recommendation 25-1 through 25-8 |
| Director, Oakland Department of Transportation | Findings 25-1 through 25-9 Recommendation 25-1, 25-2 and 25-3 |
| Auditor, City of Oakland | Finding 25-10 Recommendations 25-5 and 25-6 |

RESPONSE REQUIREMENTS – CA PENAL CODE SECTION 933.05

Pursuant to California Penal Code section 933.05, the Grand Jury requests each entity or individual named to respond to the enumerated Findings and Recommendations within the specific statutory guidelines, no later than 90 days from the public release date of this report.

As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) 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 therefor.

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

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe 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 when applicable. This timeframe shall not exceed six months from the date of publication of the Grand Jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.



Sailboats on Lake Merritt, Oakland, CA

OAKLAND'S POOR STEWARDSHIP OF MEASURE Q JEOPARDIZES ITS EFFECTIVENESS

EXECUTIVE SUMMARY

In March 2020, Oakland voters approved Measure Q, a 20-year parcel tax designed to enhance funding for parks maintenance, homelessness services, and stormwater quality improvements. The measure promised Oakland residents significant, sustained, and increased investment in parks and recreational areas, with clearly defined funding allocations and strong oversight and accountability of the measure's intentions.

After a broad investigation, the Alameda County Grand Jury found that the City of Oakland's stewardship of Measure Q implementation has been unsatisfactory. The city has failed to establish clear baselines and consistent reporting on the measure's effectiveness. This, combined with inconsistent and ineffective oversight and communication by the City of Oakland, has led to widespread frustration among community stakeholders. The city auditor's report from 2023 disclosed that only one of 16 audit recommendations had been fully implemented by the end of 2024.

While Measure Q stipulates that at least 45% of new park-related funds be added to existing maintenance budgets, the city invoked an undefined extreme fiscal necessity clause which allowed the city to bypass this requirement. This clause was adopted and later a definition was offered and expanded without public debate and remains a source of concern, undermining transparency and trust.

Additionally, the Grand Jury questions the use of Measure Q funds for additional expenditures, including high-level administrative salaries and capital projects not aligned with the measure's intent. This, combined with the city's failure to conduct required audits or provide detailed public reporting, demonstrates a breakdown in fiscal stewardship and accountability.

The Grand Jury found that Oakland's administration of Measure Q falls significantly short of voter expectations, undermining public trust and jeopardizing the success of future parcel tax measures. This report calls for immediate corrective actions to improve transparency and accountability, define extreme fiscal necessity criteria, and restore confidence around the implementation of Measure Q funding.

BACKGROUND

Parks are the lifeblood of a city, providing enjoyment and vital services for its citizens of all ages. As the Oakland Parks Foundation states: “Oakland’s parks system serves over 400,000 residents and includes more than 140 playgrounds, 100+ sports fields and courts, and community spaces that serve as essential resources for wellness, education, and neighborhood connection. Parks are also a vital tool for addressing climate change—providing shade, clean air, and natural habitat in one of the most environmentally burdened urban areas in the country.”

The administration of Oakland’s park system is essential to maintain one of the city’s great assets. Oakland’s residents not only expect parks to be maintained but have voted to fund the enhanced maintenance and improvement of the park system through overwhelming support of Measure Q.

Parcel Tax Measures

Voters often approve ballot measures to fund public services such as parks, libraries, and schools through special parcel taxes. In Oakland, property taxes are the greatest source of revenue (\$325 million in FY 2024-2025), while parcel tax measures are the second largest source of funds (\$181 million in FY 2024-2025).

In March 2020, Oakland voters passed Measure Q, the Parks and Recreation Preservation, Litter Reduction, and Homelessness Support Act, a 20-year parcel tax. Measure Q outlines how the parcel tax funds the following:

| Program | Percentage |
|--|------------|
| Parks, Landscape Maintenance, and Recreational Facilities and Services | 64 % |
| Homelessness Services | 30 % |
| Water Quality and Related Litter Reduction | 5 % |
| Audit and Evaluation of the Strategies and Services | 1 % |

Measure Q represents a long-term financial commitment by Oakland residents who voted to tax themselves with rates increasing annually to offset inflation. FY 2024-2025 rates are as follows:

- Single-family residential parcels: \$182.33 per parcel
- Multiple-unit residential parcels: \$124.52 per residential unit
- Non-residential: \$182.33 per parcel

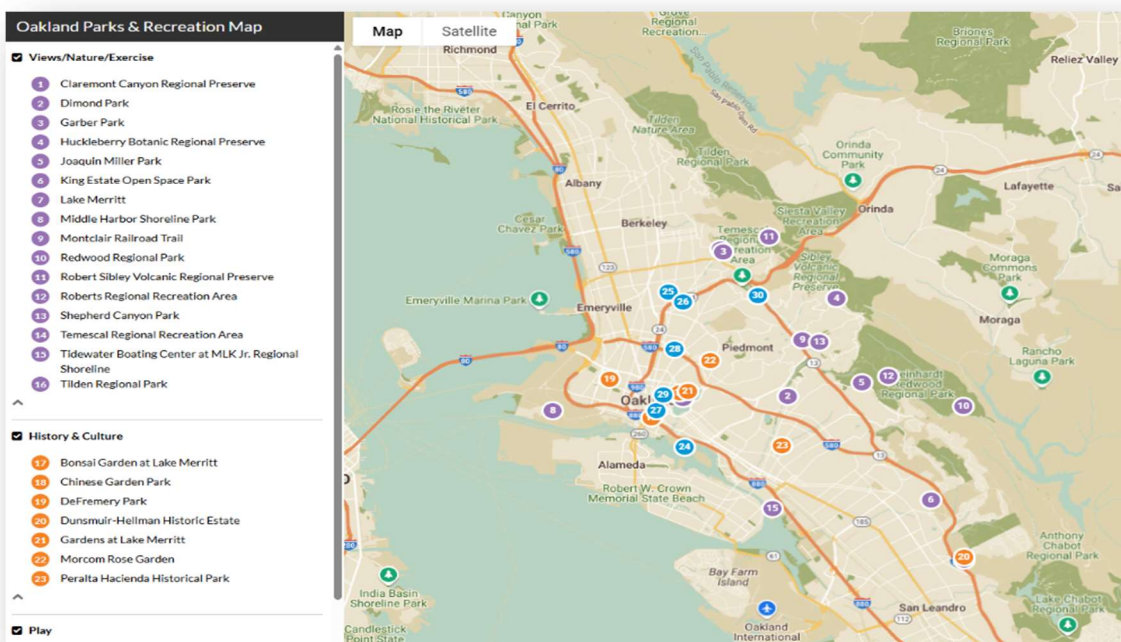
In FY 2024-2025, the amount budgeted to be received from Oakland taxpayers is \$46.78 million. Oversight of Measure Q programs was assigned by ordinance to two commissions: the Parks and Recreation Advisory Commission (PRAC) which is responsible for parks maintenance and stormwater quality, and the Commission on Homelessness which is responsible for unhoused services. The Grand Jury found that these oversight commissions addressed their responsibilities very unevenly.

Maintenance of Effort

Maintenance of Effort (MOE) provisions generally refer to the requirement in which a new funding source will provide substantial funding (e.g., Measure Q revenue) to an existing program (e.g., parks maintenance); they mandate that a receiving agency (the City of Oakland) maintain a specific level of funding from prior funding sources. With increased total funding, the overall goal is to increase and improve services around the three broad purposes in Measure Q through 2040.

Measure Q allows for up to 55% of its park revenues to be used for existing park maintenance with the remaining 45% of revenues for new services, increasing funding over existing levels of support for the duration of the measure (through the year 2040).

However, Measure Q included an escape of the MOE requirement with the city's declaration of an "*extreme fiscal necessity*." The measure states "the City Council may temporarily suspend the MOE provisions by resolution to meet urgent and changing needs in the event of an extreme fiscal necessity."



Parks in Oakland Map (Source: VisitOakland.com)

INVESTIGATION

The Grand Jury spent months reviewing Measure Q documents, including an initial audit, interviewing City of Oakland officials familiar with Measure Q, members of nonprofit organizations, and Measure Q oversight commissions. In addition, members of the Grand Jury attended city council and commission meetings.

Unfortunately, the Grand Jury found the PRAC meetings conducted on Zoom were difficult to follow due to poor audio or video broadcast capabilities. We found meetings of the city's Commission on Homelessness easier to follow because they were broadcast on KTOP.

Extreme Fiscal Necessity and its Impact on the MOE Requirement

A definition of "extreme fiscal necessity" was initially provided by the Oakland City Council in June of 2023. A year later, in June 2024, the city council revised the definition as follows:

"... the City Council adopts the following revised definition for Extreme Fiscal Necessity: An intervening step of fiscal austerity, such as when total projected General Purpose Fund revenues will be less than the current year's revenues, where there is an actual or projected reduction in total General Purpose Fund revenues, or when expenditure growth dramatically outpaces revenue growth, or when there is an actual or projected deficit exceeding 10% of the current fiscal year's adopted budget. It is the lessor of a catastrophic situation where the City entity would need to suspend provisions of local laws related to enhanced public services, such as Maintenance of Effort provisions or to prevent a dramatic decrease in essential services, relating to health, safety, and welfare; may include using Vital Services Stabilization Fund "Rainy Day Funds," suspension of Use of One-time Revenues policy, or suspension of accelerated liability repayments, or layoffs to achieve cost savings must be considered in order to sustain City Services but short of accessing emergency reserve monies. A dramatic reduction is defined as a more pronounced decrease in City services characterized by substantial disruptions or limitation in service availability which may result in layoffs, and service closures to essential services that lead to noticeable hardships for residents and businesses."

The Oakland Parks and Recreation Foundation objected to the revised 2024 definition because 1) it expands the definition of what constitutes an extreme financial necessity, and 2) it makes it easier to mitigate the measure's effectiveness. Regarding an acceptable definition, the Grand Jury learned that the Foundation's primary objective is clarifying the criteria (or conditions) that trigger a declaration of extreme fiscal necessity. They also are requesting assurances that the city council will take all reasonable steps to avoid making such a declaration in the future.

In September of 2024, after hearing of these concerns, the city council's finance committee directed the parties of interest to meet and address concerns. This meeting took place seven months later in April 2025, without resolution. The Grand Jury learned that PRAC and the Oakland Parks and Recreation Foundation remain extremely frustrated by this impasse. The ongoing lack of resolution is very concerning to the Grand Jury.

It is essential for all concerned to resolve this matter. Without resolution of the definition of extreme fiscal necessity the MOE provisions in Measure Q can be easily dismissed without any public transparency. The current situation is untenable. On this point, one city official commented: "It is important that the city comply with the MOE thresholds to keep the city's promise. Not doing so betrays this trust and could adversely affect the passage of future (ballot) measures."

Further, the Grand Jury also learned that members of PRAC and the Oakland Parks and Recreation Foundation do "not have confidence" in the MOE calculations and other financial information presented by the city.

Biennial City Audits & Independent Financial Audits

Measure Q included provisions to assure voters that they would receive good oversight and accountability. Prior to the March 2020 election, the city attorney provided an impartial analysis of the Measure Q, stating, "The measure is subject to biennial audits by the city auditor, annual financial audits, and citizen oversight."

As required by Measure Q, the city auditor-published a report in December 2023: "[Budget Transparency, Performance Management, and Stronger Oversight Needed to Ensure Oaklanders Benefit from the 2020 Parks & Recreation Preservation, Litter Reduction, And Homelessness Support Act.](#)"

The initial biennial audit report, which covered the first two years (FY 2020-2021 to FY 2021-2022) of Measure Q, disclosed two primary findings relevant to the Grand Jury's investigation: 1) the city needs more performance data to evaluate the effectiveness of Measure Q funds towards improving parks conditions, stormwater quality, and homelessness services; and 2) the city needs to strengthen its oversight and reporting of Measure Q funds.

The auditor also found that the city did not establish a baseline to evaluate park conditions. The report noted that without a baseline, it would be unable to determine maintenance needs and compliance with Measure Q. After the release of the report, the Grand Jury notes that PRAC and city staff worked to develop some basic measures of specific park maintenance services (e.g., grass mowing, bathroom cleaning, etc.). However, in the auditor's December 2024 "[Audit Recommendations Follow Up Report.](#)" it reported that of the 16 recommendations

from the initial audit, only one recommendation had been implemented, seven partially implemented, and eight not implemented.

