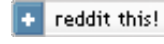




## O'Malley looks to maintain "superior tradition" at Alameda County DA office

By [John Grennan](#)



[\(https://oaklandnorth.net/author/johngrennan315/\)](https://oaklandnorth.net/author/johngrennan315/)

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During a recent morning at the Alameda County Supreme Court building in Oakland, lawyers with arms full of legal briefs raced in and out of the District Attorney's office on the top floor. These members of the county's legal team were busy preparing court cases dealing with everything from the BART station shooting of [Oscar Grant](#) (<http://oaklandnorth.net/2009/10/17/judge-rules-mehserle-trial-must-leave-alameda-county/>) to white-collar crime and street-corner drug deals. Decisions made here directly affect the safety and security of the more than 1.4 million people living in a county that includes Oakland, Berkeley and Fremont.

The final decision on prosecuting those cases now belongs to District Attorney Nancy O'Malley, whom the Board of Supervisors selected to replace 39-year veteran prosecutor Tom Orloff when he unexpectedly retired in September. O'Malley will serve out the last year of Orloff's term and intends to run for a full four-year term in the June 2010 election.

Today, O'Malley sits at the same desk Earl Warren occupied when he was district attorney in the 1930s before serving on the U.S. Supreme Court. O'Malley's tenure is historic, too: She is the first woman to serve as Alameda County's district attorney and brings with her a long history of prosecuting sex crimes. She developed a reputation for victims' advocacy in her 25 years with the District Attorney's Office, including the last 10 years as the office's top deputy.

As the county's new top prosecutor, O'Malley faces a host of challenges. These include deep budget cuts, coordinating with police, countywide racial divisions over the legal system, and high-profile homicide cases involving Your Black Muslim Bakery and former BART police officer Johannes Mehserle.

Standing beneath a portrait of Warren near her office, O'Malley said the former Supreme Court chief justice did much during his days as Alameda County's district attorney to promote the "independent district attorney's office free from political influence" that has become the model for other offices. O'Malley said she aspires to uphold the "rich history and superior tradition" Warren and others have brought to the office.

"It's still looked at as one of the best DA offices in the country," she said last week during an extensive interview. "I take the job very, very seriously. It's an honor where I don't even have enough words in my vocabulary to describe it."

### A Life of Law

O'Malley, who graduated from CSU-East Bay and holds a law degree from Golden Gate University, comes from one of the Bay Area's best-known legal families. Her father, who moved from Boston to Contra Costa County in the 1950s, went on to serve as the county's district attorney for 15 years and as a Superior Court judge for 11 more. With nine children, the O'Malleys were a large Irish Catholic family in Concord in the 1960s and '70s. ("We were actually one of the smaller families on the block," Nancy O'Malley jokes today.) Nancy is not the only one who stayed in the family business. Her brother Dan, a former California Superior Court judge, is running for the Contra Costa district attorney job in June, and her sister-in-law, Mary Ann O'Malley, is a California Superior Court judge.

"People always ask what we talk about the dinner table," O'Malley said, smiling. "Mostly basketball or golf."

In a pinstriped navy blue suit, O'Malley moved quickly around the office floor where she has worked for most of her career and rapidly checked details with the handful of assistants stationed outside her office. She's headed out to Solano County later in the day to talk about domestic violence. One month into O'Malley's term, some items on the ninth floor have yet to be updated to reflect the changing of the guard. Plaques next to large California and United States flags still bear Orloff's name, and in the foyer a black-and-white photo montage of Alameda County district attorneys dating back to the 19th century does not yet include O'Malley.

She speaks with an even, confident voice that sets out points sequentially, as if before a jury, and her clear, blue-eyed gaze seeks to ensure these points have registered. She proudly refers to her staff's initiatives to combat mortgage fraud and gang violence.

"There's a lot to be said for picking the right people to work here and letting the leaders percolate to the top, leaders who carry on the fine tradition that Alameda County has of being progressive and open, and a leader in the prosecutorial world," she said.

