



***2013-2014
ALAMEDA COUNTY GRAND JURY
FINAL REPORT***

ALAMEDA COUNTY BOARD OF SUPERVISORS

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ALAMEDA COUNTY GRAND JURY

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Alameda County
Grand Jury

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June 23, 2014

Honorable Winifred Y. Smith
Presiding Judge
Alameda County Superior Court
1225 Fallon Street, Department One
Oakland, California 94612

Dear Judge Smith,

The members of the 2013-2014 Alameda County Civil Grand Jury are pleased to present our final report to the Superior Court and the people of Alameda County.

The State of California authorizes county grand juries and charges them with investigating the workings and efficiencies of county and local governments. As with grand juries seated before, we hope future juries will follow up on the responses to our recommendations to ensure suitable actions are taken by those investigated agencies.

This year's Alameda County Grand Jury assembled a diverse group of the most intelligent, hard-working, principled people with whom it has ever been my honor to serve. Their relentless, diligent and tireless pursuit of truth was inspirational, and I am grateful to each and every one of the members. The people of Alameda County can truly be proud of the work done on their behalf.

The examinations undertaken by this panel were staggering in their complexity and depth. The Grand Jury extends its appreciation to the over 70 witnesses, government officials, and experts who provided us with invaluable orientation, testimony and evidence. We note that two issues appeared repeatedly in our investigations: taxpayer money left on the table through inattention or indifference, and failure of public agencies to manage with transparency.

Although less-than-stellar financial management and cloudy public agency reporting are hardly uncharted territory, our investigations should significantly raise the interest and attention of our taxpaying citizens. For example:

- A public health care district operating without transparency
- A city approving a questionable multi-million dollar financial transaction
- A public protection agency's failure to collect fees and fines at significant loss to the city
- A city's lack of oversight of a vendor's long-term multi-million dollar service contract
- A public utility district failing to fully inform voters regarding a rate hike
- A school district's inability to complete its required annual financial audit

Hon. Winifred Y. Smith
Page Two
June 23, 2014

Although some of our findings are troubling, the Grand Jury is pleased to also report the positive and informative outcomes of other investigations. For example:

- A detailed benefits survey of Alameda County public agencies (excluding school districts)
- A county agency appropriately spending funds for travel, training and development
- County jail facilities passing inspections
- A public agency adopting a former Grand Jury recommendation, making sweeping changes to improve transparency and accountability

Additionally, the Grand Jury completed our duty to review Alameda County's process to select a certified public accounting firm to conduct the county's annual audits. We found that due process was followed and that Alameda County is to be commended for its proactive and interactive audit process with the chosen firm.

The Grand Jury is forever indebted to the capable, careful, and continuous support provided to us by Deputy District Attorney Robert Warren and Legal Assistant Cassie Barner. Their encouragement and guidance helped to keep this jury on task and to meet all our deadlines. As one can imagine, it is no small feat to shepherd 19 people through a picnic at a park, much less a year-long legal proceeding steeped in history. We extend out heartfelt appreciation for their exceptional dedication and hard work.

My fellow jurors and I are honored to have served on this year's Grand Jury and we humbly thank the Court for the opportunity to serve the citizens of Alameda County. Our time with the Grand Jury has made us better, more informed citizens and we are deeply grateful for the experience. It is my sincere hope that our dedicated, thorough work will result in positive changes not only by those entities we investigated, but that it will also encourage citizen involvement and better management of all agencies with responsibility to the people of Alameda County.

Sincerely,



KELLY A. MCFARLAND, Foreperson
2013-2014 Alameda County Civil Grand Jury

2013-2014 ALAMEDA COUNTY CIVIL GRAND JURY MEMBER ROSTER



Juror	City
Kaye Amos	San Leandro
Barbara M. Barer*	Piedmont
Lorrana Byrd*	Oakland
Caren C. Dorshkind	Oakland
Duane Merrill Garman ¹	Dublin
Mark Greenside	Alameda
Mary W. Harper	Oakland
Tamra C. Hege	Piedmont
Michael Henn	Piedmont
Andrew Eban Lieberman	Hayward
Kelly A. McFarland	Livermore
Sheila M. Milroy	Alameda
Arthur J. Moniz, Jr.	Pleasanton
Kate Muller	San Leandro
George Phillips ²	Alameda
Michelle L. Pitts ⁵	Alameda
Rolando Porlaris ³	Union City
Elizabeth M. Rochlin*	Alameda
Jerry G. Sheets*	Hayward
Anthony Theophilos ⁴	Piedmont
Gail E. Waiters	Castro Valley