The Grand Jury points out that the following additional recommendations have not been implemented, as suggested by the auditor:

- Development of performance measures, with emphasis on reducing the number of people experiencing homelessness in or adjacent to city parks.
- Facilitation of citizen oversight on homelessness efforts with the city bringing regular operational and expenditure reports to the Commission on Homelessness, and that the Commission establish a regular agenda item for the purpose.
- The Commission on Homelessness fulfill its statutory obligation by publishing an annual report including a section on Measure Q.
- Conduct an annual audit of Measure Q funds collected and expended, as required by California Government Code sections 50071.1 and 50075.3.
- For future special tax programs, the City Administrator's Office initiate a best practice policy requiring an annual report on revenues, expenditures and the status of open projects, to make sure that the City satisfies California Government Code sections 50071.1 and 50075.3.

Based on the findings in the auditor's report, the Grand Jury is of the opinion that the city was not prepared to implement or evaluate the services mandated by Measure Q.

Annual Reporting

Reporting is required by the State of California for special parcel tax measures. Government Code section 50075.3 requires the chief fiscal officer to file annual reports with its governing body (for Oakland that would be the finance director, reporting to the city council) on the amount of funds collected and expended, and the status of associated projects. The Grand Jury learned that the finance director submitted a Measure Q funding report to the city council in March of 2022, documenting revenues and expenditures, but did not include the status of associated projects.

Reporting to the city council is also required by the two oversight commissions (PRAC and the Commission on Homelessness) associated with Measure Q. Local ordinances have specific reporting requirements for parcel tax measures (Ordinances 13622 and 13584). The Grand Jury researched the city's website and conducted interviews with city staff and discovered that while PRAC was in large part compliant with ordinance requirements, the Commission on Homelessness was not.

Concern Over Measure Q Expenditures

The lack of reliable reporting, audits, and the declaration of extreme fiscal necessity has led park advocates to question if Measure Q funds are being spent in accordance with the measure. The Parks and Recreation Advisory Commission outlined concerns in its annual report covering Fiscal Years 2022-2023 and 2023-2024: “During the reporting period, funds from Measure Q were allocated to other unrelated city expenses under the framework of extreme fiscal necessity despite stated concerns from PRAC and park advocates.”

Examples of other questionable expenditures include:

- In FY 2020-2021, salaries of three police officers and a high-level human services employee, including the director, were charged to Measure Q. After concerns were made public, these charges were reclassified and not charged to the measure.
- Capital expenses associated with Union Point Park were charged to Measure Q. Park advocates asserted that the measure’s funding is meant for maintenance and minor repairs, and not capital projects. The Grand Jury learned that the city attorney opined that this expenditure was allowed under Measure Q, and the matter is still being challenged.
- Excessive charges for high level administrators: for example, 6.4 positions in the city administrator’s office at a cost of \$3.9 million that had previously not been billed to Measure Q.

Given these concerns, the Grand Jury is alarmed by the fact that no annual financial audit has been conducted for Measure Q since it was passed.

CONCLUSION

When voters choose to tax themselves for specific purposes (e.g., park maintenance) they expect increased services to be provided. The Grand Jury finds the lack of transparency, accountability, and reporting by the City of Oakland is troubling, creating serious doubts about what Oakland residents are actually getting from Measure Q.

The Grand Jury calls for better stewardship of Measure Q. Maintenance of effort requirements should be protected and implemented whenever possible. The declaration of extreme fiscal necessity should be resolved based on transparent criteria. In addition, biennial and financial audits must be conducted as prescribed by the measure. The Oakland City Council needs to provide better oversight of the implementation of Measure Q.

FINDINGS

Finding 25-17:

The Oakland City Council added the “extreme fiscal necessity” clause to Measure Q without open discussion and public debate.

Finding 25-18:

The Measure Q ballot language passed by voters in March 2020 did not define what constitutes an extreme fiscal necessity.

Finding 25-19:

The declaration of extreme fiscal necessity allowed the Oakland City Council to divert funds intended for additional park services

Finding 25-20:

In its last disclosure of the maintenance of effort calculations, the City of Oakland reported a decrease in Measure Q funding for new park services from 45% to 32%.

Finding 25-21:

To date, community park stakeholders and Oakland city staff still do not agree on a definition of “extreme fiscal necessity.”

Finding 25-22:

Measure Q requires biennial reports, and the Oakland City Auditor did not conduct the second biennial audit covering FY 2022-2023 and FY 2023-2024.

Finding 25-23:

Measure Q was not included in the Oakland City Auditor’s FY 2024-2025 workplan.

Finding 25-24:

As recommended and funded in Measure Q, no independent financial audit has been conducted.

Finding 25-25:

Oakland’s Parks and Recreation Advisory Commission complies with the reporting requirements in Ordinance No. 13622 (an ordinance updating the duties of the commission).

Finding 25-26:

Oakland’s Commission on Homelessness has not met its oversight mandate of Measure Q including the preparation of annual reports as required by Ordinance No. 13584 (an ordinance updating the duties of the commission).

Finding 25-27:

The City of Oakland has not prepared annual reports documenting revenues, expenditures and the status of projects funded by Measure Q as required by California Government Code 50075.3.

Finding 25-28:

It is difficult to observe Oakland's Parks and Recreation Advisory Commission meetings recorded on Zoom due to poor broadcast capabilities. (The Commission on Homelessness meetings recorded on KTOP are broadcast with better video and audio than PRAC meetings.)

RECOMMENDATIONS

Recommendation 25-9:

The Oakland City Council should hold public hearings prior to declaring an extreme fiscal necessity to allow transparency and public debate.

Recommendation 25-10:

The City of Oakland should develop maintenance of effort metrics and calculations that are published and available to the public for Measure Q and other applicable tax measures.

Recommendation 25-11:

The Oakland City Auditor's workplan for FY 2025-2026 must include the required second audit covering FY 2022-2023, FY 2023-2024, and FY 2024-2025.

Recommendation 25-12:

The Oakland City's Auditor's workplans beyond FY 2025-2026 must include biennial audits in workplans for the life of Measure Q until FY 2039-2040, as required by Measure Q.

Recommendation 25-13:

The City of Oakland should conduct the recommended independent financial audit of Measure Q within the next six months, with funding allowed by the measure.

Recommendation 25-14:

To comply with state requirements for special parcel tax measures and to provide transparency to voters, the Oakland City Council must ensure that annual reports documenting revenues, expenditures, and the status of projects are completed in a timely manner.

Recommendation 25-15:

The Oakland City Council must ensure that the Commission on Homelessness complies with its Measure Q oversight responsibilities as required by city ordinances.

Recommendation 25-16:

In addition to Zoom, Oakland's Parks and Recreation Advisory Commission meetings should be conducted at city hall, and broadcast and recorded on KTOP.

RESPONSES REQUIRED

| | |
|--------------------------|---|
| Oakland City Council | Findings 25-17 through 25-28 Recommendations 25-9 through 25-16 |
| Mayor, City of Oakland | Findings 25-17 through 25-28 Recommendations 25-17 through 25-16 |
| Auditor, City of Oakland | Findings 25-19, 25-20, 25-22, 25-23, 25-24 and 25-27 Recommendations 25-11 through 25-14 |

RESPONSE REQUIREMENTS – CA PENAL CODE SECTION 933.05

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- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe 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 when applicable. This timeframe shall not exceed six months from the date of publication of the Grand Jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

ADDING INSULT TO INJURY: OAKLAND ISSUES PARKING TICKETS TO STOLEN VEHICLES

EXECUTIVE SUMMARY

The Grand Jury received a complaint questioning why the City of Oakland issues parking tickets on vehicles reported as being stolen. In response, the Grand Jury investigated the policies and practices of Oakland’s Department of Transportation, specifically the Parking and Mobility Division, to understand why this happens – and if this practice could be prevented.

Oakland’s ticketing of illegally parked vehicles serves two important purposes. First, it incentivizes drivers to not park illegally. Second, it raises revenue for the city. However, ticketing *stolen* vehicles does not serve either purpose. Ticketing a stolen vehicle incurs costs for the city rather than generating revenue. For the victim, receiving notice of a ticket adds insult to injury; they have done nothing wrong, but must deal with a ticket because a thief illegally parked their stolen vehicle. The Grand Jury learned that Oakland’s parking control technicians (PCTs) regularly issue tickets to stolen vehicles, with vehicles often receiving multiple tickets.

The City of Oakland could, but has not, stopped the practice of ticketing stolen cars. Rather, when a stolen vehicle is parked illegally, PCTs currently have no tools (other than obvious visual evidence) to discern if a vehicle is stolen.

During our investigation, we identified two potential methods to solve the problem of PCTs ticketing stolen vehicles. This report describes methods available to Oakland and recommends implementation expeditiously.

BACKGROUND

Oakland Department of Transportation

The city created the Oakland Department of Transportation (OakDOT) in 2016. In mid-2020, the city council approved the *Reimagining Public Safety Task Force*’s recommendation to assign parking enforcement to OakDOT. Its parking enforcement section enforces the Oakland Municipal Code and the California Vehicle Code, and other relevant laws. However, OakDOT’s parking control technicians are not law enforcement officers. They do not have access to confidential and secure law enforcement databases, including “hotlists” of stolen vehicles used by police departments.

OakDOT's current staff consists of approximately 44 PCTs; they issue hundreds of thousands of parking tickets each year. When a parked vehicle is in violation, the PCT enters the license plate or vehicle identification number (VIN) into a handheld device (similar to a mobile phone). The handheld device generates a parking ticket. The PCT also uses the handheld device to take photographs and enter other information, including a description and location of the vehicle. The handheld devices have the functionality to connect to OakDOT databases, showing whether the vehicle has a residential parking permit or more than five violations (scofflaw vehicles).



City of Oakland Parking Enforcement Vehicle

PCTs may encounter vehicles that appear to be abandoned, possibly because of multiple tickets, the vehicle has been stripped, or it shows other signs of abandonment. In those situations, the PCT can contact OakDOT's Vehicle Enforcement Unit for follow-up. The Vehicle Enforcement Unit has two databases available to identify stolen vehicles: the California Law Enforcement Telecommunications System (CLETS), a statewide computer network linked to national databases, and a Department of Motor Vehicle (DMV) database.

CLETS, regulated by the U.S. Department of Justice, can only be accessed by authorized law enforcement and criminal justice personnel, and only for official uses. For example, the Oakland Police Department accesses CLETS during a routine traffic stop to determine whether a vehicle is stolen. A law enforcement agency may grant access to CLETS to a non-law enforcement agency (such as OakDOT), but only for limited uses. PCTs in OakDOT's Vehicle Enforcement Unit are permitted to access CLETS only in a secure office and only after receiving special training and background checks.

The DMV's database is more accessible. DMV has provided access to OakDOT through March 2029. Any OakDOT staff can be trained to access DMV's information without involving the Oakland Police Department or the Department of Justice. However, PCTs in the field cannot access the CLETS database. Because of the large number of tickets issued, it would take too much time for PCTs in the field to call into the Vehicle Enforcement Unit before ticketing every illegally parked vehicle.

Stolen Vehicles in Oakland

Oakland faces overwhelming issues with vehicle theft, as well as the dumping of abandoned and stolen vehicles, originating from Oakland and elsewhere. According to the Oakland Police

Department, over 9,400 vehicles were reported stolen in Oakland in 2024. While the Oakland Police Department reported recovering over 9,300 vehicles, thousands of additional stolen vehicles were recovered in Oakland by other entities, including the California Highway Patrol and the Bay Area Rapid Transit District Police. In fact, according to the highway patrol, more stolen vehicles were recovered in Oakland in 2023 than in any other city in California except Los Angeles.

INVESTIGATION

During the Grand Jury's investigation, we interviewed numerous city officials regarding Oakland's ticketing policies and processes. This included officials from OakDOT and the Oakland Police Department, multiple members of the Oakland City Council, and a transportation official from the San Francisco Municipal Transportation Agency. The Grand Jury also reviewed numerous public reports and relevant written materials.

Parking Tickets in Oakland

Oakland's PCTs issue tickets for violations of the Oakland Municipal Code and the California Vehicle Code. Vehicle Code violations involve violations of state parking statutes, while the Municipal Code involves local code violations specific to Oakland. An example of a Vehicle Code parking violation is "No Parking – Fire Hydrant." An example of a Municipal Code violation is "No Parking" (certain hours).

OakDOT PCTs are assigned to two types of enforcement: general or street sweeping. In general enforcement, PCTs are deployed into the field in assigned areas. During street sweeping enforcement, PCTs support Oakland's Department of Public Works to keep streets clear for street sweepers. PCTs may also be dispatched in response to a request from residents who observe an illegally parked vehicle.

Parking Fines Generate Revenue for Oakland

The issuance of parking citations and collection of parking fines generate significant revenue for the city. In the most recent year for which data is available (FY 2023-2024), Oakland collected \$14.2 million in fines for parking violations.



