

File No. 100292

Committee Item No. 1

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight Date July 22, 2010

Board of Supervisors Meeting Date _____

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2009-2010 Civil Grand Jury

City and County of San Francisco

**AMERICANS WITH DISABILITIES ACT:
IS SAN FRANCISCO IN COMPLIANCE?**

Report Released: APRIL 2010

Purpose of the Civil Grand Jury

California state law requires that all 58 counties impanel a Grand Jury to serve during each fiscal year (Penal Code section 905, California Constitution, Article I, Section 23). In San Francisco, the presiding judge of the Superior Court impanels two grand juries. The Indictment Grand Jury has sole and exclusive jurisdiction to return criminal indictments. The Civil Grand Jury scrutinizes the conduct of public business of county government.

The function of the Civil Grand Jury is to investigate the operations of the various officers, departments and agencies of the government of the City and County of San Francisco. Each civil grand jury determines which officers, departments and agencies it will investigate during its term of office. To accomplish this task, the grand jury is divided into committees, which are assigned to the respective departments, or areas, which are being investigated. These committees visit government facilities, meet with public officials and develop recommendations for improving City and County operations.

The 19 members of the Civil Grand Jury serve for a period of one year from July through June 30 the following year, and are selected at random from a pool of 30 prospective grand jurors. During that period of time it is estimated that a minimum of approximately 500 hours will be required for grand jury service. By state law, a person is eligible if a citizen of the United States, 18 years of age or older, of ordinary intelligence and good character, and has a working knowledge of the English language.

Applications to serve on the Civil Grand Jury are available by contacting the Civil Grand Jury office:

- by phone (415) 551-3605 (weekdays 8:00-4:30)
- in person at the Grand Jury Office, 400 McAllister Street, Room 008, San Francisco, CA 94102.
- online by completing the [application](#) at

<http://www.sfsuperiorcourt.org/Modules/ShowDocument.aspx?documentid=1988>

State Law Requirement

Pursuant to state law, reports of the Civil Grand Jury do not identify the names or identifying information about individuals who provided information to the Civil Grand Jury.

Departments and agencies identified in the report must respond to the Presiding Judge of the Superior Court within the number of days specified, with a copy sent to the Board of Supervisors. As to each finding of the Civil Grand Jury, the response must either (1) agree with the finding, or (2) disagree with it, wholly or partially, and explain why. Further, as to each recommendation made by the Civil Grand Jury, the responding party must either report (1) that the recommendation has been implemented, with a summary explanation of how it was implemented; (2) the recommendation has not been implemented, but will be implemented in the future, with a time frame for the implementation; (3) the recommendation requires further analysis, with an explanation of the scope of that analysis and a time frame for the officer or agency head to be prepared to discuss it (less than six months from the release of this report); or (4) that recommendation will not be implemented because it is not warranted or reasonable, with an explanation of why that is. (California Penal Code, Sections 933, 933.05.)

PURPOSE OF THIS REPORT

The purpose of this report is to review the status of Title II compliance of the Americans with Disabilities Act (ADA 1990) by the City and County of San Francisco, and to support the Mayor's Office on Disability (MOD) in achieving that mandate within a reasonable time. Title II requires the facilities, programs, activities, and services of State and local governments to be made accessible to persons with disabilities.

I. SUMMARY

The 2009/2010 Civil Grand Jury initiated an investigation to determine what has been done to comply with the 1990 Americans with Disabilities Act (ADA) and what, if anything, remains undone in order to complete the compliance with the Act.

The Jury identified three areas where support is needed in order for full compliance to be achieved:

1. The citizens' grievance procedures
2. The Facilities Transition Plan (FTP)
3. Training programs for City staff, especially for the public contact personnel at the San Francisco Police Department (SFPD) and Municipal Transportation Agency (MTA)

There are many areas in which further work needs to be done, nevertheless much has been accomplished, and the Civil Grand Jury finds it appropriate to extend its compliments for the dedication, effort, and achievement of the personnel in the Mayor's Office on Disability (MOD) and the Department of Public Works (DPW). Their efforts have brought San Francisco global recognition for leadership and achievement of accessibility for its disabled residents and visitors.

II. INTRODUCTION

It has been twenty years since the ADA was passed. The 2009/2010 Civil Grand Jury investigated the status of Title II compliance in the City and County of San Francisco. Within the past ten years, the current Mayor's Disability Council (MDC) and the Mayor's Office on Disability (MOD) were established. Both are dedicated to achieving a broad array of responses to the 1990 mandates. Studies and evaluations were conducted, response plans devised, programs annually funded, and virtually every department and service of the City became involved.

A tremendous amount of work has been accomplished to date, but more remains. The primary focus of the Jury was to determine what remains undone, and whether San Francisco is on a reasonable track for the completion of compliance projects.

III. METHODOLOGY

Information was gathered by extensive review of material available on the Internet, examination of studies and documents, and through confidential interviews with highly placed individuals in the Offices of the Mayor, the City Controller, the MTA (MUNI), the DPW, the City Attorney, and the San Francisco Police Department. Observations by and personal experiences of San Francisco residents were also taken into consideration.

IV. DISCUSSION OF INVESTIGATION

Title II of the 1990 Americans with Disabilities Act (ADA) mandated local governments undertake reasonable accommodation(s) to render facilities and programs accessible to persons with disabilities. By 1999 the current Mayor's Disability Council (MDC) was established and the Mayor's Office on Disability (MOD) re-created to direct the efforts of the City and County of San Francisco to comply with those mandates. The 2000 census indicates some 150,000 San Francisco residents are disabled; that is nearly one San Franciscan in five, and the proportion could significantly increase as the population ages. San Francisco is in the forefront of compliance activities, and is consulted regularly by other jurisdictions both in the United States and internationally. The MOD became a focus of the investigation as it is responsible for a very broad range of duties: advising and training the staff of every city department; assisting in the design and direction of the Facilities Transition Plan (FTP - San Francisco's program for architectural barrier removal); implementing a new process for disabled citizen's input (a new grievance procedure); and advocacy for the full incorporation of disabled persons to all public programs and services.

The 2000/2001 San Francisco Civil Grand Jury investigated the Mayor's Office on Disability and the Mayor's Disability Council. Since the release of that report, the recommendations have been addressed and/or adopted. The recommendations were concerned with the structure and authority of the MDC and MOD, and the completion and publishing of the self-evaluation for City departments (late 2001) and the transition plan (mid-2002). These materials formed a basis for the report *Toward Unobstructed Access* (mid-2004) that became the foundation for compliance achievement. A brief timeline of disability actions dating back to 1984 can be found in the 2000/2001 Civil Grand Jury report.

The activities of the MOD span a very broad range of practice and disciplines with only three staff members and a budget of \$600,000 per annum. The Jury reviewed three activities for further discussion. These are:

- 1 - The citizens' grievance procedure
- 2 - The Facilities Transition Plan (FTP)
- 3 - Training programs for City staff, especially at SFPD and MTA

While the ADA does not specify any compliance completion date, San Francisco may be vulnerable to litigation where required accessibility has yet to be achieved. There is then

a sense of urgency to complete as much as possible as soon as possible. Settlements of past lawsuits (such as ADA Task Force, et al., v. CCSF, 1997 (settled 1999), Cherry v. City College of San Francisco, 2001 (settled 2006), King v. CCSF, 2007 (settled 2009)) have required the expenditure of millions of dollars toward Title II compliance, court costs, and attorneys' fees. The 1997 case settled for \$18,000,000, the 2001 case settled for \$20,000,000, and the 2007 case settled for \$4,000,000 (per year).

The City of Seattle was sued five years ago for their level of Title II compliance and settled on a twenty-year plan to achieve the ADA mandates. Caltrans also has been taken to court and was directed to reach compliance in thirty years. There are civil cases large and small currently working their way through the courts aimed at the Title II compliance of the City, and many departments are involved as expert witnesses in defending the City. These cases could be costly but may readily be settled due to the extensive efforts underway to meet and surpass the Title II mandates.