* Jurors held over for a 2nd term by Presiding Judge C. Don Clay
 1 Resigned, July 29, 2013
 2 Assumed Office, July 31, 2013
 3 Resigned, August 21, 2013
 4 Assumed Office, August 22, 2013
 5 Resigned, February 26, 2014

**2013-2014 ALAMEDA COUNTY GRAND JURY
OFFICERS & LEGAL STAFF**

OFFICERS:

FOREPERSON: Kelly A. McFarland

FOREPERSON PRO TEM: Kaye Amos

SECRETARY: Barbara M. Barer

SECRETARY PRO TEM: Tamra C. Hege

SERGEANT AT ARMS: Arthur J. Moniz, Jr.

SERGEANT AT ARMS PRO TEM: Kate Muller



LEGAL ADVISORY STAFF:

Robert L. Warren, Deputy District Attorney

Cassie Barner, Legal Assistant

**2013-2014 ALAMEDA COUNTY CIVIL GRAND JURY
COMMITTEE ASSIGNMENTS**



GOVERNMENT

Gail E. Waiters - *Chair*
Lorrانيا Byrd
Caren C. Dorshkind
Mark Greenside
Tamra C. Hege - *Secretary*
Michael Henn - *Chair Pro Tem*
Kate Muller
George Phillips
Elizabeth M. Rochlin
Jerry G. Sheets
Anthony Theophilos

LAW & JUSTICE

Jerry G. Sheets - *Chair*
Kaye Amos
Mark Greenside
Michael Henn
Andrew Eban Lieberman - *Chair Pro Tem*
Arthur J. Moniz, Jr.
Anthony Theophilos
Gail E. Waiters - *Secretary*

**HEALTH &
SOCIAL SERVICES**

Elizabeth M. Rochlin - *Chair*
Barbara M. Barer
Mary W. Harper - *Secretary*
Andrew Eban Lieberman
Sheila M. Milroy - *Chair Pro Tem*
Arthur J. Moniz, Jr.
Kate Muller
George Phillips
Michelle L. Pitts*

**EDUCATION &
ADMINISTRATION**

Caren C. Dorshkind - *Chair*
Kaye Amos
Barbara M. Barer
Lorrانيا Byrd
Mary W. Harper - *Secretary*
Tamra C. Hege
Sheila M. Milroy - *Chair Pro Tem*
Michelle L. Pitts*

EDIT COMMITTEE

Barbara M. Barer
Mary W. Harper
Elizabeth M. Rochlin
Anthony Theophilos

* Resigned, February 26, 2014



2013-2014 ALAMEDA COUNTY CIVIL GRAND JURY

Standing, left to right:

Gail E. Waiters, Barbara M. Barer (Secretary), Caren C. Dorshkind, Lorrانيا Byrd, Mary W. Harper, Kelly A. McFarland (Foreperson), Anthony Theophilos, Jerry G. Sheets, Michael Henn, Tamra C. Hege, Arthur J. Moniz Jr. (Sergeant at Arms), Kaye AMOS (Foreperson Pro Tem), Andrew Eban Lieberman, Mark Greenside

Seated, left to right:

Elizabeth M. Rochlin, Presiding Judge Winifred Y. Smith, Sheila M. Milroy

Not Pictured:

Kate Muller, George Phillips, Michelle L. Pitts

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



Honorable C. Don Clay
January 1, 2012 – December 31, 2013



Honorable Winifred Y. Smith
January 1, 2014 – Present

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INTRODUCTION TO THE ALAMEDA COUNTY GRAND JURY

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

In California, grand juries have several functions:

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

Additionally, the grand jury has the authority to investigate the following:

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

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

This report was prepared by a *civil* grand jury whose role is to investigate all aspects of local government and municipalities to ensure government is being run efficiently, and that government monies are being handled appropriately.

While these jurors are nominated by a Superior Court judge based on a review of applications, it is not necessary to know a judge in order to apply. From a pool of 25-30 accepted applications (an even number from each supervisorial district), 19 members are randomly selected to serve.

