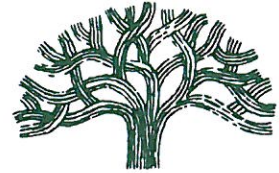


# CITY OF OAKLAND



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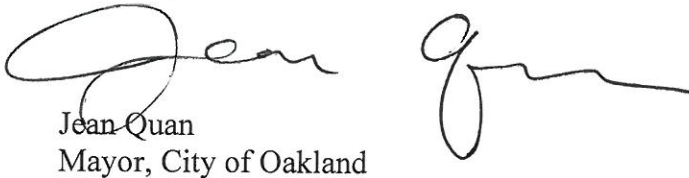
September 24, 2012

Russell G. Miller  
Jury Foreman  
Alameda County Grand Jury  
1401 Lakeside Drive, Suite 1104  
Oakland, CA 94612

Dear Mr. Miller,

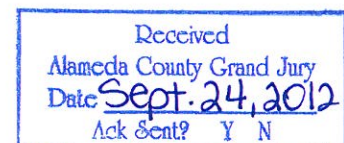
Please find attached our response to the 2011-2012 Alameda County Grand Jury Report, titled "Oakland Community Housing, Inc." Thank you for the opportunity to respond to the Grand Jury report, we appreciate the time and effort of the members of the Grand Jury in completing their report. Should you need any additional information pertaining to this response, please contact Michele Byrd, Director of Housing and Community Development at (510) 238-3623.

Sincerely,

  
Jean Quan  
Mayor, City of Oakland

Attachment (1)

- Response to Alameda County Grand Jury Report on Oakland Community Housing, Inc.





CITY OF OAKLAND

## MEMORANDUM

**TO:** DEANNA J. SANTANA  
CITY ADMINISTRATOR

**FROM:** MICHELE BYRD  
HOUSING DIRECTOR

**SUBJECT:** See Below

**DATE:** September 24, 2012

City Administrator

Approval

Date

9/24/12

**SUBJECT:** Response of the Oakland Housing and Community Development Department to the Alameda County Grand Jury Report on the handling of the Oakland Community Housing, Inc. (OCHI) Properties

### INFORMATION

This memo constitutes the Department of Housing and Community Development's (DHCD) response and rationale with regard to the two recommendations made by the Alameda County Grand Jury on the handling of the OCHI properties for the purposes of complying with the Grand Jury deadline of September 25, 2012.

In its 2011-2012 term, the Alameda County Grand Jury undertook study of an investigation on the handling of a sample of former OCHI low-income housing properties because of the following concerns:

1. Was the City of Oakland appropriately represented in the disposition of low-income housing properties abandoned by OCHI? Were Oakland's investments protected in the best manner possible?
2. Did the disposition of the properties ensure their continued use as low-income housing?
3. What has Oakland done to prevent future losses from failed management of subsidized low-income housing properties?

While the Grand Jury, through its investigation, responded to the above concerns, the following are the City's responses:

1. After a brief period in which OCHI explored various bankruptcy and dissolution options, OCHI effectively shut down its offices in August of 2008, leading City staff to pursue other options for disposition of the properties, along with the other lenders. First and foremost, DHCD's priority was to preserve 628 units of affordable housing and to ensure the residents of the properties continue to have decent and affordable housing.

DHCD staff was extremely proactive in reaching out to other lenders in order to work out deals to protect the city's assets to the greatest extent possible. In consultation with legal counsel, staff determined the cleanest method of transferring title on the remaining OCHI properties to new ownership entities would be through non-judicial foreclosure sales under existing deeds of trust held by the City/Agency or other funding agencies, and discussions commenced with various local non-profits on transfer and rehabilitation plans. Many of the properties required extensive rehabilitation work, so most of them applied for funding through the Notice of Funding Availability (NOFA). To date all but one of the properties have transitioned into more stable ownership and have either been rehabilitated or have work in process. This final property will transition through foreclosure to a non-profit later this month.

2. For the ten properties where there is new ownership or there will be a transfer to a non-profit entity, the new owners assumed the City's loans and affordability restrictions. In a number of properties there was an award of additional NOFA Rehab funds to conduct rehabilitation of the properties and there will be an extension of affordability terms for 55 years. The State will regulate the affordability terms for the remaining four properties.
3. DHCD staff has improved the asset monitoring to include fiscal review of developers and properties for the last 8-10 years. Staff developed a Rehab NOFA to provide funds for repair needs and extend affordability restrictions on older properties in our portfolio. Staff is also working with nonprofits to develop a portfolio reserve pilot program, 501 c3 refinance program to improve property cash flow for outperforming properties' reserves to assist underperforming properties. Lastly staff is improving the NOFA to strengthen the operating/replacement reserve requirements.