No Parking/Street Sweeping Sign in Oakland

Lifecycle of a Parking Ticket

OakDOT's parking ticket citation payment process is as follows:

A vehicle owner has 21 days to pay for a ticket. After 21 days, if the ticket has not been paid, OakDOT sends written notification of the citation to the registered owner. If the vehicle owner does not pay the citation by the 42nd day, OakDOT adds a penalty to the ticket. After 49 days, a second notice is sent. If not paid by the 77th day, OakDOT adds an additional penalty. After 77 days, OakDOT assigns the unpaid ticket debt to Oakland City Collections and reports to the Department of Motor Vehicles. The vehicle owner cannot re-register the vehicle without paying the overdue amount.

Parking Ticket Payment Timeline

| Day 0 | Day 21 | Day 42 | Day 49 | Day 77 |
|---------------|----------------|--------------------|----------------|--------------------|
| Ticket Issued | Notice #1 Sent | Penalty #1 Applied | Notice #2 Sent | Penalty #2 Applied |
| ➔ | ➔ | ➔ | ➔ | ➔ |

Process for Disputing Parking Tickets and Seeking Dismissal

While most vehicle owners become aware that their vehicle has received a ticket when they find the ticket on their windshield, this is often not the case for victims of vehicle theft. Because the owner of a stolen vehicle does not usually know where the vehicle is located, the owner may first learn of the ticket by mail. A vehicle owner can contact OakDOT to dispute a parking ticket in person, online, or by mail. OakDOT's online instructions state that a person disputing a parking ticket must (1) submit the dispute form, and (2) provide a copy of the stolen vehicle and recovery reports. If the vehicle has not been recovered, the owner must present OakDOT with a stolen vehicle report or insurance claim in order to dismiss the ticket.

Parking Tickets Issued to Stolen Vehicles: 2022 through 2024

Oakland's issuance of tickets for stolen vehicles that are illegally parked presents a significant problem for registered owners and for the city. In each of the last three years, hundreds of vehicles reported as stolen received parking tickets.

| Year | Number of Stolen Vehicles Ticketed | Number of Tickets on Stolen Vehicles Dismissed by OakDOT |
|------|------------------------------------|--|
| 2022 | 663 | 1,252 |
| 2023 | 517 | 841 |
| 2024 | 379 | 610 |

These numbers only reflect those instances where the victim sought to have the ticket dismissed. Because it is possible that some victims did not seek dismissal, the number of stolen vehicles that received tickets may be higher.

The Grand Jury further found that many vehicles reported as stolen receive multiple citations, some over the course of many months and in different locations. For example, in 2024, of the 610 citations issued, 361 of those tickets were issued to vehicles that already received at least one citation. This total included 77 cars that received two tickets, 25 cars with three tickets, 15 cars that had four tickets, and eight cars that accumulated five tickets. One car received 13 tickets!

Data also showed that this practice of issuing multiple citations to vehicles after they had been reported as being stolen is not an outlier, as the numbers from previous years are just as concerning. In 2023, of the 841 citations issued, 511 (61%) were issued to a vehicle that had already been cited. In 2022, of the 1,252 citations issued, 867 (69%) were issued to a stolen vehicle that had already been ticketed.

Why do PCTs Ticket Illegally Parken Stolen Vehicles?

The Grand Jury found that OakDOT does not have a system in place that allows PCTs in the field to identify (and avoid ticketing) stolen vehicles. The problem is not that the handheld devices cannot access official databases. As previously mentioned, the handhelds are currently programmed to check license plate numbers against OakDOT's residential permit and scofflaw databases. Rather, the handhelds currently have no access to any database that identified stolen vehicles.

Failure to Identify That a Vehicle Has Been Stolen Causes Harm to the Vehicle Owner, the City, and Law Enforcement Efforts

Although OakDOT will dismiss a parking citation when the registered owner submits a dispute proving the vehicle was stolen, the process is not automatic. As described above, the vehicle's registered owner – who may not have even recovered their vehicle (and may not learn of the ticket until they receive written notice in the mail) – is burdened by having to dispute the ticket. In the alternative, the registered owner might find it more convenient to simply pay the unjust ticket to clear the title of the stolen vehicle. OakDOT also incurs unnecessary costs and takes resources from parking enforcement by having to receive, process, and adjudicate claims when a ticket has been issued to a stolen vehicle. According to OakDOT, the cost to the city of issuing and dismissing tickets issued to a stolen vehicle is approximately \$22.30 per ticket, including the cost of issuing the ticket (\$4.30), the cost of notifying the owner by mail or otherwise, including multiple communications (\$3); and the cost of reviewing/processing a dispute, including canceling records of the ticket in the system (\$15). And these costs add up.

Cost-Effective Solutions Exist

The San Francisco Municipal Transportation Agency (SFMTA) has found a solution that allows its parking enforcement officers to avoid ticketing stolen cars. In late 2023, its parking enforcement department – which uses the same type of handheld devices used by OakDOT – made arrangements to link a subset of the CLETS database of vehicles that have been reported stolen to the handheld devices its parking enforcement officers use in the field. This report is updated daily. Once the parking enforcement officer enters the license plate number of a vehicle reported as stolen, the handheld device informs that parking enforcement officer that the vehicle *cannot be ticketed*.

The Grand Jury found that the SFMTA worked with the San Francisco Police Department to arrange for the creation of a limited subset of CLETS that does not disclose confidential and secure information. Instead, they set up the functionality of handheld devices to link to data containing only the vehicle license number, state of registration, and county of registration of a stolen vehicle.

The Grand Jury believes the cost to implement an arrangement so that the handhelds can access a stolen vehicle database and alert PCTs to not issue a ticket on a stolen vehicle should not be prohibitive. We base this conclusion on testimony that software revisions and testing were done within as little as three to six months, at little or no cost.

Since accessing the database on handhelds in the same manner as the SFMTA does not require the PCTs to do anything other than enter a state and license plate number, adopting this arrangement should not require significant additional training. OakDOT PCTs already enter information into their handhelds as part of the process of issuing tickets. The Grand Jury notes that the limited database does not link to VINs. Therefore, this system will not work in the rare instances when PCTs use VINs because license plates are missing.

The Grand Jury learned that software reconfigurations would likely require support from the parking management vendor providing the handhelds, and possibly from Oakland's IT department. With respect to the support required from the vendor (which currently provides the handheld devices as well as software support), OakDOT released a request for proposal in December 2024 for new devices and support that includes the following language:

The overall PCMS [Parking Citation Management System] solutions should integrate with systems, services, databases and processes managed or controlled by parties outside the City. These include, but are not limited to, the following: the DMV and out of state motor vehicle registries to make registered owner inquiries and manage registration holds for delinquent citations, the California Franchise Tax Board, to place intercepts on tax refunds and lottery winnings for delinquent citations, the California

Department of Justice, as allowed, to receive “hotlists” of license plates for vehicles that are stolen and vehicles that are wanted for felony actions . . .

This description suggests that OakDOT seeks a parking citation vendor with capabilities that will allow PCTs to receive hotlists of stolen vehicles either through DMV records, CLETs, or another database.

Other databases may be available, even if they are not as comprehensive or current. For example, the Oakland Police Department maintains information on vehicles that have been reported as stolen *in Oakland*. Relying on this database would allow PCTs to avoid ticketing at least some stolen vehicles, although it has the obvious shortcoming that stolen vehicles that are parked illegally in Oakland may not be stolen *in Oakland*. Similarly, DMV records provide information on vehicles reported as stolen.

CONCLUSION

Each year, thousands of owners are victims of vehicle theft, and their vehicles end up being illegally parked and abandoned in Oakland. Receiving a parking ticket for something they did not do adds insult to injury. If OakDOT could immediately identify a parked stolen vehicle, it would be beneficial not only to the vehicle owner but also would save to the city time and money by not having to rescind and dismiss tickets.

The Grand Jury recommends that Oakland find a solution to OakDOT’s ticketing of stolen parked vehicles, and strongly suggests best practices adopted by the SFMTA.

Being a victim of vehicle theft is a great hardship to anyone who has experienced this type of crime. The Grand Jury believes the city should make the recommendations in this report a priority and hopes that OakDOT takes immediate action to meet with city officials so that it stops further injuring victims of vehicle theft.

The Grand Jury questions why it has taken the city so long to take an interest in this matter, especially when another large city nearby implemented an available solution. The Grand Jury believes city officials should meet with the Department of Justice and coordinate with the Oakland Police Department and OakDOT to ameliorate this failure.

FINDINGS

Finding 25-29:

City of Oakland parking control technicians have the technology on their existing handheld devices that enables them to search some vehicle databases.

Finding 25-30:

The City of Oakland will save staff time and taxpayer dollars by avoiding issuing and ultimately dismissing tickets on illegally parked stolen vehicles.

Finding 25-31:

When a ticket is issued to a parked stolen vehicle, victims of crime suffer additional hardship by needing to take affirmative steps to dismiss a parking ticket.

Finding 25-32:

DMV provides information on stolen vehicles to OakDOT and any OakDOT staff can be trained to access this information without involving OPD or DOJ.

RECOMMENDATIONS

Recommendation 25-17:

The City of Oakland must implement technology to avoid issuing parking tickets to vehicles that have been reported as stolen to law enforcement.

Recommendation 25-18:

The City of Oakland must ensure that any new technology implemented to identify stolen vehicles is updated at least daily.

Recommendation 25-19:

All City of Oakland Department of Transportation parking enforcement staff should be trained on the use of stolen vehicle databases available from the CA Department of Motor Vehicles.

RESPONSES REQUIRED

| | |
|--|---|
| Oakland City Council | Findings 25-29 through 25-32 Recommendations 25-17 through 25-19 |
| Mayor, City of Oakland | Findings 25-29 through 25-32 Recommendations 25-17 through 25-19 |
| Director, Oakland Department of Transportation | Findings 25-29 through 25-32 Recommendations 25-17 through 25-19 |

RESPONSE REQUIREMENTS – CA PENAL CODE SECTION 933.05

Pursuant to California Penal Code section 933.05, the Grand Jury requests each entity or individual named to respond to the enumerated Findings and Recommendations within the specific statutory guidelines, no later than 90 days from the public release date of this report.

As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) 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 therefor.

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

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe 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 when applicable. This timeframe shall not exceed six months from the date of publication of the Grand Jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.



Redwood Trees on a hiking trail, Oakland Hills, CA

OAKLAND'S WILDFIRE PREPAREDNESS: GOOD VEGETATION MANAGEMENT, BUT EMERGENCY ACCESS NEEDS IMPROVEMENT

EXECUTIVE SUMMARY

The Grand Jury received a complaint asking to evaluate whether fire prevention vegetation management inspections conducted by the Oakland Fire Department are sufficiently thorough, how such inspections are funded, what happens to any fines imposed for non-compliance, and whether city-owned properties are held to the same standard as private residents. The Grand Jury found that Oakland inspects approximately 25,000 properties annually, with a high compliance rate. The recent passage of Oakland's Measure MM will provide funds to allow implementation of the city's detailed Vegetation Management Plan, including increased vegetation control and removal on city-owned properties. However, the Oakland City Council has not yet taken all actions necessary to enable the prompt implementation of Measure MM.

The Grand Jury found two additional areas where Oakland has failed to adequately ensure the safety of its citizens: enforcement of parking restrictions in high fire risk areas, and communication to residents about planned evacuation routes and procedures. These two areas of deficiency are tied closely together. If illegally parked vehicles block evacuation routes, residents cannot evacuate safely, and emergency vehicles cannot obtain quick access to fight wildfires. These shortcomings also concern first responder access in non-fire emergency situations.



Oakland Fire Department Fire Truck

The Grand Jury recommends that the Oakland City Council expand parking restrictions on narrow streets in high fire risk areas and increase parking enforcement in those areas. Saving the lives of residents and protecting the safety of first responders is an obligation that cannot be ignored, even if new parking restrictions may be unpopular. Another critical need is greater public education about evacuation routes. The Grand Jury strongly recommends that the city prioritize these critical measures to protect the lives and properties of residents, as well as the lives and safety of first responders. Finally, to the extent that Oakland has not yet adopted a plan or necessary legislation to implement Measure MM (including the formation of the oversight committee that the measure requires), it should prioritize those steps.

INVESTIGATION

The Grand Jury's investigation focused on the points in the complaint. However, in the process, we became aware that Oakland's vegetation management program is intricately tied to issues of emergency vehicle access to high fire risk areas, and issues concerning the ability of residents to evacuate rapidly in the case of a fire. Because parking enforcement (emergency vehicle access) and evacuation route planning are critical to evaluating mitigation of fire risks, the Grand Jury expanded its investigation to understand whether lack of parking enforcement and known evacuation routes present safety risks.

The Grand Jury interviewed public officials in Oakland knowledgeable about vegetation management, wildfire prevention, the urban wildfire interface, safety access, and parking; others with expertise in the urban wildfire interface; and organizations partnering with the city.

