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June 24, 2010

The Honorable James J. McBride  
Presiding Judge, Superior Court of California  
San Francisco Civil Courthouse  
400 McAllister Street  
San Francisco, CA 94102

Dear Honorable James J. McBride:

On behalf of the SFMTA, I would like to thank the Civil Grand Jury for a thorough response to a timely concern – conflict, mistrust, and misunderstanding between bicyclists and other roadway users. As bicycling becomes an increasingly popular form of everyday transportation, conflicts between people who bicycle and those in cars could increase. The livable streets movement is one of significant change within American cities, and as with any social change, it can be a stressful evolution. With guidance and enforcement from critical stakeholders, San Francisco can mitigate many of these potential conflicts and transition to accommodating all modes safely in the City.

As noted in the report, San Francisco is committed to its *Transit First Policy*, which prioritizes the needs of public transit, taxis, van/carpools, bikes, and pedestrians over those traveling alone in personal vehicles. As such, we take reports such as "Sharing the Roadway: From Confrontation to Conversation" seriously, as they can highlight areas where our agency can improve how we safely and efficiently move people and goods.

The following document is the SFMTA's official response to the Civil Grand Jury's report. If you have any questions or comments, please feel free to contact me at 415-701-7420.

Sincerely,

Nathaniel P. Ford Sr.  
Executive Director/CEO

Enclosure

- c: Office of the Mayor
- San Francisco Board of Supervisors
- San Francisco Police Department
- San Francisco Bicycle Advisory Committee

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## Summary

The SFMTA thanks the Civil Grand Jury (SFCGJ) for a thorough response to a timely concern. As bicycling becomes an increasingly popular form of everyday transportation there is the potential for an increase in conflicts between people who bicycle and those in cars. The livable streets movement is one of significant change within American cities, and as with any social change, it can be a stressful evolution. With guidance and enforcement from critical stakeholders, San Francisco can mitigate many of these potential conflicts and transition to accommodating all modes safely in the City.

Some overarching themes that emerge in this report include the recommendation to amend the 2009 Bicycle Plan. It is our strong belief that many of the recommendations of the Civil Grand Jury can be addressed or implemented through the existing action items in the 2009 Bicycle Plan. Where appropriate, those recommendations that do not fall within existing elements of the bicycle plan will be incorporated into the next revision. At this time, we do not have the staffing or funding to revise the 2009 plan or to perform the requisite additional environmental review that it would require. To meet the eligibility requirements for a number of discretionary funding sources, the City and County of San Francisco is required to update its Bicycle Plan every 5 years; the next update is planned for 2014.

The SFMTA believes that the efforts and the recommendations of the Civil Grand Jury can be incorporated within the existing scope of work of the Sustainable Streets Division, and the SFMTA will move forward in prioritizing them as described in our response which follows.

## Issue 1

### **Finding**

Issues of conflict, anger, mistrust, and misunderstanding exist among motorists, cyclists, and the police. Studies and reports of attitudes indicate motorists and cyclists both exhibit negative attitudes, hostility, and lack of understanding of each other's concerns.

### **Response**

*Agree. While San Francisco has taken many steps to educate all users, issues of conflict, anger, mistrust, and misunderstanding persist.*

### **Recommendations and Responses**

Conflict, anger, mistrust and misunderstanding among motorists, cyclists, police, transit riders, and pedestrians have frustrated the successful implementation of the San Francisco Bicycle Plan. The Plan should be amended to address the different and sometimes hostile attitudes and perceptions. San Francisco should create innovative strategies so that residents can more fairly and safely share the roadways of the City.

Amending the Plan should be a priority and be completed by January 1, 2011.

*The recommendation will not be implemented because it is not reasonable. The 2009 Bicycle Plan took over 4 years to develop and to complete the environmental review – amending the plan after less than one year is not feasible given the time and resources available to SFMTA.*

*Although it is not feasible to amend the Bicycle Plan at this time, we do believe that the current version of the Bicycle Plan addresses this concern. Feelings of hostility, attitudes and perceptions regarding motorists, law officers and cyclists can all be ameliorated through action items set forth throughout the plan and through continued collaboration with existing organizations and relationships. For example, Action 1.4: "Work with other City agencies to ensure that SF continues to implement the Transit First policy". The Transit First policy explicitly states that "bicycling shall be promoted by encouraging safe streets for riding, convenient access to transit, bicycle lanes, and secure bicycle parking," and the SFMTA will continue to actively engage the Police Department and the Bicycle Advisory Committee as stated in the plan and as recommended by the SFCGJ.*

The SFCGJ recommends that the Bicycle Advisory Committee, with active input and cooperation from the SFMTA and the SFPD, amend the San Francisco Bicycle Plan (the Plan) to include the recommendations set forth in this report.

