

File No. 110792

Committee Item No. 3

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: September 22, 2011

Board of Supervisors Meeting

Date: \_\_\_\_\_

#### Cmte Board

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Completed by: Andrea S. Ausberry

Date September 15, 2011

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA  
City Attorney

OFFICE OF THE CITY ATTORNEY

DIRECT DIAL: (415) 554-4748  
E-MAIL: tara.collins@sfgov.org

August 17, 2011

Hon. Katherine Feinstein  
Presiding Judge  
San Francisco Superior Court  
400 McAllister Street, Room 008  
San Francisco, CA 94102

Re: City Attorney's Office's Response To The June 20, 2011 Civil Grand Jury Report  
Entitled "San Francisco's Ethics Commission: The Sleeping Watch Dog"

Dear Judge Feinstein:

Under Penal Code Sections 933 and 933.05, the City Attorney's Office submits the following response to the Civil Grand Jury Report entitled "San Francisco's Ethics Commission: The Sleeping Watch Dog" and issued on June 20, 2011 (the "Report"). 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 one of the following:

1. that the recommendation has been implemented, with a summary explanation of how it was implemented;
2. that the recommendation has not been implemented, but will be implemented in the future, with a time frame for the implementation;
3. that 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 §§933, 933.05)

Of the seven findings and corresponding recommendations in the Report, the Grand Jury asked the City Attorney's Office to respond to the two Findings and Recommendations listed below.

**Finding and Recommendation 2**

**Finding 2:** *The failure of the Ethics Commission to enforce Sunshine Ordinance Task Force actions weakens the goal of open government and reduces the effectiveness of the Sunshine Ordinance.*

Letter to Hon. Katherine Feinstein  
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August 17, 2011

**Recommendation 2:** *All Sunshine Ordinance Task Force enforcement actions deserve a timely hearing by the Ethics Commission*

**City Attorney's Office Response to Finding 2**

The City Attorney's Office agrees that compliance with laws requiring open meetings and access to public records is fundamental to the legitimacy of City government. To ensure openness and transparency, the City must take appropriate steps whenever City officials intentionally violate these laws. And the City Attorney agrees that the Commission has in several instances dismissed enforcement actions based on referrals from the Sunshine Ordinance Task Force (the "Task Force"), because the Commission found that those cases did not involve willful violations of the City's Sunshine Ordinance (the "Ordinance").

But the City Attorney's Office disagrees with Finding 2 to the extent the finding suggests that by failing to follow the Task Force's recommendations the Ethics Commission (the "Commission") has failed to enforce the Ordinance. As we explain below, in all of the instances the Report cites, the Commission, based on its review of the facts and circumstances in the record before it, found that the City employees or officials did not willfully violate the Ordinance—a requirement for the Commission to impose penalties. We are not in a position to second guess those decisions that the Commission made.

In the 18 cases referenced in the Report where the Task Force forwarded a complaint to the Commission, the Commission concluded that the charged City officials had not violated the Ordinance or had not done so willfully. In one recent case the Commission decided after the Grand Jury issued its Report, the Commission unanimously concluded that a City officer had willfully violated the Ordinance. The outcome of the 18 cases mentioned in the Report does not seem to support the Grand Jury's finding that the Commission has failed to enforce the Ordinance. Rather, in its role as adjudicator, the Commission concluded based on the facts presented to it that the charged City officials in those proceedings had not willfully violated the Ordinance.

Still, we agree that the Commission's enforcement process could be further improved. The Commission has taken steps in recent years to make its handling of Sunshine-related matters more transparent by requiring that hearings on those matters be held in public. And as explained below, we have been assisting the Commission in its efforts over the past year to revise its procedures further through a public process involving input from the Task Force.

In August 2010, the Commission's staff drafted proposed regulations setting procedures for the Commission's enforcement of complaints alleging violations of the Ordinance. Under the City Charter, the Commission has the power to adopt regulations interpreting and administering the Ordinance. *See* S.F. Charter § 15.102. The proposed regulations would clarify ambiguities in the Ordinance and establish a new enforcement process for Sunshine-related matters. The Commission forwarded the proposed regulations to the Task Force for comment on August 17, 2010, and the Task Force responded with written comments on August 1, 2011. The City Attorney's Office understands that the Commission will be considering the Task Force's comments at a meeting in the near future. Once formally adopted, the regulations could have the effect of clarifying the enforcement process and advancing the City's goal of ensuring compliance with all applicable open meetings and public records laws.

**City Attorney's Office Response to Recommendation 2**

The City Attorney's Office agrees that all complaints filed with the Commission should be handled in a timely manner, in compliance with legal deadlines. But other than continuing to

Letter to Hon. Katherine Feinstein  
Page 3  
August 17, 2011

serve as the Commission's legal advisor, the City Attorney's Office does not play a role in deciding whether or how to implement this recommendation.

### **Finding and Recommendation 3**

**Finding 3:** *Waiting for the District Attorney or City Attorney to inform the Ethics Commission that they are not going to pursue a case causes unnecessary delays.*

**Recommendation 3:** *After the 14-day window, Ethics Commission investigations should start promptly.*

### **City Attorney's Office Response to Finding 3**

We disagree with Finding 3 because the Ethics Commission does not have to wait to undertake its own investigation of a particular matter for the District Attorney and the City Attorney to notify the Ethics Commission that they will not pursue a case.

Charter section 3.699-13 creates the basic framework for investigations and enforcement proceedings that the Commission handles for alleged violations of local laws related to campaign finance, lobbying, conflicts of interest and governmental ethics. Under section 3.699-13(a), whenever the Commission receives a complaint or information giving the Commission reason to believe that a violation has occurred, the Commission must "immediately . . . forward the complaint or information in its possession regarding the alleged violation to the district attorney and city attorney." See S.F. Charter § 3.699-13(a). Within 10 business days after receiving the complaint or information, the District Attorney and City Attorney must "inform the commission in writing regarding whether the district attorney or city attorney has initiated or intends to pursue an investigation of the matter." See *id.* Following longstanding internal procedures, the City Attorney's Office always responds to the Commission within 10 business days of receiving a forwarded complaint.

The Charter does not prohibit the Commission's staff from initiating investigatory activity during the Charter-prescribed period when the District Attorney or City Attorney are considering whether to initiate their own investigations. Delaying the start of an investigation until the 10-business-day review period has expired could prejudice an investigation if neither the District Attorney, City Attorney or the Commission were able to secure the evidence during that period and evidence were to disappear as a result. We understand that because of this concern, the Commission's staff sometimes begins investigations during that period if the staff determines that the situation warrants immediate action. We are not aware of, and the Report does not identify, any specific circumstance when the Commission's failure to initiate an investigation during the 10-business day period has caused "unnecessary delays" that have hindered an investigation.