1) Grievance Procedures

The ADA requires public entities to adopt "procedures providing for prompt and equitable resolution of complaints alleging" violations of the ADA. The City has developed an alternative to filing a complaint with the U.S. Department of Justice (DOJ) for residents to raise ADA Title II issues involving the programs and facilities of San Francisco called the Grievance Procedure. Complaints are taken, investigated, verified, and forwarded to the appropriate agency for resolution. Assistance for the City agency is available through the MOD for their response to the complaint, as well as the client raising the concern.

The MOD receives over 110 contacts from citizens each month. The majority of these contacts turn out to be requests for information, referrals, and general ADA questions or services. However, 10% are written complaints which require a significant investment of time by staff. The process includes conversation with the complainant, evaluation, and verification of the complaint by staff trained in the specific needs of the disabled. Only legitimate issues are presented to the appropriate departments, thus avoiding unnecessary work hours by individual departments.

In order to accomplish timely responses to the current numbers of complaints, the MOD stated the need for 1.5 full time equivalents (FTEs) for intake, verification, and direction of each case. An average of ten hours is needed per case. The staff dedicated to the handling of the grievance procedure was eliminated in the 2009/2010 budget. As the grievance procedure becomes more widely publicized, the number of contacts will increase. Staffing levels will need to increase accordingly.

2) Facilities Transition Plan

The Facilities Transition Plan (FTP) has evolved from architectural barrier removal projects dating from the early 1970s, and has been updated periodically. The latest revision covering curb ramps and sidewalks was released in 2008. As stated in the 2008

FTP, there are 46,500 locations in the city. Only about 10,800 have curb ramps considered safe and usable. The remaining locations either have no ramps or ramps that need reconstruction to meet current standards. The San Francisco Capital Plan for 2009-2018 contains a schedule for the funding to address an inventory of over 17,728 corners in every district. To date the pace and funding levels have been maintained with no deferrals. Both the MOD and the Department of Public Works (DPW) stress the need for consistent levels of funding in order to maintain momentum and expertise. Any reduction of monies, however temporary, will likely result in the elimination of staff positions and cause unreasonable delays. When funding returns a new staff would have to relearn the practices and specifications already developed. The MOD assists in the design and some of the funding for the curb ramps and the DPW performs the construction work. The DPW has estimated a cost of almost \$14,000 per corner for curb cuts (see comments). The average number of curb cuts per corner is 1.8 (one cut for each crossing direction) which totals an average of \$56,000 for a four point intersection. This seems like a large amount of money, but each site requires individual assessment and design work by teams of skilled personnel as utility conduits, drainage grates, and physical layout of intersections are not standard. The task is very labor intensive due to the very nature of the work itself.

The major obstacle to accelerating the completion of curb ramps is financial. The departments performing the modifications are balancing staff levels with available funding in a direct correlation. As funding increases, so will the staff (and their level of expertise), and the number of locations brought into compliance. In order to achieve the goal with regard to curb cuts of the FTP in ten to fifteen years, the DPW would have to enlarge and train its staff. To achieve the goal of the FTP in less than ten years is possible but would require the DPW to outsource a significant portion of the work to private parties. The use of private contractors for curb cuts is likely to raise the cost of a curb cut significantly (DPW, 2010).

There are side benefits to staff expansion. These would include positive effects on the Better Streets Plan (a comprehensive set of street design guidelines to meet social, recreational, transportation, and ecological goals), and water runoff projects. They would also allow increased attention and resolution of the most complex and difficult sites to commence, increase and broaden the expertise in design, management, and execution of all public works projects. This experience and expertise is salable to other jurisdictions (consultations, etc.) and has the potential to generate revenue. San Francisco is seen as a global leader in accessibility and departments such as the MOD and DPW are consulted regularly by outside jurisdictions concerned with a broad range of accessibility issues and categories.

Another major barrier for disabled persons is the condition of sidewalks. Cracks, rough and missing pavements, tree stumps, missing street trees and/or the grates at the base of the trees, flags (pavement sections of a sidewalk) displaced by tree roots, inconsistent curb heights, and loose or missing utility covers are among the most common obstacles for foot travelers. Often property owners do not make the repairs even after official notification to do so, leaving the task to the DPW. The work will be done and the

property owners will be charged for the cost of the repairs either directly or by an assessment on their property tax bills. This process impacts the financial state of the DPW, as costs must be floated until payments are made by the property owner, necessitating the development and maintenance of a significant separate fund for that purpose.

In 2005 the DPW conducted a survey of 450 blocks to assess the sidewalk issue and by extrapolation determined the cost of repairs city wide to be in the range of \$250,434,000. The vast majority of the financial responsibility for sidewalk repair lies with property owners, State, and Federal jurisdictions. It is estimated that the City would be responsible for only \$10,000,000 to \$20,000,000 of that total. The cost estimate for full curb ramp completion is also in the range of \$250,000,000, totaling over \$500,000,000 in capital spending for street accessibility accommodations. These figures far exceed the amounts currently budgeted, and will most likely require a dedicated bond issue to make up what is not covered by the many and varied sources of available funds.

Planned and contemplated transit network adjustments (routes altered, eliminated or condensed, relocated stops, etc.) give an opportunity to correct the inconsistent layout of public transit boarding areas and site suitability, although this issue is not often reviewed very well. New construction and works performed by utility companies reduce the financial exposure of the City (DPW, 2010).

An additional responsibility of the DPW is the function of enforcement for the incursions to the public right of way. These include scaffolding, street tables/chairs, merchant signage, etc., whether permanently or temporarily installed, even parked cars in some situations. More than half of the complaints received by the DPW for sidewalk incursions violations are due to temporary conditions. Contractors who have been 'unaware' of the requirements for temporary obstructions of or closure to public rights of way readily make the necessary adjustments when instructed to do so. Information pertaining to the regulations is included with the permits required for sidewalk incursions and was updated in 2008.

Currently the enforcement of these issues for the entire city and county is covered by a team for complaint-based street encroachment projects, and a team for scheduled sidewalk improvement programs. The Bureau of Street Use and Mapping (in DPW) reports over 1000 complaints are on file at any given time, and with the advent of the San Francisco's 311 service, the numbers of new filings is increasing. On March 15, 2010 the backlog of complaints was 1152, and the Bureau is unable to respond to inspections and complaint processing in a timely fashion. With 1800 miles of sidewalk and over 400 complaints about streetscape issues per week the Bureau needs at least seventeen inspectors, several more than the present number, just to keep pace with investigations, site visits, education of persons seeking sidewalk incursion, and clearing the backlog of filings. Many businesses and contractors encroach on the right of way without obtaining a permit. Permit fees are used to support the enforcement and outreach tasks. Permits cost anywhere from \$55 to \$1000 (and up to \$3800 for a major encroachment). Over 20,000 permits are awarded each year (DPW). The Blind and Low Vision Priorities Project

(BLVPP, 2007) reports that despite existing DPW regulations, 60.6% of blind respondents and 32.8% of low vision respondents frequently encounter intrusions into the path of travel. Survey and focus group participants who are blind and low vision recommend that San Francisco increase the responsiveness of the DPW and DPT to complaints; develop and publicize a clear system for tracking intrusions or obstacles and addressing them or removing them; and enforce related policies and rules about keeping public pathways clear (focusing on the general public, business owners, homeowners, car owners, and city contractors) (BLVPP 2009; sec. III pp. 3).

3) City Staff Training

The third area of concern is the education of city staff and departments, particularly the MTA and SFPD. Both departments have large numbers of employees with a great deal of public contact. Both departments already have means to update and sensitize their staff to the particular needs of disabled persons, and have some materials in their continuing education programs. Nevertheless, disabled persons continue to experience serious or dangerous failures of service, sometimes due to employee carelessness and sometimes by poor architectural design. Mandatory review of improved training materials combined with testing and some sort of certification granted upon successful completion would go a long way toward mitigating these negative experiences.