The report contains a combination of some inaccuracies and misunderstandings about the basic facts and the City of Oakland's handling of the OCHI properties specifically and its affordable housing duties in general. It misstates the breadth and scope of the issue with regard to the OCHI properties, expresses a misunderstanding of the City of Oakland's review processes and the underlying objectives of our affordable housing program, and articulates a position with regard to the efficacy of working with nonprofit versus for-profit housing developers with which staff disagrees.

The inaccuracies associated with the Grand Jury report start with the very first sentence: "When Oakland Community Housing, Inc. (OCHI) closed its doors and abandoned 638 units of low income housing in 2008, the city [sic] of Oakland lost the \$24 million it had invested in OCHI's 25 housing projects." OCHI did not have 25 affordable rental properties in Oakland—OCHI had 14 rental properties in Oakland.

In addition, it is a misstatement by the Grand Jury that the City lost all its financial investments in the OCHI portfolio and clear preference for market rate developers, it is worth noting that the properties in which the City lost its investments were the properties acquired by the for profit

developer. With the non-profit acquired properties, most of the City's debt either survived the foreclosure, or was reinstated following the foreclosure by mutual agreement.

DHCD is required by California Penal Code section 933 to respond to the Presiding Judge of the Alameda County Superior Court within 90 days of the issuance of the Report on the findings and recommendations pertaining to matters under the control of the governing body. California Penal Code, Section 933.05, contains guidelines for responses requiring the Department to state one of the following in responses to the Grand Jury's findings:

- It agrees with the finding.
- It agrees partially with the finding and provides explanation.
- It disagrees wholly with the finding and provides explanation.

In addition, for each Grand Jury recommendation, the Department is required to report one of the following actions:

- The recommendation has been implemented, with a summary regarding the implemented action.
- The recommendation has not yet been implemented, but will be implemented in the future with an implementation timeframe.
- The recommendation requires further analysis, with an explanation and the scope of the parameters of analysis or study, and a timeframe for the matter to be prepared for discussion, which shall not exceed six months from the date publication of the Grand Jury Report.
- The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation.

This memo represents the DHCD's analysis of the Grand Jury's findings and response to the recommendations.

Respectfully submitted,

/s/

Michele Byrd, Director  
Department of Housing and Community Development

For questions please contact Christia Mulvey at (510) 238-3623

Attachments

- Final Response to Grand Jury Recommendations for OCHI

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ATTACHMENT A:  
FINAL RESPONSE TO GRAND JURY RECOMMENDATIONS  
CITY OF OAKLAND – HOUSING AND COMMUNITY DEVELOPMENT

**Introduction**

The following is the City of Oakland Department of Housing and Community Development's (DHCD) response to the Alameda County Grand Jury's final report concerning affordable housing in general, and Oakland Community Housing, Inc. (OCHI) in particular.

DHCD continues its commitment to ensure all Oakland residents have decent and affordable housing in healthy, sustainable neighborhoods with full access to life-enhancing services and works on several levels to create and preserve affordable housing by supporting organizations that develop and preserve affordable rental and owner-occupied housing

In light of the recent loss of the low-moderate redevelopment funds, DHCD has to maximize its limited resources to continue the provision of sustainable housing programs for low income Oakland residents. Through lessons learned with the OCHI properties, the priority for affordable housing in the City of Oakland has and continues to be the preservation of the existing affordable housing stock. There are currently 84 housing developments in the City's affordable housing portfolio consisting of more than 5,000 affordable family, senior and supportive developments. Once projects are in the City's affordable housing portfolio, a designated Asset Monitor regularly audits the files for compliance with the City's regulatory agreements and requirements of other financing programs.

It is almost impossible to eliminate all risk from the real estate development and management process, regardless of whether the developments involved are market rate or affordable, or whether they are developed by for-profit or non-profit developers. However, DHCD staff has been and continues to fine-tune the City's evaluation standards to maximize the success of affordable housing developments for over a decade, and is committed to do so in the future. Staff continues to report back to the public regarding funding awards, developments underway and status of the existing portfolio.

