



**ALAMEDA COUNTY'S  
MENTAL HEALTH SYSTEM**

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**OAKLAND'S USE OF  
FORM 700**

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**ELECTION INTEGRITY  
IN ALAMEDA COUNTY**

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**PROBATE  
CONSERVATORSHIPS**

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**SANTA RITA JAIL**

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**CAMP SWEENEY  
INSPECTION**

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**FREMONT JAIL  
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**FIRE INSPECTIONS  
IN OAKLAND**

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**OAKLAND'S PLANNING &  
BUILDING DEPARTMENT**

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**STUDENT HOMELESSNESS**

**2021-2022  
Alameda County Grand Jury  
Final Report**

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 Photos on pgs. 7, 12 & 148 courtesy of grand jury staff.  
 All jail photos taken by the Grand Jury.*

## OAKLAND FAILS TO ENFORCE FINANCIAL DISCLOSURE RULES TO PROTECT THE PUBLIC

### EXECUTIVE SUMMARY

In 2014, the Oakland Public Ethics Commission (PEC) established a code of ethics to provide guidelines for the filing of Form 700, also known as a Statement of Economic Interests, as required by the California Fair Political Practices Commission (FPPC). A tool to provide transparency and accountability in government, [Form 700](#) enables the public to discover and monitor the personal finances of Oakland government officials, such as their investments, real property, income, loans, business positions, gifts, and travel payments. Form 700 information is a critical part of the vetting process by public partners or persons interested in a transaction with the city.

A person who is required to file a Form 700, called a designated filer, has a conflict of interest in a governmental decision if that decision could have a “material and foreseeable” financial impact on the designated filer’s financial interests. To avoid the risk of biased decision-making or the appearance of improprieties, public officials are prohibited from participating in decisions where they could personally benefit financially. A designated filer must file the Form 700 when assuming a decision-making position, annually while working in that position, and within 30 days of leaving that position.

The Form 700 is a monitoring tool and is only effective if the process of gathering financial information of decision-makers is centralized, publicized, and rigorously enforced. Local government benefits if the Form 700s either reveal or fail to reveal hidden financial conflicts of interest. A Form 700, signed under penalty of perjury, deters fraudulent behavior, since it can be used to prove fault if the required financial information is false or not provided.

Form 700s are essential to the work of Oakland’s PEC, whose mandate is to ensure compliance with the ethics laws that require reporting of personal financial information. The PEC serves as a quasi-judicial body that adjudicates enforcement matters. Failure to disclose an economic

*A tool to provide transparency and accountability in government, Form 700 enables the public to discover and monitor the personal finances of Oakland government officials, such as their investments, real property, income, loans, business positions, gifts, and travel payments.*

interest on a Form 700 is a serious violation of the ethics rules because it deprives both the public and the PEC of valuable information about public officials' financial conflicts of interests.

The Grand Jury investigated how the process of administering the Form 700s currently operates and how and why that process should be streamlined and enforced for the benefit of the city of Oakland and its residents.

## BACKGROUND

In the wake of the Watergate scandal, California passed broad sweeping ethics rules, including the Political Reform Act (the Act). The stated goal of the Act was to “put an end to corruption in politics.” Approved by more than 70% of California voters, the new state law required every elected official, employee, and consultant in decision-making positions to file an economic disclosure statement, known as a Form 700.

*To avoid the risk of biased decision-making or the appearance of improprieties, public officials are prohibited from participating in decisions where they could personally benefit financially.*

The law prohibits all decision-makers at any level of local government from participating in making or influencing a governmental decision in which the decision-maker has a financial interest. These decision-makers must disclose all assets and sources of income so that a governmental agency can monitor compliance with the ethics rules. The process of completing a Form 700 reminds public officials of potential financial conflicts of interest so they can abstain from making decisions. Because the completed Form 700s are available for public scrutiny, the resulting transparency can help monitor the decision-making of public officials.

To support the ethics rules, the Act mandated that all government agencies adopt a financial conflict of interest code. Oakland's Conflict of Interest Code incorporated the state's entire conflict of interest code and all amendments. Any violation of Oakland's Conflict of Interest Code is also a violation of the Act.

The Oakland Conflict of Interest Code lists positions of persons in city government who are required to disclose financial information and the categories of disclosure. The list of designated positions includes all agency positions involved in making decisions that could have a material effect on any financial interest of the decision-maker. The detailed disclosure categories describe the types of financial interest that officials in one or more job classifications must disclose.

According to Oakland's Conflict of Interest Code, the City Clerk office's Filing Officer has the duty to administer the Form 700 filing process. The Filing Officer must supply a Form 700 to designated persons who have assuming, annual, and leaving office filing obligations, and notify

filers who fail to file or who are required to amend. To determine who is required to file, the Filing Officer reviews and updates the list of designated positions and makes enforcement referrals to the FPPC. Filing officers are required to report apparent violations of the Act to the FPPC. An apparent violation exists if the Filing Officer knows or has reason to believe a Form 700 disclosure contains material inaccuracies or omissions, or when a filer fails to file all or part of a Form 700 after reasonable notice has been provided.

*Failure to disclose an economic interest on a Form 700 is a serious violation of the ethics rules.*

The following are examples of ethics violations highlighting deficiencies in the Form 700 process which prompted this investigation:

1. A complaint to the 2021-2022 Grand Jury reported a financial conflict of interest investigated by Oakland's PEC. In 2019, a consultant working in the city's Housing Development Department participated in decisions to grant loans of public funds to a development company operated by the consultant's father-in-law. The PEC's investigation into this conduct revealed several ethics violations including the failure to file a Form 700 disclosing the relationship. A broader review of the complaint by the PEC suggested a systemic failure of departmental management to monitor conflicts of interest.
2. In September 2021, the PEC took final action against an inspector in the city's Planning and Building Department. In 2019 the city employee in this investigation used his position to arrange "pay to play/quid pro quo" deals with property owners despite conflicts with his city position and without reporting these interests and income to the city on a Form 700. The PEC assessed a \$309,600 penalty for 47 violations of the Oakland Government Ethics Act.
3. The November 2020 Enforcement Order by the PEC described Form 700 violations in 2015 and 2016 of another city inspector in the Planning and Building Department who worked in tandem with the employee who was the subject of the September 2021 action referenced in number 2 above. This second city inspector failed to report income on a Form 700, in violation of Oakland's ethics laws. In January 2021, the PEC assessed a \$55,000 fine.
4. In 2021, the FPPC reported to the PEC that a former City Council member failed to file his 2019 and 2020 Annual Form 700s. The City Clerk's office did not report this ethical breach to the PEC.

## INVESTIGATION

The Grand Jury heard testimony from several city of Oakland officials, department heads, and the PEC. The Grand Jury reviewed extensive documents regarding the Form 700 process. The investigation involved substantial research and surveys of relevant state and city ethics rules. The Grand Jury used these sources of information to develop facts, findings, and recommendations.

### Public Ethics Commission

The Oakland PEC is an independent commission charged with ensuring fairness, openness, honesty, and integrity in city government. The PEC's objective is to ensure that public officials and government decision-making processes operate fairly and in an unbiased manner, to support transparency in Oakland government, and to promote public trust.

The PEC has primary responsibility and power to investigate and enforce violations under the Act. Local law requires that the PEC oversee compliance with the Form 700 filing requirement and enforce the law as it relates to the content reported on the Form as well as conduct related

*The City Clerk's office has responsibility for the Form 700 Filing Officer function while the PEC has responsibility for the Form 700 enforcement and training responsibilities. The Grand Jury learned that the City Clerk's office and the PEC rarely collaborate.*

to any conflicts of interest. The PEC may order administrative fines, non-payment of which is a debt to the city. Oakland may file a civil action or pursue any other legal remedy to collect these debts, including costs and attorney's fees. The PEC urges designated filers to comply with ethics rules to "avoid potential criminal, civil or administrative penalties (fines and jail time)."

The PEC conducts investigations, holds public hearings, issues subpoenas, and imposes fines and penalties. The Commission also educates, advises, and issues formal opinions to increase public awareness of the city's ethics laws. And it investigates allegations of ethics violation in city government and enforces the ethics laws through administrative prosecution or civil litigation.

The separation of Form 700 responsibilities between the City Clerk's office filing duties and the PEC enforcement and training duties makes the PEC compliance responsibility more challenging. The City Clerk's office has responsibility for the Form 700 Filing Officer function while the PEC has responsibility for the Form 700 enforcement and training responsibilities.

The Grand Jury learned that the City Clerk's office and the PEC rarely collaborate. The City Clerk's office was unaware that the PEC has statutory responsibility for enforcement of the Form 700 filings. In fact, the City Clerk's office wrote to the PEC asking it to cease advising designated-

filers about Form 700 filing, alleging that the PEC was “confusing” communications from the City Clerk’s office.

The Filing Officer in the City Clerk’s office does not refer late or non-filing persons to the PEC and, in violation of the law, has not referred those persons to the FPPC since 2016. Consequently, the PEC typically identifies Form 700 ethics violations as part of a broader investigation of other allegations of ethics violations by city officials, employees, or contractors hired by the city. Because the Filing Officer does not refer non-filers to the FPPC or the PEC, Oakland does not have a means of fully enforcing its Conflict of Interest Code.

In addition to the absence of collaboration, there is a lack of timely or prompt responses by the City Clerk’s office. The PEC has encountered delays of weeks and, in some cases, months by the City Clerk’s office in response to PEC requests for Form 700s from the City Clerk’s office for investigative or compliance checking purposes.