Blind and low vision MUNI riders cannot get consistent stop and line or route information announced by the operator when the digital voice announcement system (DVAS, an automated system) is either uninstalled, inoperable, drowned out by noise in the vehicle, or even turned off. The light rail vehicles' (LRVs) DVAS for route and stop announcements does not operate when the cars are above ground, making it imperative the operator use the onboard public address system. Despite hundreds of complaints over the last ten to twelve years, MUNI has not corrected this failure. Vehicles are stopped without regard for obstacles in the path of off-boarding passengers or curb heights beyond the ability of persons with limited joint movement to negotiate. In addition, boarding platforms should occasionally be considered necessary for disabled passengers not specifically confined to wheelchairs. And transit operators should never fail to notify a passenger of a requested stop. While evidence for the information above is anecdotal and not part of a systematic or scientific study, it does indicate a continuing need for improved service response to disabled persons. The BLVPP contains an entire section dedicated to public transit. A very high priority is given to audible information (either automated or by operator). The MTA rules and instructions handbook for vehicle operators specifically requires that announcements be made in any one of various forms and situations. The following chart of a survey from the BLVPP shows a ranking of useful adaptations for public transit:

Table 4: Most Useful for Public Transportation

(n = 177)

Approaches for Accessible Transit %

"Talking" buses or MUNI trains 72.9%

A driver who is helpful and freely gives information 53.1%

Bus stops or MUNI train stops that announce what bus is coming 22.6%

Bus stops or MUNI train stops that tell you what routes stop there 15.8%

Route and schedule information available by phone or Internet 11.3%

Other public transit workers who are helpful 9.6%

Other 7.9%

Don't know/no opinion 0.6%

* Because respondents could select multiple response options, percentages add up to greater than 100%.

The BLVPP also states the number one priority of respondents (41.7 %) involves issues pertaining to transportation, travel, and pathways. "Most of the solutions proposed by those affected would not require new technological fixes or dramatic policy changes. Rather, the community urged better staff education and enforcing compliance with existing regulations." (BLVPP 2007, sec III pp 2)

When asked about these abuses and flagrant violations of reasonable accommodation, even the very highest levels of MTA personnel responded by merely quoting departmental policy and failed to answer the specific concerns about the poor service experienced by disabled passengers over many years and indicated by numerous examples (MTA, January 2010).

The SFPD fares somewhat better. The claims that police actively discourage disabled persons from filing reports when their civil rights have been violated have been declining. However, many victims still relate that the police will only write a report upon the insistence of the person experiencing a violation. This may be due to the attempt of the police to reach some sort of resolution at the scene. Most often the perception of reluctance by the SFPD to act appears to be a combination of incomplete familiarity with ADA and local laws, the importance to the victim, and available actions to be taken on the part of the police to address the situation. This may indicate that the department would benefit from targeted educational programs and clear enforcement policies from the Chief.

For example, injuries to service animals from attacks by pet dogs (most often off leash) have been viewed as 'property damage' and not typically as an assault on the handler. An impatient transit rider who squeezed past a blind person off boarding a bus tripped over and broke his white cane and did not render help or offer to cover the cost of a new cane (\$100). The Police refused to get involved, calling it a civil case, and would not even give the blind person the name of the assailant. The low level of enforcement for many "petty crimes" such as bicycles riding on the sidewalk, off leash pets, litter, and other activities result in the regular occurrence of avoidable obstructions and safety hazards that commonly endanger disabled persons.

A new ADA Coordinator has been named at SFPD. It is imperative that this person be given the tools and support to continue the work already accomplished and expand sensitivity training programs.

When questioned about the actions of SFPD with disabled persons, the MOD relates that in their experience with complainants, evidence of systematic disfavor in tending to the calls for assistance by disabled persons was not found, but there is a need for further sensitivity training in the areas of ADA civil rights protections and the importance for the enforcement of those protections. The MOD does see evidence for systematic ignorance of the rights and needs of users of service and support animals, but generally not in the police response to assistance calls from them. The ADA is particularly vague when it comes to the definition of and qualifications for service and support animals which significantly contributes to the frustration and ambiguity felt by both the SFPD and legitimate service animal handlers involved in situations where violations are alleged. This issue is being addressed on a national level, albeit slowly.

The department does have specialized units which respond to a variety of specific concerns, and many of these programs can form the basis for a program for officer education and response improvement. For example, the dangerous dog unit performs a highly useful role in targeting the specific issues arising from irresponsible pet ownership. A video was produced in 2005 with donated funds and in cooperation with Guide Dogs for the Blind (San Rafael, CA) and Guide Dog Users Inc. to inform police officers of the significance and effect of [dog] attacks on working service animals.

The MOD is working with these departments to develop training programs. Currently the approach is to aim for the top (directors and managers) to ensure buy-in and an understanding of the importance. The goal is to eventually have the resources for an on-line training curriculum that would require a mandatory refresher every two years. The on-line courses would include quizzes, tests that must be passed, perhaps some sort of certification, and record keeping of completion. The jury supports this approach as an effective and economical method of training a large group of city employees. Many local and state programs can serve as models for the approach, which can save development costs by adapting already successful methodologies.

V. CONCLUSION

The investigation revealed that extensive legislation has been written and enacted by Federal, State, and local governments. A great deal of work has already been done to respond to the legislation. While both the planning and the execution of all City departments' compliance activities vary in complexity and extent, most are making significant progress and understand the importance of the accommodations currently underway. Many talented, dedicated, and diligent persons are accomplishing their goals to eliminate barriers and render San Francisco a fully accessible city, both architecturally and programmatically. In a world where embodiment is the norm, mobility and

communication in all its forms is essential to survival. Any impairment thereof threatens one's very existence.

The Jury wishes to commend the dedicated performance exhibited by so many employees in addressing the Title II mandates and their impact on every department and service in the City. Many external jurisdictions see San Francisco as leading the state, country, and beyond in addressing accessibility and the incorporation of a large segment of its population previously excluded from equal membership in their community. The ADA is an unfunded mandate which makes financial backing for timely compliance achievement both a priority and a challenge. San Francisco has many talented and capable leaders given the task to find ways to bring the requirements and resources together to achieve as much accessibility as possible as soon as possible. Our disabled residents deserve nothing less and have been waiting far long enough.

VI. FINDINGS

VII. RECOMMENDATIONS

<p>1. San Francisco is vulnerable to litigation for non compliance with Title II mandates of the ADA.</p>	<p>1. The City Attorney’s Office should assess the liability and risk to the City for the incomplete level of Title II compliance, and report its findings to the Mayor and BOS by October 31, 2010.</p>
<p>2. 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 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>2. San Francisco should expand the Grievance Procedure to the level necessary for the “prompt and equitable” resolution of ADA complaints.</p>
<p>3. 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>3. 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>4. 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>4. 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.</p>
<p>5. The City incurs significant risk and liability from the insufficient monitoring of incursions to the public right of way and the maintenance of a clear-path-of-travel. The DPW is responsible for the investigation and enforcement of temporary and permanent sidewalk incursions involving the entire City. The majority of infractions are due to temporary barriers incorrectly erected. Over 1000 complaints are on file at any given time, and more than 400 new complaints are received weekly. The team of inspectors has been unable to keep pace with and process these complaints. Delays in the correction of incursions can lead to lawsuits.</p>	<p>5. The City should pursue full enforcement and monitoring of incursions to the public rights of way, especially with regards to temporary sidewalk incursions. Staffing levels must be maintained to address and complete inspections and investigations promptly and to eliminate backlogged cases.</p>
<p>6. 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</p>	<p>6. By June 2011, the City should develop training programs in areas of assistance and sensitivity to the needs of disabled persons, especially at MTA and SFPD. These programs should be implemented by December 31, 2011.</p>

the financial wherewithal needed for its accomplishment. Many viable models exist which can be adapted to fit training goals, reducing development and implementation costs.

VIII. REQUEST FOR RESPONSE

Responses to the recommendations in this report are required by the Board of Supervisors and city offices and departments in accordance with the following list and state law. Responses are to be in writing and addressed to the Honorable James McBride, Presiding Judge, Superior Court of California, City and County of San Francisco, San Francisco Civic Center Courthouse, 400 McAllister Street, San Francisco, California, 94102.