After working briefly in the private sector, O'Malley joined the District Attorney's Office as a prosecutor in 1984. She built a track record earning convictions in sexual assault cases. One of her most prominent cases involved Tony Lawayne Ransom, a serial rapist who attacked at least six women in the East Bay in 1997 before being sentenced to life in prison in 1998. "The significant thing is that the women who were victimized feel that justice was served," O'Malley said at the time.

"I feel very strongly that we are lucky to have Nancy in our county doing really good work," said Alice Lai-Bitker, president of the Alameda County Board of Supervisors. "She's a great prosecutor and has prosecuted some highly visible cases."

Earlier this year, O'Malley earned a conviction against Jared Adams, who carjacked former State Senator Don Perata on Telegraph Avenue in the Temescal neighborhood, and shot and partially paralyzed Christopher Rodriguez, a 10-year-old boy playing piano at a music school on Piedmont Avenue. ✓

"I took the case because I knew I could get it through the system faster," she said. "[Rodriguez] was a 10-year-old kid who had to start a new school in a whole new body, in a wheelchair. So I really wanted to try that case before he started the new school."

But O'Malley is also well-known for her work outside of the courthouse, particularly her central role in founding the Alameda County Family Justice Center (<http://www.acfjc.org/>) on 27th Street in North Oakland, which offers a variety of legal and counseling services to victims of sexual assault and domestic violence. The creation of such a centralized refuge allows victims to find police officers, attorneys, therapists and probation officers in one place rather than having to go to several offices around town. The idea is to make the process of getting help easier and less confusing for domestic violence victims. O'Malley wrote the \$1.3 million federal grant proposal that established the center in 2005, and has remained involved ever since.

"We wouldn't have this center if it weren't for Nancy," said Harold Boscovich, the center's site manager. "She was the one who was the catalyst for this. She brought everyone from the community—health care, probation, nonprofit centers—together

and said, 'We want you to be partners in this.'"

O'Malley's voice fills with passion when she discusses people affected by violent crime, and she said the Family Justice Center has helped ensure the legal system takes victims' feelings and situations into account.



Alameda District Attorney Nancy O'Malley next to a portrait of Earl Warren, who served as Alameda County

"It used to be when rape victims would go to the hospital for exams, they'd wait for 6 to 10 hours," she said. "These were times when there was no support in the criminal justice system for victims of interpersonal crime. Now, there's an immediate response from trained professionals that's much more humane and kind."

O'Malley's work has won her praise from local legislators. "She has a commitment to combating a lot of things that are troubling for society," said County Supervisor Gail Steele. "Wherever there's been physical abuse, the DA's office has been very progressive in terms of being supportive to victims."

"The Family Justice Center is the thing I'm most proud of in my career," O'Malley said. "I've gone all over the state to talk to communities about how they can do [something like it]. This is something I do on my own time—I'm committed to help empower people."

### Fostering Collaboration

As district attorney, O'Malley said she hopes to encourage cross-agency collaboration that is similar to the cooperation that helped establish the Family Justice Center. She talked about the importance of seeking input from the community and from Alameda County's 14 different city councils and police departments.

"When you continue to reach out, continue to be inclusive, when you keep inviting people to the table, you show that we're a system that serves all," O'Malley said.

*(I sought help from them a number of times, including in person, by phone, and written. Turns out its first Exec Director (Bill Lockyer's 3rd wife) had more problems than some DV victims do; although one personal problem she didn't have was lack of salary, starting at (we heard) \$90K.)*

That includes the county's largest law enforcement agency, the Oakland Police Department, under new Chief Anthony Batts (<http://oaklandnorth.net/2009/10/10/north-oakland-meets-new-police-chief-batts/>). Barry Donelan, vice president of the Oakland Police Officers Association, said a fresh start could help relations between the police and the district attorney's office. He cited Orloff's decision to prosecute police officers in the Riders case (<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2005/06/11/MNGS2D786S1.DTL>) as a major source of disagreement.