### **City Attorney's Office Response to Recommendation 3**

The Report recommends that "[a]fter the 14-day window, Commission investigations should start promptly." We agree that Commission investigations should start promptly. But as we discuss above, the City Attorney's 10-business day review period mandated by the Charter does not prohibit the Commission from beginning its own investigation before the end of that period, where the Commission staff determines it is appropriate to do so. Accordingly, other than continuing as the Commission's legal advisor, the City Attorney's Office does not play a role in deciding whether or how to implement this recommendation.

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Also, we are not certain what the Report means when it refers to the 14-day window. The Charter requires the District Attorney and City Attorney to respond to the Commission within 10 business days of receiving the complaint. Possibly the Report refers to "14 days" instead of 10-business days as a rough estimate of how many calendar days are included in the 10 business day period, though the 10-business day period could be shorter or longer than 14 calendar days. Section 3.699-13(a) separately refers to a 14-day window, but that period begins only *after* the District Attorney and City Attorney respond to the referral. The Charter provides that within 14 days after receiving responses that the District Attorney and City Attorney will not pursue an investigation, the Commission must notify the complainant of the actions the Commission has taken or plans to take, or, if the Commission has not yet decided what action to take, the Commission must notify the complainant of the reason for the delay. *See* S.F. Charter § 3.699-13(a). That 14-day deadline does not involve the City Attorney and, like the 10-business day review period, does not prevent the Commission from taking any earlier steps to pursue an investigation.

We appreciate the role of the Civil Grand Jury and the work it does, and we hope that this information is helpful.

Very truly yours,



DENNIS J. HERRERA  
City Attorney

Orig: GAO Clerk  
CICOB, Leg Dep. page

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY



GEORGE GASCÓN  
District Attorney

DAVID A. PFEIFER  
CHIEF ASSISTANT DISTRICT ATTORNEY

DIRECT DIAL: (415) 553-1743  
E-MAIL: david.pfeifer@sfgov.org

August 16, 2011

The Honorable Katherine Feinstein  
Presiding Judge, Superior Court  
City and County of San Francisco  
400 McAllister Street, Department 206  
San Francisco, CA 94102

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2011 AUG 18 PM 2:56  
BY [Signature]

Re: In the Matter of the 2010-2011 Civil Grand Jury

Dear Judge Feinstein

I write to provide the District Attorney's Office response to Finding 3 of the Civil Grand Jury's report entitled "San Francisco's Ethics Commission: The Sleeping Watchdog." Finding 3 states: "Waiting for the District Attorney or City Attorney to inform the Ethics Commission that they are not going to pursue a case causes unnecessary delay." We disagree with the portion of Finding 3 that pertains to the District Attorney's Office for the following reasons. San Francisco City Charter Section C3.699 provides that within ten working days of receipt of a complaint from the Ethics Commission, the District Attorney shall inform the Ethics Commission whether we have initiated an investigation or intend to pursue an investigation of the matter. The District Attorney's Office has strived to always meet the Charter's 10-day timeframe, even in very complex matters. We are pleased to report that our records show that, since January 2009, in over 90% of the cases we have indeed met that timeframe and responded to the Ethics Commission within ten working days of receipt of the complaints. In rare occasions, such as when the District Attorney has needed additional information to determine whether a criminal investigation is warranted, the District Attorney's response has come after ten working days. Going forward, the District Attorney will respond to each complaint within ten working days of receipt.

The Grand Jury's Recommendation 3 states "After the 14-day window, Ethics Commission investigations should start promptly." This recommendation is not directed at the District Attorney's Office, and accordingly it does not appear applicable for us to comment about the implementation of the recommendation.

Very truly yours,

GEORGE GASCÓN  
DISTRICT ATTORNEY

David A. Pfeifer  
Chief Assistant District Attorney

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY

cc: Manish Goyal – Mayor’s Office  
Andrea Ausberry – Assistant Committee Clerk, Board of Supervisors  
John St. Croix – Director of Ethics Committee  
Linda Ross – City Attorney’s Office

OFFICE OF THE MAYOR  
SAN FRANCISCO



Orig: GAS Clerk  
COB, epaq  
EDWIN M. LEE Leg Dep.  
MAYOR

August 15, 2011

The Honorable Katherine Feinstein  
Presiding Judge  
Superior Court of California, County of San Francisco  
400 McAllister Street  
San Francisco, CA 94102

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BOARD OF SUPERVISORS  
SAN FRANCISCO  
2011 AUG 15 PM 2:35  
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Dear Judge Feinstein:

The following is in response to the 2010-2011 Civil Grand Jury report, "San Francisco's Ethics Commission: The Sleeping Watchdog." I would like to assure the Civil Grand Jury that the Ethics Commission takes its responsibilities seriously and the Mayor's Office fully supports the work of the Commission. The Commission investigates a variety of matters that they must address on a case by case basis. The Ethics Commission, the Office of the District Attorney and the Office of the City Attorney have and will continue to work diligently to approach all causes and complaints received in a timely manner.

Many of the recommendations of the Civil Grand Jury are reasonable. However, some recommendations would remove the discretion the Commission has to deal with each individual situation fairly. Additionally, because of limited resources or competing jurisdictions over a subject matter, imposing strict timelines may not be appropriate or feasible in all instances. As the Ethics Commission's response noted, it will review the recommendations provided by the Civil Grand Jury and improve its procedures where possible.

**The Mayor's Office responses to the Civil Grand Jury's findings are as follows:**

**Finding 4:** Currently commissioners are appointed by elected officials. In turn the staff and commissioners scrutinize campaign expenditures and activities of those same elected officials. The Civil Grand Jury feels this leads to the appearance of impropriety.

**Response:** Partially Disagree. It is true that elected officials appoint commissioners and that the staff at the Ethics Commissions then performs functions that look into the campaign expenditures and activities of the elected officials. As the Ethics Commission states in its response, this is an acknowledged conflict-of-interest that results from the structure set forth by the voters when they chose to establish the Ethics Commission. The Civil Grand Jury alleges an appearance of impropriety; however, the Commission is composed of members selected by a wide-range of city officials and each member is limited to a single six-year term. The City will continue to do all it can to ensure the Ethics Commission performs its duties with the utmost integrity and free of undue influence by elected officials or other interested parties.



Mayor's Office Response to the Civil Grand Jury  
August 15, 2011

**Finding 7:** In the context of open government, providing audio recordings of the Commission meetings does not provide enough transparency.

**Response:** Partially Disagree. I agree that audio recordings alone are not ideal to ensure that the public has access to information on the Ethics Commission. The Commission properly notices the public about upcoming meetings. The Commission website posts agendas and minutes for all meetings. The meetings are conducted in a public setting, which the public can attend. The Ethics Commission also posts the audio files of meetings on its website. The Ethics Commission employs the use of social media to provide a low-cost method to disseminate information to the public as well. Therefore, I disagree that there is insufficient transparency in the proceedings of the Ethics Commission.

**The Mayor's Office responses to the Civil Grand Jury's recommendations are as follows:**

**Recommendation 4:** The City Charter should be changed to add four additional commission members appointed by non-partisan community organizations and individuals such as: The League of Women Voters, Society of Professional Journalists, The San Francisco Labor Council, and the Dean of UC Hastings Law School.