History of Grand Juries

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

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

Grand Jury Duties

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

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

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

6. To submit to the Presiding Judge of the Superior Court a final report of its findings and recommendations that pertain to the county government [Penal Code §933], with a copy transmitted to each member of the Board of Supervisors of the county (Penal Code §928); and,
7. To submit its findings on the operation of any public agency subject to its reviewing authority. The governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body and every elective county officer or agency head for which the grand jury has responsibility (Penal Code section 914.1) and shall comment within 60 days to the Presiding Judge of the Superior Court, with an information copy sent to the Board of Supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. (Penal Code §933(c)).

Secrecy/Confidentiality

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

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

Legal Advisors

In the performance of its duties, the grand jury may ask the advice (including legal opinions) of the District Attorney, the Presiding Judge of the Superior Court, or the County Counsel. This can be done by telephone, in writing, or the person may be asked to attend a grand jury session. The District Attorney may appear before the grand jury at all times for the purpose of giving information or advice.

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

Annual Final Report

At the end of its year of service, a grand jury is required to submit a final report to the Superior Court. This report contains an account of its activities, together with suggestions and recommendations. The final report represents the investigations of the entire grand jury.

Citizen Complaints

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

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

In order to maintain the confidentiality of complaints and investigations, the Alameda County Grand Jury only accepts complaints in writing. Complaints should include the name of the persons or agency in question, listing specific dates, incidents or violations. The names of any persons or agencies contacted should be included along with any documentation or responses received. Complainants should include their names and addresses in the event the grand jury wishes to contact them for further information. A complaint form has been included in this report, and is also available on the grand jury's website at www.acgov.org/grandjury.

Complaints should be mailed to: *Alameda County Grand Jury, Attention: Foreperson, 1401 Lakeside Drive, Suite 1104, Oakland, CA 94612*, or faxed to (510) 465-9647. An acknowledgment letter is routinely sent within one week of receipt of a complaint.

How to Become a Grand Juror

Citizens who are qualified and able to provide one year of service, and who desire to be nominated for grand jury duty may send a letter with their resume or complete a Civil Grand Jury Questionnaire (contained at the end of this report) and mail it to: *Office of the Jury Commissioner - Alameda County Superior Court, Grand Jury Selection, 1225 Fallon Street, Room 100, Oakland, CA 94612; or by calling (510) 818-7575*. On the basis of supervisory district, six members from each district for a total of 30 nominees are assigned for grand jury selection. After the list of 30 nominees is completed, the selection of 19 jurors who will

actually be impaneled to serve for the year are selected by a random draw. This is done in late June before the jury begins its yearly term on July 1. For more information, please visit the Alameda County Superior Court website at www.alameda.courts.ca.gov and follow the link to “jury” then “grand jury.”

Qualification of Jurors

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

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

Commitment

Persons selected for grand jury service must make a commitment to serve a one-year term (July 1 through June 30). Grand jurors should be prepared, on average, to devote two days each week to grand jury meetings. Currently, the grand jury meets every Wednesday and Thursday from 9:00 a.m. to 1:00 p.m., with additional days if needed. Grand jurors are required to complete and file a Statement of Economic Interest as defined by the state’s Fair Political Practices Commission, as well as a Conflict of Interest form.

Grand jurors are paid \$15.00 per day for each day served, as well as a county mileage rate (currently 56 cents per mile) portal to portal, for personal vehicle usage.

Persons selected for grand jury duty are provided with an extensive, month long orientation and training program in July. This training includes tours of county facilities and orientation by elected officials, county and departments heads and others. The orientation and training, as well as the weekly grand jury meetings, take place in Oakland.

An application is contained in this report for interested citizens. Selection for grand jury service is a great honor and one that offers an opportunity to be of value to the community.

OAKLAND UNIFIED SCHOOL DISTRICT AUDITS AND FINANCIAL UPDATE

EXECUTIVE SUMMARY

Families wage a daily battle to build and maintain their financial security. They monitor their daily decisions about money and learn that maintaining financial security often has more to do with making wise decisions than making more money. Managing a government budget may be more complicated, but the same principles apply. Fiscal discipline is an essential element of any successful organization. Financial decisions need to be consistently monitored. It is with these financial principles in mind that the Grand Jury is again investigating the management of the Oakland Unified School District (OUSD).

