

# Mayor's Office on Disability



Gavin Newsom  
Mayor

Susan Mizner  
Director

Hon. James J. McBride  
Presiding Judge, County of San Francisco  
Superior Court of California  
400 McAllister St  
San Francisco, CA 94102

*Re: 2009-2010 San Francisco Civil Grand Jury Report  
"Americans with Disabilities Act: Is San Francisco in Compliance"*

June 15, 2010

Dear Judge McBride:

This letter is to provide the response from the Mayor's Office on Disability (MOD) to the Civil Grand Jury's Report on the San Francisco's Compliance with the ADA. I appreciate the attention of the Grand Jury on this issue, which is central to the work of the MOD, and critical to so many of our residents.

The Mayor's Office on Disability believes that San Francisco is one of the nation's leaders in disability rights, and that Mayor Newsom's administration in particular has been proactive in providing resources and leadership to expand and improve upon our disability access. San Francisco has excelled in disability rights issues, including in areas beyond what the Civil Grand Jury reviewed. For example, we are a national leader in disaster preparedness for people with disabilities; we have extremely high standards for access review in new construction and renovations, and have nationally recognized experts on staff who advise us on access requirements in construction. We are a City that has broken new ground in our outreach and evaluation of needs for people who are Blind or Low Vision; and are among the nation's leaders in the installation of Accessible Pedestrian Signals.

We also believe that we can always do more, and, being San Francisco, we want to do more. The City, and the departments mentioned in the report, all have excellent staffs who are both sympathetic to and well-trained in disability issues. The main barrier to implementation of any of the recommendations from the Grand Jury is the on-going financial crisis that our city, and much of the country, is facing.

The Mayor's Office on Disability was directed to respond to sections 2, 3, 4 and 6 of the Report's findings and recommendations. Here are our responses:

<b>2</b>	<b>Civil Grand Jury Findings</b>	<b>MOD Response</b>
	In response to the ADA mandates, a Grievance Procedure has been developed for intake, investigation, and referral of citizens' Title II compliance issues. Complaints that are referred to the appropriate departments have already been processed and verified as valid, and	<i>Partially disagree.</i> This is a good description of the City's ADA Grievance Procedure, and the benefits of an efficient and effective Grievance Procedure. The only portion with which we do not agree is the estimate that the level of complaints may increase as much as three-fold. We do not have the

<p>assistance to the affected departments in producing appropriate responses is available. This process significantly reduces the cost of the investigation of a complaint and the construction of a viable response by that department. The level of complaints is expected to increase by as much as three fold as the availability of the grievance process becomes better known in the community. The budget for this work was reduced for the current fiscal year (2009-2010) resulting in the lengthening of the time to complete the process and generating a backlog of cases. The sooner a complaint is processed, the less liability and risk exposure there is for the City. Delays drive up the costs of response and can encourage litigation.</p>	<p>data to support that, and as trainings throughout the City increase, we hope that the number of grievances would correspondingly decrease. We do receive many inquiries that are disability related, but not disability rights violations. With better coordination from 311 and DAAS, these might be given the correct referral instead of coming to MOD.</p>
<p><b>2 Civil Grand Jury Recommendations</b></p>	<p><b>MOD Response</b></p>
<p>San Francisco should expand the Grievance Procedure to the level necessary for the “prompt and equitable” resolution of ADA complaints.</p>	<p><i>Requires Further Analysis.</i> Intake for the Grievance Procedure is currently staffed by temporary interns who are supervised by permanent staff. This staffing structure, which is a consequence of the city's ongoing financial crisis, does create training and coordination challenges, but still provides "prompt and equitable" resolution of ADA complaints. When the current financial crisis has resolved, we would support restoring the permanent full-time position, which would also provide an opportunity to further enhance MOD's outreach to the community.</p>
<p><b>3 Civil Grand Jury Findings</b></p>	<p><b>MOD Response</b></p>
<p>Currently only issues involved with Title II compliance are handled by the Grievance Process. The likelihood of disabled citizens requiring an alternative for and assistance in filing concerns outside of Title II is extremely high. The only alternative for the aggrieved is litigation at great expense in both time and resources, or filing a complaint with the DOJ. It is estimated to cost about \$750,000 to expand the Grievance Procedure to cover private sector complaints.</p>	<p><i>Partially Disagree.</i> It is true that many people with disabilities have complaints outside of Title II (mainly in private business situations). However, there are three local government avenues that can help resolve private disability rights violations:</p> <ol style="list-style-type: none"> <li>1. The Dept of Building Inspection – for physical access violations in newly constructed or renovated private buildings, any member of the public can file a complaint with DBI.</li> <li>2. Police – for service animal complaints in private businesses, police officers are trained to respond appropriately and to educate business owners on their responsibilities.</li> <li>3. Human Rights Commission – for most other private civil rights violations (housing discrimination, discrimination in stores, restaurants, hotels; denial of service, service animal issues, etc.), the HRC can</li> </ol>