**Final Response**

**Grand Jury Recommendation 12-30**

*The city of Oakland must adopt a policy of stringent economic evaluation of affordable housing investments, including rehabilitation of existing units, that ensures each project is sustainable without "soft loans" or continued infusion of public money.*

**Response:** The City partially agrees with this recommendation. The City agrees with the first part of this recommendation for adoption of a policy of stringent economic evaluation of affordable housing investments. The City already has in place a stringent economic policy for evaluating the City's affordable housing investments, which is as a model for other jurisdictions

receiving funds from the U.S. Department of Housing and Urban Development (HUD). In addition, there is a review of the established processes annually and periodically to make changes as required ensuring the long-term financial and physical stability of the City's affordable housing portfolio.

### *City's Existing Processes for Evaluating Investments*

As described in greater detail below, DHCD staff has continually evaluated and fine-tuned the Notice of Funding Availability (NOFA) process since the NOFA's inception in 1998. A rigorous evaluation of the financial, development and property management capacity of development teams has always been part of the NOFA process. A thorough monitoring review of the City's housing development program several years ago by HUD designated the City's program as a "best practice" and many of the policies and procedures the City put into place voluntarily are now a recommendation or requirement by HUD for all grantees.

The goal of DHCD's staff is to ensure the protection of public funds and ensure that the long-term stability of affordable housing developments is secure to the greatest extent possible. Changes made over the last decade to the underwriting process for affordable housing development include:

- Revising standards for operating and replacement reserves: In the early part of the last decade, the entire industry came to realize that its previous requirements for operating and replacement reserves were too low, especially given the longer 55 year regulatory terms that were introduced into California Redevelopment Law a decade ago.
- Requiring that the City's affordability restrictions have senior lien priority over liens of private lenders. State agencies such as CalHFA often rise to senior lien position by asserting that they also serve a public purpose (affordable housing lending).
- Collaborating with the Oakland Housing Authority (OHA) to award Project-Based Section 8 vouchers to restricted affordable housing developments in order to improve long-term financial viability of the properties and allow properties to serve lower incomes than the nominal restrictions on a portion of the units.

### *City Efforts to Improve Affordable Rental Portfolio Long-Term Viability and Maximizing Public Investment Dollars*

Over the past several years, DHCD staff have also been working with one of the City's largest non-profit developers on a pilot program to take a portfolio-wide approach to pool replacement reserves across multiple properties, allowing excess reserves from the developer's better-performing properties to cross-subsidize less well-performing properties (with appropriate City oversight, review and approval). The same non-profit is currently pursuing a 501(c)3 bond refinancing of a number of its older properties, with DHCD staff's assistance. This refinancing model, which is only available to non-profits, will reduce monthly debt service, improve cash flow and assist with the funding of rehabilitation efforts at a number of their buildings. These programs will help maintain the properties as an affordable housing resource for years to come, will reduce dependence on the City for additional funding for existing developments, and should be explored as an option for other developers over the next few years.

### *Social Benefits of Funding Affordable Rental Construction*

The City does not agree with the second part of Grand Jury’s recommendation to ensure each project is sustainable without “soft loans” or continued infusion of public money. The Grand Jury report expresses a preference towards on-going rental subsidies rather than soft loans with long-term affordability restrictions but on-going rental subsidies require a “continued infusion of public money” that could, over time, easily cost more than our existing soft loan programs. It would also be difficult to achieve since the private market is structurally unable to provide quality housing at similar affordable rents without public investment. “Soft loans” and equity investment made possible by syndication of low income housing tax credits are required to bridge the gap between the Bay Area’s high cost of development and the limited debt that can be supported by rents affordable to very low income households.

The suggestion that the City should ensure sustainability without the continued infusion of funding is counter to the recommendation that the City consider funding a rental voucher subsidy program targeted to for-profit rental property owners. Rental vouchers are the “softest” kind of financing possible, the least secure as a long-term resource for low income tenants, and over the long run require much greater amounts of public funding than up-front capital subsidies.

DHCD staff would need to inspect scattered units throughout the City to insure they met housing quality standards and that tenants are income-qualified. Over the long term, it is not clear this would save any money. Also, the suggestion that the City use rental subsidies for for-profit developers to essentially circumvent the “political/social burdens, i.e., living wage, etc.” would be an injustice to the residents of Oakland. The living wage, prevailing wage, apprenticeship, local hiring and Local/Small Local business contracting requirements provide a means for improving the lives of residents by elevating their work experience and earning power, and ensuring that local funds are spent as much as possible within the City of Oakland.