<i>Board of Supervisors:</i>	<i>90 days</i>
<i>Office of the Mayor:</i>	<i>60 days</i>
<i>Mayor's Office on Disability:</i>	<i>60 days</i>
<i>Mayor's Disability Council:</i>	<i>60 days</i>
<i>Office of the DPW:</i>	<i>60 days</i>
<i>Office of the MTA:</i>	<i>60 days</i>
<i>San Francisco Police Department:</i>	<i>60 days</i>
<i>The Office of the City Attorney:</i>	<i>60 days</i>

REQUIRED RESPONSES TO RECOMMENDATIONS

Recommendation	1	2	3	4	5	6
<i>Response 90 Days</i>						
BOS	X	X		X	X	X
<i>Response 60 Days</i>						
Mayor	X	X	X	X	X	X
MOD		X	X	X		X
MDC		X	X	X		X
DPW			X	X	X	
MTA			X	X		X
SFPD			X			X
City Attorney	X					

IX. COMMENTS

SAN FRANCISCO GOALS and PRIORITIES

The following is a list of items important to the disabled community:

- Expand the ability for people with disabilities to live as integrated members of the community by attention to community services and accessible housing.
- Require 80% of new housing to be adaptable (easily converted to access, and visitable by all people with disabilities).
- Provide tools to increase education on disability rights issues not only for city workers, but for all persons affecting the physical environment for and services provided to the disabled population – even focused trainings on service and support animals (better awareness of the rights and responsibilities of handlers)
- Incorporate disability concerns in new green and environmental efforts – sensitivity to mobility needs.
- Make San Francisco a leader in employing people with disabilities starting with a city wide survey to establish a baseline of the current level of employment
- Expand approaches to include the needs of people with disabilities in transit, parking, and alternative means of transportation.
- Programmatic access requires eternal vigilance to effect desired improvements in access to services and departmental culture sensitization with regards to flexibility and individual attention as warranted for accommodation.

BLVPP REPORT

The BLVPP report has been used extensively in this report due to its uniqueness. It is a systematic and scientific study surveying accessibility issues among a specific group of disabled persons, and in many ways reflects the overall trends and frustrations experienced by persons with other disabilities. The primary issues in the deaf and hard of hearing community are around communication (although very few complaints are directed at the City due to the availability of accommodation found here). Persons requiring mobility devices have achieved significant recognition of their needs, but the extent of work required for accommodation is large. In a world where embodiment is the norm, mobility and communication in all its forms is essential to survival. Any impairment thereof threatens one's very existence.

EXPERIENCED STAFF ADVANTAGES

As the design and construction work of the FTP progresses, the staffs of the MOD, DPW, and other departments become increasingly experienced in those adaptations. Improving the time lines of the completion of adaptation programs will require additional staff positions be created and filled. There are significant side benefits to the expansion of

staff, beyond the completion of accommodation in far less time than currently planned. These include, but are not limited to:

- Acceleration of review/approval processes for all DPW projects
- Increase the implementation of the Better Streets Plan
- Greatly improve water runoff projects
- Allow deferred work on the most difficult accessibility areas to begin
- Greatly help in updating policies and practices throughout the DPW, especially where accessibility issues are involved
- Develop a resource of more specialized teams
- Revenue generation potential through consultation fees, etc. as our reputation of leadership and accomplishment grows beyond the county and the nation.

CURB CUT EXPENSE

The cost of curb cuts varies from about \$4,000 to upwards of \$40,000 depending on the characteristics of the site. Factors that increase the cost include 1) surveying each site for elevation and grade data; 2) engineering review and drawings; 3) flat and level landings are required at the top and base of each ramp which are not subject to standing water or pavement degradation, and which are in tolerance where access points of buildings occur; 4) contrasting colors and textures of surfaces necessitating that different concrete mixtures be used; 5) police/fire call boxes, utility boxes, and runoff catch basins (which can add as much as \$10,000) frequently must be relocated; 6) erection of compliant barricades and detours for vehicles and pedestrians; 7) work must be scheduled around commute times – even over night to minimize disruption (often at premium pay); 8) coordinating with other City departments and outside agencies to schedule and complete their portions; 9) changes to sidewalk configuration (such as bulb-outs) require variances, easements, and property owner notices (as sidewalk maintenance is the responsibility of the adjacent property owner, and these changes can increase their liability, etc.); 10) good engineering gives good results which last a very long time – a process which has not always been done in the past.

Factors that relate to the reconstruction of curb cuts include: 1) changing standards (from 1970s to 2003, both Federal and State specifications set and amended); 2) subsurface soil failure which causes cracks, uneven surfaces, sloped landings, and runoff ponding; 3) insufficient site preparation at earlier installations; 4) damage from heavy vehicles riding up and over curbs; 5) poor workmanship and/or product failure at existing installation; 6) unanticipated effects of new construction or other changes to streetscapes, etc.

These are just some of the numerous and complex issues involved with access ramps, and is by no means an exhaustive list. Each site is unique, and requires a high level of expertise and craftsmanship. A ramp appears simple enough at the outset, but can become very involved during execution.

X. INFORMATION SOURCES

Departments Consulted:

Bay Area Rapid Transit (BART) Board of Directors
Department of Public Works
Mayor's Disability Council
Mayor's Office on Disability
Municipal Transportation Agency
Office of the City Attorney
Office of the City Controller
Public Utilities Commission
San Francisco Police Department

Documents/Videos:

Americans with Disabilities Act, Title II (1990)
ADA MOD 10 Years of Success (September 2009)
ADA Transition Plan for Curbs & Sidewalks (2010)
ADA Transition Plan Projects List (Master) (2009)
Blind and Low Vision Priorities Project (2007)
Capital Plan 2009-2018
CCSF Ten Year Capital Spending Plan (2006)
Disability Status: 2000 Census Brief (2003)
Enforce Assistance Dog Protection Laws (How to Respond to Guide or Service Dog Attacks) 2005
Mayor's Office on Disability/Mayor's Disability Council Report (Civil Grand Jury 2000-2001)
MOD Grievance Procedure
MTA Announce!
SF Better Streets Plan (2006/2010)
Toward Unobstructed Access (June 2004)

LIST OF ACRONYMS

ADA	Americans with Disabilities Act
BLVPP	Blind and Low Vision Priorities Project
BSP	Better Streets Plan
CCSF	City and County of San Francisco
DOJ	Department of Justice (Federal)
DPT	Department of Parking and Traffic
DPW	Department of Public Works
DVAS	Digital Voice Announcement System
FTP	Facilities Transition Plan
LRV	Light Rail Vehicle
MDC	Mayor's Disability Council
MOD	Mayor's Office on Disability
MTA	Municipal Transportation Agency
SFPD	San Francisco Police Department



Mayor's Disability Council



Gavin Newsom
Mayor

Susan Mizner
Director

Jul Lynn Parsons
F. Ross Woodall
Co-Chairs

Raphaella Bennin
Harriet Chiu Chan
Elizabeth Grigsby
Tatiana Kostanian
Denise Senhaux
Vincent Webster

June 25, 2010

Honorable James J McBride
Presiding Judge, County of San Francisco
Superior Court of San Francisco
400 McAllister Street
San Francisco, CA 94102

Re: Americans with Disabilities Act: Is San Francisco in Compliance?

Dear Judge McBride:

Thank you for reviewing our response to the 2009-2010 Civil Grand Jury. It is clear the jury gave much thought to matters heard before the Mayor's Disability Council (MDC) in respect to implementation of the American's with Disabilities Act of 1990 (ADA). While the MDC is in general agreement with the response from the Mayor's Office on Disability (MOD) on these recommendations, and appreciates the detail specified in their response, there are additional responses the MDC as disability community liaisons would like to provide.