		<p>provide assistance in mediating a resolution.</p> <p>MOD does make these referrals, but it may be difficult for many people in the public to know that these resources are available.</p>
<b>3</b>	<b>Civil Grand Jury Recommendations</b>	<b>MOD Response</b>
	<p>By January 2011, the MOD in association with City departments' ADA Coordinators should initiate a study to determine the feasibility of the expansion of the grievance procedure to incorporate private sector ADA compliance issues as an alternative to litigation.</p>	<p><i>Will not be implemented.</i> While this type of expansion of MOD's role in the City might be feasible with significant additional resources, the Mayor's Office on Disability does not currently have the resources to conduct a study, much less to expand its mandate to include resolution of non-Title II access complaints in the private sector.</p>
<b>4</b>	<b>Civil Grand Jury Findings</b>	<b>MOD Response</b>
	<p>The Facilities Transition Plan (FTP) is comprehensive and is updated periodically. Over two thirds of the plan has been accomplished, with work on the final portion underway. The capital plan for the City allows for the continued work, especially regarding curb cuts and sidewalk issues, but extends the costs over the next twenty to twenty five years. Current cost estimates total over \$500,000,000 with more than half of the sum originating from public sources. These sources are varied, and come from Federal, State, and local coffers via myriads of programs, many with specific use criteria. Even with all known sources, the expenditures far exceed available funds. Of critical importance is the need to maintain consistent levels of funding, without which experienced staff will be lost with detrimental impact on their programs.</p>	<p><i>Partially Agree.</i> The ADA Transition Plan for Facilities is comprehensive and updated annually. Through bond programs, enterprise departments, and general fund investments, the City has spent more than \$400 million in the last ten years on access improvements in its government buildings and facilities. This work has ensured that we have full program access in all of the City's programs. In the vast majority of departments, it has also provided full access to every location of the department's public services, activities or benefits.</p> <p>The ADA Transition Plan for Curb Ramps and Sidewalks has in the last 5 years received significant attention and funding from the 10 Year Capital Plan. With these resources, the City has made enormous strides improving the Public Right of Way. For curb ramps, the City has surveyed 82% of the City's intersections. Of those surveyed locations, 58% of the corners either have a newer curb ramp (48%), or do not need one because there is no pedestrian crossing (10%). Of the remaining 42% of the corners, only 11% have no curb ramp at all, and the rest have old curb ramps we expect to replace. Both because of work already completed since the 2007-08 ADA Transition Plan for Sidewalks and Curb Ramps and because of improved data on the condition of the City's corners, the cost estimate to put a curb ramp on every corner is reduced from over \$210 million to between \$120 million - \$150 million. Although a modern curb ramp at each and every pedestrian crossing is a goal for the city, the ADA does not require such complete saturation of curb ramps in the public right of way.</p>

		<p>For sidewalks, the City has surveyed a representative sample of the City's sidewalks, and based on this sample, expects the work to cost more than \$150 million over the next 25 years. (The \$250 million figure included expensive metal tree grates for every tree basin, an approach that is not necessary or recommended for many locations.) However, because 90% of the sidewalks are the responsibility of private landlords, the cost to the City is significantly lower (on the order of one million per year).</p> <p>For both the curb ramps and the sidewalks, the Civil Grand Jury is correct in recognizing that state, federal and private dollars contribute to their construction. The actual cost to the City's General Fund is significantly less than either the \$500 million the CGJ cites, or the \$300 million total currently expected for both curb ramps and sidewalks.</p>
<b>4</b>	<b>Civil Grand Jury Recommendations</b>	<b>MOD Response</b>
	San Francisco should obtain and distribute the needed funding through all available and creative means including targeted bond issues to accelerate the achievement of compliance goals in ten years. Consistent funding levels must be maintained in order to retain, develop, and expand the pool of valuable experienced personnel.	<i>Already implemented.</i> The 10-Year Capital Plan has consistent levels of funding for curb ramp construction, and has prioritized ADA access issues above all other priorities aside from life-safety. The City has made three attempts to use bonds to increase the pool of funding for the public right of way, and all three attempts have failed. Nonetheless, we believe and expect that the City will continue to prioritize and find consistent levels of funding for this work.
<b>6</b>	<b>Civil Grand Jury Findings</b>	<b>MOD Response</b>
	The SFPD and MTA (MUNI) (DPT) have large numbers of employees whose work involves a great deal of public contact. Assistance and sensitivity training for the service to and interaction with disabled persons in a manner which is effective and respectful of their rights, has yet to be fully developed. A successful completion certificate would result in a higher degree of subject retention and grant a sense of accomplishment when awarded. The MOD is working with these departments in order to do so, but lacks the financial wherewithal needed for its accomplishment. Many viable models exist which can be adapted to fit training goals, reducing development and implementation costs.	<i>Partially Disagree.</i> The Mayor's Office on Disability, the SFPD and the MTA have all invested significant resources in training on disability rights and disability sensitivity for staff. Many staff have been trained, and the majority of the staff at both SFPD and MTA work well with members of the public who have disabilities. We can always do more, and are in the process of updating and planning additional trainings. We agree that an on-line program with individual testing and certificates of completion would further improve the training process that is already in place.
<b>6</b>	<b>Civil Grand Jury Recommendations</b>	<b>MOD Response</b>
	By June 2011, the City should develop training programs in areas of assistance and sensitivity to the needs of disabled persons,	<i>Already implemented.</i> The Mayor's Office on Disability is currently working with both the MTA and the San Francisco Police

especially at MTA and SFPD. These programs should be implemented by December 31, 2011.	Department on updating and creating training programs for both top management and point of service staff. While our goal is to eventually create on-line training programs with individual testing components, this will not be completed by 2011. In-person training at both the MTA and SFPD is already in place.
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Thank you again for the Civil Grand Jury's attention to disability rights issues, and for their service to the public. If there are further questions or concerns, I would be more than happy to try to address them.

Sincerely,

Susan Mizner  
Director  
Mayor's Office on Disability

Cc: Board of Supervisors  
Grand Jury Office