The PEC offers annual ethics training for the city managers, new employees, and consultants. PEC staff provided training in 2021 to 781 participants, including elected officials and their staff, and new employees. Last year 129 persons attended trainings for Form 700 filers through the city’s online learning management system and four live trainings conducted by the PEC staff via Zoom. City staff supervisors (100 in total) received additional ethics training. The PEC has a YouTube channel with ethics training, including Form 700 and conflicts of interest.

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A Filing Officer has the responsibility to collect, review, and provide public access to ethics-related data. Since 2016, the PEC has had responsibility for the Filing Officer function for campaign finance. In 2018, the PEC also assumed responsibility for the lobbyist Filing Officer function. However, responsibility for the Form 700 Filing Officer function remains with the City Clerk’s office. The PEC has requested that the City Clerk’s office transfer the Form 700 filing function to the PEC and has sought such a transfer in its budget application, to no avail. Such a shift would allow the PEC to fully implement its mission to ensure compliance with Form 700 filing requirements. As the PEC stated in its recently published 2021 Annual Report, the Form 700 filings “are of high interest to the PEC in ensuring compliance with ethics laws that require reporting of personal financial information.”

The PEC has six full-time staffers. The fiscal year (FY) 2020-2021 approved PEC budget included a one-time augmentation of \$100,000 for election-related services in lieu of the additional two positions requested for investigations and policy functions. The PEC was able to hire a temporary

part-time investigator for seven months. However, the PEC was not able to hire a full-time investigator after the City Administrator announced in December 2021 a \$62 million shortfall as well as a hiring freezes on vacant positions and a moratorium on temporary employees among other budgetary constraints. The PEC FY 2021-2022 budget of \$1,411,407 included one additional full-time administrative support person for the PEC starting in July 2022.

City and county departments have used grant funding to provide resources for critical staffing needs. The Oakland Fire Department, the County Public Defender, and Legal Services for Seniors, a contractor providing probate conservatorship representation, are examples. This method of funding may be a viable funding source available to the agency providing Form 700 services in Oakland. This possibility would require funding of a grant writer position.

*Oakland's City Charter requires that the City Council appropriately fund the PEC to fulfill its functions and duties. PEC staffing, established by the 2014 Charter amendment, was based on 2013 case levels.*

Oakland's City Charter requires that the City Council appropriately fund the PEC to fulfill its functions and duties. PEC staffing, established by the 2014 Charter amendment, was based on 2013 case levels. Over the years, the number of public calls to the PEC for advice and assistance regarding ethics, including financial conflicts of interest, has increased dramatically, requiring more staff resources to meet the demand for assistance. Public calls to the PEC for assistance quadrupled from 96 calls in 2016 to 460 calls in 2020. The PEC had a caseload of 74 open cases of alleged ethics violations by the end of 2020, initiated 60 new complaints, and 38 investigations into ethics violations by city officials,

employees, and contractors. In spite of the pandemic and the staff working at home, in 2021 the PEC responded to 260 requests for assistance, almost half of which concerned conflicts of interest rules. By year end 2021, the PEC had 44 open investigations.

## **City Clerk**

The Oakland City Clerk's office manages the City Council's agenda materials, and oversees the city's elections, political filings, administration of records, management services, and the Form 700 process. The City Clerk's office maintains records for five separate departments, each of which has grown in the past seven years.

The City Clerk's office is chronically understaffed. Based on current staffing, the City Clerk's office is not able to fulfill the duties regarding Form 700. One person performs the Form 700 Filing Officer duties on a part-time basis, 35-50% of work hours, depending on whether a time-consuming election conducted by the City Clerk's office is occurring at the same time as Form 700 filings are due. Occasionally the City Clerk, who assumed that position in March 2021 and



who manages four other areas of record-keeping while supervising 10 employees, assists the Filing Officer with Form 700 duties.

For the past three years, the Assistant City Clerk position has been filled by inexperienced persons for short periods, but the position has been largely unfilled since 2017. The city's list of candidates for the Assistant City Clerk position is three years old and stale because most persons on that list are no longer interested or available for the job. The City Clerk's office has encountered a delay in getting a replacement list of candidates from the city's Human Resources department. A hiring freeze was announced in Oakland government late last year. The City Clerk office's budget for FY 2021-2022 is \$378,828 and for FY 2022-23 is \$334,847. The two proposed hires for FY 2022-2023 are an Administrative Analyst to respond to increased demands for public records information and a Management Assistant to fill the sole fiscal position in the office. The federal relief funds used to cushion the impact of reduced city funds during the pandemic is due to expire next year. The City Clerk's office is also funded by \$260,000 in miscellaneous grants.

*The City Clerk's office is chronically understaffed. Based on current staffing the City Clerk's office is not able to fulfill the duties regarding Form 700.*

The chronic short staffing means the one part-time person performing City Clerk office's Form 700 duties has been stretched thin. Because the City Clerk's office has been short-staffed for years, the present Filing Officer has significant responsibilities other than those related to Form 700. These additional duties include the responsibilities of the acting management assistant, assistance with elections, residency verification, sole responsibility for the front desk, domestic partnerships, payroll, passports, accounts receivable, mail, answering emails, recruitment duties, and preparing intake/separation paperwork regarding the City Clerk's office for the city.

The City Clerk's office is responsible for ensuring that the NetFile account, which serves as the automatic filing system for Form 700 and for the campaign filing system in Oakland, is paid on time. Payments of the Netfile account by the City Clerk's office was two quarters in arrears as of July 2017, a quarter in arrears as of December 2018 and again as of February 2019, two quarters in arrears as of January 2020, two quarters in arrears as of July 2021, and three quarters in arrears as of November 2021. NetFile recently proposed billing annually to limit the time "chasing payments."

The City Clerk office's training to city employees regarding Form 700 consists of a brief statement at annual trainings conducted by the city's payroll/employee relations units identifying designated filer's obligations and suggests filers contact the City Clerk with questions. This limited training does not reach the persons required to participate in the Form 700 process.

## Form 700 Process

Most persons required to file a Form 700 do so electronically using NetFile. Other filers, primarily but not exclusively seniors and disabled persons, do so by mail or in person at the City Clerk's office. The City Clerk Filing Officer receives the original Form 700s from designated filers who do not file electronically.

For in-person filings, the City Clerk's Filing Officer reviews the Form 700s to ensure that they are complete and then sorts the forms into piles for notices regarding follow-up amendments if the forms are incomplete or for scanning into the city's system, which requires additional handling.

*Since 2016, the City Clerk Filing Officer has not reported annually to the FPPC apparent violations of the law including material inaccuracies or omissions, or failure to file the Form 700 after receiving delinquency notices from the Filing Officer.*

The FPPC requires that the City Clerk Filing Officer review 20% of all on-time statements filed, half of which are selected on a random basis. The limited review is to determine whether the summary page is complete, the required schedules are attached, and the information is legible. The forms are not reviewed for accuracy of the information provided by the filer. In addition, the FPPC requires that the City Clerk Filing Officer review all the late-filed Form 700s to confirm the Form 700 summary page is accurate and complete, that all applicable schedules are attached and include all required descriptive information for each financial interest. However, the Grand Jury has learned that the City Clerk Filing Officer does not review all the late-filed Form 700s. Since 2016, the City Clerk Filing Officer has not reported annually to the FPPC apparent violations of the law including material inaccuracies or omissions, or failure to file the Form 700 after receiving delinquency notices from the Filing Officer.

The Conflict of Interest Code and the Form 700 are fundamental tools in ensuring that officials act in the public's best interest and not their own. It is critical that the Conflict of Interest Code reflects the current structure of each agency and that the city of Oakland correctly identifies all officials and employees who should file a Form 700. According to the FPPC, "it is essential and legally required that an agency's conflict of interest code remain current and accurate...Each agency must review its Conflict of Interest Code at least every other year." According to FPPC rules, Oakland is required to review its Conflict of Interest Code at least every even-numbered year.

With regard to the mandated review of Oakland's Conflict of Interest Code, the FPPC requires that the city review whether there have been any substantial changes in an organizational structure, whether positions have been eliminated or renamed since the current Conflict of Interest Code was adopted, whether any new positions have been added, and whether there have

been any substantial changes in duties or responsibilities for any position. Any affirmative findings by a city review may mean that the Conflict of Interest Code would need to be amended.

The City Clerk's office did not produce to the Grand Jury any documents regarding its Conflict of Interest Code for the past four years. The Filing Officer does not maintain the documents necessary to conduct the review stated in the preceding paragraph. Notices to file the Form 700 could not be sent to an updated list of persons and designated positions added or removed since the last completed review of the Conflict of Interest Code. If no updated Conflict of Interest Code exists, the list of positions will be incomplete; as such it could exclude filings of decision-makers who make financial decisions throughout the city as well as include persons who are no longer designated filers.

Once the City Clerk's office completes its review of the Conflict of Interest Code and it is approved by the City Administrator, the Filing Officer must communicate with all agencies to confirm which employees and contractors are currently in designated positions. The Filing Officer then gives notice of filing dates for Form 700s to all designated filers. The notice includes information about the filer's disclosure categories along with the form or link to a website to complete the form. To satisfy this duty, the Filing Officer must have an accurate list of employees' and consultants' job status and current and accurate contact information for all designated filers. The primary method of issuing notice to filers by the Filing Officer is automatic emails to persons already registered with NetFile. For persons who are not already registered with NetFile or who have a status change that requires them to file a Form 700, the City Clerk's office is required to send a letter or make a phone call to them.