The MDC addresses each of the Civil Grand Jury's 2009-2010 recommendations as follows:

<p>Civil Grand Jury Recommendation #2 San Francisco should expand the Grievance Procedure to the level necessary for the "prompt and equitable" resolution of ADA complaints.</p>	<p>MDC Response to Recommendation #2 While the MDC believes that ADA complaints receive "prompt and equitable" resolution, we also recognize that this comes at the expense of other MOD activities, given the staffing shortage. The MDC also acknowledges that many calls to MOD should be directed to other departments (such as the Department of Aging and Adult services), but because</p>
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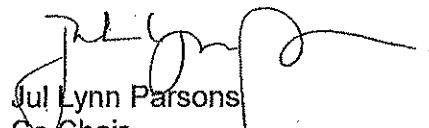
	<p>MOD is the only city entity with "Disability" in its name, a large volume of inquiries goes there. The MDC would like to see a more coordinated environment from other departments to improve this additional workload on MOD. The MDC agrees with this Civil Grand Jury recommendation, specifically to the reinstatement of a full time grievance staff addressing equal access issues citywide.</p>
<p>Civil Grand Jury Recommendation #3 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>MDC Response to Recommendation #3 While the MDC understands there are differing responsibilities within the various titles of the ADA, and that the sole focus of MOD is regarding Title II issues, as disability liaisons we recognize the interrelatedness of all titles within the ADA and the necessity to review compliance of both public and private issues as resembling an accessible community. The MDC supports this Civil Grand Jury recommendation with the expectation that the funding for this study not to be taken from general fund departments that would further impact programs and services that the disability community is dependent upon.</p>
<p>Civil Grand Jury Recommendation #4 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.</p>	<p>MDC Response to Recommendation #4 The MDC agrees that there needs to be retention in certain related departments of expert personnel. While the MDC would support a ten year plan for universal curb and sidewalk accessibility as fulfilling both public and private interests, we caution that the monies identified to do so would not be taken from other programs the disability community relies upon, such as Department of Public Health or Human Services, nor would the MDC support prioritizing architectural access issues over other civil rights inherent within the ADA.</p>
<p>Civil Grand Jury Recommendation #6 By June 2011, the City should develop training programs in areas of assistance and sensitivity to the needs of disabled persons, especially at MTA and SFPD. These programs should be implemented</p>	<p>MDC Response to Recommendation #6 The MDC understands these departments already have trainings for both management and point of service employees, yet is concerned with how effective, comprehensive and frequent</p>

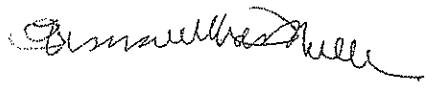
by December 31, 2011.

these trainings are, and what accountability follow up measures are included. While suggested online trainings may be cost effective, personal interaction with employees and persons with disabilities is felt to be most beneficial in the long term.

On the eve of the twentieth anniversary of the ADA, it is quite appropriate to look forward, as well as reflect back, upon how well the City and County of San Francisco is doing in their performance of the necessary tasks relative to this groundbreaking mandate, and what may be some of the next suggested steps forward. Thank you very much for your consideration of the MDC and MOD, and the opportunity in which to provide our comments and suggestions.

Most sincerely,


Jul Lynn Parsons
Co Chair
Mayor's Disability Council


F. Ross Woodall
Co Chair
Mayor's Disability Council

cc: Board of Supervisors
Grand Jury Office
Mayor's Office on Disability

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:

2	Civil Grand Jury Findings	MOD Response
	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

401 Van Ness, Room 300, San Francisco, CA 94102

415.554.6789

415.554.6159 fax

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MOD@sfgov.org

<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>2 Civil Grand Jury Recommendations</p>	<p>MOD Response</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>3 Civil Grand Jury Findings</p>	<p>MOD Response</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"> 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. 2. Police – for service animal complaints in private businesses, police officers are trained to respond appropriately and to educate business owners on their responsibilities. 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

		<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>
3	Civil Grand Jury Recommendations	MOD Response
	<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>
4	Civil Grand Jury Findings	MOD Response
	<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>
4	Civil Grand Jury Recommendations	MOD Response
	<p>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.</p>	<p><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.</p>
6	Civil Grand Jury Findings	MOD Response
	<p>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.</p>	<p><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.</p>
6	Civil Grand Jury Recommendations	MOD Response
	<p>By June 2011, the City should develop training programs in areas of assistance and sensitivity to the needs of disabled persons,</p>	<p><i>Already implemented.</i> The Mayor's Office on Disability is currently working with both the MTA and the San Francisco Police</p>

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



GAVIN NEWSOM
MAYOR

POLICE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO
THOMAS J. CAHILL HALL OF JUSTICE
850 BRYANT STREET
SAN FRANCISCO, CALIFORNIA 94103-4603



HEATHER J. FONG
CHIEF OF POLICE

June 16, 2010

RECEIVED

JUN 22 2010

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

Dear Judge McBride:

I am pleased to provide the San Francisco Police Department's (SFPD) responses to the 2009-2010 Civil Grand Jury report entitled "Americans with Disabilities Act: Is San Francisco in Compliance?". The SFPD's responses to findings and recommendations numbered three (3) and six (6) are set forth in the accompanying table.

The SFPD is dedicated to implementing the Americans with Disabilities Act, and the Department's long-standing training modules and written resources represent this on-going commitment. Despite the significant economic challenges the City has faced and will continue to face, the SFPD remains steadfast, ensuring equal opportunities to all members of society regardless of disability.

I commend the 2009-2010 Civil Grand Jury for its efforts in improving San Francisco government and quality of life, and I appreciate the opportunity for the SFPD to participate in these endeavors.

Sincerely,


GEORGE GASCON
Chief of Police

SFPD RESPONSES TO 2009-2010 CIVIL GRAND JURY REPORT

"AMERICANS WITH DISABILITIES ACT: IS SAN FRANCISCO IN COMPLIANCE?"

<p>Finding 3: Not applicable</p>	<p>The San Francisco Police Department (SFPD) does not have jurisdiction to develop or initiate the recommended City-wide study, but is willing to work with the Mayor's Office on Disability (MOD) in these endeavors.</p>
<p>Recommendation 3: The recommendation requires further analysis.</p>	<p>The SFPD does not have jurisdiction to develop or initiate the recommended City-wide study, but is willing to work with the MOD in these endeavors.</p>
<p>Finding 6: The SFPD disagrees with this finding.</p>	<p>The MOD provides training specific to the different City departments, which address ADA-related issues.</p>
<p>Recommendation 6: The recommendation has been implemented.</p>	<p>The SFPD has implemented internal training tantamount to this recommendation:</p> <ul style="list-style-type: none"> • The SFPD's Academy provides ADA-related training for all new recruits. • The SFPD's Police Crisis Intervention Training (PCIT) program addresses ADA-related topics and is designed to enable law enforcement to more effectively handle situations involving mental illness and disability. The PCIT program was collaboratively developed by the SFPD, the Board of Supervisors, the Department of Public Health, Caduceus Outreach Services, Collation of Homelessness and the Mental Health Board and is mandatory for all members assigned to patrol. This program is a 40-hour training that has been in place since May 1, 2001. To date, approximately 904 SFPD members have completed the PCIT program during a total of 43 classes. Additionally, approximately 1,223 SFPD members have completed an 8-hour version of the PCIT program through SFPD's Advanced Officer training. • The SFPD publishes and maintains written Roll Call Trainings, Department Bulletins and Pocket Guides that discuss relevant ADA topics, including assistance and sensitivity related issues. • The SFPD published and updates its

	<p>"Disabilities Awareness Guide," which provides comprehensive information about a variety of disabilities and which specifically addresses assistance and sensitivity related issues.</p> <p>Additionally, the SFPD, in coordination with the MOD, seeks to expand its ADA-related trainings to include continuing on-line training. However, given the City's economic reality, this expanded training is unlikely to be implemented by December 31, 2011.</p>
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Gavin Newsom | Mayor

Tom Nolan | Chairman

Jerry Lee | Vice-Chairman

Cameron Beach | Director

Malcolm Heinicke | Director

Bruce Oka | Director

Nathaniel P. Ford Sr. | Executive Director/CEO

June 17, 2010

Honorable James J. McBride
Superior Court of California
County of San Francisco
Civil Grand Jury
400 McAllister Street, Dept. 206
San Francisco, CA 94102

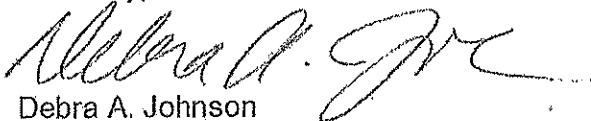
Re: Grand Jury Request for Information from the San Francisco Municipal
Transportation Agency (SFMTA)

The SFMTA is in receipt of your request for information dated April 22, 2010.