The Grand Jury also reviewed numerous documents including:

- Oakland's Vegetation Mitigation Plan 2024-2025 report.
- Documents concerning annual inspections notice and procedures.
- Documents involving Measure MM, including reports to the Oakland City Council.
- Oakland's Local Hazard Management Plan and the 2024 report on that plan.
- Reports from the Oakland City Auditor (2013, 2015, 2017).

BACKGROUND

History of Fires in the Oakland Hills

Since 1923, more than a dozen major wildfires raged through the Oakland/Berkeley Hills, resulting in extensive damage and loss of life. Notable events in the last 100 years include the September 1923 Berkeley fire, which burned 584 homes and 130 acres; the October 1970 Claremont Canyon Fire, which threatened homes and caused evacuations; and the October 1991 Oakland-Berkeley Hills firestorm (Tunnel Fire).

The devastating Tunnel Fire struck the Oakland-Berkeley Hills region from October 19-23, 1991. It ranks as one of California's deadliest fires. The fire began as a grass fire near the Caldecott Tunnel on October 19. Although initially suppressed, it re-ignited the following day because of strong winds. Losses were overwhelming: 25 people died, over 150 people were injured, and an estimated 2,900 structures were destroyed or damaged. The Tunnel Fire was the deadliest and most destructive wildfire in California up to that time.

Oakland's Actions After the Tunnel Fire

In late 1992, Oakland formed a Wildfire Prevention Assessment District (WPAD) to focus on reducing the fuel loads (flammable vegetation) in the Oakland Hills and enhance fire services. Although that WPAD expired in 1997, the city proposed a new WPAD to inspect city-owned properties, provide public education, and increase the use of vegetation management tools, such as goat grazing and brush removal. Voters approved that new WPAD in 2004 for a period of 10 years. The city levied tax assessments only on properties in the WPAD area, raising approximately \$1.9 million per year. When the WPAD expired in 2014, voters rejected an extension, with the measure failing to win the required two-thirds approval by 60 votes.

In a final report, the former WPAD's Advisory Board concluded that many residents in the WPAD were concerned that Oakland lacked a comprehensive vegetation management plan, as well as a coordinated, interdepartmental plan to prevent wildfires. To address these concerns, in 2019, the city council adopted a resolution prioritizing wildfire prevention. It led to the creation of the Wildfire Prevention Working Group (WPWG) in 2020. The WPWG consists of representatives of the Oakland Fire Department (OFD), the Oakland Police Department, the city's Public Works and Transportation Departments, the Bureau of Planning and Buildings, and the City Administrator's Office. The WPWG also meets with community stakeholders, including the Oakland Firesafe Council, Friends of Joaquin Miller Park, and the East Bay Bicycle Council, which perform volunteer work to help with vegetation management and wildfire prevention.

In May 2024, the Oakland City Council adopted a comprehensive Vegetation Management Plan (VMP), with a 10-year actionable timeline to address wildfire prevention and management. It addresses vegetation management on 1,900 acres of city-owned property, includes plans for brush clearance on 332 acres of city-owned property identified as critical, and plans for vegetation management through goat grazing on 1,300 acres. In addition, it includes plans for monitoring vegetation clearance alongside 300 miles of roadways in the High and Very High Fire Hazard Severity Zone. The plan focuses on "prioritizing vegetation management in areas with the highest risk, while also providing emergency egress routes, and maintaining access to parks and open spaces." It specifically references to working with "local park stewards and other volunteer groups to coordinate vegetation management activities," recognizing the importance of communicating with community groups about the city's plans and activities.

The VMP lays out specific objectives, many of which depend on actions by OFD (and available funding). They include reducing fuel loads (i.e., vegetation) on city-owned properties, and increasing the ability of OFD and other first responders to suppress wildfires. The VMP specifically assigns responsibility for implementation of the plan to OFD "or its designee."

Measure MM

At the same time that it adopted the VMP, the Oakland City Council voted to place Measure MM on the ballot. The measure sought to create a dedicated funding source to implement the VMP, by levying a special parcel tax for 20 years in Oakland's "Wildfire Prevention Zone," an area defined in Measure MM. Voters approved Measure MM in November 2024, with an effective date of July 1, 2025. Measure MM aims to reduce the spread of wildfires by managing vegetation, including removing dead and dying trees and invasive species in the Wildfire Prevention Zone; provide accessible evacuation routes; support enhanced patrols on Red Flag Days; ensure the coordination of city departments in wildfire prevention; and sponsor public education efforts, working together with community-based organizations. Oakland expects Measure MM to generate \$2.6 million in the first year.

The Grand Jury found there may be delays in some aspects of implementation of Measure MM, as discussed below.

Vegetation Management Inspections of Privately-Owned Properties

Each year, the Oakland Fire Department inspects approximately 25,000 properties for vegetation management. According to OFD's website, "The purpose of these inspections is to identify and mitigate hazards that could contribute to the spread, growth, and intensity of wildfire." OFD's Vegetation Management Unit (VMU), which oversees these property inspections, limits its inspections to parcels in the Very High Fire Severity Zone. The inspections focus on identifying potential hazards, with the goal of reducing flammable material (often in the form of dry or dead vegetation) that could contribute to the spread, growth, and intensity of wildfires.

Oakland currently has sworn firefighters conduct initial inspections. They do so as time permits, when not performing other assigned duties. Inspections begin in late spring. OFD notifies homeowners by mail in advance of an inspection. The mailing contains an explanation of what will be inspected, including the defensible space requirements under the fire codes. Compliance standards also are available online on the city's website.

The inspector typically rings the doorbell for permission to inspect the exterior areas of a property. If the resident is home, the firefighter will speak with the resident to identify problem areas and provide advice regarding suggested or required additional mitigation, such as the removal of vegetation or flammable materials. OFD inspectors aim to conduct "360" inspections, meaning all sides of properties. When inspectors cannot access a property, they try to view a property from the side (e.g., from an adjacent property) or see as much of the property as possible. In some cases, the inspector may need to return.

OFD finds a relatively small number of properties that cannot be properly inspected. Those properties include vacant houses and properties where OFD is not able to contact the property owner to obtain access. In those cases, OFD tries to locate and work with the owners. OFD's protocol includes having the inspector take photographs, which can then be reviewed by OFD's Fire Prevention Bureau. Oakland does not charge any fee for the initial inspection.

Inspections Where a Property Passes

If the property passes, the fire department leaves a door hanger with information about the inspection. OFD then sends the homeowner a compliance letter.

In 2024, OFD found a compliance rate of 92.9% on the first inspections, with an additional 3.8% coming into compliance on the second inspections. An additional 3.3% of properties require a subsequent inspection before reaching compliance. An overall compliance rate of at least 95% has remained steady over the past few years.

OFD regularly follows up on complaints from residents who believe that neighboring properties are non-compliant but were not cited. OFD reviews those complaints, as well as photographic evidence from its inspectors. Although complaints sometimes generate new inspections, OFD finds that there are often situations where a property's vegetation appears concerning to an untrained eye, but is in fact in compliance.

Inspections Where a Property Does Not Pass

If OFD finds that a property owner must take specific actions for compliance, it notifies the property owner by leaving a door hanger, followed by sending a letter of noncompliance explaining what steps need to be taken. Since 2020, property owners who mitigate problems can "self-report" corrections by sending a photograph. If proof of correction is not provided within 45 days of the first inspection, the property will be re-inspected with the property owner billed for that visit. Currently, the re-inspection fee is \$450. If the property is still non-compliant on re-inspection, a third inspection will occur 14 days later. The property owner will be charged a fee for the third and any additional re-inspections.

Training and Certification of Inspectors

Rather than firefighters, trained civilian inspectors in OFD's Fire Prevention Bureau conduct follow up inspections. The firefighters and the civilian inspectors must be certified to conduct inspections. That certification by the California State Fire Marshal is specific to vegetation management. According to OFD, there were some gaps in certification about three years ago, but those have been corrected.




A VEGETATION INSPECTION WAS COMPLETED
This is a notice, not an inspection document.

DATE: _____

ADDRESS: _____

COMPLETED BY(PRINT): _____ UNIT: _____

RESULT:

☐ COMPLIANT (Thank you. No further action required)

☐ NON-COMPLIANT (Corrective action is required)

☐ NO ACCESS (Please see aca.accela.com/oakland)

More Info:

FOR INSPECTION DETAILS:



Login or register with the Accela Citizen Access (ACA) website at aca.accela.com/oakland. Here you can immediately review your inspection information. Contact wildfire prevention (510)238-7388 with inspection questions after reviewing your inspection.

For account registration assistance, email fireacasupport@oaklandca.gov. Fire Prevention cannot assist with ACA account issues.

HAS YOUR INSPECTION RESULTED AS NON-COMPLIANT?:

You are required to provide verification that the violations have been corrected within 45 days from the initial inspection. In order to verify compliance, you must submit photos (only JPG or PDF files) to wildfireprevention@oaklandca.gov or mail copies to: Fire Prevention Bureau - 250 Frank H Ogawa Plaza #3341 - Oakland, CA 94612. Re-inspection fees will apply if proof of abatement isn't provided within 45 days from the first inspection.

(Important information continued on the other side.)

2025

Vegetation Inspection Notice, City of Oakland

The Grand Jury learned that different approaches for inspections are taken by other municipalities, including using employees who are not sworn firefighters or using outside companies. There may be community-building benefits to having firefighters meet with residents personally as they conduct inspections, just as there may be costs associated with requiring firefighters to fit inspections among the demands of their other duties. The Grand Jury did not investigate these potential costs and benefits. We make no findings or recommendations about whether the city would benefit from using a different model for conducting inspections.

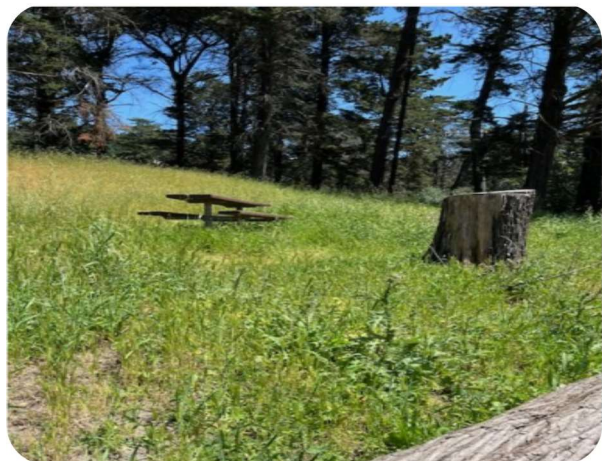
Inspection Budget and Use of Re-Inspection Fees

OFD's regular budget, supported by Oakland's General Purpose Fund, covers the cost of the initial inspections. OFD's budget for inspections and vegetation management has been reduced substantially in recent years, from an annual initial inspection budget of \$1.6 million in FY 2022-2023 to \$500,000 per year in FYs 2023-2025. Despite this significant decrease, OFD and city officials insist that OFD has been able to complete the scheduled initial inspections, in part because of improvements in technology (use of computer tablets and improved tracking software). Nonetheless, the general decrease in funding has put a strain on firefighters to complete the annual initial inspections.

The fees for re-inspections cover the cost of those inspections, although those fees are paid into Oakland's general fund and do not go back to OFD's budget. When a property owner does not pay a re-inspection fee, collection gets referred to the Oakland City Attorney to determine whether to place a lien on the property. The city does not currently have contracts to do any mitigation work (such as brush clearance or removal of other vegetation).

Vegetation Management Inspections for City-Owned Properties

The Oakland Fire Department inspects city-owned properties. However, budget cuts hamper OFD's ability to clear vegetation and dead trees. Because OFD does not have sufficient resources to clear overgrown areas, it has relied on Oakland's public works department, and community groups (such as Friends of Joaquin Miller Park) to assist in clearing vegetation in their areas. The city also relies on grants from the California Department of Forestry and Fire Protection (Cal FIRE). For example, in FY 2023-2024, Oakland obtained a \$1 million grant from Cal FIRE for tree pruning and removal from the public right-of-way along the Skyline Boulevard evacuation route. Although Oakland relied on goat grazing contracts to clear grasses and other overgrowth on city properties in the past, budget cuts make it unlikely that there will be funds for these services in 2025 or until Measure MM funds become available.



Overgrown Grass at Joaquin Miller Road and Joaquin Miller Park – April 2025

Oakland has needed consistent funding to address vegetation removal on city-owned properties and along roadsides in high fire risk areas. Even with Measure MM money, the city expects that it will take several years to address the years of deferred removal of dangerous fuel loads on public property.