#### **Grand Jury Recommendation #12-31**

*The City of Oakland must accurately and publicly document all costs which must include direct, indirect, and ongoing monitoring, before voting to invest public dollars in affordable housing projects so that decision-makers and the public understand the cost of the City’s social policy.*

**Response:** The City agrees with this recommendation, but the Grand Jury report does not recognize that DHCD staff currently implements this recommendation in a publicly vetted annual process for over a decade.

#### *Public Investment (Funding) Process*

DHCD makes recommendations to the Oakland City Council to fund affordable housing projects (new construction and rehabilitation) through the annual NOFA processes, one for new

construction and one for rehabilitation. Each NOFA requires different application materials and has its own threshold requirements and ranking criteria.

In addition to the scoring and ranking process set forth in each NOFA, funding recommendations are guided by the City's housing priorities. For the past several years the housing priorities have been 1) existing affordable housing in need of rehabilitation (preservation projects); 2) properties previously funded by the City that need additional financing; 3) the highest ranking new affordable homeownership developments; and 4) the highest ranking new affordable rental housing developments.

For the Original NOFA, eligible project activities include new construction and substantial rehabilitation of ownership, rental, supportive, or transitional housing. Projects must meet basic standards regarding developer experience, income targeting, site control, and other requirements. The Original NOFA also sets forth criteria by which projects will be scored and ranked, including targeting units to lower income households, exceeding minimum developer experience requirements, project location, revitalization potential, targeting to households with special needs, energy efficiency, percentage of City subsidy, and other criteria.

For the Rehabilitation NOFA, eligible activities include the rehabilitation of existing affordable housing. The Rehabilitation NOFA prioritizes projects that meet certain urgency of need criteria: major building or structural components in critical condition, code violations, fire, health, and safety hazards, or other building deficiencies that create safety threats, insufficient operating and replacement reserves, or ongoing operating deficits which threaten the long-term financial viability of the property. Applications are also evaluated based on development team experience and attributes such as the age of the property, reserves requested, and outside funding leveraged.

The City initiated the Rehabilitation NOFA for older properties in the existing affordable rental portfolio around 2008, recognizing the need to strengthen reserves and undertake rehabilitation efforts in older properties, in part to help prevent future developers and their properties from going down the same path as OCHI. In exchange for additional funding, the affordability restrictions on the properties are extended for 55 years, providing even further affordability for low income Oakland residents.

#### *Documentation of Affordable Housing Costs*

The City's annual NOFA processes are public, transparent, and rigorously scrutinized by the housing development community, the City Council, and the general public. When the NOFAs are released, potential applicants are notified by mail and/or email regarding the application timeline, available funding, and other pertinent details. The applications themselves are available on-line and for pick-up in our offices, and any applications submitted are made available for review by the public if requested. Costs to construct or rehabilitate affordable housing projects are documented through development and rehabilitation pro formas required by the funding applications. City Housing staff provide budget templates which include all eligible costs (hard and soft, direct and indirect) necessary for the successful development or preservation

of affordable housing projects. In addition the NOFA mandates submission of a 30 year operating budget with accompanying substantiation of long term project viability.

DHCD staffs have advanced degrees in planning, finance, and/or law, and are experienced loan underwriters. Funding applications are reviewed, analyzed, and scored twice; first by individual staff underwriters and then collaboratively as a unit. The underwriting process is structured to ensure that staff recommendations are based on a thorough analysis of development protocols and financing strategies. The second scoring process is also to ensure that individual bias or human error is minimized. After a rigorous review process, application scores are tallied and projects are ranked for Council recommendation accordingly.

Ten days prior to a formal Council presentation, funding recommendations are posted on the City's website for public review and staff is available to the public and to Council members/staff to answer questions regarding design program, development costs, and developer qualifications, and to clarify the staff's decision-making process. After the underwriting process is initiated housing development costs are available and documentable. Prior to Council approval there is an opportunity in a public forum to review and question the rationale for funding recommendations. Public investment in affordable housing developments is ultimately subject to City Council approval, with ample opportunity for public scrutiny and input.