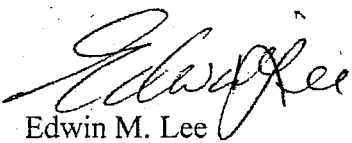
**Response:** Recommendation Requires Further Analysis. The voters chose the current composition of the Ethics Commission. Past efforts to change the structure of the Ethics Commission has not received voter approval.

**Recommendation 7:** To maximize transparency, the San Francisco Ethics Commission should broadcast their meetings on SFGOTV television network.

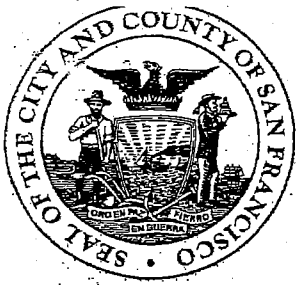
**Response:** Recommendation Requires Further Analysis. As I mentioned in my response to finding 7, I disagree that there is insufficient transparency in how the Ethics Commission currently conducts business. The Civil Grand Jury is asking that the Ethics Commission increase its outreach efforts. This recommendation will require further analysis in order to determine whether the City has sufficient budget resources to cover expenses associated with broadcasting Ethics Commission meetings as well as sufficient resources to relocate its meetings. The Commission currently holds hearings in a location in City Hall that is not equipped for video recording, and outfitting the room for video presents a substantial financial and management challenge for the Department of Technology. As such, providing video of the Commission hearings would require the Commission to change locations, which may also necessitate scheduling changes. The feasibility of implementing such a change requires further analysis.

Thank you again for the opportunity to comment on this Civil Grand Jury report.

Sincerely,



Edwin M. Lee  
Mayor



# ETHICS COMMISSION

## CITY AND COUNTY OF SAN FRANCISCO

BENEDICT Y. HUR  
CHAIRPERSON

JAMIENNE S. STUDLEY  
VICE-CHAIRPERSON

BEVERLY HAYON  
COMMISSIONER

DOROTHY S. LIU  
COMMISSIONER

CHARLES L. WARD  
COMMISSIONER

JOHN ST. CROIX  
EXECUTIVE DIRECTOR

August 12, 2011

The Honorable Katherine Feinstein  
President Judge of the Superior Court  
400 McAllister Street  
Department 206  
San Francisco, CA 94102

Dear Judge Feinstein:

The Ethics Commission strives to provide the best quality services possible to the people of San Francisco. To that end, it welcomes constructive criticism from a wide body of sources and thus appreciates the efforts of the Civil Grand Jury (CGJ) for suggesting potential avenues of improvement to the Commission. This letter serves as a response to the report released by the Civil Grand Jury on June 20, 2011. Each finding is addressed in turn.

### Finding 1

The CGJ suggests: Recommendation 1.1) using a fixed fine structure or always applying the maximum allowable fine, and Recommendation 1.2) allowing the respondent to request a public hearing if he/she disagrees with the fine. The Commission disagrees with Recommendation 1.1; Recommendation 1.2 reflects current Commission processes that permit a respondent to seek a public hearing.

The Civil Grand Jury suggests a fixed fine structure and the Commission recognizes the appeal such a system may have. However, due to the breadth of reasons that infractions are committed, a fixed fine structure would be generally unfair as it would disallow any consideration of individual circumstances and create unintended consequences much like "zero tolerance" and "three strikes" laws. The Commission believes that the punishment should fit the crime. Under the current process, all negotiated settlement agreements and their attendant proposed fines are sent to the individual Commission members for approval. If more than one Commissioner disapproves of the proposal, it is automatically calendared for a closed-session discussion at a Commission meeting. While the Commission agrees with staff recommendations more often than not, there are times when the Commission redirects staff to further negotiations. Moreover, any respondent who cannot or will not reach a settlement agreement with staff will have his or her case heard in a closed-session probable cause hearing. At the respondent's request, this hearing is made public. After a finding of probable cause, a public hearing on the merits is scheduled. The Commission believes this system is more reasonable than the "one size fits all" approach recommended by the Civil Grand Jury.

The Commission is interested in maintaining consistency in its considerations and achieving balance in its judgments. Rather than using a fixed scheme to resolve cases, the Commission will endeavor to create a fitting set of guidelines that allow fairness, consistency but also needed flexibility.

#### Finding 2

The CGJ accuses the Ethics Commission of failure to enforce the City's Sunshine Ordinance, and Recommendation 2) states that Sunshine Ordinance Task Force actions should have a timely hearing. The Commission agrees with this finding and adds that it already endeavors to meet this goal.

Each referral is taken seriously and reviewed on its merits under the Ethics Commission's Legal Authority. Starting in May 2010, the Ethics Commission formulated several reforms for the handling of Sunshine referrals; it referred these to the Sunshine Ordinance Task Force in August of 2010 in order to clarify those legal obligations. The SOTF issued its response on August 1, 2011. The Ethics Commissioners will review and consider the comments from the SOTF, including comments regarding the review and hearing process, and will adopt those reforms it deems appropriate and productive in the near future.

#### Finding 3

The CGJ suggests that the Commission not wait for the City Attorney or District Attorney to assert jurisdiction before beginning an investigation. Recommendation 3) suggests beginning investigations immediately upon the close of the 14-day reply window. The Commission agrees with this recommendation. The Investigative Staff, however, needs some discretion in deciding which cases to prioritize based on current circumstances. Additionally, since staff resources are limited, it does not make sense to duplicate the work of other law enforcement agencies. The Commission will endeavor to respond to referrals on a timely basis.

#### Finding 4

The CGJ believes that the appointment of Ethics Commissioners by elected officials leads to the appearance of impropriety and Recommendation 4) suggests the addition of four Commission members appointed by non-governmental entities. The Commission is neutral on this suggestion.

The Commission believes that it is the behavior of the Commission that reflects its integrity. There is an acknowledged conflict-of-interest in the establishment of the Commission in that it is appointed by members of the elected body of government some of whom in turn provide the Commission's budget. However, the voters chose this process and the Commission is not going to second-guess their wisdom. Indeed, on one occasion the voters rejected an alternative plan to this structure. There are measures in place to address these concerns. For example, Commissioners may serve only one six-year term, reducing the likelihood that they would curry favor to ensure reappointment. They are appointed by an array of officials, not just the Mayor or the Board of Supervisors. Should the voters determine to change the composition of the Commission, the Commission would accept the voters' new choice of commissioner selection.

#### Finding 5

The CGJ believes that the Executive Director has too much discretion in proposing the dismissal of individual investigations and Recommendation 5) suggests that regulations be amended to require an actual discussion of each recommendation for dismissal and a vote on such recommendations. The Commission will revisit this process and will consider changing this process.