Effect of Possible Delays in Implementation of Measure MM

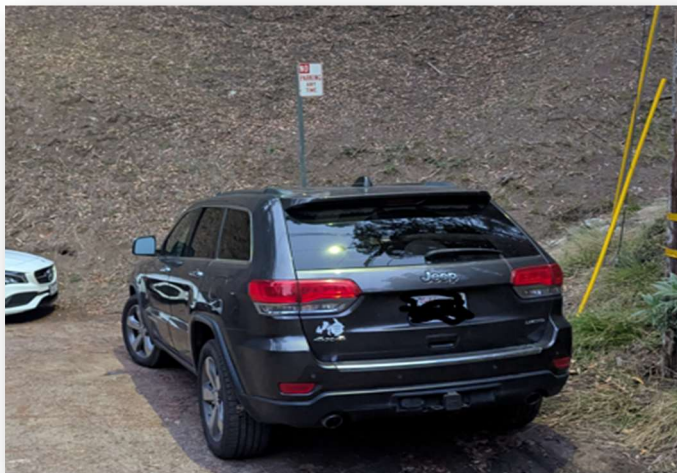
Measure MM will become effective in July 2025. Although the measure's new funding may not immediately cover all vegetation management and removal needs that accumulated over many years, OFD anticipates that the funding will allow it to make significant progress and catch up in future years. Measure MM should allow the city to begin critical work, such as clearing dead and dying trees in large public parks, clearing trails, and cutting back the tree canopy. It also will provide resources for clearing city lots that have not been cleared for years.

Although Measure MM requires the city to inspect parcels, the measure provides that Oakland must continue to conduct its regular initial inspections with funding from the city's General Purpose Fund. Measure MM funds will be available for necessary *additional* inspections and wildfire prevention measures. Thus, the city cannot use Measure MM funds to cover the cost of OFD's regular initial inspections. It also does not provide funding for vegetation management or removal on private properties, to the extent that property owners do not comply with citations to remove vegetation.

Measure MM also requires the creation of an oversight commission, as well as annual audits. At the time of this report, it appears that a specific implementation plan has not yet been developed. Under Measure MM, the city council must introduce and pass legislation to create the oversight commission, with members appointed afterward. Unless the city completes an implementation plan, and the city council establishes the required oversight body, there is no assurance that Measure MM will be implemented promptly or that Measure MM funds will be utilized appropriately.

Safety Risks Due to Lack of Parking Enforcement or Clear Evacuation Routes

The Grand Jury learned that evacuation routes are insufficient in the Oakland Hills, as well as, often blocked by parked cars. Evacuation route planning involves two factors – how to get residents out quickly and safely (egress), and how to ensure that emergency vehicles can get into “at risk” areas (ingress). When vehicles are parked on narrow streets – often in violation of unenforced parking restrictions – this situation makes egress and ingress difficult and dangerous. When emergency vehicles cannot navigate easily around illegally parked vehicles, it causes delays (or even prevents access altogether) in all types of emergency situations.



Car Illegally Parked in the Oakland Hills

Over a decade ago, the Oakland City Auditor identified the need for these same important improvements. In a November 2013 report on the OFD's Vegetation Inspection Program, Recommendation 7 called for the city council to determine if parking in the Oakland Hills that obstructed road access was an enforcement priority, and if so, whether an enforcement program (with community input) should be implemented.

In December 2015, a follow-up audit found that the city had taken insufficient action. It concluded:

The large number of resident and visitor vehicles in the Oakland hills creates unsafe congestion and, at times, possibly illegal parking situations including parking on streets too narrow to accommodate an emergency vehicle and parking in red “no parking” zones. Parking infractions are not regularly cited by Parking Enforcement which, according to the Fire Department, has indicated that the Oakland hills neighborhoods are not a priority parking enforcement area.

Despite that strong recommendation, the city auditor again found in November 2017 that the illegally parked vehicles blocking Oakland hills roads was still a problem. That report, entitled, “*Second Follow-up: Oakland Fire Department Vegetation Inspection Audit*” specifically noted:

OFD or Parking Enforcement [the predecessor to the Oakland Department of Transportation] must find a workable solution for the parking problem in the Oakland hills ... Narrow roadways that quickly became blocked during the evacuation [in the 1991 Oakland-Berkeley Tunnel Hills Fire] contributed to the tragedy, as these streets were, for many residents, the only exit routes out of the area.

Oakland still has not made sufficient progress in finding a “workable solution.” Although Oakland’s 2023-2024 Local Hazard Mitigation Plan Report touted “enhanced coordination with Department of Transportation and Oakland Police to enforce parking restrictions on Red Flag Days,” nearly every witness the Grand Jury interviewed questioned the adequacy of this enforcement. Another current concern is efforts to increase housing density in high fire risk areas, which would exacerbate the problem.

The Grand Jury learned from the Parking and Mobility Unit in Oakland’s Department of Transportation (OakDOT) that it had arranged for the installation of additional “No Parking” signs in the hills in 2017, in response to an initiative of the Oakland Wildfire Prevention Working Group. Still, Oakland does not have any areas that are designated as “No Parking on Red Flag Days,” as do some municipalities. Consequently, there is no signage to limit parking and create additional access on those days. OakDOT’s parking control technicians (who are responsible for issuing tickets to illegally parked cars), conduct limited patrols in the Oakland Hills, although not with the same regularity as they patrol commercial zones (including areas with parking meters) or areas with street sweeping restrictions.

The Grand Jury heard conflicting information about the level of parking enforcement in the Oakland Hills. While OakDOT may conduct enforcement and dispatches additional parking control technicians on days designated as Red Flag Days, it is evident that the current level of enforcement overall is insufficient.

Oakland should increase the “no parking” zones in the hills, particularly on narrow streets or streets with curves that may be more difficult to navigate for large emergency vehicles. Indeed, the National Fire Safety Association states that road access for fire equipment should have a minimum unobstructed width of not less than 20 feet. To follow that guidance, parking in the Oakland Hills likely would have to be limited to one side on many narrow streets. Oakland also should add “no parking” zone in certain areas, so that those restrictions apply on Red Flag days – a solution used in other high fire risk areas in California.

The Grand Jury recognizes that there likely would be costs involved in purchasing and placing new signage, as well as implementing increased enforcement to ensure evacuation routes are available and safe. We note these parking management solutions for consideration by the city. The Grand Jury did not investigate the amount of possible increased costs. To the extent that citations for parking violations bring in revenue, the cost of enforcement may be covered in part by collection of parking fines.

Measure MM requires actions to provide “well-maintained, accessible” evacuation routes and to provide education. Although Measure MM implementation plans remain pending, the Grand Jury encourages the city to focus on safe evacuation planning with some urgency. This planning should include increased parking enforcement; public outreach and education so that residents will be aware of their evacuation zones and evacuation routes; and regular updates on coordination among Oakland departments and between Oakland and neighboring fire prevention agencies (including funds necessary for interagency training).

Coordination With Other Agencies

Because fires do not respect city boundaries, and problems with coordination were identified as an issue in the Tunnel Fire, the Grand Jury reviewed the current state of interdepartmental and interagency coordination. Since the Tunnel Fire, coordination has improved, including increased use of the same types of communication systems and equipment, as well as joint training on procedures to allow fire departments to work together when necessary. Oakland and nearby agencies also improved coordination through several multi-jurisdictional organizations.

The Hills Emergency Forum was created after the Tunnel Fire and now includes the following partners: Oakland, Berkeley, El Cerrito, CAL FIRE, East Bay Regional Parks District, East Bay Municipal Utility District, Lawrence Berkeley National Laboratory, the Moraga-Orinda Fire District, and the University of California, Berkeley. It meets regularly to discuss coordination of evacuation routes, clearing trails, training, and equipment. The forum’s coordination plans include mutual aid arrangements, as necessary to address wildfires (locally and outside the region). It also coordinates work with Civic Corps and community groups that assist local fire departments in clearing fire hazards. Finally, it provides information to members about securing grant funding.

More recently, Oakland has participated in the new East Bay Wildfire Coalition of Governments. In 2021, the Oakland City Council, recognizing the need for coordination among public entities in the area, adopted a resolution directing the city administrator to participate in discussions about the possible formation of a joint powers authority for fire prevention and management among East Bay hills jurisdictions. Ultimately, the participants chose not to pursue a joint powers authority, at least for the present time. Instead, in 2023, they entered into a Memorandum of Understanding to form the East Bay Wildfire Coalition of Governments.

The East Bay Wildfire Coalition of Governments, which now meets periodically to receive reports and discuss efforts to mitigate the risk of wildfire in the East Bay hills is comprised of the following members: Alameda and Contra Costa counties, Alameda County Fire Department, Contra Costa Fire Protection District, the Rodeo-Hercules Fire Prevention District, and the cities of Berkeley, Oakland, El Cerrito, and Richmond. In addition, the University of California, Lawrence Berkeley National Laboratory, East Bay Regional Parks District, East Bay Municipal Utility District, and the East Bay Firesafe Councils (representing community members) participate as regional advisors.

Separately, one recent example of successful coordination was the response to the Keller Fire in Oakland in October 2024. Before that fire started, the National Weather Service issued Red Flag warnings, including warnings of possible 40-mph winds. Because of the warnings, OFD pre-positioned fire engines and other firefighting apparatus in the hills. The planning included coordination with emergency services across the county. All cities with emergency service engines were “upstaffed,” making extra staff available to respond. As a result, OFD was able to move necessary equipment to the Keller scene immediately. In addition, CAL FIRE sent air resources almost immediately. Over 200 personnel coordinated to evacuate 254 structures. In all, 27 different jurisdictions were on the scene.

Because of prior communications and coordinated training, responders were able to work together and prevent the fire from reaching more populous areas, which could have been catastrophic. Their combined efforts limited the Keller Fire to 15 acres, with damage to only two structures and no injuries.

CONCLUSION

The Grand Jury found that the City of Oakland conducts annual inspections of approximately 25,000 private properties in high fire risk areas with high compliance rates, despite limited resources available to the Oakland Fire Department. However, although Oakland conducts inspections of city-owned properties, it has lacked the resources to do an adequate job of managing and clearing flammable vegetation on those properties, thus failing to hold itself to the same standard that applies to privately-owned properties. Measure MM should provide the resources to allow Oakland to improve vegetation management as part of its wildfire

prevention program. At the same time, unless the city acts promptly to establish and appoint members to the oversight commission that Measure MM requires, its ability to achieve other vegetation management and wildfire prevention goals will be delayed.

A positive development has been Oakland's participation in coalitions of fire agencies, and its involvement of community groups that assist in fire safety education and vegetation management. At the same time, the Grand Jury found that Oakland has been far too slow to implement and enforce meaningful parking restrictions, which are necessary to allow emergency responders to access the Oakland Hills and to allow residents to evacuate in a fire. In virtually every recent fire disaster – whether the recent fires in the greater Los Angeles Area, recent fires in Northern California, or the 1991 Tunnel Fire – the inability of residents to evacuate and firefighters to move into fire areas quickly led to greater harm and risk to life and property. There is no excuse for additional delay in improving ingress and egress. As part of that implementation, Oakland should implement greater effective enforcement of current restrictions and should consider (1) adding parking restrictions on Red Flag Days, (2) limiting parking to one side of narrow streets, and (3) other measures as recommended by OFD to ensure access by emergency vehicles.

In describing what has been accomplished, and what the Grand Jury believes still needs to be done, we do not fault the Oakland Fire Department for failing to resolve parking problems. The lack of ingress and egress are problems that require action by the city council, OakDOT's Parking and Mobility Division, and the city administrator's office. We further recognize that solutions involving increased parking restrictions may be unpopular with residents who do not want to see additional limitations where parking is already scarce. But failure to address this problem will continue to put the lives of residents and the safety of first responders at risk. It is now over 33 years since Oakland lost many lives in the Tunnel Fire. In the Grand Jury's view, there is no excuse for further delay.

FINDINGS

Finding 25-33:

The Oakland Fire Department has met its goal of conducting annual wildfire inspections of virtually all private properties in the Oakland Hills area designated as the Very High Fire Hazard Severity Zone.

Finding 25-34:

The Oakland Fire Department's annual wildfire prevention inspections of private properties in the Oakland Hills finds a high level of compliance on the part of property owners.

Finding 25-35:

For city-owned properties, the Oakland City Council does not presently allocate sufficient resources for vegetation management to remove or mitigate fire risks.

Finding 25-36:

At the time of this report, the Oakland City Council has not yet developed an implementation plan for Measure MM, although the measure becomes effective on July 1, 2025.

Finding 25-37:

Oakland's Department of Transportation lacks adequate enforcement of parking restrictions in the Oakland Hills which hinders the ability of emergency services to navigate narrow streets to ensure a timely response to emergencies.

Finding 25-38:

The Oakland City Council has not done an adequate job of educating Oakland Hills residents about emergency evacuation routes.

Finding 25-39:

Public education about evacuation routes, and availability of emergency warning systems (such as AC Alert), are critical to improving public safety in Oakland, especially in areas with high wildfire risk.

RECOMMENDATIONS

Recommendation 25-20:

The Oakland Fire Department must monitor the vegetation management inspection process to ensure that all private and public areas remain in full compliance with applicable fire safety regulations.