#### *On-going Monitoring*

Once projects are in the City's affordable housing portfolio, a designated Asset Monitor regularly audits the files for compliance with the City's regulatory agreements and requirements of other financing programs. In addition to the Asset Monitor, the City contracts with a Construction Monitor consultant who accompanies the Asset Monitor on annual visits to ensure that the physical integrity of the projects is maintained. There are currently 84 housing developments in the City's affordable housing portfolio consisting of more than 5,000 affordable family, senior, and supportive developments. The costs for monitoring staff and expenses are subject to public scrutiny as part of the annual and mid-year budget review processes.

# CITY OF OAKLAND



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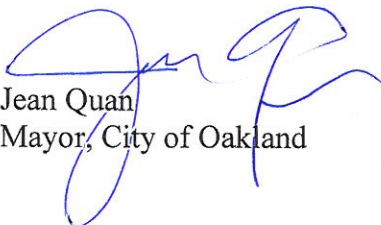
September 14, 2012

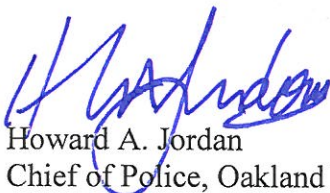
Russell G. Miller  
Jury Foreman  
Alameda County Grand Jury  
1401 Lakeside Drive, Suite 1104  
Oakland, CA 94612

Dear Mr. Miller,

Please find attached our response to the 2011-2012 Alameda County Grand Jury Report, titled "Crime Labs in Alameda County: Funding, Forensics & Consolidation." Thank you for the opportunity to respond to the Grand Jury report, we appreciate the time and effort of the members of the Grand Jury in completing their report. Our response is reflective of our collaborative effort in working with our City Council Public Safety Committee and the Alameda County Chiefs of Police and Sheriff's Association. Should you need any additional information pertaining to this response, please contact Chief Howard A. Jordan at (510) 238-3365.

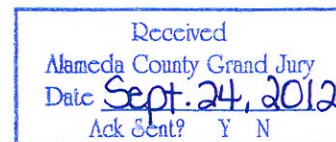
Sincerely,

  
Jean Quan  
Mayor, City of Oakland

  
Howard A. Jordan  
Chief of Police, Oakland Police Department

Attachment (1)

- Response to Alameda County Grand Jury Report on Crime Labs in Alameda County





# MEMORANDUM

**TO:** City Administrator Deanna Santana

**FROM:** Howard A. Jordan,  
Chief of Police

**SUBJECT:** Additional Information Regarding the Prioritization of Crime Lab Cases in OPD's  
~~Response to Grand Jury Report on Crime Labs in Alameda County~~

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**DATE:** September 24, 2012

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## INFORMATION

The purpose of this information memo is to include in the Grand Jury response, presented to Committee on September 11, 2012, supplemental information regarding the prioritization of Crime Laboratory requests.

The work of the Laboratory is closely aligned with the investigative priorities of the Department and reflects the Department's primary focus on violent crimes against persons. Prioritization of lab work is necessarily dynamic, particularly in an environment where service demand exceeds capacity. Case priority is determined by a number of factors, and often shifts and adjusts in response to the influx of new laboratory requests as new crimes occur.

The following summarizes current Laboratory policy regarding prioritization of requests for service:

- Homicides receive the highest priority;
- Other crimes against persons take precedence over crimes against property;
- Crimes against property have the lowest priority;
- Cases with court dates are prioritized over those without;
- Crimes representing an immediate threat to public safety in which the evidence is highly probative and investigative leads are needed receive a very high priority;
- Crimes for which a suspect is in custody who cannot be held without the analytical results are prioritized over routine requests.

In order to track and gauge the urgency of investigative requests, the Laboratory uses a "Top 10 List." The list contains the highest priority homicide requests as determined by the Major Crimes Section commander.

To: CITY ADMINISTRATOR DEANNA SANTANA

Subject: Additional Information Regarding the Prioritization of Crime Lab Cases in OPD's  
Response to Grand Jury Report on Crime Labs in Alameda County

Date: September 24, 2012

Page 2

While the Major Crimes Section is a major customer of the Laboratory, it is not their only customer. The Laboratory must also assess and prioritize requests from other investigative units in the Criminal Investigation Division, such as the Special Victims Unit, which handles sexual assault investigations, and requests from the District Attorney's Office in cases with court deadlines.

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Respectfully submitted,



Howard A. Jordan  
Chief of Police, Oakland Police Department

For questions, please contact Sgt. Chris Bolton, Chief of Staff to Chief Howard A. Jordan, 238-3131.