While it may appear to some people that the Executive Director is allowed to dismiss cases, this is not the case. Under the current system, Ethics staff members prepare comprehensive reports for the Commissioners regarding both proposed dismissals and complaint settlements. Commissioners all read these reports and make independent decisions regarding whether to support staff recommendations or to calendar the items for Commission meetings. If more than one Commissioner has concerns about staff recommendations, the item is calendared for closed session discussion at the next Commission meeting.

#### Finding 6

The CGJ states that the Ethics Commission does not have a database to track issues efficiently and Recommendation 6) suggests creating or modifying a database to track issues efficiently.

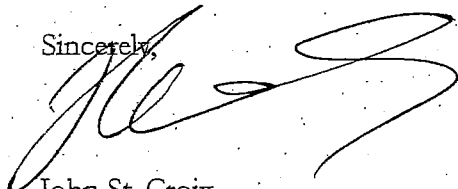
The Ethics Commission is concerned that the CGJ had some difficulty in obtaining documents from our staff and will endeavor to improve on this function. Customer service is a high priority for us. When official document requests are presented to the Commission, a single staff member is assigned to log the request, when it arrived and from whom. The log includes the name of staff responsible for responding and when the request was fulfilled. When individual staff members receive document requests, they do not always have them logged into this system and staff will be instructed to ensure that all requests for documents or information are logged properly.

#### Finding 7

The CGJ suggests that audio recordings of Commission meetings do not provide enough transparency and Recommendation 8) suggests that Commission meetings be televised. The Commission will explore the possibility of televising its meetings in a cost-effective way.

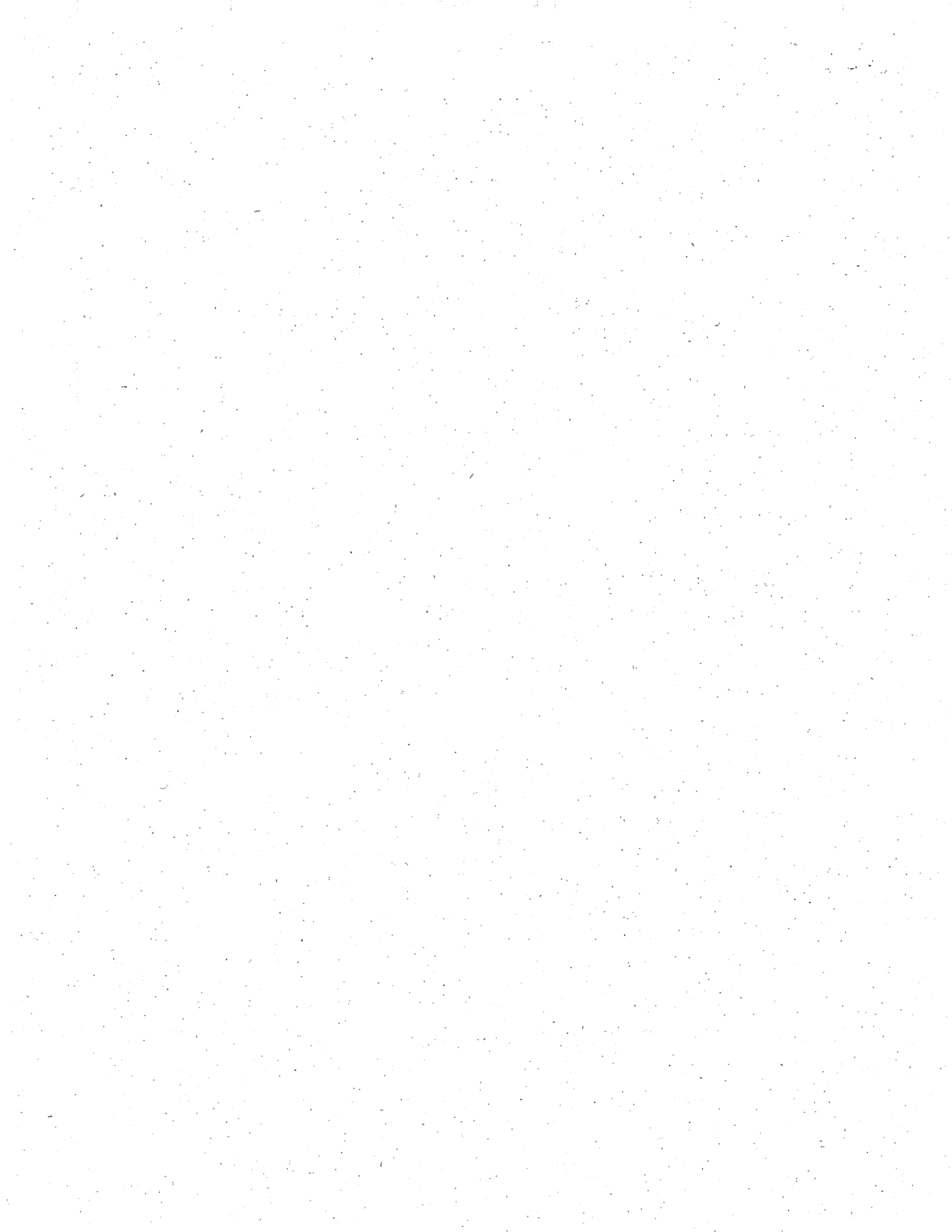
In conclusion, the Ethics Commission would like to recognize the value of the work of the Civil Grand Jury and offer thanks for their input into Commission functions. While the Ethics Commission does not agree with all of the CGJ's findings, it will follow through on those that will help improve services to our community.

Sincerely,

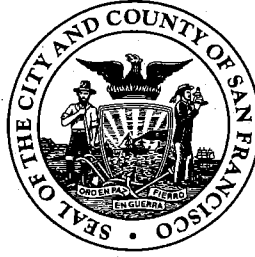


John St. Croix  
Executive Director

cc: 2010-2011 Civil Grand Jury



BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 544-5227

DATE: June 20, 2011  
TO: Members of the Board of Supervisors  
FROM: Angela Calvillo, Clerk of the Board *Angela Calvillo*  
SUBJECT: 2010-2011 Civil Grand Jury Report

We are in receipt of the San Francisco Civil Grand Jury (CGJ) report released June 20, 2011, entitled: **San Francisco's Ethics Commission: The Sleeping Watchdog.** (Attached)

Pursuant to California Penal Code Sections 933 and 933.05, the Board must:

1. Respond to the report within 90 days of receipt, or no later than **September 14, 2011.**
2. For each finding:
  - agree with the finding or
  - disagree with the finding, wholly or partially, and explain why.
3. For each recommendation:
  - agree with the recommendation or
  - disagree with the recommendation, wholly or partially, and explain why.

Pursuant to San Francisco Administrative Code Section 2.10, in coordination with the Committee Chair, the Clerk will schedule a public hearing before the Government Audit and Oversight Committee to allow the Board the necessary time to review and formally respond to the findings and recommendations.

The Budget and Legislative Analyst will prepare a resolution, outlining the findings and recommendations for the Committee's consideration, to be heard at the same time as the hearing on the report.