*SFMTA staff will continue to support and to participate in the Bicycle Advisory Committee's monthly meetings as well as to respond to requests for information and action as issues arise. Specifically, we started discussing the SFCGJ report at the May meeting of the Bicycle Advisory Committee.*

The amended Plan should be presented to the Mayor and BOS for adoption by January 1, 2011.

*As indicated above, SFMTA does not expect to amend the Plan before the next scheduled update in 2014.*

The SFCGJ recommends that the BAC, SFMTA, and the SFPD meet annually.

*SFMTA staff will work with the Bicycle Advisory Committee to support SFPD staff in attending a meeting at least annually.*

## **Issue 2A**

### **Finding**

Availability of safe cycling educational materials in many formats is extensive, yet there is no systematic distribution to non-cyclists, motorists, and police.

### **Response**

*Partially agree. The SFMTA bicycle program has in the past and continues to provide education to motorists through outreach campaigns on buses, flyer distribution for specific topics such as shared use lanes, our website, and funding education programs led through groups such as the San Francisco Bicycle Coalition. Most of these education campaigns occur as funding is available without an explicit policy to target all potential audiences (cyclists, motorists, pedestrians, and police) with each campaign. The SFMTA has not directly given materials to the SFPD though all materials are in supply and available upon request.*

### **Recommendation and Response**

The Plan should be amended to include a comprehensive program to distribute, to the public as well as cyclists, the extensive available safe cycling educational materials.

*The recommendation will not be implemented because it is not reasonable - the 2009 Bicycle Plan took over 4 years to develop and to complete the environmental review – amending the plan after less than one year is not feasible given the time and resources available to SFMTA.*

*Although it is not feasible to amend the Bicycle Plan at this time, we do believe that the current version of the Bicycle Plan addresses this concern and staff is currently working at capacity in terms of time and funding on education and safety initiatives to improve safe and legal cycling. The 2009 Bicycle Plan includes an entire section dedicated to cyclist and non-cyclist education, including:*

- *Action 4.1: Provide SFMTA bicycle safety information to diverse age, income and ethnic populations.*
- *Action 4.2: Provide SFMTA bicycle safety information in languages that are widely used within SF such as Chinese and Spanish.*
- *Action 4.3: Partner with other agencies, where appropriate, to distribute SFMTA bicycle safety education materials in mass mailings.*
- *Action 4.6: Implement new outreach campaigns for improved bicycle facilities.*

*A policy statement from the SFMTA may be a more appropriate than amending language in the Bicycle Plan to address the distribution system of educational materials to all road users. The inclusion of outreach materials and educational interventions for non-cyclists, motorists and police can be included in future funding requests.*

### **Issue 2B**

#### **Finding**

Police training materials are out-of-date and not relevant. The Plan's goals, objectives, and actions do not include the police. The California Commission on Peace Officer Standards and Training (POST) is a center for information on training materials.

## **Response**

*Disagree that the Plan's goals do not include the SFPD. The following action items were developed in order to facilitate improved coordination with the Police Department:*

- *Action 2.15: Work with the San Francisco Police Department to make theft investigation a higher priority and create a better system for returning recovered bicycles to their owners.*
- *Action 4.4: Work with the SFPD to create a bicycle traffic school curriculum as an option in lieu of other pecuniary penalties for traffic law violators.*
- *Action 5.1: Work with the SFPD to place a high priority on enforcement of both bicyclist and motorist violations that most frequently cause injuries and fatalities.*
- *Action 5.2: Work with the SFPD to develop a "fix-it ticket" program for bicycle equipment violations.*
- *Action 5.3: Work with the SFPD to develop a method to systematically share non-collision bicyclist citations with the SFMTA.*
- *Action 5.4: Work with the SFPD and the Superior Court of California to develop and implement a bicycle traffic school program as an option for those cited for moving violations.*
- *Action 5.6: Increase parking enforcement and fines for violations involving vehicles parking or double-parking in bicycle lanes.*
- *Action 5.7: Post "no stopping in bike lane" signs along bicycle lanes where double parking violations occur and work with the SFPD to increase enforcement of these violations.*
- *Action 5.8: Work with the SFPD to increase the enforcement of the prohibition of operating motorcycles in bicycle lanes.*

*SFMTA understands the critical role of the Police Department in enforcing all transportation laws in the City, and has and continues to collaborate with the Police Department as stated in the above action items within the Plan.*

## **Recommendation and Response**

By January 1, 2011, Police should update training materials related to bicycles in a joint effort with the bicycle community and the California Commission on Peace Officer Standards and Training (POST). Updated materials should include CVC and TC enforcement in alignment with the current SFMTA Bike Guide. By January 1, 2011, the SFPD should have a plan to distribute these materials and train officers.