"We had a very difficult relationship with the previous DA," Donelan said. "He was big into charging cops, but not criminals. We want a partner on the other end of the justice system. With Nancy O'Malley, we have a partner. She wants to put people behind bars and make Oakland a better place. That's her vocation, and I'm confident that it should marry up nicely."

Because police arrest people based on "reasonable suspicion," while the district attorney has to prove cases "beyond a reasonable doubt," O'Malley said her office and the police will sometimes approach cases differently. "What is most important to me is that while we may disagree whether there's sufficient evidence to try a case, our interaction with our partners in law enforcement has to be completely respectful," she said. "We should make ourselves available to talk to police about why they think these cases should be charged. We shouldn't just sit in an ivory tower and blow them off."

O'Malley said some innovative solutions have come from police officers' suggestions. For example, she recalled a community meeting at which an Oakland police officer urged her to issue stay-away orders preventing drug dealers from returning to certain street corners. After she checked to ensure this was legal, she started issuing them. "In fact, it was a great idea," O'Malley said. "That's the kind of stuff I hope we convey—an openness to something we don't know about. Maybe someone has a good idea we never thought of. Maybe when we get all the facts, it will change our position."

Nate Miley, the County Supervisor who represents Oakland, said this kind of outreach from the District Attorney's Office could have a positive impact, especially around violence prevention. "I'd like to see the DA—and not just the deputy—be more available and out there in the community, particularly communities that are troubled like East Oakland, West Oakland, Oakland in general," Miley said. "Even though the Alameda County DA's office has good reputation, a little more visibility would be a good thing."

O'Malley has come to know the county well in her two and half decades in the District Attorney's Office, and currently lives with her husband, professional chef John Vidano, in the city of Alameda. Her earliest work in victims' rights began when she volunteered at a rape crisis center in college. She was diagnosed with cancer at age 23, but has said her sense of humor and positive attitude helped her through treatment. She said the experience surviving cancer also solidified her desire to become a lawyer.

"When I made my final decision to go into law, I had cancer," she told The Island newspaper in Alameda. "My doctor just kept saying, 'You should be a lawyer. You negotiate. You're strong.'"

O'Malley also spoke about how she's always placed a premium on promoting diversity of backgrounds and life experience when hiring attorneys.

"It's been one of my priorities to make sure that our staff looks like the community we serve," O'Malley said. "It's also important for me that the people we hire have experience in life so they can exercise their discretion. We ask them to share an experience that makes them think they can relate to a victim of a crime or a person accused of a crime."

O'Malley added that her position as the first woman to serve as Alameda County's district attorney has the potential to bring something new to the office. She said it's important for women to have access to leadership positions in government and the private sector.

"Your gender or ethnicity shouldn't serve as a barrier for you to excel in your job. There's still a level of scrutiny of how women perform in the workplace, and many women still make less than their male counterparts," said O'Malley, who is serving as the president of the California women's bar association this year. "It's also important to create a family-friendly environment and open the eyes of decision makers to value the different contributions people have to make beyond billable hours."

## **The Top Job**

With Orloff's sudden retirement in September after 15 years as district attorney, it fell upon the Board of Supervisors to appoint his replacement. Two of the five county supervisors raised questions about the fast succession process, including Miley, who abstained from voting. "Tom Orloff made a decision ostensibly a week in advance of

the Board of Supervisors filling the vacancy," Miley said recently. "It was too short of notice, and it didn't give the public a chance to weigh in. If we are going to fill a vacancy as important as the DA, there should be a more deliberative process."

However, Miley was careful to point out that his vote was "more about the process of succession" than about O'Malley's qualifications.

Keith Carson, the other supervisor who abstained in the O'Malley vote, also emphasized that his vote had to do with the succession process. Like Miley, he pointed to community engagement as an important role for the district attorney.

"I think a part of public service is constantly informing and updating the general public about the things that come under one's purview," Carson said. "To some people, the District Attorney's Office is a little mysterious. Hopefully, it can be demystified."