This last year, the Grand Jury was informed that OUSD had insufficient records to successfully complete financial audits as required by the state of California. Such inadequate audits have jeopardized the district's financial status and are indicative of a climate of poor financial practices at OUSD.

While OUSD is taking meaningful strides to catch up on long overdue audits, the district continues to struggle to fill key leadership and finance positions. The historically bad financial decisions of past OUSD school boards have weakened the district's efforts to move forward. This leaves the current administration with an approximately \$60 million outstanding state loan, poor bond ratings costing millions annually, mandated outside audit and administrative costs, and an excessive number of under-enrolled schools. The Grand Jury believes that the financial burdens are monumental.

BACKGROUND

The Grand Jury learned that in June 2002, OUSD's board believed it had a \$17 million surplus. By January 2003, the district found that they were \$100 million in debt and unable to meet their financial obligations. By June of that year, the state of California took control of the district and pursuant to Senate Bill 39, the state authorized an emergency loan of up to \$100 million to OUSD. As a condition of this loan, a state administrator was appointed to run OUSD, leaving the school board and superintendent in advisory roles only. Senate Bill 39 further required that OUSD's annual audit be conducted by the state controller or its designee.

In 2009, the management of the district was returned to OUSD with the exception of financial responsibilities, which a state trustee was appointed to oversee. Under this arrangement, OUSD prepares its own budget, but the trustee has stay-and-rescind power. Eleven years after the district's financial collapse, a trustee remains in place until the state loan is repaid or until the state relinquishes control.

INVESTIGATION

The Grand Jury met with current and former school administrators, the current OUSD trustee, an administrator from the Alameda County Office of Education and a witness from the Fiscal Crisis and Management Assistance Team (FCMAT), an independent state agency with the purpose of helping California's local educational agencies fulfill their financial and management responsibilities. The Grand Jury reviewed school board meeting minutes and videos, the state controller's audit, documents relating to the district's financial status, other education-related materials, and attended a public meeting regarding OUSD.

The Grand Jury found that the lack of correct, comprehensive, and complete financial audits has led to numerous problems with serious consequences. Although the Grand Jury's focus was on examining issues pertaining to audits, we also uncovered additional financial matters of concern.

Financial Issues

All California school districts are required by the Education Code to undergo annual audits. School district audits are unique and require an auditing firm with specialized expertise. Generally, school districts hire a private auditing firm to conduct their audits. However, under the terms of Senate Bill 39, the state controller opted to retain the right to conduct OUSD's required audits. Beginning in 2003, the state controller performed the district's audit, continuing for each succeeding year, except for the fiscal years (FY) 2007-2008 through 2009-2010.

When audits of school districts are performed, different types of evaluations are made. The auditor may give a district a "qualified" evaluation, indicating that the audit showed no significant financial issues, or an "adverse" evaluation, meaning the audit uncovered financial deficiencies.

In each year that the state controller's office conducted a financial audit, they declined to give the district either a qualified or an adverse evaluation. Rather, the state controller's office issued disclaimers for each fiscal year stating it could not properly evaluate OUSD's financial statements because the accounting records were deficient and lacked supporting data. The Grand Jury also learned that OUSD did not provide sufficient or accurate records for these audits. For example, the district informed the Grand Jury that at the time of these audits essential records such as attendance documents were incomplete or had not been consistently collected. Further, the district claimed some records were missing due to district office moves, floods in district offices, and staff turnover.

The audits uncovered numerous mistakes by OUSD that required the district to repay some state funds and grant monies. In addition to the mistakes actually admitted by OUSD, the disclaimed audits have left unresolved a number of other figures reported by the district. The Grand Jury learned that last year, the district

set aside approximately \$1.3 million to deal with unresolved findings. This is money that could have been used for teachers, books, or other student needs.

In addition to record-keeping issues, the past strained relationship between OUSD and the state controller's office has also contributed to unresolved audits. When a private auditing firm conducts audits of a school district, they often assist that district (sometimes year-round) in evaluating their procedures and in retrieving necessary records. The Grand Jury heard testimony that this was not the case with the state controller's office during prior OUSD audits.