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OAKLAND

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## AGENDA REPORT

TO: DEANNA J. SANTANA  
CITY ADMINISTRATOR

FROM: HOWARD A. JORDAN  
CHIEF OF POLICE

SUBJECT: See Below

DATE: August 29, 2012

City Administrator  
Approval

*Deanna Santana*

Date

*8/30/12*

SUBJECT: Response of the Oakland Police Department to the Alameda County Grand Jury Report on Crime Labs in Alameda County

### RECOMMENDATION

Acceptance of the staff report and response to the 2011-2012 Alameda County Grand Jury Report entitled "Crime Labs in Alameda County: Funding, Forensics and Consolidation."

### OUTCOME

The report constitutes the Department's response and rationale with regard to the three recommendations made by the Alameda County Grand Jury with regard to their three recommendations regarding crime laboratory services in Alameda County for the purpose of complying with the Grand Jury deadline of September 25, 2012. A more thorough report will be forthcoming pending evaluation of available options.

### BACKGROUND/LEGISLATIVE HISTORY

In its 2011-2012 term, the Alameda County Grand Jury undertook a study of the forensic service delivery systems in the county. The study focused on the two, full service crime laboratories in the county—the Alameda County Sheriff's Department Crime Laboratory (ALCO Crime Lab) and the Oakland Police Department's Criminalistics Laboratory (OPD Crime Lab). The Grand Jury published a report on June 25, 2012, entitled "Crime Labs in Alameda County: Funding, Forensics and Consolidation," hereafter referred to as "the Report."

It should be noted that the City Council has separately directed staff to return to the Public Safety Committee with a thorough analysis on addressing the findings in the Grand Jury Report, including costs associated with implementing staff recommendations. The City Administrator's Office and Oakland Police Department are involved in discussions that address this City Council direction and are in process of preparing for a forthcoming report. This evaluation will include a review of best practices used by other large agencies that have kept up with the pace of demand.

Item: \_\_\_\_\_  
Public Safety Committee  
September 11, 2012

The Department is required by California Penal Code section 933 to respond to the Presiding Judge of the Alameda County Superior Court within 90 days of the issuance of the Report on the findings and recommendations pertaining to matters under control of the governing body. California Penal Code, Section 933.05, contains guidelines for responses requiring the Department to state one of the following in response to the Grand Jury's findings:

- It agrees with the finding.
- It agrees partially with the finding and provides explanation.
- It disagrees wholly with the finding and provides explanation.

In addition, for each Grand Jury recommendation, the Department is required to report one of the following actions:

- The recommendation has been implemented, with a summary regarding the implemented action.
- The recommendation has not yet been implemented, but will be implemented in the future with an implementation timeframe.
- The recommendation requires further analysis, with an explanation and the scope of the parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion, which 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.

This report represents the Department's analysis of the Grand Jury's findings and response to the recommendations.

### ANALYSIS

The ALCO Crime Lab provides services to all law enforcement agencies in the county on a fee-for-service basis. The OPD Crime Lab provides forensic services to the Oakland Police Department and the Alameda County District Attorney's Office in cases arising from crime committed in the Oakland jurisdiction. There are five forensic services areas which are common to both laboratories:

1. Solid Dosage Drug Analysis,
2. Forensic Biology/DNA Analysis,
3. Latent Print Development,
4. Forensic Firearms Analysis, and
5. Crime Scene Processing/Reconstruction, including officer involved shooting reconstruction incidents.

OPD Crime Laboratory also conducts Latent Print Comparison and Computer Searching. The ALCO Laboratory does not provide these two services. ALCO Crime Lab provides other

Item: \_\_\_\_\_  
Public Safety Committee  
September 11, 2012

services which OPD does not provide. The Oakland Police Department has used ALCO Lab forensic services for lab work that OPD does not provide in-house. In addition, the OPD Crime Lab serves as Department Custodian of all drug and latent print evidence seized by the Department, a task involving the management of tens of thousands of items.

**Grand Jury Recommendations and Response**

The report constitutes the Department's response and rationale with regard to the three recommendations made by the Alameda County Grand Jury concerning crime laboratory services in Alameda County and the Oakland Police Department Laboratory in particular. It is presented for the purpose of complying with the Grand Jury deadline of September 25, 2012. Additional study is warranted in several areas. We are in the process of developing a work plan for exploring options and we will return to Committee at a future date with follow-up information.