*Accurate and timely city records regarding Form 700s are a key part of ensuring that the public has a useful tool for monitoring government and saving funds from misappropriation.*

The FPPC requires that the Form 700 Filing Officer use a Form 804 and Form 805 to track changes in positions of designated filers and disclosure requirements in the Conflict of Interest Code. City departments are required to send Forms 804 and 805 to the Form 700 Filing Officer. The Form 804 includes all of the information for a new Form 700 designated employee position and the Form 805 records information from consultants who are designated filers. The Filing Officer is required to keep these forms for tracking purposes and for use in reviewing filers for the Conflict of Interest list of designated positions and disclosures.

The regulations require that when a person is hired for a position not yet covered under a current Conflict of Interest Code, the person file a Form 700 if the person serves in a position that makes or participates in making governmental decisions, using the broadest disclosure category until the Conflict of Interest Code is amended to include this position.

With few exceptions, the Filing Officer did not receive these forms from city departments and did not enforce the requirements for these forms. This gap in the information flow directly impacts the process of amending Oakland's Conflict of Interest Code listing of designated filer positions and disclosure requirements for these positions. The City Clerk's Filing Officer is required to review and consider the information on Forms 804 and 805 when the Filing Officer is reviewing Conflict of Interest Code designations for possible amendments of the Conflict of Interest Code. Without these forms, the Filing Officer cannot review the information on them that is required as part of the state-mandated process of updating and amending the Conflict of Interest Code. Keeping current and accurate records of who is required to file a Form 700 is critical for the public to trust that decisions are not made by persons who financially benefit from those decisions.

While NetFile records who has filed a Form 700 electronically, it does not have a record of who should file. The City Clerk's office acknowledges it cannot determine which persons file late and which are non-filers. Since 2016, the Filing Officer has not referred non-filers to the FPPC as required by law because the Filing Officer is unable to determine the number of non-filers each year. If the Filing Officer had this required information, followed up with the city departments to confirm changes, and referred persons who failed to file a Form 700 to the FPPC, the city would move toward compliance with its statutory duties.

Oakland has a duty to ensure that Form 700 statements are complete, to send requests to designated filers for amendments, to assess or waive late fees, and to refer non-filers to the FPPC. Accurate and timely city records regarding Form 700s are a key part of ensuring that the public has a useful tool for monitoring government and saving funds from misappropriation.

The City Clerk's Filing Officer is required to keep originals of Form 700 statements for seven years, maintain a tracking log, and make the forms available on request. Instead, the Filing Officer uses a spreadsheet to keep track of Form 700s. The spreadsheet cannot be compared with the original Form 700 statements to ensure accuracy.

For Form 700 filers who use NetFile, the Filing Officer is responsible for keeping all filer information current, including information about assuming and leaving office and when Form 700s are due. The Filing Officer must receive from city departments changes in the employment status of mandated designated filers shortly after the change happens because these persons must file a Form 700 within 30 days of a status change. Information about departing, promoted, or new employees is required for the Filing Officer to trigger notices to all designated filers. However, the Filing Officer frequently receives this information from city departments after the Form 700 filing deadline has passed.

Oakland Code of Regulations section 18115 states that city departments are required:

- to send completed Form 700s to the Filing Officer within prescribed times and keep a copy of those statements;

- notify the Filing Officer of a vacancy in an office and any other event affecting filing obligations;
- notify the Filing Officer of the names and positions of every person whose statements must be forwarded to the Filing Officer; and
- maintain a current list of all statements forwarded to the Filing Officer.

This law is not enforced. In the current Form 700 system in Oakland, the Filing Officer must conduct considerable follow-up attempts to try to obtain this information from individual city departments, with limited success.

This system, which was intended to ensure complete information for the City Clerk's Filing Officer, must be enforced to be effective. City departments do not routinely comply with their responsibilities to provide the essential information on at least a monthly basis. The Filing Officer struggles with intermittent information from departments that an official, employee, or consultant has been hired or has left a position, only receiving infrequent information by telephone, email, or written notices from persons in the agencies. City departments also frequently provide the Filing Officer some information well past the Form 700 filing date. If the Filing Officer does not learn of a change in status as soon as the person is hired or leaves a designated filer position, the Filing Officer does not have current information for sending the required filing notices. If a designated filer leaves a city position and the filer's city email is no longer available for communication, the Filing Officer must locate the departed person by other time-consuming methods. This results in late notices, late filing, and extended follow-up.

There is no enforcement of the requirement that agencies notify the Filing Officer of personnel changes. There is no automated notification to the Filing Officer from agencies regarding either change of required filing status or hiring or separation of designated persons. Different departments may not have a designated person responsible for sending the required information to the Filing Officer, the designated person may fail to send timely information to the Filing Officer, or the designated person may leave the department and is not replaced in a timely manner. The Filing Officer occasionally solicits the information from some departments. If the information provided is incorrect or incomplete, the process begins again.

The Grand Jury learned that Oakland uses a shared electronic Human Resources platform and that upon hiring or promotion, Human Resources maintains a checklist of forms and activities that must be completed by the new employee. The city does not take advantage of this shared Human Resource platform or the new employee checklist to assist with the reporting of Form 700 related information to the Filing Officer.

The Filing Officer does not maintain a database of who is required to file by title or position. The Filing Officer does not know whether a person is still an employee but is no longer in a required filer position. Because the Filing Officer does not routinely receive notices of promotion or demotion, the Filing Officer does not know how to contact those persons after discovering the

status change. When a position goes from a filer to non-filer status, the Filing Officer must pull the person's account out of the NetFile system and deactivate it. The NeFile information may be incorrect due to human error or lack of communication. Netfile does not provide information of e-files on its system to the Filing Officer; the Filing Officer must log onto NetFile and do a search to discover the information. NetFile tracks reminders it sends to filers; it does not track communications the Filing Officer makes to filers.

The Payroll Department periodically sends the Filing Officer a list of new hires and terminations (but not promotions or demotions) and the Filing Officer has to manually review the list to determine the designated filers. The new Employee Orientation Department sends a list of Form 700 filers to the City Clerk's Office, but the list is not always timely or complete.

With regard to supervision of the Form 700 process, prior to June 2021 the Filing Officer had not provided the City Clerk with periodic information regarding non-filers so that the City Clerk could share this information with the City Administrator supervising the City Clerk department.

## CONCLUSION

All of the designated filers are persons in positions of power with respect to governmental decisions in Oakland. Supporting the Form 700 process by accurately reporting financial facts regarding designated filers helps protect the public from self-serving financial decisions by public officials, creates trust, and provides a factual basis for recovering misappropriated funds.

## FINDINGS

### Finding 9:

The Oakland City Clerk's office is not meeting the minimum requirements of the Filing Officer under the Political Reform Act. The issues of non-compliance with the rules regarding Form 700s are long-standing and structural, resulting from inadequate funding, an inefficient system of communication of critical information to the Filing Officer, and limited staffing.

### Finding 10:

A transfer of the Form 700 filing duties from the Oakland City Clerk's office to the Public Ethics Commission would require hiring an additional employee; an amendment of the City Ethics Act to identify the Public Ethics Commission as the Filing Officer for Form 700s; and the transfer of the function and payment of the City's contract with the online filing provider, NetFile, from the City Clerk's office to the Public Ethics Commission.

### Finding 11:

Grant funding has been used to fund staffing to support critical services in the City of Oakland.

*Finding 12:*

The city of Oakland's shared electronic Human Resources platform is not used in the Form 700 process but could be customized to assist in the sharing of information between departments.

*Finding 13:*

The city of Oakland's new employee checklist does not include Form 700 filing requirements to the employee.

*Finding 14:*

The Grand Jury commends the hard work of those individuals within the Oakland City Clerk's office who are responsible for the Form 700 process. The problems with the Form 700 process are the result of structural limitations, limited staffing, and inadequate interdepartmental communication.

## **RECOMMENDATIONS**

*Recommendation 15:*

The city of Oakland should transfer the Form 700 Filing Officer responsibility to the Public Ethics Commission.

*Recommendation 16:*

The city of Oakland should hire an experienced grant writer with knowledge of state and local funding streams to secure funding for Form 700 services.

*Recommendation 17:*

On its shared electronic Human Resources platform, the city of Oakland should add a field to the employee information section that indicates whether the employee is a required Form 700 filer and require that the field be updated upon hiring, promotion, demotion, or separation.

*Recommendation 18:*

The City of Oakland should ensure that the Filing Officer is able to access a current list of Form 700 designated employees through the shared electronic Human Resources platform.

*Recommendation 19:*

The City of Oakland should add the notification of Form 700 status on the new employee checklist.

## **REQUEST FOR RESPONSES**

Pursuant to California Penal Code sections 933 and 933.05, the Grand Jury requests each entity or individual named below to respond to the enumerated Findings and Recommendations within specific statutory guidelines, no later than 90 days from the public release date of this report.

### **Responses to Findings shall be either:**

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

### **Responses to Recommendations shall be one of the following:**

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

## **RESPONSES REQUIRED**

Mayor, City of Oakland	Findings 10 through 14 Recommendations 15 through 19
Oakland City Council	Finding 10 Recommendation 15
City Clerk, City of Oakland	Findings 9, 10, 12, 13 & 14 Recommendations 15, 17, 18 & 19
Public Ethics Commission	Finding 10 Recommendation 15



## LACK OF FIRE INSPECTIONS IN OAKLAND CREATES UNNECESSARY RISKS

### EXECUTIVE SUMMARY

Uncontrolled fires can be devastating for communities, the environment, buildings, and homes; not only to the structures they destroy but also to the mental and physical well-being of people. Most of us take common-sense actions every day to minimize and prevent fires: we turn off the stove, do not leave candles burning unattended, or store flammable liquids in hot places. Just as individuals can take action to minimize fire risk, California requires owners of apartment buildings, high-rise dwellings, schools, and meeting places to meet fire safety codes, laws, and regulations. Local fire departments are mandated to inspect these spaces, yet the city of Oakland has not met its requirement. The Oakland Fire Department (OFD) and the city's leaders bear responsibility for unsafe environments for citizens by failing to complete state-mandated fire inspections. The lack of completed fire inspections is the focus of this report.