Senate Bill 39 requires OUSD to use and pay for the audit service of the state controller's office unless the controller permits otherwise. However, OUSD has been required to pay the state controller's office more for these audits than typically charged by private auditing firms.

Realizing that the disclaimed audit findings come at a great cost, OUSD has attempted to negotiate a solution with the state controller. After a long impasse, the district hired an independent auditing firm, at an additional cost of several hundred thousand dollars, to assist with the state controller's audits and to evaluate the district's record-keeping systems.

In addition to the more expensive audits performed by the state controller, the extra cost for a supplemental private audit, and the \$1.3 million set aside because of unresolved findings, OUSD's credit rating was downgraded. The Grand Jury heard testimony that this downgrade resulted, in part, from the disclaimed audit findings and directly contributed to a \$23.1 million increase in bond costs over the past two years.

Unfortunately, OUSD's financial problems are not limited to a failure to complete audits. This investigation revealed additional issues that the Grand Jury believes compounds the perilous financial status of OUSD.

Alameda County Office of Education

The Alameda County Office of Education (ACOE) has certain responsibilities to oversee the finances of local school districts. While they must issue or approve checks for OUSD and must monitor interim financial statements and annual budgets, in reality the oversight is limited. Some county offices of education either maintain the same databases as individual districts or have direct access to them, giving the county office more oversight over districts' finances. This is not the case in Alameda County. ACOE is currently attempting to pilot a new financial management software program, sharing the system with Hayward Unified School District. This will provide more opportunity for oversight by ACOE. While OUSD could benefit from such oversight, OUSD has decided not to participate in this new system until it is tested and mature.

Average Daily Attendance Issues

Attendance reporting is important for all districts since basic school funding has traditionally been based on average daily attendance (ADA). Proper reporting of ADA begins in the classroom. As noted in the FY2010-2011 audit report reviewed by the Grand Jury, OUSD fell short in this area.

The Grand Jury learned that although there have been procedures in place for correctly reporting ADA, they have not always been followed. The district partially blamed the problem on a lack of staffing. OUSD previously used a site-based funding model that allocated a specific amount of money to each school. Each school then had discretion to spend a portion of that money as it chose, with many choosing to spend it on needs other than an attendance clerk.

OUSD is transitioning from the site-based funding model to a new results-based budgeting model in order that the district, rather than the school site, will directly assume more of the personnel and administrative costs. One result of this new model will be that an ADA reporting clerk will be required at all schools. This position is critical under the Local Control Funding Formula (LCFF), a school funding mechanism recently enacted by the state as a result of Proposition 30. LCFF will provide base-funding for schools and supplemental funding for students who are English language learners, students who are eligible for free or reduced lunch, or students who are foster children. As with attendance reporting, LCFF will require careful and correct reporting of student data. The district stands to financially benefit from this as long as procedures and personnel are in place to correctly report such data.

Key Staff Turnover

FCMAT has listed governance crisis and staff shortage as two of the conditions that indicate a school may require state intervention. Six years ago, the 2007-2008 Alameda County Grand Jury reported that OUSD was hampered by continuous staff turnover, particularly in the area of finance. At the time of the writing of this report, the Grand Jury learned that OUSD was having difficulty filling key positions in the finance office.

This year's Grand Jury also learned that numerous vacancies have existed for an inordinately long time in vital positions, including the chief financial officer, director of budget, and director of human resources. While the Grand Jury learned that the district recently hired a new superintendent and a new chief financial officer, the long vacancies of these permanent positions is of great concern. While the acting superintendent was committed and knowledgeable, he was not in a position to implement long-term changes in the district. Finally, OUSD's problems have been compounded by turnovers in 20 school principal positions last year alone.

Wages, Salaries & Benefits

The Grand Jury learned that teacher wages, salaries, and benefits continue to be an issue, which can directly affect students in many different ways. While pay certainly isn't the only incentive aimed at keeping excellent teachers in a troubled district, it can be important in letting teachers know they are valued. Unfortunately, the Education Data Partnership (Ed-Data) reports that during the 2011-2012 school year, Oakland's teachers were paid an average salary of \$54,669, as compared with the statewide district average of \$68,030. Since those numbers were published, OUSD has reached an agreement with labor groups that included a small raise, yet the average salary has not changed significantly. During the same reporting period, Ed-Data reported that just over 12% of OUSD teachers were new teachers, as opposed to 4% in San Francisco and 3.2% in Fremont unified school districts. Although new teachers are paid less, there is an additional cost for their professional development and mentoring.