*SFMTA will provide the Police Department with electronic versions of existing materials (and hard copies as funding allows) such as the "Bike Guide" and it will support the Police Department's efforts to update their training and materials.*

## **Issue 2C**

### **Finding**

Cyclists may not be aware of the advantages of having liability insurance. Homeowners' insurance covers those cyclists who own a home; renters' insurance (property and liability) provides coverage if one does not have homeowner's insurance.

### **Response**

*Agree. Many cyclists are not aware of the options for obtaining and benefits of liability insurance.*

### **Recommendation and Response**

The Bicycle Plan should be amended by January 1, 2011 to include the importance and availability of property, liability, and health insurance for cyclists.

*The recommendation will not be implemented because it is not reasonable - the 2009 Bicycle Plan took over 4 years to develop and to complete the environmental review – amending the plan after less than one year is not feasible given the time and resources available to SFMTA.*

*Given the limited distribution of, and interest in, the Bicycle Plan, it is not the best medium to disseminate safety and education materials to cyclists. However, elements identified in the Plan highlight opportunities for spreading information about insurance. For example, Action 6.2: Work with the Department of the Environment (SF Environment), the Department of Public Health (DPH), and other City agencies to formalize bicycle education and promotion responsibilities and to develop partnership agreements with the SFMTA. The benefits of liability insurance could be incorporated into outreach activities by these partner agencies.*

*Future versions of the San Francisco Bicycle Guide, which is available, printed and on the web in multiple languages will be updated to include this information about liability insurance. The SFMTA Bicycle Program will work with bicycling advocates and the presenters of our bicycle educational courses to incorporate this information into the standard curricula for our classes.*

## **Issue 2D**

### **Finding**

Police involvement is critical to the success of the Plan, yet their involvement has been minimal; the authors of the Plan only included one officer (a member of the Technical Advisory Committee) among a group of 119 individuals listed under acknowledgements. Pedestrians, public transit riders, and motorists were not represented.

**Response**

*Partially agree. Only one officer was named as a participant; however, each representative served as a liaison between their own agency and the Technical Advisory Committee (TAC). This was true for all members of the TAC. This does not discount the importance of police involvement; but, as the list of TAC representatives shows, there are many stakeholders that must be engaged in the design and implementation of the Plan.*

*Pedestrians, public transit riders and motorists were represented in the development of the Plan. Although not called out as specifically representing these groups, City staff and committee members did in fact represent them. Many of those acknowledged in the Plan walk, ride transit, and drive on a regular basis. The interests of motorists, pedestrians, and transit riders were represented in the form of SFMTA staff from Muni, the Pedestrian Program, Traffic Engineering, Transportation Planning and Traffic Calming; other agencies and authorities such as BART and the San Francisco Transportation Authority; pedestrian, transit and motorist advocacy groups such as Transportation for a Livable City, and the SFMTA Board of Directors.*

*Using the acknowledgements as a proxy for participation does not reflect the range of participation in the Plan. Over the course of the creation of the Plan, hundreds of individuals, from government officials, planners, engineers, advocates, concerned citizens, neighborhood groups, and many others collaborated to create a Plan that serves the interests of all San Franciscans, cyclists and not. The Police Department was fully consulted during creation of the Plan.*

**Recommendation and Response**

The Plan should include the Police Department, pedestrians, public transit riders and motorists in any further discussion or revision. Representation should include at a minimum the Police Chief or his designee, and at least two officers familiar with cycling issues on appropriate committees.

*The recommendation will be considered for implementation during the next revision of the Bicycle Plan due in 2014. SFMTA will solicit additional participation from the police chief or his designee.*

*The Police Department has ample access and opportunity to influence any existing policies and projects related to bicycle use. The monthly Bicycle Advisory Committee, attended by BAC members and SFMTA staff has a standing invitation for the Police Department to attend. In addition, bike-specific policies and capital projects developed by the SFMTA are heard at the biweekly Transportation Advisory Staff Committee, of which the Police Department is an active member.*

### **Issue 3A**

#### **Finding:**

Neither motorists nor cyclists receive many moving violation citations. Enforcement of the Traffic Code and California Vehicle Code is weak. (See data on pages 19-21 and Appendix C.) Motorists receive 99:1 of the moving violation citations. Police officers on average a bicyclist once a year and ticket a motorist every third day.