Recommendation 25-21:

Within six months, the Oakland City Council must review the progress of the new Measure MM oversight commission in order to ensure that it is in compliance with the requirements of Measure MM, operating with full transparency, and fulfilling its purpose under Measure MM as intended.

Recommendation 25-22:

Within six months, the Oakland City Council should make public its plans for the use of additional Measure MM funding to inspect and prioritize vegetation management.

Recommendation 25-23:

Oakland’s Department of Transportation must enforce parking restrictions in the areas covered by Measure MM at all times to ensure emergency vehicles have full access to all roads.

Recommendation 25-24:

The Oakland City Council should evaluate limiting parking to one side of the street in the Oakland Hills areas with a high fire risk where narrow roadways impede emergency vehicle ingress or resident egress, taking into consideration risk assessment and community consultation.

Recommendation 25-25:

The Oakland City Council must implement or expand public education programs to inform residents about emergency evacuation routes, fire safety procedures, and communication tools, such as AC Alert.

RESPONSES REQUIRED:

| | |
|---|---|
| Oakland City Council | Findings 25-33 through 25-39 Recommendations 25-20 through 25-25 |
| Oakland Mayor | Findings 25-33 through 25-39 Recommendations 25-20 through 25-25 |
| Chief, Oakland Fire Department | Findings 25-33 and 25-34 Recommendation 25-20 |
| Director, Oakland Department of Transportation | Finding 25-37 Recommendation 23-23 and 23-24 |

RESPONSE REQUIREMENTS – CA PENAL CODE SECTION 933.05

Pursuant to California Penal Code section 933.05, the Grand Jury requests each entity or individual named to respond to the enumerated Findings and Recommendations within the specific statutory guidelines, no later than 90 days from the public release date of this report.

As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) 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 therefor.

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

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe 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 when applicable. This timeframe shall not exceed six months from the date of publication of the Grand Jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.



Lake Del Valle, Livermore, CA

THE REGISTRAR OF VOTERS DOES AN IMPRESSIVE JOB, BUT MORE TRANSPARENCY NEEDED IN ALAMEDA COUNTY ELECTIONS

EXECUTIVE SUMMARY

The November 5, 2024, general election shaped up to be hard fought and possibly bitterly disputed in its aftermath, as the 2020 general election had been. In Alameda County, there was a full slate of local elections, including ballot measures and recalls of the Oakland mayor and the county's district attorney. The Grand Jury took the opportunity to take a close look at how the electoral process is conducted in the county, out of concern not just for how the election was conducted, but for how the public was informed of that process and could observe the workings. This review involved engagement with the Alameda County Registrar of Voters (ROV), the office responsible for conducting elections in our county.

As it happened, the general election passed without much controversy or conflict. The Grand Jury's examination of the Registrar of Voters revealed not only fascinating and impressive things about the local election process, but also some troubling concerns. The ROV's job is an enormous enterprise and includes mailing out ballots and voter guides, training workers, setting up vote centers and ballot drop boxes, and collecting and counting ballots. The November 2024 election went largely without major problems or controversy. However, the Grand Jury's attempts to observe the election process, both in person and online, was often frustrating due to silent and glitchy video streams and in-person observations that lacked explanations of the process before it. In addition, the posting of the election results was incomplete, delayed, and at times misleading. The Logic and Accuracy (L&A) testing of the ballot scanning equipment did not seem to test anything that the Grand Jury could discern as useful.

For these reasons, the Grand Jury makes a number of recommendations that it believes will improve the experience for observers of future elections. On election night, the ROV should make available the entire counting process available for observation and provide knowledgeable employees available to explain the process. The updates of the reporting tabulation should include more information and not imply that "all precincts reporting" means that all votes have been counted. Finally, the Logic and Accuracy testing of the ballot counting machines should allow observers to select the machines being tested and to provide pre-marked and pre-tabulated ballots to be compared with the machines' results.

For a functioning democracy, it is not enough that people are able to vote for the candidates and ballot measures; they also must believe that their votes are counted properly, and that the process is fair. Transparency of that process helps establish that faith.

BACKGROUND

Laws and Regulations Regarding Voting

The state Elections Code generally governs the conduct of elections in California. But it is the duty of the county registrars of voters to operate the machinery that allows the citizens of California to vote in elections. It is the registrar who prepares the ballots, compiles the voter guides, sends vote-by-mail ballots, oversees voting locations, collects the ballots, and counts them. Although county registrars participate in registering voters and processing registrations, the California Secretary of State maintains the master voter roll. The Secretary of State also collects and certifies county election results for state and federal races, while the county registrar certifies the local results.

In 2016, the California Legislature passed the Voter's Choice Act, which significantly changed the voting process for counties that chose to adopt the new procedures. The Voter's Choice Act changed in-person voting locations from traditional local precincts open only on election day, to vote centers spread throughout the county, with some open as early as 11 days before the election. A voter registered in the county could vote at any county vote center and have a ballot printed by the vote center staff. Election workers would also be available at the centers to assist voters. For those counties adopting this system, it essentially means the end of traditional local neighborhood-voting precincts. However, precincts are still categorized for organizational purposes and tallying votes. By 2024, 29 counties in the state, including Alameda County, adopted the new Voter's Choice Act system.

As important as this change has been, perhaps even more significant is the electorate's increased use of voting by mail. In 2020, with the onset of the COVID-19 pandemic, the California Legislature required that every voter automatically be sent a vote-by-mail ballot – a change that the legislature made permanent in 2021. Voting by mail reached a high of 91% in a special statewide election in 2021. In the November 5, 2024, general election, 80.7% of the ballots were vote-by-mail ballots. By comparison, in 1988, vote-by-mail did not exceed 10%.

While voting by mail has eased the burden of in-person voting and resulted in higher voter turnouts, it is not without problems. Mail-in ballots must be verified, which consists of comparing the signature on the return envelope with the signature on file. Problems with the signatures can result in ballots that need "curing," a process that involves trying to contact the voter to confirm the signature. In the 2024 general election, less than 1% of the mail-in ballots in California needed curing. In Alameda County, 6,096 ballots needed to be cured. Of that total, 2,026 voters returned signatures and resolved the issue, while the rest did not respond. Another problem that causes much consternation, is the delay in the reporting of the final election results – which is in part caused by processing the mail-in ballots. These ballots can be mailed through the post office or dropped off at any vote center, or at one of the drop-boxes located throughout the county. Ballots need to be postmarked by election day and received by

the county registrar within seven days of the election. Because each ballot must have its signature verified, and because a large percentage of the ballots are not mailed or returned until close to election day, the final vote tabulation becomes delayed, which can result in close elections not being called for days or even weeks after the election.

Each ROV is responsible for counting their counties' votes, using any of the 10 voting systems approved by the Secretary of State. Alameda County uses Dominion Voting Systems, which 38 of California's 58 counties used in the last election. All systems are tested annually by the Secretary of State. State election laws and related state regulations require each county's registrar of voters to conduct a "Logic and Accuracy" test of the devices used to tabulate ballots, "to ensure that every device used to tabulate ballots accurately records each vote." (Elec. Code § 15000). As part of this testing, the ROV invites the public to observe and even participate in the testing. The ROV invited the Grand Jury to participate in the L&A testing on October 24, 2024, as described below.

California law allows for the public observation of other parts of the electoral process. Pursuant to election regulations, each political party, along with "any bona fide association of citizens" or a media organization, has the right to check and review the preparation and operation of tabulating devices, and observe "any or all phases of the election" including the processing of vote-by-mail envelopes and ballots. (2 CCR § 20873(a)). Specifically, the regulations state that "observers shall be allowed sufficiently close access to enable them to observe the vote-by-mail identification envelopes, the signatures and dates thereon, and the manner in which vote-by-mail ballots are handled." (2 CCR § 20873(c)). An observer also has the right to ask questions and receive answers during observation of an election process. (2 CCR § 20873(k)).

Facts and Issues in Recent Alameda County Voting

Alameda is the seventh-largest county in California and one of the more diverse, which is reflected in voting statistics. In the November 5, 2024, general election, the ROV reported 960,649 registered voters, with a total voter turnout of 683,069 (or 71.1%). Of that turnout, 87,078 people (12.75%) voted in-person and had their ballots counted on election night, and 595,991 (87.25%) voted by mail. Because of the numerous local, state, and federal candidates and races, and 35 local measures in different jurisdictions, there were 226 different ballot types, along with accompanying voter guides. Each were written in five different languages. Each ballot had multiple cards, based on the number of candidates and measures. Over three million ballots cards were scanned in Alameda County in the tabulation of the vote. This effort was completed by approximately 45 regular employees, along with 350 to 400 temporary election workers – a number that increased to 822 with the opening of the vote centers.

In addition to dealing with the logistics of an election, the ROV did an extensive job to reach potential voters in Alameda County. For the November 2024 election, it hired 25-30 outreach workers to go to various communities, such as schools, senior centers, and faith communities. The ROV reported that it had a total of 490 such outreach and education events. It ran a digital

and media campaign in various languages, with billboards and signs on buses and BART, as well as newspapers, radio, and television campaigns. Special programs were instituted, such as AC Vote on the Go for mobile voters, AC Engage for those voters who could not leave their home or hospital, and ROV visits to Santa Rita jail to assist inmates who were eligible to vote.

With the adoption of the Voter's Choice Act, there are a total of 120 vote centers spread throughout Alameda County. For the November 2024 general election, 20 vote centers opened 11 days before the election, with 100 opening four days before the election. In addition, there were 66 drop boxes for voters who chose not to return their ballots by mail. The ballots were collected regularly in the days leading up to the election (with the assistance of the county sheriff's deputies), with each box closed and sealed at 8 p.m. on election night.

Recent local changes have made the ROV's tasks even more complex. In the November 2024 election, the cities of Berkeley and Oakland instituted youth voting, used for the first time in Alameda County. It allowed 16 and 17-year-old students to vote in school board director elections. Of 1,494 pre-registered youth eligible to vote, 575 voted (331 in Berkeley and 224 in Oakland).



Alameda County Ballot Drop Box

An important development in local elections has been the use of ranked choice voting, where the voter is offered the chance to vote for multiple candidates for an office, listing a first choice, second choice, third choice, and so on. When the votes are tabulated, if no candidate gets a majority of the first-place votes, the candidate with the least number of first place votes is eliminated, and the second-choice votes are given to the remaining candidates. This process continues until one candidate gets a majority of the votes. The purpose is to avoid the expense and burden of a later runoff election. Four cities in Alameda County use ranked choice voting.

Along with the benefits of ranked choice voting come the problems that arise from its complexity. Most dramatically, in the 2022 November election, a mistake in the voting algorithm tabulating the results of an Oakland school board ranked choice voting race led to the announcement of an incorrect winner. In the November 2024 election, there was a higher number of “overvotes” in Oakland ranked choice voting races, where people erroneously voted

for multiple candidates as their first choice instead of ranking them – with their votes for that office invalidated. Such errors may stem from not understanding how to complete a ranked choice ballot properly. For the April 2025 special election in Oakland, the ROV switched to a grid ballot layout, with improved instructions and a greater education effort.

In 2012, the Alameda County Board of Supervisors combined the position of the county chief technology officer and the registrar of voters. Since that time, there have been calls to separate the positions, with some observers saying that the two positions are too much for one person to manage, and that the current registrar's work did not meet the standards of other counties. In addition, in 2023, the board of supervisors created an Elections Commission to oversee the work of the ROV. This commission meets monthly and has produced reports on such things as the cast vote record, the division of the registrar and technology duties, and a review of the November 2024 general election.

The 2021-2022 Grand Jury reported on the ROV, asking whether it followed the county's election procedures and processes, and whether voters could depend on the ROV to ensure that all votes were properly counted. The Grand Jury found that the ROV maintained the integrity of the county's elections in the face of historic challenges, and that all votes were properly counted.

In this report, the Grand Jury has investigated different, more specific issues. Did the ROV follow the election laws regarding allowing proper observation of the election processing and the vote tabulation? Did the L&A testing that the Grand Jury participated in show anything meaningful regarding the testing of the ballot counting machines? And were the election results released in a timely and helpful manner?

INVESTIGATION

It is important to note that, because of the controversial aspects of voting that have engaged the body politic of this county in recent years, the ROV has found itself scrutinized by not only the media and public, but also by the new elections commission. Numerous election issues have been raised and investigated, and the Grand Jury could have looked into any number of them. We decided that there was no need to investigate matters resolved, being acted upon by the ROV, or those matters fully investigated by the commission. Our work focused on what we personally experienced in observations of the process before, during, and after the November 5, 2024, election.