Under-Enrolled Schools

In the 1980's, OUSD operated 60 schools with an enrollment of 50,000 students. Today, it has more schools and fewer students, operating 86 schools with 35,000 students. In comparison, San Jose Unified School District currently operates 52 schools with 32,000 students. As indicated by these numbers, OUSD is operating more schools than other school districts with comparable populations. While a small student-teacher ratio may seem beneficial to students, under-enrolled schools in Oakland contribute to higher education costs. Infrastructure costs in schools – principals, teachers, staff, buildings and maintenance – remain constant regardless of the number of students at that school. To better illustrate this point, imagine two districts getting the same money from the state for the same number of students, except one must maintain 20 more schools, 200 more teachers, and 50 more administrators and staff. The student population suffers because money is being diverted away from the classroom.

Similarly, OUSD faces the problem of many under-enrolled classes wherein one teacher may be instructing a classroom with 10-15 empty seats. The district estimates that the students in these under-enrolled classes cost OUSD one-third more to educate.

Charter Schools

OUSD has the highest percentage of charter schools of any district in the state. These numerous charters take a toll on OUSD's finances. The Grand Jury learned that the loss of students to charter schools results in significantly reduced state funding per student to OUSD. Furthermore, the flight of students to charter schools contributes to under-enrollment at regular public schools. Other costs include maintaining school facilities occupied by charters, and the possible limits on the district's ability to sell property since charter schools have a right to use vacant property. These are but a few examples of financial drain upon the district caused by the number of charter schools. This issue merits further inquiry by a future grand jury.

CONCLUSION

School districts statewide are suffering from a lack of funding. OUSD is facing additional daunting issues such as poor record keeping, high staff turnover, and too many under-enrolled schools. The lack of correct, comprehensive and completed financial audits by OUSD has added to the district's woes.

OUSD's inability to reconcile their books has resulted in higher borrowing costs. The district's formerly lax financial policies resulted in the borrowing of \$100 million from the state in 2003, which has yet to be completely repaid. In addition to repaying past obligations, the district will also need to issue bonds to finance future infrastructure projects. The lack of an acceptable audit has damaged the district's credit rating and, hence, its ability to both borrow money and issue bonds at the lowest possible rates.

Procedures for awarding ADA funding, as well as newly-established funding procedures for California schools (utilizing the Local Control Funding Formula), will require accurate student attendance reporting, which has been an issue in past audits. Not only has OUSD's past inability to provide accurate data caused loss of ADA funding, but new LCFF requirements will be even more stringent. OUSD must learn from past audit mistakes and be diligent in providing accurate data.

The lack of successful audits fosters an atmosphere of low expectations in the district. When the management of the district cannot keep its financial house in order, students, parents and employees cannot be expected to fulfill their responsibilities. The district itself has recognized a need for diligence in its five-year strategic plan, which states that implementation starts "...with coordinating, aligning, and leveraging all resources to organize all fiscal, human, and physical assets."

The Grand Jury acknowledges that there are no simple remedies for the financial difficulties of the Oakland Unified School District. Year after year, the district has repeated errors that continue to threaten the education of its students. While progress seems to have been made with the required audits, the students of OUSD will continue to suffer until OUSD gets its financial house in order.

FINDINGS

- Finding 14-16:* Oakland Unified School District's failure to complete audits in the past has harmed the district financially.
- Finding 14-17:* Oakland Unified School District failed to collect, maintain, and submit accurate records for audit purposes.
- Finding 14-18:* Oakland Unified School District's failure to have accurate Average Daily Attendance figures caused the district financial harm.
- Finding 14-19:* Vacancies in key financial management/leadership positions has negatively affected Oakland Unified School District's financial situation.
- Finding 14-20:* Too many under-enrolled schools strain resources.
- Finding 14-21:* The large number of charter schools come at a high financial cost to the Oakland Unified School District.