Enclosed with this letter you will find a number of attachments that are responsive
to aforementioned items 3, 4 and 6.

I trust that the attachments satisfy the Grand Jury's request. If there is additional
information or clarification required, please contact me at 415.701.4720.

Sincerely,



Debra A. Johnson
Director of Administration, Taxes and Accessible Services

cc: Leslie A. Koelsch, Grand Jury Office
SF Board of Supervisors
Manish Goyal, Mayor's Office of Public Policy & Finance
Nathaniel P. Ford Sr.

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

California Penal Code Sections 933.05(a) requires the responding party or entity identified in the report to respond to the Presiding Judge of the Superior Court, within a specified number of days. For each Finding of the Grand Jury, the response must either 1) agree with the finding or 2) disagree with it, wholly or partially, and explain why.

Further as to each recommendation, the responding party must report either that:

<p>1. Recommendation has been Implemented - Summary of how it was Implemented</p>	<p>2. Recommendation has not been Implemented but will be Implemented in the Future - Timeframe for Implementation</p>	<p>3. Recommendation Requires Further Analysis -Explanation & Timeframe for officer or agency to be prepared to discuss (Less than six months from release of report)</p>	<p>4. Recommendation Will Not Be Implemented because it is Not Warranted or Not Reasonable - Explanation</p>
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For each finding and recommendation below, indicate which action you have taken or plan to take and provide the required information. Attach additional sheets if necessary.

Response Required From: San Francisco Municipal Transportation Agency

Explanation

<p>Finding # 3 Not Applicable</p>	<p>SFMTA Accessible Services is unable to comment on or contribute to this recommendation as it relates to private sector ADA compliance issues which are not in the purview of SFMTA. The Mayor's Office on Disability may have further recommendations on how the City could incorporate a grievance process for private entities into the City's grievance process.</p>
<p>Recommendation # 3</p>	<p>Recommendation Requires Further Analysis 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>Finding # 4 Not Applicable</p>	<p>SFMTA has made great strides in updating our transit facilities to meet Federal accessibility standards. Any facility modifications done by SFMTA always include accessibility upgrades and funding for those upgrades. Department of Public Works and the Mayor's Office on Disability are the main entities in charge of the Facilities Transition Plan and SFMTA has and will continue to cooperate with these departments regarding its implementation.</p>
<p>Recommendation # 4</p>	<p>Recommendation Requires Further Analysis 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 10 years. Consistent funding levels must be maintained in order to retain, develop, and expand the pool of valuable experienced personnel.</p>
<p>Finding # 6 Agree ____ Disagree X</p>	<p>SFMTA has significant disability awareness training programs in place. SFMTA Safety and Training works closely with SFMTA Accessible Services to develop and deliver an effective disability awareness curriculum. An intensive training is provided to new transit operators in the early days of their training period so that they carry an awareness of the needs of seniors and persons with disabilities throughout their training program. Basic accessibility awareness trainings include specialized instruction including, review of the ADA, definition of disability, discussion of hidden disabilities, tips on communicating with persons with disabilities,</p>

appropriate terminology to use when referring to persons with disabilities, ADA accessible transit service requirements, access bus features, light rail access features, elevator access, accessible wayside platforms and lifts, historic streetcar accessibility, providing assistance to customers who are blind, using wheelchairs, with deafness or hard of hearing, speech impairments, mental illness and individuals with developmental disabilities, information on discount fare programs, and an overview on the Paratransit program. Persons with disabilities and seniors who are Muni customers serve as community experts and participate in the training presentations. These community trainers also often have extensive experience with Muni, representing groups such as Retired / Senior Muni operators, the Muni Accessibility Advisory Committee and the SFMTA Board.

Yearly Verification of Transit Training (VTT) classes are mandatory for all operators on all modes of transit service. The VTT curriculum also emphasizes operator responsibilities to serve persons with disabilities and seniors to ensure that transit services are compliant with federal accessibility standards and inclusive to all San Franciscans. Systemwide accessibility trainings are also delivered to other front line staff who interact with the public including station agents, proof of payment inspectors, and street supervisors with particular emphasis on interfacing with transit customers – especially those who are seniors and persons with disabilities.

In 2009, SFMTA partnered with the Mayor's Office on Disability and the Lighthouse for the Blind and Visually Impaired to develop a bus operator training video that focuses on the needs of customers with visual disabilities. Using this video as an additional refresher training in good Customer Services with particular emphasis on aspects of service related to persons with disabilities and their needs was developed and rolled out throughout the Muni system.

Copies of materials used in these trainings can be made available upon request.

To ensure that operators remain in compliance with both agency policies regarding customers with disabilities and Federal civil rights legislation, SFMTA has a clandestine observer program. This program is comprised of community members with disabilities who frequently ride the system and submit reports of their observations of service compliance.

SFMTA has a detailed process for addressing Transportation-related accessibility complaints. This is communicated to senior and disabled customers through a printed guidebook ("SFMTA Access Guide: Transit Information for Seniors and People with Disabilities"), through the SFMTA website (<http://www.sfmta.com/cms/raccess/mauindx.htm>) and through the 3-1-1 Customer Service Center. This information is available in alternative formats: Braille, Large Print, electronic text, and audio CDs, etc.

Specifically from Customer Rights and Responsibilities
"Commendations and Complaints"

Muni relies on feedback from customers, both negative and positive, to help us continue to provide good transit service. We encourage customers to let us know if they encounter difficulties with an operator or have problems with faulty equipment. To report an equipment problem, or make a complaint about an operator, the following information needs to be provided:

- The time, date and location of the incident;
- The line designation (letter or number) and the direction of travel (e.g. inbound or outbound; north, south, east or west);

	<ul style="list-style-type: none"> • The number of the vehicle. Currently, buses use the four digit vehicle number is on the front and back of the coach exterior and above the windshield inside the coach. A metal plate with Braille and raised characters is installed approximately 60 inches above the floor behind the operator compartment on buses and light rail vehicles; • The operator's cap number (a four digit number on the shirt sleeve or cap); • A general description of the operator; • A description of the incident; and • The complainant's contact information. <p>For customer complaints about possible ADA violations by the operator, SFMTA Customer Services and Operations will attempt to identify the operator using the information provided by the complainant. If the operator is identified the customer will be invited to attend an administrative hearing with the operator, his or her union representative and a neutral hearing officer. The hearing officer will hear testimony from all the parties and make a determination on the validity of the complaint.</p>
<p>Recommendation # 6</p>	<p>Recommendation has been Implemented By June 2011, the City should develop training programs in areas of assistance and sensitivity to the needs of disabled persons, especially at MTA and SFPD. These programs should be implemented by December 31, 2011.</p>

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

ADINE VARAH
Deputy City Attorney

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June 21, 2010

Hon. James J. McBride
Presiding Judge
San Francisco Superior Court
400 McAllister Street, Room 008
San Francisco, CA 94102

Re: City Attorney Office's response to the April 27, 2010 Civil Grand Jury Report entitled, "Americans with Disabilities Act: Is San Francisco in Compliance?"

Dear Judge McBride:

In accordance with Penal Code Sections 933 and 933.05, the City Attorney's Office submits the following response to the Civil Grand Jury Report entitled, "Americans with Disabilities Act: Is San Francisco in Compliance?" issued on April 27, 2010. The Grand Jury requested that this office respond to the report.

For each Civil Grand Jury finding for which you ask a response from the City Attorney's Office, you asked that we either:

1. agree with the finding; or
2. disagree with it, wholly or partially, and explain why.

For each Civil Grand Jury recommendation for which you ask a response from the City Attorney's Office, you asked that we report either:

1. that the recommendation has been implemented, with a summary explanation of how it was implemented;
2. the recommendation has not been implemented, but will be implemented in the future, with a time frame for the implementation;
3. the recommendation requires further analysis, with an explanation of the scope of that analysis and a time frame for the officer or agency head to be prepared to discuss it (less than six months from the release of the report); or
4. that the recommendation will not be implemented because it is not warranted or reasonable, with an explanation of why that is. (California Penal Code sections 933, 933.05)

Page 2
June 21, 2010

Of the six findings and six corresponding recommendations in the Civil Grand Jury Report, you have asked for the City Attorney's Office to respond to Finding and Recommendation #1 as listed below.