Attachment

- c: Honorable Katherine Feinstein, Presiding Judge (w/o attachment)  
Linda A. Clardy, Foreperson, 2010-2011 San Francisco Civil Grand Jury (w/o attachment)  
Mayor's Office  
Ben Rosenfield, Controller  
Cheryl Adams, Deputy City Attorney (w/o attachment)  
Rick Caldeira, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO  
GRAND JURY

305-11 ✓ Done  
Orig: ~~COB~~  
C: COB  
GAO clerk  
cpage

OFFICE  
400 MCALLISTER ST., ROOM 008  
SAN FRANCISCO, CA 94102  
TELEPHONE: (415) 551- 3605

June 16, 2011

Supervisor David Chiu, President  
San Francisco Board of Supervisors  
#1 Dr. Carleton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2011 JUN 16 AM 8:51  
BY: *RSQ*

Dear Supervisor Chiu:

The 2010-2011 San Francisco Civil Grand Jury will release its report to the public entitled "San Francisco's Ethics Commission: The Sleeping Watchdog" on Monday, June 20, 2011. Enclosed is an advance copy of this report. Please note that by order of the Presiding Judge of the Superior Court, Hon. Katherine Feinstein, this report is to be kept confidential until the date of release.

California Penal Code section 933.05 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. You may find the specific day the response is due in the last paragraph of this letter.

For 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 report either:

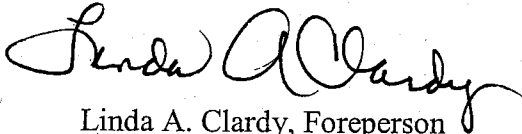
- (1) that the recommendation has been implemented, with a summary explanation of how it was implemented;
- (2) the recommendation has not been implemented, but will be implemented in the future, with a time frame for the implementation;
- (3) the recommendation requires further analysis, with an explanation 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

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- (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)

Please provide your responses to the Findings and Recommendations in this report to the Presiding Judge of the Superior Court, Hon. Katherine Feinstein, not later than Wednesday, September 14, 2011, with an information copy sent to the Grand Jury Office at the above address.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Linda A. Clardy".

Linda A. Clardy, Foreperson  
2010-2011 San Francisco County Civil Grand Jury

cc: Members of the Board of Supervisors  
Angela Calvillo, Clerk of the Board



1  
2  
3  
4 CALIFORNIA SUPERIOR COURT  
5 CITY AND COUNTY OF SAN FRANCISCO

6 In The Matter of the 2010-11 )  
7 Civil Grand Jury of the City )  
8 And County of San Francisco )

Finding Re:  
Final Grand Jury Report

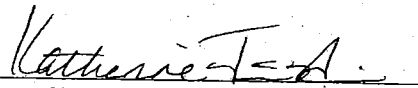
9 The 2010-2011 Civil Grand Jury of the City and County of San Francisco having  
10 submitted its Final Report entitled, "San Francisco's Ethics Commission: The Sleeping  
11 Watch Dog" a copy of which is attached and marked as "Exhibit One"

12 The Court finds that this Final Report is in compliance with the Part II, Title 4, of  
13 the Penal Code, commencing with section 888. The Final Report reflects the investigative  
14 work, findings, conclusions and recommendations of the Civil Grand Jury. It does not  
15 reflect the investigative work, findings, conclusions or recommendations of the Superior  
16 Court or any of its members.

17  
18 GOOD CAUSE APPEARING THEREFOR, IT IS HEREBY ORDERED that a  
19 copy of the report is to be placed on file with the clerk of the court and is to remain on  
20 file with the office of clerk of the court as provided in Penal Code section 933(b).

21  
22 IT IS FURTHER ORDERED that the attached report is to be kept confidential  
23 until said report is released to the public by the Civil Grand Jury of the City and County  
24 of San Francisco.

25  
26 June 13, 2011

27  
28  
  
KATHERINE FEINSTEIN  
PRESIDING JUDGE

SAN FRANCISCO'S ETHICS COMMISSION:

THE SLEEPING WATCH DOG



CIVIL GRAND JURY  
CITY AND COUNTY OF SAN FRANCISCO  
2010-2011

### THE CIVIL GRAND JURY

The Civil Grand Jury is a government oversight panel of volunteers who serve for one year. It makes findings and recommendations resulting from its investigations.

Reports of the Civil Grand Jury do not identify individuals by name. Disclosure of Information about individuals interviewed by the jury is prohibited. California Penal Code, section 929

### STATE LAW REQUIREMENT

California Penal Code, section 933.05

Each published report includes a list of those public entities that are required to respond to the Presiding Judge of the Superior Court within 60 to 90 days as specified. A copy must be sent to the Board of Supervisors. All responses are made available to the public.

For each finding the response must:

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

As to each recommendation the responding party must report that:

- 1) the recommendation has been implemented, with a summary explanation; or
- 2) the recommendation has not been implemented but will be within a set timeframe as provided: or
- 3) the recommendation requires further analysis. The officer or agency head must define what additional study is needed. The Grand Jury expects a progress report within six months; or
- 4) the recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

# SAN FRANCISCO'S ETHICS COMMISSION: THE SLEEPING WATCHDOG

## SUMMARY

This report focuses on issues related to investigations performed by the Commission. These include fines and enforcement irregularities, the excessive influence of the Executive Director in conjunction with the abdication of oversight by the Ethics Commissioners, the membership of the Commission, and audit procedures. This is not meant to be a definitive report on the Ethics Commission.

## BACKGROUND

On July 12, 1993, the San Francisco Board of Supervisors voted 7-4 to place Proposition K on the November ballot. In the election pamphlet they asked San Francisco voters:

Shall an Ethics Commission be created, with the power to:

- Administer the City's campaign contributions, determine conflict of interest, lobbying and whistle-blowing laws;
- Investigate alleged violations of these laws and impose penalties under certain circumstances; and
- Submit ordinances relating to governmental ethics directly to the voters?

Arguing in favor of Proposition K, the Board of Supervisors noted in the pamphlet:

- The people of San Francisco are in danger of losing faith in our city government.
  - Every few weeks another scandal arises and public confidence sinks to new lows.
  - We need an Ethics Commission to turn things around at City Hall.
- Proposition K will establish an independent body to clean up our city government.

Rebuttal in the voter's pamphlet argued Proposition K would merely set up a useless commission paralyzed by conflicts-of-interest. Those in opposition to this proposed measure put forth the question:

"Can San Francisco afford to waste millions of dollars on a commission destined to entrench San Francisco City Hall status quo?"

Voters approved Proposition K, and the Ethics Commission was created.

Citizens/voters are entitled to the complete Ethics Commission story. The focus of this report, however, is limited to an examination of the arbitrary method by which fines are determined, enforcement irregularities, the failure to provide adequate transparency, the excessive influence of the Executive Director over commission members leading to the commission members abdicating their responsibilities to serve as our independent watchdog, and investigations performed by Ethics Commission staff.