Since 2018, California Health and Safety Code sections 13146.2 and 13146.3 require every fire department in the state to annually inspect all buildings used as a public or private school, a hotel or motel, a lodging house, or an apartment house. Oakland has suffered a continuously low rate of completing these inspections. Data shows that the Fire Prevention Bureau (FPB) of the OFD inspected, on average over the last six years, only 25% of the buildings requiring state-mandated fire safety inspections.

The Health and Safety Code requires every fire department to annually report to its administering authority (in this case, Oakland's mayor and city council) its compliance with the annual inspection requirement. The code also requires the mayor and city council to formally acknowledge receipt of the fire department's compliance report. This part of the code helps to hold policy makers accountable for progress on fire prevention resources and funding.

State-mandated inspections are vital to the safety of the Oakland community and should be a high priority for every resident. The barriers and hurdles to completing state-mandated inspections must be removed and fire prevention and life safety should become a priority for all.

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## BACKGROUND

In the recent past, Oakland has suffered deadly fires resulting in demands for improved fire inspections. There have been incidents where people were unable to safely exit a building, where fire sprinkler systems did not work, where smoke alarms were not present, or where fire extinguishers were not readily available or in working order. These dangers exist for any inhabited structure but are more dangerous in densely populated buildings such as schools, assembly halls, high-rise buildings, hotels, and apartment buildings.

In November 2017, Oakland’s mayor and then-city administrator announced changes to OFD’s FPB, including hiring six additional fire inspectors. Following the mayor’s executive order, a Fire Safety Task Force was formed with four subcommittees:

1. data,
2. fire budget and staffing,
3. inspection and displacement protocols, and
4. zoning and building changes.

This task force was charged with improving safety.

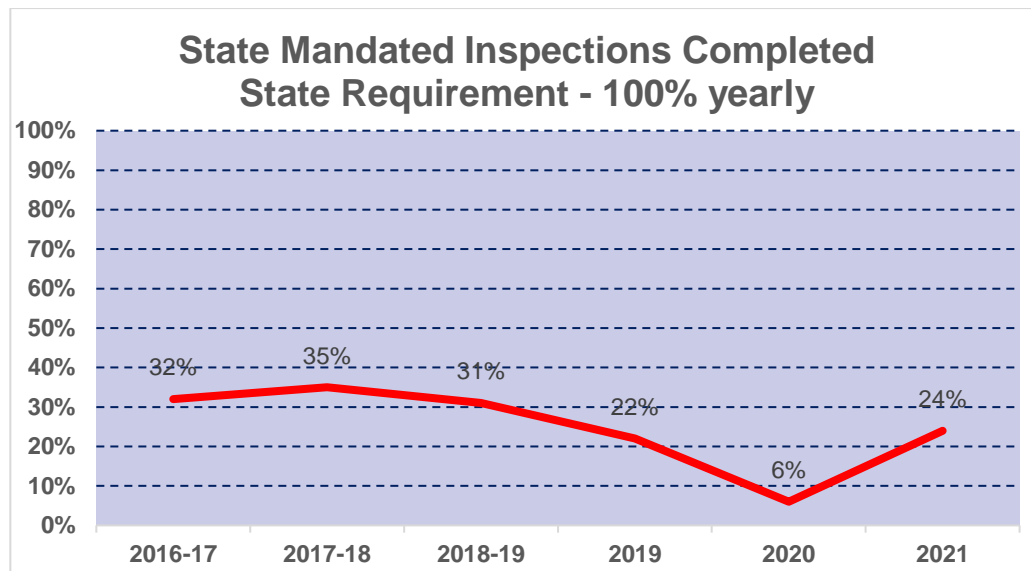
Three years later, in 2020, Oakland’s city auditor issued a report entitled, “Performance Audit of Oakland Fire Department’s Fire Prevention Bureau.” The report found that the FPB is not meeting its state-mandated inspection requirements. Thirty recommendations were issued to improve the performance of the FPB. The report noted, “After three years, a great deal of work remains for the city to accomplish the reforms outlined by the Mayor’s Task Force following the Ghost Ship Fire.”

*The FPB is solely responsible for conducting state-mandated inspections and as of March 2022, had six fire inspectors and one supervisor dedicated to this work.*

OFD has over 530 employees organized into six major divisions. The current fire chief has held this leadership position only since April 2021. Most of Oakland’s fire department personnel and resources reside in the fire-suppression divisions of the Field Operations Bureau and Support Services. These divisions include firefighters, emergency medical services, firefighting equipment, and communications.

The FPB is much smaller than the fire-suppression divisions. Fire protection engineers and fire code inspectors are assigned to this division. The FPB is responsible for fire safety education, inspection of high hazard occupancies, fire code enforcement, and vegetation management. The FPB is solely responsible for conducting state-mandated inspections and as of March 2022, had six fire inspectors and one supervisor dedicated to this work. There is currently an acting fire marshal who has led the division since January 2022. A national search is underway for a permanent fire marshal.

Fire inspections fall into several different categories. There are specialized inspections for flammable vegetation (such as in the East Bay hills), the cannabis industry, and buildings with hazardous materials. The Grand Jury focused on state-mandated inspections, which include mixed occupancy buildings, high-rises, multi-unit residential buildings, as well as assembly, educational, and institutional buildings. The FPB completed a high of 35% of state-mandated inspections in 2017-2018, to a low of 6% in 2020. Based on current data from January to March of 2022, the inspection rate, annualized, is still only 50%. The Grand Jury learned the current fire chief is aware of this issue and has improved performance in the first quarter of 2022, with a goal of meeting the state-mandated inspection requirements with 100% compliance by the end of 2022.



Historical State-Mandated Oakland Fire Inspection Data  
by year and building type

Facility Type	Number to be Inspected+	2016-2017+	2017-2018+	2018-2019+	2019*	2020*	2021*	6-year Average
Assembly	1,202	120	149	173	178	71	142	
Educational	283	26	119	107	94	32	147	
Institutional	85	16	15	22	27	7	8	
Multi-Unit Residential	2,505	1,148	1,167	941	679	105	669	
High-Rise	121	31	34	39	32	56	107	
<b>Total Inspected</b>		1,341	1,484	1,282	1,010	271	1,073	
<b>Total Buildings</b>	4,196	4,196	4,196	4,196	4,559	4,559	4,559	
<b>Percentage</b>		32%	35%	31%	22%	6%	24%	25%

+ Data received from the Oakland Fire Department. The Performance Audit by the Oakland City Auditor published inspection data that reflected a lower rate of inspections. (September 30, 2020).

\* Data received from the Oakland Fire Department February 23, 2022.

## INVESTIGATION

The Grand Jury determined that to reach 100% compliance for state-mandated inspections, the following are needed:

- **Accurate Inventory**: Complete inventory of the buildings to be inspected—where are they, what are they used for, and who owns them. For example, the OFD’s inventory listed the Ghost Ship building as a nonresidential warehouse and therefore not requiring a state-mandated inspection.
- **Trained Inspectors**: Inspectors must be cross-trained in multiple inspection categories to maximize their efficiency. For example, high-rise buildings have different requirements than schools because fire codes differ depending on building use. The fire code manual also spans over 500 pages, and the job of fire inspector requires interpersonal skills and subject-matter expertise necessary to educate and work with building owners who are not always happy to be inspected or initially able to invest in fire safety.
- **Staffing**: Oakland needs a sufficient number of inspectors, supervisors, and resources to inspect the over 4,000 buildings requiring annual inspections. The Grand Jury was informed that at least 11 fire inspectors are needed to fully staff the FPB. The FPB currently has a number of staff on leave and has not been fully staffed for several years. The Grand Jury has learned that the FPB is in the process of onboarding six additional fire inspectors.
- **Standardized Procedures and Processes**: The inspection process must be standardized to track inspections, efficiently record needed corrective action, and take advantage of available automation. Expectations for inspector workload and productivity should also be established and monitored.

*The 2020 Performance Audit noted that OFD does not have a complete inventory of buildings requiring fire inspections in Oakland.*

- **Enforcement Coordination**: There must be consequences for building owners who do not comply with fire safety regulations. For example, a building owner stalled installation of a required fire alarm system for four years by ignoring re-inspection notices of noncompliance without repercussion.

### **City-wide Building Inventory**

The 2020 Performance Audit noted that OFD does not have a complete inventory of buildings requiring fire inspections in Oakland. This is consistent with the message the Grand Jury received while interviewing witnesses. Such an inventory needs to be a current block-by-block, address-by-address, picture of the city that includes changes in use, new construction, and demolitions. The lack of an accurate

database of buildings impacts the ability to complete inspections because there is no way to gauge which buildings require inspections. For example, the Grand Jury learned it is not unusual for a building to be a church one year, and changed to a multifamily home the next, or become vacant entirely. These changes in use subsequently change the fire inspection requirements.

The data on completed state-mandated inspections per year compiled by OFD reflects the known number of facilities requiring inspections. The actual compliance rate cannot be known until there exists a reliable inventory of buildings. If an improved inventory existed, it would identify more buildings needing inspection, and consequently the actual inspection rates would be lower than currently published.

Historically, there appears to be too little interdepartmental coordination between OFD and other city agencies necessary to create and maintain an accurate building inventory. When buildings change use through the permit process, tax assessment, or building/planning changes, OFD must be notified of the change in building status. Implementation and use of a city-wide database has been sluggish and incomplete.