#### **Response**

Agree.

#### **Recommendation and Response**

The Plan should insist that all users of the roadways comply with the current traffic laws. The Plan should consider a self-enforcement campaign along with the current co-exist campaign. Motorists and cyclists need to step-up to the plate to begin self-enforcement. The Plan should encourage and educate all users to act responsibly.

*This recommendation has been implemented through the existing 2009 Bicycle Plan which includes action items about education and enforcement campaigns. Action Item 4.11: "Periodically evaluate and adjust, where appropriate, the SFMTA's bicycle safety program" says that future campaigns could include self-compliance on the part of cyclists and motorists to increase safety and to engender increased respect among different roadway users. This is not unlike the "Give and get respect" campaign that has run in the past. All material presented to the public through education, outreach and programming informs cyclists to abide by all the relevant elements of the San Francisco Transportation Code and the California Vehicle Code.*

### **Issue 3F**

#### **Finding:**

There is no Bicycle Traffic School/Court or "fix-it" ticket option for cyclists. A Bicycle Traffic Court/School and a "fix-it" ticket program would provide an opportunity for bicycle education, which will increase safety for all.

#### **Response**

Agree.

#### **Recommendation and Response**

By January 1, 2011, the Traffic Court should establish a Bicycle Court Traffic School option, as a tool for education, patterned on Traffic Schools currently in use, for when bicyclists (and motorists with bicycle-related infractions) have been cited for moving violations. Such sessions will be scheduled at least once each quarter. The Traffic Court should consult with the BAC in the development of the Bicycle Court option.



*The SFMTA agrees with the recommendation of the Civil Grand Jury, which in fact stems from Action 4.4 of the Bicycle Plan itself. The SFMTA and the Bicycle Advisory Committee cannot establish the Bicycle Traffic Court without initiative from the Superior Court. SFMTA strongly supports creating a new system for enforcing bicycle-related offenses. SFMTA supports the recommendation and will support the actions of the Traffic Court and the BAC as needed, but our agency cannot be unilaterally held responsible for implementation.*

### **Issue 3G**

#### **Finding**

Because of the frequent complaints made about police by cyclists, the police are reluctant to cite cyclists. Members of the police department have shared their frustration regarding the mixed messages they receive regarding ticket enforcement and the lack of support they receive from the community. Police officers comment that they "enforce the spirit of the law, not the letter of the law." The determining factor in citing a motorist/bicycles is the severity or impact of the consequences of the infraction. The police cite the power of the bicycle community, and the power they are perceived to wield.

#### **Response**

*The SFMTA strongly believes that enforcement has a critical role in creating a safe and efficient transportation system. The SFCGJ's finding suggests that enforcement would improve if police officers were given more clear guidance on when and how to enforce bicycle-related traffic violations.*

#### **Recommendation and Response**

There should be an overall citywide policy about how the existing CVC and TC codes will be implemented so police have the direction and support they seek and deserve.

*This recommendation requires further analysis. All motorists and cyclists should expect the police department to enforce the Transportation Code and the California Vehicle Code. A policy explicitly regarding enforcement of these codes may be redundant unless the purpose of the policy is to prioritize the enforcement of infractions (such as placing a higher priority on ticketing red-light runners than on leaving a bicycle lying on the sidewalk). The SFMTA has in the past and will continue to collaborate with the Police Department to identify those CVC and TC violations most frequently cited in injury collisions that involve bicyclists.*

*The Civil Grand Jury only lightly touched on the perception by some bicyclists that police do not enforce right-of-way violations by motorists on bicyclists, such as stopping or parking in bike lanes, dangerous operation in proximity of cyclists, and general aggressive behavior by motorists against cyclists. No data are presented regarding the number of citations given by the San Francisco Police Department regarding this type of*

*motorist behavior which can create feelings of hostility among cyclists, motorists and the police. By enforcing right-of-way violations by bicyclists and motorists, users will feel that the rules of the road are being fairly applied, they will have a clear expectation of the rules of the road, and as a result they may behave in a more courteous and respectful fashion.*

#### **Issue 4**

##### **Finding:**

The bicycle community views itself as engaging in a low-impact activity, that cycling should be encouraged, and that any further financial contribution would act as a deterrent and that cyclists pay their fair share through state and local sales taxes. Most of the non-cycling community believe that cyclists do not pay a fair share. While it is difficult to provide exact numbers to support or deny this claim, it is found that some fees associated with cycling be considered. It would seem that some contribution, even a nominal amount, would do something to reduce the tension regarding this strongly held belief by non-cyclists.