The Civil Grand Jury asks this question:

Are the citizens of San Francisco well served by its Ethics Commission?

### DISCUSSION

There are a number of areas where the procedures and rules followed by the Ethics Commission staff are at odds with its stated mission "to practice and promote the highest standards of ethical behavior in government."<sup>1</sup>

#### Arbitrary Fines

The Ethics Commission collects revenue from a number of sources such as lobbyists' fees, campaign consultant fees, and fines under their jurisdiction. In 2010, the Ethics Commission entered into four enforcement cases (entitled Stipulation, Decision and Orders)<sup>2</sup> for complaints before the commission. The fines ranged from \$76 to \$4,000. These fines were reduced, through negotiation between the Ethics Staff and complainant, rather than assessing the maximum fine of up to \$5,000 established by the charter.<sup>3</sup>

In our interviews with the ethics commission staff we asked about variances in the fines. We heard reasons for fine reduction such as being a first-time candidate, a first-time campaign official, or cooperating with the commission staff. Since 2008, all enforcement summaries cite the mitigating factor, "Respondent was cooperative with staff's investigation."

When a violation has been established, the Commission staff engages in negotiations with the alleged violator or their counsel to determine the fine. This puts the Ethics Commission staff in a recurring negotiating role with the city employees, campaign consultants, campaign staff or lobbyists to establish the fine. This is most irregular and vulnerable to manipulation against the public interest.

In Complaint No. 16-080516<sup>4</sup>, a campaign committee originally failed to list a San Francisco Supervisor as a Controlling Officeholder. The “oversight” wasn't corrected until 34 *days after the election*. This misrepresents the campaign to the voters. This violation resulted in a mere \$100 fine for the committee and treasurer of the committee.

The following table indicates the variable nature of the fines collected by the Ethics Commission. The total fines from the enforcement summaries since 2004 are as follows:

CALENDAR YEAR	FINE AMOUNT
2010	\$ 5,226
2009	\$ 8,000
2008	\$ 5,100
2007	\$ 5,817
2006	\$ 4,350
2005	\$ 33,260
2004	\$ 100,000

The arbitrary nature of the fines can best be seen in Ethics Complaint No. 20-050906 against San Franciscans for Affordable Clean Energy. The minutes from the monthly meeting held on June 11, 2007, record the statement of Richard Mo, the Ethics Commission Chief Enforcement Officer:

“... the \$26,700 settlement offer was only an opening to a good faith negotiation but that the Respondent declined to engage in any settlement until she retained an attorney, then offering \$500. Mr. Mo stated that just because probable cause hearings are rare, does not mean that enforcement in those instances is biased. He stated that staff attempted to engage in settlement negotiations.”

In the final settlement the fine was reduced to \$267, or 1% of the original fine.

### Sunshine Ordinance Not Enforced

The Sunshine Ordinance Task Force advises the Board of Supervisors and provides information to other City departments on appropriate ways to implement the Sunshine Ordinance (Chapter 67 of the Administrative Code); ensures that deliberations of commissions, boards, councils and other agencies of the City and County are conducted before the people; and guarantees that City operations are open to the people's review.

Under the Sunshine Ordinance, the Task Force also makes a determination if a Sunshine violation exists. If a violation is found, the official involved must disclose the information requested. If the public official doesn't comply, the case is sent to the Ethics Commission for enforcement.

Since October 2004 through December 2010 there have been 18 cases where the Sunshine Ordinance Task Force has requested that the Ethics Department enforce a violation of the ordinance. In all 18 cases the commission has not taken ANY action for violation of the Sunshine Ordinance. In eight of the 18 cases, the disposition was "dismissed because facts did not support finding of willful failure to discharge duties imposed by Sunshine Ordinance." Based on a recommendation for dismissal by the Executive Director, the other ten cases were "dismissed because facts did not support finding of violation."<sup>5</sup>

None of these cases were ever heard at an open hearing before the Ethics Commission.

Because of the Ethics Commission's lack of enforcement, no city employee has been disciplined for failing to adhere to the Sunshine Ordinance. The Commission has allowed some city officials to ignore the rulings of the Sunshine Ordinance Task Force.

On the Ethics Commission web site it indicates its duties as:

- Filing and auditing of campaign finance disclosure statements
- Campaign consultant registration and regulation
- Lobbyist registration and regulation
- Filing officer for statements of economic interest
- Administration of the Whistleblower program
- Investigations of ethics complaints
- Enforcement education and training
- Providing advice and statistical reporting

It is interesting to note here that there is no mention of the Sunshine Ordinance at all. Yet, for the period February 2010 through April 2011, 38% of the pending investigations are Sunshine referrals.<sup>6</sup>

### Investigation Delays

The City Charter does not prevent the Ethics Commission investigators from pursuing an investigation after a 14-day notification period simultaneously with the District Attorney or City Attorney.<sup>7</sup>

“If the commission, upon the sworn complaint or on its own initiative, determines that there is sufficient cause to conduct an investigation, it shall investigate alleged violations of this charter or city ordinances relating to campaign finance, lobbying, conflicts of interest and governmental ethics. A complaint filed with the commission shall be investigated only if it identifies the specific alleged violations which form the basis for the complaint and the commission determines that the complaint contains sufficient facts to warrant an investigation.”

The Ethics Commission won't begin an investigation until the District Attorney and City Attorney have decided not to pursue the matter. While there is the possibility of duplication of effort, the number of times when the District Attorney or City Attorney had pursued an investigation is limited. This delay before the Commission starts their investigation, in one case nine months, provides more than enough time for documents to become lost, employees to change departments, and accounts from interviewees to fade. The person bringing a complaint before the Commission deserves timely action.

### Ethics Commission Composition

Currently, elected officials appoint all Ethics Commissioners. As stated in the City Charter, a member appointed by the Mayor must have a background in public information and public meetings. A member appointed by the City Attorney must have a background in law as it relates to government ethics. A member appointed by the Assessor must have a background in campaign finance. The remaining two members, appointed by the District Attorney and Board of Supervisors, must be broadly representative of the general public. A listing of current commission members is located in Appendix A.

“Nothing is more important to an ethics program than ensuring that an ethics commission is seen as independent, and not a pawn of politicians. People will not trust the advisory opinions and enforcement decisions of an ethics commission consisting of people with even presumed ties to politicians. Since trust is the principal goal of an ethics program, this is unacceptable.”<sup>8</sup>

- CityEthics.org



Ethics Commissioners are appointed by elected politicians over whom the Commission has enforcement responsibility. While the commission members we interviewed indicated they were not subject to political pressure, there is an appearance of a conflict of interest. A negative and jaded perception by the public may exist because of the way the commissioners are selected and appointed.

#### Executive Director Controls the Agenda

At least ten days prior to the Commission's monthly meeting, a list of complaints that the Executive Director has recommended for dismissal is sent to the Commissioners. If an item noted for dismissal is not removed from that list and placed on the agenda, it will be dismissed. Based on current Ethics Commission regulations<sup>9</sup> at least two of the five Commissioners must notify the Executive Director to move something from the dismissed list to the agenda. This must be done five days before the meeting to allow time for the item to be published on the agenda.