Accela is the cloud-based software solution that Oakland has adopted to accomplish both interdepartmental coordination, the creation and updating of building use inventory, and to automate the fire inspection process. This includes the use of handheld tablets and automated templates by fire inspectors to document inspection results and follow-up.

Accela offers fire inspectors standardized check-off templates suited for various building inspections, which, when completed, automatically create and upload completed inspection reports. Accela also notifies inspectors when re-inspections are needed and tracks the citation progress or other enforcement actions.

Accela and the use of tablets has previously been slow to implement within the FPB. Its adoption has also been sporadic throughout city departments, where its use is voluntary. Only one battalion of three in OFD was using Accela as of March 2022. The Grand Jury was pleased to learn that the OFD chief has succeeded in implementing Accela across the department as of May 1, 2022.

Accela currently has the ability to identify buildings requiring inspections by FPB. While OFD is making use of this, at this time, there has not been the inter-departmental coordination necessary for OFD to be able to take full advantage of the efficiencies provided by Accela.

The Grand Jury learned that there is a citywide Accela implantation task force that resides within Oakland's Department of Planning and Building. OFD has not been able to maximize the value and expertise of resources available from the task force. The task force exists to aid city departments in the transition to new software. To maximize the utility and value of Accela, OFD must provide:

- Subject matter expertise.

- Constant assessment and reassessment of how well new Accela programming fits the needs of OFD.
- Practical training for fire personnel on the use of Accela.
- A clear timeline for change.
- Support from executive management within OFD.

Importantly, there remains a disconnect between the Accela Solutions team and OFD on administrative access to Accela. OFD does not have administrative access to Accela, which slows OFD's ability to make immediate changes to the interface and functionality of the system that would streamline its workflow. This appears to be an additional barrier to full Accela implementation for the OFD.

### Fire Inspector Training

The Grand Jury learned that historically, training offered to fire safety inspectors was haphazard, generally internal, and mainly consisted of on-the-job mentoring by experienced inspectors. External training was difficult to get approved and expensive to obtain. Some inspectors chose to use their own money to attend training classes rather than wait for the department to offer or authorize needed training.

Because training has been sporadic and uneven within the FPB, not all inspectors are certified to inspect all types of facilities. In recent years, this problem caused serious inefficiencies within the ranks of inspectors while hundreds of needed inspections went undone because the available inspectors lacked the skills to conduct the types of inspections needed.

The Grand Jury learned that the current chief is aware of these challenges, recognizes their seriousness, and has begun to address them in 2022. The Grand Jury's investigation has confirmed the chief's commitment to improving inspector training, and the Grand Jury has also learned that the current chief has put in place necessary changes to improve department-wide training.

Additionally, it is the responsibility of the leadership of OFD to build a culture that values and respects inspectors as equal partners with sworn firefighters. The Grand Jury learned that a perception may exist that uneven priority is given to these equally important vocations. Higher compensation or expanded training will assist with retention of fire inspectors, but until fire inspectors see a clear career path and feel they can earn higher status within OFD, it will be difficult to retain the best and most skilled inspectors. The current chief is aware of this issue and is working to address this perception within the department.

## Insufficient Staff

New fire inspector applicants must be recruited for applicable skills and experience. The staff within the FPB needs to be highly qualified with a wide range of inspection certifications. The critical nature of their performance impacts the residents of Oakland as a whole. These positions should be filled as soon as possible for the overall safety of Oakland. Current city civil service procedures do not facilitate this process. The Grand Jury learned of numerous situations where the city's human resources procedures did not address the urgent needs of the OFD and its FPB.

The Grand Jury learned of repeated complaints about delays in hiring and the hiring of inspectors with little or no background in fire science. Delays in making an employment offer to qualified candidates is a very serious problem. Experienced candidates have employment options. They accept positions outside of Oakland because of delays in hiring. The Grand Jury understands that civil service requirements and labor contracts impact the hiring process. It is critical to expedite the hiring process by seeking to negotiate new terms in the existing labor contracts that would allow for a faster hiring process to fill these vital positions.

Oakland describes preferred candidates for fire inspectors in the official description of the position as follows:

*The ideal candidate is a highly motivated, organized and detail-oriented person, who has experience in inspecting buildings, fire protection systems and/or fire code enforcement....*

The Grand Jury believes that the OFD has hired some candidates without fire code experience, who require more time and money to train than equally qualified applicants with a background in fire science, as a consequence of delays in the hiring process. The Grand Jury urges Oakland's leaders to correct these issues within the hiring process.

Another staffing challenge is compensation and working conditions. High turnover has hampered efforts to complete inspections. As a large city, Oakland includes a complex array of buildings which presents challenging work for fire inspectors. Smaller surrounding cities offer competitive pay and, for some, more attractive working conditions. Therefore, inspectors often leave, especially once they have a year or two of training and experience. The unfortunate combination of significant recruiting delays, inexperienced hires, compensation that often does not make up for the more challenging and more complex work compared with other nearby communities, high turnover, and unequal status within OFD make it difficult for OFD leadership to staff a quality team of fire inspectors to protect Oakland citizens.

## Internal Processes

Many of the recommendations from the 2020 Performance Audit focused on the need for the FPB to adopt standard operating procedures. The Grand Jury did not find evidence that this has been completed. All inspections, including state-mandated, were hampered by inconsistent use of devices, handwritten notes on inspection reports, and a troublesome database conversion from the prior software system One Step to the new Accela system. As of May 2022, One Step has been retired and its data is being migrated into the new Accela system, which is a large step in the right direction.

The lack of communication between departments also adds to a number of re-inspections, some of which result in a building inspected 5-6 times for the same violations. These re-inspections draw staff time away from first-time inspections of other structures.

The Grand Jury understands that the current fire chief has indicated that there will not be repeated re-inspections in 2022. The Grand Jury supports the fire chief's focus on inspecting more buildings rather than using resources for duplicate inspections. It is important to be transparent with the public about the number of buildings inspected each year and the number of buildings that fail inspections, as well as the number that eventually pass inspections once violations are corrected. This fire safety data should be easily available to city leaders and to the public on the OFD website.

## Enforcement

The Grand Jury is concerned about the lack of legal action designed to ensure fire safety. The Grand Jury inquired about the number of legal actions taken by the Oakland City Attorney's Office against owners cited for fire safety violations. This inquiry revealed that the city attorney is not the primary initiator of these actions, and instead acts as legal support for the OFD for citations that have already been issued.

Existing Oakland Fire Code (Chapter 15.12) reads in part:

*Failure to comply with any of the provisions of this Code, including failure to provide, obtain or maintain valid permits, certifications, tests, ...remove, ...unsafe materials, appliances, fixtures, equipment or other property; or failure to ...correct, unsafe or hazardous for egress or fire ...shall be and is declared to be prima facie evidence of an existing and continuing hazard to life or limb, property or public welfare.*

Fire inspectors have the legal authority to cite owners for fire code violations. Generally, the FPB follows a policy of working with owners prior to citing, issuing a notice to repair and then allowing them time and flexibility to make the needed repairs or installations. Barring extraordinary circumstances an owner usually has 15 to 30 days to make corrections. One re-inspection is then



required. Owners who fail to make the necessary corrections can be issued a citation and/or fined, which can ultimately lead to a lien being placed on the building and a referral to the city attorney.

The Grand Jury found that citations are rarely issued for failure to meet inspection criteria. Many witnesses had trouble remembering the last time a citation or referral to the city attorney occurred, and the Grand Jury found one instance of confusion as to whether inspectors had the ability to issue citations. It is the responsibility of the fire chief and the fire marshal to

ensure that inspectors utilize all means, including citations, to achieve compliance with the fire code, and that OFD staff fully understands the enforcement options that are available.

The Grand Jury learned that the fire chief recognizes the need to support inspectors as they issue citations. The fire chief's expectation that citations are appropriate, within the authority of the fire inspectors, and will be used, has been shared with the FPB.

The enforcement process has not been used on educational facilities that fail inspections. The Grand Jury learned that 97% of Oakland schools failed compliance with state-mandated inspections one year, 90% the next year, and corrections have just begun after intervention by the current fire chief. These statistics for public schools have been supplied to the mayor, the city administrator, and the superintendent of the Oakland Unified School District. This is a troubling statistic concerning the safety of Oakland's students.

## CONCLUSION

The Grand Jury concludes that, historically, the OFD and city leaders, by not-setting fire prevention as a priority, risked endangering the life and safety of Oakland citizens. The lack of attention to life-saving inspections and barriers to enforcement of fire code regulations falls on the city's leaders. This signified a lack of due diligence in performing their duties to the residents, workers, and visitors of Oakland.

The Grand Jury found that the current fire chief has instituted significant reforms and personnel changes that are moving OFD in a positive direction toward meeting its inspection requirements. The Grand Jury commends the fire chief and urges the department to continue its work to institute change that will increase fire safety in Oakland.

Oakland's leaders and agencies must explicitly state and demonstrate their commitment to focus on fire prevention by developing a plan to complete 100% of the annual required state-mandated fire inspections within the next 24 months. They must ensure that the effect is sustained year

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after year by annually approving the resources needed for the OFD's FPB to complete its responsibility for state-mandated inspections.

## **FINDINGS**

### *Finding 47:*

The Oakland City Council has no written plan or timetable for holding Oakland Fire Department accountable to annually complete all state-mandated fire inspections.

### *Finding 48:*

The Oakland Fire Department does not have an up-to-date inventory of buildings that require state-mandated inspections.

### *Finding 49:*

The slow, uncoordinated, and incomplete implementation of Accela, throughout Oakland's city departments including, but not limited to the Oakland Fire Department, has greatly reduced the ability of the Fire Prevention Bureau to complete state-mandated fire inspections.