Finding #1.

San Francisco is vulnerable to litigation for non compliance with Title II mandates of the ADA [Americans with Disabilities Act].

City Attorney's Office Response To Finding #1.

Partially disagree. San Francisco, like many other government entities, is subject to the filing of lawsuits alleging non-compliance with Title II. But that does not mean the City is liable for non-compliance. San Francisco is currently defending a class action lawsuit in Federal District court, entitled *Kirola v. City and County of San Francisco (C07-3685)* ("*Kirola*") concerning the City's Title II compliance. The City is vigorously defending the *Kirola* lawsuit. The City has invested resources to enhance disabled access and we expect the City will continue to invest the resources it has at its disposal to comply with Title II. San Francisco is at the forefront of addressing disability rights and disability access. The City takes proactive steps to correct existing access barriers, and the City works with the community to address any and all complaints it receives. The City already has in place a detailed plan for removing physical access barriers from facilities and from the public right of way.

Recommendation #1.

The City Attorney's Office should assess the liability and risk to the City for the incomplete level of Title II compliance, and report its findings to the Mayor and [Board of Supervisors] by October 31, 2010.


City Attorney's Office Response to Recommendation #1.

Recommendation #1 requires further analysis. The City Attorney's Office disagrees with the suggestion that San Francisco's Title II compliance is "incomplete." The City Attorney's Office will assess the City's liability and risk under Title II and report to the Mayor and Board of Supervisors. The City Attorney's Office will submit a confidential report to the Mayor and Board of Supervisors advising them as to the City's exposure to potential litigation and liability over disability access issues. The City Attorney's Office will submit its report by October 31, 2010, or 60 days following entry of final judgment and exhaustion of any appeals in the *Kirola* litigation, whichever is later. The *Kirola* case is currently set for trial on September 1, 2010. With the results of that litigation in hand, the City Attorney's Office will be better positioned to prepare a meaningful report to the Mayor and Board of Supervisors.

We hope this information is helpful.

Very truly yours,

DENNIS J. HERRERA
City Attorney


ADINE VARAH
Deputy City Attorney

cc: Angela Calvillo, Clerk of the Board of Supervisors
Jim Emery, Deputy City Attorney
Jesse Smith, Chief Assistant City Attorney
Therese Stewart, Chief Deputy City Attorney



June 21, 2010

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

Dear Judge McBride:

I am pleased to present my response to the 2009-2010 Civil Grand Jury report, "Americans with Disabilities Act: Is San Francisco in Compliance?"

San Francisco is a national leader in disability rights and disability access. I am proud of the work the City has done to address this issue. For instance, the City's Capital Plan has consistently prioritized ADA access issues. The City commits to one of the most thorough self-evaluations of its programs and services to ensure compliance.

The City dedicates available resources each year towards ensuring our sidewalks are safe and compliant with all applicable laws. As your report notes, the volume of pedestrian walkways that require attention is significant. Your report does show that the City's Capital Plan for 2009-2018 works to address approximately 17,728 of the 35,700 remaining walkways.

The City has faced challenging economic times in recent years, and these challenges are likely to continue as we fight to emerge from the economic downturn. In spite of these challenges, the City remains committed to rehabilitating and maintaining the public right of way.

Furthermore, the City will continue to work to ensure that we monitor incursions in the public right of way. The Department of Public Works (DPW), the SFPD and the MTA all have a responsibility to enforce the laws related to accessibility. Finally, the City is committed to achieving the goals of the ADA throughout all departments so that every program remains accessible to all.

The Mayor's Office response to the Civil Grand Jury's findings is as follows:

Finding 1: San Francisco is vulnerable to litigation for non compliance with Title II mandates of the ADA.

Response: Partially Disagree. San Francisco, like other jurisdictions, may remain vulnerable to litigation if a plaintiff perceives non-compliance with Title II. San Francisco is currently involved in litigation on this issue in *Kirola v. City and County of San Francisco*. However, I disagree with the assessment that the City is non-compliant. The City has invested resources to enhance access and we

will continue to use the resources we have at our disposal to comply with Title II. San Francisco is at the forefront of addressing disability rights and disability access. The City takes proactive steps to correct existing access barriers and we work with the community to address any and all complaints we receive.

Finding 2: 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 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.

Response: Partially Disagree. Budget constraints may have the potential to impact procedures to address grievances and provide referrals of citizens for Title II compliance issues. However, the City continues to process complaints effectively despite budget constraints.

Finding 3: 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.

Response: Partially Disagree. I do agree the City receives citizen complaints that fall outside the scope of Title II. However, the City does provide other avenues for citizens that may potentially help them avoid litigation. For instance, the Department of Building Inspection, the SFPD, and the Human Rights Commission assist in addressing grievances for physical access violations, service animal complaints, and other violations in public accommodations. Please see the Mayor's Office on Disability (MOD) response.

Finding 4: 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.

Response: Partially Disagree. The finding is correct in that the City has made significant strides in our Facilities Transition Plan. The City has made significant accessibility improvements in our buildings and facilities, which has resulted in full program access to all city programs. Where I disagree with this finding is the cost estimates for work on curb cuts and sidewalks. According to the MOD, actual work

on areas the City has identified for rehabilitation will cost an estimated \$120 million to \$150 million, rather than the \$500 million mentioned in the Civil Grand Jury finding. Please see the Mayor's Office on Disability response.

Finding 5: The City incurs significant risk and liability from the insufficient monitoring of incursions to the public right of way and the maintenance of a clear-path-of-travel. The DPW is responsible for the investigation and enforcement of temporary and permanent sidewalk incursions involving the entire City. The majority of infractions are due to temporary barriers incorrectly erected. Over 1000 complaints are on file at any given time, and more than 400 new complaints are received weekly. The team of inspectors has been unable to keep pace with and process these complaints. Delays in the correction of incursions can lead to lawsuits.

Response: Partially Disagree. While I agree that potential delay in DPW's response to complaints raises concerns of risk and liability, I believe the City is doing an effective job with the resources available to monitor incursions in the public right of way.

Finding 6: 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 that 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 implantation costs.

Response: Partially Disagree. I agree that the nature of work at SFPD and MTA require specialized training because of interactions with the public. To this end, the Mayor's Office on Disability (MOD) is working with the departments on updating its programs for not only top managers but also point of service staff. I disagree that the SFPD and MTA programs are not fully developed. MTA, for instance, has disability awareness training programs that provide training to new operators, reviews of the ADA, and the MTA involves persons with disabilities as community experts who assist in these trainings.

The Mayor's Office response to the Civil Grand Jury's recommendations is as follows:

Recommendation 1: The City Attorney's Office should assess the liability and risk to the City for the incomplete level of Title II compliance, and report its findings to the Mayor and BOS by October 31, 2010.

Response:

Recommendation Requires Further Analysis. I agree that the City should assess its liability and risk for its level of compliance to Title II of the Americans with Disability Act. However, I do not believe the City Attorney's Office can evaluate this risk by October 31, 2010 until there is resolution in the *Kirola v. City and County of San Francisco* case. Please see the City Attorney's Office response.

Recommendation 2: San Francisco should expand the Grievance Procedure to the level necessary for the "prompt and equitable" resolution of ADA complaints.

Response:

Recommendation Requires Further Analysis. Although recent budget cuts have impacted staffing, the Mayor's Office on Disability (MOD) does ensure that ADA grievances received are handled effectively. As with any impacts to staffing, there is a possibility of a change in response time for complaints as existing staff take on additional responsibilities. I am confident that MOD staff is more than capable of meeting this challenge. When the budget situation improves, I believe we can then address any expansion of the grievance procedure and review any need for increased staffing levels.

Recommendation 3: 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.