However, because of the Open Meeting Law (the Brown act)<sup>10</sup> it is difficult for the members to talk to other commissioners about an item prior to the actual meeting, as this might violate the law. The Open Meeting Law prohibits Commissioners from contacting more than one half of the members. On the Ethics Commission a Commissioner can only contact one other Commissioner. If there were more than five commissioners this might not be much of an issue.

If a commission member is interested in moving an item to the agenda, it is difficult for that commissioner to get support from another commissioner because of the Open Meeting Law. One commissioner estimated that only 15-25% of the requests for an item to be scheduled are moved to the agenda. Because these items are covered in the closed session, the 15-25% estimate can't be verified. Additionally the commissioners are not notified about which specific items are scheduled for the closed session making it difficult to prepare for the meeting. One of the commissioners stated there was an expectation that "...the commission should support the Executive Director in his decision to dismiss a case".

#### Tracking Requests

In the process of our investigations we had asked the Ethics Commission staff for specific record-keeping information. Following our requests for certain relevant documents the staff was unable to promptly produce all the documents related to our investigation.

The Ethics Commission provides a critical service to campaigns, lobbyists and employees of the city by providing telephone support to answer questions. The Ethics Commission should be credited for implementing recommendations from the 2004-2005 Civil Grand Jury report.

responded to, nor did they have a method for tracking these information requests or a record of what was discussed in the call.

#### Random Audit Process

An area where the Ethics Commission operates with complete transparency and with little chance of the appearance of undue influence concerns the process whereby campaign committees are picked for random audits. The staff determines the number of yearly audits possible.

In 2011 seven random campaign audits are scheduled: three for committees where activity was between \$10,000 and \$100,000, and four where the committee's activity was over \$100,000. There are no audits of committees with spending below \$10,000. The names of the committees in the audit pool are then placed in a box for random selection.

The following three committees were randomly chosen because they received between \$10,000 and \$100,000:

- Noe Valley Democratic Club
- Protect Our Benefits
- Laura Spanjan for Supervisor 2010

The following four committees were randomly chosen for audit from the over \$100,000 pool:

- Standing Up to Save San Francisco - No on Measures B and K/Yes on Measures J and N, a Coalition of Teachers, Nurses Public School Parents and Labor Organizations
- Phil Ting for Assessor 2010
- San Francisco Forward , Sponsored by San Francisco Chamber of Commerce
- San Francisco Labor and Neighbor Member Education/Political Issues Committee, Sponsored by the San Francisco Labor Council

#### Commission Meetings Not Televised

Television access for members of the public who are unable to attend these commission meetings is a valuable service. Currently a number of commissions provide funding to SFGOVTV.ORG to broadcast their meetings and widen public access. These include: the Entertainment Commission, Disability Commission, Small Business Commission, Taxicab Commission and the Transportation Commission. Other City commissions such as the Police Commission and the Planning Commission that adjudicate issues televise their sessions.

The Ethics Commission currently makes audio recordings of its meetings available and has a Facebook page to provide information to the public, but does not televise their meetings.

After a recent Rules Committee meeting where the candidates for the Ethics Commission were interviewed, the *San Francisco Bay Guardian* quoted<sup>11</sup> Supervisor Kim saying, "I absolutely support televising the Ethics Commission."

### CONCLUSION

The Ethics Commission was established to provide a valuable service to the residents of San Francisco and is intended to be an independent watchdog.

The issues where the Jury found items that should be improved are:

- Setting fines
- The excessive influence of the Executive Director
- The Commissioners' abdication of oversight responsibilities
- The membership of the Commission, and
- Broadcasting Commission meetings.

This report is not meant to be a definitive report on the Ethics Commission. We will leave that investigation to a future Jury.

### METHOD OF INVESTIGATION

The Civil Grand Jury interviewed members of the Ethics Commission staff, members of the Ethics Commission, and members of the community with experience in governmental ethics.

While we asked to speak with all members of the Ethics Commission, only two volunteered to be interviewed. The jury also reviewed the Ethics Commission enforcement summaries, procedures and web site.

## FINDINGS AND RECOMMENDATIONS

### Finding 1

Having the Ethics Commission staff establish the fine and then enter into negotiations could be viewed as lacking a strong and effective operating system that could lead to questions of fairness and transparency.

### Recommendation 1.1

The Ethics Commissioners should establish a fixed fine structure for violations or apply the maximum allowed fine.

### Recommendation 1.2

If the respondent disagrees with the fine a request may be made for a public hearing. This will allow the commissioners to exercise discretion over the fines process.

### Finding 2

The failure of the Ethics Commission to enforce Sunshine Ordinance Task Force actions weakens the goal of open government and reduces the effectiveness of the Sunshine Ordinance.

### Recommendation 2

All Sunshine Ordinance Task Force enforcement actions deserve a timely hearing by the Ethics Commission.

### Finding 3

Waiting for the District Attorney or City Attorney to inform the Ethics Commission that they are not going to pursue a case causes unnecessary delays.

### Recommendation 3

After the 14-day window, Ethics Commission investigations should start.

### Finding 4

Currently commissioners are appointed by elected officials. In turn, the staff and commissioners scrutinize campaign expenditures and activities of those same elected officials. The Civil Grand Jury feels this leads to the appearance of impropriety.

### Recommendation 4

The City Charter should be changed to add four additional commission members appointed by non-partisan community organizations and individuals such as: The League of Women Voters,

Society of Professional Journalists, The San Francisco Labor Council, The Bar Association of San Francisco, and the Dean of UC Hastings Law School.

Finding 5

The Ethics Commissioners have relinquished their authority to the Executive Director concerning items recommended for dismissal.

Recommendation 5

The commissioners should amend section VI. A in the *Ethics Commission Regulations For Investigations and Enforcement Proceedings* to require review and a vote on investigations recommended for dismissal.

Finding 6

The Ethics Commission staff does not appear to have a proper database to track issues efficiently.

Recommendation 6

The Ethics Commission staff should create or modify their database to increase search and tracking capabilities.

Finding 7

In the context of open government, providing audio recordings of the Commission meetings does not provide enough transparency.

Recommendation 7

To maximize transparency, the San Francisco Ethics Commission should broadcast their meetings on the SFGOVTV television network.