Lai-Bitker, one of the supervisors who voted for O'Malley's appointment, noted that O'Malley's candidacy was strongly supported by local law enforcement. "During her appointment process, the Alameda County police and sheriff's associations wrote in and supported Nancy, and the Alameda city police chief also called me personally," she said.

Additionally, O'Malley noted, more than 300 of her colleagues in the District Attorney's Office signed a petition supporting her.

"This is a historic moment—history is in each one of your hands," prosecutor Sharmin Eshraghi Bock told the Board of Supervisors back in September. "This is the first time a woman stands before you to take the job, with the resume that no prosecutor in the state could equal."

O'Malley has already announced she'll run for a full four-year term as district attorney in the June 2010 election and said that placing her record before the voters will be the ultimate "vetting process."

"In terms of Tom leaving, and having to make sure someone was in place for the remainder of the term to carry on the tradition, I know I was the best choice," O'Malley said.

## Challenges Ahead

Even with more than 25 years of experience in the office, O'Malley will have her work cut out for her as she inherits a full docket of cases. In many situations, the move from top deputy to district attorney has meant she's making a shift from giving recommendations to making decisions.

"I'm really busy, and I was a busy person before," O'Malley said. "When I die, my gravestone is going to say 'Society got its money's worth out of her.' I'm a hard worker, and I don't mind hard work. But it's very busy."

Most notably, the Oscar Grant BART shooting case will likely keep O'Malley's office busy and in the spotlight. Lai-Bitker pointed out that even though the Grant case has been moved from Alameda County, the District Attorney's Office will still be prosecuting this "highly visible and very challenging case."

"The racial justice issues we are facing in this county are real, but I trust Nancy for her personal and professional commitment to justice for all," Lai-Bitker said.

With the downturn in the economy, the District Attorney's Office has brought more cases dealing with fraud, according to O'Malley. One major case involves NBC Construction, which O'Malley's staff alleges has engaged in worker's compensation fraud. "We have more mortgage fraud cases, particularly against people who are pretending to help people out of their mortgage problems that are really just thieves," O'Malley said.

O'Malley takes the reins at the office at a time when county coffers are empty. The office had to close a \$6.3 million budget gap, but O'Malley said they have been able to avoid layoffs so far. As chief deputy, she looked for ways to streamline operations and emphasized the savings involved in doing legal research in electronic databases rather than constantly buying new legal books. The office has also worked with the sheriff's crime lab rather than outside forensic labs whenever possible.

"It's what all of us are doing in our own personal lives—paying attention to every dime we're spending and making sure we're budgeting appropriately," she said. "We try to be as efficient as we can, using the limited resources we have for the staff so they can go to court and take care of the cases and support the victims."



Regardless of the tight budget and full caseload, O'Malley said she's eager to lead. She's begun reaching out to city councils and police chiefs to let them know she wants to work with them to serve the people of Alameda County.

"That's the tone I hope to set in this office," she said. "I value my role as a public servant. That's who I am."

## 7 Comments

Steve White

October 27, 2009 at 9:19 am

O'Malley acted illegally to ensure that Nadia Lockyer, wife of Bill Lockyer, would be hired as head of the ACFJC. She acted in violation of Federal Grant laws which forbid insiders from using their power over how grant money is spent from benefitting themselves or their family. Lockyer, who under the CA Constitution, as Attorney General, had all law enforcement subordinate to him at the time, had his wife hired by those same subordinates. This risked the Federal funding O'Malley was so proud of, but apparently, making a political ally happy was more important than the Center itself, despite all the high sounding words. Harold Boscovich, quoted in this article, was part of the manipulations, he was on the "committee" that picked Lockyer for the job. The committees were not there to make the process fair and objective, they were there to create the APPEARANCE of making the process fair and objective. They were stacked with DA staff subordinate to both O'Malley and Bill Lockyer himself. When the federal funding agency, (DOJ OVW) was informed of this by me, the head of that was going to take action against O'Malley but she got caught up in the Alberto Gonzalez scandal. Still, Federal law was broken, and for that matter state law which does not allow the Attorney General to use his position to benefit his family or himself, (in a community property state such as CA your wife's salary become partly yours)