### *Finding 50:*

Historically, the Oakland Fire Department has not provided sufficient training for fire inspectors.

### *Finding 51:*

The city of Oakland presents a uniquely challenging environment for inspections which has resulted in high turnover of inspectors.

### *Finding 52:*

The city of Oakland's slow and inefficient recruitment process results in hiring delays and fails to hire candidates with relevant experience.

### *Finding 53:*

The Oakland Fire Department has not used the citation process for fire safety violations in a manner that results in immediate and substantive improvements to fire safety.

### *Finding 54:*

The Oakland Fire Department does not have sufficient administrative staff support for fire inspectors to aid in the citation process.

### *Finding 55:*

The city of Oakland does not have fire inspection information readily available on its website for public review.

## **RECOMMENDATIONS**

### **Recommendation 62:**

The Oakland Fire Department shall report the status of state-mandated fire inspections to the Oakland City Council's Public Safety Committee quarterly for review and evaluation.

### **Recommendation 63:**

Oakland's mayor must meet monthly with the Oakland Fire Department chief focusing on progress toward the goal of 100% compliance with state-mandated fire inspections.

### **Recommendation 64:**

The city of Oakland must develop a dependable, cross-agency, up-to-date inventory of buildings needing state-mandated fire inspections.

### **Recommendation 65:**

The Oakland Fire Department, in partnership with the Accela Task Force, must evaluate the Oakland Fire Department team and the work plan for the Oakland Fire Department's Accela implementation, including the possible addition of administrative permission for the Oakland Fire Department to allow the Oakland Fire Department Accela liaison to make direct changes to the Accela interface.

### **Recommendation 66:**

The Oakland Fire Department executive staff must meet regularly with the Oakland Fire Department Accela liaison to evaluate the status of Accela implementation within the department, including the status of Accela's performance in aiding inspections.

### **Recommendation 67:**

The Oakland Fire Chief must evaluate personnel assignments to ensure the appropriate liaison with systems and operational knowledge is in place for the critical implementation of Accela.

### **Recommendation 68:**

The Oakland Fire Chief must evaluate the implementation of Accela support and training available for state-mandated inspectors.

### **Recommendation 69:**

The Oakland Fire Department must assess its Accela working group to ensure that the fire department's automated needs in the Accela program are being met. This should include an automated online system for documenting all state-mandated inspections, the ability to document all follow-up inspections, and the ability to access data for statistical analysis of inspection results.

Recommendation 70:

The Oakland Fire Department must ensure that all fire inspection training meets or exceeds the standards provided by the California Office of the Fire Marshal, and that a sufficient number of staff are cross-trained to ensure that fire inspections are completed.

Recommendation 71:

The Oakland Fire Department must create a clear career path for professional advancement of fire inspectors.

Recommendation 72:

Oakland Fire Department leadership must work to raise the status of the Fire Prevention Bureau, so it is on par with the status and esteem afforded firefighters within the department.

Recommendation 73:

The Oakland Fire Department must establish clear expectations for the number of completed inspections on a daily/weekly basis to reach the 100% inspection goal.

Recommendation 74:

The Oakland Fire Chief must authorize a salary and job study to determine the placement of Fire Prevention Bureau personnel in comparison to other large cities. Results should be shared with the mayor, city council, and Oakland's human resources department.

Recommendation 75:

The city of Oakland must reform its hiring process to allow for more rapid filling of open positions in order to hire more experienced fire inspectors.

Recommendation 76:

The Oakland Fire Chief and Fire Prevention Bureau Fire Marshal must provide all inspectors with sufficient training that includes clear guidelines on how and when to cite violators. This must include a written policy that outlines specific actions and inspectors' authority when citing.

Recommendation 77:

The Oakland Fire Department must provide the Fire Prevention Bureau with administrative staff to support the fire inspectors to process noncompliance citations and prepare for court appearances if necessary.

Recommendation 78:

State-mandated fire inspection data should be easily accessible on the city of Oakland's public information web page.

## **REQUEST FOR RESPONSES**

Pursuant to California Penal Code sections 933 and 933.05, the Grand Jury requests each entity or individual named below to respond to the enumerated Findings and Recommendations within specific statutory guidelines, no later than 90 days from the public release date of this report.

### **Responses to Findings shall be either:**

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

### **Responses to Recommendations shall be one of the following:**

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

## **RESPONSES REQUIRED**

Mayor, City of Oakland	Findings 47, 49, 52 & 55 Recommendations 62 through 65, 74, 75 & 78
Oakland City Council	Findings 47, 49, 52 & 55 Recommendations 62, 65 & 78
Chief, Oakland Fire Department	Findings 48 through 51, 53, 54 & 55 Recommendations 62 through 78

## MANAGEMENT FAILURES AT PLANNING AND BUILDING DEPARTMENT COST OAKLAND MILLIONS

### EXECUTIVE SUMMARY

The city of Oakland's Planning and Building Department (PBD) has a long-standing practice of allowing building permit applicants to expedite their plan reviews by paying additional fees for reviews outside of normal business hours. Nearly 20 years ago, the 2002-2003 Alameda County Civil Grand Jury investigated PBD and the expedited plan checking service over concerns related to excessive overtime payments to plan check engineers. Their report concluded there was:

- *No evidence that hours reported are observed or verified.*
- *Little evidence to show that time sheets are actually checked.*
- *Perception of possible collusion or favoritism between the applicant and the plan checker.*

The 2002-2003 Grand Jury's report recommended eight changes to address these issues. Only three of these recommendations have been implemented.

Over the intervening years, complaints about delays in completing plan checks have persisted, and on multiple occasions media reports have identified a PBD plan checker as one of Oakland's highest-paid employees, who earned multiples of their salary in overtime compensation. These factors led the 2021-2022 Grand Jury to conduct a renewed investigation of PBD's plan check process, with a focus on the oversight of expedited plan checks and the overtime compensation it generates.

The current Grand Jury's investigation found that nearly all of the practices identified as problematic in 2003 continue to this day and that there has been an absence of management oversight around the expedited plan check process. These factors created an environment where unusually high levels of overtime compensation have been paid to PBD staff while the community members dependent on PBD to provide an efficient and transparent process for approving new construction and renovations have been underserved. Perhaps most troubling, management's failure to adequately oversee the process enabled a systemic under-billing of large project developers that persisted over many years, costing Oakland millions of dollars in uncollected revenues.

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In addition to reviewing operational management practices, the 2021-2022 Grand Jury investigated the financial management model and reasonableness of fees associated with the expedited service for plan checking. Proposition 26 requires that fees like those covered by this investigation are:

*... not more than necessary to cover the reasonable costs of governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from the governmental activity.*

*The PBD oversees regulation of the city's growth and development. Through reviewing project plans, enforcing local ordinances, developing neighborhood plans, and responding to public concerns, its purpose is to create an environment that supports the health, safety, and economic vitality of Oakland.*

The Grand Jury's investigation produced evidence that the current expedited service fees fail to meet this standard as they appear to be set at a level of three to five times the actual cost to provide the service. Of note, while the fees for expedited service are set in the city's master fee schedule and are supposed to apply equally to all projects, the Grand Jury found residential and small commercial projects were required to pay the full amount of these fees, while larger projects were often charged as little as 25% of the fees due to the city. This practice of differentiated fees for expedited service work is also inconsistent with Proposition 26.

The Grand Jury further found that the combination of an expedited service fee set materially above actual costs along with the segregated fund accounting model in place for PBD creates financial incentives for PBD management that are not fully aligned with the department's explicit goals and are not in the best interests of Oakland residents.

The Grand Jury's investigation resulted in six findings and 11 recommendations related to PBD's plan check function.

## **BACKGROUND**

### Planning and Building Department Function and Funding

The PBD oversees regulation of the city's growth and development. Through reviewing project plans, enforcing local ordinances, developing neighborhood plans, and responding to public concerns, its purpose is to create an environment that supports the health, safety, and economic vitality of Oakland.

As part of the adopted 2021-2023 policy budget, PBD described goals which include:

- Enhance customer service experience throughout the Planning and Building process by reducing wait time for responses.
- Strengthen the permit processing and coordination function in the Building Bureau to assist applicants in obtaining building permits.

Effective fiscal year (FY) 2006-2007, Oakland made a significant change to the funding mechanism for PBD by removing the organization from the general city budget and establishing the segregated *Development Services Fund* (2415) for managing the department’s revenues and expenses.

	Source of Funds	Use of Funds
2415 Development Service Fund	Licenses, fees, and permits from housing and commercial planning and construction-related activities	Planning and zoning services; construction inspections, construction permit approvals; building code enforcement; plan checks, engineering services

This segregated fund is intended to be self-supporting, and any revenues collected that exceed expenses must remain within the fund for future approved uses. Building permit fees and expedited plan checking service fees are two of the many revenue sources for the Development Services Fund. This fund’s revenues have exceeded expenses in recent years and Oakland forecasts that the fund will end FY 2021-2022 with an uncommitted balance of \$61.6 million. This level of surplus represents over 75% of the annual operating budget for the fund.

The Building Bureau is a component of PBD and is the sub-department responsible for conducting plan checks for all construction and renovation activity in the city. For FY 2021-2022, the bureau has an authorized staff of 97 employees and a budget of \$19 million. The PBD executive responsible for overseeing the Building Bureau is the chief building official. The chief building official position has been vacant since 2020, and the previous incumbent was in the role for just a single year prior to this vacancy.