Response:

Disagree; Will Not be Implemented. Although it is important to address private sector ADA compliance issues as an alternative to litigation, the Human Rights Commission is tasked with addressing civil rights complaints, including disability rights complaints, in the private sector. Please see the Mayor's Office on Disability response.

Recommendation 4: 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.

Response:

Agree; Already Implemented. Each year, the City provides funds in the Capital Plan for improvement projects for the public right of way. The City uses its General Fund dollars, sales tax revenues, and debt financing to these projects. Furthermore, the City uses state and federal dollars to fund these projects. I would like the Civil Grand Jury to note that the City has attempted several times to issue bonds in order to address ADA compliance, but the voters have rejected these efforts each time. With adequate resources as they become available, the City can achieve total compliance. I remain committed to prioritizing ADA access issues and the City will continue to explore all feasible alternative funding sources to ensure the continuation of this goal. Please see Mayor's Office on Disability's response and the Department of Public Works' response.

Recommendation 5: The City should pursue full enforcement and monitoring of incursions to the public rights of way, especially with regards to temporary sidewalk incursions. Staffing levels must be maintained to address and complete inspections and investigations promptly and to eliminate backlogged cases.

Response:

Recommendation Requires Further Analysis. The City vigorously pursues enforcement and monitoring of the public right of way. However, staffing levels are dictated by many factors and given the current economic climate, it would not be feasible to maintain staffing levels if inappropriate under the financial circumstance, in light of DPW's multiple obligations to the public. Despite diminishing resources, DPW has in place its Sidewalk Inspection and Repair Program (SIRP) that allows the department to proactively inspect and repair city sidewalks. This program is running well and has resulted in 40% to 45% fewer complaints.

Recommendation 6: By June 2011, the City should develop training programs in areas of assistance and sensitivity to the needs of disabled persons, especially at MTA and SFPD. These programs should be implemented by December 31, 2011.

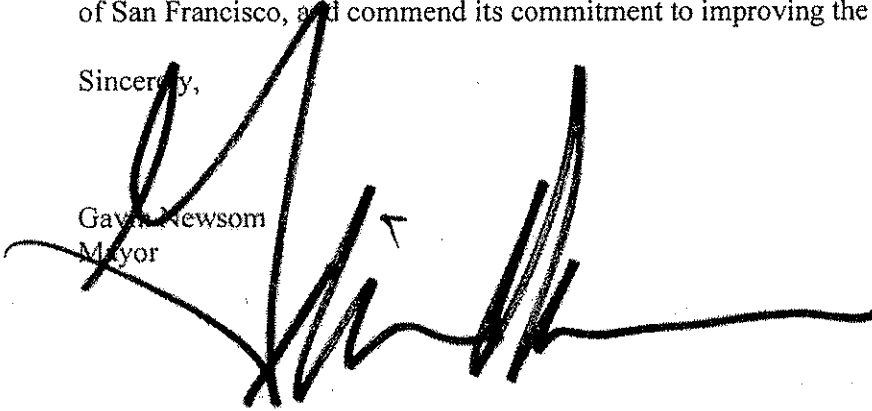
Response:

Agree; Already Implemented. The MTA and SFPD have programs in place that address this issue. For instance, the SFPD trains new recruits with ADA-related training and the department's Police Crisis Intervention Program is designed to provide training that enables law enforcement to handle more effectively situations involving mental illness and disability. Furthermore, both the MTA and SFPD dedicate staff to handle ADA compliance and provide trainings. The departments will continue to work with MOD to enhance training programs. One point raised by both the SFPD and MOD, however, concerns the Civil Grand Jury's proposed implementation date. Though all departments will work to further training programs, the progress of such work will depend on the availability of resources. With respect to the goal to create on-line training programs, the City is eager to move towards this training model. However, as MOD indicates in its response, this effort will not be completed by December 2011.

In conclusion, I offer my thanks to the 2009-2010 Civil Grand Jury for its service to the City and County of San Francisco, and commend its commitment to improving the effectiveness of city government.

Sincerely,

Gavin Newsom
Mayor

A large, stylized handwritten signature in black ink, overlapping the printed name 'Gavin Newsom' and extending across the page.



Gavin Newsom, Mayor
Edward D. Reiskin, Director



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Department of Public Works
Office of the Director
City Hall, Room 348
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4645

June 22, 2010

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

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

Dear Judge McBride:

I write to provide response to the Findings and Recommendations of the subject report. I want to thank you and the Grand Jury for your attention to the important matter of providing access to people with disabilities. Provision of access is something that the city and the Department of Public Works consider to be a high priority. We are proud of our efforts and accomplishments in this area and will continue our work to enhance disabled access throughout the City, including the public rights-of-way.

Page 15 of the report identified recommendations 3, 4, and 5 as requiring response from the Department of Public Works. Following are our responses.

	Findings	Recommendations
Civil Grand Jury	3. 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.	3. 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.
DPW response	Partially disagree. The finding is correct that the City receives citizen complaints that fall outside the scope of Title II. However, the City does provide other avenues for citizens that may potentially help them avoid litigation. For example, the Human Rights Commission assists	Will not be implemented. This recommendation falls outside the responsibility of DPW. DPW defers to the responses of MOD and the Mayor's Office.



	the public in addressing grievances regarding access issues in public accommodations.	
Civil Grand Jury	4. 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.	4. 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.
DPW Response	Partially Disagree. DPW will focus on the public rights of way in its response to this finding. DPW agrees it is of critical importance to maintain consistent levels of funding in order to maintain experienced staff. In the case of the curb ramp program this is especially true due to the fact that the lion's share of the program cost is professional engineering and skilled labor, not materials.	Already implemented. The recommendation has been implemented in recent years, as the City has consistently allocated significant funds through its Ten Year Capital Plan and annual capital budget process. The City has used numerous funding sources for curb ramps and sidewalks, including general operating funds, sales tax revenues, and debt financing. The City will continue to pursue all viable means to continue funding in a manner that is as consistent from year to year as possible and in conformance with the DPW ADA Transition Plan for Curb Ramps and Sidewalks.
Civil Grand Jury	5. The City incurs significant risk and liability from the insufficient monitoring of incursions into the public right of way and the maintenance of a clear-path-of-travel. The DPW is responsible for the investigation and enforcement of temporary and permanent sidewalk incursions involving the entire City. The majority of infractions are due to temporary barriers incorrectly erected. Over 1000 complaints are on file at any given time, and more	The City should pursue full enforcement and monitoring of incursions to the public rights of way, especially with regards to temporary sidewalk incursions. Staffing levels must be maintained to address and complete inspections and investigations promptly and to eliminate backlogged cases.



	<p>than 400 new complaints are received weekly. The team of inspectors has been unable to keep pace with and process these complaints. Delays in the correction of incursions can lead to lawsuits.</p>	
<p><i>DPW Response</i></p>	<p>Partially disagree. The majority of sidewalks are maintained by the fronting property owner. The regulatory responsibility rests with the City. The City inspects all sidewalks for compliance with applicable maintenance and accessibility on a 25 year cycle. Additionally, the City responds to requests for action to address sidewalk defects, lack of accessibility (either temporary or permanent in nature) and use of the sidewalk. Over 1000 complaints are on file at any given time, and more than 400 new complaints are received weekly. The City is doing an effective job, with the resources available, to monitor incursions in the public right of way. DPW has no information that would confirm the finding that delays in corrections of incursions can lead to lawsuits.</p>	<p>Recommendation requires further analysis. DPW vigorously pursues enforcement and monitoring of the public right of way. However, staffing levels are dictated by many factors and given the current economic climate, the city and DPW must consider their multiple obligations to the public, including critical health and safety issues, when setting staffing levels for sidewalk inspection. Notwithstanding diminishing resources, DPW has in place its Sidewalk Inspection and Repair Program (SIRP) that allows DPW to proactively inspect and repair city sidewalks, in addition to its program for responding to individual complaints. The program is running well and has resulted in 40% to 45% fewer complaints in the areas where SIRP has been implemented.</p>

I hope this information is helpful. Please do not hesitate to contact me should you require any further information.

Sincerely,

Edward D. Reiskin
Director

Cc: Board of Supervisors
 Grand Jury Office