**Recommendation 12-1:** The Alameda County Chiefs of Police and Sheriff's Association must meet, confer and develop a written proposal to establish one consolidated Crime Lab in Alameda County.

**RESPONSE:** No Position required. The Grand Jury directed this recommendation to the Alameda County Chiefs of Police and Sheriff's Association (ALCO CSA) which is forthcoming. The Department has participated and represented the interests of the City with respect to these discussions. The City is aware that the Alameda County Chiefs of Police and Sheriff's Association is preparing to issue its response to the Grand Jury Report, a copy of which will be circulated to the City Council upon receipt.

As background, the OPD Crime Lab provides services exclusively to OPD on Oakland cases. Maintaining forensic services, or a portion thereof, will provide significant benefit to the Department. Among these benefits are:

- Unrestricted ability to determine the priority of its forensic service requests and to adjust those priorities as necessary to meet investigative objectives and urgent need;
- Alignment of laboratory work with investigative priorities and primary focus on violent crimes against persons;
- Access to core forensic services of greatest benefit to the Department's mission;
- Innovation and adoption of new technological advances and best practices;
- Strict control of the quality of the work product, reducing risk to the City.

A review of whether to consolidate would require a "cost-benefit" analysis on the part of the City and regional partners. The City would seek assurances that the service delivery would be improved or/and that casework receives the attention and priority required. Oakland's crime rate is the highest in the state. The City represents approximately 26% of the population of the county, but accounts for 60% of the violent crime, including 75% of homicides. The

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Public Safety Committee  
September 11, 2012

Department believes that any options explored take into account the benefits of having an in-house lab function, along with the City's crime demographics.

**Recommendation 12-2:** The Oakland Police Department Criminalistics Division must immediately clear its forensics-testing backlog

**RESPONSE:** The Department agrees partially with this finding and acknowledges that the demand for forensic services exceeds capacity and the Administration has recently taken to authorize the recruitment and filling of existing vacancies within the Crime Lab.

For example, in the short term, the Department is committed to filling the six vacancies currently existing in the OPD Laboratory. While the Department has identified a need for 13 additional laboratory staff at a cost of \$1,337,996.30 to meet the demand for laboratory service, make efficient use of forensic databases to solve crimes, and improve turnaround times in all forensic disciplines, the Department also recognizes that the City has limited resources and just adding additional staff to a service delivery model that may need rehauling is certainly not a solution. (Note: This figure does not include the costs associated with capital investments required to expand the Crime Lab.) Given this reality, it is imperative that the City explore options that may improve service delivery without requiring additional staff in the order of magnitude expressed in the Crime Lab's preliminary analysis. This data is useful, however, in identifying the gap that must be filled to obtain a higher level of performance and to address the concerns outlined in the Grand Jury report, but does not anticipate that such appropriation will be requested without further evaluation of new service delivery approaches or cost saving options.

A fuller discussion of options available will be provided in a separate report to the Public Safety Council Committee in response to the previous direction. As of the time that this report is authored, the City Administrator's Office and Police Department have had discussions with regional partners to explore options and those discussions require more time to evaluate.

### Backlogs

Like many other City functions or services, there is no question that the demand for OPD Crime Lab services exceeds the casework capacity of the laboratory in all areas (except drug analysis). All units could provide enhanced service to the Department and the City with additional resources, the requirement for which will increase as sworn staffing and investigative capacity increase. The table below shows the current backlog of requests by unit.

	Homicides	Other Person Crimes	Property Crimes	Other	Total
All Sources	555	1413	373	97	2438
By Unit:					
Firearms	273	960	3	45	1281
Forensic Biology	93	283	1	5	382

Item: \_\_\_\_\_  
Public Safety Committee  
September 11, 2012

Latent Prints	187	170	369	47	773
Crime Scenes	2				2

It is possible that the analyses associated with some unknown number of these requests may no longer be required, which would lessen the "backlog" if such information was determined. It should be noted that case status is confirmed prior to conducting casework on older requests. The Laboratory defines "backlog" as any request in the system that has not been completed. "Completed" means a report of analysis has been published. Thus, requests that are in progress are counted as part of the backlog. While there is no standardized definition of backlog in the forensic science industry, this approach is fairly common.