Finally, after advertising the job at about \$65,000 and rejecting the other 27 applicants in favor of Nadia, after it was sure she got the job, they raised the position to \$90K per year. Blatant favoritism, but who would prosecute? O'Malley, because it happened in her jurisdiction? Or Bill Lockyer, because he is Attorney General?

Steve White

October 27, 2009 at 9:40 am

In addition to scheming up the hiring of Nadia Lockyer as a favor to Bill Lockyer, O'Malley/Lockyer have not hesitated to lie to the public about the activities of the ACFJC.

Specifically, when they got another grant from the US Dept. Of Justice, they announced it in a press release which they published on their website, and gave out to several local newspapers that repeated it, at least in their online editions.

This press release falsely claimed the Center had helped. "20,000 victims and their families". A heck of a lot of people in other words, 20,000 people, mostly women probably, and their kids, is what the release basically said.

But it was all lies. The true numbers, as given in the ACFJC reports to it's federal funding agency, the Office on Violence Against Women at the US Dept. Of Justice, were 3,000 people TOTAL, INCLUDING ALL CHILDREN.

In other words, they "exaggerated" by a factor of more than six.

It's a lie to give false numbers to the funding agency, but it's not a lie to tell lies to the public and press. As lawyers, they are of course quite aware of the law, so they told the truth to the DOJ OVW, but not to the people of Alameda County.

To compound the lies, when I requested, under the Public Records Act, the records which would show who had prepared and released the false numbers, neither O'Malley nor Lockyer responded to that request. This is of course a violation of the Public Records Act.

When you consider the fact that they had to prepare statistics for the DOJ on a quaterly basis, any idea that the "20,000 victims" number could be an honest mistake is ludicrous. They knew the actual number, they had to, because they had to send it off to the DOJ every three months. Blatant lying to the public and press.

I would suggest that this daughter of great privilege feels that she is above the law, and this explains her lying and manipulating.

Ordinary people grow up with some fear of getting in trouble if they violated rules and laws. But for O'Malley daughter of the DA and Presiding Judge, the only thing that mattered was what would upset her parents. They apparently did not care about lying very much, so neither does she.

**Steve White**

October 27, 2009 at 9:51 am

One more quick point about all the signatures in support of O'Malley. The DA's office is not civil service. These people can be fired at any time. With the cutbacks in funding, they are even more scared. The DA's office has traditionally given out jobs to huge numbers of those politically connected. All the judge's kids get jobs, at least if the judge is on the criminal calendar where he is able to return the favor. The local politicians kids, and so forth. Before Bill Lockyer's wife got the job as mentioned above, his daughter was hired while he was State Senator.

**Case Closed**

October 27, 2009 at 11:49 am

Yawn, Steve.

Peddling the same misguided and ill-informed complaints is beyond tiring.

**Chan**

November 6, 2009 at 12:23 am

27th Street in not North Oakland.

Get a clue bloggers, leave the Berkeley campus please.

27th Street is in the Norhtgate-you might call it Koreatown- neighborhood and is before you even get to Pill Hill, still not in North Oakland.

**Odie**

January 25, 2010 at 4:57 pm

Nancy, I just read your most recent article in the Oakland Tribune on your support of "Sex Trafficking" As a reader, It seems to me that you and Sharmin Brock are aiming at people in the "East" part of Oakland. If your goal is to stop human trafficking, what do you plan to do about the money making Asian massage parlors that offer offer sex to men who visit them.

**Steve White**

May 15, 2010 at 1:44 pm

Case closed – you say my complaints are misguided and ill-informed, but you give not one specific refutation of them. Probably because there are none.

Comments are closed.