RECOMMENDATIONS

- Recommendation 14-17:* The Oakland Unified School District must satisfactorily complete its financial audits.
- Recommendation 14-18:* The Oakland Unified School District must improve their financial and reporting systems, including strengthening procedures surrounding the collection and maintenance of records.
- Recommendation 14-19:* The Oakland Unified School District must fill key financial staffing vacancies.
- Recommendation 14-20:* The Oakland Unified School District must take steps to eliminate under-enrolled school situations.

RESPONSES REQUIRED

Responding Agencies - Please see page 133 for instructions

OUSD Board of Trustees

Findings 14-16 through 14-21
Recommendations 14-17 through 14-20

HOW TO RESPOND TO FINDINGS & RECOMMENDATIONS IN THIS REPORT

Pursuant to the California Penal Code section 933.05, the person or entity responding to each grand jury finding shall indicate one of the following:

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

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

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

SEND ALL RESPONSES TO:

Presiding Judge Winifred Y. Smith
Alameda County Superior Court
1225 Fallon Street, Department One
Oakland, California 94612

A copy must also be sent to:

Alameda County Grand Jury
1401 Lakeside Drive, Suite 1104
Oakland, California 94612

All responses for the 2013-2014 Grand Jury Final Report must be submitted no later than 90 days after the public release of the report.

CITIZEN COMPLAINT GUIDELINES

The Alameda County Grand Jury welcomes communication from the public as it can provide valuable information regarding matters for investigation. Receipt of all complaints will be acknowledged. The information provided will be carefully reviewed to assist the Grand Jury in deciding what action, if any, to take. If the Grand Jury determines that a matter is within the legally permissible scope of its investigative powers and would warrant further inquiry, additional information may be requested. If the matter is determined not to be within the Grand Jury's authority to investigate (e.g., a matter involving federal or state agencies or institutions, courts or court decisions, or a private dispute), there will be no further contact by the Grand Jury.

By law, the Grand Jury is precluded from communicating the results of its investigation, except in one of its formal public reports. All communications are considered, but may not result in any action or report by the Grand Jury.

The jurisdiction of the Alameda County Grand Jury includes the following:

- Consideration of evidence of misconduct by officials within Alameda County.
- Investigation and reports on operations, accounts, and records of the officers, departments or functions of the county and cities, including special districts and joint powers agencies.
- Inquiry into the condition and management of jails within the county.

Annual reports and additional information about the Grand Jury can be found at: <http://acgov.org/grandjury>

CITIZEN COMPLAINT FORM

Alameda County Grand Jury
1401 Lakeside Drive, Suite 1104
Oakland, California 94612
Voice: 510-272-6259 Fax: 510-465-9647

Date _____

Complainant's Name _____ Phone _____

Address _____

Email address _____

Your complaint is confidential. Disclosure of your complaint by the Grand Jury is a misdemeanor. A complaint should only be submitted to the Grand Jury after all attempts to correct the situation have been fully explored. This may include, but is not limited to appealing to a supervisor or department head and requesting intervention by the District Attorney or Board of Supervisors.

What agency, city, district or county department are you complaining about?

Is the complaint regarding a specific official or local government employee of a city, district or county department?

Official or Employee Name

Please explain the nature of your complaint providing as many details as you can, including dates, times, and places where the events you are complaining about took place. Describe specific instances instead of broad statements. Include any available photographs, correspondence or documentation supporting this complaint. Please attach additional sheets of paper if necessary.

Please list other persons or agencies you have contacted about this complaint and the result.

What do you believe should be the proper outcome of the Grand Jury involvement in this complaint?

Provide names and telephone numbers of others who can substantiate your allegations or provide more information, including citizens and agency employees.

Attach additional sheets if necessary. All communications to the Grand Jury are confidential.

Signature _____

Please mail your complaint to:

**Alameda County Grand Jury
Attention: Foreperson
1401 Lakeside Drive, Suite 1104
Oakland, California 94612**

Or you can fax your complaint to 510-465-9647

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA
Office of the Jury Commissioner
1225 Fallon Street, Room 100
Oakland, CA 94612
(510) 510-818-7575

CIVIL GRAND JURY QUESTIONNAIRE
(Please print or type)

Name: _____
(First) (Middle) (Last)

Address: _____
(Street) (City) (State) (Zip)

Contact Information: _____
(Home Phone) (Work Phone) (Cell Phone)