The Grand Jury interviewed officials from the ROV's office, a member of the Elections Commission, and a member of an independent civic group. We researched state election laws and regulations, as well as the manner in which other county registrars conduct their work. We participated in the L&A testing of the county's voting machines, both in person and online. Finally, we participated as observers in the November 2024 general election process, again both in person and online, spending hours at the ROV office and watching video feeds on

election night and other times, as well as observing the 1% manual tally process after the election.

Observations Before the Election

Logic & Accuracy, Public Testing, and ROV Tour

Members of the Grand Jury attended both in person and online the ROV's L&A public testing session on October 24, 2024. The purpose of this session was to test the scanning devices and the vote tally system, as required by Elections Code section 15000. Three members of the general public observed in person. To start the testing, the ROV prepared a "zero report" to show no recorded votes were in the system, which was reviewed and confirmed by the Grand Jury members. An ROV employee ran a large stack of pre-marked ballots through a vote counting machine to tally them and then ran the ranked choice elimination process. We did not review these ballots before or after the machine tally. The ROV tested only one ballot scanning machine. After the scanning was completed, the ROV provided the Grand Jury with summary reports to confirm what the machines showed against the pre-marked ballots. At the conclusion, the ROV announced: "The algorithm is correct."

The grand jurors attending also participated in testing the accuracy of the touch-screen ballot system. We marked individual simple-version paper ballots which were used to enter the votes on the touch-screen machines, and the ballots were entered by hand, not scanned. The ROV ran reports showing the votes entered and we confirmed our votes as the reports were read aloud. The reports were reviewed by grand jurors and retained by the ROV as per regulation. These tests did not include ranked-choice races.

The ROV did not allow observers to ask questions, but informally some were asked and answered.

Following the formal L&A test, a ROV staff member led grand jurors on a tour of the ROV operations facility. It was informative and provided confidence in the overall transparency and security of the election processes. We walked through the physical locations (some recently renovated to enhance public viewing) for ballot opening and sorting, signature verification, and vote counting. The ROV allows the public in-person and online video access to observe these processes throughout the election season. These procedures are described below.

For online participants there was an audio feed, so it was possible to follow along with the others present for the testing. Online viewers were not part of the tour of the ROV facilities.

The L&A testing appeared to be run as per regulation. The ROV leadership and staff seemed genuinely eager to present a smooth testing process. However, the highly controlled, limited presentation raised more questions than it answered. It was not known why a particular ballot

scanner was used and not one of the others, or more than one. Since the Grand Jury members could not review the pre-marked ballots, it was impossible to tell if they matched the scanner results. And, while the voting on the touch screens matched the results, it was not known why touch screens were used for the Grand Jury voting, rather than ballot scanners, which is how the vast majority of votes are counted.

Vote Center Observations

In late October and early November of 2024, several Grand Jury members visited vote centers in Alameda, Berkeley, San Leandro, and Oakland.

Vote centers were located in churches, libraries, schools, and non-profit organizational facilities. All locations were compliant with ADA accessibility and voting equipment, such as visually impaired large-font print materials, and headphones with audio instructions. Additionally, each vote center had support, printed election and voting materials, directional and instructive posted signage, manual and electronic touchscreen voting booths, and secure boxes for voters to deposit ballots completed offsite. Some online location and direction information was wrong, requiring onsite customized signage to assist voters.

All voting locations were well-staffed with engaged, helpful people, some of whom worked local elections for decades. In some vote centers, as the voter traffic allowed, staff led the grand jurors on tours and answered questions. In most locations, staff refrained from ever handling a completed ballot, but grand jurors witnessed staff handling ballots when vote centers were particularly busy or to assist a voter with challenges when needed.

Whether in a busy urban vote center or a quiet suburban location, grand jurors reported uniform regulation election facilities and materials, and staff readily providing support and assistance. However, we noted that some voters who brought in completed mail-in ballots had to wait in sometimes long lines to learn what to do with them, as there were no obvious drop-off boxes or posted instructions.

Mail-in Ballots, Drop Off Boxes

On election day, grand jurors made observational rounds of six drop boxes in the cities of Livermore and Alameda. The Livermore boxes were at Livermore City Hall, the Rincon Branch Library, and Summit Park. The Livermore City Hall location had ROV staff, with sheriff's deputies observing the collection of ballots. For this election, the ROV deputized Alameda County sheriffs' deputies to pick up ballots. There was steady voter traffic at all three Livermore locations. The Alameda locations were at the College of Alameda, Alameda City Hall, and the Bay Farm Island Library. The drop-off box at Alameda City Hall also had ROV staff present.

Observation of the Bay Farm Island Library drop box also was made at the time of poll closing on election day. At 8:00 p.m., the ROV staff locked the drop box. They then emptied the drop box and placed the ballots in a bag, which was locked and sealed. They placed a cover over the box, and the cover, too, was locked.

Online Observations Before, During, and After the Election

In the days before the election, on election day, and afterwards, the ROV made the observation of various aspects of the vote processing and tabulation available online. The public was able to sign up for notification of the various processes being made available; however, the notifications did not identify what those processes were, and it was necessary to link to the feed and try and figure out what was happening. The notifications also did not say when the process would start, just that it would occur that day. With the exception of the L&A testing, these feeds were without audio. Thus, aside from the sometimes-cryptic labeling of the feed, it was difficult for a member of the public to discern what was happening.

Automated Signature Recognition: When ballots arrive by mail, a machine captures an image of the signature on the back of the envelope for verification and sorts the envelopes by precinct. The machine also detects and pulls envelopes without signatures. The ROV provided a video feed of this process in the days before the election, and for several days afterward as ballots postmarked by election day continued to arrive.



Ballot Envelope Sorting Machine, October 28, 2024

Signature Verification: During this step, approximately 20 workers at computer terminals verify signatures on the scanned ballot envelopes, comparing them to the signatures on file. If a worker cannot verify a signature, the signature is reviewed by a team of two, followed by a supervisor. A ballot remake is necessitated by a damaged ballot. Marks may not be clear, but the ROV will look for evidence of voter intent.



Signature Verification, Adjudication, and Ballot Remake, October 28, 2024

Vote-by-Mail Processing: In the days before election day, a video feed showed a room with at least 20 desks at which workers emptied envelopes and stacked ballot cards, after voter signatures had been verified. This process continued for a couple of weeks after the election. Good ballot cards go into a green bin and get picked up for scanning; damaged or questioned ballots go into a red bin for review. At this point, the ballot gets separated from the envelope (which is kept face-down) and no longer can be traced to a particular voter.



Vote-by-Mail Processing, October 29, 2024

Ballot Scanning: A video showed a single view of a large room with desks and high-speed ballot scanners lined up on opposite walls. In-person election observers are kept off to the left behind the cordon. Ballots voted in-person on or before election day at vote centers were fed into machines, removed and put into white boxes to which labels were attached. Separately, if the ROV processes ballots received by mail on or before or on election day, it scans them in advance but does not tabulate them until after 8 p.m. on election night when the polls close, after which the ROV releases the results in stages as the scanning proceeds.



Ballot Scanning, November 5, 2024

Observations on Election Night

In-person Observation

On election night of November 5, 2024, the Grand Jury observed in-person voting tabulation at the county election offices in the basement of the Rene C. Davidson Courthouse located at 1225 Fallon Street in Oakland. Shortly before the 8 p.m. cut-off for access, members of the Grand Jury, along with other individuals (some representing citizen activist organizations) and journalists, checked in at the ROV office and received observer badges.

Observers waited over two hours to be ushered in with security to observe vote tabulation. During the wait, ROV staff periodically checked in with the observers to reassure them that they would be admitted “soon.” Some observers were frustrated with the delay and lack of meaningful information and briefing updates. They were curious about the activity occurring around them in the hallway where several large, shrouded carts and shelving units were ushered back and forth (sometimes with security), and just on the other side of the door to the vote tabulations room. Staff were friendly, but not overly forthcoming. Some observers left in

frustration. The ROV could have gained more confidence from observers if observers were allowed to see more of the process with more explanation from staff.

Immediately after voting closed at 8 p.m., the ROV started to tabulate the pre-election day mailed-in and drop-box ballots, which had already been collected, opened, and scanned in the days before the election. The initial results were publicly posted while the observers waited in the entry hallway. At one point during the wait, a ROV employee told waiting observers that ballots were arriving from vote centers, and that counting would start when they had enough ballots to begin counting. During this long wait, the ROV started releasing results. The ROV was expected to release results of processed vote-by-mail ballots after 8 p.m. The further updating raised questions about whether counting started without the observers, but the ROV gave no explanation.

After 10 p.m., the observers were escorted into the ballot scanning room and stood just inside a doorway roped off from the vote tabulators. ROV security staff made sure that the observers did not interact or communicate with ROV ballot counting staff. Observers were quiet and ROV staff were not distracted, but there was no opportunity to ask questions about the procedures. ROV staff told observers that they could not answer any questions.

There were over a dozen functioning counting machines, and a couple machines at the other end of the room not in operation. Each active machine was attended by two staff members. In the center of the room there were several shelving units full of boxes with ballots. Upon request, supervisors brought each tabulation team a box of ballots. As the teams of two were given a box, a green sticker was placed on it. When they completed a box, the team returned it to the supervisor who then placed a red sticker on the box.

The workers fed the ballot counting machines with large bunches of ballots. The tabulation machines occasionally jammed. With each jam a team of two would attempt to resolve the problem by clearing the jam, smoothing the ballot or ballots, and refeeding the ballot in the machine. If a given ballot or ballots continued to jam, a supervisor was summoned and the offending ballot(s) were taken to a yellow box on a separate shelving unit, presumably to be resolved later. If a jam occurred, the team deleted the tally for that batch and re-scanned the entire batch for accuracy.

Observers in the scanning room sensed they were not seeing all, and did not understand the vote counting process and procedures. For example, when the observers first entered the scanning room the work had already started. When did it start? Could observers have watched the initial ballots being brought into the room? What was the purpose of the color stickers on the boxes containing ballots? More explanation from the ROV would have been beneficial. To be clear, though, the ballot scanning apparently did not fully begin until the observers were in the observation area. Though workers were in place and ready to scan, they did not start until the observers entered and the supervisor allowed them to begin.

Overall, the vote counting observation was demonstrative, but not at all informative. At several junctures, it was frustratingly opaque as to processes and procedures. ROV staff were courteous and conscientious, but also cautious and seemed more concerned with security than explaining or answering questions.

Online Observation

The video feed of the election process on election night was similar to prior feeds: no audio and no other explanation of what was happening. There was a single camera view of a room with ballot counting machines, and in-person observers could occasionally be seen. During the over two-hour delay before ballot scanning started, on-line observers could only see a blank screen with no updates.

Election Results Posting and Updates

Between election day and the final reporting, the ROV issued a number of “Unofficial - Post Election Updates” of the vote canvassing. On election night, results were issued beginning at 8:15 p.m. There were four additional updates, the last at 1:01 a.m. the following day. Election results were updated on November 7, three days after the election, with further updates on November 11, 13, 15, and November 20.

Posts on the ROV’s website were comprehensive, covering the national, state, and local races and measures. There was a Registration & Turnout tabulation that stated that “570 of 570 Precincts Reported (100.00%),” giving the impression that all votes had been counted. However, this status appeared on all updates, even though it was clear that all of the votes had not been counted, as additional votes were added with each update. According to the ROV, this status simply means that at least one vote from each precinct has been counted.

Updates reported Election Day Reporting Turnout, Vote-by-Mail Reporting Turnout, and Total Ballots Cast, giving the totals with and without the youth votes cast in the Berkeley and Oakland school board elections. One could not tell how many votes had actually been counted. At the same time, the Secretary of State was posting the results from all 58 counties based upon information that office received from all county registrars, including Alameda County. The Secretary of State’s website provided information not posted on the Alameda County ROV website, such as:

- Cumulative total number of processed ballots.
- Total number of processed ballots from the last report.
- Vote-by-mail ballots received before and after election day.
- Estimated total ballots remaining.
- Ballots left to be cured.

There is no reason this information, reported by the Alameda County ROV to the Secretary of State, could not be posted on Alameda County's website as part of its updates. This information is important. Alameda County residents want to know, and they logically would look for it on the Alameda County ROV's website.

The ROV also should post updated vote counts more frequently. The slow vote count is largely a result of the significant increased vote-by-mail and delayed receipt of those ballots, which the ROV must validate and process after the election. However, releasing updates only every few days makes the process seem even slower and reduces public confidence. Even if an update is smaller, more frequent updates – or even daily updates – after an election would increase transparency and improve public confidence.

The ROV sent final results for the November 5, 2024, general election to the Secretary of State on December 3, 2024. Importantly, there have been no claims of miscalled races, no disputed outcomes, and no major problems with the work of the ROV.