## GLOSSARY

CGJ	San Francisco Civil Grand Jury
EC	Ethics Commission
FPPC	California Fair Political Practice Commission
PROPOSITION K	passed 11/93; created the Ethics Commission, transferring ethics functions then divided among five city departments to a single Ethics Commission
PROPOSITION N	passed 11/95; called for the enforcement and administration of the Campaign Finance Reform Ordinance.
PROPOSITION G	passed 11/97; Campaign Consultants Ordinance; mandated, expanded audits of financial statements filed by candidates and political committees.
PROPOSITION J	passed 11/00; 'the taxpayer protection amendment' was intended to reduce the influence of gifts and prospective campaign contributions on the decisions of public officials.
PROPOSITION O	passed 11/00; amended the San Francisco Campaign Finance Reform Ordinance, by providing for the limited public campaign financing of candidates for the Board of Supervisors.
PROPOSITION C	passed 11/03; transferred the task of handling the whistleblower telephone hotline to the Controller's Office
PROPOSITION E	passed 11/03; revised and updated the City's conflict of interest laws, requiring all City departments, boards, and commissions to develop statements identifying "incompatible activities."

San Francisco City Charter    The fundamental law of the City of San Francisco

## APPENDIX A

### ETHICS COMMISSIONERS AND TERMS<sup>12</sup>

COMMISSION MEMBER	APPOINTING OFFICER	TERM START DATE	TERM END DATE
Beverly Hayon	Mayor	January 6, 2011	February 1, 2012
Benedict Y. Hur, Esq.	Assessor	March 2, 2010	February 1, 2016
Dorothy S. Liu, Esq.	Board of Supervisors	April 6, 2011	February 1, 2017
Jamienne S. Studley, Esq.	City Attorney	January 23, 2007	February 1, 2014
Charles L. Ward	District Attorney	June 30, 2006	February 1, 2013

### ENDNOTES

1. <http://www.sfethics.org/ethics/2009/05/ethics-commission-mission-code-and-information.html>
2. <http://www.sfethics.org/ethics/2009/05/enforcement.html>
3. In San Francisco Charter Section C3.699-13 - INVESTIGATIONS AND ENFORCEMENT PROCEEDINGS states in the Administrative Orders and Penalties section "Pay a monetary penalty to the general fund of the City of up to five thousand dollars (\$5,000) for each violation or three times the amount which the person failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater. Penalties that are assessed but uncollected after 60 days shall be referred to the bureau of delinquent revenues for collection."
4. [http://sfarchive.org/agencies/ethics/www.sfgov.org/site/uploadedfiles/ethicscomm/Research/BAYV IEWSTIP\\_FINAL.pdf](http://sfarchive.org/agencies/ethics/www.sfgov.org/site/uploadedfiles/ethicscomm/Research/BAYV IEWSTIP_FINAL.pdf)
5. Enforcement Summaries last updated Dec, 15 2010  
<http://www.sfethics.org/ethics/2009/05/enforcement.html>
6. Based on data from pending complaints in the Executive Director's Report, the January, 2010 report was not included because there was not one in January.
7. From C3.699-13 in the City Charter  
"If the commission, upon the receipt of a sworn complaint of any person or its own initiative, has reason to believe that a violation of this charter or City ordinances relating to campaign finance, lobbying, conflicts of interest or governmental ethics has occurred, the commission immediately shall forward the complaint or information in its possession regarding the alleged violation to the District Attorney and City Attorney. Within ten working days, after receipt of the complaint or information, the District Attorney and City Attorney shall inform the commission in writing regarding whether the district attorney or City Attorney has initiated or intends to pursue an

investigation of the matter.

Within 14 days after receiving notification that neither the District Attorney nor City Attorney intends to pursue an investigation, the commission shall notify in writing the person who made the complaint of the action, if any, the commission has taken or plans to take on the complaint, together with the reasons for such action or non-action. If no decision has been made within 14 days, the person who made the complaint shall be notified of the reasons for the delay and shall subsequently receive notification as provided above."

8. <http://www.cityethics.org/node/770>
9. <http://www.sfethics.org/files/regulations.jan.2010.pdf> section VI. A.
10. [http://ag.ca.gov/publications/2003\\_Main\\_BrownAct.pdf](http://ag.ca.gov/publications/2003_Main_BrownAct.pdf)
11. from San Francisco Bay Guardian 04.12.11 <http://www.sfbg.com/2011/04/12/seeking-watchdogs-watchdog?page=0,1>
12. <http://www.sfethics.org/ethics/2009/05/commission-members.html>



FINDINGS	RECOMMENDATIONS	RESPONSES REQUIRED
<p><u>Finding 1</u> Having the Ethics Commission staff establish the fine and then enter into negotiations could be viewed as lacking a strong and effective operating system that could lead to questions of fairness and transparency.</p>	<p><u>Recommendation 1.1</u> The Ethics Commissioners should establish a fixed fine structure for violations or apply the maximum allowed fine.</p> <p><u>Recommendation 1.2</u> If the respondent disagrees with the fine a request may be made for a public hearing. This will allow the commissioners to exercise discretion over the fines process.</p>	<p>Ethics Commission</p>
<p><u>Finding 2</u> The failure of the Ethics Commission to enforce Sunshine Ordinance Task Force actions weakens the goal of open government and reduces the effectiveness of the Sunshine Ordinance.</p>	<p><u>Recommendation 2</u> All Sunshine Ordinance Task Force enforcement actions deserve a timely hearing by the Ethics Commission.</p>	<p>Ethics Commission Board of Supervisors City Attorney</p>
<p><u>Finding 3</u> Waiting for the District Attorney or City Attorney to inform the Ethics Commission that they are not going to pursue a case causes unnecessary delays.</p>	<p><u>Recommendation 3</u> After the 14-day window, Ethics Commission investigations should start promptly.</p>	<p>Ethics Commission District Attorney City Attorney</p>

<p><u>Finding 4</u> Currently commissioners are appointed by elected officials. In turn the staff and commissioners scrutinize campaign expenditures and activities of those same elected officials. The Civil Grand Jury feels this leads to the appearance of impropriety.</p>	<p><u>Recommendation 4</u> The City Charter should be changed to add four additional commission members appointed by non-partisan community organizations and individuals such as: The League of Women Voters, Society of Professional Journalists, The San Francisco Labor Council, and the Dean of UC Hastings Law School.</p>	<p>Ethics Commission Board of Supervisors Mayor</p>
<p><u>Finding 5</u> The Ethics Commissioners have relinquished their authority to the Executive Director concerning items recommended for dismissal.</p>	<p><u>Recommendation 5</u> The commissioners should amend section <u>VI. A</u> in the <i>Ethics Commission Regulations For Investigations and Enforcement Proceedings</i> to require review and a vote on investigations recommended for dismissal.</p>	<p>Ethics Commission</p>
<p><u>Finding 6</u> The Ethics Commission staff does not appear to have a proper database to track issues efficiently.</p>	<p><u>Recommendation 6</u> The Ethics Commission staff should create or modify their database to increase search and tracking capabilities.</p>	<p>Ethics Commission</p>
<p><u>Finding 7</u> In the context of open government, providing audio recordings of the Commission meetings does not provide enough transparency.</p>	<p><u>Recommendation 7</u> To maximize transparency, the San Francisco Ethics Commission should broadcast their meetings on the SFGOVTV television network.</p>	<p>Ethics Commission Board of Supervisors Mayor</p>