The primary objective of the Transit First Policy (TFP) is the safe and efficient movement of people and goods. While public transportation, taxis, and vanpools are viewed as an economically and environmentally sound alternative to the transportation by individual automobiles, the TFP does not require one mode of transportation (e.g., automobile or transit) to financially support all costs associated with road usage. San Francisco should be careful not to pit one group against another.

The TFP does not preclude bicyclists from contributing to the cost of sharing the roadway.

A nominal fee raised through "negative registration" to encourage safety would most likely not be a deterrent to cycling. The data collected should contribute to the Chief of Police's goal of relevant community safety and law enforcement statistics. There is potential for perceived equity. A database is established, fees are generated, and equity is addressed.

##### **Response**

*Disagree. Cyclists do pay to build and maintain the infrastructure that they use – in many of the same ways that automobile drivers do. While neither drivers nor transit riders fully pay for the costs of the infrastructure that they utilize, research suggests that cyclists pay more than their fair share of the cost of the transportation system.*

*Road projects are paid for through a number of methods, including: bonds, gas taxes, and sales taxes. Bonds are paid for by all taxpayers, cyclists and non-cyclists alike. The gas tax is only paid for by those who consume gasoline. Car-free cyclists would not pay any gas taxes, but the vast majority of bicyclists are also drivers who consequently pay gas taxes as well. San Francisco's half-cent transportation sales tax is paid for by all*

*who purchase taxable goods within the City – both drivers and cyclists. On the whole, cyclists and drivers both make significant contributions to the funding of transportation projects in San Francisco. How much individuals pay is a function of many factors, including how much they drive, how much they pay in property taxes (directly or indirectly through rent), and how much they pay in income taxes.*

*Public transportation fares are a small percentage of the actual cost of a heavily subsidized trip. According to the SFMTA Transit Effectiveness Project, more than 80% of the trips on Muni cost more than \$2 (the current single-ride fare), some upwards of \$11 per passenger. The remaining cost of operating and maintaining transit service is covered by from City general funds, state and federal grants – which are in turn funded by property taxes, income taxes, and gas taxes.*

*Todd Litman of the Victoria Transport Policy Institute finds in his 2004 review of road use and transport costs that "since bicycling and walking impose lower roadway costs than motorized modes, people who rely primarily on non-motorized modes tend to overpay their fair share of roadway costs and subsidize motorists" as a result of local road funding deriving from city general funds. (Litman, 2004 "Whose Roads: Defining Bicyclists' and Pedestrians' Right to Use Public Roadways")*

*Rather than impose a new fee on cyclists that may or may not make non-cyclists believe that cyclists pay their fair share but would certainly serve as a disincentive for a socially and environmentally beneficial activity, we would first recommend educating everyone about what cyclists currently pay and about the costs that they impose on the transportation infrastructure. A comprehensive review of transportation equity and methods for evaluation can be found in Todd Litman's 2007 work "Evaluating Transportation Equity: Guidance For Incorporating Distributional Impacts in Transportation Planning."*

### **Recommendation and Response**

The city should consider a form of "negative registration" to capture names and other pertinent data about cyclists who are ticketed by SFPD for moving or equipment violations or otherwise involved in traffic accidents where the cyclist is cited at fault. The cyclist should be required to appear at a "bicycle court" where proscribed safety education would be required. The format of the court, including a cycle friendly venue such as a ride-up location, and an educational curriculum should be provided through collaboration among SFPD bicycle officers, the Bicycle Coalition and other cycling advocates. Notices to Appear, if ignored, should be pursued through SFPD and the courts.

*The recommendation will not be implemented because it is not warranted. While the concept of "negative registration" is not defined by the Civil Grand Jury, and its meaning is unclear, this recommendation appears to be essentially the same as 3F, with the addition of a data gathering component.*

*Action 4.4 of the Bicycle Plan is to "Work with the SFPD to create a bicycle traffic school curriculum as an option in lieu of other pecuniary penalties for traffic law violators." SFMTA strongly supports the establishment of a Bicycle Traffic School in the Superior Court System.*

*Furthermore, it is not clear what new data would be generated through the proposed negative registration program or how the data may be useful. Currently, there is a wealth of information contained in collision reports (whether they be cyclists, pedestrians, drivers, or passengers) – and these are a major data source upon which the SFMTA draws to analyze safety trends.*