Driver's License No.: _____ E-mail _____

LEGAL QUALIFICATIONS

- | | | | | | |
|------------------------------|-----------------------------|--|------------------------------|-----------------------------|---|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | I am a US Citizen and at least 18 years old. | <input type="checkbox"/> Yes | <input type="checkbox"/> No | I am presently serving on a trial jury. |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | I will have been a resident of Alameda County for at least 1 year by next July 1. | <input type="checkbox"/> Yes | <input type="checkbox"/> No | I have been discharged as a grand juror within the past year. |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | I am in possession of my natural faculties, of ordinary intelligence, of sound judgment, and fair character. | <input type="checkbox"/> Yes | <input type="checkbox"/> No | I have been convicted of malfeasance in office or a felony. |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | I understand the spoken and written English language. | <input type="checkbox"/> Yes | <input type="checkbox"/> No | I am presently serving as an elected public officer. |

Education:

Highest Grade Completed (high school, college, advanced degree, etc.): _____

List any degrees or certifications you hold: _____

Employment History:

Employer: _____

Occupation: _____

If retired, please list employer, occupation and date you retired: _____

Have you held public office or been employed by a public agency? Yes No

(If "yes", please list all positions held)

Do you currently have plans to be absent from Alameda County for longer than three continuous weeks from July 1, 2014 to June 30, 2015? Yes No

(If "yes", please give details)

Are you able to commit to the meeting schedule of the Grand Jury? (Meetings are typically each week on Wednesday & Thursday from 9:00 a.m. until 1:00 p.m. throughout the year, with extra meeting days in July for orientation. There will also be extra meeting days in the Spring.) Yes No

Do you have the ability or any experience in writing/ editing reports, or taking minutes of meetings? Yes No

Are you aware the Grand Jury is required to publish a final report of issues they have investigated? Yes No

Are you aware of the requirement to assist in writing the Grand Jury's annual report? (Previous reports can be viewed at www.acgov.org/grandjury) Yes No

If you are employed, does your employer understand this jury service is voluntary and will he/she permit your participation as a juror, for the period that the jury shall be in session? Yes No

Grand Jurors are required to file "Statements of Economic Interests" (FPPC Form 700) which are intended to disclose financial interests that may create conflicts of interests. These are not confidential. Are you willing to submit such a statement? Yes No

If selected as a Grand Juror, you will be required to swear to or affirm an oath, including an oath to secrecy. Have you any objections to taking such an oath or affirmation? Yes No

How did you hear about the Grand Jury?

What can we do to assist you if you have any physical disability that might restrict your service as a Grand Juror? _____

Briefly state your reasons for wishing to serve as a Grand Juror:

List any areas of expertise you possess that may be helpful to the Grand Jury service (i.e., accounting, education, budgets, writing, researching, etc.):

Pursuant to Penal Code Section 903.2, I understand an investigation that will include a criminal record check will be conducted to help determine my eligibility to serve as a Grand Juror. I further understand that if my name is drawn as a Grand Juror or as an alternate, I may be required to attend grand jury training; if I am seated as a Grand Juror, I will be available to attend grand jury meetings and devote the required time to complete grand jury work for one year, from July through June. I further understand that if my name is drawn as an alternate, I will remain available for one year to serve as a member of the grand jury if called upon.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: _____
(Please insert date signed)

Signature: _____
(Please sign your name here)

For questions about Grand Jury service, please call Cassie Barner at (510) 208-9855.

For statistical records, please mark appropriate boxes.

Age Range; specifically: 18-25 26-34 35-44 45-54 55-64 65-74 75 and over

Gender: Male Female

Race or Ethnicity: American Indian or Alaskan Native
 Asian Black or African American
 Hispanic/Latino Native Hawaiian or other Pacific Islander
 White (Anglo) Other Race or Ethnicity (Please state _____)
 Decline to Answer

Place of Residence by Supervisorial District:

District 1 District 2 District 3 District 4 District 5

FOR COURT USE ONLY

Qualified under PC893 and PC896?

Yes No

Schedule interview with jury commissioner?

Yes No

Dated: _____

Signature: _____
(Jury Commissioner)



*Rene C. Davidson Courthouse, 1225 Fallon Street, Oakland, California
Photograph courtesy of Seth Gaines, Germantown, Maryland
[Used with permission.]*