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Permit and Plan Check Fees

The cost for applicants to obtain a building permit is determined by a fee schedule that has been reviewed and adopted by the city council. A project’s permit fee is determined by the size and nature of the project, with the value of the construction or renovation the primary factor used in calculating the fee. This basic building permit fee covers a broad range of services provided by PBD to applicants, including completing plan checks for the project.

Plan checks are generally assigned to staff and completed on a first-in, first-out basis. When demand exceeds capacity, a backlog results and applicants wait in a queue to receive service. Within the Building Bureau, plan check capacity has chronically been insufficient to meet demand and waits of up to two months are common to have a plan check engineer assigned to a project. The plan check assignment delays are a frequent source of complaints directed to PBD. In a



February 2021 memo to the public and the city council, Oakland’s vice mayor highlighted the negative impact that result from delays in permitting:

*Many members of the public and stakeholders have complained about difficulty and slowness accessing our city’s permit process, which is impeding the building of housing, and the opening of businesses. This also reduces revenue available to fund vital services.*

In December 2021, the plan check team had an authorized staff of 17 full-time equivalent positions. Only 11 of the 17 positions were filled, and the six remaining were open for recruitment. Staff available to assist with plan checks in December 2021 was down from October 2020 levels, when 14 of 16 authorized positions were filled.

*As an alternative to accepting the typical weeks-long delay for assignment of a plan checker, PBD offers applicants the opportunity to request expedited service at an additional cost. Expedited requests are intended to be worked on after normal business hours by staff working overtime.*

As an alternative to accepting the typical weeks-long delay for assignment of a plan checker, PBD offers applicants the opportunity to request expedited service at an additional cost. Selecting this option moves the request out of the normal queue for checker assignment and places it in a separate queue of expedited requests. Expedited requests are intended to be worked on after normal business hours by staff working overtime. While no commitments are made about turnaround time for expedited service, the expedited queue is intended to shorten wait times.

To request expedited service, the applicant must agree to pay the city an additional fee of \$465 for every hour of staff time spent on the plan check. This fee is neither capped nor estimated in advance. The hourly charge of \$465 is included in the city’s master fee schedule and is set at 1.5 times the city’s estimate for its cost to provide plan check services during normal business hours. The city has estimated that the cost to provide plan check

services during normal business hours is \$310 per hour. This cost is intended to include all related expenses, including both employee specific and department level overhead. The actual direct labor cost of the plan checkers is a small fraction of this amount as they typically earn a salary based on an hourly rate of \$60-\$80. It is important to note that the \$310 per hour cost estimate for plan checks completed during normal hours is never directly charged to applicants as these services are covered in the basic permit fee an applicant pays for a project.

The plan check engineers within the Building Bureau have the option to volunteer for overtime work and to receive assignments from the expedited service queue. Those who work overtime are compensated at 1.5 times their normal hourly wage. The plan check engineers working on expedited service projects are directed to track and report **all** of their hours working on that

project, not just those incurred outside of business hours. These total hours, as reported by the plan check engineer, are then billed to the applicant at the \$465 per hour rate.

The amount of overtime hours worked in support of expedited service varies widely across the PBD plan checkers. Many plan checkers do not regularly work any overtime, while one plan checker regularly reported working 15 hours per day and often working overtime seven days a week. This latter individual received overtime compensation that ranged up to 275% of their base pay in recent years and was employed by the department and earning significant overtime at the time of the time of the 2002-2003 Grand Jury's investigation of the department. This dynamic of high levels of overtime work and compensation is not limited to a single individual, as several other engineers have also received a multiple of their base pay in overtime compensation across a full year.

The work of plan check engineers is typically done by an individual, working alone with only minimal manager supervision. Once assigned to a project, engineers engage directly with the applicant to provide written comments on submitted plans, and the engineers have discretion to determine when the plan review is complete and when additional revisions by the applicant are required. Typically, an approval process will involve several cycles of comments, corrections, and resubmissions before the plans are fully approved. For plan checks which have requested expedited service, all time spent in these review cycles is intended to be billed to the applicant at the expedited service hourly rate.

Plan check engineers submit bi-weekly timecards as part of the city's standard payroll process. These timecards report hours of regular and overtime hours worked, as well as time off from work. Following submission of an engineer's timecard, it is forwarded electronically to their direct manager for review and approval and subsequently sent to the payroll department for processing. Given the solitary nature of the plan check work and the physical layout of the facility, managers are not typically positioned to directly observe the work of their team members.

The overtime reporting process for payroll and the process for recording hours to be billed to applicants for expedited service are not integrated, and there is no formal reconciliation process to ensure that overtime hours reported to payroll were authorized in advance and match the expedited service hours billed to applicants.

### Long Term Case Study of Overtime Compensation and Oversight

When plan check overtime irregularities were investigated by the 2002-2003 Grand Jury, its report found that the

*...plan checker who earned the most money reported working overtime every week during fiscal year 2001-2002 without exception. In the same time period, the city of Oakland reported one other plan checker had also worked a large amount of overtime. That employee reported 2,227.5 regular hours and 2,080.0 overtime hours for a fifteen-*

*month period. These two plan checkers accounted for nearly 75% of all overtime hours worked in the department.*

In assessing the processes and controls related to overtime work the 2002-2003 Grand Jury concluded:

*There is little evidence to show that timecards are actually checked. In reviewing the entire years' timecards which were pre-approved, there was not a single instance of correction based on reported hours worked.*

The 2002-2003 Grand Jury's final report included the following eight recommendations:

1. Plan check supervisors must verify time sheets for accuracy.
2. Plan check supervisors must verify that overtime has actually been worked and accurately documented.
3. Plan checker overtime must be pre-approved. Post-approval must be limited and include documented reasons for such approval.
4. Hire additional plan checkers to reduce the amount of overtime.
5. The practice of allowing day-at-a-time vacation when combined with overtime must be discontinued.
6. Management must evaluate and plan for future staff requirements to eliminate the need for excessive overtime.
7. Eliminate the automobile allowance for employees who do not use automobiles as an integral part of their job.
8. Permanently change the plan check application form so that applicants can no longer designate a specific plan checker.

Media reports on high levels of compensation for workers within PBD's plan check function have appeared regularly in recent years. These reports were often timed around the public release of data on government employee compensation in California. An example of one of these reports, verified by the Grand Jury, is a May 14, 2017 article in the *San Francisco Chronicle* on Oakland's highest paid employee, which reported:

*One plan checker's time cards show he worked all 366 days of the leap year, at times putting in 90-plus-hour workweeks. He worked so much that he quadrupled his salary. His regular compensation and overtime pay – including benefits, \$485,275 – made him the city's highest-paid worker and the fourth-highest overtime earner of California's 550,000 public employees in 2016.*

The Grand Jury's review of public records show that the engineer who was the subject of these media reports received over \$2 million in overtime compensation between 2011 and 2020. Compensation from overtime was approximately double his base salary, and this plan checker alone accounted for more than half of all overtime paid to Oakland plan check engineers during this time frame.

The Grand Jury learned that this same plan checker throughout their career submitted internal reports of time worked for billing applicants that did not match the time records submitted for their own compensation. The time records submitted for billing of expedited service on larger projects were intentionally understated to average between just 25%-33% of the hours claimed for overtime compensation. The Grand Jury estimates that PBD management's failure to detect and address this individual's inaccurate reporting cost Oakland \$2 million to \$6 million in lost revenue over the past decade.

In December, 2020, after more than three decades of employment by the PBD, the plan check engineer who was routinely one of the highest-paid employees in Oakland retired from the department. The Grand Jury verified the individual received overtime compensation up through October 2020.

## INVESTIGATION

In conducting its investigation, the Grand Jury interviewed seven witnesses and reviewed hundreds of documents, reports, and emails. Among other activities, the Grand Jury analyzed multi-year patterns of compensation within PBD and completed an independent assessment of the cost study used by Oakland in setting the fee level for expedited service on plan checks. Through this investigation, the Grand Jury is confident that it had access to adequate quantity and quality of data to develop an informed perspective on PBD's expedited service offering and to prepare meaningful recommendations to PBD.

### Non-Expedited Plan Checks

In reviewing PBD processes, the Grand Jury learned that the department has established internal targets for turnaround time on plan checks that have not requested expedited servicing. The Grand Jury also learned that while these targets exist, the objective is not commonly understood within PBD, is not reported in internal management reports and does not appear to have been consistently achieved in recent history. In practice, while a service commitment level may exist, the reality for applicants is they have little reason for confidence that a non-expedited plan check will be processed on a predictable and reasonable time frame.

It is the Grand Jury's opinion that this failure to deliver a predictable and reasonable service level for plan checks is a primary driver of the demand for expedited service. Were the department to adequately staff and manage the plan check function in a manner that delivers on the established service goal, many of the requests for expedited service would be eliminated.

The Grand Jury believes that reducing the demand for expedited services by improving the service on non-expedited plans is both consistent with the stated goal of the department to reduce wait times and an obligation the department has to applicants that are already paying for this function in their project permit fees.

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### Expedited Service Process and Procedures

In reviewing processes and procedures associated with the expedited service for plan checks, the Grand Jury observed that five of the recommendations prepared by the 2002-2003 Grand Jury have **not** been adopted by PBD. They were recommendations that:

1. Staffing is adequate to support normal demand.
2. Supervisors verify time sheets for accuracy.
3. Overtime is pre-approved.
4. Supervisors verify that overtime has actually been worked and accurately documented.
5. Managers plan future staff requirements to eliminate the need for excessive overtime.

This Grand Jury believes these outstanding recommendations remain essential for effective management of the expedited service.