Observations After Election Night

Delay in Producing Final Results

Many people are troubled by delays in producing final vote results. As of November 15, 10 days after the election, the Secretary of State reported that Alameda County still had an estimated 187,135 ballots remaining to count. Some of the delays were attributed to the fact that approximately 70% of votes were by mail, requiring a much longer time to process. State law requires any ballot to be counted if postmarked by election day and received up to seven days after the election.

Alameda County, in addition to being a large and populous county, has a substantial number of mail-in-ballots received on or after election day, straining a workforce that must be marshaled and trained for these occasional yet intense events. The Grand Jury learned from county officials that more space, personnel and equipment are needed, in order to speed up the process. The ROV has reached the limit of its current office space in the basement of the Rene C. Davidson Courthouse.

1% Manual Vote Tally Observation

After the election, the ROV is required to conduct an official canvass, verifying the accuracy of the automated count for each race in the county. Under Elections Code section 336.5, a 1% manual tally “is the public process of manually tallying votes in 1% of the precincts, selected at random by the elections official, and in one precinct for each race not included in the randomly selected precincts.” The regulations further provide that the election officials shall make sure the tally is observable by the public, and that officials shall provide observers with “an oral or

written explanation of the 1% manual tally, a written code of conduct for observation, and any documentation they will need for informed and effective observation.” (2 CCR § 20312).

The Grand Jury visited the ROV offices to observe the manual 1% vote count. Observers were escorted into an observation room where an ROV employee was present at all times. There was no explanation given for the process. Observers had their phones taken away – the same as with the ballot count observation. They could not ask questions of the attendant, who even claimed she could not tell when work was scheduled to break or end because of confidentiality. The ROV did not provide chairs for observers, even though the process was expected to last several full days.

From the room, observers could look through a window at workers in the counting room at numbered tables with three people each. There was no sound, and it was difficult to see what the workers were doing. Some observers tried using binoculars to see. The workers took some time organizing ballots. They seemed to have vote tally forms, and some appeared to be counting. Other people were going through ballots individually, making marks on paper; at other tables three people flipped pages and marked what appeared to be their own tally sheets. They did not appear to be working together. It was not possible to tell what they were counting. No results were announced or posted. Different tables appeared to be doing things differently, even though the process should be consistent.

After the tally started, a ROV employee brought in a large binder with tabbed Election Summary Reports, labeled either “EDAY” (for election day votes), or “VBM” (for vote-by-mail). Again, no explanation was given. These reports covered all election races and locations, but there was no order to them. Nor were the locations identified. Looking through the reports, it was possible to find out where the locations may have been, as they had votes concentrated in certain local races. The ROV would not give copies of the Summary Reports to the observers. Observers were also not given copies of the Manual Tally Plan, which the ROV must file with the Secretary of State.

It was not possible to tell how the manual tally count handled ranked choice voting. The locations in the tally included ranked choice voting races in Oakland and Berkeley. A manual tally in those races would help identify any algorithm error by confirming the machine count.

Online Observation of the 1% Vote Tally

The video showed a large room with tables, and people sitting at the tables. Every once in a while, a person would raise a hand, and someone would come over and they would appear to be talking. There was no audio, and no explanation of what they were doing.

Alameda County Elections Commission

In June 2023, the Alameda County Board of Supervisors established the Alameda County Elections Commission to oversee all levels of elections conducted by the ROV. The 13-member commission consists of five people appointed by the board of supervisors; four selected by outside organizations; one from a disability rights organization; one from a voting rights organization; one from the ACLU of Northern California; and four at-large members from impacted communities selected by the commission.

The commission had its first monthly meeting in December 2023, and since that time has looked into and produced reports on the ROV and on several issues that have arisen during county elections. The Grand Jury attended a number of these meetings and interviewed a member of the commission. We found that the commission was well run, took testimony both from the ROV and members of the public, formed subcommittees that did individual investigations and produced reports, and ultimately looked into a number of issues, including the following:

- *Cast Vote Record*. This record is the electronic file of the vote tabulation that is released to the public on and after election night. Controversies have arisen over the file type used, whether the files of smaller precincts might result in inadvertent release of private voter information, and when the ROV should release the record. These matters involve legal and policy decisions involving the Alameda County Board of Supervisors.
- *Design of the ballot* to avoid confusion and overvotes in the ranked choice voting. The Elections Commission has hired an expert to look into this matter.
- *Whether the ROV and IT position should be separate positions*, not combined as they are now. The two positions were merged in 2014, and subsequent issues with county elections have prompted some to ask for the two positions to be separate. This question is a policy decision for the Alameda County Board of Supervisors.
- *Ranked choice voting* and the number of candidates that voters can select. Some people have asked that voters be allowed to rank all candidates. However, the number allowed is a decision that the separate jurisdictions have, not the ROV.

CONCLUSION

Overall, the Grand Jury was impressed with how the Alameda County Registrar of Voters conducted the November 5, 2024, general election. With so many federal, state, and local elections, 226 different ballot types and accompanying voter guides, over 900,000 registered voters spread over a large area, and a vast quantity of mail-in ballots to tabulate, it was not a job for either the unwary or the unprepared. The ROV was up to the task.

It is important for people to have faith in the electoral process to be assured that their vote is counted and that elections are conducted fairly. This faith is essential to democracy in a world where some countries routinely conduct sham elections, and many, disappointed in outcomes, will make unsubstantiated claims of cheating and unfairness in the process.

For these and other reasons, the State of California enacted laws allowing the public to observe the election process and see how elections are run. The highly automated systems used are in large part a black box and not everything is visible to the ordinary voter. In this investigation, the Grand Jury saw a great deal of the inner workings of how the ROV ran an election, collected and counted ballots, and announced results. And, while the process appeared to run smoothly for the November 2024 election, the Grand Jury as observers were frustrated with several aspects. The L&A testing only checked one of over a dozen ballot scanners, and there was no way for observers to confirm the accuracy of the ballot scanning. Online observers had no audio or explanation of what was happening. In-person observers also were kept in the dark about many aspects of the process and were not allowed to ask questions of ROV employees. The posting of election results was delayed, incomplete, and at least with respect to the calling of precincts, misleading.

Transparency is essential. The Grand Jury makes a number of recommendations to improve the system and allow a clearer view of the election process and the posting of results in Alameda County.

FINDINGS

Finding 25-40:

The Logic and Accuracy Test of the Alameda County Registrar of Voters voting system tested only one of over a dozen ballot scanners used in the election.

Finding 25-41:

During Logic and Accuracy testing, sample ballots were pre-marked by the Registrar of Voters and observers were not permitted to examine the pre-marked ballots at any time to confirm they matched the count from the ballot scanner.

Finding 25-42:

Video observation (online) of the electoral process, including the ballot envelope sorting, signature verification, vote-by-mail processing, and ballot scanning, was without audio or any description to the viewer of what was happening in the video feed.

Finding 25-43:

During the in-person observation of ballot counting on election night, members of the public were required to be onsite by 8:00 p.m. but were not allowed entry into the Registrar of Voters counting room until after 10 p.m. During this time, ballots were being wheeled into the room while observers were kept waiting in a hallway outside, and online video feed was unavailable.

Finding 25-44:

Once admitted to view ballot counting in person on election night, observers were not allowed to ask any questions.

Finding 25-45:

Notices by the Registrar of Voters to the public of upcoming online observation video feeds of the election processes did not identify the start times or what the processes would be. The notice stated, “An election process will be conducted today. For ongoing updates, check the website where all election processes will be posted.”

Finding 25-46:

During the in-person observation of the 1% manual tally after the election, observers were given no explanation of the hand count process.

Finding 25-47:

During the in-person observation of the 1% manual tally after the election, observers were not allowed to ask questions concerning the process.

Finding 25-48:

In the updates of the vote counts starting on election night, it was stated that “570 of 570 Precincts Reported (100%),” giving the misleading impression that all ballots had been received or counted.

Finding 25-49:

While the Registrar of Voters was reporting live results to the Secretary of State (where the results were posted on the state’s website), not all of these same results were being posted on Alameda County’s local website. The Alameda County website did not include: the cumulative total number of processed ballots, total updated number of processed ballots, vote-by-mail ballots received before and after election day, estimated total ballots remaining, or ballots left to be cured.

Finding 25-50:

As reported by the Secretary of State’s website, Alameda County still had an estimated 187,135 ballots out of 683,644 total ballots cast remaining to be counted 10 days after the election.

Finding 25-51:

Alameda County's election results were updated on the website five times on election night but not updated daily after the election.

Finding 25-52:

Delays in the tabulation and reporting of election results by the Registrar of Voters are caused in part by insufficient facilities, lack of equipment, and low staffing during ballot processing and counting.

RECOMMENDATIONS

Recommendation 25-26:

For the Logic and Accuracy Testing, all ballot scanners should be available for testing, and future grand juries or other members of the public -- should they decide -- be able to randomly choose at least three of the available ballot scanners for testing.

Recommendation 25-27:

For the Logic and Accuracy test, public participants selected by the Alameda County Registrar of Voters should be allowed to submit pre-marked, pre-tabulated ballots for processing by the ballot scanners, and to be able to compare the pre-tabulated results with the results of the ballot scanners.

Recommendation 25-28:

When posting updates after the election, the Alameda County Registrar of Voters should clarify that "570 of 570 precincts reported (100.00%)" does not reflect that all ballots have yet been tabulated or received.

Recommendation 25-29:

When posting online updates after the election, the Alameda County Registrar of Voters should provide more detailed and updated information, such as: the cumulative total number of processed ballots, total number of processed ballots from the last report, vote-by-mail ballots received before and after election day, estimated total ballots remaining, and ballots left to be cured.

Recommendation 25-30:

When providing video feed of the Alameda County Registrar of Voters activities such as ballot envelope sorting, signature verification, vote-by-mail processing, and ballot scanning, the Registrar of Voters should post written explanations of what is being seen on the website where the video link is located.

Recommendation 25-31:

On election night, the Alameda County Registrar of Voters should ensure that the entire in-person and online ballot counting process be made available in a timelier manner after the polls close, with an explanation to observers as to any delays.

Recommendation 25-32:

During in-person observations, the Alameda County Registrar of Voters should provide a designated, trained employee to explain the observation process and answer questions.

Recommendation 25-33:

The Alameda County Registrar of Voters should update election results daily after election night.

Recommendation 25-34:

The Alameda County Registrar of Voters must identify the start times and the processes in its notifications to the public for observation.

Recommendation 25-35:

In order to ensure timely election results and reporting, the Alameda County Board of Supervisors must provide more resources to the Registrar of Voters, including larger facilities, additional equipment, and more staffing.

RESPONSES REQUIRED

Alameda County Registrar of Voters

Findings 25-40 through 25-52
Recommendations 25-26 through 25-35

Alameda County Board of Supervisors

Finding 25-52
Recommendation 25-35

RESPONSE REQUIREMENTS – CA PENAL CODE SECTION 933.05

Pursuant to California Penal Code section 933.05, the Grand Jury requests each entity or individual named to respond to the enumerated Findings and Recommendations within the specific statutory guidelines, no later than 90 days from the public release date of this report.

As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) 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 therefor.

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

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe 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 when applicable. This timeframe shall not exceed six months from the date of publication of the Grand Jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

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 a Grand Jury.

In California, the Grand Jury has 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 (or petit) 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 the *criminal* Grand Jury, which only hears 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 superior court judges 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 (from throughout the county), 19 members are randomly selected to serve.

Grand Jury Duties

The Alameda County Grand Jury is a constituent part of the Alameda County 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 60-90 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. The district attorney may appear before the Grand Jury at all times for the purpose of giving information or advice.

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 are encouraged to 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:

<https://grandjury.acgov.org/submit-complaint/>

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 an application found on the Grand Jury website. Based generally on supervisorial districts, 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: <https://grandjury.acgov.org/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 and computer skills; 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

Individuals 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 70 cents per mile) portal to portal, for personal vehicle usage.

Persons selected for the Grand Jury 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, city and county department heads, and others. The orientation and training, as well as the weekly Grand Jury meetings, currently follow a hybrid schedule with most meetings being held remotely via the Teams and Zoom platforms, and some meetings being held in person 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

RESPONSE REQUIREMENTS – CA PENAL CODE SECTION 933.05

Pursuant to California Penal Code section 933.05, the Grand Jury requests that each entity or individual listed in each report contained in this volume respond to the enumerated Findings and Recommendations within the specific statutory guidelines - no later than 90 days from the public release date of this report.

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- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

SEND ALL RESPONSES TO:

Presiding Judge Thomas Nixon
Alameda County Superior Court
1225 Fallon Street, Department One
Oakland, California 94612

A COPY MUST ALSO BE SENT TO:

Cassie Barner
c/o Alameda County Grand Jury
1401 Lakeside Drive, Suite 1104
Oakland, California 94612

All responses for the 2024-2025 Grand Jury Final Report must be submitted no later than 90 days after the public release of the report.