Many factors beyond laboratory control have contributed to this backlog and include:

- Rises in crime, resulting in the increase in demand for service
- Inherent complexity of casework
- Loss of trained staff due to retirement or lack of retention
- Chronic shortage of experienced examiners nationwide to fill vacancies in certain forensic fields
- Lengthy delays in recruiting and filling vacancies, coupled with personnel resources diverted from casework in order to train new staff to competency
- Performance of ancillary casework support duties by casework staff that could be done by less costly technical support staff
- Performance of drug and latent print evidence custodial responsibilities by casework staff that could be done by less costly support staff

The largest backlogs are in the Firearms and Latent Prints Units and are a consequence of many factors, including loss of trained staff due to retirements and resignations, hiring freezes, the shortage of experienced examiners in the field generally to fill available vacancies, lengthy training periods required to develop competent replacements and an increase in demand for this kind of service year on year.

**Recommendation 12-3:** The Oakland Police Department must immediately acquire a department-wide case management database that integrates the Oakland Police Department Criminalistics Division and county-wide criminal data bases.

**RESPONSE:** The Department agrees with this finding and suggests that a more streamlined method is needed to identify laboratory requests that are no longer required. Further study of the subject is needed to identify the best way forward and how county-wide criminal data bases may contribute to the process.

The OPD Laboratory relies on a Laboratory Information Management System (LIMS)—a complex, relational database designed for our operation that tracks receipt, assignment,

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completion and or cancellation of laboratory requests among other functionalities. The System is capable of producing a variety of statistical reports that are useful to laboratory management.

LIMS is not integrated with databases outside of the laboratory environment. It was not designed to query or import data from other databases. The OPD Lab receives many requests from investigators, but is seldom informed of requests that are no longer needed or of cases that have been adjudicated. This results in an accumulation of case requests which must then be vetted individually to determine status and cull them from the backlog. A real time mechanism for knowing when requests can be cancelled or when cases are adjudicated is not available to the OPD Crime Lab, but would be of value and is worthy of further study to determine its feasibility and cost.

The Report recommends accessing countywide databases to assist with laboratory case management. The CORPUS or CRIMS databases may be useful in determining some information about the status of cases, but have limitations. For example, CORPUS and CRIMS contain data on incidents in which there has been an arrest and they do not contain the information needed in cases involving juvenile defendants. These databases will not be helpful for those incidents in which no arrest has been made—a category of cases that gives rise to a significant number of laboratory requests. The feasibility of integration with any OPD database is unknown at this time.

Relying on database information alone without confirmation of status by investigative units is risky, particularly in homicide, sexual assaults, and certain kidnapping charges and for cases where there may be multiple defendants.

Checking status of each case individually is time consuming and exceeds the clerical resources and skills of the laboratory's 1 FTE clerical staff. One immediate option involves the use of a Police Property Specialist, a position included among the 13 additional position discussed under Recommendation 12-2, to query databases available to the department and liaise with investigative units to determine the status of cases for which the laboratory is holding requests. Cost of the position is \$73,077.30.

District Attorney's Office has agreed to provide laboratory staff with adjudication reports on a weekly basis regarding adjudications. Laboratory supervisory staff is evaluating the utility and reliability of these reports as an aid in identifying pending requests that may be cancelled. Further discussion of this option will be presented in the forthcoming report to the Public Safety Council Committee.

#### PUBLIC OUTREACH/INTEREST

No public outreach was necessary at this time.

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**COORDINATION**

No coordination is necessary to complete this response; however, the City Administrator's Office and Police Department continue to coordinate with regional partners to more fully evaluate options that address the concerns raised in the Grand Jury Report.

**SUSTAINABLE OPPORTUNITIES**

***Economic:*** Effective and timely analysis of latent print evidence will assist the Police Department in conducting effective investigations and lead to the apprehension and prosecution of offenders, with resulting improvements in public safety. Great public safety will enhance Oakland's reputation as a place to live and to engage in business, affording the City an opportunity for further economic growth.

***Environmental:*** There are no environmental opportunities identified with this report.

***Social Equity:*** Apprehending and prosecuting offenders will improve public safety for the citizens of Oakland. Timely evidence analysis may also result in the elimination of falsely accused suspects thereby reducing potential liability to the City.

For questions regarding this report, please contact Mary M. Gibbons, Crime Laboratory Manager at (510) 238-2108.

Respectfully submitted,



*for* Howard A. Jordan  
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