In addition to the outstanding recommendations, the Grand Jury identified five additional concerns with the expedited service process and procedures:

1. Overtime authorizations are routed to payroll without supervisor approval.
2. Overtime authorizations are not kept in a retrievable format and cannot be checked against timecards.
3. There is no process for comparing overtime hours authorized to overtime hours reported.
4. There is no systemic reconciliation of hours reported for expedited service billing and hours reported for expedited service overtime compensation.
5. There is no limit to the amount of overtime an individual can work by day, week, or year.

### Investigation of an Irregularity

In 2019, a plan check manager within the Building Bureau noticed a material discrepancy between the overtime hours reported by an engineer to payroll and that same engineer's report of hours worked on expedited services that were billed to applicants. The net impact of this discrepancy was that many fewer hours were billed to applicants than were paid to the engineer in their overtime compensation. The Grand Jury learned the manager failed to take immediate steps to investigate, waiting at least several months before asking the engineer for an explanation and nearly a year before escalating to their supervisor.

As of April 2022, the internal investigation into this discrepancy has been underway for over two years and the Grand Jury understands that the investigation remains open. Despite a written acknowledgement by the engineer of intentionally misreporting hours worked for an extended period, the Grand Jury was unable to find any evidence that disciplinary actions were taken or that efforts were made to recover funds that might have been owed to the city from applicants for work performed that went unbilled or for overtime compensation that might have been paid but not earned.

It is the Grand Jury’s understanding that despite this recent example of a control gap which could result in applicants receiving expedited service without paying the mandated fees and/or engineers receiving overtime compensation for hours not actually worked, PBD has not yet implemented a control to ensure matching entries in the compensation and applicant billing systems.

#### Management and Senior Leadership Engagement

Through its investigation, the Grand Jury learned there was an absence of a common understanding among PBD staff of the policies and procedures for providing the expedited service for plan checks. The Grand Jury further learned that there was limited visibility of the economics and operational dynamics of this service outside of the Building Bureau.

The Grand Jury observed that management expressed little concern about the extended time frame required to complete plan checks as well as a lack of engagement on the underlying dynamics that were leading to a plan check engineer being frequently one of the city’s highest paid employees.

The Grand Jury noted a lack of urgency and accountability in PBD management’s investigation into the discrepancy between overtime hours paid and the hours billed to applicants for expedited service that was described earlier in this report.

The Grand Jury learned that several management positions within PBD have been vacant or filled on an acting basis for extended periods, and acting managers are often tasked with performing multiple jobs during their acting role period, which may limit their ability to be effective at either job. In particular, the Grand Jury is concerned that the role of chief building official, who serves as the primary interface between PBD senior leadership and the Building Bureau, has remained vacant since the end of 2020.

The Grand Jury believes that the combination of inadequate process controls and insufficient management engagement have contributed to creating an environment around plan checks where poor service levels are accepted as the norm and identified financial risks go unaddressed.

*Through its investigation, the Grand Jury learned there was an absence of a common understanding among PBD staff of the policies and procedures for providing the expedited service for plan checks.*

The Grand Jury views stronger leadership around these issues by senior executives within the Building Bureau and PBD as essential for improving the current situation.

### Reasonableness of Fees

Local governments in California are empowered to establish and collect fees for certain services subject to the requirements of California Proposition 26 which states:

*the local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is not more than necessary to cover the reasonable costs of governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from the governmental activity.*

A common method for meeting this burden is through the commission of an independent analysis to estimate the government's cost to provide services. The study used in setting Oakland's current fee for expedited service processing was completed in 2015. This study's recommendations were documented in a 69-page report that addressed a broad range of services provided by PBD. The city council adopted the study's proposed recommendations for fee levels and incorporated them into the city's Master Fee Schedule.

Applicants requesting expedited plan checks at the time of this report are charged a fee of \$465 per hour of plan checker time engaged on their project. This hourly cost represents the fee of \$375 per hour recommended in the 2015 Cost Study with periodic increases for inflation and 14.75% in additional charges to support records management and technology enhancements.

The Grand Jury's analysis of the study used to set the fee for expedited service on plan checks identified several areas of analytical concern that when considered together represent strong evidence, in the Grand Jury's opinion, that the fee is likely not fully compliant with the requirements of Proposition 26. Specifically, the Grand Jury notes:

1. The study estimated the cost for plan checker activity during normal business hour was \$250 per hour. This amount was 3-4 times the direct compensation for plan checkers at the time of the study and is reflective of the fact that the \$250 per hour estimate was intended to be a fully loaded cost, inclusive of direct costs of the checker as well departmental overhead.
2. The cost study recommended that three services, including expedited plan checks, be charged on a per hour worked basis. For each of these services, the cost estimate for work completed outside of normal business hours was set at exactly 1.5 times the cost estimate

for work performed during normal working hours. In the case of expedited plan checks, this outside of normal hours fee was estimated to be \$375 per hour.

The Grand Jury notes that applying a 1.5 multiple to the fully loaded cost of performing a service during normal business to estimate the cost of performing that same service outside of working hours will inevitably overstate the actual cost. This is because a majority of costs included in this \$250 per hour amount are fixed or overhead expenses unimpacted by overtime work.

3. As previously covered in this report, applicants are not charged separately for plan checks that are not expedited. This is because the cost for completing plan checks during normal business hours is one of the core services that the applicant pays for through the basic building permit fee charged to all projects. When an applicant requests expedited review, the city is entitled to additional fees that reasonably align with the actual additional cost of providing the expedited service. In the case of work that is transferred from being conducted without overtime to being conducted with overtime, the incremental expense is properly calculated as the cost to conduct that activity during overtime less the cost it would have cost to conduct that activity during normal time.

By charging an applicant that requests expedited plan check services 1.5 times the hourly cost estimate for work on plan checks during working hours, the city fails to recognize that the cost for the service during working hours has already been paid by the applicant and that at most they should be charging the incremental amount of one half of the normal working hours rate, which was \$125 per hour at the time of the study.

Considered in aggregate, these three points of analytical concern with the 2015 cost study led the Grand Jury to conclude that the current hourly rate charged to applicants for expedited plan reviews is estimated to be three-to-five times the actual incremental cost to Oakland of providing the expedited service and hence out of compliance with Proposition 26.

## **FINDINGS**

### ***Finding 56:***

The system in place for authorizing, assigning, checking, and verifying reported overtime for expedited plan checks in Oakland's Department of Planning and Building is ineffective.

### ***Finding 57:***

The extended vacancy of the deputy director/chief building official position in Oakland's Department of Planning and Building contributes to the undermanagement of the expedited plan check service.



Finding 58:

The fees currently charged by Oakland for expedited service of plan checks are likely inconsistent with the requirements of Proposition 26.

Finding 59:

The plan check function in Oakland's Department of Planning and Building does not actively monitor productivity within the plan check team and currently does not collect data on hours worked by project to enable this analysis.

Finding 60:

Supply of plan checking resources in Oakland's Department of Planning and building is not aligned with demand for those resources in part because there is no attempt to forecast anticipated supply and demand and provide decision makers with the information with sufficient lead time to address anticipated gaps.

Finding 61:

Exclusive reliance on internal resources for providing plan check services in Oakland's Department of Planning and Building limits the ability of the Planning and Building Department to ensure service commitments to applicants are consistently achieved.

## **RECOMMENDATIONS**

Recommendation 79:

Oakland's Planning and Building Department shall integrate a comprehensive set of process controls to protect against the risk of fraud in the reporting of overtime.

Recommendation 80:

Oakland's Planning and Building Department shall establish and enforce a limit on the maximum annual number of hours of overtime for that can be worked by each plan checker.

Recommendation 81:

Oakland's Planning and Building Department shall establish a process for regularly reconciling Authorized Overtime, Paid Overtime, and Expediting Fees charged to applicants.

Recommendation 82:

Oakland's Planning and Building Department shall fill the currently vacant post of Deputy Director/Chief Building Official.

Recommendation 83:

Once the chief building official is hired, the director of Oakland's Planning and Building Department shall direct the chief building official to provide updates to Planning and Building Department senior leadership on the state of the plan check function and progress on implementing these recommendations on a quarterly basis during their first year in the role.

*Recommendation 84:*

In the next update to the Planning and Building Department cost study, Oakland's Planning and Building Department shall direct the independent consultants to address or respond to the cost estimate methodological issues identified in this report.

*Recommendation 85:*

With the next amendment to Oakland's Master Fee Schedule, the city council shall ensure the cost estimate methodological issues and the Proposition 26 compliance issues identified in this report have been addressed in fees set for expedited plan checks.

*Recommendation 86:*

Oakland's Planning and Building Department shall extend the practice of tracking plan checker activity to all projects not just those for which expedited Service has been requested.

*Recommendation 87:*

Oakland's Planning and Building Department shall establish and maintain forecasting models for plan checker supply and demand.

*Recommendation 88:*

Oakland's Planning and Building Department shall make use of forecast models of plan checker supply and demand in resource planning.

*Recommendation 89:*

Oakland's Planning and Building Department shall establish contracts with on-demand resources, such as third-party plan checkers, that can be utilized during periods in which internal resources are inadequate to meet applicant demand.

## **REQUEST FOR RESPONSES**

Pursuant to California Penal Code sections 933 and 933.05, the Grand Jury requests each entity or individual named below to respond to the enumerated Findings and Recommendations within specific statutory guidelines, no later than 90 days from the public release date of this report.

### **Responses to Findings shall be either:**

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

### **Responses to Recommendations shall be one of the following:**

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

## **RESPONSES REQUIRED**

Director, City of Oakland Panning and Building Department	Findings 56 through 61 Recommendations 79 through 89
Mayor, City of Oakland	Finding 58 Recommendation 85
Oakland City Council	Finding 58 Recommendation 85